

**TOWN OF MOUNTAIN VILLAGE  
TOWN COUNCIL SPECIAL MEETING  
THURSDAY, SEPTEMBER 8, 2022, 9:00 AM  
2nd FLOOR CONFERENCE ROOM, MOUNTAIN VILLAGE TOWN HALL  
455 MOUNTAIN VILLAGE BLVD, MOUNTAIN VILLAGE, COLORADO  
AGENDA **REVISED 1****

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**Please note that times are approximate and subject to change.**

|    | Time  | Min | Presenter                     | Type  |  |
|----|-------|-----|-------------------------------|---|--|
| 1. | 9:00  |     |                               |   | Call to Order  |
| 2. | 9:00  | 5   |                               |   | Public Comment on Non-Agenda Items   |
| 3. | 9:05  | 30  | Haynes<br>Wisor<br>McConaughy | Action<br><b>Quasi-Judicial</b><br>Public Hearing | Second Reading, Public Hearing and Council Vote on an Ordinance Considering a Final Site-Specific Planned Unit Development for Lot 161CR, Lot 67, Lot 69R-2, Lot 71R, OS-3Y and Portions of OS-3BR2 and OS-3XRR for a Mixed-Use Hotel/Resort Development Including Plaza, Commercial and Residential Uses According to CDC Section 17.4.12. Approval of a Final SPUD by Town Council may Constitute a Site-Specific Development Plan and a Vested Property Right in Accordance with C.R.S. Section 24-68-103 <i>This Item was Continued from the August 25, 2022 Special Town Council Meeting</i>  |
| 4. | 9:35  | 20  | Haynes                        | Action<br><b>Quasi-Judicial</b>                   | Consideration of a Resolution Regarding a Major Subdivision Application for Lots 161CR, Lot 67, Lot 69R2, Lot 71R, OS-3Y and Portion of Town Owned OS-3BR-2 and OS-3XRR to Create Lot 161CRR with Combined Lot Acreage of 4.437 Acres as Proposed to be Replatted Consistent with CDC Section 17.4.13 <i>This Item was Continued to the August 25, 2022 Special Town Council Meeting</i>   |
| 5. | 9:55  | 5   | Wisor<br>Haynes               | Action  | Consideration of Ratification of Purchase of TBD Highway 145, Telluride, CO 81430 from Alexander Ranch, LLLP, a Colorado Limited Liability Limited Partnership and the Alexander Trust Dated June 25, 2014   |
| 6. | 10:00 | 10  | Wisor<br>Haynes               | Worksession                                       | Council Discussion Regarding Comprehensive Plan Amendments and Public Comment Period   |
| 7. | 10:10 | 5   | Cooper<br>Osgood              | Action  | Consideration of Approval of a Letter of Support for Dolores National Conservation Area  |
| 8. | 10:15 | 20  | Council                       | Informational                                     | Council Boards and Commissions Updates:<br><ol style="list-style-type: none"> <li>1. Telluride Tourism Board-Berry</li> <li>2. Colorado Flights Alliance-Gilbride</li> <li>3. Transportation &amp; Parking-Mogenson/Duprey</li> <li>4. Budget &amp; Finance Committee-Gilbride/Duprey/Mogenson</li> <li>5. Gondola Committee-Caton/Berry/Prohaska</li> <li>6. Colorado Communities for Climate Action-Berry</li> <li>7. San Miguel Authority for Regional Transportation (SMART)-Berry/Prohaska/Mogenson</li> <li>8. Telluride Historical Museum</li> <li>9. Alliance for Inclusion-Berry/Prohaska</li> <li>10. Green Team Committee-Berry/Prohaska</li> <li>11. Business Development Advisory Committee-Caton/Duprey</li> <li>12. San Miguel Watershed Coalition-Prohaska</li> <li>13. Telluride Mountain Village Owners Association Governance Auxiliary Committee-Duprey</li> <li>14. Wastewater Committee-Duprey/Mogenson</li> </ol> |

|     |       |   |  |               |                            |
|-----|-------|---|--|---------------|----------------------------|
|     |       |   |  |               | 15. Mayor's Update-Benitez |
| 9.  | 10:35 | 5 |  | Informational | Other Business             |
| 10. | 10:40 |   |  |               | Adjourn                    |

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**After registering, you will receive a confirmation email containing information about joining the webinar**

**Public Comment Policy:**

- All public commenters must sign in on the public comment sign in sheet and indicate which item(s) they intend to give public comment on
- Speakers shall wait to be recognized by the Mayor and shall give public comment at the public comment microphone when recognized by the Mayor
- Speakers shall state their full name and affiliation with the Town of Mountain Village if any
- Speakers shall be limited to three minutes with no aggregating of time through the representation of additional people
- Speakers shall refrain from personal attacks and shall keep comments to that of a civil tone
- No presentation of materials through the AV system shall be allowed for non-agendized speakers
- Written materials must be submitted 48 hours prior to the meeting date to be included in the meeting packet and of record. Written comment submitted within 48 hours will be accepted, but shall not be included in the packet or be deemed of record



**COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION**  
455 Mountain Village Blvd.  
Mountain Village, CO 81435  
(970) 728-1392

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**TO:** Mountain Village Town Council

**FROM:** Michelle Haynes, Assistant Town Manager

**FOR:** September 1, 2022 special Town Council meeting continued from the August 25, 2022 special Town Council meeting.

**DATE:** August 30, 2022

**RE:** Second Reading of an Ordinance Considering a Final Site Specific Planned Unit Development (SPUD) application for a mixed use hotel, branded residence and condominium project at 161CR, Lot 67, Lot 69R-2, Lot 71R, OS-3Y (commonly called the Pond Lots and portions of OS-3BR2 and OS-3XRR owned by the Town of Mountain Village in the amount of .478 into the site specific development approval) (SPUD) with a concurrent vested property rights request.

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**EXECUTIVE SUMMARY**

This packet addresses the final form of the development agreement, ordinance and resolution as well as minor amendments and will address the Council request to increase community benefits. Changes will be identified with highlight throughout the memo.

**GENERAL OVERVIEW.** The applicant requests approval of a Final Site-Specific Planned Unit Development (SPUD) which includes rezoning the property to the Planned Unit Development Zone District in order to provide a development proposal consisting of hotel rooms, branded residences, condominiums, public and patron amenity spaces including a pool, spa and restaurant, along with a ballroom, meeting rooms, private ski lockers and public and private outdoor landscaped areas. The applicants also show pedestrian connections to the Village Center plaza areas and a walking trail along Gorrone Creek which are presented to be owned by the developer with an easement for public access. Community benefits, which includes public benefits and public improvements are offered in exchange for the five variations requested from the Community Development Code (CDC), the essence of the PUD process. Elements such as a five-star operator luxury brand hotel and the provision of hotbeds, commercial space and employee housing support general conformance with the Comprehensive Plan. A major subdivision, rezone and density transfer, design review and vested property rights are consolidated through the SPUD process.

## **PROJECT OVERVIEW**

**Legal Description:** Lot 161CR, Lot 67, Lot 69R-2, Lot 71R, OS-3Y (and a request to incorporate portions of OS-3BR2 and OS-3XRR owned by the Town of Mountain Village TBD)

**Address:** 634,648,654 and 691 Mountain Village Blvd – to be readdressed

**Owner/Applicant:** CO LOT 161CR and TSG Ski & Golf, LLC and TSG Asset Holdings, LLC (TSG)

**Agent:** Merrimac Fort Partners, LLC

**Zoning:** Village Center Zone District, Active Open Space : Village Center Active Open Space

**Proposed Zoning:** PUD Zone District

**Existing Use:** Vacant, used for temporary surface parking

**Proposed Use:** Mixed use including hotel, branded residences, condominiums, retail spaces, a public bathroom and both public and private commercial amenity spaces associated with a five-star hotel operator. Public pedestrian plaza and pathways are also included on the property.

**Site Area:** 4.437 acres in aggregate

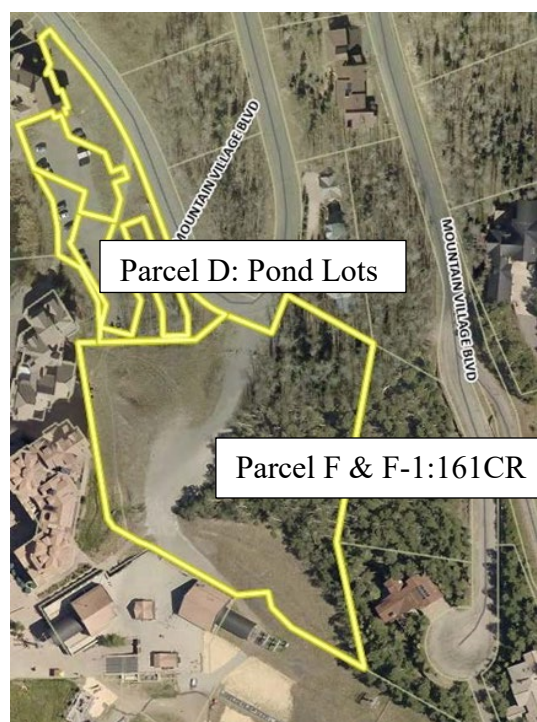
### **Adjacent Land Uses:**

- **North:** Vacant 89 Lots, single family zoning
- **South:** Gondola Station
- **East:** vacant residential lots
- **West:** Heritage Crossing, Village Center

### **ATTACHMENTS**

- 1) Ordinance
  - a. legal description of adjustment parcels
  - b. property replat
  - c. List of Final SPUD application materials- *to be revised*
  - d. List of final SPUD Plans
  - e. Development Agreement – *see below*
  - f. Map of Publicly Accessible Plazas/Wetland Trail/Public Access
  - g. Employee Apartment Deed Restriction
- 2) Development Agreement
  - a. Legal description of SPUD property
  - b. SPUD Property Replat (see 1.a. above)
  - c. List of final SPUD Plans (see 1.b. above)
  - d. List of final SPUD construction drawings
  - e. Community Benefits Table
  - f. Special Warrantee Deed Conveying Public Bathrooms to the town
  - g. Special warrantee deed conveying parking spaces to the town
  - h. Special warrantee deed conveying storage facility to the town
  - i. Public easement or deed for public plazas
  - j. Public easement or deed for wetland walking trail
  - k. Public easement or deed for ridge trail connection

**Figure 3. Vicinity Map**



- l. Employee housing deed restriction
  - m. Hotel residence deed restriction
  - n. List of Public Improvements – cost estimates TBD
- 3) Resolution
- a. Property Replat
  - b. List of Subdivision Application Materials
  - c. Development Agreement (see 1.a. above)
- 4) Applicant drawing supplement provided on 8.31.22
- 5) [July 21, 2022 Town Council 1<sup>st</sup> reading record packet](#)
- 6) Community Benefits Analysis revised 8.22.22
- 7) Public Comments
- a) Horn 8.19.22
  - b) Butler 8.12.22
  - c) Whitacre 8.18.22
  - d) Whitacre2 8.18.22
  - e) Bingham 8.18.22
  - f) Kelly 7.21.22
  - g) Poulin 8.18.22

**RECORD DOCUMENTS**

- Town of Mountain Village Community Development Code (as amended)
- Town of Mountain Village Home Rule Charter (as amended)
- 2011 Mountain Village Comprehensive Plan

**FINAL SITE SPECIFIC PUD REQUESTS AND CONSIDERATIONS**

The ordinance, resolution development agreement and exhibits unless otherwise noted are attached to the memo for Council review.

To summarize, below are the list of variations being requested, the highlighted one is additional and to be discussed.

Table 3. CDC Variations

| <b>CDC Variations</b>   |
|---|
| 1. Building Height Limits (Maximum Height and Average Height)* CDC 17.3.12  |
| 2. Condominium Hotel Regulations CDC 17.6.3   |
| 3. Town Building Footprint Lots CDC 17.3.4.H.   |
| 4. Development Review Process Length of Validity 17.4.12 (D)(1) c), 17.4.3(N)(2)(a) and 17.4.3 (N)(3)   |
| 5. A Variation to CDC Sections 17.4.10.(C).(2) and 17.4.12.(O).(B) related to process for minor changes to density and dispute resolution regarding definition of a minor amendment |
| 6. Design Variations  |
| • Exterior Wall Material  |
| • Glazing Variation   |
| • Commercial Ground Level and Plaza Area  |
| 5a. DRB Specific Approval   |
| • Roof Design   |
| • Roof Material   |

Through the drafting of the development agreement, ordinance and resolution, the applicant, legal and staff identified two additional requests that were not raised at first reading. The first is to allow minor changes in the density as described on page 4. Section 2.3(e) of the ordinance to be administered as a class 1 staff level review. The applicant anticipates that some purchasers of the private residences will acquire two adjoining units and combine them into one unit. The change to Section 2.3(e) affords the applicant the ability to modify hotel rooms from 53 to no less than 50, hotel residences a variable of three, private residences no more than a variable of five units, and employee housing only in the event of an increase to consider possible density changes between design and construction.

The second modification can be found on page 4. Section 2.3(f) provides that in the event there is lack of clarity regarding a minor change to the PUD between staff and the developer, the dispute can be resolved via a class 2 DRB chairperson application. If the minor change falls outside of the CDC’s definition of “Minor,” but does not constitute a “Major” PUD amendment, it can be reviewed as a class 5 Town Council application. All other Major PUD changes follow the requirements and processes outlined in the CDC, as a class 4 application.

#### COMMUNITY BENEFITS

The highlighted sections show increases in the community benefit represented between 1<sup>st</sup> and 2<sup>nd</sup> reading of an ordinance as requested by Town Council. See the applicant community benefit list as attachment 6 in the packet. The applicants have increased the community benefits in the following areas as shown below:

| <b>Community Benefits</b>   | <b>Value</b>       | <b>Revised Value</b>       |
|---|--------------------|----------------------------|
| \$500,000 contribution for Village Pond Improvements  | \$500,000          | \$500,000                  |
| \$150,000 contributed towards design services for Village Pond Improvements   | \$150,000          | \$150,000                  |
| \$2.5 million towards the community housing fund or land of equivalent value  | \$2,200,000        | \$2,500,000<br>(see below) |
| Construction of a public bathroom that will be owned and operated by the town of approx. 500 square feet  | \$250,000          | \$300,000                  |
| construction of a town storage space of 600 square feet   | \$150,000          | \$150,000                  |
| two parking spaces dedicated for town use (approx. 324 feet of parking)   | \$300,000          | \$300,000                  |
| Public Plazas, paths, trails inclusive of landscaping and snowmelt beyond the CDC Requirement (improved areas beyond 30’ of the driplines of the buildings) | \$1,500,000        | \$1,822,500                |
| <ul style="list-style-type: none"> <li>Improvements to alleyway between Trax and Gondola Plaza</li> </ul>   | \$50,000           | \$50,000                   |
| Enhancement and incorporation of the existing wetlands into a riparian corridor and a 10' walking path (also #17 below)                                     | \$1,500,000        | \$1,009,250                |
| A trash compacting facility   | \$80,000           | \$80,000                   |
| Waiving HOA dues regarding the storage area, parking spaces and public bathroom   | TBD                |                            |
| Pedestrian Trail from Ridge Trail to Après Ski Area   | \$25,000           | \$25,000                   |
| <b>TOTAL VALUE</b>  | <b>\$6,705,000</b> | <b>\$6,886,750</b>         |

**Table 5. Public Benefits**

| <b>Public Benefits. These both support general conformance and are considered Community Benefits pursuant to the Comprehensive Plan</b>               | <b>Value</b>                              |                  |
|---|---|------------------|
| #1. Hot beds.   | \$1.8-\$2.4 million annually lodging tax* |                  |
| #13. Coordinated development between Parcel D and Parcel F & F1 and at grade development between the project and the gondola station                  | \$350,000                                 | \$350,000        |
| #14. A vehicular delivery and pedestrian access from Mountain Village Boulevard to La Chamonix and neighbors (noted under public improvements above). | \$12,000                                  | \$12,000         |
| #17. Enhanced riparian corridor (additional pedestrian bridge, expanded wetland, snowmelted path)   | \$808,000                                 | See above        |
| <b>TOTAL VALUE</b>  | <b>\$2,970,000</b>                        | <b>\$362,000</b> |

\*Once constructed this is an annual value to the town

\*\*Estimated RETA on annual transfer of 12.5% condominium inventory is from \$1.6-\$2 million annually

**TOTAL COMMUNITY BENEFITS \$7,411,250\***

\*The town considers the sidewalk with a value of \$162,500 a requirement of the major subdivision as described below and would value the community benefit at \$7,248,750.

Table 6. Public Improvements

| <b>Public Improvements (These items count as community benefits except where noted)</b>   | <b>Value</b>     | <b>Revised Value</b> |
|---|------------------|----------------------|
| A snow-melted sidewalk/pedestrian along Mountain Village Boulevard inclusive of safety lighting that connections the port cochere along Mountain Village Boulevard to the Pond Plaza (stairs from MV Blvd).(not considered a community benefit) | \$162,500        | \$162,500            |
| Construction of a vehicular service parking space on Mountain Village Boulevard to facilitate deliveries for neighbors (e.g. La Chamonix).(see community benefit above)   | \$12,000         | See above            |
| The alternate #2 trail Ridge Trail within the 161CR general easement and a portion on the town's easement to connect to the trail.(see community benefit above)   | \$25,000         | See above            |
| Repaving Mountain Village Boulevard (not considered a community benefit but a requirement of the subdivision approval)  | \$125,000        | n/a                  |
| <b>TOTAL</b>  | <b>\$324,500</b> | <b>\$162,500</b>     |

Table 7. General Conformance

| <b>Items Noted as supporting General Conformance with the Comprehensive Plan</b>        |
|---|
| Rezoning the property to the PUD Zone District  |
| Providing a flagship hotel, specifically a five-star operator and a luxury brand hotel. |

|   |
|---|
| Providing at least 50 (53 being provided) efficiency lodge units (hotel rooms) that will be maintained in one condominium ownership and disallowed from further condominiumization. |
| The provision of hot beds*, commercial area, workforce housing consistent with CDC Section 17.4.12.G.2  |
| Conformance with Table 7. Mountain Village Center Development Table in the Comprehensive Plan   |
| Conformance with the site-specific principles, policies and actions identified in the staff memo of record and the applicant narrative.   |
| Consistent with the Village Center Subarea Goals specifically the provision of spa and restaurant and pedestrian circulation & Mixed Use Center Goals in the Comprehensive Plan     |
| The Final PUD plan is in general conformance with the Future Land Use Plan (Map).   |
| Conforming to some of the public benefits listed in Table 7. Public Benefits found in the Comprehensive Plan and outlined in the staff memo of record (see above)                   |

\*Hot beds contribute to general conformance with the comprehensive plan because these parcels are listed in the Development Table for development as a five-star hotel operator. However, hot beds are also listed as a public benefit in the public benefits table which is triggered by this application.

The community benefit related to housing has been increased to 2.5 million dollars from \$2.2 million dollars formerly represented. Should the applicant choose to provide land in lieu of a payment to the Town, there are provision written into the development agreement, see page 19, that require provides the land to be provided would be subject to an appraisal, and the Town is under no obligation to accept the land and may, instead, receive a cash payment.

**ANALYSIS**

The applicants increased the community benefit consistent with Council direction. Staff supports the documentation provided in order to approve on second reading the application.

**STAFF RECOMMENDATION**

Staff recommends approval of the Final SPUD application on second reading with the finding that the applicant increased the community benefit consistent with Town Council direction and to replace the record set sheets with those provided as attachment #5.

**Proposed Motion**

*I move to approve on second reading of an ordinance, an application by Merrimac Fort Ventures, LLC regarding a Final Site Specific Planned Unit Development for Lots 161CR, Lot 67, Lot 69R-2, Lot 71R, OS-3Y , and portions of OS-3BR2 and OS-3XRR, proposed to be replat into Lot 161CR-R and authorizing staff to finalize the exhibits.*

*This motion is based on evidence and testimony provided on a public hearing date of September 8, 2022.*

/mbh



**ORDINANCE NO. 2022-\_\_**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO CONDITIONALLY APPROVING A SITE-SPECIFIC PLANNED UNIT DEVELOPMENT PLAN FOR LOTS 161C-R, 67, 69R-2 AND 71R, TRACT OS-3Y, AND PORTIONS OF OS-3BR-2 AND OS-3XRR (TO BE REPLATTED AS 161C-RR)**

WHEREAS, Merrimac Fort Partners, LLC (the “**Developer**”) is under contract to purchase certain real property described as Lot 161C-R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 325409 (“**Lot 161C-R**”), from CO Lot 161-CR Mountain Village, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 67, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 233115 (“**Lot 67**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 69R-2, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 272500 (“**Lot 69R-2**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 71R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 274123 (“**Lot 71R**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Tract OS-3Y, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 367628 (“**Tract OS-3Y**”), from TSG Ski & Golf Company, LLC; and

WHEREAS, the Town of Mountain Village (“**Town**”) is the owner of certain real property adjacent to Lot 161C-R described as open space parcels OS-3BR-2 and OS-3XRR, according to the respective plats recorded as Reception Nos. 416994 and 405665 (the “**Town Property**”); and

WHEREAS, the Developer has submitted a Major Subdivision application to the Town (“**Subdivision Application**”) to replat Lot 161C-R, Lot 67, Lot 69R-2, Lot 71R, Tract OS-3Y, and portions of the Town Property more particularly described in **Exhibit A** attached hereto (the “**Adjustment Parcels**”) into one integrated parcel to be known as Lot 161C-RR (the “**Property**”), as depicted on the replat of the Property set forth in **Exhibit B** hereto (“**Property Replat**”), for the purpose of including the Property in the Developer’s SPUD Application (defined below); and

WHEREAS, the Developer has submitted applications to the Town for approval of a Site-Specific Planned Unit Development (“**SPUD**”) for the Property, which application consists of the materials submitted and itemized on **Exhibit C**, attached hereto, plus all statements, representations, and additional documents of the Developer and its representatives as reflected in the minutes of the public hearings before the Design Review Board (“**DRB**”) and the Town of Mountain Village Town Council (“**Town Council**”) (collectively, the “**SPUD Application**”), in accordance with the Final SPUD Plans submitted in connection with the Final SPUD Application as listed in **Exhibit D** (“**Final SPUD Plans**”); and

WHEREAS, the current owners of Lot 161C-R, Lot 67, Lot 69R-2, Lot 71R, and Tract OS-3Y have consented to Developer’s pursuing the SPUD Application and Subdivision Application; and

WHEREAS, the Town has consented to including the Adjustment Parcels in the Developer’s SPUD Application and Subdivision Application; and

WHEREAS, the Subdivision Application and the SPUD Application are being processed and considered concurrently by the DRB and Town Council; and

WHEREAS, the DRB held public hearings on February 17, 2022, continued to March 17, 2022, to consider the Conceptual SPUD Application and testimony and comments from the Developer, Town Staff, and members of the public, and voted 6-1 to issue a recommendation of approval to Town Council concerning the Conceptual SPUD Application, subject to conditions; and

WHEREAS, the Town Council held public hearings on February 17, 2022 and March 17, 2022 to consider the Conceptual SPUD Application, the DRB's recommendations, and testimony and comments from the Developer, Town Staff, and members of the public, and voted unanimously to approve the Conceptual SPUD Application, subject to conditions; and

WHEREAS, the DRB held a public meeting and a public hearing on May 17, 2022 to consider the Sketch SPUD Application and testimony and comments from the Developer, Town Staff, and members of the public, and voted 4-3 to approve the Sketch SPUD Application, subject to conditions; and

WHEREAS, the DRB held a public hearing on July 20, 2022, to consider the Final SPUD Application and testimony and comments from the Developer, Town Staff, and members of the public, and voted 5-2 to issue a recommendation of approval to the Town Council concerning the Final SPUD Application, subject to conditions; and

WHEREAS, the DRB held a public hearing on July 20, 2022 to consider the Subdivision Application and testimony and comments from the Developer, Town Staff and members of the public and voted 5-2 to issue a recommendation of approval to the Town Council concerning the Subdivision Application, subject to conditions; and

WHEREAS, the Town Council held a public hearing on July 21, 2022 to consider the Final SPUD Application, the first reading of this Ordinance, the DRB's recommendations, and testimony and comments from the Developer, Town Staff, and members of the public and voted unanimously to approve: (i) the Final SPUD Application, subject to conditions; and (ii) the first reading of this Ordinance, subject to conditions and a second reading of this Ordinance to be held at a public hearing on August 25, 2022; and

WHEREAS, at its meeting on August 25, 2022, the Town Council continued the public hearing on second reading to September 8, 2022; and

WHEREAS, the Town Council held a public hearing on September 8, 2022 to consider the Subdivision Application, the DRB's recommendations, and testimony and comments from the Developer, Town Staff, and members of the public, and voted \_\_\_\_ to approve the Subdivision Application and the Property Replat, subject to conditions as set forth in Town Council Resolution No. \_\_\_\_; and

WHEREAS, the Town Council held a public hearing on September 8, 2022 to consider the second reading of this Ordinance and testimony and comments from the Developer, Town Staff, and members of the public, and voted \_\_\_\_ to approve this Ordinance ("**Final SPUD Approval**"); and

WHEREAS, the public hearings and meetings to consider the Subdivision Application and the SPUD Applications were duly noticed and held in accordance with the Town's Community Development Code ("**CDC**"); and

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.12 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below and in the Development Agreement:

1. The proposed PUD is in general conformity with the policies, principles and standards set forth in the Comprehensive Plan;
2. The proposed PUD is consistent with the underlying zone district and zoning designations on the site or to be applied to the site unless the PUD is proposing a variation to such standards;
3. The development proposed for the PUD represents a creative approach to the development, use of land and related facilities to produce a better development than would otherwise be possible and will provide amenities for residents of the PUD and the public in general;
4. The proposed PUD is consistent with and furthers the PUD purposes and intent;
5. The PUD meets the PUD general standards;
6. The PUD provides adequate community benefits;
7. Adequate public facilities and services are or will be available to serve the intended land uses;
8. The proposed PUD shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and
9. The proposed PUD meets all applicable Town regulations and standards unless a PUD is proposing a variation to such standards; and

WHEREAS, the Town Council now desires to approve the Final SPUD Application, subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO, as follows:

**SECTION 1. RECITALS.** The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Ordinance.

**SECTION 2. APPROVALS.**

2.1 **FINAL SPUD APPLICATION.** The Town Council hereby approves the Final SPUD Application, the Conveyance MOU (defined below) and Development Agreement (defined below), subject to the conditions set forth below, and authorizes the Mayor and Town Clerk to sign the Conveyance MOU and Development Agreement on behalf of the Town following approval of the same by the Town Manager. All exhibits to this Ordinance are available for inspection at the Town Clerk's Office. Further, subject to Condition #3.2 below and Developer's execution of the Development Agreement, the Town Council authorizes conveyance of the Adjustment Parcels to Developer, or Developer Party (defined below).

2.2 **FINAL SPUD PLANS.** The Town Council approves the Final SPUD Plans.

2.3 **CDC VARIATIONS.** The Town Council approves the following variations from the presumptive standards in the CDC:

- a. The maximum height for the Property shall be in accordance with the maximum heights set forth in the Town of Mountain Village Comprehensive Plan, Table 7, of 95.5 feet for the portion of the Property that was previously platted as Lot 161C-R and 78.5 feet for the portion of the Property that was previously platted as Lots 67, 69R-2, and 71R and Tract OS-3Y (“**SPUD Maximum Heights**”). The Final SPUD Plans, as approved by this Ordinance, include the maximum height of the building located on the portion of the Property that was previously platted as Lot 161C-R of 89.9 feet and an average height of 59.7 feet. The Final SPUD Plans, as approved by this Ordinance, include the maximum height of the portion of the hotel building to be constructed on the portion of the Property that was previously platted as Lots 67, 69R-2, and 71R and Tract OS-3Y of 78.2 feet and an average height of 66.9 feet. Notwithstanding the foregoing, the maximum and average building heights set forth in the Final SPUD Plans shall be subject to a five percent (5%) variation; provided, however, that in no event shall the height of any building on the Property exceed the SPUD Maximum Heights. A Class 1 application shall be required to vary any of the maximum building and average heights set forth in the Final SPUD Plans in accordance with this approved 5% variation. The foregoing 5% variation shall be deemed to be in substantial conformance with the SPUD Application. These height limitations shall be measured pursuant to the CDC methodology.
- b. The Town Council approves a waiver to the Hotel Condominium Regulations at CDC Section 17.6.3.
- c. Village Center Footprint Lots (i.e., Lots 67, 69R-2, and 71R) shall be permitted to exceed 25% per CDC Section 176.3.4.H.
- d. Town Council approves the length of validity for the Final SPUD Approval and the Subdivision Approval under CDC Sections 17.4.12 (D)(1) c), 17.4.3(N)(2)(a) and 17.4.3 (N)(3) to be thirty-six (36) months from the Effective Date of this ordinance, with a one-time Town Staff-level approval of an additional twelve (12) months, upon request (“**Approval Period**”).
- e. Minor changes in the number of units of density allocated to the Property under this Ordinance may be approved, including a transfer to the Town of Mountain Village Density Bank, pursuant to a Class 1 application; provided, however, this provision shall be limited to: (i) a change in the number Hotel Residences (defined below) of no more than 3 units; (ii) a change in the number of Hotel Rooms (defined below) that does not decrease the total below fifty (50) individual rooms, and (iii) a change in the number of Private Residences (defined below) of no more than 5 units; (iv) increases, but not decreases, in the total number of Employee Apartment units.
- f. All other proposed changes or amendments to the Final SPUD Approval shall be processed in accordance with the CDC provisions in effect as of the date of approval of this Ordinance; provided, however, in the event of any disagreement between the Developer and Town Staff as to the applicable process, including but not limited to what constitutes a “minor” vs. “major” change to the SPUD, the Developer shall be entitled to have the dispute resolved via a Class 2 application to determine the applicable process for the proposed amendment or change. If it is determined pursuant to the Class 2 application process that the change is not “minor,” the Developer shall be required to submit a Class 5 application for the proposed SPUD amendment(s).

2.4 **ZONING AND DENSITY.** The Town Council approves the rezoning of and density for the Property as follows. The depiction of the Property included as Exhibit B shall constitute the map of the rezoned area required by CDC Section 17.4.9(D)(1)(a).

Table 1. Current Zoning and Density for the Property

| Lot/Tract | Zoning                       | Zoning Designations                              | Person Equivalent per Unit Type | Total Person Equivalents | Acreeage |
|-----------|------------------------------|--|---------------------------------|--------------------------|----------|
| 161C-R    | Village Center               | 33 Condominium Units<br>2 Hotel Efficiency Units | 3<br>2                          | 99<br>4                  | 2.84     |
| 67        | Village Center Footprint Lot | 14 Condominium Units                             | 3                               | 42                       | 0.12     |
| 69R-2     | Village Center Footprint Lot | 12 Condominium Units                             | 3                               | 36                       | 0.23     |
| 71R       | Village Center Footprint Lot | 9 Condominium Units<br>1 Employee Apartment      |                                 | 27<br>3                  | 0.17     |
| OS-3Y     | Village Center Open Space    |  |                                 |                          | 0.587    |
| OS-3BR-2  | Village Center Open Space    |  |                                 |                          | 2.726    |
| OS-3XRR   | Village Center Open Space    |  |                                 |                          | 1.969    |
| Total     |                              |  |                                 | 211                      | 4.437    |

Table 2. Approved Zoning and Density for the Property

| Lot     | Zoning            | Zoning Designations                     | Person Equivalent per Unit Type | Total Person Equivalents | Acreeage |
|---------|-------------------|---|---------------------------------|--------------------------|----------|
| 161C-RR | PUD Zone District | 29 Condominium Units                    | 3                               | 87                       | 4.437    |
|         |                   | 92 Efficiency Lodge Units               | .5                              | 46                       |          |
|         |                   | 38 Lodge Units                          | .75                             | 28.5                     |          |
|         |                   | 10 Employee Apartments                  | 3                               | 30                       |          |
|         |                   | approx. 20,240 sq. ft. Commercial Space |                                 |                          |          |
| Total   |                   |   |                                 | 191.5                    | 4.437    |

- a. *Rezone and Density Transfers.* To create the zoning and density in Table 2 above, the Developer will rezone Lot 161C-R's 2 Hotel Efficiency Units, with total person equivalent of 4, to 8 Efficiency Lodge Units, with a total person equivalent of 4. The Developer will transfer 4 Condominiums Units from Lot 161C-R, 14 Condominium Units from Lot 67, 12 Condominium Units from Lot 69R-2, and 9 Condominium Units from Lot 71-R into the Town's Density Bank (a total of 39 Condominium Units). A new density certificate will be issued to the Developer reflecting these changes.
- b. *Density Certificate #42.* The Developer will use 52.75 Efficiency Lodge Units, with a total person equivalent of 26.375. A new density certificate will be issued with the remaining density in the ownership of the Developer.
- b. *Density Certificate #38.* The Developer will use .25 Efficiency Lodge Units, with a total person equivalent of .125, and 59 Lodge Units, with a total person equivalent of 44.25. Of the 59 Lodge Units, the Developer will rezone 21 Lodge Units, with a total person equivalent of 15.75, to 31.5 Efficiency Lodge Units, with the same person equivalent. A new density certificate will be issued with the remaining density in the ownership of TSG Ski & Golf Company, LLC.

- c. *Density Certificate #27*. The Town will rezone 9 Employee Condominiums, with a total person equivalent of 27, to Employee Apartments. A new density certificate will be issued with the remaining density of 4 Employee Condominiums in the ownership of the Town.

2.5 **PARKING.** The Town Council approves the parking requirements for the Property as follows:

| <b>Parking</b>   | <b>Requirement per Type</b> | <b>Required</b> | <b>Provided</b>   |
|--|-----------------------------|-----------------|-------------------|
| 29 Condominiums  | 1 space per unit            | 29              | 29                |
| 53 Hotel Rooms (Efficiency Lodge Units)                        | .5 spaces per unit          | 26.5            | 26.5              |
| 77 Lodge Units (39 Efficiency Lodge + 38 Lodge Units)          | .5 per unit                 | 38.5            | 38.5              |
| 10 Employee Apartments   | 1 space per unit            | 10              | 10                |
| HOA Maintenance Vehicles                                       | 1-5 spaces                  | 5               | 5                 |
| Ridge Parking  | 36                          | 36              | 36                |
| Commercial High Intensity – Restaurant (5,050 sq. ft.)         | 1 space per 500 sq. ft.     | 10.1            | 10                |
| Commercial Low Intensity – Spa, Pool, Fitness (15,425 sq. ft.) | 1 space per 1,000 sq. ft.   | 15.5            | 15.5              |
| Town Parking (Community Benefit)                               | 2 spaces                    | 2               | 2                 |
| Additional Parking (Hotel Operations)                          | none                        | none            | 23                |
| <b>Total</b>   |                             | <b>168</b>      | <b>195.5(196)</b> |

2.6 **CDC DESIGN VARIATIONS.** The Town Council approves the following variations to the CDC’s Design Regulations for the Property:

- a. Exterior wall materials (CDC Section 17.5.6.E.4)
  - b. Glazing variation (CDC Section 17.5.6.G.1)
  - c. Commercial ground level and plaza area (CDC Sections 16.5.15.B.1 & 2)
- Specific Approvals:
- d. Roof design – green roof (CDC Section 16.5.6.C.1)
  - e. Roof material – stone ballast, metal fascia (CDC Section 17.5.6.C.3)

**SECTION 3. CONDITIONS.** The approval of the Final SPUD Application is subject to the following terms and conditions:

3.1. All conditions of the approval of the Subdivision Application as set forth in Town Council Resolution No. 2022-\_\_ (“**Subdivision Approval**”) and as set forth on the Property Replat and in the DRB’s final design review on July 20, 2022 are conditions of this Final SPUD Approval.

3.2. The Town Council must separately approve a Major Subdivision application to create the Adjustment Parcels (“**Adjustment Parcels Subdivision Application**”). The Developer shall submit the Adjustment Parcels Subdivision Application to the Town no later than six (6) months after the Effective Date of this Ordinance in accordance with the Conveyance MOU (defined below).

3.3 **Conveyance MOU.** Within sixty (60) days of the Effective Date of this Ordinance, the Town and Developer shall work together in good faith to prepare and execute a memorandum of understanding, or similar agreement in a form acceptable to the Town Manager, by which the parties shall identify the procedural steps for

conveyance and closing of the Adjustment Parcels and order of recordation of the necessary documents, which may be approved by the Town Manager (“**Conveyance MOU**”).

3.4 **Development Agreement.** Prior to the expiration of the Approval Period, the Town and Developer (or Developer Party, as defined below) shall enter into a Development Agreement in substantially the form set forth in **Exhibit E**, attached hereto, which shall incorporate by reference all conditions of this Final SPUD Approval, the Subdivision Approval, the Adjustment Parcels Subdivision Application approval and the Conveyance MOU. The Town Manager is authorized to approve the final version of the Development Agreement and, upon such approval, the Development Agreement and all related documents necessary to effectuate the intent of this Ordinance may be executed by the Town Manager, Director of Community Development, Mayor, and Town Clerk, as appropriate or necessary.

3.5 **Community Benefits.** The Developer agrees to provide the following as “**Community Benefits**”:

- a. \$650,000 contribution to the Town for revitalization of and improvements, including design services, to the Village Pond area and adjacent plazas, including pedestrian circulation around the western edge of the Pond, allowing for more intensive improvements and plantings on the eastern edge and connecting the wetlands walking trail from the Pond/Convention Center Plaza to Heritage/Gondola Plaza (“**Pond Area Improvements**”). A \$500,000 payment towards the Pond Area Improvements must be paid prior to building permit issuance. Prior to the issuance of a building permit, the Town and Developer shall enter into a Pond Area Agreement, which shall set forth the process to be followed by the Town and Developer to determine the design, components, sequencing and construction of the Pond Area Improvements and shall memorialize the Developer’s contribution of \$150,000 of design services for the Pond Area Improvements to be utilized in connection with the process set forth in the Pond Area Agreement.
- b. Fixed financial or in-kind land contribution of \$2,500,000 for workforce housing, which must be made prior to building permit issuance (“**Workforce Housing Contribution**”). Acceptance of any property hereunder is at the sole discretion of the Town. The Town reserves the right to obtain an appraisal, or other valuation method approved by the Town Manager, to verify the value of the land proposed to be conveyed prior to acceptance of said land. If the property does not appraise at \$2,500,000, Developer will pay the balance in cash. In the event the land is not accepted by the Town, Developer will provide the cash equivalent for a total contribution of \$2,500,000.
- c. Construction of a public bathroom in the northern retail section of the project that ties to the new plaza of approximately 500 square feet in size (“**Public Bathroom**”), which shall be conveyed to the Town prior to issuance of a final certificate of occupancy. The Town, and not the Developer, shall be responsible for maintenance of the public restrooms to be dedicated to the Town.
- d. Construction of a storage facility for the Town approximately 600 square foot in size (“**Storage Facility**”), which shall be conveyed to the Town prior to issuance of a final certificate of occupancy.
- e. Conveyance of two deeded parking spaces within the project’s underground parking garage to the Town to be used by Town Staff in connection with gondola operations (“**Town Parking Spaces**”), which shall be conveyed to the Town prior to issuance of final certificate of occupancy.
- f. Construction of publicly accessible plaza areas connecting to the public Gondola Plaza (“**Plaza Areas**”). The Plaza Areas will be extensively planted to maintain the natural landscape as it flows through the site. This includes improvements to the alley between Tracks and the gondola station and assists with separating skier traffic from retail traffic. The Plaza Areas shall be constructed prior to issuance of a final certificate of occupancy and shall be consistent with the map attached hereto as **Exhibit F** and as further defined by as-builts upon completion. The improved area for public use is more than the CDC requires.
- g. Enhancement of and incorporation of the existing wetlands into a lush, “**Wetlands Walking Trail**” that is 10 feet in width and connects the Pond/Convention Center Plazas to Heritage Plaza and the Gondola Plaza. This enhancement also creates a path from Village Pond Plaza to Mountain Village

Boulevard, as depicted in Exhibit F. The Wetlands Walking Trail shall be completed prior to issuance of a final certificate of occupancy.

- h. Construction of a trash compacting facility within the project which will reduce the number of trips over Mountain Village Boulevard by large trash removal trucks and equipment.
- i. Provide a connection between the Ridge Trail and the project's après ski plaza, which provides access for hikers to the Wetlands Walking Trail ("**Ridge Trail Connection**"). A public easement to the Town will be provide prior to issuance of a final certificate of occupancy.
- j. A waiver from any obligation of the Town to pay HOA dues on the two Town parking spaces, public restroom, and storage area.
- k. Construction of a vehicular service parking space on Mountain Village Boulevard to facilitate deliveries for neighbors (e.g., Le Chamonix).
- l. The following items as provided in Table 6. Public Benefits in the Town's Comprehensive Plan:
  - #1. Hot beds.
  - #12. Utility easements to Parcel G, as may be reasonably requested by the owner of Parcel G.
  - #13. Coordinated development between Parcel D (Pond Lots) and Parcels F and F1 (Lot 161C-R).
  - #14. A vehicular delivery and pedestrian access from Mountain Village Boulevard to Le Chamonix and neighbors (as noted under Item 6.k. above).
  - #17. Enhanced riparian corridor.

3.6 **Public Improvements**. The Developer agrees to provide the following "**Public Improvements**":

- a. A snow-melted pedestrian sidewalk along Mountain Village Boulevard, including safety lighting, that connects the porte cochere along Mountain Village Boulevard to the stairs from Mountain Village Boulevard to the Pond Plaza ("**MVB Sidewalk**"). The Developer shall dedicate the MVB Sidewalk to the Town prior to issuance of certificate of occupancy, but the Developer shall maintain the MVB Sidewalk. The Town and the Developer shall enter into an agreement pertaining to the Developer's maintenance of the MVB Sidewalk prior to the issuance of the final certificate of occupancy. The Town shall have the right but not the obligation to maintain the MVB Sidewalk in the event Developer fails to do so. If the Town causes any damage to the MVB Sidewalk during the course of the Town's operations, then the Town shall be responsible for the costs of repairs necessitated by the Town's actions, provided that such repairs shall be made in the time and manner determined by the Town in its reasonable discretion, and further provided that nothing herein shall be construed as a waiver of the Town's governmental immunity.
- b. Relocation of water and sewer main lines in accordance with a utility relocation plan to be submitted in connection with the application for a building permit and easements to the Town for the relocated main lines.
- c. Repaving a portion of Mountain Village Boulevard after relocation of water and sewer lines.
- d. Construction of the Wetlands Walking Trail, Plaza Areas, and primary public pedestrian routes including bridges consistent with the map attached hereto as Exhibit F. The Developer shall either grant a public easement to the Town for the Wetlands Walking Trail and Plaza Areas or dedicate said trail and plazas to the Town prior to final certificate of occupancy issuance. Developer shall be responsible for maintaining the Wetlands Walking Trail and Plaza Areas; provided, however, that the Town shall have the right, but not the obligation, to maintain the Trails and Plazas in the event Developer fails to do so. If the Town causes any damage to the Wetlands Walking Trail and Plaza Areas during the course of the Town's operations, then the Town shall be responsible for the costs of repairs necessitated by the Town's actions, provided that such repairs shall be made in the time and manner determined by the Town in its reasonable discretion, and further provided that nothing herein shall be construed as a waiver of the Town's governmental immunity.
- e. Construction of the Ridge Trail Connection and the Developer shall grant a public easement to the Town for the Ridge Trail Connection prior to final certificate of occupancy issuance. The Developer shall be responsible for maintaining the Ridge Trail Connection; provided, however that the Town shall have the right, but not the obligation, to maintain the Ridge Trail Connection in the



event Developer fails to do so. If the Town causes any damage to the Ridge Trail Connection during the course of the Town's operations, then the Town shall be responsible for the costs of repairs necessitated by the Town's actions, provided that such repairs shall be made in the time and manner determined by the Town in its reasonable discretion, and further provided that nothing herein shall be construed as a waiver of the Town's governmental immunity.

- f. Additional Public Improvements may be required under the CDC (as it exists on the date of approval of this Ordinance) or other applicable building codes and as determined by Town Staff based on final construction plans submitted at the time of building permit application or in connection with the Adjustment Parcels Subdivision Application. In the event such additional Public Improvements are required, Developer and the Town shall update or amend the Development Agreement to include such improvements and the performance guarantee required therefor.

3.7 All Public Improvements to be conveyed or dedicated to the Town shall be constructed by the Developer at its expense pursuant to plans and specifications approved by the Town Engineer, and the Developer shall provide a letter of credit or other security, in a form subject to approval by the Town Manager (which shall not be unreasonably withheld), to secure the construction and completion of such improvements based on engineering cost estimates to be approved by the Town Engineer. The procedures for providing and releasing security, inspection and acceptance of conveyance or public dedications, and construction warranties for the Public Improvements shall be addressed in the Development Agreement and/or a supplement thereto to be executed prior to issuance of a building permit when final construction plans and specifications and cost estimates are complete.

3.8 The housing mitigation requirements for the Project are being satisfied by the construction of 10 Employee Apartments, as shown on the Final SPUD Plans, which cannot be rezoned or diminished at a future date without approval by Town Council. A final housing mitigation based upon the construction drawings will be submitted with the building permit application to verify compliance with the housing mitigation requirements pursuant to the housing mitigation ordinance in effect as of the date of approval of this Ordinance. A deed restriction in substantially the form attached here to as **Exhibit G** shall be recorded with the San Miguel County Clerk and Recorder contemporaneously with the recordation of the condominium map for the Project, and any prior lienholder must agree to subordinate to this deed restriction. In the event of any conflict between Exhibit G and the recorded deed restriction, the recorded version of the deed-restriction shall control.

3.9 **Hotel Rooms.** The 53 Efficiency Lodge Units labeled as *Hotel Rooms* ("Hotel Rooms") on the Final SPUD Plans shall be condominiumized as one (1) condominium unit ("**Hotel Rooms Unit**") for the purpose of the condominium documents, association and ownership and may not be individually condominiumized.

3.10 **Hotel Residences.** The Lodge Units and Efficiency Lodge Units configured with lock-off units, as labeled on the Final SPUD Plans as *Hotel Residences* ("Hotel Residences"), shall be subject to a deed restriction whereby when not occupied by the owner, the Hotel Residences will be available for rent by the general public, on such terms to be determined by the Town and Developer within sixty (60) days of Final SPUD Approval, as approved by the Town Manager. Such deed restriction shall be recorded contemporaneously with the condominium map for the Project and prior to issuance of a final certificate of occupancy and prior to any sale or lease of the Hotel Residences.

3.11 **Employee Apartments.** The 10 Employee Apartments must be constructed concurrently with the free-market portions of the Property.

3.12 **Private Residences.** The Condominium Units labeled on the Final SPUD Plans as *Private Residences* ("**Private Residences**") shall not be subject to any separate deed restriction and may be individually condominiumized.

3.13 The Hotel Rooms must be constructed concurrently with the Private Residences.

3.13 The Developer shall provide the Town with written confirmation of the five-star operator's commitment to operate and manage the Hotel Rooms and Hotel Residences prior to building permit application submittal.

3.14 In the event that a five-star operator does not continue to operate and manage the Hotel Rooms and Hotel Residences constructed on the Property, the Developer shall be required to process a Class 4 application to amend the Final SPUD Approval to allow for an operator with fewer than five stars.

3.15 A Class 3 Application, Sign Plan must be submitted prior to issuance of building permit.

3.16. Prior to submittal of a building permit application, the Developer will revise the landscape plans to include details of green roof plantings, to indicate the required seed mix specifications for both native grass and riparian zones, and to indicate any areas of low grow fescue planting to be reviewed and approved by Town Staff. Final irrigation calculations will be provided with the building permit submittal for Town Staff review.

3.17 Within six (6) months of Final SPUD Approval, the Developer will work with the Town and a wetlands consultant to provide a detailed plan for the Gorrano Creek Riparian Corridor and Pond edge that addresses the proposed recirculation system, creek bed liner, enhanced pond outlet installation, planting, and revegetation for both the riparian corridor and pond edge. This plan must be approved by Town Staff (including Plaza and Public Works Staff as it relates to Village Center continuity). To the extent that the Application involves a proposal to provide flows into the Village Center Pond from Gorrano Creek, any increased flows or increased retention of water in the pond shall be subject to confirmation that a legal and physical water supply exists for such purposes or can be provided under the terms of existing water rights held by TSG Ski & Golf, LLC and/or the Town and that any water rights issues have been adequately addressed.

3.18 Requirements for a delivery management/flagger system for the loading dock will be memorialized in the Development Agreement.

3.19 Construction mitigation plans will continue to be updated in coordination with the Town, as well as the State of Colorado regarding storm water mitigation, and the Colorado Passenger Tramway Safety Board regarding any gondola impacts. Final construction mitigation plans must be approved by Town Staff prior to building permit issuance and must begin six months prior to anticipated submitted of the building permit application. This includes a phased and staged construction mitigation plan, ongoing communications plan, and an update to the interim utilities plan.

3.20 Any necessary approvals from the Colorado Passenger Tramway Safety Board for subgrade gondola encroachments must be obtained prior to building permit issuance.

3.21 The Developer will work with the Town to determine necessary and appropriate lighting at the proposed sidewalk along Mountain Village Boulevard. This additional lighting must be approved by Town Staff prior to building permit issuance.

3.22 Town Staff will evaluate whether additional plantings for screening are necessary to screen the gas regulator station prior to issuance of a final certificate of occupancy.

3.23 Prior to final certificate of occupancy issuance, the Developer will enter into a revocable encroachment agreement with the Town for any approved encroachments in the General Easement. This includes any encroachments that already exist on the Property as well as any new encroachments.

3.24 A monumented land survey of the footers of the structures shall be provided to the Town prior to pouring concrete to determine whether there are any additional encroachments into the General Easement.

3.25 A monumented land survey shall be prepared by a Colorado public land surveyor in accordance with the conditions of the building permit to establish the maximum building height and maximum average building height.

3.26 Prior to the Town's Building Division conducting the required framing inspection, a four foot by eight-foot (4' x 8') materials board must be erected on the site consistent with the DRB approval to show:

- a. the stone, setting pattern, and any grouting with the minimum size of four feet by four feet (4' x 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, including paver samples for public plazas and pathways.

3.27 It is incumbent upon the Developer to understand whether above grade utilities and Town infrastructure (e.g., fire hydrants and electric utility boxes), whether placed in the right of way or General Easement, are placed in an area that may encumber access to the Property. Any relocation of such above grade infrastructure appurtenances will occur at the Developer's sole expense and in coordination with the appropriate entity (e.g., fire department, SMPA, or Town) so that the relocation position is satisfactory to the Town.

3.28 Prior to issuance of a final certificate of occupancy, the Developer shall coordinate a civic wayfinding program with Town Staff.

3.29 The Developer shall pay to install, operate, and maintain a Town-approved snowmelt system in accordance with the Snowmelt Plan included in the Final SPUD Plans and in accordance with the Development Agreement.

3.30 Pursuant to Section 17.3.4(H) of the Code, the Developer, at its expense, shall construct onsite improvements, including but not limited to pavers, landscaping, walkways, rails and stairs (as applicable), and snowmelt for all areas designated for public access, and be responsible for continued maintenance thereof. The Developer's maintenance responsibilities for such onsite improvements shall also be outlined in the governing documents of the owners' association, which governing documents shall be subject to review and approval by the Town Attorney, which approval shall not be unreasonably withheld.

3.31 All representations of the Developer, whether within the SPUD Applications submittal materials or at the DRB or Town Council public hearings, are conditions of this approval.

**SECTION 4. SEVERABILITY.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall become effective on \_\_\_\_\_, 2022 ("Effective Date") and shall be recorded in the official records of the Town, kept for that purpose, and shall be authenticated by the signatures of the Mayor and the Town Clerk.

**SECTION 6. EXPIRATION OF APPROVALS.** The Final SPUD Approval and the Subdivision Approval shall expire on the expiration of the Approval Period (as may be extended) unless all of the following items have been completed prior to the expiration of the Approval Period (as may be extended):

- a. Fee title ownership of Lot 161C-R, Lot 67, Lot 69R-1, Lot 71R and Tract OS-3Y shall be conveyed to the Developer, or an affiliated party of the Developer (“**Developer Party**”) approved by the Town in accordance with the Conveyance MOU;
- b. All conditions under the Conveyance MOU have been resolved to the satisfaction of Town Staff;
- d. The Property Replat shall be executed by the Town and the Developer or Developer Party and recorded in the records of the San Miguel County Clerk and Recorder;
- e. This Ordinance shall be recorded in the records of the San Miguel County Clerk and Recorder; and
- f. The Development Agreement shall be executed by the Town and the Developer or Developer Party and recorded in the records of the San Miguel County Clerk and Recorder.

**SECTION 7. RECORDATION.** This Ordinance shall be recorded with the San Miguel County Clerk & Recorder contemporaneously with the recordation of the Property Replat and Development Agreement.

**SECTION 8. PUBLIC HEARING.** A public hearing on this Ordinance was held on the 8<sup>th</sup> day of September, 2022 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado 81435.

**SECTION 9. VESTED RIGHTS.** The Town Council finds and determines that the SPUD constitutes a site-specific development plan for purposes of Section 17.4.17 of the CDC and C.R.S. § 24-68-101, *et seq.*, and that the criteria for approval of a vested property right set forth in CDC Section 17.4.17(D) have been satisfied. The documents comprising the site-specific development plan as included in the Application shall be notated as required by CDC Section 17.4.17(E)(2). Additional details concerning the scope of the vested rights granted by this Ordinance are set forth in the Development Agreement.

**SECTION 10. PUBLICATION.** The Town Clerk or Deputy Town Clerk shall post and publish notice of this Ordinance as required by Article V, Section 5.8 of the Charter.

**INTRODUCED, READ, AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 21<sup>st</sup> day of July, 2022**

**TOWN OF MOUNTAIN VILLAGE:**

**TOWN OF MOUNTAIN VILLAGE, COLORADO,  
A HOME-RULE MUNICIPALITY**

By: \_\_\_\_\_  
Laila Benitez, Mayor

ATTEST:

\_\_\_\_\_  
Susan Johnston, Town Clerk

**HEARD AND FINALLY ADOPTED** by the Town Council of the Town of Mountain Village, Colorado this  
\_\_ day of \_\_\_\_\_, 2022

**TOWN OF MOUNTAIN VILLAGE:**

**TOWN OF MOUNTAIN VILLAGE, COLORADO  
A HOME-RULE MUNICIPALITY**

By: \_\_\_\_\_  
Laila Benitez, Mayor

ATTEST:

\_\_\_\_\_  
Susan Johnston, Town Clerk

Approved as to Form:

\_\_\_\_\_  
David McConaughy, Town Attorney

I, Susan Johnston, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No. 2022-\_\_ ("Ordinance") is a true, correct, and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on \_\_\_\_\_, 2022, by the affirmative vote of a quorum of the Town Council as follows:

| Council Member Name      | "Yes" | "No" | Absent | Abstain |
|--------------------------|-------|------|--------|---------|
| Laila Benitez, Mayor     |       |      |        |         |
| Dan Caton, Mayor Pro-Tem |       |      |        |         |
| Marti Prohaska           |       |      |        |         |
| Harvey Mogenson          |       |      |        |         |
| Patrick Berry            |       |      |        |         |
| Peter Duprey             |       |      |        |         |
| Jack Gilbride            |       |      |        |         |

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on \_\_\_\_\_, 2022 in accordance with Section 5.2(d) of the Town of Mountain Village Home Rule Charter.
4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on \_\_\_\_\_, 2022. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

| Council Member Name      | "Yes" | "No" | Absent | Abstain |
|--------------------------|-------|------|--------|---------|
| Laila Benitez, Mayor     |       |      |        |         |
| Dan Caton, Mayor Pro-Tem |       |      |        |         |
| Marti Prohaska           |       |      |        |         |
| Harvey Mogenson          |       |      |        |         |
| Patrick Berry            |       |      |        |         |
| Peter Duprey             |       |      |        |         |
| Jack Gilbride            |       |      |        |         |

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
 Susan Johnston, Town Clerk  
 (SEAL)

Exhibit A

[Legal description of the adjustment parcels]

**Open Space Parcels to be conveyed by Town to Merrimac-Fort and to be included in future Lot 161-CRR**

Open Space Parcel 1 (Portion of Tract OS3-BR-2)

A portion of Tract OS-3BR-2, Mountain Village, according to the Plat of Lot 109R And Tract OS-3BR-2, Town of Mountain Village, a Replat of Lots 73-76R, 109, 110, Tract 89-A and Tract OS-3BR-1, Town of Mountain Village recorded March 18, 2011 in Plat Book 1 at page 4455, County of San Miguel, State of Colorado further described as follows:

Beginning at a corner point common to said Tract OS-3BR-2, Tract OS-3XRR, Mountain Village, according to the Plat of Lot 38-50-51R, Tract OS-3CRR and Tract OS-3XRR, Town of Mountain Village, a Replat of Lot 38R, Lot 50-51R, Tract OS-3CR and Tract OS-3X, Town of Mountain Village, recorded February 11, 2009 in Plat Book 1 at page 4061 and Tract OS-3Y, Town of Mountain Village, according to the Replat of Tract OS-3, OS-3B, OS-3C & OS-3E recorded July 14, 2004 in Plat Book 1 at page 3325, County of San Miguel, State of Colorado, being the POINT OF BEGINNING

Thence S 86° 22' 48" W for a distance of 26.61 feet along the common boundary of said Tract OS-3BR-2 and said Tract OS-3XRR;

Thence N 22° 35' 43" E for a distance of 24.59 feet;

Thence N 05° 14' 12" W for a distance of 36.41 feet;

Thence N 27° 15' 42" W for a distance of 62.28 feet;

Thence N 10° 37' 14" E for a distance of 39.48 feet to a point on the eastern boundary of said Tract OS-3BR-2;

Thence S 19° 12' 32" E for a distance of 35.75 feet along said eastern boundary of said Tract OS-3BR-2;

Thence continuing along said eastern boundary S 28° 34' 35" E a distance of 50.36 feet;

Thence continuing along said eastern boundary S 09° 07' 19" E for a distance of 38.06 feet;

Thence continuing along said eastern boundary S 00° 19' 34" W for a distance of 35.88 feet to the POINT OF BEGINNING;

County of San Miguel, State of Colorado

Containing 0.063 acres more or less;

Open Space Parcel 2 (Portion of Tract OS-3XRR)

A portion of Tract OS-3XRR, Mountain Village, according to the Plat of Lot 38-50-51R, Tract OS-3CRR and Tract OS-3XRR, Town of Mountain Village, a Replat of Lot 38R, Lot 50-51R, Tract OS-3CR and Tract OS-3X, Town of Mountain Village, recorded February 11, 2009 in Plat Book 1 at page 4061 County of San Miguel, State of Colorado further described as follows:

Beginning at a corner point common to said Tract OS-3XRR, Tract OS-3BR-2, Mountain Village, according to the Plat of Lot 109R And Tract OS-3BR-2, Town of Mountain Village, a Replat of Lots 73-76R, 109, 110, Tract 89-A and Tract OS-3BR-1, Town of Mountain Village recorded March 18, 2011 in Plat Book 1 at page 4455 and Tract OS-3Y, Town of Mountain Village, according to the Replat of Tract

OS-3, OS-3B, OS-3C & OS-3E recorded July 14, 2004 in Plat Book 1 at page 3325, County of San Miguel, State of Colorado, being the POINT OF BEGINNING;

Thence along the along the common boundary of said Tract OS-3XRR and said Tract OS-3Y;  
S 58° 49' 40" E a distance of 34.08 feet;

Thence continuing along said common boundary S 26° 20' 01" E for a distance of 52.32 feet

Thence continuing along said common boundary S 02° 23' 52" E for a distance of 41.94 feet

Thence continuing along said common boundary S 05° 52' 06" W for a distance of 14.39 feet to a point on the northern boundary of Lot 161C-R, Town of Mountain Village, according to the Plat recorded April 2, 1999 in Plat Book 1 at Page 2529, County of San Miguel, State Of Colorado.

Thence along said northern boundary of Lot 161C-R N 90° 00' 00" W for a distance of 28.55 feet to the northwest corner of said Lot 161C-R;

Thence along the western boundary of said Lot 161C-R S 08° 03' 05" E for a distance of 239.28 feet;

Thence continuing along said western boundary S 34° 24' 03" E for a distance of 17.31 feet;

Thence continuing along said western boundary S 59° 39' 12" E for a distance of 38.89 feet;

Thence continuing along said western boundary S 69° 29' 08" E for a distance of 16.23 feet to the most northerly corner of Lot 53, Town of Mountain Village according to the plat of record filed with the San Miguel County Clerk and Recorder in Plat Book 1 at page 2036, County of San Miguel, State of Colorado;

Thence along the boundary of said Lot 53 the following three (3) courses;

- 1) S 59° 28' 00" W for a distance of 66.04 feet;
- 2) N 30° 32' 00" W for a distance of 12.00 feet;
- 3) S 59° 28' 00" W for a distance of 105.67 feet;

Thence N 30° 32' 00" W for a distance of 27.69 feet;

Thence N 56° 43' 51" E for a distance of 15.58 feet to the most southerly corner of Lot 59R, Town of Mountain Village according to the plat of record filed with the San Miguel County Clerk and Recorder in Plat Book 1 at page 2929, County of San Miguel, State of Colorado;

Thence along the boundary of said Lot 59R the following twenty-one (21) courses;

- 1) N 56° 43' 51" E for a distance of 21.04 feet;
- 2) N 11° 43' 51" E for a distance of 6.42 feet;
- 3) S 78° 16' 09" E for a distance of 8.54 feet;
- 4) N 56° 43' 51" E for a distance of 4.66 feet;
- 5) N 33° 16' 09" W for a distance of 1.53 feet;
- 6) N 56° 43' 51" E for a distance of 9.78 feet;
- 7) S 33° 16' 09" E for a distance of 1.53 feet;
- 8) N 56° 43' 51" E for a distance of 4.66 feet;
- 9) N 11° 43' 51" E for a distance of 4.66 feet;
- 10) N 78° 16' 09" W for a distance of 1.62 feet;
- 11) N 11° 43' 51" E for a distance of 16.08 feet;
- 12) S 78° 16' 09" E for a distance of 1.62 feet;
- 13) N 11° 43' 51" E for a distance of 4.66 feet;



- 14) N 33° 16' 09" W for a distance of 1.99 feet;
- 15) N 11° 43' 51" E for a distance of 122.81 feet;
- 16) N 29° 49' 09" E for a distance of 3.23 feet;
- 17) N 33° 16' 09" W for a distance of 14.57 feet;
- 18) N 56° 43' 51" E for a distance of 5.13 feet;
- 19) N 33° 16' 09" W for a distance of 22.04 feet;
- 20) S 56° 43' 51" W for a distance of 5.13 feet;
- 21) N 33° 16' 09" W for a distance of 15.07 feet to the most northerly corner of said Lot 59R;

Thence N 10° 16' 00" E for a distance of 27.13 feet to an angle point on the eastern boundary of Lot 60R-AB, Town of Mountain Village according to the plat of record filed with the San Miguel County Clerk and Recorder in Plat Book 1 at page 3087, County of San Miguel, State of Colorado;

Thence along the eastern boundary of said Lot 60R-AB the following twelve (12) courses;

- 1) N 12° 00' 00" E for a distance of 48.33 feet;
- 2) N 78° 00' 00" W for a distance of 22.67 feet;
- 3) N 12° 00' 00" E for a distance of 12.36 feet;
- 4) N 78° 00' 00" W for a distance of 5.52 feet;
- 5) N 12° 00' 00" E for a distance of 14.13 feet;
- 6) N 57° 02' 15" E for a distance of 7.54 feet;
- 7) N 33° 00' 00" W for a distance of 12.12 feet;
- 8) N 57° 00' 00" E for a distance of 23.54 feet;
- 9) N 33° 00' 00" W for a distance of 23.80 feet;
- 10) N 78° 16' 09" W for a distance of 1.62 feet;
- 11) N 57° 00' 00" E for a distance of 1.33 feet;
- 12) N 33° 00' 00" W for a distance of 26.96 feet to the most northerly corner of said Lot 60R-AB;

Thence N 32° 00' 21" W for a distance of 42.51 feet;

Thence N 22° 35' 43" E for a distance of 9.29 feet to a point on the northern boundary of said Tract OS-3XRR;

Thence along said northern boundary of Tract OS-3XRR N 86° 22' 48" E for a distance of 26.61 feet to the POINT OF BEGINNING;

County of San Miguel, State of Colorado

Containing 0.423 acres more or less;

Exhibit B

[PROPERTY REPLAT]

# Lot 161C-RR, Town of Mountain Village

A Replat of Tract OS-3BR-2, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2 located within the NE 1/4 of Section 3, T.42N., R.9W. and the SE 1/4 of Section 34, T.42N., R.9W., N.M.P.M., lying within the Town of Mountain Village, County of San Miguel, State of Colorado

### CERTIFICATE OF OWNERSHIP

KNOW ALL PERSONS BY THESE PRESENTS:

MERRIMAC FORT

THAT Merrimac Fort Partners, LLC, a Florida limited liability company ("MERRIMAC FORT"), is the owner in fee simple of the following real property:

LOT 161C-R, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE PLAT, RECORDED APRIL 2, 1999 IN PLAT BOOK 1 AT PAGE 2529, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 161C-R");

AND

LOT 67, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE PLAT RECORDED MARCH 9, 1984 IN PLAT BOOK 1 AT PAGE 476, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 67")

AND

LOT 69R-2, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED SEPTEMBER 5, 1991 IN PLAT BOOK 1 AT PAGE 1164, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 69R-2")

AND

LOT 71R, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED DECEMBER 2, 1991 IN PLAT BOOK 1 AT PAGE 1208, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 71R")

AND

TRACT OS-3Y, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3, OS-3B, OS-3C & OS-3E RECORDED SEPTEMBER 5, 1991 IN PLAT BOOK 1 AT PAGE 3325, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Tract OS-3Y")

AND

TRACT OS-3BR-2R, MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3BR-2 and TRACT OS-3XRRR, TOWN OF MOUNTAIN VILLAGE, A RECORDED IN PLAT BOOK 1 AT PAGE \_\_\_\_\_, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Tract OS-3BR-2R");

AND

TRACT OS-3XRRR, MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3XRRR, TOWN OF MOUNTAIN VILLAGE, RECORDED IN PLAT BOOK 1 AT PAGE \_\_\_\_\_, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

MERRIMAC FORT PARTNERS, LLC DOES HEREBY, EXECUTE, DELIVER, AND ENTER INTO this Replat under the name and style of "Lot 161C-RR, A Replat of Tract OS-3BR-2R, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2, Town of Mountain Village, County of San Miguel, State of Colorado" (the "Replat"); AND

THEREBY, CREATE the following new lot

"Lot 161C-RR, Town of Mountain Village" ("Lot 161C-RR");

THEREWITH, DO HEREBY ACKNOWLEDGE, VACATE, AND ESTABLISH NEW BOUNDARY LINES WITH RESPECT TO THE REPLATED LOT 161C-RR, all as set forth on this Replat and further as follows:

1) MERRIMAC FORT hereby vacates the former property boundary lines of Lot 161C-R, Lot 67, Lot 69R-2,

Lot 71R, and Tract OS-3Y, Tract OS-3XRRR, and Tract OS-3BR-2R and establishes the boundaries of the Lot 161C-RR as set forth, depicted and described on this Replat.

2) MERRIMAC FORT HEREBY CONFIRMS that, by virtue of and through this Replat, fee simple title ownership is hereby established in and to the Lot 161C-RR in and to MERRIMAC FORT PARTNERS, LLC, A FLORIDA LIMITED LIABILITY COMPANY.

### OWNER SIGNATURES

Merrimac Fort Partners, LLC, a Florida limited liability company

By: \_\_\_\_\_, Manager

### ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ ) ) ss. ) ) COUNTY OF \_\_\_\_\_ ) )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_ as Manager of Merrimac Fort Partners, LLC, a Florida limited liability company

My commission expires \_\_\_\_\_ Witness my hand and seal.

Notary Public

### EASEMENT VACATION

The following easements have been terminated and vacated as set forth below:

- 1. 16' GENERAL EASEMENT PER REC. NO. 327023 as vacated and terminated by the Easement Termination Agreement recorded at Reception No. \_\_\_\_\_
2. 16' PUBLIC WALKWAY EASEMENT (BOOK 431 PAGE 445 and Plat Book 1 at Page \_\_\_\_\_) as vacated and terminated by the Easement Termination Agreement recorded at Reception No. \_\_\_\_\_

### SHEET INDEX

- Page 1 - Certifications and Notes
Page 2 - Boundaries and Easements (1"-30")

### PARCEL AREA SUMMARY

Table with 2 columns: Current Lot, Acreage. Rows include Lot 161C-R (2.842 acres), Lot 69R-2 (0.228 acres), Lot 71-R (0.176 acres), Lot 67 (0.117 acres), Tract OS-3Y (0.587 acres), Tract OS-3BR-2R (0.063 acres)

Table with 2 columns: Tract OS-3XRRR (0.424 acres), Total (4.437 acres)

Table with 2 columns: Replatted Lot s, Acreage, Lot 161C-RR (4.437 acres)

Net Change in Village Center Open Space Tracts acreage -0.487 acres

### TITLE INSURANCE COMPANY CERTIFICATE

Land Title Guarantee Company does hereby certify that we have examined the title to the lands herein shown on this Replat and that the title to this land is in the name of Merrimac Fort Partners, LLC, a Florida limited liability company is free and clear of all encumbrances, liens, taxes, and special assessments except as follows:

Title Insurance Company Representative

### NOTES

- 1. Approval of this plat may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended and Town of Mountain Village Community Development Code Section 17.
2. Easement research from Land Title Guarantee Company
a. Land Title Guarantee Company, Order Number ABS86011705, dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Lot 67, Lot 69R-2, Lot 71, and Tract OS-3Y
b. Land Title Guarantee Company, Order Number ABS86011452 dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Lot 161C-R, Town of Mountain Village
c. Land Title Guarantee Company, Order Number ABS86012785 dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Tract OS-3XRRR and Tract OS-3BR-2R, Town of Mountain Village
3. SURVEY NOTES
a. BASIS OF BEARINGS. The bearing from monument "Overpass" to monument "Rim", as shown monumented hereon, was assumed to bear N31°16'24"W according to Banner Associates, Inc. project bearings.
b. LINEAL DISTANCES shown hereon measured in US survey feet.
4. Notice is hereby given that the area included in the plat described herein is subject to the regulations of the Land Use Ordinance, of the Town of Mountain Village, February 08, 2005 as amended.

### NOTES OF CLARIFICATION

- a. The Configuration of the following lots, tracts, and right-of-way have been modified by this Replat: None
b. The following lots have been created by this Replat:
1. Lot 161C-RR
c. The following lots have been deleted by this Replat:
1. Lot 161C-R
2. Lot 69R-2

- 3. Lot 71-R
4. Lot 67
5. Tract OS-3Y
6. Tract OS-3BR-2R
7. Tract OS-3XRRR

6. The approval of this Replat vacates all prior plats for the area described in the Legal Description as shown hereon in the Certificate of Ownership. The approval of this Replat vacates and terminates all easements, conditions, covenants, restrictions, reservations, dedications and notes set forth on all prior plats for the area described in the Legal Description as shown hereon in the Certificate of Ownership, including without limitation the Access and Utility Easements Notes 1, 2, 3 and 4 set forth on the plat recorded at Reception No. 325409, Plat Book 1 at page 2529.

7. Town of Mountain Village Resolution No. \_\_\_\_\_ recorded at Reception No. \_\_\_\_\_

8. Development Agreement Site Specific Planned Unit Development Lot 161C-RR recorded at Reception No. \_\_\_\_\_

9. Town of Mountain Village Ordinance No. 2022-\_\_\_\_\_ recorded at Reception No. \_\_\_\_\_

10. GENERAL EASEMENT 16 foot General Easement, an easement sixteen feet in width inuring to the benefit of the Town of Mountain Village its successors, designees and assigns, is hereby established and reserved on, over and under the portion of Lot 161C-RR designated as 16' GE for the purpose of constructing, operation, maintenance and repairing any and all improvements required for those uses, purposes and activities deemed necessary and appropriate by the Town of Mountain Village for the safe or efficient operation of the Town of Mountain Village or any lots contained therein, which shall include but are not limited to the following: water service, electrical service, telephone service, cable television service, sanitary sewer service, natural gas service, propane service, communication service, road construction, retaining walls, roadway and driveway cut and fill areas, drainage, bicycle access, skier access, gondola structures, gondola setback, pedestrian access, snow storage, storm sewer, grading, removal of vegetation, silt slope maintenance, snowmobile access, snowcat access, and removal or addition of soils materials.

11. 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 defect in this survey be commenced more than ten years from the date of the certification shown hereon.

### TOWN OF MOUNTAIN VILLAGE APPROVAL

I, \_\_\_\_\_, as Mayor, of the Town of Mountain Village, Colorado, does hereby certify that this Replat has been approved by the Town of Mountain Village Town Council in accordance with Ordinance No. \_\_\_\_\_, the Development Agreement Site Specific Planned Unit Development Lot 161C-RR recorded at Reception No. \_\_\_\_\_ and Town of Mountain Village Resolution No. \_\_\_\_\_ recorded at Reception No. \_\_\_\_\_ which authorized my execution of this Replat.
\_\_\_\_\_, Mayor, Date \_\_\_\_\_

### ACKNOWLEDGMENT

State of \_\_\_\_\_ ) ) ss. ) ) County of \_\_\_\_\_ ) )

The foregoing signature was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, A.D. by \_\_\_\_\_ as Mayor of the Town of Mountain Village.

My commission expires \_\_\_\_\_ Witness my hand and seal.

Notary Public

### PLANNING APPROVAL:

I, \_\_\_\_\_, as the Planning and Development Services Director of Mountain Village, Colorado, do hereby certify that this Replat has been approved by the Town in accordance with the Community Development Code.

\_\_\_\_\_, Date: \_\_\_\_\_ Planning and Development Services Director

### SURVEYOR'S CERTIFICATE

I, David R. Bulson of Bulson Surveying, a Professional Land Surveyor licensed under the laws of the State of Colorado, do hereby certify that this plat of LOT 161C-RR, A REPLAT OF TRACT OS-3BR-2R, TRACT OS-3XRRR, TRACT OS-3Y, LOT 161C-R, LOT 67, LOT 71R, LOT 69R-2, TOWN OF MOUNTAIN VILLAGE, COUNTY OF SAN MIGUEL, STATE OF COLORADO as shown hereon has been prepared under my direct responsibility and checking, and accurately represents a survey conducted under my direct supervision. This survey complies with applicable provisions of Title 38, Article 51, C.R.S. to the best of my knowledge and belief.

IN WITNESS HEREOF, I here unto affix my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022

P.L.S. No. 37662 Date \_\_\_\_\_

### TREASURER'S CERTIFICATE

I, the undersigned, Treasurer of the County of San Miguel, do hereby certify that according to the records of the San Miguel County Treasurer there are no liens against the subdivision or any part thereof for unpaid state, county, municipal or local taxes or special assessments due and payable, in accordance with Land Use Code Section 3-101.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,

San Miguel County Treasurer

### RECORDER'S CERTIFICATE

This Replat was filed for record in the office of the San Miguel County Clerk and Recorder on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at Reception No. \_\_\_\_\_, at Time \_\_\_\_\_.

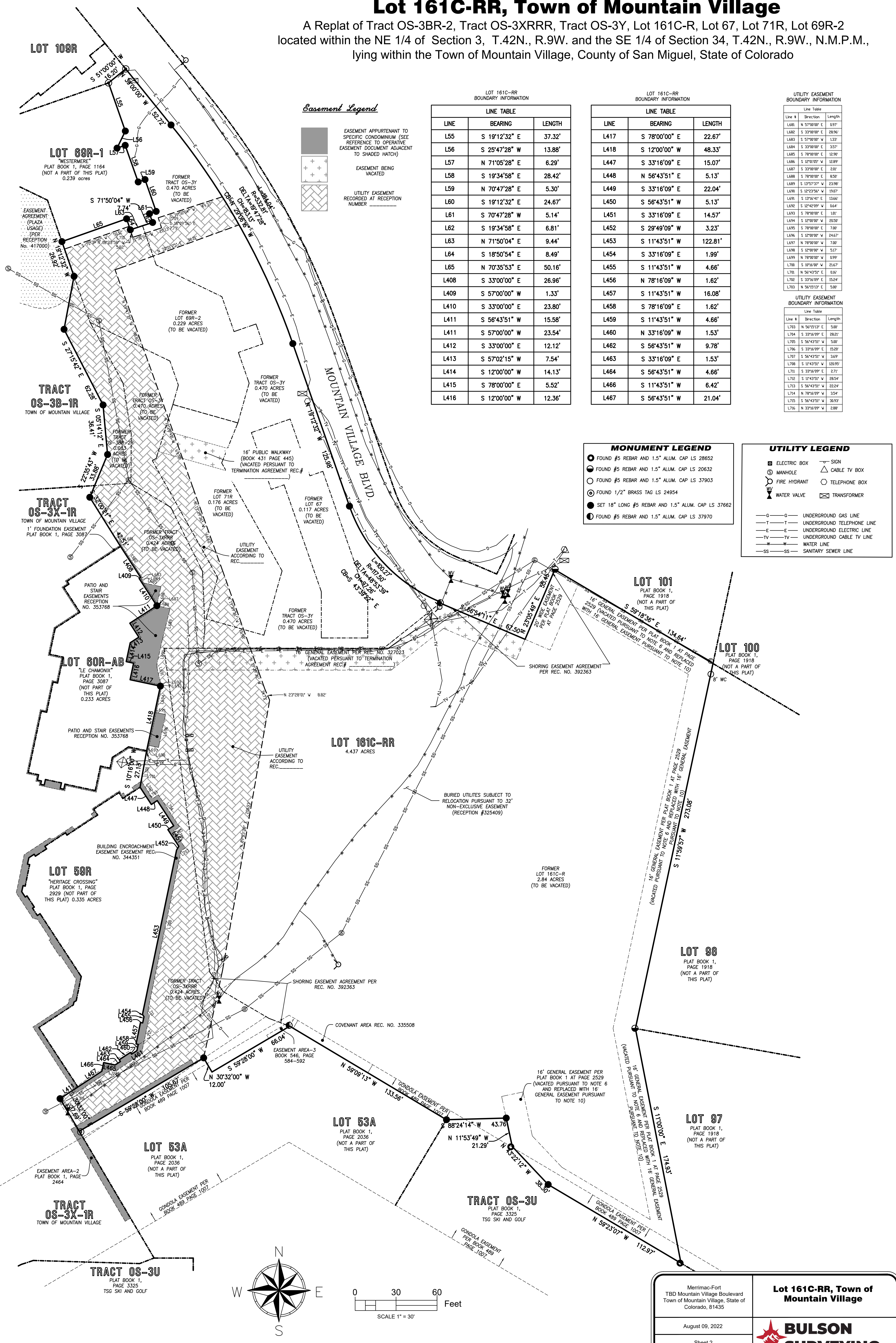
San Miguel County Clerk and Recorder



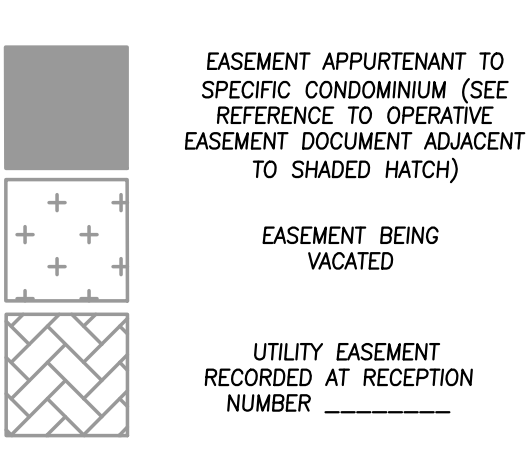
Project information box containing: Merrimac-Fort TBD Mountain Village Boulevard, Town of Mountain Village, State of Colorado, 81435; Date: August 09, 2022; Sheet 1, Project 21057; Logo for BULSON SURVEYING.

# Lot 161C-RR, Town of Mountain Village

A Replat of Tract OS-3BR-2, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2 located within the NE 1/4 of Section 3, T.42N., R.9W. and the SE 1/4 of Section 34, T.42N., R.9W., N.M.P.M., lying within the Town of Mountain Village, County of San Miguel, State of Colorado



### Easement Legend



### LOT 161C-RR BOUNDARY INFORMATION

| LINE | BEARING       | LENGTH |
|------|---------------|--------|
| L55  | S 19°12'32" E | 37.32' |
| L56  | S 25°47'28" W | 13.88' |
| L57  | N 71°05'28" E | 6.29'  |
| L58  | S 19°34'58" E | 28.42' |
| L59  | N 70°47'28" E | 5.30'  |
| L60  | S 19°12'32" E | 24.67' |
| L61  | S 70°47'28" W | 5.14'  |
| L62  | S 19°34'58" E | 6.81'  |
| L63  | N 71°50'04" E | 9.44'  |
| L64  | S 18°50'54" E | 8.49'  |
| L65  | N 70°35'53" E | 50.16' |
| L408 | S 33°00'00" E | 26.96' |
| L409 | S 57°00'00" W | 1.33'  |
| L410 | S 33°00'00" E | 23.80' |
| L411 | S 56°43'51" W | 15.58' |
| L411 | S 57°00'00" W | 23.54' |
| L412 | S 33°00'00" E | 12.12' |
| L413 | S 57°02'15" W | 7.54'  |
| L414 | S 12°00'00" W | 14.13' |
| L415 | S 78°00'00" E | 5.52'  |
| L416 | S 12°00'00" W | 12.36' |

### LOT 161C-RR BOUNDARY INFORMATION

| LINE | BEARING       | LENGTH  |
|------|---------------|---------|
| L417 | S 78°00'00" E | 22.67'  |
| L418 | S 12°00'00" W | 48.33'  |
| L447 | S 33°16'09" E | 15.07'  |
| L448 | N 56°43'51" E | 5.13'   |
| L449 | S 33°16'09" E | 22.04'  |
| L450 | S 56°43'51" W | 5.13'   |
| L451 | S 33°16'09" E | 14.57'  |
| L452 | S 29°49'09" W | 3.23'   |
| L453 | S 11°43'51" W | 122.81' |
| L454 | S 33°16'09" E | 1.99'   |
| L455 | S 11°43'51" W | 4.66'   |
| L456 | N 78°16'09" W | 1.62'   |
| L457 | S 11°43'51" W | 16.08'  |
| L458 | S 78°16'09" E | 1.62'   |
| L459 | S 11°43'51" W | 4.66'   |
| L460 | N 33°16'09" W | 1.53'   |
| L462 | S 56°43'51" W | 9.78'   |
| L463 | S 33°16'09" E | 1.53'   |
| L464 | S 56°43'51" W | 4.66'   |
| L466 | S 11°43'51" W | 6.42'   |
| L467 | S 56°43'51" W | 21.04'  |

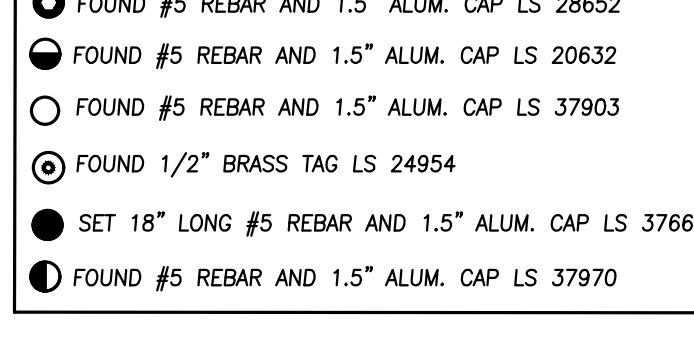
### UTILITY EASEMENT BOUNDARY INFORMATION

| Line # | Direction     | Length |
|--------|---------------|--------|
| L668   | N 57°00'00" E | 0.97'  |
| L682   | S 33°00'00" E | 28.96' |
| L683   | S 57°00'00" W | 1.33'  |
| L684   | S 33°00'00" E | 3.57'  |
| L685   | S 78°00'00" E | 12.99' |
| L686   | S 12°00'00" W | 12.89' |
| L687   | S 33°00'00" E | 2.01'  |
| L688   | S 78°00'00" E | 8.50'  |
| L689   | S 19°57'37" W | 23.98' |
| L690   | S 12°00'00" W | 19.07' |
| L691   | S 19°16'44" E | 13.66' |
| L692   | S 12°00'00" W | 0.54'  |
| L693   | S 78°00'00" E | 1.01'  |
| L694   | S 12°00'00" W | 20.50' |
| L695   | S 78°00'00" E | 7.00'  |
| L696   | S 12°00'00" W | 24.67' |
| L697   | N 78°00'00" W | 7.00'  |
| L698   | S 12°00'00" W | 5.17'  |
| L699   | N 78°00'00" W | 0.99'  |
| L700   | S 10°16'00" W | 25.67' |
| L701   | N 56°43'51" E | 0.16'  |
| L702   | S 33°16'09" E | 15.24' |
| L703   | N 56°15'17" E | 5.00'  |

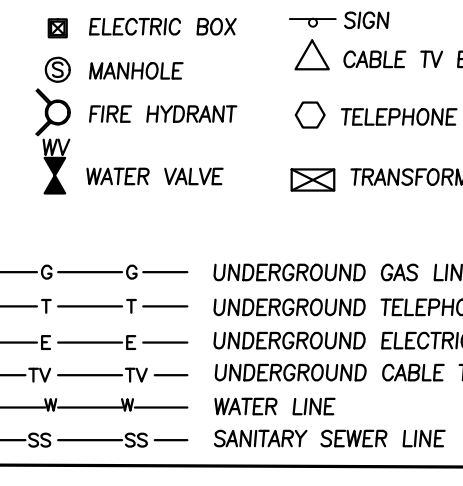
### UTILITY EASEMENT BOUNDARY INFORMATION

| Line # | Direction     | Length  |
|--------|---------------|---------|
| L703   | N 56°15'17" E | 5.00'   |
| L704   | N 33°16'09" E | 28.21'  |
| L705   | S 56°43'51" W | 5.00'   |
| L706   | S 33°16'09" E | 15.20'  |
| L707   | S 56°43'51" W | 3.69'   |
| L708   | S 11°43'51" W | 120.95' |
| L710   | S 33°16'09" E | 2.71'   |
| L712   | S 11°43'51" W | 28.54'  |
| L713   | S 56°43'51" W | 22.24'  |
| L714   | N 78°16'09" W | 3.54'   |
| L715   | S 56°43'51" W | 30.95'  |
| L716   | N 33°16'09" E | 2.88'   |

### MONUMENT LEGEND



### UTILITY LEGEND



|  |  |
|--|--|
| Merrimac-Fort<br>TBD Mountain Village Boulevard<br>Town of Mountain Village, State of<br>Colorado, 81435 | <b>Lot 161C-RR, Town of<br/>Mountain Village</b> |
| August 09, 2022  |  |
| Sheet 2<br>Project 21057   |  |

Exhibit C

[LIST OF FINAL SPUD APPLICATION MATERIALS]

[TO BE ASSEMBLED AFTER THE FINAL HEARINGS]

Exhibit D

[LIST OF FINAL SPUD PLANS]

Survey

Sheet 1 (08/27/2021) Alta/NSPS Land Title Survey  
Sheet 2 (08/27/2021) Alta/NSPS Land Title Survey  
Sheet 3 (08/27/2021) Alta/NSPS Land Title Survey  
Existing Conditions/Improvements Survey (05/02/2022)  
Proposed Lot 161C-RR Existing Trees and Slopes (04/27/22)

Lot 161C-RR Replat\*

2 Sheets (7/11/2022)

\*Replaced with Replat dated 8/9/2022 in the Subdivision Application

Civil

C1 (07/12/2022) General Notes/Details  
C2.2 (07/12/2022) Site Grading  
C2.27 (07/12/2022) Ridge Trail – Alternate Connection  
C2.30 (07/12/2022) Stormwater Plan  
C2.4 (07/12/2022) Access Diagram – Vehicle Turning Templates  
C3.1 (07/12/2022) Utility Plan – South  
C3.2 (07/12/2022) Utility Plan – North  
C4 (07/12/2022) Construction Mitigation  
C5 (06/14/2022) Interim Utility Plan  
C6 (06/14/2022) Stormwater Study  
C7 (06/14/2022) Stormwater Study

Landscape

L1.01 (06/13/2022 & 07/12/2022) Final SPUD Submittal Materials Plan  
L1.02 (06/13/2022 & 07/12/2022) Final SPUD Submittal Snow Management Plan  
L1.03 (06/13/2022 & 07/12/2022) Final SPUD Submittal Landscaping Plan  
L1.03A (06/13/2022 & 07/12/2022) Final SPUD Submittal Tree Plan  
L1.03B (06/13/2022 & 07/12/2022) Final SPUD Submittal Shrub & Perennial Plan  
L1.03C (06/13/2022 & 07/12/2022) Final SPUD Submittal Groundcover Plan  
L1.04 (06/13/2022 & 07/12/2022) Final SPUD Submittal Site Lighting Plan  
L1.05 (06/13/2022 & 07/12/2022) Final SPUD Submittal Landscape Materials Palette  
L1.06 ((06/13/2022 & 07/12/2022) Final SPUD Submittal Landscape Planting Palette  
L1.07 (06/13/2022 & 07/12/2022) Final SPUD Submittal Landscape Planting Palette  
L1.08 (06/13/2022 & 07/12/2022) Final SPUD Submittal Tree Protection and Removal Plans  
L1.09 (06/13/2022 & 07/12/2022) Final SPUD Submittal Fire Mitigation Zones

- L1.10 (06/13/2022 & 07/12/2022) Final SPUD Submittal Irrigation Plan
- L1.11 (06/13/2022 & 07/12/2022) Final SPUD Submittal Bridge Detail
- L1.12 (06/13/2022 & 07/12/2022) Final SPUD Submittal Emergency Access Plan
- L1.13 (06/13/2022 & 07/12/2022) Final SPUD Submittal Circulation Plan

### Architectural

- G0.00 (7/13/22) Cover Sheet
- A1.10 (07/12/2022) Overall Plan – Site Plan
- A1.11 (07/13/2022) Overall Plan – B3
- A1.12 (07/12/2022) Overall Plan – B2
- A1.13 (07/12/2022) Overall Plan – B1
- A1.14 (07/12/2022) Overall Plan – Level 1
- A1.15 (07/12/2022) Overall Plan – Level 2
- A1.16 (07/12/2022) Overall Plan – Level 3
- A1.17 (07/12/2022) Overall Plan – Level 4
- A1.18 (07/12/2022) Overall Plan – Level 5
- A1.19 (07/12/2022) Overall Plan – Level 6
- A1.20 (07/12/2022) Overall Plan – Level 7
- A1.21 (07/12/2022) Overall Plan – Level 8
- A1.22 (07/12/2022) Overall Roof Plan
- A1.22B (07/13/2022) Natural Grade – Height Calculation
- A1.22C (07/12/2022) Proposed Grade- Height Calculation
- A1.22D (07/12/2022) Fog Plane Height Limit
- A1.22E (07/12/2022) Stories Above Grade
- A1.30 (07/12/2022) Enlarged Floor Plan – Loading Dock
- A1.31 (07/12/2022) EV Parking Layout
- A1.32 (07/12/2022) Garage Clearances
- A1.34 (07/12/2022) Typical Lodge & Efficiency Lodge
- A1.35 (07/12/2022) Workforce Housing
- A2.00 (07/12/2022) Exterior Elevations
- A2.01 (07/12/2022) Exterior Elevations
- A2.02 (07/12/2022) Exterior Elevations
- A2.03 (07/12/2022) Exterior Elevations
- A2.04 (07/12/2022) Exterior Elevations
- A2.05 (07/12/2022) Exterior Elevations
- A2.06 (07/12/2022) Exterior Elevations
- A2.07 (07/12/2022) Exterior Elevations
- A2.08 (07/12/2022) Exterior Elevations
- A2.09 (07/12/2022) Exterior Elevations
- A2.11 (07/12/2022) Exterior Elevations – Lobby North South
- A2.13 (07/12/2022) Exterior Elevations – Lobby East West
- A2.15 (07/12/2022) Exterior Elevations – Restaurant
- A2.16 (07/12/2022) Entry Elevation and Section – Retail & Chalet Suisse
- A2.19 (07/12/2022) Entry Elevation and Section – Private Residence

A3.11 (07/12/2022) Canopy Section - Lobby  
A3.12 (07/12/2022) Canopy Section – Restaurant  
A8.01 (07/12/2022) Door Schedule and Details, Window Legend  
A8.02 (07/12/2022) Guardrail, Green Roof Details  
A9.01 (07/13/2022) Area Schedule – Material Palette

Electrical

E1.00 (07/12/2022) Overall Electrical Site Plan  
E1.01 (07/12/2022) Enlarged Electrical Site Plan – North  
E1.02 (07/12/2022) Enlarged Electrical Site Plan – South  
E2.00 (07/12/2022) Site Lighting Cutsheets

Construction Mitigation

Narrative revised 7.12.22  
C4 (07/12/2022) Construction Mitigation



Exhibit E

[DEVELOPMENT AGREEMENT]

[SEE ATTACHMENT 2 IN THE MEMO]

Exhibit F

[MAP OF PUBLIC PLAZAS/WETLANDS WALKING TRAIL]

**Exhibit F**  
*Public Plazas*



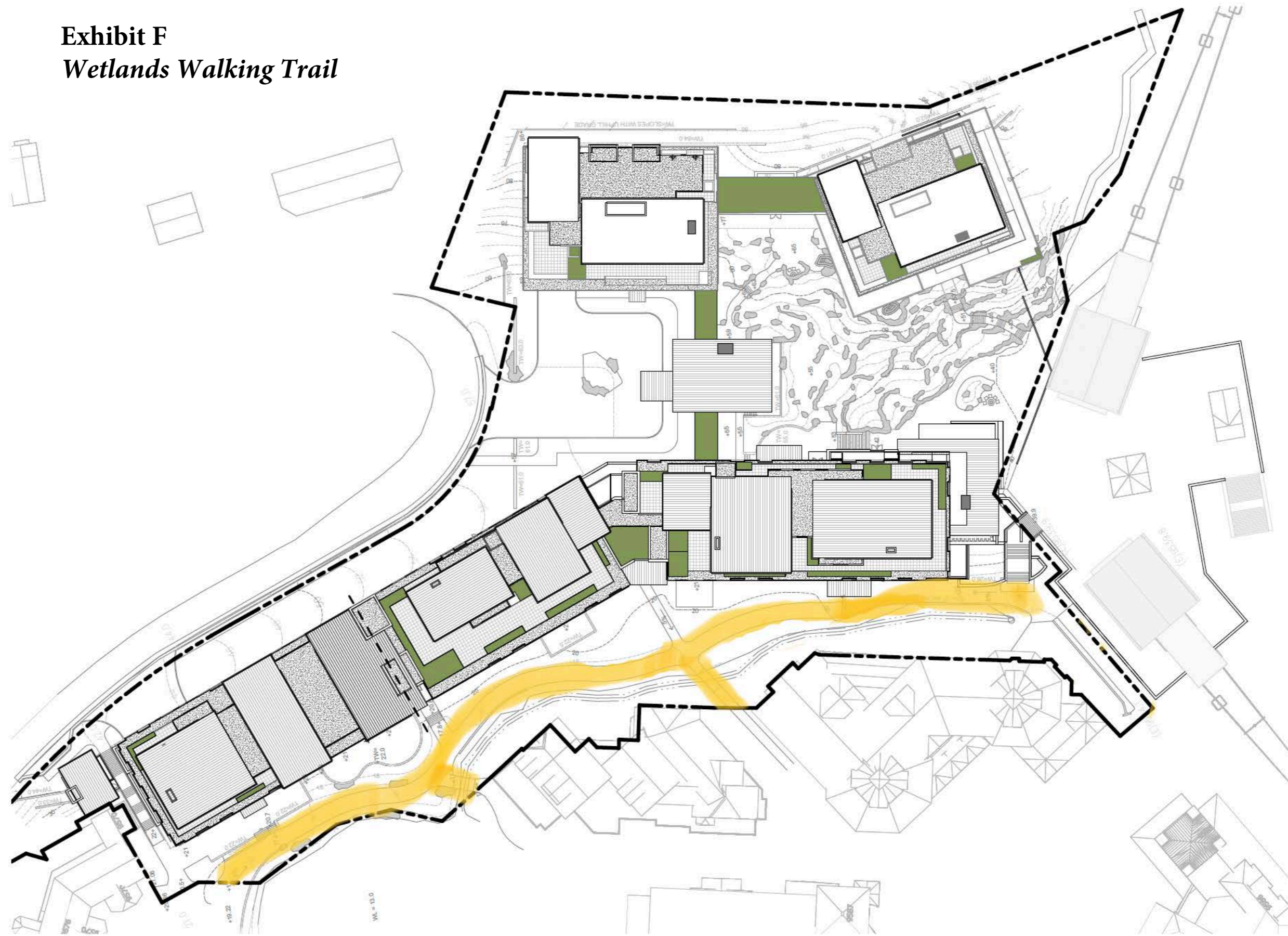
1 OVERALL - SITE PLAN  
SCALE: 1/32" = 1'-0"



0 8' 16' 24' 32' 64' 96'



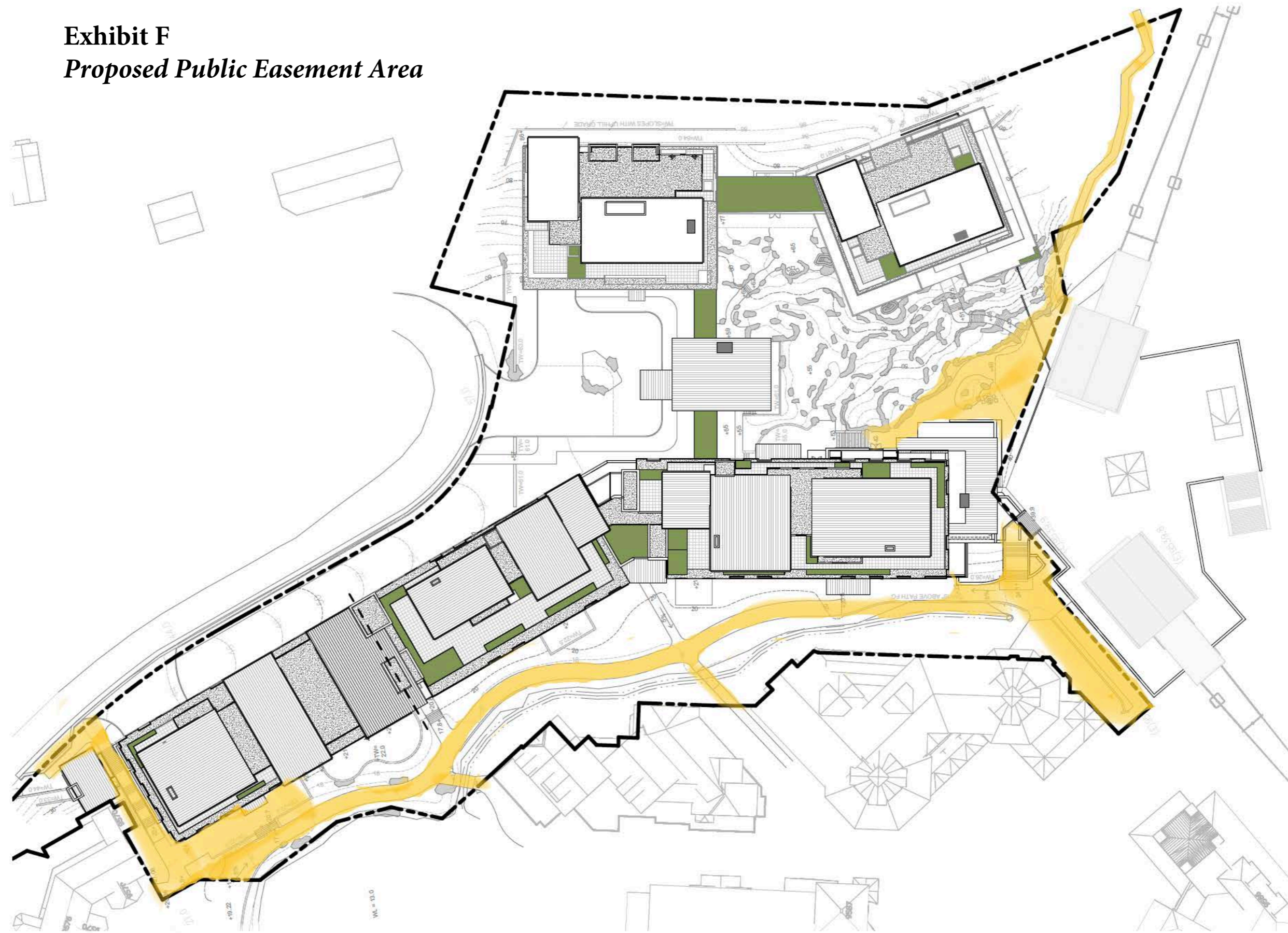
**Exhibit F**  
**Wetlands Walking Trail**



1 OVERALL - SITE PLAN  
 SCALE: 1/32" = 1'-0"



**Exhibit F**  
*Proposed Public Easement Area*



1 OVERALL - SITE PLAN  
 SCALE: 1/32" = 1'-0"



0 8' 16' 24' 32' 64' 96'



Exhibit G

[EMPLOYEE APARTMENTS DEED RESTRICTION]

**EMPLOYEE HOUSING DEED RESTRICTION  
EMPLOYEE APARTMENTS, LOT 161C-RR, MOUNTAIN VILLAGE**

THIS EMPLOYEE HOUSING DEED RESTRICTION (“**Deed Restriction**”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_ (“**Effective Date**”), by and between \_\_\_\_\_ (“**Declarant**”) and TOWN OF MOUNTAIN VILLAGE, a Colorado home rule municipality (the “**Town,**” and together with Declarant, the “**Parties**”).

WHEREAS, Declarant owns certain real property in San Miguel County, Colorado described as Lot 161C-RR, Mountain Village, according to the plat recorded as Reception No. \_\_\_\_\_ (“**Lot 161C-RR**”); and

WHEREAS, Lot 161C-RR contains 10 units designated as “Employee Apartments,” which have been condominiumized as a single unit (the “**Property**”); and

WHEREAS, pursuant to Ordinance No. 2022-\_\_, recorded as Reception No. \_\_\_\_\_, Declarant has agreed to place certain restrictions on the use of the Property for the benefit of the Town by requiring occupancy to be limited to persons, their spouses and children, who are employed within the Telluride R-1 School District, as further defined below.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**COVENANTS**

**1. Restriction; Recording.** The Property is hereby burdened with the covenants and restrictions specified in this Deed Restriction, which the Town shall record against the Property at Declarant’s expense.

**2. Amendment to 1997 Ordinance.** The Parties agree that the Property shall be subject to the “Employee Housing Restriction” contained in the Town of Mountain Village Ordinance No. 1997-05, recorded as Reception No. 329779 (the “**1997 Ordinance**”), with the following modifications:

**Section 1(I)(A)** of the 1997 Ordinance is hereby amended to read:

The use and occupancy of the Property is hereby limited exclusively to such employees who are employed or can show intent to be employed within the Telluride R-1 School District, and their spouses and children.

The foregoing restriction on use and occupancy constitutes a covenant that runs with the title to the Property as a burden thereon and shall be binding on the owner, and its heirs, successors, representatives, assigns, lessees, licensees and any transferee, in perpetuity. This restriction and covenant shall be administered by the Town Council, or its designee, and shall be enforceable by any appropriate legal or equitable action including but not limited to specific performance, injunction, abatement or eviction of non-complying owners, users or occupants, or such other





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Town Clerk

**DEVELOPMENT AGREEMENT  
SITE SPECIFIC PLANNED UNIT DEVELOPMENT  
LOT 161C-RR**

THIS DEVELOPMENT AGREEMENT (“**Agreement**”) for a Site Specific Planned Unit Development for Lot 161C-RR is made and entered into by and between the Town of Mountain Village, a home rule municipality and political subdivision of the State of Colorado (“**Town**”), and \_\_\_\_\_ (“**Developer**”), to be effective as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_ (“**Effective Date**”). The Town and the Developer are sometimes also referenced hereinafter individually as a “**Party**” and collectively as the “**Parties**.”

**[NOTE TO DRAFT: UPDATE TERM “Developer” throughout if there is an assignment of rights prior to execution]**

**RECITALS**

WHEREAS, the Developer submitted applications to the Town for the approval of a Site-Specific Planned Unit Development (“**SPUD**”) pursuant to Section 17.4.12 of the Town of Mountain Village Community Development Code (“**CDC**”) for Lot 161C-R (defined below), the Pond Lots (defined below) and the Town Parcels (defined below) (“**SPUD Application**”);

WHEREAS, the SPUD Application involved individual applications for Conceptual SPUD approval pursuant to CDC Section 17.4.12(D)(1)(a) (“**Conceptual SPUD Application**”), Sketch SPUD approval pursuant to CDC Section 17.4.12(D)(1)(b) (“**Sketch SPUD Application**”) and Final SPUD approval pursuant to CDC Section 17.4.12(D)(1)(c) (“**Final SPUD Application**”);

WHEREAS, the Developer submitted an application to the Town for the approval of a Major Subdivision pursuant to CDC Section 17.4.13 to replat Lot 161C-R (defined below), the Pond Lots (defined below) and the Town Parcels (defined below) into one integrated parcel (“**Subdivision Application**”);

WHEREAS, the Developer submitted an application to the Town for the approval of a Major Subdivision pursuant to CDC Section 17.4.13 to create the Town Parcels (defined below) (“**Town Parcels Subdivision Application**”);

WHEREAS, the SPUD Application, Subdivision Application and Town Parcels Subdivision Application involved certain parcels of real property known as Lot 161C-R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 325409 (“**Lot 161C-R**”), Lot 67, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 233115 (“**Lot 67**”), Lot 69R-2, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 272500 (“**Lot 69R-2**”), Lot 71R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 274123 (“**Lot 71R**”), Tract OS-3Y, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 367628 (“**Tract OS-3Y**,” and together with Lots 67, 69R-2, and 71R, the “**Pond Lots**”), and portions of open space parcels OS-3BR-2 and OS-3XRR, according to the respective plats recorded as Reception Nos. 416994 and 405665 (the “**Town Parcels**”), which shall be referred to herein collectively as the “**SPUD Property**,” as legally described in **Exhibit A**, attached hereto;

WHEREAS, at the time of submittal of the SPUD Application and the Subdivision Application by the Developer to the Town, CO LOT 161CR Mountain Village, LLC, a Delaware limited liability company (“**CO LOT**”) was the fee title owner of Lot 161C-R;

WHEREAS, at the time of submittal of the SPUD Application and the Subdivision Application by the Developer to the Town, TSG Ski & Golf Asset Holdings, LLC, a Delaware limited liability company and TSG Ski & Golf, LLC, a Delaware limited liability company (collectively, “TSG”) were the fee title owners of the Pond Lots;

WHEREAS, at the time of submittal of the SPUD Application and the Subdivision Application by the Developer to the Town, the Town was the fee title owner of the Town Parcels;

WHEREAS, the SPUD Application and the Subdivision Application were processed concurrently by the Town:

WHEREAS, at a public hearing held on February 17, 2022, and continued to March 17, 2022, the Town of Mountain Village Design Review Board (“DRB”) recommended to the Town of Mountain Village Town Council (“Town Council”) that the Conceptual SPUD Application for the SPUD Property be approved with conditions;

WHEREAS, at a public hearing held on February 17, 2022 and continued to March 17, 2022, Town Council approved the Conceptual SPUD Application for the SPUD Property with conditions;

WHEREAS, at a public meeting and a public hearing held on May 17, 2022, the DRB approved the Sketch SPUD Application for the SPUD Property with conditions;

WHEREAS, at a public hearing held July 20, 2022, the DRB recommended to Town Council that the Final SPUD Application for the SPUD Property be approved with conditions;

WHEREAS, at a public hearing held on July 21, 2022, Town Council approved the Final SPUD Application for the SPUD Property with conditions and held the first reading of Town of Mountain Village Ordinance 2022-\_\_ conditionally approving the Final SPUD Application for the SPUD Property (“SPUD Approval Ordinance”);

WHEREAS, at a public hearing held on September 8, 2022, Town Council held the second reading of the SPUD Approval Ordinance and conditionally approved the SPUD Approval Ordinance and this Agreement;

WHEREAS, at a public hearing held July 20, 2022, the DRB recommended to Town Council that the Subdivision Application for the SPUD Property be approved with conditions;

WHEREAS, at a public hearing held on July 21, 2022, which was continued to August 25, 2022, and again continued to September 8, 2022, Town Council approved the Subdivision Application for the SPUD Property with conditions in accordance with CDC Section 17.4.13 as set forth in Town of Mountain Village Resolution No. 2022-\_\_ (“Subdivision Approval Resolution”), which approved the replat of the SPUD Property into one integrated parcel in accordance with the plat set forth in **Exhibit B** (“SPUD Property Replat”), subject to the requirement of the separate approval of the Town Parcels Subdivision Application;

WHEREAS, at a public hearing held on \_\_\_\_\_, 202\_, DRB recommended to Town Council that the Town Parcels Subdivision Application be approved with conditions;

WHEREAS, at a public hearing held on \_\_\_\_\_, 202\_, Town Council approved the Town Parcels Subdivision Application with conditions in accordance with CDC Section 17.4.13 as set forth in Town of Mountain Village Resolution No. 202\_-\_\_ (“Town Parcels Subdivision Approval Resolution”);

WHEREAS, as of the Effective Date, fee title ownership of the SPUD Property has been conveyed to the Developer prior to the expiration of the “**Approval Period**” as set forth in the SPUD Approval Ordinance and Subdivision Approval Resolution;

WHEREAS, as of the Effective Date, the SPUD Property Replat has been recorded in the records of the San Miguel County Clerk and Recorder contemporaneous with the recordation of this Agreement and such other documents as required to be recorded at the same time as the SPUD Property Replat have been recorded as set forth in the SPUD Approval Ordinance, Subdivision Approval Resolution and this Agreement prior to the expiration of the Approval Period; and

WHEREAS, as of the Effective Date, the Developer has met all of the requirements under the SPUD Approval Ordinance, the Subdivision Approval Resolution and the Town Parcels Subdivision Approval Resolution and has addressed, or agreed to address, all conditions under the SPUD Approval Ordinance, the Subdivision Approval Resolution and the Town Parcels Subdivision Approval Resolution in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration of the mutual covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **RECITALS AND CONSIDERATION.** The foregoing Recitals are incorporated herein by reference as essential terms of this Agreement.

2. **PURPOSE.** The purpose of this Agreement is to effectuate certain terms and conditions of the Final SPUD Approval Ordinance, the Subdivision Approval Resolution and the Town Parcels Subdivision Approval Resolution, which are incorporated herein by reference, on a contractual basis as set forth herein. This Agreement also sets forth the statutory vested rights created by the Final SPUD Approval and sets forth the duration of such vested property rights, as expressly provided in Section 21, below, CDC Sections 17.4.12(J) and 17.4.17 and pursuant to C.R.S. § 24-68-101, *et seq.* All terms and conditions contained herein are in addition to all terms and conditions of the SPUD Approval Ordinance and the Subdivision Approval Resolution, the Mountain Village Municipal Code (“**Code**”) and applicable State and Federal statutes. This Agreement supersedes and replaces \_\_\_\_\_ (list prior agreements of record no longer applicable, e.g., Silverline agreement)

3. **CONVEYANCE OF SPUD PROPERTY TO DEVELOPER.** As of the Effective Date: (i) CO LOT has conveyed fee title ownership of Lot 161C-R to the Developer; (ii) TSG has conveyed fee title ownership of the Pond Lots to the Developer; and (iii) the Town has conveyed fee title ownership of the Town Parcels to the Developer. As of the Effective Date, the Approval Period has not expired.

4. **REPRESENTATIONS REFLECTED IN THE MINUTES.** The Developer shall comply with all representations made by the Developer, or the Developer’s predecessor in interest, or its agents or representatives and reflected in the minutes of the Design Review Board and Town Council meetings and public hearings regarding the Applications.

5. **FINAL SPUD APPROVAL.**

A. **SPUD Development Project.** Town Council, based on a recommendation for approval from the DRB, conditionally approved the Final SPUD Application for the SPUD Property in accordance with CDC Section 17.4.12 as set forth in the SPUD Approval Ordinance for the development of a mixed use project consisting of Hotel Rooms, Hotel Residences, Private

Residences, Employee Apartments, public and patron amenity spaces including a pool, spa and restaurant, along with a ballroom, meeting rooms, private ski lockers, commercial and retail square footage, underground parking garage, and public and private outdoor landscaped areas and plazas and related improvements to be operated by a five-star luxury brand hotel operator as more particularly depicted in the Final SPUD Plans (defined below) and the SPUD Approval Ordinance (the “**SPUD Development Project**”).

B. **Final SPUD Approval.** For purposes of this Agreement, the term “**Final SPUD Approval**” shall mean collectively the SPUD Approval Ordinance, the Final SPUD Plans (defined below) and this Agreement.

C. **Final SPUD Plans.** The Town Council’s approval of the Final SPUD Application was based the review and recommendation for approval from the DRB of various plans, drawings and specifications submitted by the Developer as itemized in **Exhibit C** (hereinafter collectively referred to as “**Final SPUD Application Plans**”).

a. **Final SPUD Construction Plans.** As of the Effective Date, the Developer has submitted final construction plans and drawings to the Town of Mountain Village Building Department consistent with the Final SPUD Application Plans consisting of the documents itemized in **Exhibit D** (hereinafter collectively referred to as the “**Final SPUD Construction Plans**”). For purposes of this Agreement, the Final SPUD Application Plans and the Final SPUD Construction Plans shall be referred to hereinafter collectively as the “**Final SPUD Plans.**” Any and all amendments to the Final SPUD Plans shall be processed in accordance with CDC Section 17.4.12(N) and shall be deemed incorporated herein upon approval of such amendment.

D. **Final SPUD Community Benefits.** In accordance with the Final SPUD Approval, the Developer shall provide the Community Benefits set forth in **Exhibit E** (“**Community Benefits**”).

a. In accordance with the Final SPUD Approval, the Developer shall execute and deliver to the Town the following documents no later than sixty (60) days following the later of either (i) date of issuance of a final Certificate of Occupancy by the Town for the SPUD Development Project; or (ii) recordation of the condominium map for the SPUD Development Project:

|   |
|---|
| Special Warranty Deed conveying Public Bathroom to the Town in substantially the same form as set forth in <b>Exhibit F</b>           |
| Special Warranty Deed conveying Parking Spaces to the Town in substantially the same form as set forth in <b>Exhibit G</b>            |
| Special Warranty Deed conveying Storage Facility to the Town in substantially the same form as set forth in attached <b>Exhibit H</b> |
| Public Easement*for Public Plazas in substantially the same form as set forth in <b>Exhibit I</b>                                     |
| Public Easement* for the Wetlands Walking Trail in substantially the same form as set forth in <b>Exhibit J</b>                       |
| Public Easement* for the Ridge Trail Connection in substantially the  |

\* At the Developer’s option, the easement areas may alternatively be dedicated to the Town in fee simple ownership.

same form as set forth in **Exhibit K**

**6. SUBDIVISION APPROVAL.**

A. Town Council, based on a recommendation for approval from the DRB, approved the Subdivision Application for the SPUD Property in accordance with the Subdivision Approval Resolution and CDC Section 17.4.13. For purposes of this Agreement, the term “**Subdivision Approval**” shall mean collectively the Subdivision Approval Resolution, the Town Parcels Subdivision Approval the SPUD Property Replat and the terms and conditions of this Agreement.

B. **Subdivision Plat.** As of the Effective Date, the Developer has recorded the SPUD Property Replat as Reception No. \_\_\_\_\_, in the records of the San Miguel County Clerk and Recorder. As of the Effective Date, the Developer has recorded the following termination of easements, modification of easements and new easement agreements in accordance with the Subdivision Approval:

| <b><u>DOCUMENT</u></b>                                 | <b><u>RECEPTION NO.</u></b> |
|--|-----------------------------|
| Vacation of Easement recorded at Reception No. 327023  |                             |
| Vacation of Easement recorded in Book 431 at page 445  |                             |
| Vacation of Easement recorded in Book 546 at page 584  |                             |
| Shoring Easement Modification Agreement (if necessary) |                             |
| Le Chamonix Easement Modification Agreement            |                             |
| Heritage Crossing Easement Modification Agreement      |                             |
| Utility Easement Agreement                             |                             |

[Any modifications to the above as determined necessary by the Parties at the time of recording of this Agreement.]

C. **Additional Conditions of Subdivision Approval.**

- a. As a condition of the issuance of a final Certificate of Occupancy for the SPUD Development Project, the Developer shall execute and deliver an amendment to the Utility Easement Agreement, recorded as Reception No. \_\_\_\_\_, that amends the legal description of the Utility Easement granted therein to reflect the as-built location of all utilities that have been installed or relocated within the Utility Easement Area depicted on the SPUD Property Replat.
- b. If upon construction of the SPUD Development Project, the Developer and the Town Manager determine that an amendment to the Shoring Easement Agreement, recorded as Reception No. \_\_\_\_\_, is necessary, the Parties shall execute and record such amendment prior to issuance of a final Certificate of Occupancy.
- c. Construction of “Public Improvements” as defined in the Subdivision Approval and as set forth in Exhibit N.

**7. OPERATION OF FIVE-STAR LUXURY BRAND HOTEL.** The Developer expressly agrees that the continued operation of the Hotel Rooms and Hotel Residences (collectively the “Hotel”) within the SPUD Development Project by a five-star luxury brand hotel operator is an essential requirement of the Final SPUD Approval and this Agreement. Prior to the Developer’s application for a Building Permit,

the Developer shall provide the Town with written confirmation from the Four Seasons, or an equivalent operator, of its commitment to operate the Hotel. Should the Four Seasons, or an equivalent operator, discontinue operation of the Hotel at any time thereafter, the Developer must immediately find a similar five-star luxury brand hotel operator subject to approval by the Town. In the event that the Developer is unable to contract with a five-star luxury brand hotel operator, the Developer must apply to the Town for an amendment to the Final SPUD Approval via a Class 4 application for approval of an operator with fewer than five stars. As represented by the Developer, the restaurants and spa to be constructed on the SPUD Property shall be open to the public.

**8. SINGULAR OWNERSHIP.** The Developer agrees that the 53 Hotel Rooms must be kept under singular ownership and cannot be further condominiumized. The Developer further agrees that the 10 Employee Apartments must also be kept under singular ownership and cannot be further condominiumized.

**9. DEED RESTRICTIONS.**

A. **WORKFORCE HOUSING.** The Developer shall record the “**Employee Housing Deed Restriction**” set forth in **Exhibit L**, attached hereto, against title to the 10 Employee Apartments. The Employee Housing Deed Restriction shall be approved by the Town Attorney and executed and recorded by the Developer concurrent with recordation of the condominium map for the SPUD Development Project and prior to sale of all 10 units or lease of the individual units to any third party. Any prior lienholder shall be required to subordinate its rights to the Employee Housing Deed Restriction.

B. **HOTEL RESIDENCES.** The 38 Hotel Residences shall be subject to a “**Hotel Residence Deed Restriction**” set forth in **Exhibit M**, attached hereto. The Hotel Residence Deed Restriction shall be approved by the Town Attorney and executed and recorded by the Developer concurrent with recordation of the condominium map for the SPUD Development Project and prior to sale of individual units to any third party. Any prior lienholder shall be required to subordinate its rights to the Hotel Residence Deed Restriction.

**10. PUBLIC IMPROVEMENTS.** The “**Public Improvements**” required by this Agreement for the SPUD Development Project are listed in **Exhibit N**, attached hereto, and the estimated costs for construction of such improvements are set forth therein. All Public Improvements shall be constructed at the expense of the Developer and in conformance with the Town’s Building Regulations then in effect, the plans and specifications submitted by the Developer and approved in writing by the Town Engineer, and any utility plan (hereinafter collectively referred to as “**Plans and Specifications**”). The Developer shall install the Public Improvements in compliance with the Plans and Specifications, the Code, all other applicable laws and regulations, and the terms of this Agreement.

A. **CONSTRUCTION OBSERVATION AND INSPECTION.**

- a. *Pre-Construction Meeting.* The Developer shall hold a pre-construction meeting with the Town Engineer and the Developer and the Developer’s engineer and contractor(s) for the purpose of discussing all construction issues related to the Project.
- b. *Construction Inspection by the Developer.* The Developer shall be responsible for ensuring that its certified professional engineer provides construction inspection services as necessary to allow Developer’s engineer to provide, when Public Improvements are submitted to the Town for acceptance, a stamped certification that

the Public Improvements have been constructed in accordance with the Plans and Specifications approved by the Town.

- c. *Construction Observation by the Town.* The Town shall have the right to make engineering inspections at reasonable intervals, at the Developer's expense, during construction of the Public Improvements in accordance with the Town's usual policies and procedures. Observation, acquiescence in, or approval by any engineering inspector of the construction of any physical facilities, at any particular time, shall not constitute Town acceptance of any Public Improvements. Town approvals shall be made only after completion of construction and in the manner hereinafter set forth. To assist the Town in monitoring the installation of the Public Improvements, a supervisor employed by the Developer shall inspect the Public Improvements on at least a monthly basis and shall provide the Town Engineer with the supervisor's field and inspection notes relating to the installation of the Public Improvements. The supervisor shall regularly apprise the Town Engineer of the status of the work on the Public Improvements. Further, the Developer, at its own expense, shall have an approved geotechnical engineer monitor the methods of construction and backfill to ensure such work is being completed in conformance with the approved Plans and Specifications, and accepted standards for such work. The geotechnical engineer shall conduct inspections and testing as reasonably directed by the Town Engineer. The Town agrees to respond to requests for interim inspections in a timely manner and to respond not later than ten (10) business days after a request for a final inspection. Nothing in this paragraph shall be construed to constitute an acceptance by the Town of the Public Improvements, which approval and acceptance shall only occur pursuant to Section 10(C) below.

B. **COMPLETION OF PUBLIC IMPROVEMENTS.** The Public Improvements shall be completed by Developer and accepted by the Town prior to the recordation of a condominium map. Before issuance of a building permit, the Town Staff and Developer shall establish by mutual agreement a specific date of completion for all Public Improvements that involve relocation of any public utility main lines or construction within Town rights of way, or if Staff and the Developer cannot so agree then this deadline shall be established by the Town Council at a public meeting. Additionally, the Developer shall complete construction of, and the Town shall approve and accept, all Public Improvements prior to and as a condition of the issuance of a final Certificate of Occupancy by the Town for the SPUD Development Project.

C. **APPROVAL AND ACCEPTANCE OF PUBLIC IMPROVEMENTS.**

- a. *Request for Final Inspection.* Upon completion of all of the Public Improvements, the Developer shall notify the Town Manager in writing and request inspection of the Public Improvements by the Town. The Town Engineer shall inspect all such Public Improvements within thirty (30) days after the date of Developer's request and notify the Developer in writing and with specificity of their conformity or lack thereof to the Plans and Specifications. If any such Public Improvements are not acceptable, the Town Engineer shall also outline corrective measures. The Developer, at its expense, shall make all corrections necessary to bring the Public Improvements into conformity with the Plans and Specifications and, upon completion thereof, shall request a re-inspection of the Public Improvements. The Town Engineer shall not be required to make inspections during any period when climatic conditions make thorough inspections impractical.



b. *Engineering Acceptance.* The Developer, at its expense, shall have “as-built” drawings of the Public Improvements prepared by a professional engineer and a registered land surveyor, which drawings shall include all legal descriptions the Town may require. The Developer shall also prepare a summary of the actual construction costs of all Public Improvements to be dedicated to the Town. The as-built drawings and costs summary shall be forwarded to the Town Manager for review and approval. Once the as-built drawings and costs summary are approved, and any and all corrections are completed, the Town Engineer shall promptly notify the Parties in writing that all Public Improvements are in conformity with the Plans and Specifications, and the date of such notification shall be known as the “**Engineering Acceptance Date.**” The Town shall be under no obligation to provide water and/or sewer service to the Project until any water/sewer Public Improvements are brought into conformance with the Plans and Specifications as determined by the Town Engineer.

c. *Final Acceptance and Conveyance.* Within thirty (30) days of the Engineering Acceptance Date, the Developer shall execute a bill of sale conveying the applicable portions of the Public Improvements to the Town, free and clear of all liens and encumbrances. As a condition precedent to the Town’s acceptance of the Public Improvements, the Developer shall provide the Town with a policy of title insurance for at least \$25,000.00 to insure any property dedicated to the Town. The effective date of the bill of sale shall be known as the “**Final Acceptance Date.**”

D. **WARRANTY.** The Developer shall warrant any and all Public Improvements conveyed to the Town pursuant to this Agreement for a period of two (2) years from the Final Acceptance Date. Specifically, but not by way of limitation, the Developer shall warrant:

- a. Any and all improvements conveyed shall be free from any security interest or other lien or encumbrance;
- b. Any and all improvements conveyed shall be free of any defects in materials or workmanship for a period of two (2) years as stated above; and
- c. The title conveyed shall be good and its transfer rightful.

E. **DAMAGE TO EXISTING FACILITIES.** The Developer, at its expense, agrees to repair any existing improvements or facilities in the Town damaged during construction of the Public Improvements.

11. **PERFORMANCE GUARANTEE.** In accordance with Section 17.4.13(L) of the Code, the total amount of required security for the Public Improvements shall be one hundred twenty-five percent (125%) of the cost estimates set forth in Exhibit N (the “**Performance Guarantee**”).

A. **FORM OF SECURITY.** To secure the construction and installation of the Public Improvements for which the Developer is responsible, the Developer shall, prior to issuance of a building permit, provide the Town with a letter of credit or other security, in a form subject to approval by the Town Manager (which shall not be unreasonably withheld). Said letter of credit or other form of security shall be valid

for at least two (2) months longer than the deadline for completion of all Public Improvements. If the time of completion of the Public Improvements is extended, the letter of credit or other form of security shall be similarly extended.

- B. **DEVELOPER RESPONSIBLE FOR ACTUAL COSTS.** The Parties agree that the Performance Guarantee does not necessarily reflect the Town Engineer's estimate of what the actual costs to the Town would be if the Town were required to fund construction of the Public Improvements. In the event that the actual costs of the Public Improvements exceed the amount of the Performance Guarantee, the Developer shall be responsible for the actual costs. The purpose of Exhibit N is solely to determine the amount of security and shall be revised as necessary to reflect the actual costs, and the Performance Guarantee required by this Agreement shall be adjusted accordingly. No representations are made as to the accuracy of these estimates, and the Developer agrees to pay the actual costs of all Public Improvements.
- C. **DEFAULT.** The Parties expressly agree that the Developer's preparation and submission to the Town of as-built drawings and a summary of actual construction costs for the Public Improvements to be dedicated to the Town are essential requirements of this Agreement. In the event that the Developer fails to provide the as-built drawings and costs summary to the Town fifteen (15) business days prior to the expiration of the Performance Guarantee or any extension thereof, such failure shall constitute a default of this Agreement with regard to the completion of the Public Improvements, damages for which are impossible to ascertain, entitling the Town to liquidated damages in the amount of \$15,000.00.
- D. **USE OF PERFORMANCE GUARANTEE.** If the Developer fails to complete the Public Improvements, which completion shall include approval and acceptance by the Town, by the time required by this Agreement, this shall constitute a default of this Agreement by the Developer, upon which the Town may withdraw or acquire funds upon demand to partially or fully complete and/or pay for any of the Public Improvements in accordance with this Section.
- E. **RELEASE OF PERFORMANCE GUARANTEE.** Upon acceptance of all Public Improvements by the Town, but no earlier than the Final Acceptance Date, the Town shall release the Performance Guarantee and shall assume normal maintenance responsibilities for the Public Improvements. A portion of the Performance Guarantee may be released as specific improvements are completed; provided, however, that no such partial or final release shall be granted until the Public Improvements guaranteed have been inspected and accepted by the Town, as evidenced by a written correspondence confirming completion.
- F. **REDUCTION IN SECURITY NOT APPROVAL OF PUBLIC IMPROVEMENTS.** Neither approval of any reduction to the approved form of security nor any other reduction in security shall be construed as the approval or acceptance of any of the Public Improvements, which approval and acceptance shall only occur pursuant to Section 10(C) above.

12. **CIVIC WAYFINDING SIGNAGE IN PUBLIC AREAS.** Prior to issuance of a final Certificate of Occupancy, the Developer must submit to and receive approval from Town Staff regarding

signage for civic wayfinding through the Village Center pedestrian plazas, in accordance with the map attached to the SPUD Approval Ordinance as Exhibit F. Such signage shall be owned and paid for by the Developer but approved by the Town for consistency with the rest of the wayfinding signage throughout the Town.

**13. ONSITE IMPROVEMENTS.** Pursuant to Section 17.3.4(H) of the Code, the Developer, at its expense, shall construct onsite improvements, including but not limited to pavers, landscaping, walkways, rails and stairs (as applicable), and snowmelt for all areas designated for public access, and be responsible for continued maintenance thereof. The Developer's maintenance responsibilities for such onsite improvements shall also be outlined in the governing documents of the owners' association, which governing documents shall be subject to review and approval by the Town Attorney, which approval shall not be unreasonably withheld, as well as a "**Sidewalk Maintenance Agreement**" with the Town, which may be approved and executed by the Town Manager.

**14. TRASH MANAGEMENT SYSTEM.** When trash removal trucks and related equipment must cross over Mountain Village Boulevard arising from or related to the Developer's Trash Facility at the SPUD Development Project, the Developer shall implement a trash management system, which shall be submitted to and approved by Town Staff prior to Building Permit issuance and, at a minimum, include the provision of flaggers and safety lights stationed at appropriate points along such trucks' route to and from the SPUD Development Project.

**15. TAP FEES.** Tap fees for the SPUD Development Project will be assessed by Town Staff and paid for by the Developer prior to issuance of a Building Permit.

**16. UTILITIES.** The Parties hereto agree that the Town shall not be responsible for utility costs associated with the snowmelt Public Plazas or MVB Sidewalk, Town Parking Spaces, or Storage Facility (defined in Exhibit E) prior to conveyance to the Town by the Developer. The Town will be responsible for utility costs associated with the dedicated Public Bathrooms if they are separately metered.

**17. EASEMENTS AND DEDICATIONS.** Prior to issuance of a final Certificate of Occupancy by the Town for the SPUD Development Project, the Developer shall cause documents of conveyance for all easements and/or dedications, if any, to be recorded in accordance with forms subject to approval by the Town Manager.

**18. CONDITIONS OF BUILDING PERMIT.** In addition to all requirements of the Code, the Town's Building Regulations, and any requirements imposed by operation of State, Federal, or local law, no Building Permit shall be issued for the SPUD Development Project until:

- a. The SPUD Property Replat and this Agreement have been approved by Town Staff and the Town Manager, signed by all required Parties, and recorded with the office of the San Miguel County Clerk and Recorder.
- b. Exhibit N outlining the Performance Guarantee has been completed and executed by the Parties after final plans and specifications and cost estimates are complete.
- c. The Performance Guarantee has been provided to the Town.
- d. Final housing mitigation based upon construction drawings has been verified by Town Staff for compliance with CDC requirements.
- e. Contribution to the Pond Area Improvements to the Town per Exhibit E.
- f. Payment to the Housing Fund and/or contribution of land to the Town per Exhibit E.
- g. The Developer has submitted to Town Staff written confirmation of the commitment by the Four Seasons or an equivalent five-star luxury brand hotel operator.

- h. The Developer's Class 3 Application, Sign Plan has been submitted to the Town.
- i. The Developer's trash management system has been approved by Town Staff.
- j. The Developer has paid all tap fees.
- k. All complete construction plans, drawings, estimates, and all other plans required under the Code or this Agreement, including but not limited to final construction mitigation plans, revised landscape plans with final irrigation calculations, recirculation and revegetation plans for the Gorrano Creek Riparian Corridor, and Mountain Village Boulevard sidewalk lighting plans, have been approved by Town Staff.
- l. All conditions of the SPUD Approval Ordinance have been addressed and resolved, as applicable, to the satisfaction of Town Staff.
- m. All conditions of the Subdivision Approval Resolution have been addressed and resolved, as applicable, to the satisfaction of Town Staff.
- n. The Developer has paid all then-outstanding invoices from the Town.

**19. CONDITIONS OF CERTIFICATE OF OCCUPANCY.** In addition to all requirements of the Code, the Town's Building Regulations, and any requirements imposed by operation of State, Federal, or local law, no Certificate of Occupancy shall be issued for the SPUD Development Project until:

- a. The Town Engineer has determined that the SPUD Development Project has adequate access and that any water and sewer utility improvements have been completed and accepted by the Town.
- b. If applicable, execution and recordation of public access easement agreements or deeds for the Public Plaza, Wetlands Walking Trail, and Ridge Trail Connection.
- c. Completion of Trash Facility and Vehicular Delivery Space per Exhibit E.
- d. Review and approval of the Developer's owners' association governing documents.
- e. Execution of the Association Waiver per Exhibit E.
- f. The Developer's Class 3 Application, Sign Plan has been approved by the Town.
- g. Installation of civic wayfinding signage for public access areas per Section 12.
- h. Submission of a monumented land survey prepared by a Colorado public land surveyor establishing the maximum building height and maximum average building height for all buildings on the SPUD Property.
- i. The Town's acceptance of all Public Improvements.
- j. All conditions of the SPUD Approval Ordinance have been resolved to the satisfaction of Town Staff.
- k. All conditions of the Subdivision Approval Resolution have been resolved to the satisfaction of Town Staff.
- l. The Developer has paid all then-outstanding invoices from the Town.

**20. CONDITIONS OF RECORDATION OF CONDOMINIUM PLAT.** The following items shall be addressed as part of the application for approval of a condominium plat to define the unit boundaries of units within the SPUD Development Project that may be conveyed to third party purchasers and shall be completed contemporaneously with the recordation of the condominium plat:

- a. Conveyance of Public Bathroom per Exhibit E.
- b. Conveyance of Storage Facility per Exhibit E.
- c. Conveyance of Town Parking Spaces per Exhibit E.
- d. The Employee Housing Deed Restriction and Hotel Residence Deed Restriction have been executed and recorded in the office of the San Miguel County Clerk and Recorder.
- e. All easement and/or dedication conveyance documents have been executed and recorded with the office of the San Miguel Clerk and Recorder.

- f. The Developer has paid all then-outstanding invoices from the Town.

**21. VESTED RIGHTS**

A. **INTENT.** Development of the SPUD Property in accordance with the terms and conditions of this Agreement will provide for orderly and well planned growth, promote economic development and stability within the Town, ensure reasonable certainty, stability and fairness in the land use planning process, secure the reasonable investment-backed expectations of the Developer, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes of the Vested Property Rights Statute, C.R.S. § 24-68-101, et seq., (“**Vested Rights Statute**”), the CDC. In exchange for these benefits and the other benefits to the Town contemplated by this Agreement, together with the Community Benefits served by the orderly and well-planned development of the SPUD Property, the Developer desires to receive the assurance that development of the SPUD Property may proceed pursuant to the terms and conditions of this Agreement.

B. **SITE SPECIFIC DEVELOPMENT PLAN.** The SPUD Approval Ordinance, the Final SPUD Plans, the Subdivision Approval Resolution, the SPUD Property Replat and this Agreement constitute a “site specific development plan”, pursuant to the “Vested Rights Statute” and CDC Sections 17.4.12(D)(1)(g), 17.4.12(J) and 17.4.17.

C. **VESTED REAL PROPERTY RIGHT.** Accordingly, this final approval of a site specific development plan has created for Developer’s benefit a “vested real property right” as defined by C.R.S. Section 24-68-101 et seq., and this Agreement shall be considered a “Development Agreement” as that term is used in C.R.S. Section 24-68-104, provided, however, Developer acknowledges that the Town does not represent, warrant or guarantee that the duration of this site specific development plan will be extended beyond three (3) years by the Town.

D. **REQUIRED PLAN NOTATION.** Pursuant to CDC Section 17.4.17, the Parties set forth the following required plan notation:

*Approval of this site-specific development plan may create a vested property right pursuant to C.R.S. § 24-68-101-106 and subject to the Town of Mountain Village’s Community Development Code.*

E. **DURATION.** For purposes of this Agreement, the above-referenced vested property rights shall remain vested for the Approval Period (as may be extended) as set forth in the SPUD Approval Ordinance. Termination of the vesting period shall not affect any common-law vested rights obtained prior to such termination, or any right, whether characterized as vested or otherwise, arising from this Agreement, the Final SPUD Plans, the SPUD Property Replat, or from Town permits, approvals or other entitlements for the SPUD Property which were granted or approved prior to, subsequent to, concurrently, or in conjunction with the approval of this Agreement.

F. **PUBLICATION.** A notation of such vested real property right shall be made on the Final PUD Plans. The Town shall promptly cause to be published, at Developer's expense, a notice of such vested rights in the *Telluride Daily Planet*.

G. **RELIANCE.** The Developer has relied upon the creation of such vested real property right in entering into this Agreement. The Parties acknowledge that the Developer shall not have an affirmative duty to commence construction of this site-specific development plan.

H. **FUTURE LEGISLATION.** Except as the Vested Rights Statute expressly provides otherwise, no initiated or referred zoning, subdivision, land use or other legal or administrative action which would directly or indirectly have the effect of adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Developer's rights set forth in this Development Agreement shall apply to or be effective against the Property. Thus, during the period in which the vested real property right shall remain vested, the Town shall not impose by legislation or otherwise cause or permit any initiated or referred zoning, land use requirement or obligations, or Town charter amendment upon Developer or their successors or assigns which would alter, impair, prevent, diminish, impose a moratorium on development, delay, or otherwise adversely affect any of Developer's rights to development or use of the SPUD Property as set forth in the Final SPUD Plans, except:

- a. With the consent of the Developer; or
- b. Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the Property, which could not reasonably have been discovered at the time of vested rights approval, and which, if not corrected, would pose a serious threat to the public health, safety and welfare;
- c. To the extent that compensation is paid, as provided in Title 24, Article 68, CR

The establishment of such vested real property right shall not preclude the application on a uniform and non-discriminatory basis of Town ordinances or regulations which are general in nature, related to health, safety and welfare and applicable to all property subject to land use regulation by the Town, including, but not limited to, fee assessments and building, fire, plumbing, electrical, mechanical, water and sewer codes and ordinances. Developer does not waive its right to oppose the enactment or amendment of any such regulations.

## **22. REMEDIES FOR BREACH OR DEFAULT.**

A. In the event of any default by the Developer of any term, condition, covenant, or obligation under this Agreement, the Town Council shall be notified immediately. The Town may take such action as it deems necessary to protect the public health, safety, and welfare and to protect the citizens of the Town from hardship. The Town's remedies include any one or more of the following:

- (1) Refusing to issue to the Developer any Building Permit or Certificate of Occupancy; provided, however, that this remedy shall not be available to the Town until after the affidavit described below has been recorded;
- (2) Recording with the San Miguel County Clerk and Recorder of an affidavit, approved in writing by the Town Attorney and signed by the Town Manager or designee, stating that the terms and conditions of this Agreement have been breached by the Developer. At the next regularly scheduled Town Council meeting, the Town Council shall either ratify the recordation of said affidavit or direct the Town Manager to record an affidavit stating that the default has been cured. Upon the recording of such an affidavit, no further development may occur on the SPUD Property until the default has been cured. An affidavit signed by the Town Manager

or designee and approved by Town Council stating that the default has been cured shall remove the restriction on further development;

- (3) A demand that the Performance Guarantee be paid or honored;
- (4) The refusal to consider further development plans on the SPUD Property; and/or
- (5) Any other remedy available at law.

Unless necessary to protect the immediate health, safety, and welfare of the Town or its residents, the Town shall provide the Developer with twenty-one (21) days' written notice of its intent to take any action under this Section 22 during which period the Developer may cure the default described in said notice and prevent any further action by the Town. Furthermore, unless an affidavit as described above has been recorded with the San Miguel County Clerk and Recorder, any person dealing with the Developer shall be entitled to assume that no default by the Developer has occurred hereunder unless a notice of default has been served upon the Developer as described above, in which event the Developer shall be expressly responsible for informing any such third party of the claimed default by the Town.

**23. INDEMNITY.** Except as otherwise set forth herein, the Developer shall defend and hold the Town harmless from and against any and all claims, demands, liabilities, actions, costs, damages, and reasonable attorney's fees that may arise out of or result directly or indirectly from the development of Lot 161C-RR and all other approvals pursuant to the SPUD Approval Ordinance and Subdivision Approval Resolution, including but not limited to any claims regarding insufficient notice of any public meeting or hearing concerning the Applications, the Developer's failure to comply with the terms and conditions of this Agreement, the Developer's design or construction of the Public Improvements, or the Developer's failure to construct or complete same; provided, however such indemnification shall not apply to loss, damage, or claims attributable to the negligent acts or omissions of the Town or its agents, employees, or contractors. The Parties hereto intend not to duplicate any legal services or other costs associated with the defense of any claims against either party described in this section. The Parties agree to fully cooperate and minimize expenses incurred as a result of the indemnification described herein. In the event of any claim asserted against the Town by a third party, the Developer's indemnity obligations to the Town with respect to such third party claims shall be limited to claims arising out of matters under the Developer's control and not to procedural interpretations or similar exercise of discretion of the Town or its staff or consultants. In the event that the Town and Developer cannot agree on an equitable scope of indemnity or apportionment of fees and expenses incurred by the Town in defense of any third party claim, then such dispute shall be resolved by binding arbitration. In no event shall the Town be liable to reimburse Developer for any attorney fees or costs incurred by Developer in defense of any third party claims.

**24. ATTORNEY AND CONSULTANT FEES; VENUE.** In the event of any action, proceeding or litigation between the Town and the Applicant concerning this Agreement, the prevailing party shall be entitled to collect its reasonable legal fees and costs, including the reasonable value of salaried attorney's time. Regardless of the prevailing party in any such dispute, the Developer shall reimburse the Town for any fees and costs incurred by the Town in relation to the review and approval of the SPUD Application and Subdivision Application, including but not limited to fees and costs for legal, engineering, and surveying services by outside consultants. Any state court litigation to enforce the terms of this Agreement shall be commenced in San Miguel County, Colorado and venue shall be restricted to such county.

**25. BINDING EFFECT.** This Agreement shall extend to and inure to the benefit of and be binding upon the Town and, except as otherwise provided herein, upon the Developer, its successors and

assigns (including subsequent owners of the SPUD Property, or any part thereof). Owners of the Efficiency Lodge, Lodge and Employee Apartments permitted under the SPUD Approval Resolution shall be bound by those provisions of this Agreement which specifically apply only to those units. This Agreement shall constitute an agreement running with the SPUD Property until modification or release by mutual agreement of the Town and the Developer or their successors and assigns. Upon the conveyance of the SPUD Property by Developer to a different entity or person, and provided that the Developer is not in default hereunder at the time of conveyance, then upon the conveyance of the SPUD Property the Developer shall have no liability under this Agreement for any act or omission occurring after the date of such conveyance; provided, that the third-party transferee shall assume all liability for any act or omission arising under this Agreement.

**26. VOLUNTARY AGREEMENT.** Notwithstanding any provision of the Code, this Agreement is the voluntary and contractual agreement of the Developer and the Town. The Developer agrees that all terms and conditions of this Agreement, including specifically the payment of all fees, and the completion and satisfaction of all terms and conditions of the SPUD Approval Ordinance and Subdivision Approval Resolution are agreed to and constitute the voluntary actions of the Developer.

**27. AUTHORIZATION.** The Parties hereto warrant they are fully authorized to execute this Agreement and have taken all actions necessary to obtain such authorization.

**28. WAIVER.** No waiver of one or more of the terms of this Agreement shall constitute a waiver of other terms. No waiver of any provision of this Agreement in any instance shall constitute a waiver of such provision in other instances.

**29. GOOD FAITH OF PARTIES.** In performance of this Agreement, or in considering any requested extension of time, the Parties agree that each will act in good faith and will not unreasonably withhold, delay or condition any approval or consent required or contemplated by this Agreement.

**30. RIGHTS OF LENDERS AND INTERESTED PARTIES.** The Town is aware that financing for acquisition, development and/or construction of the SPUD Property may be provided in whole or in part, from time to time, by one or more third parties, including, without limitation, lenders, major tenants, hotel operators or managers and purchasers or developers of portions of the SPUD Property. In the event of an Event of Default by the Developer, the Town shall provide notice of such Event of Default, at the same time notice is provided to Developer, to any such interested party previously identified in writing to the Town. If such interested Parties are permitted, under the terms of its agreement with Developer to cure the Event of Default and/or to assume Developer's position with respect to this Agreement, the Town agrees to recognize such rights of interested parties and to otherwise permit such interested parties to assume all of the rights and obligations of Developer under this Agreement.

**31. NOTICES.** All notices required hereunder shall be deemed delivered to the parties five (5) calendar days after posting the same postage prepaid by certified mail, return receipt requested, and addressed as follows:

**To the Town:**

Town of Mountain Village  
Attn: Town Manager  
455 Mountain Village Blvd., Suite A  
Mountain Village, CO 81435  
[pwisor@mtnvillage.org](mailto:pwisor@mtnvillage.org)

**To the Developer:**



32. **SEVERABILITY**. If any term or provision or Article of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the applications or such term or provision or Article to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

33. **DEFINED TERMS**. All capitalized but undefined terms used in this Agreement shall have the meanings set forth in the CDC, the Final SPUD Approval or the Subdivision Approval.

34. **TITLES OF SECTIONS**. Any titles of the several parts and sections of this Agreement are inserted or convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

35. **EXHIBITS AND ATTACHMENTS**. All exhibits and attachments to this Agreement shall be incorporated herein and deemed a part of this Agreement.

36. **MODIFICATIONS**. This Agreement shall not be amended, except by subsequent written agreement of the Parties; provided, however, minor revisions to this Agreement, as approved by the Town Manager, shall be permitted as necessary including finalization of any exhibits hereto. So long as such changes are consistent with the intent and understanding of the Parties at the time of approval of this Agreement by Town Council, the execution of this Agreement shall constitute the approval of such changes by the respective Parties. Notwithstanding the foregoing, this provision does not apply to modifications to the Final SPUD Approval, which shall be made in accordance with Section 2.3(e)-(f) of the SPUD Approval Ordinance.

37. **ASSIGNMENT**. This Agreement may not be assigned by the Developer without the prior written consent of the Town, which consent shall not be unreasonably withheld and shall be based, among other things, upon the financial capability of the proposed assignee to perform the terms of this Agreement. In the event the Developer desires to assign its rights and obligations herein, it shall so notify the Town in writing together with the proposed assignee's written agreement to be bound by the terms and conditions contained herein.

38. **NON-APPROPRIATION**. No provision of this Agreement shall be construed or interpreted: i) to directly or indirectly obligate the Town to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 16 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant by the Town to or in aid of any person, company or corporation within the meaning of the Colorado Constitution.

39. **IMMUNITY**. Nothing herein nor in any related documents relating to the SPUD or Subdivision shall be construed as a waiver, or partial waiver, by the Town of any portion of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

*[Signature page to follow]*

IN WITNESS THEREOF, this Agreement is approved, covenanted, agreed to and executed by the Parties this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_ to be effective as of \_\_\_\_\_, 202\_\_.



Exhibit A

[LEGAL DESCRIPTION OF SPUD PROPERTY]

[to be finalized after the replat is recorded]

Exhibit B

[SPUD PROPERTY REPLAT]

# Lot 161C-RR, Town of Mountain Village

A Replat of Tract OS-3BR-2, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2 located within the NE 1/4 of Section 3, T.42N., R.9W. and the SE 1/4 of Section 34, T.42N., R.9W., N.M.P.M., lying within the Town of Mountain Village, County of San Miguel, State of Colorado

## CERTIFICATE OF OWNERSHIP

KNOW ALL PERSONS BY THESE PRESENTS:

MERRIMAC FORT

THAT Merrimac Fort Partners, LLC, a Florida limited liability company ("MERRIMAC FORT"), is the owner in fee simple of the following real property:

LOT 161C-R, TOWN OF MOUNTAIN VILLAGE,

ACCORDING TO THE PLAT, RECORDED APRIL 2, 1999 IN PLAT BOOK 1 AT PAGE 2529, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 161C-R");

AND

LOT 67, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT RECORDED MARCH 9, 1984 IN PLAT BOOK 1 AT PAGE 476, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 67")

AND

LOT 69R-2, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED SEPTEMBER 5, 1991 IN PLAT BOOK 1 AT PAGE 1164, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 69R-2")

AND

LOT 71R, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED DECEMBER 2, 1991 IN PLAT BOOK 1 AT PAGE 1208, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 71R")

AND

TRACT OS-3Y, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3, OS-3B, OS-3C & OS-3E RECORDED JULY 14, 2004 IN PLAT BOOK 1 AT PAGE 3325, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Tract OS-3Y")

AND

TRACT OS-3BR-2R, MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3BR-2 and TRACT OS-3XRRR, TOWN OF MOUNTAIN VILLAGE, A RECORDED IN PLAT BOOK 1 AT PAGE \_\_\_\_\_, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Tract OS-3BR-2R");

AND

TRACT OS-3XRRR, MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3XRRR, TOWN OF MOUNTAIN VILLAGE, RECORDED IN PLAT BOOK 1 AT PAGE \_\_\_\_\_, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

MERRIMAC FORT PARTNERS, LLC DOES HEREBY, EXECUTE, DELIVER, AND ENTER INTO this Replat under the name and style of "Lot 161C-RR, A Replat of Tract OS-3BR-2R, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2, Town of Mountain Village, County of San Miguel, State of Colorado" (the "Replat"); AND

THEREBY, CREATE the following new lot

"Lot 161C-RR, Town of Mountain Village" ("Lot 161C-RR");

THEREWITH, DO HEREBY ACKNOWLEDGE, VACATE, AND ESTABLISH NEW BOUNDARY LINES WITH RESPECT TO THE REPLATED LOT 161C-RR, all as set forth on this Replat and further as follows:

1) MERRIMAC FORT hereby vacates the former property boundary lines of Lot 161C-R, Lot 67, Lot 69R-2,

Lot 71R, and Tract OS-3Y, Tract OS-3XRRR, and Tract OS-3BR-2R and establishes the boundaries of the Lot 161C-RR as set forth, depicted and described on this Replat.

2) MERRIMAC FORT HEREBY CONFIRMS that, by virtue of and through this Replat, fee simple title ownership is hereby established in and to the Lot 161C-RR in and to MERRIMAC FORT PARTNERS, LLC, A FLORIDA LIMITED LIABILITY COMPANY.

## OWNER SIGNATURES

Merrimac Fort Partners, LLC, a Florida limited liability company

By: \_\_\_\_\_, Manager

## ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_ as Manager of Merrimac Fort Partners, LLC, a Florida limited liability company

My commission expires \_\_\_\_\_  
Witness my hand and seal.

Notary Public

## EASEMENT VACATION

The following easements have been terminated and vacated as set forth below:

- 16' GENERAL EASEMENT PER REC. NO. 327023 as vacated and terminated by the Easement Termination Agreement recorded at Reception No. \_\_\_\_\_.
- 16' PUBLIC WALKWAY EASEMENT (BOOK 431 PAGE 445 and Plat Book 1 at Page \_\_\_\_\_) as vacated and terminated by the Easement Termination Agreement recorded at Reception No. \_\_\_\_\_.

## SHEET INDEX

- Page 1 - Certifications and Notes
- Page 2 - Boundaries and Easements (1"=30')

## PARCEL AREA SUMMARY

| Current Lot     | Acres       |
|-----------------|-------------|
| Lot 161C-R      | 2.842 acres |
| Lot 69R-2       | 0.228 acres |
| Lot 71-R        | 0.176 acres |
| Lot 67          | 0.117 acres |
| Tract OS-3Y     | 0.587 acres |
| Tract OS-3BR-2R | 0.063 acres |

|                |             |
|----------------|-------------|
| Tract OS-3XRRR | 0.424 acres |
| Total          | 4.437 acres |

| Replatted Lot s | Acres       |
|-----------------|-------------|
| Lot 161C-RR     | 4.437 acres |

Net Change in Village Center Open Space Tracts acreage -0.487 acres

## TITLE INSURANCE COMPANY CERTIFICATE

Land Title Guarantee Company does hereby certify that we have examined the title to the lands herein shown on this Replat and that the title to this land is in the name of Merrimac Fort Partners, LLC, a Florida limited liability company is free and clear of all encumbrances, liens, taxes, and special assessments except as follows:

Title Insurance Company Representative

## NOTES

- Approval of this plat may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended and Town of Mountain Village Community Development Code Section 17. \_\_\_\_\_.
- Easement research from Land Title Guarantee Company
  - Land Title Guarantee Company, Order Number ABS86011705, dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Lot 67, Lot 69R-2, Lot 71, and Tract OS-3Y
  - Land Title Guarantee Company, Order Number ABS86011452 dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Lot 161C-R, Town of Mountain Village
  - Land Title Guarantee Company, Order Number ABS86012785 dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Tract OS-3XRRR and Tract OS-3BR-2R, Town of Mountain Village
- SURVEY NOTES
  - BASIS OF BEARINGS. The bearing from monument "Overpass" to monument "Rim", as shown monumented hereon, was assumed to bear N31°16'24"W according to Banner Associates, Inc. project bearings.
  - LINEAL DISTANCES shown hereon measured in US survey feet.
- Notice is hereby given that the area included in the plat described herein is subject to the regulations of the Land Use Ordinance, of the Town of Mountain Village, February 08, 2005 as amended.
- NOTES OF CLARIFICATION
  - The Configuration of the following lots, tracts, and right-of-way have been modified by this Replat: None
  - The following lots have been created by this Replat:
    - Lot 161C-RR
  - The following lots have been deleted by this Replat:
    - Lot 161C-R
    - Lot 69R-2

- Lot 71-R
- Lot 67
- Tract OS-3Y
- Tract OS-3BR-2R
- Tract OS-3XRRR

6. The approval of this Replat vacates all prior plats for the area described in the Legal Description as shown hereon in the Certificate of Ownership. The approval of this Replat vacates and terminates all easements, conditions, covenants, restrictions, reservations, dedications and notes set forth on all prior plats for the area described in the Legal Description as shown hereon in the Certificate of Ownership, including without limitation the Access and Utility Easements Notes 1, 2, 3 and 4 set forth on the plat recorded at Reception No. 325409, Plat Book 1 at page 2529.

7. Town of Mountain Village Resolution No. \_\_\_\_\_ recorded at Reception No. \_\_\_\_\_

8. Development Agreement Site Specific Planned Unit Development Lot 161C-RR recorded at Reception No. \_\_\_\_\_

9. Town of Mountain Village Ordinance No. 2022-\_\_\_\_\_ recorded at Reception No. \_\_\_\_\_

10. GENERAL EASEMENT 16 foot General Easement, an easement sixteen feet in width inuring to the benefit of the Town of Mountain Village its successors, designees and assigns, is hereby established and reserved on, over and under the portion of Lot 161C-RR designated as 16' GE for the purpose of constructing, operation, maintenance and repairing any and all improvements required for those uses, purposes and activities deemed necessary and appropriate by the Town of Mountain Village for the safe or efficient operation of the Town of Mountain Village or any lots contained therein, which shall include but are not limited to the following: water service, electrical service, telephone service, cable television service, sanitary sewer service, natural gas service, propane service, communication service, road construction, retaining walls, roadway and driveway cut and fill areas, drainage, bicycle access, skier access, gondola structures, gondola setback, pedestrian access, snow storage, storm sewer, grading, removal of vegetation, silt slope maintenance, snowmobile access, snowcat access, and removal or addition of soils materials.

11. 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 defect in this survey be commenced more than ten years from the date of the certification shown hereon.

## TOWN OF MOUNTAIN VILLAGE APPROVAL

I, \_\_\_\_\_, as Mayor, of the Town of Mountain Village, Colorado, does hereby certify that this Replat has been approved by the Town of Mountain Village Town Council in accordance with Ordinance No. \_\_\_\_\_, the Development Agreement Site Specific Planned Unit Development Lot 161C-RR recorded at Reception No. \_\_\_\_\_ and Town of Mountain Village Resolution No. \_\_\_\_\_ recorded at Reception No. \_\_\_\_\_ which authorized my execution of this Replat. \_\_\_\_\_, Mayor, Date \_\_\_\_\_

## ACKNOWLEDGMENT

State of \_\_\_\_\_ )  
 ) ss  
County of \_\_\_\_\_ )

The foregoing signature was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, A.D. by \_\_\_\_\_ as Mayor of the Town of Mountain Village.

My commission expires \_\_\_\_\_  
Witness my hand and seal.

Notary Public

## PLANNING APPROVAL:

I, \_\_\_\_\_, as the Planning and Development Services Director of Mountain Village, Colorado, do hereby certify that this Replat has been approved by the Town in accordance with the Community Development Code.

\_\_\_\_\_ Date: \_\_\_\_\_  
Planning and Development Services Director

## SURVEYOR'S CERTIFICATE

I, David R. Bulson of Bulson Surveying, a Professional Land Surveyor licensed under the laws of the State of Colorado, do hereby certify that this plat of LOT 161C-RR, A REPLAT OF TRACT OS-3BR-2R, TRACT OS-3XRRR, TRACT OS-3Y, LOT 161C-R, LOT 67, LOT 71R, LOT 69R-2, TOWN OF MOUNTAIN VILLAGE, COUNTY OF SAN MIGUEL, STATE OF COLORADO as shown hereon has been prepared under my direct responsibility and checking, and accurately represents a survey conducted under my direct supervision. This survey complies with applicable provisions of Title 38, Article 51, C.R.S. to the best of my knowledge and belief.

IN WITNESS HEREOF, I here unto affix my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022

P.L.S. No. 37662 Date \_\_\_\_\_

## TREASURER'S CERTIFICATE

I, the undersigned, Treasurer of the County of San Miguel, do hereby certify that according to the records of the San Miguel County Treasurer there are no liens against the subdivision or any part thereof for unpaid state, county, municipal or local taxes or special assessments due and payable, in accordance with Land Use Code Section 3-101.

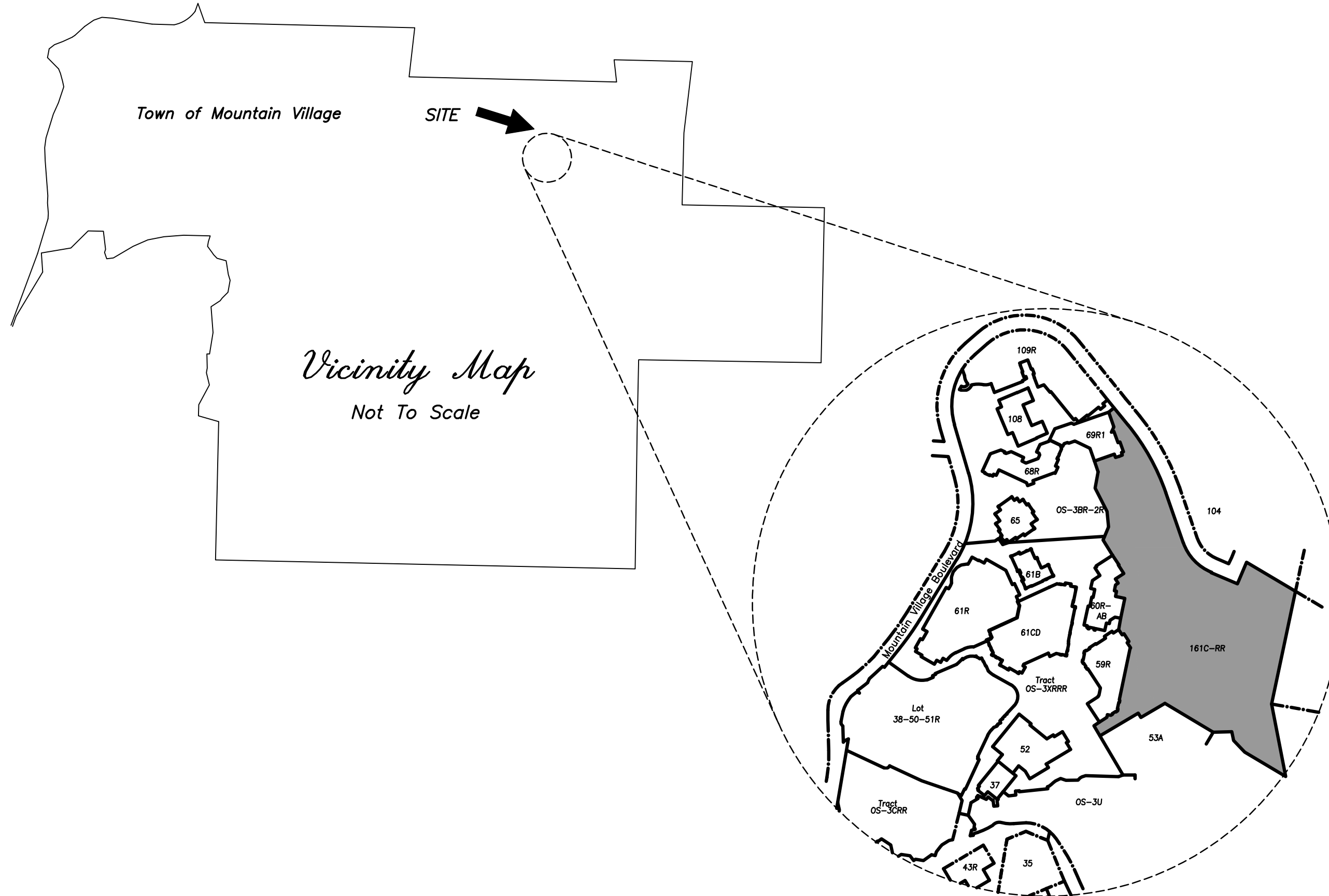
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.


San Miguel County Treasurer

## RECORDER'S CERTIFICATE

This Replat was filed for record in the office of the San Miguel County Clerk and Recorder on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at Reception No. \_\_\_\_\_, at Time \_\_\_\_\_.

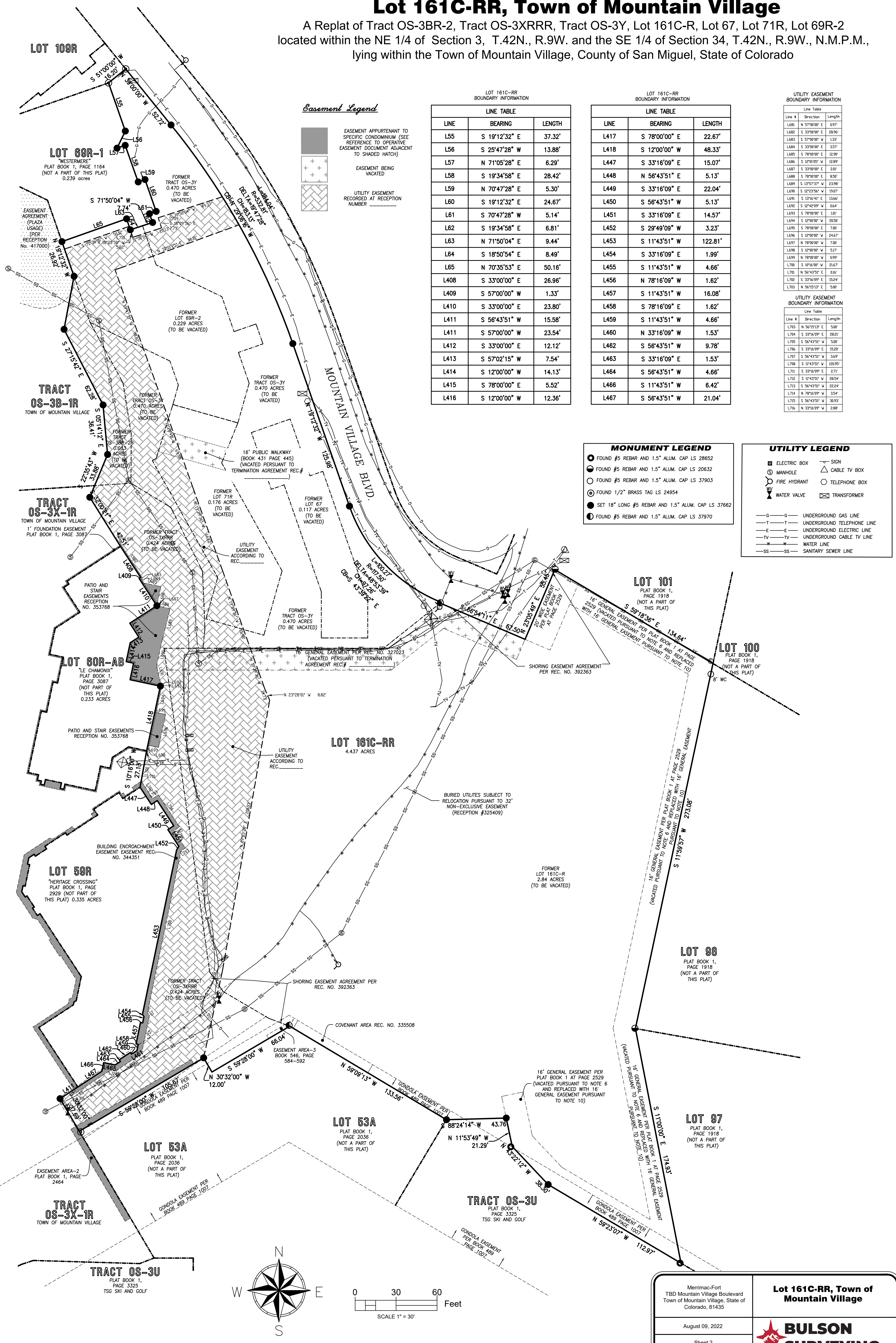
San Miguel County Clerk and Recorder



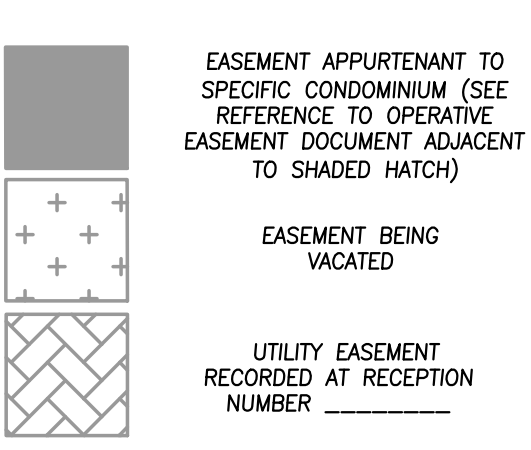
|  |  |
|--|--|
| Merrimac-Fort<br>TBD Mountain Village Boulevard<br>Town of Mountain Village, State of<br>Colorado, 81435 | <b>Lot 161C-RR, Town of<br/>Mountain Village</b>   |
| August 09, 2022  | <br><b>BULSON<br/>SURVEYING</b> |
| Sheet 1<br>Project 21057   |  |

# Lot 161C-RR, Town of Mountain Village

A Replat of Tract OS-3BR-2, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2 located within the NE 1/4 of Section 3, T.42N., R.9W. and the SE 1/4 of Section 34, T.42N., R.9W., N.M.P.M., lying within the Town of Mountain Village, County of San Miguel, State of Colorado



### Easement Legend



### LOT 161C-RR BOUNDARY INFORMATION

| LINE | BEARING       | LENGTH |
|------|---------------|--------|
| L55  | S 19°12'32" E | 37.32' |
| L56  | S 25°47'28" W | 13.88' |
| L57  | N 71°05'28" E | 6.29'  |
| L58  | S 19°34'58" E | 28.42' |
| L59  | N 70°47'28" E | 5.30'  |
| L60  | S 19°12'32" E | 24.67' |
| L61  | S 70°47'28" W | 5.14'  |
| L62  | S 19°34'58" E | 6.81'  |
| L63  | N 71°50'04" E | 9.44'  |
| L64  | S 18°50'54" E | 8.49'  |
| L65  | N 70°35'53" E | 50.16' |
| L408 | S 33°00'00" E | 26.96' |
| L409 | S 57°00'00" W | 1.33'  |
| L410 | S 33°00'00" E | 23.80' |
| L411 | S 56°43'51" W | 15.58' |
| L411 | S 57°00'00" W | 23.54' |
| L412 | S 33°00'00" E | 12.12' |
| L413 | S 57°02'15" W | 7.54'  |
| L414 | S 12°00'00" W | 14.13' |
| L415 | S 78°00'00" E | 5.52'  |
| L416 | S 12°00'00" W | 12.36' |

### LOT 161C-RR BOUNDARY INFORMATION

| LINE | BEARING       | LENGTH  |
|------|---------------|---------|
| L417 | S 78°00'00" E | 22.67'  |
| L418 | S 12°00'00" W | 48.33'  |
| L447 | S 33°16'09" E | 15.07'  |
| L448 | N 56°43'51" E | 5.13'   |
| L449 | S 33°16'09" E | 22.04'  |
| L450 | S 56°43'51" W | 5.13'   |
| L451 | S 33°16'09" E | 14.57'  |
| L452 | S 29°49'09" W | 3.23'   |
| L453 | S 11°43'51" W | 122.81' |
| L454 | S 33°16'09" E | 1.99'   |
| L455 | S 11°43'51" W | 4.66'   |
| L456 | N 78°16'09" W | 1.62'   |
| L457 | S 11°43'51" W | 16.08'  |
| L458 | S 78°16'09" E | 1.62'   |
| L459 | S 11°43'51" W | 4.66'   |
| L460 | N 33°16'09" W | 1.53'   |
| L462 | S 56°43'51" W | 9.78'   |
| L463 | S 33°16'09" E | 1.53'   |
| L464 | S 56°43'51" W | 4.66'   |
| L466 | S 11°43'51" W | 6.42'   |
| L467 | S 56°43'51" W | 21.04'  |

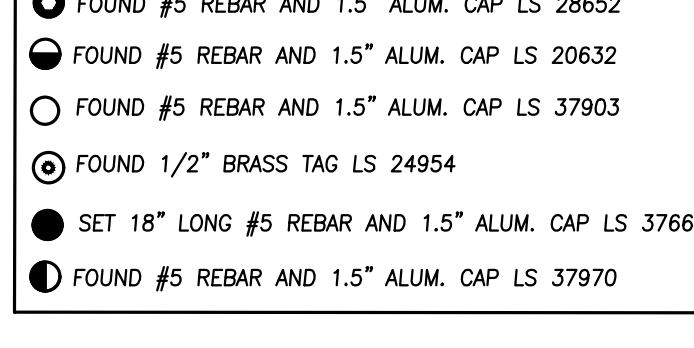
### UTILITY EASEMENT BOUNDARY INFORMATION

| Line # | Direction     | Length |
|--------|---------------|--------|
| L681   | N 57°00'00" E | 0.97'  |
| L682   | S 33°00'00" E | 28.96' |
| L683   | S 57°00'00" W | 1.33'  |
| L684   | S 33°00'00" E | 3.57'  |
| L685   | S 78°00'00" E | 12.99' |
| L686   | S 12°00'00" W | 12.89' |
| L687   | S 33°00'00" E | 2.01'  |
| L688   | S 78°00'00" E | 8.50'  |
| L689   | S 19°57'37" W | 23.98' |
| L690   | S 12°00'00" W | 19.07' |
| L691   | S 19°16'44" E | 13.66' |
| L692   | S 12°00'00" W | 0.54'  |
| L693   | S 78°00'00" E | 1.01'  |
| L694   | S 12°00'00" W | 20.50' |
| L695   | S 78°00'00" E | 7.00'  |
| L696   | S 12°00'00" W | 24.67' |
| L697   | N 78°00'00" W | 7.00'  |
| L698   | S 12°00'00" W | 5.17'  |
| L699   | N 78°00'00" E | 0.99'  |
| L700   | S 10°16'00" W | 25.67' |
| L701   | N 56°43'51" E | 0.16'  |
| L702   | S 33°16'09" E | 15.24' |
| L703   | N 56°15'17" E | 5.00'  |

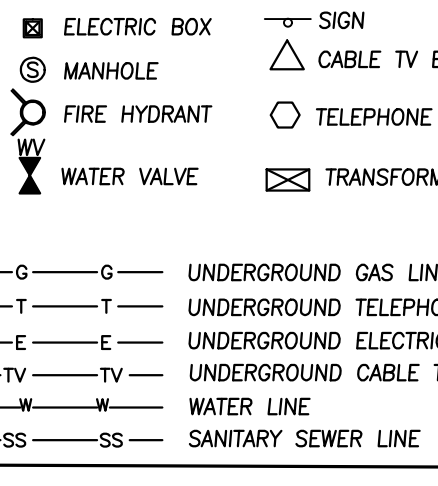
### UTILITY EASEMENT BOUNDARY INFORMATION

| Line # | Direction     | Length  |
|--------|---------------|---------|
| L703   | N 56°15'17" E | 5.00'   |
| L704   | N 33°16'09" E | 28.21'  |
| L705   | S 56°43'51" W | 5.00'   |
| L706   | S 33°16'09" E | 15.20'  |
| L707   | S 56°43'51" W | 3.69'   |
| L708   | S 11°43'51" W | 120.95' |
| L710   | S 33°16'09" E | 2.71'   |
| L712   | S 11°43'51" W | 28.54'  |
| L713   | S 56°43'51" W | 22.24'  |
| L714   | N 78°16'09" W | 3.54'   |
| L715   | S 56°43'51" W | 30.95'  |
| L716   | N 33°16'09" W | 2.88'   |

### MONUMENT LEGEND



### UTILITY LEGEND



Merrimac-Fort  
TBD Mountain Village Boulevard  
Town of Mountain Village, State of Colorado, 81435

August 09, 2022

Sheet 2  
Project 21057

**BULSON SURVEYING**

Exhibit C

[LIST OF FINAL SPUD APPLICATION PLANS]

Survey

Sheet 1 (08/27/2021) Alta/NSPS Land Title Survey  
Sheet 2 (08/27/2021) Alta/NSPS Land Title Survey  
Sheet 3 (08/27/2021) Alta/NSPS Land Title Survey  
Existing Conditions/Improvements Survey (05/02/2022)  
Proposed Lot 161C-RR Existing Trees and Slopes (04/27/22)

Lot 161C-RR Replat\*

2 Sheets (7/11/2022)

\*Replaced with Replat dated 8/9/2022 in the Subdivision Application

Civil

C1 (07/12/2022) General Notes/Details  
C2.2 (07/12/2022) Site Grading  
C2.27 (07/12/2022) Ridge Trail – Alternate Connection  
C2.30 (07/12/2022) Stormwater Plan  
C2.4 (07/12/2022) Access Diagram – Vehicle Turning Templates  
C3.1 (07/12/2022) Utility Plan – South  
C3.2 (07/12/2022) Utility Plan – North  
C4 (07/12/2022) Construction Mitigation  
C5 (06/14/2022) Interim Utility Plan  
C6 (06/14/2022) Stormwater Study  
C7 (06/14/2022) Stormwater Study

Landscape

L1.01 (06/13/2022 & 07/12/2022) Final SPUD Submittal Materials Plan  
L1.02 (06/13/2022 & 07/12/2022) Final SPUD Submittal Snow Management Plan  
L1.03 (06/13/2022 & 07/12/2022) Final SPUD Submittal Landscaping Plan  
L1.03A (06/13/2022 & 07/12/2022) Final SPUD Submittal Tree Plan  
L1.03B (06/13/2022 & 07/12/2022) Final SPUD Submittal Shrub & Perennial Plan  
L1.03C (06/13/2022 & 07/12/2022) Final SPUD Submittal Groundcover Plan  
L1.04 (06/13/2022 & 07/12/2022) Final SPUD Submittal Site Lighting Plan  
L1.05 (06/13/2022 & 07/12/2022) Final SPUD Submittal Landscape Materials Palette  
L1.06 ((06/13/2022 & 07/12/2022) Final SPUD Submittal Landscape Planting Palette  
L1.07 (06/13/2022 & 07/12/2022) Final SPUD Submittal Landscape Planting Palette  
L1.08 (06/13/2022 & 07/12/2022) Final SPUD Submittal Tree Protection and Removal Plans  
L1.09 (06/13/2022 & 07/12/2022) Final SPUD Submittal Fire Mitigation Zones  
L1.10 (06/13/2022 & 07/12/2022) Final SPUD Submittal Irrigation Plan  
L1.11 (06/13/2022 & 07/12/2022) Final SPUD Submittal Bridge Detail  
L1.12 (06/13/2022 & 07/12/2022) Final SPUD Submittal Emergency Access Plan  
L1.13 (06/13/2022 & 07/12/2022) Final SPUD Submittal Circulation Plan

## Architectural

G0.00 (7/13/22) Cover Sheet  
A1.10 (07/12/2022) Overall Plan – Site Plan  
A1.11 (07/13/2022) Overall Plan – B3  
A1.12 (07/12/2022) Overall Plan – B2  
A1.13 (07/12/2022) Overall Plan – B1  
A1.14 (07/12/2022) Overall Plan – Level 1  
A1.15 (07/12/2022) Overall Plan – Level 2  
A1.16 (07/12/2022) Overall Plan – Level 3  
A1.17 (07/12/2022) Overall Plan – Level 4  
A1.18 (07/12/2022) Overall Plan – Level 5  
A1.19 (07/12/2022) Overall Plan – Level 6  
A1.20 (07/12/2022) Overall Plan – Level 7  
A1.21 (07/12/2022) Overall Plan – Level 8  
A1.22 (07/12/2022) Overall Roof Plan  
A1.22B (07/13/2022) Natural Grade – Height Calculation  
A1.22C (07/12/2022) Proposed Grade- Height Calculation  
A1.22D (07/12/2022) Fog Plane Height Limit  
A1.22E (07/12/2022) Stories Above Grade  
A1.30 (07/12/2022) Enlarged Floor Plan – Loading Dock  
A1.31 (07/12/2022) EV Parking Layout  
A1.32 (07/12/2022) Garage Clearances  
A1.34 (07/12/2022) Typical Lodge & Efficiency Lodge  
A1.35 (07/12/2022) Workforce Housing  
A2.00 (07/12/2022) Exterior Elevations  
A2.01 (07/12/2022) Exterior Elevations  
A2.02 (07/12/2022) Exterior Elevations  
A2.03 (07/12/2022) Exterior Elevations  
A2.04 (07/12/2022) Exterior Elevations  
A2.05 (07/12/2022) Exterior Elevations  
A2.06 (07/12/2022) Exterior Elevations  
A2.07 (07/12/2022) Exterior Elevations  
A2.08 (07/12/2022) Exterior Elevations  
A2.09 (07/12/2022) Exterior Elevations  
A2.11 (07/12/2022) Exterior Elevations – Lobby North South  
A2.13 (07/12/2022) Exterior Elevations – Lobby East West  
A2.15 (07/12/2022) Exterior Elevations – Restaurant  
A2.16 (07/12/2022) Entry Elevation and Section – Retail & Chalet Suisse  
A2.19 (07/12/2022) Entry Elevation and Section – Private Residence  
A3.11 (07/12/2022) Canopy Section - Lobby  
A3.12 (07/12/2022) Canopy Section – Restaurant  
A8.01 (07/12/2022) Door Schedule and Details, Window Legend  
A8.02 (07/12/2022) Guardrail, Green Roof Details  
A9.01 (07/13/2022) Area Schedule – Material Palette



Electrical

E1.00 (07/12/2022) Overall Electrical Site Plan

E1.01 (07/12/2022) Enlarged Electrical Site Plan – North

E1.02 (07/12/2022) Enlarged Electrical Site Plan – South

E2.00 (07/12/2022) Site Lighting Cutsheets

Construction Mitigation

Narrative revised 7.12.22

C4 (07/12/2022) Construction Mitigation

Exhibit D

[LIST OF FINAL SPUD CONSTRUCTION PLANS]

[to be provided with submittal of a building permit]

Exhibit E

The following table summarizes the “**Community Benefits**” that the Developer shall provide at its cost and expense:

| Benefit   | Deadline                        |
|---|---------------------------------|
| <p>\$650,000 payment to the Town for revitalization of and improvements, including design services, to the Village Pond area and adjacent plazas, including pedestrian circulation around the western edge of the Pond, allowing for more intensive improvements and plantings on the eastern edge and connecting the wetlands walking trail from the Pond/Convention Center Plaza to Heritage/Gondola Plaza (“<b>Pond Area Improvements</b>”). The \$500,000 payment towards the Pond Area Improvements must be paid prior to building permit issuance. Prior to the issuance of a building permit, the Town and Developer shall enter into a Pond Area Agreement, which shall set forth the process to be followed by the Town and Developer to determine the design, components, sequencing and construction of the Pond Area Improvements and shall memorialize the Developer’s contribution of \$150,000 of design services for the Pond Area Improvements to be utilized in connection with the process set forth in the Pond Area Agreement.</p> | <p>Building Permit</p>          |
| <p>Fixed financial or in-kind land contribution of \$2,500,000 for workforce housing, which must be made prior to building permit issuance (“<b>Workforce Housing Contribution</b>”). Acceptance of any property hereunder is at the sole discretion of the Town. The Town reserves the right to obtain an appraisal, or other valuation method approved by the Town Manager, to verify the value of the land proposed to be conveyed prior to acceptance of said land. If the property does not appraise at \$2,500,000, Developer will pay the balance in cash. In the event the land is not accepted by the Town, Developer will provide the cash equivalent for a total contribution of \$2,500,000.</p>  | <p>Building Permit</p>          |
| <p>Construction of a public bathroom in the northern retail section of the project that ties to the new plaza of approximately 500 square feet in size (“<b>Public Bathroom</b>”).</p>  | <p>Certificate of Occupancy</p> |
| <p>Construction of a storage facility for the Town approximately 600 square foot in size (“<b>Storage Facility</b>”).</p>   | <p>Certificate of Occupancy</p> |
| <p>Conveyance of two deeded parking spaces within the SPUD Development Project’s underground parking garage to the Town to be used by Town Staff in connection with gondola operations (“<b>Town Parking Spaces</b>”).</p>  | <p>Certificate of Occupancy</p> |
| <p>Construction of publicly accessible plaza areas connecting to the</p>  | <p>Certificate of Occupancy</p> |

|   |                                 |
|---|---------------------------------|
| <p>public Gondola Plaza (“<b>Plaza Areas</b>”). The Plaza Areas will be extensively planted to maintain the natural landscape as it flows through the site. This includes improvements to the alley between Tracks and the gondola station and assists with separating skier traffic from retail traffic. The Plaza Areas shall be constructed consistent with the map attached as Exhibit F to the ordinance granting Final SPUD Approval and as further defined by as-builts upon completion.</p> |                                 |
| <p>Enhancement of and incorporation of the existing wetlands into a lush “<b>Wetlands Walking Trail</b>” that is ten feet (10’) in width and connects the Pond/Convention Center Plazas to Heritage Plaza and the Gondola Plaza, as well as creates a path from Village Pond Plaza to Mountain Village Boulevard, and grant of public easement or conveyance to the Town.</p>   | <p>Certificate of Occupancy</p> |
| <p>Construction of a trash compacting facility within the SPUD Development Project (“<b>Trash Facility</b>”) that will reduce the number of trips over Mountain Village Boulevard by large trash removal trucks and related equipment.</p>  | <p>Certificate of Occupancy</p> |
| <p>Provide a connection between the alternative end to the Ridge Trail and the Project’s Après Ski Plaza that provides access for hikers to the Wetlands Walking Trail and the additional trailheads beyond (“<b>Ridge Trail Connection</b>”), and grant of public easement for the Ridge Trail Connection to the Town.</p>   | <p>Certificate of Occupancy</p> |
| <p>A waiver of the Town’s obligation to pay dues to the Developer’s owners’ association on the Town Parking Spaces, Public Bathroom, and Storage Facility (“<b>Association Waiver</b>”).</p>  | <p>Certificate of Occupancy</p> |
| <p>Construction of a vehicular service parking space on Mountain Village Boulevard to facilitate deliveries for neighbors such as La Chamonix (“<b>Vehicular Delivery Space</b>”).</p>  | <p>Certificate of Occupancy</p> |
| <p>The following items as provided in Table 6. Public Benefits in the Town’s Comprehensive Plan:<br/> #1. Hot beds.<br/> #12. Utility extension to Parcel G.<br/> #13. Coordinated development between Parcel D and Parcels F and F1.<br/> #14. A vehicular delivery and pedestrian access from Mountain Village Boulevard to La Chamonix and neighbors<br/> #17. Enhanced riparian corridor</p>  | <p>Certificate of Occupancy</p> |

Exhibit F

[SPECIAL WARRANTY DEED CONVEYING PUBLIC BATHROOM TO THE TOWN]

Exhibit G

[SPECIAL WARRANTY DEED CONVEYING PARKING SPACES TO THE TOWN]

Exhibit H

[SPECIAL WARRANTY DEED CONVEYING STORAGE FACILITY TO THE TOWN]

Exhibit I

[PUBLIC EASEMENT OR DEED FOR PUBLIC PLAZAS]

Exhibit J

[PUBLIC EASEMENT OR DEED FOR WETLANDS WALKING TRAIL]

Exhibit K

[PUBLIC EASEMENT OR DEED FOR RIDGE TRAIL CONNECTION]

[to be executed consistent with 5.D. of the Development Agreement]

Exhibit L

[EMPLOYEE HOUSING DEED RESTRICTION]

**EMPLOYEE HOUSING DEED RESTRICTION  
EMPLOYEE APARTMENTS, LOT 161C-RR, MOUNTAIN VILLAGE**

THIS EMPLOYEE HOUSING DEED RESTRICTION (“**Deed Restriction**”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_ (“**Effective Date**”), by and between \_\_\_\_\_ (“**Declarant**”) and TOWN OF MOUNTAIN VILLAGE, a Colorado home rule municipality (the “**Town**,” and together with Declarant, the “**Parties**”).

WHEREAS, Declarant owns certain real property in San Miguel County, Colorado described as Lot 161C-RR, Mountain Village, according to the plat recorded as Reception No. \_\_\_\_\_ (“**Lot 161C-RR**”); and

WHEREAS, Lot 161C-RR contains 10 units designated as “Employee Apartments,” which have been condominiumized as a single unit (the “**Property**”); and

WHEREAS, pursuant to Ordinance No. 2022-\_\_, recorded as Reception No. \_\_\_\_\_, Declarant has agreed to place certain restrictions on the use of the Property for the benefit of the Town by requiring occupancy to be limited to persons, their spouses and children, who are employed within the Telluride R-1 School District, as further defined below.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

**COVENANTS**

**1. Restriction; Recording.** The Property is hereby burdened with the covenants and restrictions specified in this Deed Restriction, which the Town shall record against the Property at Declarant’s expense.

**2. Amendment to 1997 Ordinance.** The Parties agree that the Property shall be subject to the “Employee Housing Restriction” contained in the Town of Mountain Village Ordinance No. 1997-05, recorded as Reception No. 329779 (the “**1997 Ordinance**”), with the following modifications:

**Section 1(I)(A)** of the 1997 Ordinance is hereby amended to read:

The use and occupancy of the Property is hereby limited exclusively to such employees who are employed or can show intent to be employed within the Telluride R-1 School District, and their spouses and children.

The foregoing restriction on use and occupancy constitutes a covenant that runs with the title to the Property as a burden thereon and shall be binding on the owner, and its heirs, successors, representatives, assigns, lessees, licensees and any transferee, in perpetuity. This restriction and covenant shall be administered by the Town Council, or its designee, and shall be enforceable by any appropriate legal or equitable action including but not limited to specific performance, injunction,





**TOWN:**  
TOWN OF MOUNTAIN VILLAGE, COLORADO

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

Exhibit M

[HOTEL RESIDENCES DEED RESTRICTION]

[to be executed consistent with Section 9.B. of the Development Agreement]

Exhibit N

[LIST OF PUBLIC IMPROVEMENTS – COST ESTIMATES TBD]

1. 2' curb and gutter and a 5.5' Sidewalk along Mountain Village Boulevard (see civil plans dated 7.12.22)
  - a. Includes snowmelt
  - b. Include safety lighting (TBD working with town staff)
2. Alternate Ridge Trail on Town Property beneath the gondola
3. Repaving Mountain Village Boulevard
4. A delivery and drop off parking area off of Mountain Village Boulevard
5. Relocation of the town's main water and sewer lines

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,  
COLORADO CONDITIONALLY APPROVING A MAJOR SUBDIVISION FOR LOTS 161C-R, 67, 69R-  
2 AND 71R, TRACT OS-3Y, AND PORTIONS OF OS-3BR-2 AND OS-3XRR TO BE REPLATTED AS  
LOT 161C-RR**

**RESOLUTION NO. 2022-\_\_**

WHEREAS, Merrimac Fort Partners, LLC (the “**Developer**”) is under contract to purchase certain real property described as Lot 161C-R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 325409 (“**Lot 161C-R**”), from CO Lot 161-CR Mountain Village, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 67, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 233115 (“**Lot 67**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 69R-2, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 272500 (“**Lot 69R-2**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 71R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 274123 (“**Lot 71R**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Tract OS-3Y, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 367628 (“**Tract OS-3Y**”), from TSG Ski & Golf Company, LLC; and

WHEREAS, the Town of Mountain Village (“**Town**”) is the owner of certain real property adjacent to Lot 161C-R described as open space parcels OS-3BR-2 and OS-3XRR, according to the respective plats recorded as Reception Nos. 416994 and 405665 (the “**Town Property**”); and

WHEREAS, the Developer has submitted a Major Subdivision application to the Town (“**Subdivision Application**”) to replat Lot 161C-R, Lot 67, Lot 69R-2, Lot 71R, Tract OS-3Y, and portions of the Town Property (the “**Adjustment Parcels**”) into one integrated parcel to be known as Lot 161C-RR (the “**Property**”), as depicted on the replat of the Property set forth in Exhibit A hereto (“**Property Replat**”) for the purpose of including the Property in the Developer’s SPUD Application (defined below); and

WHEREAS, the Developer has submitted applications to the Town for approval of a Site-Specific Planned Unit Development (“**SPUD**”) for the Property (collectively, the “**SPUD Application**”); and

WHEREAS, the current owners of Lot 161C-R, Lot 67, Lot 69R-2, Lot 71R, and Tract OS-3Y have consented to Developer’s pursuing the SPUD Application and Subdivision Application; and

WHEREAS, the Town has consented to including the Adjustment Parcels in the Developer’s SPUD Application and Subdivision Application; and

WHEREAS, the Subdivision Application and the SPUD Application are being processed and considered concurrently by the Town of Mountain Village Design Review Board (“**DRB**”) and the Town of Mountain Village Town Council (“**Town Council**”); and

WHEREAS, the Subdivision Application consists of the materials submitted to the Town and itemized on **Exhibit B**, plus all statements, representations, and additional documents of the Developer and its representatives as reflected in the minutes of the public hearings before the DRB and Town Council; and

WHEREAS, the DRB held a public hearing on July 20, 2022 to consider the Subdivision Application and testimony and comments from the Developer, Town Staff, and members of the public, and voted 5-2 to issue a recommendation of approval to the Town Council concerning the Subdivision Application, subject to conditions; and

WHEREAS, the Town Council opened a public hearing on August 25, 2022, which was continued to September 8, 2022, to consider the Subdivision Application, the DRB's recommendations, and testimony and comments from the Developer, Town Staff, and members of the public, and voted \_\_\_\_ to approve this Resolution ("**Subdivision Approval**"); and

WHEREAS, the public hearings and meetings to consider the Subdivision Application were duly noticed and held in accordance with the Town's Community Development Code ("**CDC**"); and

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.13 of the CDC and finds that each of the following have been satisfied or will be satisfied upon compliance with the conditions of this Resolution set forth below:

1. The proposed subdivision is in general conformance with the goals, policies and provisions of the Comprehensive Plan;
2. The proposed subdivision is consistent with the applicable Zoning and Land Use Regulations and any PUD development agreement regulating development of the property;
3. The proposed density is assigned to the lot by the official land use and density allocation, or the applicant is processing a concurrent rezoning and density transfer;
4. The proposed subdivision is consistent with the applicable Subdivision Regulations;
5. Adequate public facilities and services are available to serve the intended land uses;
6. The applicant has provided evidence to show that all areas of the proposed subdivision that may involve soil or geological conditions that may present hazards or that may require special precautions have been identified, and that the proposed uses are compatible with such conditions;
7. Subdivision access is in compliance with Town standards and codes unless specific variances have been granted in accordance with the variance provisions of this CDC; and
8. The proposed subdivision meets all applicable Town regulations and standards.

WHEREAS, the Town Council now desires to approve the Subdivision Application and the related Property Replat, subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Mountain Village, Colorado, that:

**SECTION 1. RECITALS.** The foregoing recitals are incorporated herein as findings and determinations of the Town Council.

**SECTION 2. APPROVAL.** The Town Council hereby approves the Subdivision Application and the related Property Replat, subject to the conditions set forth below. The Town Council hereby approves the Conveyance MOU (defined below) and Development Agreement (defined below), subject to the conditions set forth below, and authorizes the Mayor and Town Clerk to sign said documents on behalf of the Town following approval of the same by the Town Manager. All exhibits to this Resolution are available for inspection at the Town Clerk's Office.

**SECTION 3. CONDITIONS.** The Subdivision Approval is subject to the following terms and conditions:

3.1 The Town Council must separately approve the related SPUD Application for the Property ("**Final SPUD Approval**"). If the Final SPUD Approval is not approved within ninety (90) days after adoption of this Resolution, this Resolution shall become null and void.

3.2 All conditions of the Final SPUD Approval are conditions of this Subdivision Approval.

3.3 The length of validity for the Final SPUD Approval and the Subdivision Approval shall be the "**Approval Period**" (as may be extended) as defined in the ordinance granting the Final SPUD Approval.

3.4. The Town Council must separately approve a Major Subdivision Application to create the Adjustment Parcels ("**Adjustment Parcels Subdivision Application**"). Within sixty (60) days of this Subdivision Approval, the Developer, at its expense, shall order the necessary existing conditions and proposed replat of the Adjustment Parcels ("**Adjustment Parcels Replat**"). Within six (6) months of this Subdivision Approval, the Developer, at its expense, shall submit to the Town the Class 4 Adjustment Parcels Subdivision Application, for which the Developer shall be the applicant as agent of the Town. The Town Council hereby authorizes the conveyance of said parcels to the Developer or Developer Party (defined below) as provided for in this paragraph and authorizes the Mayor and Town Clerk to execute the deed needed for the same. The newly created parcels will be conveyed in their as-is condition, with no warranties or representations of any kind.

3.5 **Conveyance MOU.** Within sixty (60) days after the effective date of the Final SPUD Approval, the Town and the Developer shall work together in good faith to prepare and execute a memorandum of understanding, or similar agreement in a form acceptable to the Town Attorney, by which the parties memorialize Section 3.4 above and identify the procedural steps for conveyance and closing of the Adjustment Parcels and order of recordation of the necessary documents, which shall be approved by the Town Manager.

3.6 **Development Agreement.** Prior to the expiration of the Approval Period, the Town and Developer (or Developer Party, as defined below) shall enter into a Development Agreement in substantially the form set forth in **Exhibit C**, attached hereto, which shall incorporate by reference all conditions of this Subdivision Approval, the Final SPUD Approval, the Adjustment Parcels Subdivision Application approval, and the Conveyance MOU, and be approved by the Town Manager.

3.7. All Public Improvements to be dedicated to the Town, including those required as conditions of the Final SPUD Approval, shall be constructed by the Developer at its expense pursuant to plans and specifications approved by the Town Engineer, and the Developer shall provide a letter of credit or other security, in a form subject to approval by the Town Manager (which shall not be unreasonably withheld), to secure the construction and completion of such improvements based on engineering cost estimates to be approved by the Town Engineer. The procedures for providing and releasing security, inspection and acceptance of public dedications, and construction warranties shall be addressed in the Development Agreement and/or a supplement thereto to be executed prior to issuance of a building permit when final plans and specifications and cost estimates are complete. The Public Improvements specifically required as conditions of this Subdivision Approval shall be described in the SPUD Approval Ordinance and/or the exhibits thereto.

3.8 Concurrent with the recordation of the Property Replat, the Developer shall execute and record a “**Utility Easement Agreement**” granting a blanket utility easement for the area designated and depicted on the Property Replat as “*UTILITY EASEMENT (CREATED BY THIS PLAT)*” (“**Utility Easement Area**”), which Utility Easement Agreement shall be subject to review and approval by the Town Attorney. If necessary, prior to issuance of a final certificate of occupancy for the Project, the Developer and the Town shall execute an amendment to the Utility Easement Agreement amending the legal description of the utility easements granted therein to reflect the as-built location of utilities that have been installed or relocated within the Utility Easement Area. If upon construction of the Project, the Developer and Town Attorney determine that an amendment to the Shoring Easement Agreement, recorded as Reception No. 392363, is necessary, the parties shall execute and record such amendment prior to issuance of a final certificate of occupancy.

3.9 As part of its building permit application, the Developer shall submit a utility relocation plan to relocate the existing water and sewer lines designated on the Property Replat and labeled as “*BURIED UTILITIES SUBJECT TO RELOCATION PURSUANT TO 32’ NON-EXCLUSIVE EASEMENT (RECEPTION #325409)*.”

3.10. The Developer shall coordinate with Town Staff and the Town Attorney to ensure that the Property Replat creates all necessary easements, vacates all obsolete easements, and modifies existing easements as appropriate prior to recordation of the Property Replat. Any covenants or easements to be created or amended must be provided for review and approval by the Town Attorney prior to recordation of the Property Replat. Any such easement agreements with the Town shall be recorded at the same time as the Property Replat.

3.11. The Developer shall adequately address facility sites, easements, and rights of access for electrical and natural gas utility service sufficient to ensure reliable and adequate service for the Property.

3.12 The Developer intends to relocate the main water line through the underground parking garage to be constructed on the Property. The Developer shall grant an easement to the Town for the relocated main water line (“**Water Line Easement**”) and shall provide a copy of an easement agreement (“**Water Line Easement Agreement**”) to the Town for review and approval by the Town Attorney, which agreement shall outline, among other things, that the Developer shall be responsible for maintenance of the water line inside the garage. The Water Line Easement shall be depicted on the condominium map and described in the condominium declaration for the project constructed on the Property. Finalization of the Water Line Easement Agreement and the proper reference to the Water Line Easement Agreement in the condominium declaration and map for the project constructed on the Property to the satisfaction of the Town Attorney shall be a condition of the issuance of a final certificate of occupancy for the Property.

3.13 Any utility lines that are abandoned and not relocated shall be remediated appropriately by the Developer in accordance with the conditions of the building permit issued for the Property.

3.14 Town Staff will review and must approve the final proposed Property Replat to verify consistency with CDC Section 17.4.13.N. Plat Standards and Section 3. Plat Notes and Certifications and provide redline comments to the Developer prior to execution of the final mylar.

3.15 Town Staff has the authority to provide ministerial and conforming comments on the mylar prior to recordation of the Property Replat.

3.16 Permanent monuments on the external boundary of the subdivision shall be set within thirty (30) days of the recording of the Property Replat. Block and lot monuments shall be set pursuant to C.R.S. § 38-51-101. All monuments shall be located and described. Information adequate to locate all monuments shall be noted on the Property Replat.

3.17 All recording fees related to the recording of the Property Replat in the records of the San Miguel County Clerk and Recorder shall be paid by the Developer.

3.18 The Developer will work with Town Staff and San Miguel County’s Emergency Management Coordinator to create a street address for the Property consistent with applicable regulations.

3.19 The Developer shall be responsible for any additional street improvements that may be determined necessary by the Town following the Town’s review of final construction drawings for the project described in the SPUD Application, and Town Staff shall have authority to enter into an amendment to the Development Agreement to provide for any such additional street improvements and security therefor; provided, however, if the Developer disagrees with Town Staff’s determination on this subject then the matter may be presented to Town Council for a decision by motion at a duly-noticed public meeting without the need to revise the SPUD Approval Ordinance or this Resolution.

3.20 All representations of the Developer, whether within the Subdivision Application materials or made at the DRB or Town Council meetings, are conditions of this Subdivision Approval.

**SECTION 4. EFFECTIVE DATE.** This Resolution shall be in full force and effect upon its passage and adoption, subject to Section 5.

**SECTION 5. EXPIRATION OF APPROVALS.** This Subdivision Approval and the Final SPUD Approval shall expire on the expiration of the Approval Period (as may be extended) unless all of the following items have been completed prior to the expiration of the Approval Period (as may be extended):

- a. Fee title ownership of Lot 161C-R, Lot 67, Lot 69R-1, Lot 71R and Tract OS-3Y shall be conveyed to the Developer, or an affiliated party of the Developer (“**Developer Party**”) approved by the Town in accordance with the Conveyance MOU;
- b. All conditions under the Conveyance MOU have been resolved to the satisfaction of Town Staff;
- d. The Property Replat shall be executed by the Town and the Developer or Developer Party and recorded in the records of the San Miguel County Clerk and Recorder;
- e. The SPUD Approval Ordinance and this Resolution shall be recorded in the records of the San Miguel County Clerk and Recorder; and
- f. The Development Agreement shall be executed by the Town and the Developer or Developer Party and recorded in the records of the San Miguel County Clerk and Recorder.

**SECTION 6. RECORDATION.** This Resolution approving the Subdivision Approval shall be recorded concurrently with the recordation of the Property Replat and Development Agreement.

ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on September 8, 2022.

TOWN OF MOUNTAIN VILLAGE, COLORADO

By: \_\_\_\_\_  
Laila Benitez, Mayor

ATTEST:

\_\_\_\_\_  
Susan Johnston, Town Clerk  
APPROVED AS TO FORM:



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David McConaughy, Town Attorney

Exhibit A

[PROPERTY REPLAT]

# Lot 161C-RR, Town of Mountain Village

A Replat of Tract OS-3BR-2, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2 located within the NE 1/4 of Section 3, T.42N., R.9W. and the SE 1/4 of Section 34, T.42N., R.9W., N.M.P.M., lying within the Town of Mountain Village, County of San Miguel, State of Colorado

## CERTIFICATE OF OWNERSHIP

KNOW ALL PERSONS BY THESE PRESENTS:

MERRIMAC FORT

THAT Merrimac Fort Partners, LLC, a Florida limited liability company ("MERRIMAC FORT"), is the owner in fee simple of the following real property:

LOT 161C-R, TOWN OF MOUNTAIN VILLAGE,

ACCORDING TO THE PLAT, RECORDED APRIL 2, 1999 IN PLAT BOOK 1 AT PAGE 2529, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 161C-R");

AND

LOT 67, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT RECORDED MARCH 9, 1984 IN PLAT BOOK 1 AT PAGE 476, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 67")

AND

LOT 69R-2, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED SEPTEMBER 5, 1991 IN PLAT BOOK 1 AT PAGE 1164, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 69R-2")

AND

LOT 71R, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED DECEMBER 2, 1991 IN PLAT BOOK 1 AT PAGE 1208, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 71R")

AND

TRACT OS-3Y, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3, OS-3B, OS-3C & OS-3E RECORDED JULY 14, 2004 IN PLAT BOOK 1 AT PAGE 3325, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Tract OS-3Y")

AND

TRACT OS-3BR-2R, MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3BR-2 and TRACT OS-3XRRR, TOWN OF MOUNTAIN VILLAGE, A RECORDED IN PLAT BOOK 1 AT PAGE \_\_\_\_\_, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Tract OS-3BR-2R");

AND

TRACT OS-3XRRR, MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3XRRR, TOWN OF MOUNTAIN VILLAGE, RECORDED IN PLAT BOOK 1 AT PAGE \_\_\_\_\_, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

MERRIMAC FORT PARTNERS, LLC DOES HEREBY, EXECUTE, DELIVER, AND ENTER INTO this Replat under the name and style of "Lot 161C-RR, A Replat of Tract OS-3BR-2R, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2, Town of Mountain Village, County of San Miguel, State of Colorado" (the "Replat"); AND

THEREBY, CREATE the following new lot

"Lot 161C-RR, Town of Mountain Village" ("Lot 161C-RR");

THEREWITH, DO HEREBY ACKNOWLEDGE, VACATE, AND ESTABLISH NEW BOUNDARY LINES WITH RESPECT TO THE REPLATED LOT 161C-RR, all as set forth on this Replat and further as follows:

1) MERRIMAC FORT hereby vacates the former property boundary lines of Lot 161C-R, Lot 67, Lot 69R-2,

Lot 71R, and Tract OS-3Y, Tract OS-3XRRR, and Tract OS-3BR-2R and establishes the boundaries of the Lot 161C-RR as set forth, depicted and described on this Replat.

2) MERRIMAC FORT HEREBY CONFIRMS that, by virtue of and through this Replat, fee simple title ownership is hereby established in and to the Lot 161C-RR in and to MERRIMAC FORT PARTNERS, LLC, A FLORIDA LIMITED LIABILITY COMPANY.

## OWNER SIGNATURES

Merrimac Fort Partners, LLC,  
a Florida limited liability company

By: \_\_\_\_\_  
Manager

## ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
) ss.  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_ as Manager of Merrimac Fort Partners, LLC, a Florida limited liability company

My commission expires \_\_\_\_\_  
Witness my hand and seal.

Notary Public

## EASEMENT VACATION

The following easements have been terminated and vacated as set forth below:

1. 16' GENERAL EASEMENT PER REC. NO. 327023 as vacated and terminated by the Easement Termination Agreement recorded at Reception No. \_\_\_\_\_

2. 16' PUBLIC WALKWAY EASEMENT (BOOK 431 PAGE 445 and Plat Book 1 at Page \_\_\_\_\_) as vacated and terminated by the Easement Termination Agreement recorded at Reception No. \_\_\_\_\_

## SHEET INDEX

Page 1 - Certifications and Notes  
Page 2 - Boundaries and Easements (1"=30')

## PARCEL AREA SUMMARY

| Current Lot     | Acreage     |
|-----------------|-------------|
| Lot 161C-R      | 2.842 acres |
| Lot 69R-2       | 0.228 acres |
| Lot 71-R        | 0.176 acres |
| Lot 67          | 0.117 acres |
| Tract OS-3Y     | 0.587 acres |
| Tract OS-3BR-2R | 0.063 acres |

|                |             |
|----------------|-------------|
| Tract OS-3XRRR | 0.424 acres |
| Total          | 4.437 acres |

| Replatted Lot s | Acreage     |
|-----------------|-------------|
| Lot 161C-RR     | 4.437 acres |

Net Change in Village Center Open Space Tracts acreage -0.487 acres

## TITLE INSURANCE COMPANY CERTIFICATE

Land Title Guarantee Company does hereby certify that we have examined the title to the lands herein shown on this Replat and that the title to this land is in the name of Merrimac Fort Partners, LLC, a Florida limited liability company is free and clear of all encumbrances, liens, taxes, and special assessments except as follows:

Title Insurance Company Representative

## NOTES

1. Approval of this plat may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended and Town of Mountain Village Community Development Code Section 17. \_\_\_\_\_

2. Easement research from Land Title Guarantee Company

a. Land Title Guarantee Company, Order Number ABS86011705, dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Lot 67, Lot 69R-2, Lot 71, and Tract OS-3Y

b. Land Title Guarantee Company, Order Number ABS86011452 dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Lot 161C-R, Town of Mountain Village

c. Land Title Guarantee Company, Order Number ABS86012785 dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Tract OS-3XRRR and Tract OS-3BR-2R, Town of Mountain Village

## 3. SURVEY NOTES

a. BASIS OF BEARINGS. The bearing from monument "Overpass" to monument "Rim", as shown monumented hereon, was assumed to bear N31°16'24"W according to Banner Associates, Inc. project bearings.

b. LINEAL DISTANCES shown hereon measured in US survey feet.

4. Notice is hereby given that the area included in the plat described herein is subject to the regulations of the Land Use Ordinance, of the Town of Mountain Village, February 08, 2005 as amended.

## 5. NOTES OF CLARIFICATION

a. The Configuration of the following lots, tracts, and right-of-way have been modified by this Replat:  
None

b. The following lots have been created by this Replat:

1. Lot 161C-RR

c. The following lots have been deleted by this Replat:

1. Lot 161C-R

2. Lot 69R-2

- Lot 71-R
- Lot 67
- Tract OS-3Y
- Tract OS-3BR-2R
- Tract OS-3XRRR

6. The approval of this Replat vacates all prior plats for the area described in the Legal Description as shown hereon in the Certificate of Ownership. The approval of this Replat vacates and terminates all easements, conditions, covenants, restrictions, reservations, dedications and notes set forth on all prior plats for the area described in the Legal Description as shown hereon in the Certificate of Ownership, including without limitation the Access and Utility Easements Notes 1, 2, 3 and 4 set forth on the plat recorded at Reception No. 325409, Plat Book 1 at page 2529.

7. Town of Mountain Village Resolution No. \_\_\_\_\_ recorded at Reception No. \_\_\_\_\_

8. Development Agreement Site Specific Planned Unit Development Lot 161C-RR recorded at Reception No. \_\_\_\_\_

9. Town of Mountain Village Ordinance No. 2022-\_\_\_\_\_ recorded at Reception No. \_\_\_\_\_

10. GENERAL EASEMENT 16 foot General Easement, an easement sixteen feet in width inuring to the benefit of the Town of Mountain Village its successors, designees and assigns, is hereby established and reserved on, over and under the portion of Lot 161C-RR designated as 16' GE for the purpose of constructing, operation, maintenance and repairing any and all improvements required for those uses, purposes and activities deemed necessary and appropriate by the Town of Mountain Village for the safe or efficient operation of the Town of Mountain Village or any lots contained therein, which shall include but are not limited to the following: water service, electrical service, telephone service, cable television service, sanitary sewer service, natural gas service, propane service, communication service, road construction, retaining walls, roadway and driveway cut and fill areas, drainage, bicycle access, skier access, gondola structures, gondola setback, pedestrian access, snow storage, storm sewer, grading, removal of vegetation, site slope maintenance, snowmobile access, snowcat access, and removal or addition of soils materials.

11. 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 defect in this survey be commenced more than ten years from the date of the certification shown hereon.

## TOWN OF MOUNTAIN VILLAGE APPROVAL

I, \_\_\_\_\_, as Mayor, of the Town of Mountain Village, Colorado, does hereby certify that this Replat has been approved by the Town of Mountain Village Town Council in accordance with Ordinance No. \_\_\_\_\_, the Development Agreement Site Specific Planned Unit Development Lot 161C-RR recorded at Reception No. \_\_\_\_\_ and Town of Mountain Village Resolution No. \_\_\_\_\_ recorded at Reception No. \_\_\_\_\_ which authorized my execution of this Replat.

\_\_\_\_\_, Mayor, Date \_\_\_\_\_

## ACKNOWLEDGMENT

State of \_\_\_\_\_ )  
) ss  
County of \_\_\_\_\_ )

The foregoing signature was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, A.D. by \_\_\_\_\_ as Mayor of the Town of Mountain Village.

My commission expires \_\_\_\_\_  
Witness my hand and seal.

Notary Public

## PLANNING APPROVAL:

I, \_\_\_\_\_, as the Planning and Development Services Director of Mountain Village, Colorado, do hereby certify that this Replat has been approved by the Town in accordance with the Community Development Code.

\_\_\_\_\_, Date: \_\_\_\_\_  
Planning and Development Services Director

## SURVEYOR'S CERTIFICATE

I, David R. Bulson of Bulson Surveying, a Professional Land Surveyor licensed under the laws of the State of Colorado, do hereby certify that this plat of LOT 161C-RR, A REPLAT OF TRACT OS-3BR-2R, TRACT OS-3XRRR, TRACT OS-3Y, LOT 161C-R, LOT 67, LOT 71R, LOT 69R-2, TOWN OF MOUNTAIN VILLAGE, COUNTY OF SAN MIGUEL, STATE OF COLORADO as shown hereon has been prepared under my direct responsibility and checking, and accurately represents a survey conducted under my direct supervision. This survey complies with applicable provisions of Title 38, Article 51, C.R.S. to the best of my knowledge and belief.

IN WITNESS WHEREOF, I here unto affix my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022

P.L.S. No. 37662 Date \_\_\_\_\_

## TREASURER'S CERTIFICATE

I, the undersigned, Treasurer of the County of San Miguel, do hereby certify that according to the records of the San Miguel County Treasurer there are no liens against the subdivision or any part thereof for unpaid state, county, municipal or local taxes or special assessments due and payable, in accordance with Land Use Code Section 3-101.

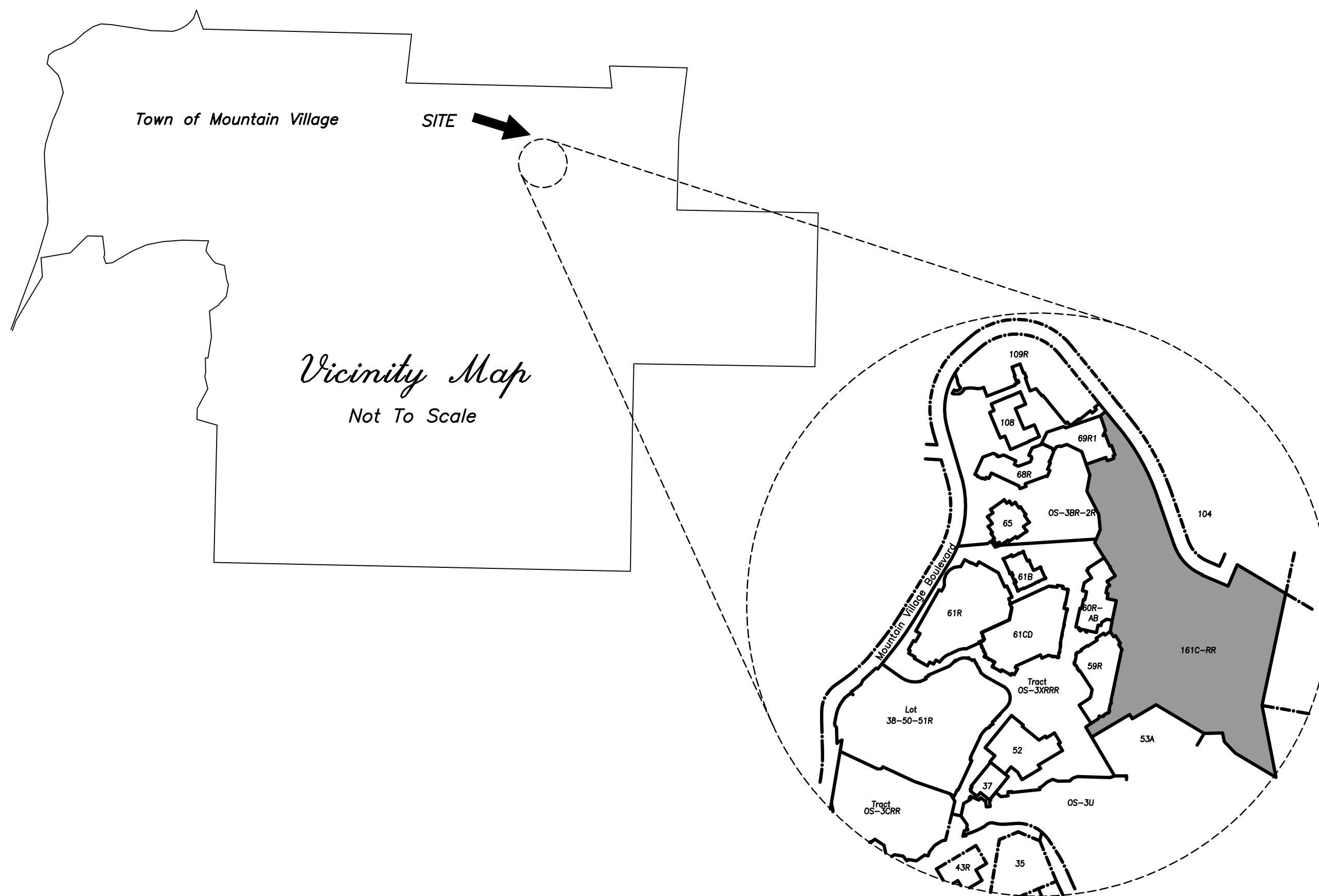
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,

San Miguel County Treasurer

## RECORDER'S CERTIFICATE

This Replat was filed for record in the office of the San Miguel County Clerk and Recorder on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at Reception No. \_\_\_\_\_, at Time \_\_\_\_\_.

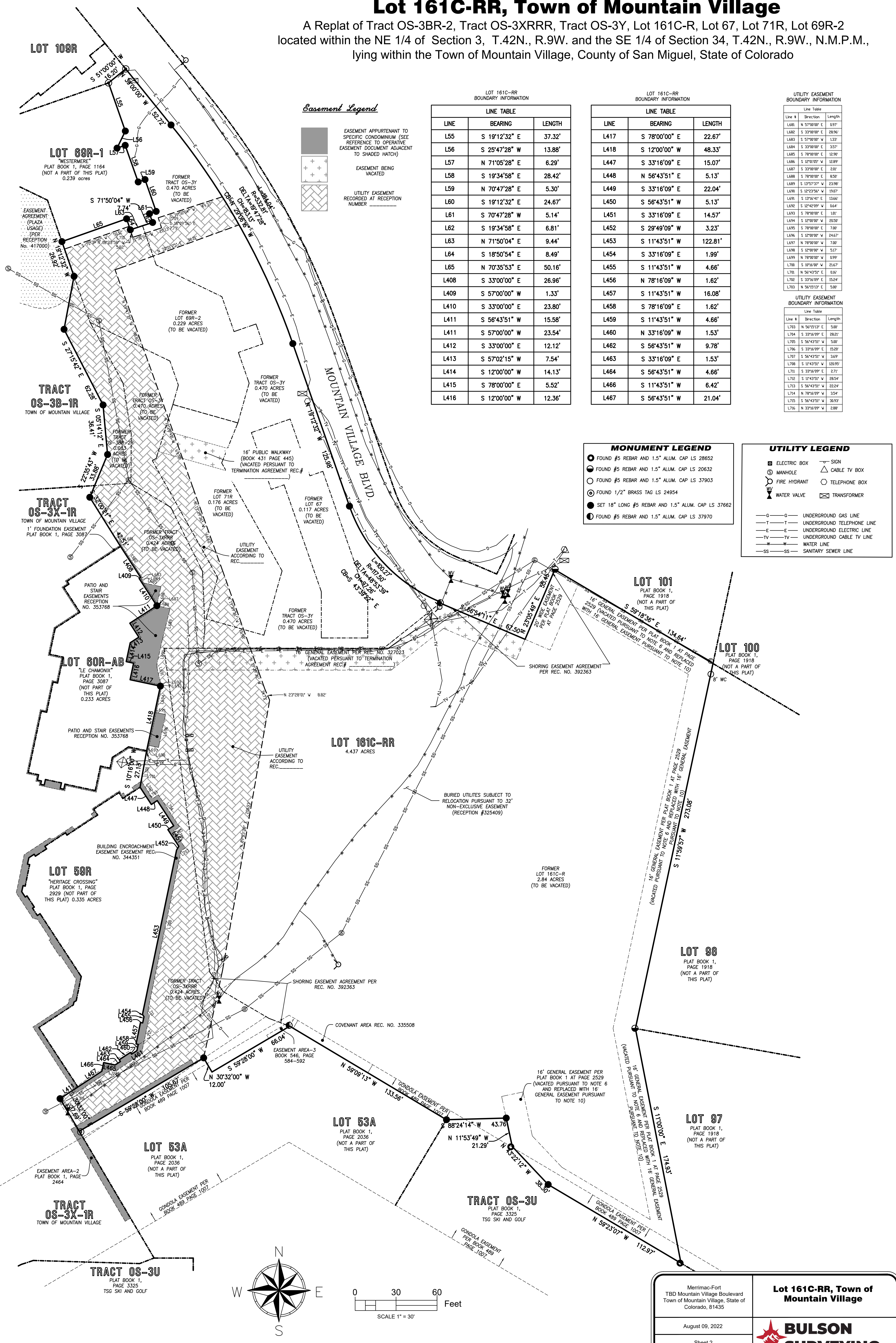
San Miguel County Clerk and Recorder



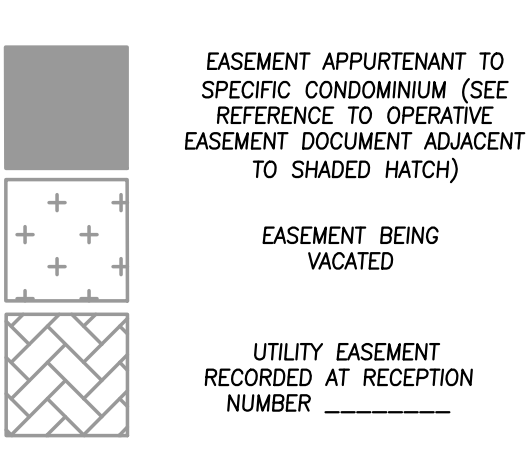
|  |  |
|--|--|
| Merrimac-Fort<br>TBD Mountain Village Boulevard<br>Town of Mountain Village, State of<br>Colorado, 81435 | <b>Lot 161C-RR, Town of<br/>Mountain Village</b> |
| August 09, 2022  | <b>BULSON<br/>SURVEYING</b>                      |
| Sheet 1<br>Project 21057   |  |

# Lot 161C-RR, Town of Mountain Village

A Replat of Tract OS-3BR-2, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2 located within the NE 1/4 of Section 3, T.42N., R.9W. and the SE 1/4 of Section 34, T.42N., R.9W., N.M.P.M., lying within the Town of Mountain Village, County of San Miguel, State of Colorado



### Easement Legend



### LOT 161C-RR BOUNDARY INFORMATION

| LINE | BEARING       | LENGTH |
|------|---------------|--------|
| L55  | S 19°12'32" E | 37.32' |
| L56  | S 25°47'28" W | 13.88' |
| L57  | N 71°05'28" E | 6.29'  |
| L58  | S 19°34'58" E | 28.42' |
| L59  | N 70°47'28" E | 5.30'  |
| L60  | S 19°12'32" E | 24.67' |
| L61  | S 70°47'28" W | 5.14'  |
| L62  | S 19°34'58" E | 6.81'  |
| L63  | N 71°50'04" E | 9.44'  |
| L64  | S 18°50'54" E | 8.49'  |
| L65  | N 70°35'53" E | 50.16' |
| L408 | S 33°00'00" E | 26.96' |
| L409 | S 57°00'00" W | 1.33'  |
| L410 | S 33°00'00" E | 23.80' |
| L411 | S 56°43'51" W | 15.58' |
| L411 | S 57°00'00" W | 23.54' |
| L412 | S 33°00'00" E | 12.12' |
| L413 | S 57°02'15" W | 7.54'  |
| L414 | S 12°00'00" W | 14.13' |
| L415 | S 78°00'00" E | 5.52'  |
| L416 | S 12°00'00" W | 12.36' |

### LOT 161C-RR BOUNDARY INFORMATION

| LINE | BEARING       | LENGTH  |
|------|---------------|---------|
| L417 | S 78°00'00" E | 22.67'  |
| L418 | S 12°00'00" W | 48.33'  |
| L447 | S 33°16'09" E | 15.07'  |
| L448 | N 56°43'51" E | 5.13'   |
| L449 | S 33°16'09" E | 22.04'  |
| L450 | S 56°43'51" W | 5.13'   |
| L451 | S 33°16'09" E | 14.57'  |
| L452 | S 29°49'09" W | 3.23'   |
| L453 | S 11°43'51" W | 122.81' |
| L454 | S 33°16'09" E | 1.99'   |
| L455 | S 11°43'51" W | 4.66'   |
| L456 | N 78°16'09" W | 1.62'   |
| L457 | S 11°43'51" W | 16.08'  |
| L458 | S 78°16'09" E | 1.62'   |
| L459 | S 11°43'51" W | 4.66'   |
| L460 | N 33°16'09" W | 1.53'   |
| L462 | S 56°43'51" W | 9.78'   |
| L463 | S 33°16'09" E | 1.53'   |
| L464 | S 56°43'51" W | 4.66'   |
| L466 | S 11°43'51" W | 6.42'   |
| L467 | S 56°43'51" W | 21.04'  |

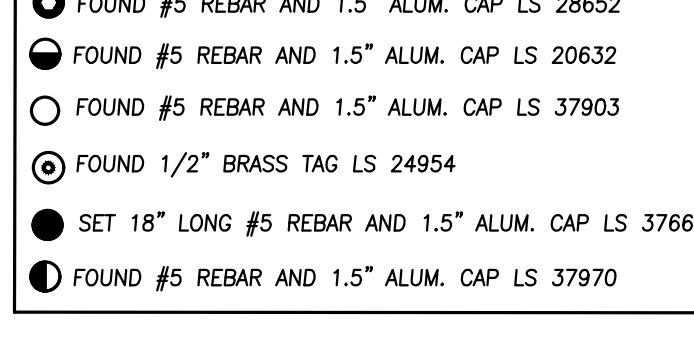
### UTILITY EASEMENT BOUNDARY INFORMATION

| Line # | Direction     | Length |
|--------|---------------|--------|
| L668   | N 57°00'00" E | 0.97'  |
| L682   | S 33°00'00" E | 28.96' |
| L683   | S 57°00'00" W | 1.33'  |
| L684   | S 33°00'00" E | 3.57'  |
| L685   | S 78°00'00" E | 12.99' |
| L686   | S 12°00'00" W | 12.89' |
| L687   | S 33°00'00" E | 2.01'  |
| L688   | S 78°00'00" E | 8.50'  |
| L689   | S 19°57'37" W | 23.98' |
| L690   | S 12°00'00" W | 19.07' |
| L691   | S 19°16'44" E | 13.66' |
| L692   | S 12°00'00" W | 0.54'  |
| L693   | S 78°00'00" E | 1.01'  |
| L694   | S 12°00'00" W | 20.50' |
| L695   | S 78°00'00" E | 7.00'  |
| L696   | S 12°00'00" W | 24.67' |
| L697   | N 78°00'00" W | 7.00'  |
| L698   | S 12°00'00" W | 5.17'  |
| L699   | N 78°00'00" E | 0.99'  |
| L700   | S 10°16'00" W | 25.67' |
| L701   | N 56°43'51" E | 0.16'  |
| L702   | S 33°16'09" E | 15.24' |
| L703   | N 56°15'17" E | 5.00'  |

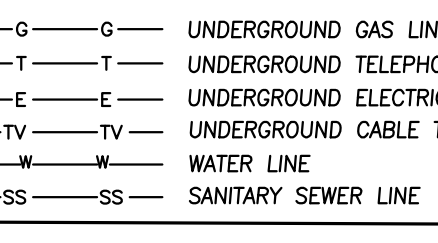
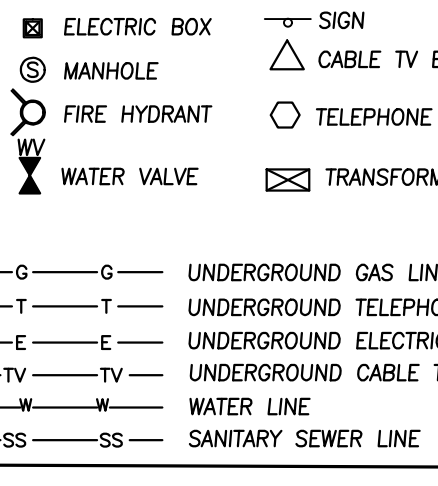
### UTILITY EASEMENT BOUNDARY INFORMATION

| Line # | Direction     | Length  |
|--------|---------------|---------|
| L703   | N 56°15'17" E | 5.00'   |
| L704   | N 33°16'09" E | 28.21'  |
| L705   | S 56°43'51" W | 5.00'   |
| L706   | S 33°16'09" E | 15.20'  |
| L707   | S 56°43'51" W | 3.69'   |
| L708   | S 11°43'51" W | 120.95' |
| L710   | S 33°16'09" E | 2.71'   |
| L712   | S 11°43'51" W | 28.54'  |
| L713   | S 56°43'51" W | 22.24'  |
| L714   | N 78°16'09" W | 3.54'   |
| L715   | S 56°43'51" W | 36.95'  |
| L716   | N 33°16'09" E | 2.88'   |

### MONUMENT LEGEND



### UTILITY LEGEND



|  |  |
|--|--|
| Merrimac-Fort<br>TBD Mountain Village Boulevard<br>Town of Mountain Village, State of<br>Colorado, 81435 | <b>Lot 161C-RR, Town of<br/>Mountain Village</b> |
| August 09, 2022  |  |
| Sheet 2<br>Project 21057   |  |

Exhibit B

[LIST OF SUBDIVISION APPLICATION MATERIALS]

1. Applicant's Narrative dated 7.7.22
2. Existing Conditions Map dated 7.13.22
3. Civil Drawings dated 7.13.22
  - a. Trail and Sidewalk Civil Exhibit
4. Public Access Exhibit
5. Proposed Replat dated 8.9.22

[to be updated after the final public hearing]

Exhibit C

[DEVELOPMENT AGREEMENT]

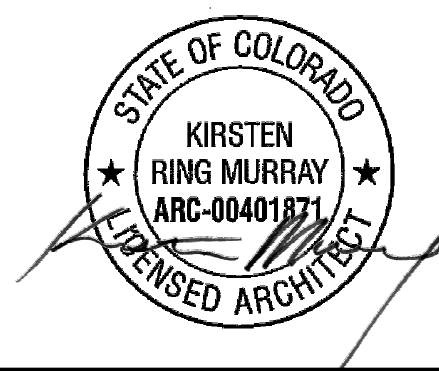
[SEE ATTACHMENT 2 IN THE MEMO]





1 OVERALL - SITE PLAN  
SCALE: 1/32" = 1'-0"

0 8' 16' 24' 32' 64' 96'



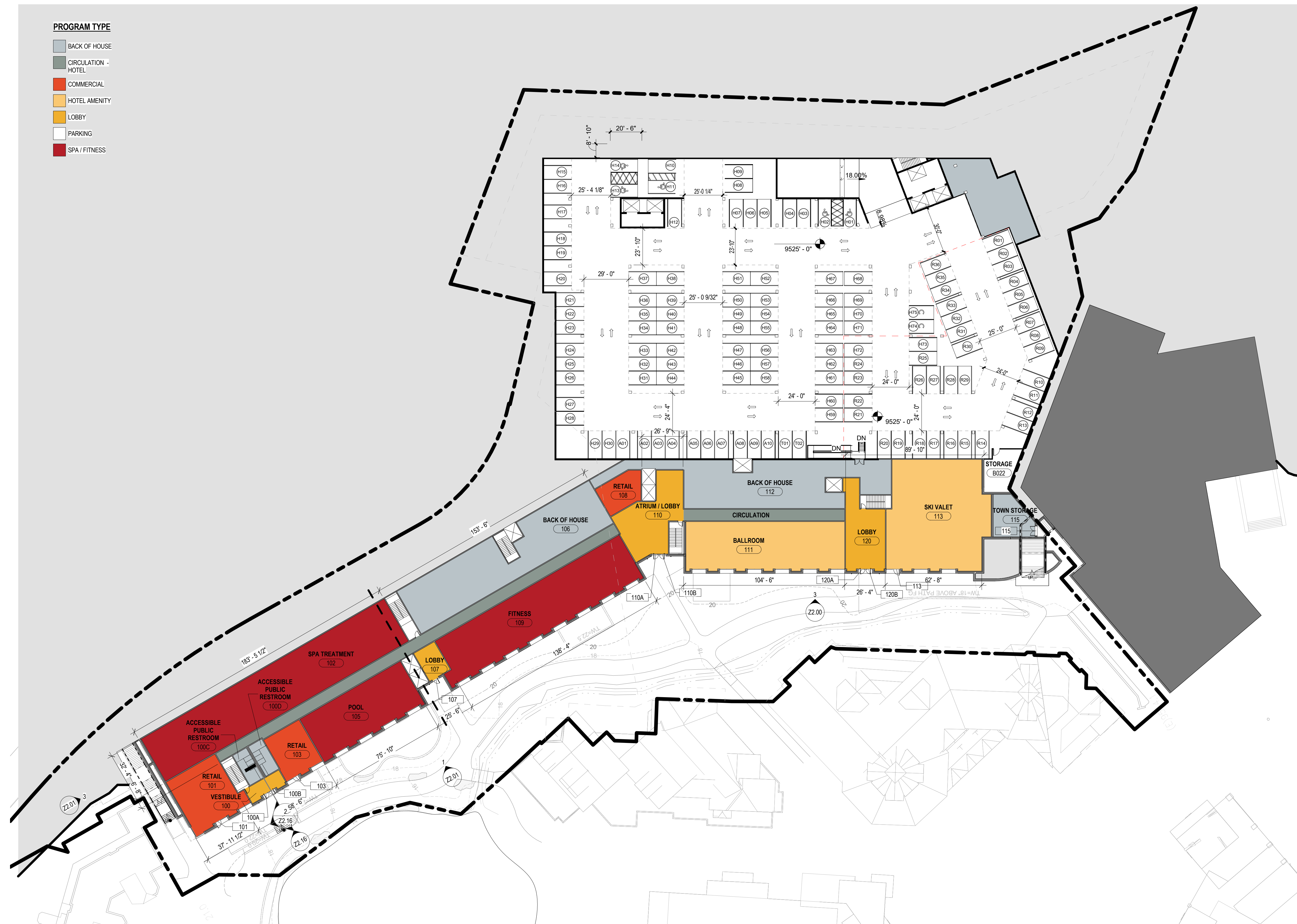
# OVERALL PLAN - SITE PLAN





**PROGRAM TYPE**

- BACK OF HOUSE
- CIRCULATION - HOTEL
- COMMERCIAL
- HOTEL AMENITY
- LOBBY
- PARKING
- SPA / FITNESS



1 OVERALL - B3  
SCALE: 1/32" = 1'-0"



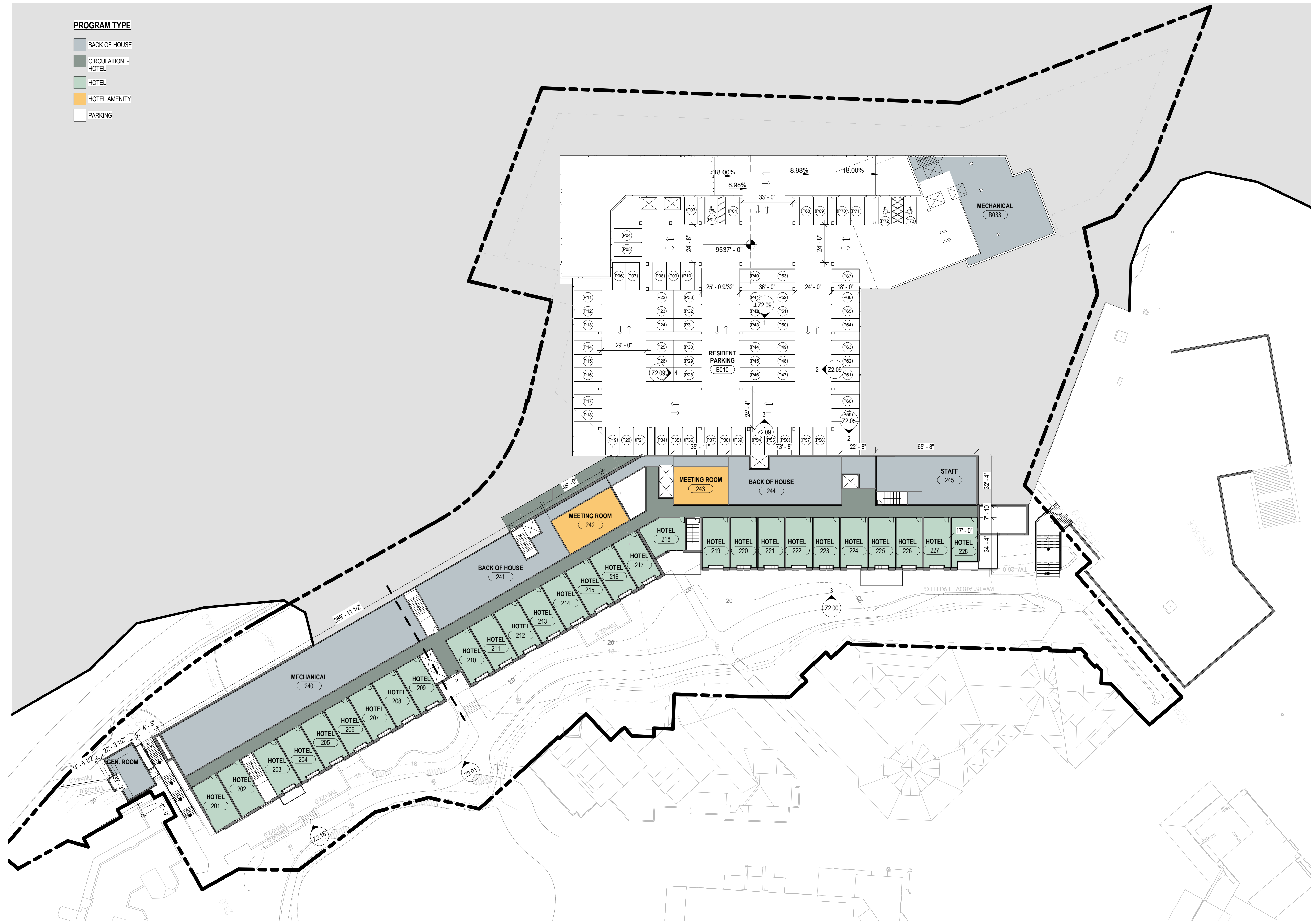
**OVERALL PLAN - B3**

A1.11



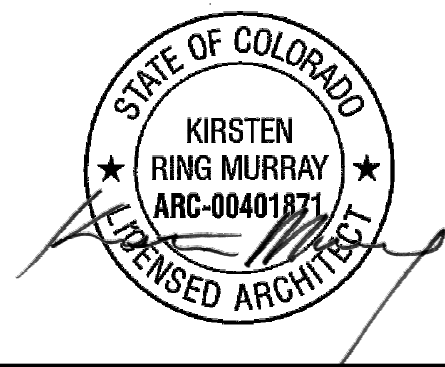
**PROGRAM TYPE**

- BACK OF HOUSE
- CIRCULATION - HOTEL
- HOTEL
- HOTEL AMENITY
- PARKING



1 OVERALL - B2  
SCALE: 1/32" = 1'-0"

0 8' 16' 24' 32' 64' 96'

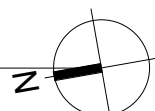


**PROGRAM TYPE**

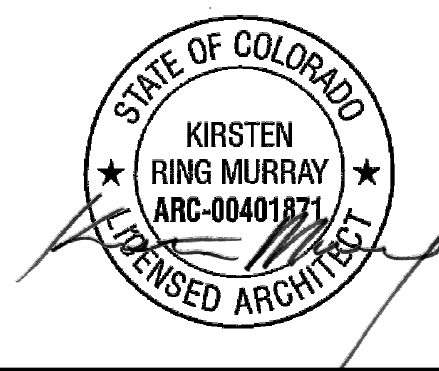
- BACK OF HOUSE
- CIRCULATION
- CIRCULATION - HOTEL
- COMMERCIAL
- HOTEL
- LOADING DOCK
- LOBBY
- PRIVATE RESIDENCE AMENITY
- WORKFORCE HOUSING



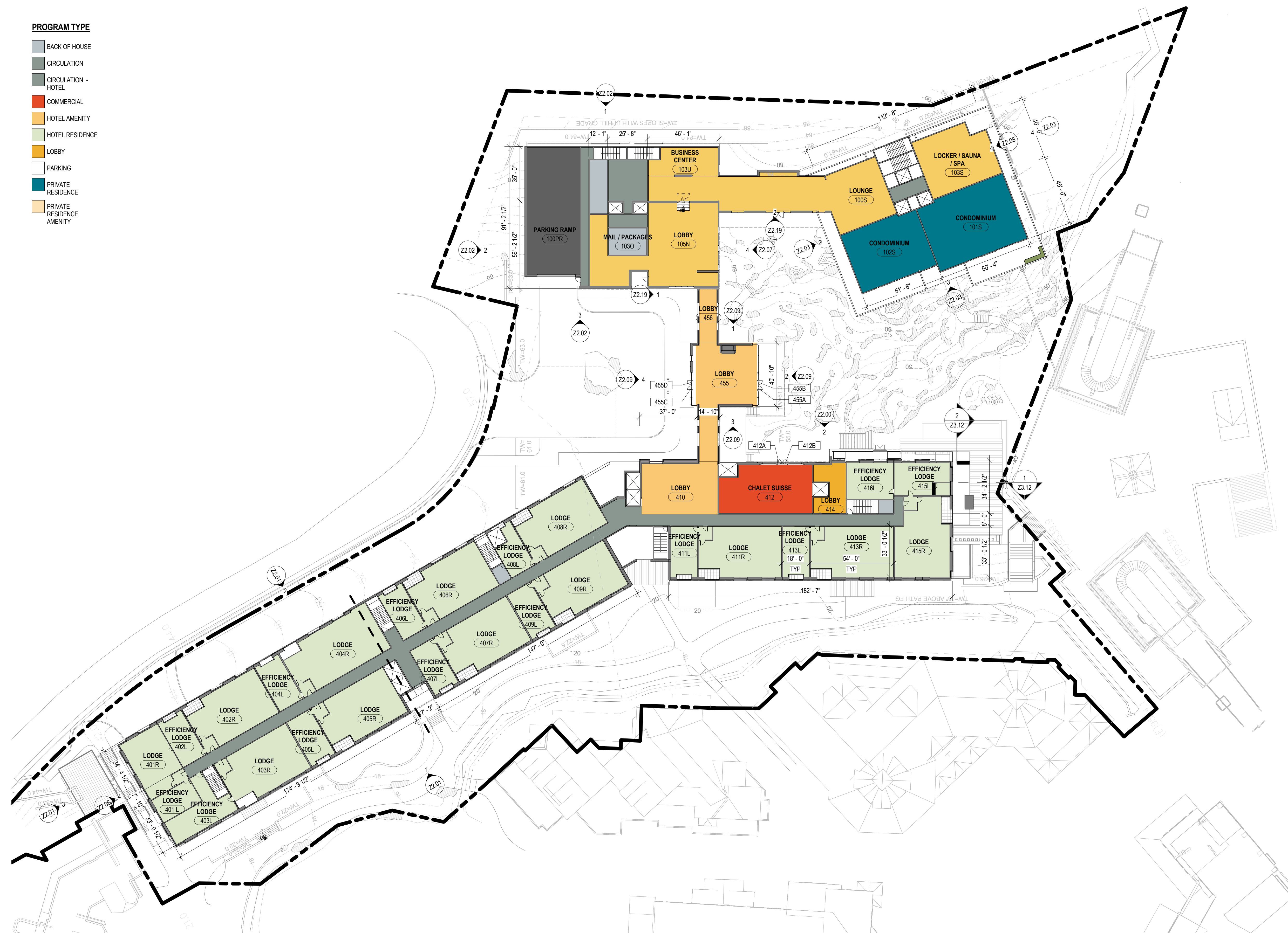
1 OVERALL - B1  
SCALE: 1/32" = 1'-0"



0 8' 16' 24' 32' 64' 96'

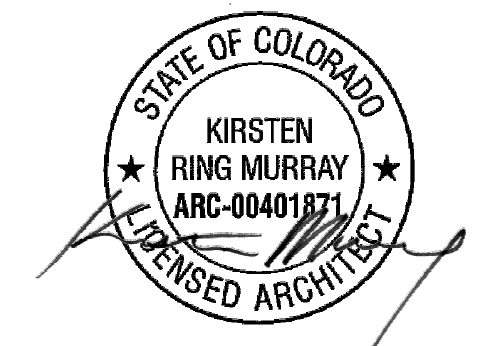


- PROGRAM TYPE**
- BACK OF HOUSE
  - CIRCULATION
  - CIRCULATION - HOTEL
  - COMMERCIAL
  - HOTEL AMENITY
  - HOTEL RESIDENCE
  - LOBBY
  - PARKING
  - PRIVATE RESIDENCE
  - PRIVATE RESIDENCE AMENITY



1 OVERALL - L1  
SCALE: 1/32" = 1'-0"

0 8' 16' 24' 32' 64' 96'



OVERALL PLAN - LEVEL 1

A1.14



- PROGRAM TYPE**
- BACK OF HOUSE
  - CIRCULATION
  - CIRCULATION - HOTEL
  - HOTEL RESIDENCE
  - PRIVATE RESIDENCE



1 OVERALL - L2  
SCALE: 1/32" = 1'-0"

0 8' 16' 24' 32' 64' 96'

Fort Partners | Merrimac Ventures  
Mountain Village, CO



## OVERALL PLAN - LEVEL 2

A1.15

Olson Kundig

159 South Jackson St, Suite 600  
Seattle, Washington 98104 USA  
+1 206 624 5670 olsonkundig.com



ARCHITECTURE  
URBAN DESIGN  
INTERIOR DESIGN



1 OVERALL - L3  
SCALE: 1/32" = 1'-0"

0 8' 16' 24' 32' 64' 96'

Fort Partners | Merrimac Ventures  
Mountain Village, CO



### OVERALL PLAN - LEVEL 3

A1.16

Olson Kundig

159 South Jackson St, Suite 600  
Seattle, Washington 98104 USA  
+1 206 624 5670 olsonkundig.com



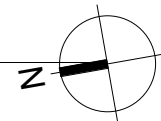
ARCHITECTURE  
URBAN DESIGN  
INTERIOR DESIGN

PROGRAM TYPE

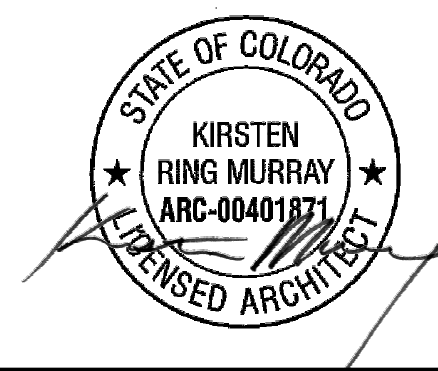
- CIRCULATION
- PRIVATE RESIDENCE



1 OVERALL - L4  
SCALE: 1/32" = 1'-0"



0 8' 16' 24' 32' 64' 96'



OVERALL PLAN - LEVEL 4







PROGRAM TYPE

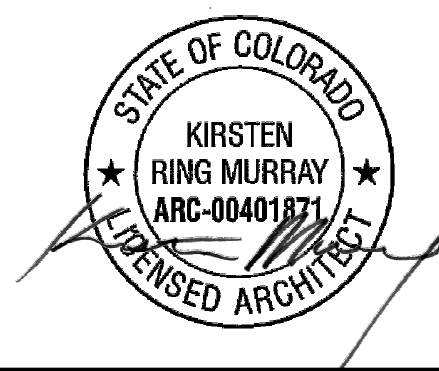
- CIRCULATION
- PRIVATE RESIDENCE



1 OVERALL - L6  
SCALE: 1/32" = 1'-0"

0 8' 16' 24' 32' 64' 96'

Fort Partners | Merrimac Ventures  
Mountain Village, CO



# OVERALL PLAN - LEVEL 6

FINAL SPUD SUBMITTAL | 08/31/2022

A1.19

Olson Kundig

159 South Jackson St, Suite 600  
Seattle, Washington 98104 USA  
+1 206 624 5670 olsonkundig.com



ARCHITECTURE  
URBAN DESIGN  
INTERIOR DESIGN



PROGRAM TYPE

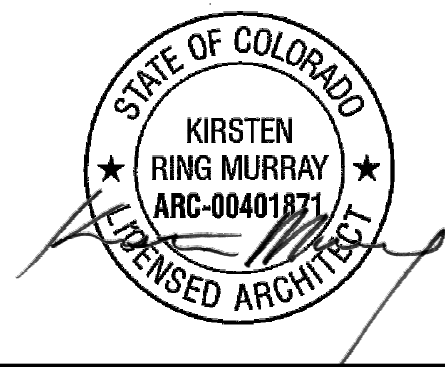
- BACK OF HOUSE
- PRIVATE RESIDENCE



1 OVERALL - L8  
SCALE: 1/32" = 1'-0"

0 8' 16' 24' 32' 64' 96'

Fort Partners | Merrimac Ventures  
Mountain Village, CO



# OVERALL PLAN - LEVEL 8

FINAL SPUD SUBMITTAL | 08/31/2022

A1.21

Olson Kundig

159 South Jackson St, Suite 600  
Seattle, Washington 98104 USA  
+1 206 624 5670 olsonkundig.com



ARCHITECTURE  
URBAN DESIGN  
INTERIOR DESIGN



1 OVERALL - ROOF PLAN  
SCALE: 1/32" = 1'-0"

0 8' 16' 24' 32' 64' 96'



# OVERALL PLAN - ROOF PLAN

A1.22



**HOTEL AND RESIDENCE RESORT PROJECT**

TOWN OF MOUNTIAN VILLAGE, CO

**COMMUNITY BENEFITS ANALYSIS**

| <b>POTENTIAL DEVELOPMENT COSTS ASSOCIATED WITH</b>   | <b>ANTICIPATED COSTS</b> |                  |
|--|--------------------------|------------------|
| <b><u>Community Benefits</u></b>   | <b><u>Current</u></b>    |                  |
| Trash Compactor  | \$                       | 80,000           |
| Publicly Accessible Plaza Areas in Excess of CDC Requirements Connecting Gondola and Pond Plazas | \$                       | 1,822,500        |
| Fixed Financial Contribution for Pond Revitalization and Improvement including Design Services   | \$                       | 650,000          |
| Improvements to alleyway between Trax and Gondola Plaza  | \$                       | 50,000           |
| Two deeded parking spaces to Town  | \$                       | 300,000          |
| Fixed Financial or In Kind Land Contribution to Town for Employee housing                        | \$                       | 2,500,000        |
| Curb and Gutter sidewalk with Snowmelt from Porte Cochere to N Stairs                            | \$                       | 162,500          |
| 600 Sq Ft Storage facility for Town  | \$                       | 150,000          |
| Connection from Ridge Trail to Apres Ski Plaza   | \$                       | 25,000           |
| 500 square feet of public restrooms  | \$                       | 300,000          |
| Enhanced Riparian Corridor   |                          |                  |
| Additional pedestrian bridges  | \$                       | 300,000          |
| Expanded Wetlands  | \$                       | 158,000          |
| Snowmelted Path  | \$                       | 551,250          |
| Maintain Gondola Plaza at Same Grade   | \$                       | 350,000          |
| Vehicular service parking space on Mountain Village Blvd.  | \$                       | 12,000           |
| <b>Total:</b>  | <b>\$</b>                | <b>7,411,250</b> |

To: Town Council, Town of Mountain Village  
From: John Horn  
Date: August 19, 2022  
Re: Lot 161C-R ORDINANCE NO. 2022-\_\_  
-Gives, Gets and Gotchyas

### 1. Balancing Gives and Gets.

At its most basic level, the purpose of the Town's planned unit development process is to give the developer relief from the limitations of the Town's land use code in exchange for community benefits, a classic case of good old horse trading. In this process each side's gives should balance as close as possible to equal each side's gets, simple in theory but not so simple in real world implementation. There are no set formulas and so the gives and gets are determined on an ad hoc basis, beauty and balance lie in the eyes of the beholder. The Town's land use code provides criteria for approving a PUD, but they are functionally inadequate in terms of measuring gives and gets and so both sides are left to a nearly totally subjective process, a difficult situation for everyone involved (e.g., Town government, developer and the concerned community members). Recognizing the inherent challenges and faults in the process, it nevertheless appears that what the Town is proposing to give under the ordinance that passed on first reading on July 21, 2022 ("Ordinance") greatly outweighs what it is getting in terms of community benefits. It appears the imbalances fall into two categories:

1.1 The give is of a nature that no offsetting get could possibly be offered to justify the give and, consequently, the give should be deleted (e.g. building height; lack of affordable housing).

1.2 The get does not equal the give and, consequently, a more balanced approach is needed (e.g., open space conveyed by Town & building height relief -v- community improvements provided by developer).

### 2. Fait accompli

At this point in the process, the conventional wisdom is that approval of the Ordinance on 2<sup>nd</sup> reading is a foregone conclusion, a mere formality. Perhaps. The simple reality is that we, the public, did not know, could not know, what the real "PUD deal" was until passage on 1<sup>st</sup> reading; in fact, the Ordinance was not available to the public until just a few days before it was voted on—the entire Council packet on the subject was 276 pages, a lot to absorb in less than a week. To the young people who humor me by saying they appreciate my advice (i.e., learn from my mistakes), I counsel them to act in a way that seeks to eliminate the phrase "should have" from their vocabulary. With that in mind, I have drafted this memorandum so if the project as contemplated in the Ordinance is approved and built, and all the shortcomings of the approval diminish the quality of life of this community as I believe they will, I won't be saying to those young people that I "should have" spoken up; this is my attempt to speak up, I hope it is timely.

I recognize the nearly overwhelming obstacles that human nature poses in preventing meaningful change to the approval contemplated in the Ordinance, but we have to try. Requiring meaningful change at this point will require Councilmembers to substantially change course, to question a position they have taken publicly, to oppose something they have already voted in favor of and to abandon the comfort and security that comes from being part of a group (i.e., the group that voted “yes” on July 21, 2022). But this community only gets one shot at this, there are no “do overs” once the project is approved and then built and so we have to get it right the first time, the only time. Will the developer and the people who have voiced their support for the Ordinance be disappointed, certainly; but disappointment today is transitory, a completed building and all the problems that come with it will be our forever tomorrows; as the saying goes, “act in haste and repent at your leisure”.

“Those who fail to learn from history are doomed to repeat it” Winston Churchill in a 1948 speech to the House of Commons. The driving force behind the architectural approval of the Doral Hotel (i.e., the Peaks) was an effort to ensure the continued financial viability of the Mountain Village development and its developer. At the time the Doral went through its approval process, the Mountain Village development and its developer had not yet achieved credibility in terms of whether or not it would succeed, people were reluctant to invest. Hard to imagine in 2022. What was needed was a “smart” “big-time” investor to make a substantial investment in order to achieve credibility, along came the Doral group. The planning and architectural decision-makers determined that the Doral Hotel was the key to survival and that it needed to be approved despite great trepidation regarding the proposed design. And so, it was with collective pinched-noses and crossed-fingers that the Doral’s design was approved in late 1989 and construction started in April, 1990. It is hard to find anyone who looks at the Peaks Hotel today and proclaims it represents great architecture or that its mass and scale fit the site. The repeated question is “how did that get approved”? The “mountain modern” architecture reflected in the Ordinance would be attractive in the right setting, but it does not fit in the Village Center; in the future the question of “how did that get approved” will also be directed at this project. Most people believe a much better job “should have” been done in the Doral planning and design process, but it was too late by then. It is still not too late with respect to the Lot 161C-R project.

Fast forward to today, 33 years and a completely different economic environment later. Certainly, a Four Seasons hotel will provide benefits to the community, but at what cost under the current proposal? The viability and success of the community is in no way in jeopardy if the Lot 161C-R/Pond Lots project does not proceed. However, the community’s character, quality of life, neighborhoods and open space are in jeopardy if the impacts of this project are not addressed and adequately dealt with; the approval contemplated by the Ordinance does not adequately address these issues. We are back to the horse trading, hopefully the community can do a better job this time than it did with the Doral 33 years ago. It will take courage, leadership and a healthy dose of humility. Few people in the community oppose a hotel development on the proposed site, however, many people oppose a the current proposal that jeopardizes the community’s character, quality of life, neighborhoods and open space. The Town and the developer have spent many months and many resources to get to this point, “approval fatigue” is rampant the drumbeat is to “get this over with”, but if the Town’s decisionmakers do some brutally honest soul searching, then there is a strong likelihood they will admit they are experiencing serious doubts about whether the Ordinance adequately protects the community. The community will have to re-double its efforts, we owe it to the developer to deal with it in a fair and timely manner. But remember, there was no second chance with the Doral Hotel, and there will be no second chance with the Four Seasons hotel.

### 3. The Issues

It is easy to say the community's character, quality of life, neighborhoods and open space are in jeopardy if the impacts of this project are not addressed and adequately dealt with, but what does that mean? In an effort to answer this question, please consider the following as a starting point (make no mistake, this list is not complete, it is merely the effort of one person with limited knowledge):

3.1 Water capacity. The southwestern United States is experiencing the worst drought in over 1,200 years, mind numbing. Mountain Village is not immune to this drought. Where is the in-depth analysis that provides adequate assurance that we will continue to have sufficient wet-water (versus paper water rights) to ensure that the demands of the hotel can be met without negatively impacting the balance of the community?

3.2 Sewer capacity. The Towns of Mountain Village and Telluride have stressed that the existing sewer plant is not capable of handling future growth. Where is the in-depth analysis that provides adequate assurance that the sewer plant can be expanded to ensure that the demands of the hotel can be met without negatively impacting the balance of the community? And what is the cost to the community to achieve that? Is the Town being proactive by requiring this project to pay impact fees to defray the cost of the new sewer plant? If not, why not?

3.3 Mass and scale. A consistent comment is that the Peaks Hotel sticks out like a sore thumb because of its design, mass and scale. Many people in the community fear the mass and scale of the current Four Season's design will provide a similarly undesirable thumb for the other end of the Village Center. It does not appear that the Town truly comprehends the dramatic and overwhelming manner in which the project will loom up and over the Village Center. A scale model is necessary to truly comprehend how the project will relate to the neighborhood. Despite the fact that scale models are no longer called for in the development code, it can nevertheless be required in the PUD process. A scale model is necessary in this instance, a few red balloons cannot tell the true story.

3.4 Traffic. It does not appear that the traffic that will be generated by this project and the Lot 109 project has been adequately addressed. If there is a current traffic study that has done this, then please provide it. If not, then require it; people will be shocked.

3.5 Capacity.

3.5.1 What is the current quality of life in our regional community in terms of crowding (e.g., gondola lines, traffic locally and to Montrose, restaurant availability, Bridal Veil trailhead congestion, ski area capacity, simply trying to walk down Main Street in Telluride)?

3.5.2 How will adding these hotbeds add to the crowding?



3.5.3 How will adding these hotbeds diminish the quality of life in the community?

3.5.4 What is the purpose for approving these additional hotbeds? The “community” deserves an explanation that goes beyond nebulous buzzwords such as “economic vitality” and “increased property values”; is Mountain Village, our home, a community or a commodity. Take a close look at the addresses of the people who have spoken in favor of the current design, the majority of them neither live in nor own property in the Mountain Village.

3.5.5 Who really and truly benefits from these additional hotbeds?

3.5.6 Who is really and truly injured by the impacts created by these additional hotbeds?

3.6 Ski area capacity. The existing Comp Plan states:

“The Telluride Region has many other enviable qualities, but it is the skier experience that will continue to draw people to Mountain Village and the Telluride Region from all over the planet. In crafting the Mountain Village Comprehensive Plan, stakeholders from across the community were concerned about preserving the skier experience. . . . **Nothing would take away more from the skier experience than overcrowding development** where it doesn’t belong and not requiring the necessary ski area improvements. . . . At the time of Comprehensive Plan adoption, the ski area’s approved United States Forest Service Record of Decision allows 10,000 people at one time (PAOT) on the mountain. As specific areas densify, as outlined in the Comprehensive Plan, and the town’s lodging occupancy increases during ski season, more research will be needed to ensure that the resort does not become overcrowded during peak days.” (Emphasis added)

Do we mean this or are we simply paying lip service to it? Anyone who has been on the mountain on the ski area’s busy days (not only the busiest) over the past two years knows that the skier experience in terms of over-crowded lift lines, slopes and restaurants has badly diminished. Adding new hotbeds in addition to the “normal” buildout that will inevitably occur will do nothing but make a bad situation worse. Higher speed and higher capacity lifts will not solve the crowding problem, the ski mountain is terrain limited and nothing, neither the ski area nor the Forest Service, has the ability to change that. The mountain’s capacity is not simply a function of man-made items like lifts and restaurants, it is also a function of skiable terrain and no one is going to be able to make any more of it. We must be sure to look at the mountain’s capacity in its real-world context; for example, Lifts 7 and 8 and their terrains have a calculated capacity that make up part of the mountain’s capacity, however, Lifts 7 and 8 can only be used to their calculated capacity on a very few number of days each year due to a lack of snow. Consequently, the mountain’s capacity must be viewed through a real-world lens and not a theoretical lens. And we must not be confused, this is not temporary Covid-induced overcrowding. This is overcrowding from the people staying in current accommodations experiencing a ski mountain that has already reached its physical limitations on far too many days.

TSG’s current 2017 Master Development Plan filed with the US Forest Service states:

“Design capacity is commonly expressed as “comfortable carrying capacity,” “skier carrying capacity,” “skiers at one time,” and other ski industry-specific terms. These terms refer to a level of utilization that provides a pleasant recreational experience, without overburdening the resort infrastructure. Accordingly, the design capacity does not normally indicate a maximum level of visitation, but rather the number of visitors that can be “comfortably” accommodated on a daily basis. Design capacity is typically equated to a resort’s fifth or tenth busiest day, and peak-day visitation at most resorts is at least 10% higher than the design capacity.”

TSG’s Master Plan states the current and future comfortable carrying capacity are as follows:

|                                 | Comfortable Carrying Capacity/Design Capacity | Comfortable Carrying Capacity/Design Capacity Plus 10% |
|---------------------------------|---|--|
| Current (before Lift 9 upgrade) | 6,550   | 7,205  |
| Full Buildout                   | 8,240   | 9,064  |

TSG has stated they have already exceeded 9,000 skiers per day, no one seems to remember those days as great experiences. Approximately 65% of the single family lots in the Town are developed, which means 35% are yet to be developed; in other words, the number of people staying in single family homes is going to increase by 50%. That does not bode well for lift lines, powder mornings and the overall quality of life of the community. “Economic vitality” and “increased property values” will be unable to recapture the lost quality of life, they will be gone forever, just ask the people in places like Breckinridge and Park City. But hey, we will all be richer!

3.7 Workers. Have you seen a recent copy of the Daily Planet, 4 pages of employee wanted ads for well over 100 positions. This project is going to require 200-300 additional employees. Other local employers are voicing concern that their employees will be cannibalized by this project. 6 pages of employee wanted ads will benefit the Daily Planet but they will devastate your friends and neighbors who run the businesses that enable this community to function.

3.8 Workforce Housing. See item 3 in Table A below.

3.9 Balancing gives and gets (Community Benefits). See Table A below. Based on the analysis in Table A, it appears the true dollar value given to the Town is only \$725,000, well below the \$6,705,000 suggested in the Ordinance. It should be noted that this analysis does not include the benefits granted to the developer from the Telluride Mountain Village Owners Association which should be heavily factored into the PUD agreement. The members of TMVOA and the taxpayers in the Town are one and the same, the “gives” coming from TMVOA and the Town are coming from the same people, just different pockets in their jeans.

3.10 Public Benefits Table. See item 13 in Table A below.

3.11 Impact on the project’s immediate neighbors. The requested height variances will destroy the views of the adjacent lots to the east and bludgeon their quality of life and value. How is that right?

4. Balancing Gives and Gets (Community Benefits).

As stated earlier, at its most basic level, the purpose of the Town’s planned unit development process is to give the developer relief from the limitations of the Town’s land use code in exchange for community benefits, a classic case of good old horse trading. The analysis in the following table appears to indicate the developer is very, very good at horse trading.

Table A: Community Benefits Value

| Motion states: <b><i>“ The applicants are providing the following community benefits”</i></b>   | Benefit to Developer | Community Benefit to Town | Comments   |
|---|----------------------|---------------------------|--|
| <p>1. A \$500,000 fixed financial contribution to the Town for revitalization of and improvements to the Village Pond area and adjacent plazas, including pedestrian circulation around the western edge of the Pond, allowing for more intensive improvements and plantings on the eastern edge and connecting the wetlands walking trail from the Pond/Convention Center Plaza to</p> | <p>\$500,000</p>     |                           | <p>1.1 Condition 3 to the Town Council motion passed on July 21, 2022 states, <i>“3. The Adjustment Parcels must be conveyed to the Developer for inclusion in the SPUD as provided by the Development Agreement.”</i> The effect of Condition 3 is that the property that will be improved will either be conveyed to the developer or will be immediately adjacent to the developer’s property (the information available from the Town is insufficient to be certain). The developer touts a five-star project. A five-star project requires the improvements described in item 1.<br/>Bottom line, the developer will own most if not all of the improvements and will be the primary beneficiary of any offsite improvements. Consequently, it appears unjustifiable to give the developer a Community Benefit credit for this item.</p> <p>1.2 The Town is contributing 0.487 acres of land and thereby increasing the size of the pre-PUD developable land by 14.49% (see Tables C and D below). The combination of the 0.487 acre contribution and relief from the 25% footprint lot expansion is a tremendous benefit to the developer, which is fine as long as the community receives an offsetting benefit. Paying to design the landscaping on property the developer will own after receiving it from the Town and then calling it a community benefit seems to require more than a bit of tortured logic.</p> |

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| <i>Heritage/Gondola Plaza including design services.</i>         |             |  |  |
| 2. \$150,000 of design services for Village Pond Improvements.   | \$150,000   |  | 2. Same as 1 above.  |
| 3. A 2.2 million dollar payment into the community housing fund. | \$2,200,000 |  | <p>3.1 At a construction cost of \$350/SF this generates 6,286 SF of workforce house and at \$500/SF it generates 4,400 SF. At 500 SF per employee that accommodates 12.6 employees based on 6,286 SF and 8.8 employees based on 4,400 SF. The application/approval states the developer will provide 3,000 SF of onsite housing for 30 employees which equates to 100 SF per employee. It is hard to comprehend the quality of life that can be achieved in 100 SF, how many of you Council members live in 100 SF?</p> <p>Certainly, it is good to have funds for housing, but if there is no land to build it on then the demand goes unmet. Giving the developer the benefit of the doubt (and that is a big doubt), the developer is providing for between 38.8 and 42.6 employees.</p> <p>3.2 Realistic estimates of the number of employees that will be generated by this development is between 200 and 300 employees. For this discussion we will assume it is 225; we will also assume the following:</p> <p style="padding-left: 40px;">3.2.1 Between 300 SF and 500 SF per employee are required to provide an adequate quality of life living space (not everyone will live in a close-quarters dorm environment).</p> <p style="padding-left: 40px;">3.2.2 The cost to construct the housing will be between \$350/SF and \$500/SF. Note, this does not include the cost of land.</p> <p>Based on these assumptions, Table B below provides the following conclusions:</p> <p style="padding-left: 40px;">3.2.3 Pursuant to the Town’s newly adopted “Affordable Housing Mitigation Calculator”, the developer is only providing housing for between 5.67 and 9.44 employees; a deficit of between 215.56 and 219.33 employees.</p> |

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|  |  |  | <p>3.2.4 At a cost of between \$350/SF and \$500/SF, building the housing for the deficit number of employees is between \$22,633,538 and \$54,833,625; not including land costs.</p> <p>3.3 In their March 10, 2022 memorandum to Town Council and DRB for the joint meeting on March 17, 2022, Michelle Haynes, Planning and Development Services Director, and Paul Wisor, Town Manager stated:</p> <p><i>“The Town of Mountain Village, and the Telluride region as a whole, is in the midst of a housing crisis that directly threatens the quality of life of every Mountain Village resident, second homeowner, business, and visitor. From entry level restaurant workers to top level ski executives, and every other position in between, these critical roles are going unfilled, in large part, because such workers and their families lack viable housing options within or near Mountain Village. Unless this crisis is addressed, the basic services and amenities that make Mountain Village a place like no other, will be diminished or eliminated altogether. Adoption of community housing mitigation directly addresses the impact new construction has on the associated housing need generated by new development. Housing would then be satisfied through built units, payments or within a hierarchy of approaches to satisfy the requirement acceptable to the town.”</i></p> <p>Pretty clear message, pretty sobering. It appears this message was based in part on the August 30, 2018 San Miguel County Housing Needs Assessment as well as recent work done by Town consultants. Two excerpts from the Needs Assessment appear relevant to this discussion:</p> <p><i>“8. The current housing need in San Miguel County is defined by the existing deficit (catch-up) and the projected need over the next 10 years (keep-up). Current catch-up need for housing is estimated by evaluating potential housing demand from the number of unfilled jobs, as reported by employers, and the number of in-commuters who would prefer to move into the County. Total catch-up housing need is estimated at 441 units (64 units from unfilled jobs and 377 from in-commuters).”</i> (page 13)</p> |
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|  |  |  | <p>This excerpt shows that as far back as 2018, San Miguel County had a deficit of 441 units. Current experience seems to clearly tells us this deficit has only gotten worse.</p> <p>3.4 Can someone please connect the affordable housing/hotel dots for me by explaining the following:</p> <p>3.4.1 How can continuing to use the “<i>historic position of the region, at 40% for commercial</i>” (actually 7%-10% for this project under the adopted ordinance) that has placed us in a current “<i>housing crisis</i>” solve our existing crisis and not, instead, greatly increase the crisis?</p> <p>3.4.2 How, in good conscious, can our community approve a hotel project for which no concrete solution or financial commitments are in place to provide housing for 215.56 and 219.33 of the employees needed to operate the hotel; a cost of between \$22,633,538 and \$54,833,625 not including land costs? Will the burden will fall on the members and taxpayers of this community.</p> <p>3.4.3 How, in good conscious, can our community approve a hotel project in which the developer is only responsible for providing housing for 7% to 10% of the employees needed to operate their hotels?</p> <p>3.4.4 What is the plan?</p> <p>3.5 It has been asserted that it would be unfair to impose the “full” 40% mitigation requirement of the new workforce housing code on the developer because it was so far along in the process. We need to be honest with ourselves, the developer has been active in this community for the past several years and would have to have been conducting business with blinders on and their hands over their ears to not be fully aware of the fact that “<i>the Telluride region as a whole, is in the midst of a housing crisis that directly threatens the quality of life of every Mountain Village resident, second homeowner, business, and visitor.</i>” They clearly knew it would be a MAJOR issue and so it was no surprise when the new workforce housing code was</p> |
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|  |             |           | adopted; the only thing that surprised them was how easily they got off. The horse-trading nature of the PUD process gives the Town the latitude to address this issue. No one envies the Council for having to be in the position of revisiting this issue, but that is what the community expects its elected officials to do, I'm afraid it comes with the territory. |
| <i>4. Construction of a town owned public bathroom in the northern retail section of the project which ties to the new plaza approximately 500 square feet and a value of \$250,000</i>                        |             | \$250,000 | 4. This item benefits the community.   |
| <i>5. Construction of a 600 square foot storage facility for the Town.</i>   |             | \$150,000 | 5. This item benefits the community.   |
| <i>6. Conveyance of two deeded parking spaces within the project's underground parking garage to the Town to be used by Town staff in connection with gondola operations.</i>                                  |             | \$300,000 | 6. This item benefits the community.   |
| <i>7. Publicly accessible plaza areas connecting to the public Gondola Plaza and provision of additional amenities for skier and public use. The plaza will be extensively planted to maintain the natural</i> | \$1,500,000 |           | 7. Same as 1 above.  |

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| <i>landscape as it flows through the site. . . .</i>   |             |  |   |
| <i>7.1 . . . . This includes improvements to the alley between Tracks and the gondola station and assists with separating skier traffic from retail traffic. The improved area for public use is more than the CDC requires.</i>   | \$50,000    |  | 7.1. Same as 1 above.   |
| <i>8. Enhancement of and incorporation of the existing wetlands into a lush, wetlands walking trail 10 feet in width connecting the Pond/Convention Center Plazas to Heritage Plaza and the Gondola Plaza. This enhancement also creates a path from Village Pond Plaza to Mountain Village Boulevard.</i> | \$1,500,000 |  | 8. Same as 1 above.   |
| <i>9. Construction of a trash compacting facility within the project which will reduce the number of trips over Mountain Village Boulevard by large trash removal trucks and equipment.</i>  | \$80,000    |  | 9.1 Paragraph 6.h of the proposed ordinance states:<br><br>“h. Construction of a trash compacting facility within the project which will reduce the number of trips over Mountain Village Boulevard by large trash removal trucks and equipment.”<br><br>The third bullet of the Exhibit 7.A Lot 161CR Final SPUD Referral Public Works states: |



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|  |  |          | <p>“A trash compactor is not a public benefit. Please provide in detail how the trash compactor will be emptied. Will the compactor be hauled off site dumped and then returned.? MV road right of way cannot be used to swap out full and empty compactors or dumpsters.” (Emphasis added).</p> <p>Item 15 of the Comp Plan’s Public Benefits Table states:</p> <p>“15. Parcel F Lot 161-CR owner evaluates the technical feasibility of establishing a public loading dock and trash collection facility. If a public loading dock and trash collection facility is feasible, as determined by the town, Parcel F Lot 161-CR owner shall construct such facility and provide necessary delivery/access easements to and from the town’s plaza areas.”</p> <p>The application makes it clear the trash compactor will not serve as a public trash collection facility because the <b>“standards required by 5-star luxury hotel/resort brands would not allow the incorporation of this type of facility into the project as it would negatively impact the standards and quality of experience demanded by luxury brands.”</b> That being the case, it appears to take quite an imagination, and an equal amount of audacity, to assert that a trash compacting facility that will only be used by the project constitutes a community benefit. Is anyone paying attention here?</p> |
| <p>10. Provide a connection between the alternative end to the Ridge Trail and the project’s Apres Ski Plaza, which provides access for hikers to the wetlands walking trail and the additional trailheads beyond. A public easement will be provided.</p> |  | \$25,000 | <p>10. Same as 1 above.</p>  |

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| <p>11. A waiver from the town's obligation to pay HOA dues on the two town parking spaces, approximately 500 square foot public restroom, and 600 square foot storage area</p>   |               |               | <p>11. This benefit is not being paid for by the developer, it will be paid for by the owners of the units in the HOA. In any event, the net present value of this is minimal.</p>  |
| <p>12. Public Improvements that contribute to community benefits.<br/> a. The alternate #2 trail Ridge Trail within the 161CR general easement and a portion on the town's easement to connect to the trail.(see community benefit above)<br/> b. Construction of a vehicular service parking space on Mountain Village Boulevard to facilitate deliveries for neighbors (e.g. La Chamonix).</p> | <p>\$Zero</p> | <p>\$Zero</p> | <p>12.a Same as 10 above.<br/> 12.b The value of this is de minimis.</p>  |
| <p>13. Those items provided in the Table 6. Public Benefits table found in the Comprehensive Plan:<br/> c. #1. Hot beds.<br/> d. #13. Coordinated development between Parcel D</p>   | <p>\$Zero</p> | <p>\$Zero</p> | <p>13.1 These are NOT community benefits, they are required by the Comp Plan's Public Benefits Table and are required in order to achieve "general conformance" with the Comp Plan. Giving credit for this as a community benefit is double dipping and legally indefensible.<br/> 13.2 At the March 17, 2022 Council meeting Mayor Benitez stated:<br/> <br/> "If I could just say one thing that I want on the record and that I want everyone to hear, we have made no changes to open space. Like we have, everything that was in the Comp Plan in 2011, everything that was in the</p> |

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| <p><i>and Parcel F &amp; F1 and keeping development project at the same grade as the gondola plaza</i></p> |  |  | <p>CDC, there have been zero changes recommended or made by this body. I think there's a lot of just confusion about that fact, and I think it's important that people know their homes are next to active open space, passive open space, it means a lot to people and so I just want to be as clear as possible with that." (Time stamp 4:18:23)</p> <p>As one member of the community, I thank Mayor Benitez for stating the Council's unequivocal support for the community's profound and overwhelming desire to preserve and protect open space; this desire is clearly expressed in the existing Comp Plan. However, as everyone knows, the Comp Plan is not zoning and zoning is what provides certainty in terms of land use. This issue of certainty was identified by the 2011 Town Council when it approved the Public Benefits Table in the current Comp Plan. The Public Benefits Table identifies nine items that are required to occur <b>"Concurrent with the first rezoning or PUD on TSG open space for hotbed development as envisioned by the Comprehensive Plan."</b> Two of the items relate to open space:</p> <p style="padding-left: 40px;"><i>8. TSG will convey all TSG open space land to the TOMV that is designated on the Land Use Plan Map as Passive Open Space or as Resource Conservation Active Open Space.</i></p> <p style="padding-left: 40px;"><i>9. TOMV rezones TSG open space to limit currently allowed uses consistent with the six open space classifications shown on the Land Use Plan Map."</i></p> <p>The certainty so profoundly sought by the community regarding the use of open space will not occur until all TSG open space is rezoned to the <i>"uses consistent with the six open space classifications shown on the Land Use Plan Map."</i></p> <p>The Ordinance fails to address this issue by not requiring this open space rezoning to occur <b>"Concurrent with the first rezoning or PUD on TSG open space for hotbed development"</b>.</p> <p>Can someone please answering the following:</p> |
|--|--|--|---|

|              |                      |                           |  |
|--------------|----------------------|---------------------------|--|
|              |                      |                           | <p>13.2.1 Is the Town going to require “general conformance” by requiring items 8 and 9 in the existing Public Benefits Table to occur prior to or concurrently with the approval of this PUD? If not, then why not?</p> <p>13.2.2 On a related note, will the Town require the other seven items identified in the Public Benefits Table to occur prior to or concurrently with the approval of this PUD? If not, then why not?</p> |
| <i>Total</i> | \$5,980,000          | \$725,000                 | 14. Perhaps a more realistic assessment of the gives and gets.   |
|              | Benefit to Developer | Community Benefit to Town |  |

Table B. Workforce Housing Shortfall

|   |           |          |
|---|-----------|----------|
| Total Minimum Affordable Housing Requirement (per Affordable Housing Mitigation Calculator) | 11,331.00 |          |
| Year 2022 Application Reduction   | 25%       |          |
| Affordable Housing Requirement  | 2,832.75  |          |
|   |           |          |
| Affordable Housing Requirement  | 2,832.75  | 2,832.75 |
| SF/Employee   | 300.00    | 500.00   |
| Total Employees Provided For  | 9.44      | 5.67     |
|   |           |          |
| Estimated Employees Generated   | 225.00    | 225.00   |
| Total Employees Provided For  | (9.44)    | (5.67)   |
| Total Employees NOT Provided For  | 215.56    | 219.33   |
|   |           |          |
| Total Employees NOT Provided For  | 215.56    | 219.33   |
| SF/Employee   | 300.00    | 500.00   |
| Total Employee SF NOT Provided For  | 64,667    | 109,667  |

|   |            |            |
|---|------------|------------|
|   |            |            |
| Total Employee SF NOT Provided For      | 64,667     | 109,667    |
| Construction Cost/SF                    | 350        | 500        |
| Cost Workforce Housing NOT Provided For | 22,633,538 | 54,833,625 |

The following Tables 1 and 2 are from the July 21, 2022 Council meeting packet.

**Table 1. The table shows current lots, density and zoning**

| Lot              | Number | Current Zoning Designations | Current Zoning                  | Person Equivalent per Zoning Designation | Total Person Equivalents | Acreage |
|------------------|--------|-----------------------------|---------------------------------|--|--------------------------|---------|
| <b>Lot 161CR</b> | 33     | condominiums                | Village Center                  | 3  | 99                       | 2.84    |
|                  | 2      | Hotel efficiency            |                                 | 2  | 4                        |         |
| <b>Lot 67</b>    | 14     | Commercial                  |                                 |  |                          |         |
|                  |        | condominiums                | Village Center<br>Footprint Lot | 3  | 42                       | .12     |

|                           |    |                           |                              |   |     |            |
|---------------------------|----|---------------------------|------------------------------|---|-----|------------|
| <b>Lot 69R-2</b>          | 12 | condominiums              | Village Center Footprint Lot | 3 | 36  | .23        |
|                           |    | commercial                |                              |   |     |            |
| <b>Lot 71R</b>            | 9  | condominiums              | Village Center Footprint Lot |   | 27  | .17        |
|                           | 1  | employee apartment        |                              |   | 3   |            |
|                           |    | commercial                |                              |   |     |            |
| <b>OS-3Y</b>              |    | Village Center Open space | Village Center Open Space    |   |     | .587       |
| <b>Town owned OS 3BR2</b> |    | Village Center Open space | Village Center Open Space    |   |     | .063 acres |
| <b>Town owned OS 3XRR</b> |    | Village Center Open space | Village Center Open Space    |   |     | .424 acres |
| <b>TOTAL</b>              |    |                           |                              |   | 211 | 4.437      |

**Table 2. The table shows proposed lots, density and zoning**

| Lot                | Proposed Density       | Proposed Zoning      | Person Equivalent per Zoning Designation | Total Person Equivalent | Acreage/ square feet |
|--------------------|------------------------|----------------------|--|-------------------------|----------------------|
| <b>Lot 161CR-R</b> | 29 condominiums        | PUD Zone District    | 3  | 87                      | 4.437                |
|                    | 53 efficiency lodge    |                      | .5                                       | 26.5                    |                      |
|                    | 38 lodge*              |                      | .75                                      | 28.5                    |                      |
|                    | 39 efficiency lodge*   |                      | .5                                       | 19.5                    |                      |
|                    | 10 employee apartments |                      | 3  | 30                      |                      |
|                    | Commercial             | 20,420 approximately |  |                         |                      |
| <b>Total</b>       |                        |                      |  | 191.5                   | 4.437                |

**Table C. Development Lots Acreage**

| Lot | Footprint Lot | Acreage |
|-----|---------------|---------|
| 67  | Yes           | .12     |

|                                       |           |      |
|---------------------------------------|-----------|------|
| 69R-2                                 | Yes       | .23  |
| 71R                                   | Yes       | .17  |
| 161C-R                                | No - 2.84 |      |
| Subtotal                              | 2.84      | .52  |
| Total Non-Open Space Development Lots |           | 3.36 |

Table D. Town Open Space Contributed

|  |        |
|--|--------|
| OS 3BR2                                    | 0.063  |
| OS 3XRR                                    | 0.424  |
| Total Open Space Contributed By Town       | 0.487  |
|  |        |
| Total Open Space Contributed By Town       | 0.487  |
| Total Non-Open Space Development Lots      | 3.360  |
| Percent Increase via Town Contributed Land | 14.49% |

5. Conclusion.  
It's not too late.

Sincerely,  
John Horn

**From:** [Andrew Butler](#)  
**To:** [cd](#)  
**Subject:** Lot 161CR Four Seasons Comments  
**Date:** Friday, August 12, 2022 11:53:02 AM

---

I have several questions that I didn't see addressed in the material:

1. How will service vehicles and trash/waste be managed? It is essential that Mountain Village Boulevard not be blocked in any way, ever, for trash or delivery vehicles to do their jobs. Should that not happen, what mechanism exists to report violations?
2. It should be codified that the service doors are closed at all times unless there are vehicles that require access, otherwise, they are likely going to be left open.
3. What additional expenses will the developer pay to the homeowners who live above the development, and who will be driving through the construction material—mud, trash, nails... that will need to be cleaned from their vehicles and homes?
4. Same question for damage to tires as a result of waste material on the road?
5. Understanding that aesthetics is highly personal, the exterior of the structures have no comparable in the rocky mountains that I know of, and really don't fit with the Mountain Village vibe and culture. How can that be addressed?

Andrew J. Butler *CPCU, CEBS, ARM, CSFS*  
Executive Chairman, Cottingham & Butler, Inc.  
President, SISCO  
O 563.587.5041 M 563.370.0631 F 563.587.6627  
[abutler@cottinghambutler.com](mailto:abutler@cottinghambutler.com)

## COVID-19 Business Response

[VIEW OUR RESOURCE CENTER HERE](#)

Cottingham & Butler, Inc. | 800 Main St | Dubuque, IA 52001  
1.800.793.5235 | [www.cottinghambutler.com](http://www.cottinghambutler.com)

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**From:** [Don Whitacre](#)  
**To:** [cd](#)  
**Subject:** Lot 109R Hotel  
**Date:** Monday, August 15, 2022 11:25:18 AM

---

TMV Design Review Board and Town Council

I am not opposed to development, I am opposed to irresponsible development.

Concerns with Lot 161/109R MV Hotel aka Pond Lots:

- The public/community benefits being proposed do not offset the proposed PUD amendments, rezoning, increased density and variances requested
- The design proposed is not compatible with the current Village Core
- I have concerns with the mass and scale of the project
- Flat roofs allow an increase to density at a cost to aesthetics
- Additional true deed restricted units (non-business owned), more on-site employee housing, additional parking and additional open spaces are needed
- Inadequate infrastructure in MV will add to the current problems regarding traffic, access and egress for emergency services, parking, water, sewer and trash production and removal. Water restrictions are currently being implemented in MV

I spoke with other property owners in MV who feel the same. When asked if they commented they responded, “why bother, they are going to do whatever they want regardless of our public comments.”

The development of these properties is inevitable, I hope it is done responsibly.

Don Whitacre

MV property owner

**From:** [Vicki Whitacre](#)  
**To:** [cd](#)  
**Subject:** Lot 161/109R MV Hotel  
**Date:** Wednesday, August 17, 2022 7:41:12 PM

---

TMV Design Review Board and Town Council

Concerns with Lot 161/109R MV Hotel aka Pond Lots:

- The public/community benefits being proposed do not offset the proposed PUD amendments, rezoning, increased density and variances requested
- The design proposed is not compatible with the current Village Core
- I have concerns with the mass and scale of the project
- Flat roofs allow an increase to density at a cost to aesthetics
- Additional true deed restricted units (non-business owned), more on-site employee housing, additional parking and additional open spaces are needed.
- Inadequate infrastructure in MV will add to the current problems regarding traffic, access and egress for emergency services, parking, water, sewer and trash production and removal.

Thank you,

Vicki Whitacre  
Meadows Resident

--  
Vicki

**From:** [Michelle Haynes](#)  
**To:** [cd](#)  
**Subject:** FW: 161 CR  
**Date:** Monday, July 18, 2022 8:37:39 AM

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**From:** Jbingham <jbingham44@gmail.com>  
**Sent:** Sunday, July 17, 2022 7:21 PM  
**To:** Michelle Haynes <MHaynes@mtnvillage.org>  
**Subject:** Fwd: 161 CR

Sent from my iPhone

Begin forwarded message:

**From:** Jbingham <[jbingham44@gmail.com](mailto:jbingham44@gmail.com)>  
**Date:** July 17, 2022 at 6:09:45 PM PDT  
**To:** [jbingham44@gmail.com](mailto:jbingham44@gmail.com)  
**Subject:** 161 CR

We would like to appeal to the town council and the design review board to look at the impact of allowing a variance to the code for a high restriction on 161 CR.

Height restrictions for the Village were put in place with the idea of creating a European style village which previous projects in Mountain Village have adhered to.

The new proposed height variance for 161 CR infringes on the rights of the people who have invested in the Town of Mountain Village. We have developed our properties both residential and commercial based on the codes now in place which were designed to protect us from exactly this situation.

Your neighbors and the people who invested in Mountain Village, bought their property in good faith. These people trusted that the code restrictions in place would be continued.

We wish to point out that financial gain to the developer is at the heart of this proposed height variance. If this project proceeds with this height variance as proposed it will be a disgrace for the town and the people who allowed it. This action will not only affect what happens today but also will set a precedent for this type of disregard for regulations in the future it makes the codes meaningless.

Submitted by:  
Stuart and Jackie Bingham

**From:** [Michelle Haynes](#)  
**To:** [Marleina Fallenius](#)  
**Subject:** FW: Lot 161 Four Seasons Support  
**Date:** Thursday, July 21, 2022 12:37:18 PM

---

[Michelle Haynes](#), MPA

Planning and Development Services Director  
Housing Director

**Town of Mountain Village**

[455 Mountain Village Blvd. Suite A](#)

O :: [970.239.4061](#)

M :: [970.417.6976](#)

[LinkedIn](#) | [Email Signup](#) | [Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#)

---

**From:** Paul Wisor <[pwisor@mtnvillage.org](mailto:pwisor@mtnvillage.org)>  
**Sent:** Thursday, July 21, 2022 11:58 AM  
**To:** council <[council@mtnvillage.org](mailto:council@mtnvillage.org)>  
**Cc:** Michelle Haynes <[MHaynes@mtnvillage.org](mailto:MHaynes@mtnvillage.org)>; Amy Ward <[award@mtnvillage.org](mailto:award@mtnvillage.org)>  
**Subject:** FW: Lot 161 Four Seasons Support

Council,

Please see below the additional public comment from Winston Kelly regarding 161-CR.

Thanks,

Paul

---

**From:** Dev Motwani <[Dev@merrimacventures.com](mailto:Dev@merrimacventures.com)>  
**Sent:** Thursday, July 21, 2022 11:55 AM  
**To:** Paul Wisor <[pwisor@mtnvillage.org](mailto:pwisor@mtnvillage.org)>  
**Subject:** Fwd: Lot 161 Four Seasons Support

----- Forwarded message -----

From: **Winston Kelly** <[winstonkelly@gmail.com](mailto:winstonkelly@gmail.com)>  
Date: Thu, Jul 21, 2022 at 11:40 AM  
Subject: Lot 161 Four Seasons Support

To: Michelle Haynes <[mhaynes@mtnvillage.org](mailto:mhaynes@mtnvillage.org)>, Dev Motwani <[Dev@merrimacventures.com](mailto:Dev@merrimacventures.com)>

Michelle and Dev,

I write this email in a good faith show of support for the development of the Four Seasons Project on lot 161CR. The developer has come a long way in addressing my concerns, and while I would like to see continued progress in the height/privacy consideration for my neighbors, I have seen enough progress by Dev and his team to give my support to this project at this time.

The developer made these changes which helped me get behind the project:

- eliminated 2 stories from the project, one story on the North Hotel Building and one from the South Residence Building
- added a public pedestrian connection from MVB to the Pond Plaza as well as a sidewalk along MVB from our Port Cocherre to those stairs
- agreed to give all property owners around and above the project along MVB the first right to purchase ski lockers which will provide both valet parking and access through the property to the gondola or heritage plaza
- internalized all mechanical equipment so none is on the roof to eliminate any sound
- ensured our restaurants and spa will be open to the public and not just our guests
- Lowered the average height and maximum height of the entire project, so we are below what's permitted under the Comp Plan and our average height is below what's currently approved for Lot 109
- maintained over 50% open space along the project including lots of landscaping and open plazas and more setbacks from neighbors
- Reduced balconies and added shutters to create more privacy between our guests and neighbors
- updated the architecture, roof line, access points etc per the DRB comments

I would hope that development on lot 109 would follow the example of bringing down the height and working with the neighborhood as Dev and his team did.

Thanks,

Winston Kelly

*The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender.*

--

Dev Motwani  
Managing Partner, Merrimac Ventures

[Dev@merrimacventures.com](mailto:Dev@merrimacventures.com)

954-522-6556 (o)

917-319-3090 (m)

**From:** [Michelle Haynes](#)  
**To:** [cd](#)  
**Subject:** FW: Lot 161-CR  
**Date:** Monday, July 18, 2022 8:37:47 AM  
**Attachments:** [image002.png](#)

---

**From:** Brian Poulin <[bpoulin@evergreenpartnershousing.com](mailto:bpoulin@evergreenpartnershousing.com)>  
**Sent:** Monday, July 18, 2022 8:16 AM  
**To:** Michelle Haynes <[MHaynes@mtnvillage.org](mailto:MHaynes@mtnvillage.org)>  
**Subject:** Lot 161-CR

Michele, Ingrid and I have been in Mountain Village for 15 years. We were long term renters for the first 10 years and acquired our home 5 years ago. We love it here. I am writing in support of the proposed Four Seasons Development on Lot 161-CR. I think the quality of the design, the thought put into the open spaces and the addition of a 5 star hotel are all important factors in the decision to allow the project to move forward. Unfortunately I will be unable to attend the meetings this week but both Ingrid and I fully support the proposal and I hope you can share our thoughts with both the DRB and Town Council

Brian Poulin  
Evergreen Partners  
560 NE 44<sup>th</sup> Street  
Oakland Park, FL 33334  
954-332-1433 (O)  
207-450-3297 (M)  
[www.evergreenpartnershousing.com](http://www.evergreenpartnershousing.com)





**COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION**  
455 Mountain Village Blvd.  
Mountain Village, CO 81435  
(970) 728-1392

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**TO:** Town Council  
**FROM:** Michelle Haynes, Assistant Town Manager  
**FOR:** Town Council Meeting of August 25, 2022, continued September 8, 2022  
**DATE:** August 31, 2022  
**RE:** Consideration of a Resolution Regarding a Major Subdivision for Lots 161CR, Lot 67, Lot 69R-2, Lot 71R, OS-3Y (commonly called the Pond Lots)(and a request to incorporate portions of OS-3BR2 and OS-3XRR owned by the Town of Mountain Village in the amount of .478 acres to replat into Lot 166C-RR with a total acreage of 4.437 acres.

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**EXECUTIVE SUMMARY**

The applicant proposes to replat Lots 161CR, Lot 67, Lot 69R-2, Lot 71R, OS-3Y and portions of town owned OS-3BR2 and OS-3XRR into one consolidated lot called 161CR-R with a total lot area of 4.437 acres conditioned upon the redeveloped of the land area into a branded hotel with a five star operator.

**PROJECT OVERVIEW**

**Legal Description:** Lot 161CR, Lot 67, Lot 69R-2, Lot 71R, OS-3Y (and a request to incorporate portions of OS-3BR2 and OS-3XRR owned by the Town of Mountain Village TBD)  
**Address:** 634,648,654 and 691 Mountain Village Blvd  
**Owner/Applicant:** CO LOT 161CR and TSG Ski & Golf, LLC and TSG Asset Holdings, LLC (TSG)  
**Agent:** Merrimac Fort Partners, LLC  
**Zoning:** Village Center Zone District, Village Center Active Open Space  
**Proposed Zoning:** PUD Zone District  
**Existing Use:** Vacant, used for temporary surface parking



**Proposed Use:** Mixed use including hotel, branded residences, condominium and both public and private commercial uses associated with a branded hotel.

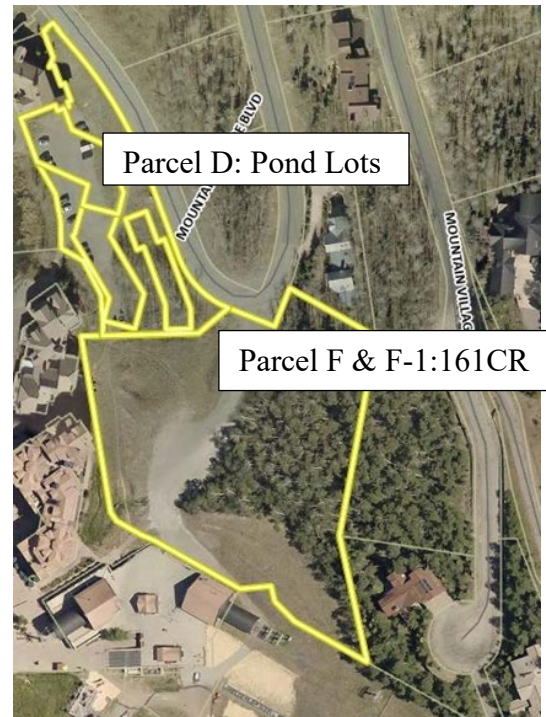
**Site Area:** 4.437 acres in aggregate

**Adjacent Land Uses:**

- **North:** Vacant 89 Lots, single family zoning
- **South:** Gondola Station
- **East:** vacant residential lots
- **West:** Heritage Crossing, Village Center

**ATTACHMENTS**

- 1) Resolution including exhibits
  - a) Property Replat dated 8.9.22
  - b) List of Subdivision Application Materials
  - c) Development Agreement – *to be provided under separate cover*
  - d) Public Improvements
- 2) Applicant's narrative dated 7.7.22
- 3) Existing conditions dated 7.13.22
- 4) Civil Drawings dated 7.12.22
  - a) Trail and Sidewalk Civil Exhibit
- 5) Public Access Exhibit



**RECORD DOCUMENTS**

- Town of Mountain Village Community Development Code (as amended)
- Town of Mountain Village Home Rule Charter (as amended)
- 2011 Mountain Village Comprehensive Plan

**CASE SUMMARY**

The 161CR/Pond Lot new site-specific Planned Unit Development (SPUD) received its conceptual, sketch and final plan approvals in March, May and July respectively of 2022. In order to complete the PUD request, an associated replat must also be reviewed by Town Council as a Class 4 major subdivision. The DRB provided a recommendation on the subdivision on July 20, 2022. The replat is being heard concurrently with the final SPUD 2<sup>nd</sup> reading of an ordinance.

**OVERVIEW OF THE MAJOR SUBDIVISION APPLICATION**

The applicant requests to combine seven land areas into one lot. Included in this request are terminations, modifications and creation of new easement areas for specific purposes. A small portion of General Easement is to be vacated, which is necessitated due to the replat of the properties.

- The general easement proposed to be vacated benefits Telluride Ski and Golf which requires their consent to terminate to replat the properties. This easement was not created by a plat but rather will be vacated by separate legal instrument prior to the replat being recorded. There is a public walkway easement to be vacated with this application by separate instrument and prior to and/or current with the replat being recorded.

- The town's water line will be relocated within the garage of 161CR. That easement will be executed concurrent with the condominium documents as the improvement needs to be located and constructed first in order to execute the associated easement agreement.
- There is a private covenant at reception no. 334408 that remains between the Ridge and the successor to the Gondola.
- There are current shoring easements that benefit Lot 161CR that will likely be modified or terminated once construction plans are developed.
- All other utilities are noted to be relocated from their existing locations.
- An easement will be executed or modified related to Heritage Crossing building overhangs and encroachments.
- An easement will be executed or modified related to La Chamonix building overhangs and encroachments.
- A utility easement will be executed with the Mountain Village with a modification to it once the improvements are placed and via an as-built.
- Existing TV lines on the property will be abandoned.
- A public access easement will be executed prior to issuance of a Certificate of Occupancy and concurrent with the condominium documents. A conceptual plan is attached as an exhibit.
- There are two additional private covenant easements to remain unchanged.
- Deeds conveying land to the future owner, Merrimac Fort Partners will also be recorded with the replat document.
- The applicant has agreed to order, submit and act as the agent for the town to replat the associated town OS parcels OS-3BR2 and OS-3XRR a total of a 9-12 month period of time. See conditions of approval for details found in the resolution.
- Assure necessary building egress remains for the gondola building and heritage crossing onto the newly replatted 161C-RR
- The applicant has modified the general easement language on the proposed plat in reference to the general easement areas that remain unchanged on the property, which will be amended prior to recordation of the plat and captured by a condition of approval to the satisfaction of the town.

There are public improvements associated with the major subdivision and PUD listed as follows and discussed in the SPUD application:

- A sidewalk from the Porte Cochere with associated safety lighting extending the length of the 161CR-R property. This also includes snowmelt.
- Repaving of Mountain Village Boulevard associated with the sewer line relocation.
- A trail improvement from 161CR-R, across the town's easement beneath the gondola connecting to the Ridge Trail as an alternative terminus.
- A delivery and drop off parking area off of Mountain Village Boulevard.
- Construction of new water and sewer main lines to replace the existing lines being abandoned. See conditions of approval.

Of the five public improvements identified above the sidewalk, snowmelt, and associated lighting and repaving Mountain Village are required pursuant to the major subdivision application and final SPUD application.

A public improvements agreement, exhibit and associated language regarding financial guarantees, maintenance (to be maintained by the owner of 161CR-R) and sign off related to meeting town standards will be incorporated into the Development agreement for the project.

Finally, the applicants ask that the period of validity for the subdivision plat of 18 months be concurrently extended to 36 months. They are also requesting that staff could extend the period of validity by 12 months and thereafter any extension would be required to go to Town Council. That request is incorporated into the PUD development agreement. Approval of the replat would be premised upon approval of the PUD. If the PUD expires or is not acted upon, then the major subdivision would also not be executed. Finally, the proposed replat requires portions of town village center open space specifically OS-3BR 2 and OS-3XBRR to be replat, to become smaller. The applicant is required to complete these associated replat documents prior to recording the major subdivision, pay for the associated survey and plat work, and pay for the recording of the town replat documents prior to recordation of the major subdivision plat.

| <b>Current Platting</b>   | <b>Acreage</b> | <b>Proposed Platting</b> | <b>Acreage</b> |
|---------------------------|----------------|--------------------------|----------------|
| <b>161C-R</b>             | 2.842          | 161C-RR                  | 4.437          |
| <b>Lot 67</b>             | 0.117          |                          |                |
| <b>Lot 69R-2</b>          | 0.228          |                          |                |
| <b>lot 71-R</b>           | 0.176          |                          |                |
| <b>OS-3Y</b>              | 0.587          |                          |                |
| <b>OS-3BR-2 (portion)</b> | 0.063          |                          |                |
| <b>OS-3XRR (portion)</b>  | 0.424          |                          |                |
| <b>Total</b>              | <b>4.437</b>   |                          | <b>4.437</b>   |

**SUBDIVISION REGULATIONS**

**17.4.13 Subdivision Regulations:**

(\*\*\*)

**E. Criteria for Decisions**

**1. Major Subdivisions.** The following criteria shall be met for the review authority to approve a major subdivision:

- a) The proposed subdivision is in general conformance with the goals, policies and provisions of the Comprehensive Plan;

*Staff Finding: The proposal to plat this property is consistent with the goals, policies and provisions of the Comprehensive Plan. Site specific policy b. indicates the town could consider exchange land should any village center open space be included in the development plan. The applicants request to own .487 acres of village center open space land in order to improve and enhance the riparian area and provide a public access easement by expanding and connecting the development into and with the Village Center plazas and pedestrian paths.*

- b) The proposed subdivision is consistent with the applicable Zoning and Land Use Regulations and any PUD development agreement regulating development of the property;

*Staff Finding: The property is proposed to be rezoned to the PUD Zone District with those zoning and land use regulations to be varied identified within the PUD development agreement.*

- c) The proposed density is assigned to the lot by the official land use and density allocation, or the applicant is processing a concurrent rezoning and density transfer;

*Staff Finding: The SPUD application proposes an associated rezone and density transfer application.*

- d) The proposed subdivision is consistent with the applicable Subdivision Regulations;

*Staff Finding: The Major Subdivision proposal meets all the standards of the Subdivision Regulations in the CDC.*

- e) Adequate public facilities and services are available to serve the intended land uses;

*Staff Finding: The applicant provided will serve letters and are adequately sizing utilities to serve the development. Services are available to serve the intended land uses.*

- f) The applicant has provided evidence to show that all areas of the proposed subdivision that may involve soil or geological conditions that may present hazards or that may require special precautions have been identified, and that the proposed uses are compatible with such conditions;

*Staff Finding: The applicant has provided a soil and geotechnical report identifying necessary precautions.*

- g) Subdivision access is in compliance with Town standards and codes unless specific variances have been granted in accordance with the variance provisions of this CDC; and

*Staff Finding: This is being met.*

- h) The proposed subdivision meets all applicable Town regulations and standards.

*Staff Finding: The applicant has met all applicable Town regulations and standards for the submittal and approval of this application. The proposal will bring the unplatted property into conformance with the CDC and required platting standards. Criterion Met.*

## **F. Subdivision Design Standards and General Standards**

### **1. Lot Standards**

*Staff Finding: Lot 161CRR meets all the requirements of Subsection (F)(1): Lot Standards including, but not limited, to minimum frontage requirements, Vehicular and Utility Access, Minimum Lot Size, and General Easement standards, except a portion of General Easement is requested to be vacated in order to combine lots into one larger lot.*

## **PUBLIC IMPROVEMENTS**

Through the SPUD process the town asked the applicant to provide a snow-melted sidewalk along Mountain Village Boulevard and necessary lighting for safety. This would include also meeting town drainage standards and associated safety lighting or crosswalks (if required but

not currently identified). Repairing road cuts for utilities may also be required as part of the development of 161C-RR. A public improvements section will be included in the PUD agreement including an exhibit that lists the associated public improvements, and costs. Collateral would be provided to the town to assure these public improvements are completed consistent with CDC Section 17.4.13.L. The town will accept the improvements are built to town standards, however the applicants will be responsible for maintenance of the improvements.

### **REFERRAL COMMENTS**

- The fire department indicated that no new fire hydrants are needed associated with the subdivision, that five fire hydrants are available currently and meeting requirements.
- Public works noted safety lighting may be required associated with the new snowmelted sidewalk along Mountain Village Boulevard. The town will collaborate as to the lighting specifications whether street-lights or bollards prior to issuance of a building permit.
- The sewer relocation will necessitate repaving of Mountain Village Boulevard in this location. This will be incorporated into the public improvement's agreement.
- Routing the water line through garage will require a legal instrument or plat note that indicates the town will own and control the water mainline but maintenance is incumbent upon the owner of 161CR-R.

### **DESIGN REVIEW BOARD RECOMMENDATION**

The Design Review Board, at a special meeting on September 20, 2022, provided a unanimous recommendation to Town Council to approve the subdivision replat as presented.

**Staff Recommendation:** Staff recommends approval by Resolution of a major subdivision to allow replatting the aforementioned properties into newly created Lot 161C-RR in its proposed configuration. Staff suggests the following motion and conditions.

### **Proposed Motion:**

*I move to approve a Resolution regarding a Major Subdivision to replat Lots 161CR, Lot 67, Lot 69R-2, Lot 71R, OS-3Y and portions of OS-3BR2 and OS-3XRR into one consolidated lot called 161C-RR, with the findings and conditions as set forth in the resolution, and authorize staff to assemble and finalize the exhibits.*

/mbh

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,  
COLORADO CONDITIONALLY APPROVING A MAJOR SUBDIVISION FOR LOTS 161C-R, 67, 69R-  
2 AND 71R, TRACT OS-3Y, AND PORTIONS OF OS-3BR-2 AND OS-3XRR TO BE REPLATTED AS  
LOT 161C-RR**

**RESOLUTION NO. 2022-\_\_**

WHEREAS, Merrimac Fort Partners, LLC (the “**Developer**”) is under contract to purchase certain real property described as Lot 161C-R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 325409 (“**Lot 161C-R**”), from CO Lot 161-CR Mountain Village, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 67, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 233115 (“**Lot 67**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 69R-2, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 272500 (“**Lot 69R-2**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Lot 71R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 274123 (“**Lot 71R**”), from TSG Asset Holdings, LLC; and

WHEREAS, the Developer is under contract to purchase certain real property described as Tract OS-3Y, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 367628 (“**Tract OS-3Y**”), from TSG Ski & Golf Company, LLC; and

WHEREAS, the Town of Mountain Village (“**Town**”) is the owner of certain real property adjacent to Lot 161C-R described as open space parcels OS-3BR-2 and OS-3XRR, according to the respective plats recorded as Reception Nos. 416994 and 405665 (the “**Town Property**”); and

WHEREAS, the Developer has submitted a Major Subdivision application to the Town (“**Subdivision Application**”) to replat Lot 161C-R, Lot 67, Lot 69R-2, Lot 71R, Tract OS-3Y, and portions of the Town Property (the “**Adjustment Parcels**”) into one integrated parcel to be known as Lot 161C-RR (the “**Property**”), as depicted on the replat of the Property set forth in Exhibit A hereto (“**Property Replat**”) for the purpose of including the Property in the Developer’s SPUD Application (defined below); and

WHEREAS, the Developer has submitted applications to the Town for approval of a Site-Specific Planned Unit Development (“**SPUD**”) for the Property (collectively, the “**SPUD Application**”); and

WHEREAS, the current owners of Lot 161C-R, Lot 67, Lot 69R-2, Lot 71R, and Tract OS-3Y have consented to Developer’s pursuing the SPUD Application and Subdivision Application; and

WHEREAS, the Town has consented to including the Adjustment Parcels in the Developer’s SPUD Application and Subdivision Application; and

WHEREAS, the Subdivision Application and the SPUD Application are being processed and considered concurrently by the Town of Mountain Village Design Review Board (“**DRB**”) and the Town of Mountain Village Town Council (“**Town Council**”); and

WHEREAS, the Subdivision Application consists of the materials submitted to the Town and itemized on **Exhibit B**, plus all statements, representations, and additional documents of the Developer and its representatives as reflected in the minutes of the public hearings before the DRB and Town Council; and

WHEREAS, the DRB held a public hearing on July 20, 2022 to consider the Subdivision Application and testimony and comments from the Developer, Town Staff, and members of the public, and voted 5-2 to issue a recommendation of approval to the Town Council concerning the Subdivision Application, subject to conditions; and

WHEREAS, the Town Council opened a public hearing on August 25, 2022, which was continued to September 8, 2022, to consider the Subdivision Application, the DRB’s recommendations, and testimony and comments from the Developer, Town Staff, and members of the public, and voted \_\_\_\_ to approve this Resolution (“**Subdivision Approval**”); and

WHEREAS, the public hearings and meetings to consider the Subdivision Application were duly noticed and held in accordance with the Town’s Community Development Code (“**CDC**”); and

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.13 of the CDC and finds that each of the following have been satisfied or will be satisfied upon compliance with the conditions of this Resolution set forth below:

1. The proposed subdivision is in general conformance with the goals, policies and provisions of the Comprehensive Plan;
2. The proposed subdivision is consistent with the applicable Zoning and Land Use Regulations and any PUD development agreement regulating development of the property;
3. The proposed density is assigned to the lot by the official land use and density allocation, or the applicant is processing a concurrent rezoning and density transfer;
4. The proposed subdivision is consistent with the applicable Subdivision Regulations;
5. Adequate public facilities and services are available to serve the intended land uses;
6. The applicant has provided evidence to show that all areas of the proposed subdivision that may involve soil or geological conditions that may present hazards or that may require special precautions have been identified, and that the proposed uses are compatible with such conditions;
7. Subdivision access is in compliance with Town standards and codes unless specific variances have been granted in accordance with the variance provisions of this CDC; and
8. The proposed subdivision meets all applicable Town regulations and standards.

WHEREAS, the Town Council now desires to approve the Subdivision Application and the related Property Replat, subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Mountain Village, Colorado, that:

**SECTION 1. RECITALS.** The foregoing recitals are incorporated herein as findings and determinations of the Town Council.

**SECTION 2. APPROVAL.** The Town Council hereby approves the Subdivision Application and the related Property Replat, subject to the conditions set forth below. The Town Council hereby approves the Conveyance MOU (defined below) and Development Agreement (defined below), subject to the conditions set forth below, and authorizes the Mayor and Town Clerk to sign said documents on behalf of the Town following approval of the same by the Town Manager. All exhibits to this Resolution are available for inspection at the Town Clerk’s Office.

**SECTION 3. CONDITIONS.** The Subdivision Approval is subject to the following terms and conditions:

3.1 The Town Council must separately approve the related SPUD Application for the Property (“**Final SPUD Approval**”). If the Final SPUD Approval is not approved within ninety (90) days after adoption of this Resolution, this Resolution shall become null and void.

3.2 All conditions of the Final SPUD Approval are conditions of this Subdivision Approval.

3.3 The length of validity for the Final SPUD Approval and the Subdivision Approval shall be the “**Approval Period**” (as may be extended) as defined in the ordinance granting the Final SPUD Approval.

3.4. The Town Council must separately approve a Major Subdivision Application to create the Adjustment Parcels (“**Adjustment Parcels Subdivision Application**”). Within sixty (60) days of this Subdivision Approval, the Developer, at its expense, shall order the necessary existing conditions and proposed replat of the Adjustment Parcels (“**Adjustment Parcels Replat**”). Within six (6) months of this Subdivision Approval, the Developer, at its expense, shall submit to the Town the Class 4 Adjustment Parcels Subdivision Application, for which the Developer shall be the applicant as agent of the Town. The Town Council hereby authorizes the conveyance of said parcels to the Developer or Developer Party (defined below) as provided for in this paragraph and authorizes the Mayor and Town Clerk to execute the deed needed for the same. The newly created parcels will be conveyed in their as-is condition, with no warranties or representations of any kind.

3.5 **Conveyance MOU.** Within sixty (60) days after the effective date of the Final SPUD Approval, the Town and the Developer shall work together in good faith to prepare and execute a memorandum of understanding, or similar agreement in a form acceptable to the Town Attorney, by which the parties memorialize Section 3.4 above and identify the procedural steps for conveyance and closing of the Adjustment Parcels and order of recordation of the necessary documents, which shall be approved by the Town Manager.

3.6 **Development Agreement.** Prior to the expiration of the Approval Period, the Town and Developer (or Developer Party, as defined below) shall enter into a Development Agreement in substantially the form set forth in **Exhibit C**, attached hereto, which shall incorporate by reference all conditions of this Subdivision Approval, the Final SPUD Approval, the Adjustment Parcels Subdivision Application approval, and the Conveyance MOU, and be approved by the Town Manager.

3.7. All Public Improvements to be dedicated to the Town, including those required as conditions of the Final SPUD Approval, shall be constructed by the Developer at its expense pursuant to plans and specifications approved by the Town Engineer, and the Developer shall provide a letter of credit or other security, in a form subject to approval by the Town Manager (which shall not be unreasonably withheld), to secure the construction and completion of such improvements based on engineering cost estimates to be approved by the Town Engineer. The procedures for providing and releasing security, inspection and acceptance of public dedications, and construction warranties shall be addressed in the Development Agreement and/or a supplement thereto to be executed prior to issuance of a building permit when final plans and specifications and cost estimates are complete. The Public Improvements specifically required as conditions of this Subdivision Approval shall be described in the SPUD Approval Ordinance and/or the exhibits thereto.



3.8 Concurrent with the recordation of the Property Replat, the Developer shall execute and record a “**Utility Easement Agreement**” granting a blanket utility easement for the area designated and depicted on the Property Replat as “*UTILITY EASEMENT (CREATED BY THIS PLAT)*” (“**Utility Easement Area**”), which Utility Easement Agreement shall be subject to review and approval by the Town Attorney. If necessary, prior to issuance of a final certificate of occupancy for the Project, the Developer and the Town shall execute an amendment to the Utility Easement Agreement amending the legal description of the utility easements granted therein to reflect the as-built location of utilities that have been installed or relocated within the Utility Easement Area. If upon construction of the Project, the Developer and Town Attorney determine that an amendment to the Shoring Easement Agreement, recorded as Reception No. 392363, is necessary, the parties shall execute and record such amendment prior to issuance of a final certificate of occupancy.

3.9 As part of its building permit application, the Developer shall submit a utility relocation plan to relocate the existing water and sewer lines designated on the Property Replat and labeled as “*BURIED UTILITIES SUBJECT TO RELOCATION PURSUANT TO 32’ NON-EXCLUSIVE EASEMENT (RECEPTION #325409)*.”

3.10. The Developer shall coordinate with Town Staff and the Town Attorney to ensure that the Property Replat creates all necessary easements, vacates all obsolete easements, and modifies existing easements as appropriate prior to recordation of the Property Replat. Any covenants or easements to be created or amended must be provided for review and approval by the Town Attorney prior to recordation of the Property Replat. Any such easement agreements with the Town shall be recorded at the same time as the Property Replat.

3.11. The Developer shall adequately address facility sites, easements, and rights of access for electrical and natural gas utility service sufficient to ensure reliable and adequate service for the Property.

3.12 The Developer intends to relocate the main water line through the underground parking garage to be constructed on the Property. The Developer shall grant an easement to the Town for the relocated main water line (“**Water Line Easement**”) and shall provide a copy of an easement agreement (“**Water Line Easement Agreement**”) to the Town for review and approval by the Town Attorney, which agreement shall outline, among other things, that the Developer shall be responsible for maintenance of the water line inside the garage. The Water Line Easement shall be depicted on the condominium map and described in the condominium declaration for the project constructed on the Property. Finalization of the Water Line Easement Agreement and the proper reference to the Water Line Easement Agreement in the condominium declaration and map for the project constructed on the Property to the satisfaction of the Town Attorney shall be a condition of the issuance of a final certificate of occupancy for the Property.

3.13 Any utility lines that are abandoned and not relocated shall be remediated appropriately by the Developer in accordance with the conditions of the building permit issued for the Property.

3.14 Town Staff will review and must approve the final proposed Property Replat to verify consistency with CDC Section 17.4.13.N. Plat Standards and Section 3. Plat Notes and Certifications and provide redline comments to the Developer prior to execution of the final mylar.

3.15 Town Staff has the authority to provide ministerial and conforming comments on the mylar prior to recordation of the Property Replat.

3.16 Permanent monuments on the external boundary of the subdivision shall be set within thirty (30) days of the recording of the Property Replat. Block and lot monuments shall be set pursuant to C.R.S. § 38-51-101. All monuments shall be located and described. Information adequate to locate all monuments shall be noted on the Property Replat.

3.17 All recording fees related to the recording of the Property Replat in the records of the San Miguel County Clerk and Recorder shall be paid by the Developer.

3.18 The Developer will work with Town Staff and San Miguel County’s Emergency Management Coordinator to create a street address for the Property consistent with applicable regulations.

3.19 The Developer shall be responsible for any additional street improvements that may be determined necessary by the Town following the Town’s review of final construction drawings for the project described in the SPUD Application, and Town Staff shall have authority to enter into an amendment to the Development Agreement to provide for any such additional street improvements and security therefor; provided, however, if the Developer disagrees with Town Staff’s determination on this subject then the matter may be presented to Town Council for a decision by motion at a duly-noticed public meeting without the need to revise the SPUD Approval Ordinance or this Resolution.

3.20 All representations of the Developer, whether within the Subdivision Application materials or made at the DRB or Town Council meetings, are conditions of this Subdivision Approval.

**SECTION 4. EFFECTIVE DATE.** This Resolution shall be in full force and effect upon its passage and adoption, subject to Section 5.

**SECTION 5. EXPIRATION OF APPROVALS.** This Subdivision Approval and the Final SPUD Approval shall expire on the expiration of the Approval Period (as may be extended) unless all of the following items have been completed prior to the expiration of the Approval Period (as may be extended):

- a. Fee title ownership of Lot 161C-R, Lot 67, Lot 69R-1, Lot 71R and Tract OS-3Y shall be conveyed to the Developer, or an affiliated party of the Developer (“**Developer Party**”) approved by the Town in accordance with the Conveyance MOU;
- b. All conditions under the Conveyance MOU have been resolved to the satisfaction of Town Staff;
- d. The Property Replat shall be executed by the Town and the Developer or Developer Party and recorded in the records of the San Miguel County Clerk and Recorder;
- e. The SPUD Approval Ordinance and this Resolution shall be recorded in the records of the San Miguel County Clerk and Recorder; and
- f. The Development Agreement shall be executed by the Town and the Developer or Developer Party and recorded in the records of the San Miguel County Clerk and Recorder.

**SECTION 6. RECORDATION.** This Resolution approving the Subdivision Approval shall be recorded concurrently with the recordation of the Property Replat and Development Agreement.

ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on September 8, 2022.

TOWN OF MOUNTAIN VILLAGE, COLORADO

By: \_\_\_\_\_  
Laila Benitez, Mayor

ATTEST:

\_\_\_\_\_  
Susan Johnston, Town Clerk  
APPROVED AS TO FORM:



Exhibit A

[PROPERTY REPLAT]

# Lot 161C-RR, Town of Mountain Village

A Replat of Tract OS-3BR-2, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2 located within the NE 1/4 of Section 3, T.42N., R.9W. and the SE 1/4 of Section 34, T.42N., R.9W., N.M.P.M., lying within the Town of Mountain Village, County of San Miguel, State of Colorado

## CERTIFICATE OF OWNERSHIP

KNOW ALL PERSONS BY THESE PRESENTS:

MERRIMAC FORT

THAT Merrimac Fort Partners, LLC, a Florida limited liability company ("MERRIMAC FORT"), is the owner in fee simple of the following real property:

LOT 161C-R, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE PLAT, RECORDED APRIL 2, 1999 IN PLAT BOOK 1 AT PAGE 2529, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 161C-R");

AND

LOT 67, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE PLAT RECORDED MARCH 9, 1984 IN PLAT BOOK 1 AT PAGE 476, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 67")

AND

LOT 69R-2, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED SEPTEMBER 5, 1991 IN PLAT BOOK 1 AT PAGE 1164, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 69R-2")

AND

LOT 71R, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED DECEMBER 2, 1991 IN PLAT BOOK 1 AT PAGE 1208, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Lot 71R")

AND

TRACT OS-3Y, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3, OS-3B, OS-3C & OS-3E RECORDED JULY 14, 2004 IN PLAT BOOK 1 AT PAGE 3325, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Tract OS-3Y")

AND

TRACT OS-3BR-2R, MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3BR-2 and TRACT OS-3XRRR, TOWN OF MOUNTAIN VILLAGE, A RECORDED IN PLAT BOOK 1 AT PAGE \_\_\_\_\_, COUNTY OF SAN MIGUEL, STATE OF COLORADO. ("Tract OS-3BR-2R");

AND

TRACT OS-3XRRR, MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3XRRR, TOWN OF MOUNTAIN VILLAGE, RECORDED \_\_\_\_\_ IN PLAT BOOK 1 AT PAGE \_\_\_\_\_, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

MERRIMAC FORT PARTNERS, LLC DOES HEREBY, EXECUTE, DELIVER, AND ENTER INTO this Replat under the name and style of "Lot 161C-RR, A Replat of Tract OS-3BR-2R, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2, Town of Mountain Village, County of San Miguel, State of Colorado" (the "Replat"); AND

THEREBY, CREATE the following new lot

"Lot 161C-RR, Town of Mountain Village" ("Lot 161C-RR");

THEREWITH, DO HEREBY ACKNOWLEDGE, VACATE, AND ESTABLISH NEW BOUNDARY LINES WITH RESPECT TO THE REPLATED LOT 161C-RR, all as set forth on this Replat and further as follows:

1) MERRIMAC FORT hereby vacates the former property boundary lines of Lot 161C-R, Lot 67, Lot 69R-2,

Lot 71R, and Tract OS-3Y, Tract OS-3XRRR, and Tract OS-3BR-2R and establishes the boundaries of the Lot 161C-RR as set forth, depicted and described on this Replat.

2) MERRIMAC FORT HEREBY CONFIRMS that, by virtue of and through this Replat, fee simple title ownership is hereby established in and to the Lot 161C-RR in and to MERRIMAC FORT PARTNERS, LLC, A FLORIDA LIMITED LIABILITY COMPANY.

## OWNER SIGNATURES

Merrimac Fort Partners, LLC, a Florida limited liability company

By: \_\_\_\_\_, Manager

## ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022 by \_\_\_\_\_ as Manager of Merrimac Fort Partners, LLC, a Florida limited liability company

My commission expires \_\_\_\_\_  
Witness my hand and seal.

Notary Public

## EASEMENT VACATION

The following easements have been terminated and vacated as set forth below:

- 16' GENERAL EASEMENT PER REC. NO. 327023 as vacated and terminated by the Easement Termination Agreement recorded at Reception No. \_\_\_\_\_.
- 16' PUBLIC WALKWAY EASEMENT (BOOK 431 PAGE 445 and Plat Book 1 at Page \_\_\_\_\_) as vacated and terminated by the Easement Termination Agreement recorded at Reception No. \_\_\_\_\_.

## SHEET INDEX

- Page 1 - Certifications and Notes  
Page 2 - Boundaries and Easements (1"=30')

## PARCEL AREA SUMMARY

| Current Lot     | Acres       |
|-----------------|-------------|
| Lot 161C-R      | 2.842 acres |
| Lot 69R-2       | 0.228 acres |
| Lot 71-R        | 0.176 acres |
| Lot 67          | 0.117 acres |
| Tract OS-3Y     | 0.587 acres |
| Tract OS-3BR-2R | 0.063 acres |

|                |             |
|----------------|-------------|
| Tract OS-3XRRR | 0.424 acres |
| Total          | 4.437 acres |

| Replatted Lot s | Acres       |
|-----------------|-------------|
| Lot 161C-RR     | 4.437 acres |

Net Change in Village Center Open Space Tracts acreage -0.487 acres

## TITLE INSURANCE COMPANY CERTIFICATE

Land Title Guarantee Company does hereby certify that we have examined the title to the lands herein shown on this Replat and that the title to this land is in the name of Merrimac Fort Partners, LLC, a Florida limited liability company is free and clear of all encumbrances, liens, taxes, and special assessments except as follows:

Title Insurance Company Representative

## NOTES

- Approval of this plat may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended and Town of Mountain Village Community Development Code Section 17.\_\_\_\_\_.
- Easement research from Land Title Guarantee Company
  - Land Title Guarantee Company, Order Number ABS86011705, dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Lot 67, Lot 69R-2, Lot 71, and Tract OS-3Y
  - Land Title Guarantee Company, Order Number ABS86011452 dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Lot 161C-R, Town of Mountain Village
  - Land Title Guarantee Company, Order Number ABS86012785 dated \_\_\_\_\_, 2022, at 5:00 P.M. as to Tract OS-3XRRR and Tract OS-3BR-2R, Town of Mountain Village
- SURVEY NOTES
  - BASIS OF BEARINGS. The bearing from monument "Overpass" to monument "Rim", as shown monumented hereon, was assumed to bear N31°16'24"W according to Banner Associates, Inc. project bearings.
  - LINEAL DISTANCES shown hereon measured in US survey feet.
- Notice is hereby given that the area included in the plat described herein is subject to the regulations of the Land Use Ordinance, of the Town of Mountain Village, February 08, 2005 as amended.
- NOTES OF CLARIFICATION
  - The Configuration of the following lots, tracts, and right-of-way have been modified by this Replat: None
  - The following lots have been created by this Replat:
    - Lot 161C-RR
  - The following lots have been deleted by this Replat:
    - Lot 161C-R
    - Lot 69R-2

- Lot 71-R
- Lot 67
- Tract OS-3Y
- Tract OS-3BR-2R
- Tract OS-3XRRR

6. The approval of this Replat vacates all prior plats for the area described in the Legal Description as shown hereon in the Certificate of Ownership. The approval of this Replat vacates and terminates all easements, conditions, covenants, restrictions, reservations, dedications and notes set forth on all prior plats for the area described in the Legal Description as shown hereon in the Certificate of Ownership, including without limitation the Access and Utility Easements Notes 1, 2, 3 and 4 set forth on the plat recorded at Reception No. 325409, Plat Book 1 at page 2529.

7. Town of Mountain Village Resolution No. \_\_\_\_\_ recorded at Reception No. \_\_\_\_\_

8. Development Agreement Site Specific Planned Unit Development Lot 161C-RR recorded at Reception No. \_\_\_\_\_

9. Town of Mountain Village Ordinance No. 2022-\_\_\_\_\_ recorded at Reception No. \_\_\_\_\_

10. GENERAL EASEMENT 16 foot General Easement, an easement sixteen feet in width inuring to the benefit of the Town of Mountain Village its successors, designees and assigns, is hereby established and reserved on, over and under the portion of Lot 161C-RR designated as 16' GE for the purpose of constructing, operation, maintenance and repairing any and all improvements required for those uses, purposes and activities deemed necessary and appropriate by the Town of Mountain Village for the safe or efficient operation of the Town of Mountain Village or any lots contained therein, which shall include but are not limited to the following: water service, electrical service, telephone service, cable television service, sanitary sewer service, natural gas service, propane service, communication service, road construction, retaining walls, roadway and driveway cut and fill areas, drainage, bicycle access, skier access, gondola structures, gondola setback, pedestrian access, snow storage, storm sewer, grading, removal of vegetation, site slope maintenance, snowmobile access, snowcat access, and removal or addition of soils materials.

11. 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 defect in this survey be commenced more than ten years from the date of the certification shown hereon.

## TOWN OF MOUNTAIN VILLAGE APPROVAL

I, \_\_\_\_\_, as Mayor, of the Town of Mountain Village, Colorado, does hereby certify that this Replat has been approved by the Town of Mountain Village Town Council in accordance with Ordinance No. \_\_\_\_\_, the Development Agreement Site Specific Planned Unit Development Lot 161C-RR recorded at Reception No. \_\_\_\_\_ and Town of Mountain Village Resolution No. \_\_\_\_\_ recorded at Reception No. \_\_\_\_\_ which authorized my execution of this Replat. .  
\_\_\_\_\_, Mayor, Date \_\_\_\_\_

## ACKNOWLEDGMENT

State of \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

The foregoing signature was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, A.D. by \_\_\_\_\_ as Mayor of the Town of Mountain Village.

My commission expires \_\_\_\_\_  
Witness my hand and seal.

Notary Public

## PLANNING APPROVAL:

I, \_\_\_\_\_, as the Planning and Development Services Director of Mountain Village, Colorado, do hereby certify that this Replat has been approved by the Town in accordance with the Community Development Code.

Date: \_\_\_\_\_  
Planning and Development Services Director

## SURVEYOR'S CERTIFICATE

I, David R. Bulson of Bulson Surveying, a Professional Land Surveyor licensed under the laws of the State of Colorado, do hereby certify that this plat of LOT 161C-RR, A REPLAT OF TRACT OS-3BR-2R, TRACT OS-3XRRR, TRACT OS-3Y, LOT 161C-R, LOT 67, LOT 71R, LOT 69R-2, TOWN OF MOUNTAIN VILLAGE, COUNTY OF SAN MIGUEL, STATE OF COLORADO as shown hereon has been prepared under my direct responsibility and checking, and accurately represents a survey conducted under my direct supervision. This survey complies with applicable provisions of Title 38, Article 51, C.R.S. to the best of my knowledge and belief.

IN WITNESS HEREOF, I here unto affix my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2022

P.L.S. No. 37662 Date \_\_\_\_\_

## TREASURER'S CERTIFICATE

I, the undersigned, Treasurer of the County of San Miguel, do hereby certify that according to the records of the San Miguel County Treasurer there are no liens against the subdivision or any part thereof for unpaid state, county, municipal or local taxes or special assessments due and payable, in accordance with Land Use Code Section 3-101.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
San Miguel County Treasurer

## RECORDER'S CERTIFICATE

This Replat was filed for record in the office of the San Miguel County Clerk and Recorder on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at Reception No. \_\_\_\_\_, at Time \_\_\_\_\_.

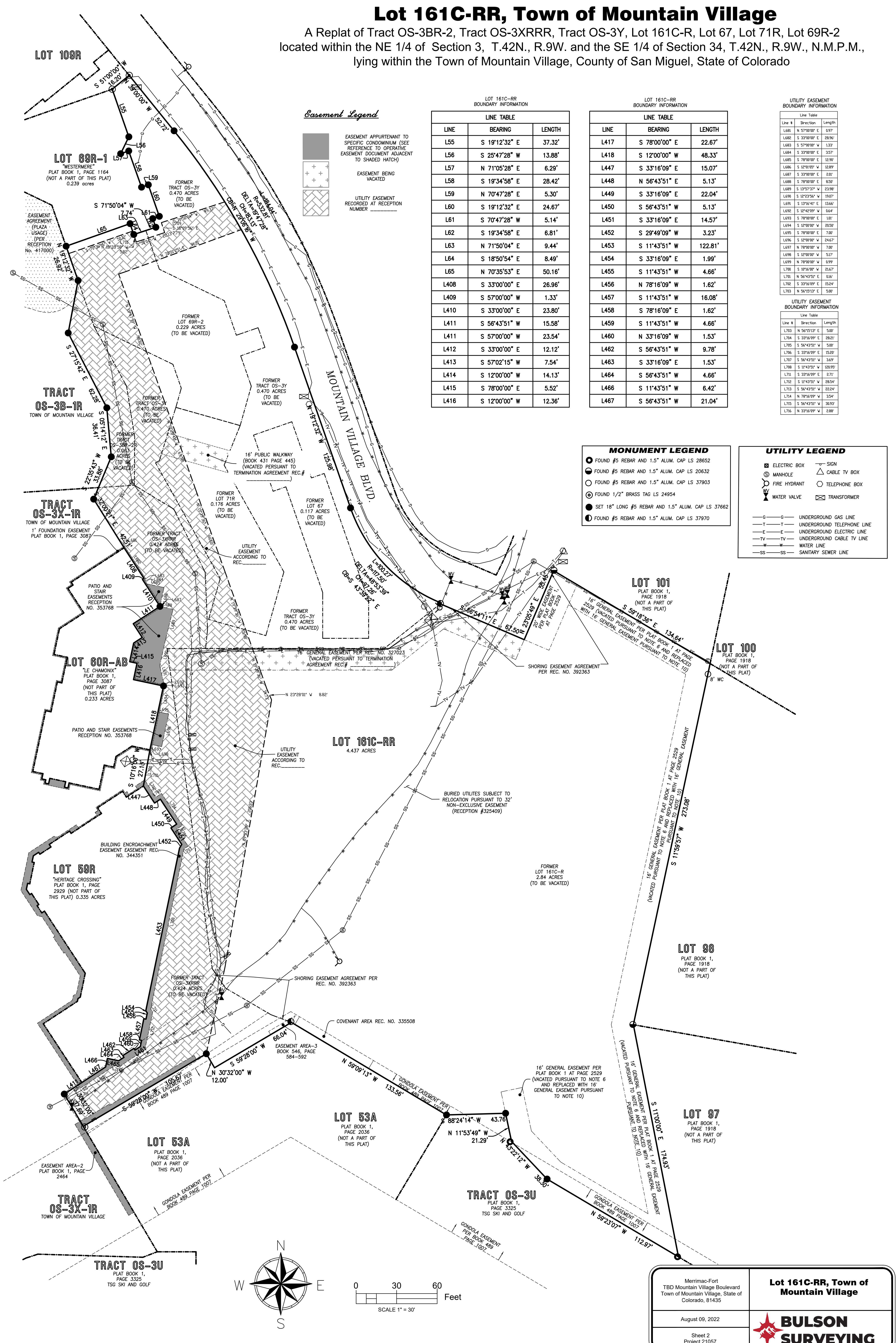
San Miguel County Clerk and Recorder



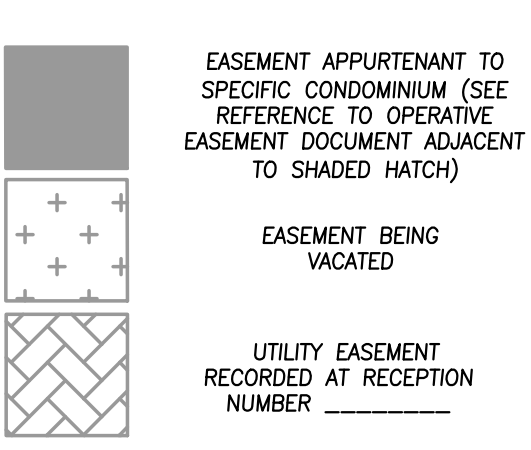
|  |  |
|--|--|
| Merrimac-Fort<br>TBD Mountain Village Boulevard<br>Town of Mountain Village, State of<br>Colorado, 81435 | <b>Lot 161C-RR, Town of<br/>Mountain Village</b> |
| August 09, 2022  | <b>BULSON<br/>SURVEYING</b>                      |
| Sheet 1<br>Project 21057   |  |

# Lot 161C-RR, Town of Mountain Village

A Replat of Tract OS-3BR-2, Tract OS-3XRRR, Tract OS-3Y, Lot 161C-R, Lot 67, Lot 71R, Lot 69R-2 located within the NE 1/4 of Section 3, T.42N., R.9W. and the SE 1/4 of Section 34, T.42N., R.9W., N.M.P.M., lying within the Town of Mountain Village, County of San Miguel, State of Colorado



### Easement Legend



### LOT 161C-RR BOUNDARY INFORMATION

| LINE | BEARING       | LENGTH |
|------|---------------|--------|
| L55  | S 19°12'32" E | 37.32' |
| L56  | S 25°47'28" W | 13.88' |
| L57  | N 71°05'28" E | 6.29'  |
| L58  | S 19°34'58" E | 28.42' |
| L59  | N 70°47'28" E | 5.30'  |
| L60  | S 19°12'32" E | 24.67' |
| L61  | S 70°47'28" W | 5.14'  |
| L62  | S 19°34'58" E | 6.81'  |
| L63  | N 71°50'04" E | 9.44'  |
| L64  | S 18°50'54" E | 8.49'  |
| L65  | N 70°35'53" E | 50.16' |
| L408 | S 33°00'00" E | 26.96' |
| L409 | S 57°00'00" W | 1.33'  |
| L410 | S 33°00'00" E | 23.80' |
| L411 | S 56°43'51" W | 15.58' |
| L411 | S 57°00'00" W | 23.54' |
| L412 | S 33°00'00" E | 12.12' |
| L413 | S 57°02'15" W | 7.54'  |
| L414 | S 12°00'00" W | 14.13' |
| L415 | S 78°00'00" E | 5.52'  |
| L416 | S 12°00'00" W | 12.36' |

### LOT 161C-RR BOUNDARY INFORMATION

| LINE | BEARING       | LENGTH  |
|------|---------------|---------|
| L417 | S 78°00'00" E | 22.67'  |
| L418 | S 12°00'00" W | 48.33'  |
| L447 | S 33°16'09" E | 15.07'  |
| L448 | N 56°43'51" E | 5.13'   |
| L449 | S 33°16'09" E | 22.04'  |
| L450 | S 56°43'51" W | 5.13'   |
| L451 | S 33°16'09" E | 14.57'  |
| L452 | S 29°49'09" W | 3.23'   |
| L453 | S 11°43'51" W | 122.81' |
| L454 | S 33°16'09" E | 1.99'   |
| L455 | S 11°43'51" W | 4.66'   |
| L456 | N 78°16'09" W | 1.62'   |
| L457 | S 11°43'51" W | 16.08'  |
| L458 | S 78°16'09" E | 1.62'   |
| L459 | S 11°43'51" W | 4.66'   |
| L460 | N 33°16'09" W | 1.53'   |
| L462 | S 56°43'51" W | 9.78'   |
| L463 | S 33°16'09" E | 1.53'   |
| L464 | S 56°43'51" W | 4.66'   |
| L466 | S 11°43'51" W | 6.42'   |
| L467 | S 56°43'51" W | 21.04'  |

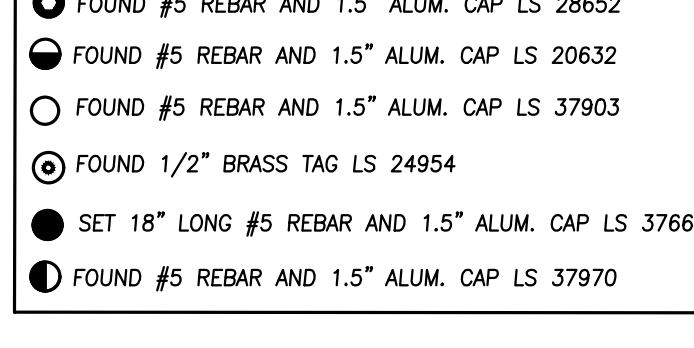
### UTILITY EASEMENT BOUNDARY INFORMATION

| Line # | Direction     | Length |
|--------|---------------|--------|
| L661   | N 57°00'00" E | 0.97'  |
| L662   | S 33°00'00" E | 28.96' |
| L683   | S 57°00'00" W | 1.33'  |
| L684   | S 33°00'00" E | 3.57'  |
| L685   | S 78°00'00" E | 12.99' |
| L686   | S 12°00'00" W | 12.89' |
| L687   | S 33°00'00" E | 2.01'  |
| L688   | S 78°00'00" E | 8.50'  |
| L689   | S 19°57'37" W | 23.98' |
| L690   | S 12°00'00" W | 19.07' |
| L691   | S 19°16'44" E | 13.66' |
| L692   | S 12°00'00" W | 0.54'  |
| L693   | S 78°00'00" E | 1.01'  |
| L694   | S 12°00'00" W | 20.50' |
| L695   | S 78°00'00" E | 7.00'  |
| L696   | S 12°00'00" W | 24.67' |
| L697   | N 78°00'00" W | 7.00'  |
| L698   | S 12°00'00" W | 5.17'  |
| L699   | N 78°00'00" E | 0.99'  |
| L700   | S 10°16'00" W | 25.67' |
| L701   | N 56°43'51" E | 0.16'  |
| L702   | S 33°16'09" E | 15.24' |
| L703   | N 56°15'17" E | 5.00'  |

### UTILITY EASEMENT BOUNDARY INFORMATION

| Line # | Direction     | Length  |
|--------|---------------|---------|
| L703   | N 56°15'17" E | 5.00'   |
| L704   | N 33°16'09" E | 28.21'  |
| L705   | S 56°43'51" W | 5.00'   |
| L706   | S 33°16'09" E | 15.20'  |
| L707   | S 56°43'51" W | 3.69'   |
| L708   | S 11°43'51" W | 120.95' |
| L710   | S 33°16'09" E | 2.71'   |
| L712   | S 11°43'51" W | 28.54'  |
| L713   | S 56°43'51" W | 22.24'  |
| L714   | N 78°16'09" W | 3.54'   |
| L715   | S 56°43'51" W | 30.95'  |
| L716   | N 33°16'09" W | 2.88'   |

### MONUMENT LEGEND



### UTILITY LEGEND

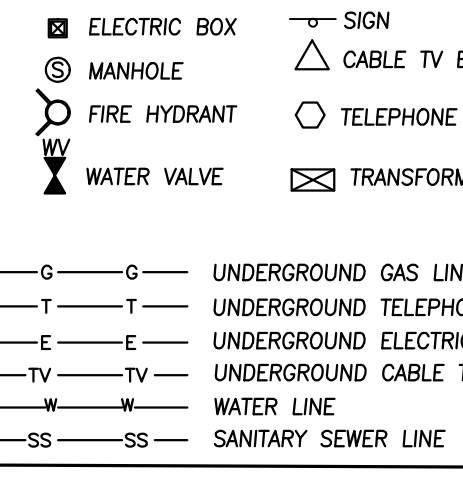


Exhibit B

[LIST OF SUBDIVISION APPLICATION MATERIALS]

1. Applicant's Narrative dated 7.7.22
2. Existing Conditions Map dated 7.13.22
3. Civil Drawings dated 7.13.22
  - a. Trail and Sidewalk Civil Exhibit
4. Public Access Exhibit
5. Proposed Replat dated 8.9.22

[to be updated after the final public hearing]

Exhibit C

[DEVELOPMENT AGREEMENT]

[SEE ATTACHMENT 2 IN THE MEMO]



**MAJOR SUBDIVISION APPLICATION**  
**SUBDIVISION CRITERIA AND NARRATIVE**

Subdivision applications have been drafted for signature by the following property owners and are included herein:

CO LOT 161CR MOUNTAIN VILLAGE, LLC,  
TSG SKI & GOLF COMPANY, LLC and  
TOWN OF MOUNTAIN VILLAGE.

**MAJOR SUBDIVISION APPLICATION CRITERIA**  
**CDC SECTION 17.4.13**

**A Conceptual Replat Diagram has been submitted with the Application. A detailed plat prepared by Bulson Surveying in accordance with the CDC Plat requirements has been submitted in connection with Final SPUD Review.**

**E. Criteria for Decision**

**1. Major Subdivisions.** The following criteria shall be met for the review authority to approve a major subdivision:

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

***Response: We meet. Replatting of the subject parcels is contemplated and encouraged in the Comp Plan.***

- b. The proposed subdivision is consistent with the applicable Zoning and Land Use Regulations and any PUD development agreement regulating development of the property.

***Response: We meet. Replatting of the subject parcels is contemplated and encouraged in the Comp Plan. The Applicant is proposing an SPUD, so the subdivision is consistent with the SPUD development agreement.***

- c. The proposed density is assigned to the lot by the official land use and density allocation, or the applicant is processing a concurrent rezoning and density transfer;

***Response: We meet. Replatting of the subject parcels is contemplated and encouraged in the Comp Plan. Applicant is processing concurrently an SPUD application and density transfers.***

- d. The proposed subdivision is consistent with the applicable Subdivision Regulations;

***Response: We meet. The Application is consistent with the applicable provisions of the Subdivision Regulations.***

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

***Response: We meet. Will serve letters have been provided to the planning staff and the Applicant has coordinated with utility providers as well as the Public Works Department for the Town.***

- f. The applicant has provided evidence to show that all areas of the proposed subdivision that may involve soil or geological conditions that may present hazards or that may require special precautions have been identified, and that the proposed uses are compatible with such conditions;

*Response: We meet. Applicant is currently doing an extensive geotechnical exploration and has substantial current geotechnical data which has been provided to the Town previously. The Applicant hired Mark Abshire, the geotechnical engineer who has previously worked on multiple projects in the Town of Mountain Village, including the Silverline project on 161C-R. Project is being designed based upon geological and soil conditions and data collected.*

- g. Subdivision access is in compliance with Town standards and codes unless specific variances have been granted in accordance with the variance provisions of this CDC; and

*Response: The Application is in conformance with applicable Town standards and code, except as specifically set forth in a variation or waiver request.*

- h. The proposed subdivision meets all applicable Town regulations and standards.

*Response: All applicable Town regulations and standards have been met, except as specifically set forth in a variation or waiver request.*

## F. Subdivision Design Standards and General Standards

### 1. Lot Standards

- a. **Minimum Frontage.**

*Response: Village Center lots are exempt from this requirement.*

- b. **General Vehicular and Utility Access.** Each lot shall have access that is sufficient to afford a reasonable means of ingress and egress for utilities and emergency vehicles as well as for all traffic requiring access to the property and its intended use. Such access shall be provided either by a public or private street or by driveway, as applicable, meeting the requirements of the Town road and driveway standards contained in and the applicable requirements of the Subdivision Regulations.

*Response: We meet. The primary access to the Project is off of Mountain Village Boulevard. An additional access point off of Mountain Village Boulevard has been designed to accommodate deliveries, trash and related activities. Trash, deliveries and related functions are contained completely within the building envelope. Utility and emergency vehicle access has also been contemplated.*

- i. **Driveway Allowed.** N/A
- ii. **Public or Private Street Required.** A public or private street meeting the requirements of the CDC shall be provided for all subdivisions that do not meet the criteria in section i above. N/A

- c. **Minimum Lot Size.** Every subdivision shall provide for lot sizes that are in general conformance with either the surrounding lot sizes for related land uses, or the lot sizes envisioned in the Comprehensive Plan. Each lot shall contain sufficient land area to be buildable given the intended use and the requirements of the CDC.

*Response: We meet. Replatting of the subject parcels is contemplated and encouraged in the Comp Plan. The Developer's replat is consistent with the vision of the comprehensive plan and is buildable per the requirements of the CDC except for the few items specifically identified for a variance or waiver request.*

- d. **Solar Access.** To the extent practical, all lots in a subdivision shall be designed to have solar access. that is being vacated in connection with the replat. N/A
- e. **General Easement.** Each lot shall provide for a sixteen (16) foot, general easement that is consistent with the general easement requirements set

forth in the Zoning and Land Use Regulations.

***Response: The subject parcels are Village Center lots that generally do not have general easements platted. All general easements will remain in place except for a portion of a general easement along the boundary of Lot 161CR that is being vacated in connection with the replat.***

- f. **Design of Lots.** The lengths, widths and shapes of lots shall be designed with the following considerations:
  - i. Development patterns envisioned in the Comprehensive Plan;
  - ii. Limitations and opportunities of topography;
  - iii. Convenient and safe access and circulation, including public, emergency, construction, maintenance and service access;
  - iv. Provision of adequate building area on each lot that meets the requirements of the Subdivision Regulations and the CDC; and
  - v. Availability of utility service and utility system design and capacity.

***Response: We meet. Replatting of the subject parcels is contemplated and encouraged in the Comp Plan. The project has been designed in light of the limits and opportunities of the topography. There is convenient and safe circulation for all vehicle types. The building area meets the requirements of the Subdivision Regulations and the CDC and the utility providers have confirmed capacity and have consulted on the design.***

## **2. Environmental Standards**

- a. **Protection of Distinctive Natural Features.** To the extent practical, subdivisions shall be designed to protect and preserve distinctive natural features, such as ridgelines, steep slopes, perennial streams, intermittent streams and wetland areas. Such areas shall be left in their natural state and protected by either the use of disturbance envelopes, the establishment of open space lots where development is prohibited or some other protective measures acceptable to the review authority.

***RESPONSE: The wetland along the western side of the proposed development will be retained and protected by the incorporation of a disturbance envelope. The Applicant desires to improve the wetland to enhance its functionality and create a more aesthetic amenity for the community, adjacent neighbors and the Project. To that end, the Applicant has hired Chris Hazen to design the wetlands improvements and to consult on wetlands preservation. The Chris Hazen and the design team will collaborate with the Army CORPS of Engineers (and other entities if necessary) to permit the proposed enhancements to the riparian corridor. The majority of the Project site is on steep slopes and where possible slopes greater than 30% slope have been avoided and will either be preserved or stabilized if impacted.***

- b. **Designing Subdivisions to Fit the Topography of the Land.** To the extent practical, subdivisions shall be designed so that the layout of lots, the placement of building envelopes, the alignment of roads, trails, driveways, walkways and all other subdivision features shall utilize a design philosophy that generally reflects the existing natural topographic contours of the property.

***RESPONSE: The Project buildings have been sited so that the Main Entry and Loading Docks fit the existing elevations of the adjacent Mountain Village Boulevard. The west side is essentially a walk-out basement that meets the grades below and at the Gondola Plaza. The proposed architecture and amenity spaces have been developed to step with the existing site topography. The landscape character is intended to blend naturally through use of native plant material and naturally adapted***

*manmade hardscape features (e.g., rock outcroppings, etc.). Road circulation will be off and adjacent to Mountain Village Boulevard and slopes will be minimal to promote accessibility and emergency access. Walkways and trails will be located within the various levels of the proposed landscape and developed to promote accessibility, wherever possible, and will also include overlooks, stairs, plazas and ramps.*

- c. **Areas Subject to Environmental Hazard.** Lots proposed for development and access roads to such development shall avoid areas subject to avalanches, landslides, rockfalls, mudflows, unstable slopes, floodplains or other areas subject to environmental or geologic hazards unless these hazards are mitigated to the satisfaction of the review authority. All mitigation measures shall be designed by a Colorado professional engineer. To the extent identified hazards cannot be mitigated to the satisfaction of the review authority, the subdivision plat shall reflect those areas as non-developable.

*RESPONSE: The Geotechnical Report for the Project states that the items listed in c. were not identified or observed on the Project site. The foundations for the Project will be shored and that shoring system is being designed by a Colorado professional engineer.*

3. **Drainage.** Subdivision drainage shall be designed and constructed in accordance with the drainage design standards.

*RESPONSE: We meet. The drainage design for the Project will meet all Town standards.*

#### G. **Fire Protection**

1. **Water Supply and Fire Flow.** Water supply and fire flow requirements for all buildings in a subdivision shall comply with all requirements of the Fire Code.
2. **Hydrants.** Fire hydrants shall be provided in accordance with the Fire Code.
3. **Fuel Reduction Plans/Forest Management Plans.** Fire mitigation and forest management plans to reduce fire hazards and improve forest health may be required by the review authority for subdivisions that include forested or treed areas.
4. **Installation of Facilities.** When fire protection facilities are required by the Town to be installed by the developer, such facilities, including but not limited to all surface access roads necessary for emergency access, water supply and fire hydrants shall be installed and made serviceable prior to and shall remain serviceable at all times during any construction within the subdivision.

*RESPONSE: The routing of the sewer and water and the hotel requirements have been discussed with the Town of Mountain Village Public Works Department. In general, they are in favor of the current approach. The fire flow requirements will be analyzed and designed by a Fire Suppression engineer and that work will be coordinated with the potable flow requirements. As the design progresses, hydrants and fire access will be coordinated with the Telluride Fire Protection District and the project will utilize a standpipe system.*

## H. Street Improvements

As a condition of approval of any subdivision, the developer shall be required to provide and/or construct the following improvements and any improvements specified in a PUD development agreement:

1. **Access Plan Required.** As part of any plat submittal, the developer shall include a preliminary road and/or driveway layout (as applicable) and shall identify approximate grades, cuts and fills.
  - a. The developer shall indicate the intended means of providing access to each lot in the proposed subdivision and prepare engineered access plans for such access consistent with the Subdivision Regulations and the other applicable provisions of this CDC.
  - b. The extent of the easements or rights-of-way proposed to be acquired shall be sufficient to demonstrate the ability to construct an access road meeting Town road and driveway standards for the proposed subdivision.

**RESPONSE:** *The access "road" into the Project site is a short driveway into the main entry porte cochere. This entry conforms to the adjacent MV Boulevard and does not exceed any longitudinal or cross-slope requirements and meets or exceeds the minimum width requirements.*

2. **Construction of New Streets and Bridges Within the Subdivision.** The developer shall be responsible for the construction of all new public or private streets or driveways and any new bridges in accordance with the design and construction standards in the Town road and driveway standards. **N/A**

3. **Construction of New Streets and Bridges Outside of the Subdivision.** The developer shall be responsible for the construction of streets and any bridges outside the subdivision necessary to establish a connection between the subdivision and the existing streets system, with the design and construction standards in accordance with Town road and driveway standards. **N/A**

4. **Upgrading of Existing Intersections.** Where existing intersections provide access between the subdivision and the existing intersections have a level of service of D or below, as indicated by a traffic study, due to the added traffic of the new subdivision, the developer may be required by the Town to improve the intersection to achieve a level of service of C or above, as indicated by a traffic study, or to provide a proportional share of funding for such improvements as determined at the time of subdivision review.

**RESPONSE:** *The developer is developing less density than called for in the comp plan, so traffic will be less than contemplated with existing infrastructure.*

5. **Pedestrian Connections.** The developer shall be responsible for all pedestrian access as required by the Subdivision Regulations, Town road and driveway standards, or the Comprehensive Plan.

**RESPONSE:** *We meet. All pedestrian connections contemplated in the Comp Plan have been incorporated into the Project and developer has further provided connections to the Gondola Plaza, an alternate stair access to the Gondola Plaza, a walking trail connecting the Gondola Plaza to the Pond Plaza, a pedestrian corridor connecting the Pond Plaza to Mountain Village Blvd, a pedestrian path along Mountain Village Blvd between the porte cochere and the northern stairs, and a connection to an unofficial alternate section of the Ridge Trail.*

6. **Drainage Improvements.** The developer shall be responsible for the all improvements as required by the drainage design standards, including but not limited to street drainage, required detention or retention; all of which may include, by means of example, culverts, drainage pans, inlets, curbs and gutters, weirs, etc. Required detention or retention systems for drainage from each lot in a subdivision can also be required for each lot in a subdivision with the required Design Review Process as a plat note, if the Town determines that there is sufficient lot area for such systems and the intended development, and if the subdivision improvements are providing proper drainage as required by these regulations.

**RESPONSE:** *We meet. All Town drainage design standards will be met or exceeded for the Project.*

7. **Traffic Control and Safety Devices.** The developer shall be responsible for the traffic control devices and crosswalks in conformance with the criteria contained in the Manual of Uniform Traffic Control Devices, including but not limited to signs and signals, street name signs, striping and pedestrian signage.

**RESPONSE: We meet. The final design will meet or exceed all traffic control and safety devices required under Town standards. The Project's focus will be on routing pedestrians on the west side of the Project site and interfacing with the Village Core.**

8. **Other Improvements.** The developer shall be responsible for any street improvement associated with a proposed subdivision that is not otherwise set forth in this section or, when a PUD, and this CDC or the Comprehensive Plan requires additional improvements in connection with a subdivision, the developer shall comply with those requirements N/A

9. **Maintenance of Improvements.** The developer shall be responsible for obligations relative to the maintenance of the improvements required by this section which shall be determined during the subdivision development review process. The developer may be required to provide for private maintenance of the improvements, if the improvements within the right-of-way are not accepted for maintenance by the Town or if the Town requires the maintenance of a street that is intended to serve primarily two (2) or less lots. In the event a developer desires to construct improvements that exceed Town design requirements, the developer may be required by the Town to pay for the maintenance of such improvements.

**RESPONSE: We meet. These are outlined as part of the Development Agreement associated with the Final Approval of the SPUD.**

## I. **Water, Sewage Disposal and Utilities**

1. **Evidence of Adequate Water and Sewer.** The developer shall consult with the Director of Public Works on water and sewer availability prior to submitting a subdivision application. The subdivision application shall include a statement from the Director of Public Works indicating that adequate water and sewer capacity exist to serve the intended uses, and that the developer has consulted with the Public Works Department in the design of the water and sewer system and all proposed connections.

**RESPONSE: We meet. Developer has consulted with the Director of Public Works and a will serve letter has been provided..**

2. **Water and Sewer System Design.** The proposed water and sewer system shall be designed in accordance with Town Water and Sewer Regulations.

**RESPONSE: We meet. Water and sewer connections and facilities will be coordinated with Public Works and detailed on construction plans.**

3. **Other Utility Systems Design.** The developer shall submit a composite utility plan that meets the design requirements of other required utility agencies, including but not limited to Mountain Village Cable, San Miguel Power Association, Source Gas and Century Link or any successors or assigns of such entities.

a. The developer shall submit evidence that provision has been made for facility sites, easements and rights of access for electrical and natural gas utility service sufficient to ensure reliable and adequate electric or, if applicable, natural gas service for any proposed subdivision. Submission of a letter of agreement between the developer and utility serving the site shall be deemed sufficient to establish that adequate provision for electric or, if applicable, natural gas service to a proposed subdivision has been made.

**RESPONSE: We meet. See utility plans provided in submission. David Ballode, the project's Civil Engineer, has coordinated with all of the above utilities and they have provided will serve letters.**

4. **Utility Design Standards.** All utilities shall be located underground, including but not limited to all utility stub outs, unless located in a pedestal, transformer or other required above-grade utility structure.
- a. All above ground utility stub outs shall be located within pedestals that are painted to match the natural or man-made backdrop.
  - b. The review authority may require that an approved above-ground utility feature be screened or buffered from surrounding area development.
  - c. All freestanding electric, gas or other meters needed for a common utility shall be appropriately screened or buffered from all public rights-of-way.

**RESPONSE: We meet. See utility plans provided in submission. Any above ground utility locations will be screened and buffered by landscape and painted to blend with the surrounding environment.**

5. **Required Utility Improvements.** As a condition of approval of any subdivision, the developer shall be required to provide the following water, sewage disposal and utility improvements:

**RESPONSE: We meet. See utility plans provided in submission and will serve letters. The developer will provide the required improvements.**

- a. **Water Systems:** Construction of water system improvements required to serve the subdivision shall include the following:
  - i. All water mains within the boundaries of the subdivision;
  - ii. Water mains necessary to connect the subdivision with any existing water system intended to provide service to the subdivision;
  - iii. All water system improvements required by Town Water and Sewer Regulations;
  - iv. Pump stations needed for operation of the water system; and
  - v. Individual service lines stubbed to each property lot line.

**RESPONSE: We meet. See utility plans provided in submission and will serve letters. We will be constructing these water systems which will be detailed on the construction drawings submitted for permitting.**

- b. **Sewer Systems:** Construction of sewage disposal system improvements shall include the following:
  - i. All sewer mains within the boundaries of the subdivision;
  - ii. Sewer mains necessary to connect the subdivision with any existing sewer system intended to provide service to the subdivision;
  - iii. Lift stations needed for operation of the disposal system; and
  - iv. Individual service lines stubbed to each property lot line.

**RESPONSE: We meet. See utility plans provided in submission and will serve letters. We will be constructing these sewer systems which will be detailed on the construction drawings submitted for permitting.**

- c. **Other Utilities:** Construction of electric lines, gas lines, cable lines or fiber optics as required by the various utility providers.

**RESPONSE: We meet. See utility plans provided with submission and will serve letters. We will be constructing these sewer systems which will be detailed on the construction drawings submitted for permitting.**

J. **Required Dedications and Easements**

1. **Dedication of Public and Private Streets, Sidewalks or Trails.** All streets, sidewalks and trails located within a subdivision shall be dedicated to the Town as public rights-of-way for access, utilities, snow storage, drainage and related infrastructure uses regardless of whether maintenance is to be public or private. Right-of-way dedications for public and private streets shall conform in width to the requirements of the Town road and driveway standards, including sufficient width to include all drainage improvements, associated cut and fill slopes, intersections, curb returns, snow storage, retaining walls and other road appurtenances.

***RESPONSE: Detailed plans have been provided for the Final SPUD Review and these are part of the SPUD Development Agreement. The easement dedications are illustrated on the replat prepared by Dave Bulson.***

2. **N/A Platting of Easements for Private Accessways.** Easements shall be platted for all common and shared driveways, parking areas, alleys or other common accessways. Easements for common accessways shall include, at a minimum, two (2) feet on either side of the required width of the travel surface in addition to the area determined to be necessary for snow storage, any associated cut and fill slopes and any drainage improvements.
  - a. Public use of private streets, driveways and other common accessways shall be allowed in those instances where there is a commercial or other public facility located on the affected lot. **N/A**

3. **Utility Easements.** The developer shall grant easements to the Town and applicable utility providers in such form as shall be required by the Town and the applicable utility provider.

***RESPONSE: We meet. Proposed easements are shown on Final Replat diagram.***

4. **N/A Ski-in/Ski-Out Easements.** In the case of newly created lots that are adjacent to an existing ski run where ski-in and ski-out access is desired by the developer or envisioned by the Comprehensive Plan, the developer shall secure a ski-in/ski out easement from the current ski resort operator, which easement shall be noted on the plat of the subdivision.

K. **Maintenance of Common Areas**

**N/A** The developer shall enter into a covenant running with the development, in a form acceptable to the Town Attorney that shall include provisions guaranteeing the maintenance of common areas and improvements.

L. **Public Improvements Policy**

1. A developer shall be responsible for the construction of any public facilities or improvements that are necessary for the development requested under this CDC or that are required as a condition of approval of the development application(s). A developer shall also be responsible for submitting a financial guarantee for the construction of such public improvements and facilities in a form and amount satisfactory to the Town. The guarantee shall be contained in an improvements agreement and shall obligate the developer to construct the public improvements and facilities required by the Town according to a specific schedule.



2. The developer shall secure the faithful and diligent performance of its obligations with a pledge of security sufficient to provide a reasonable guarantee of not less than one hundred twenty-five percent (125%) of the current estimated cost of the public improvements and facilities, which estimate shall be approved by the Community Development Department staff.
3. The pledge of security may, at the option of the Town, be in the form of a cash deposit with the Town, an irrevocable letter of credit or other financial guarantee in a form approved by the Town whereby the Town shall have the unconditional and irrevocable right upon default by the developer to withdraw or acquire funds upon demand to partially or fully complete and/or pay for any of the public improvements or facilities. In no case shall the Town be obligated, pursuant to any improvements agreement, to complete any public improvements or facilities due to the developer's default, if the security should be determined inadequate.
4. The improvements agreement shall contain language by which the developer agrees to repair any existing improvements or facilities damaged during construction and such other items, as the Town deems appropriate.
5. The improvements agreement may provide for the partial release of financial guarantee as improvements agreements line items are 100% completed, provided that no such partial or final release shall be granted until the improvements guaranteed have been inspected and accepted by the appropriate Town department, as evidenced by a written correspondence confirming completion.
6. The developer shall warrant the quality, workmanship and function of all public improvements and facilities for a period of two (2) years, or until July 1 of the year during which the second winter terminates after acceptance by the Town, whichever is greater.
7. In addition to any other remedies, in the event of default by the developer under the terms of the improvements agreement, no building permit, certificate of completion, certificate of occupancy, or Town approval shall be issued within the development until the default is corrected.
8. The improvements agreement shall be in a form and manner approved by the Town Attorney.

***RESPONSE: We meet. All requirements of these provisions are addressed in the SPUD Development Agreement for Final SPUD Review.***

**M. Subdivision, Road and Driveway Naming Requirements *NOT APPLICABLE FOR THIS APPLICATION***

Subdivision, road and driveway naming requirements outlined in this section shall apply to any new subdivision.

1. **Requirement for Unique Names.** Subdivisions, roads and driveways shall have unique names. As used herein, unique shall mean that there are no other subdivisions, roads or driveways in the County or the Town, either existing, platted or in the approval process, with the same or a similar name, unless the name is reserved through the Design Regulations process as provided for in this CDC. Names that sound similar are not considered unique (e.g., Beach and Peach, Bear Tree and Bearing Tree). The same root name with a different descriptor or suffix shall not be considered unique (e.g., Aspen Ridge and Aspen Valley).
2. **Similar Sounding Names May Be Allowed.** Similar sounding names may be recommended for approval at the discretion of the Director of Community Development for subdivisions within the same PUD, as long as they are distinctly recognizable (e.g., Gondola Station Lodge and Gondola Station Townhomes).
3. **Names for Filings in the Same Subdivision.** Separate filings of the same subdivision

may have the same name, as long as they are given separate filing numbers (e.g., Gondola Station #1 and #2).

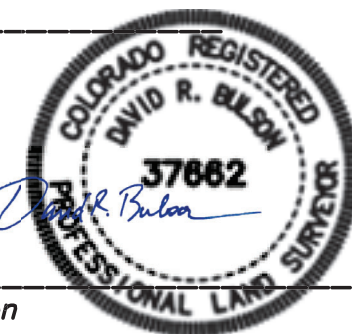
4. **Basis of Names.** New names are encouraged to have a historical, cultural, geographic or natural significance to the area.
5. **Approval Authority.** The Director of Community Development shall approve the names of all subdivisions, roads and driveways.
6. **Changing Project Name.** Once a name is approved and is designated as the name of the subdivision on the recorded plat or on an official Town or County map, it may only be changed through a new minor subdivision application. If a developer desires to change a project name prior to the recordation of the final plat, the new name must be reviewed and approved in accordance with this section.

**SURVEYOR'S CERTIFICATE:**

To LAND TITLE GUARANTEE COMPANY, RAMESH ACQUISITIONS, LLC, A FLORIDA LIMITED LIABILITY COMPANY, TSG ASSET HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY AND TSG SKI AND GOLF, LLC, A DELAWARE LIMITED LIABILITY COMPANY:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1,2,3,4,5,6(b),8,9,11,13,16,18,19, and 20 (\$1,000,000) of Table A. The field work was completed on August 02, 2021.

Date: \_\_\_\_\_



David R. Bulson  
2021.08.27 12:25:23 -06'00"

David R. Bulson

PLS 37662

**LEGAL DESCRIPTION:**

LOT 67, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE PLAT RECORDED MARCH 9, 1984 IN PLAT BOOK 1 AT PAGE 476, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

LOT 69R-2, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT OF LOT 69R-1 AND LOT 69R-2 RECORDED SEPTEMBER 5, 1991 IN PLAT BOOK 1 AT PAGE 1164, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

LOT 71R, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED DECEMBER 2, 1991 IN PLAT BOOK 1 AT PAGE 1208, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

TRACT OS-3Y, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3, OS-3B, OS-3C & OS-3E RECORDED JULY 14, 2004 IN PLAT BOOK 1 AT PAGE 3325, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

LOT 161C-R, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE PLAT RECORDED APRIL 2, 1999 IN PLAT BOOK 1 AT PAGE 2529, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

**NOTES:**

1. Easement research and property description according to Land Title Guarantee Company, Order Number ABS86011705, dated June 10, 2021 at 5:00 P.M. as to Lot 67, Lot 69R-2, Lot 71, and Tract OS-3Y

Easement research and property description according to Land Title Guarantee Company, Order Number ABS86011452, dated April 2, 2021 at 5:00 P.M. as to Lot 161C-R

2. The Land does not lie within a Special Flood Hazard Area as defined by the Federal Emergency Management Agency ("FEMA"). According to the Flood Insurance Rate Maps for San Miguel County, Colorado, Community Panel 08113C0287D, dated 09/30/1992 this property lies in Zone X, areas determined to be outside of the 500 year flood plain.

3. BASIS OF BEARINGS. The bearing along the western boundary of Lot 161C-R, was assumed to be S08°03'05"W according to the plat recorded April 2, 1999 in Plat Book 1 at page 2529, County of San Miguel, State of Colorado. The end points of said western boundary are as monumented and described herein.

4. Lineal units represented herein are shown in U.S. Survey Feet or a decimal portion thereof.

5. This survey is valid only if a print has original seal and signature of surveyor.

6. Any person who knowingly removes, alters, or defaces any public land survey monument and/or boundary monument or accessory, commits a class two (2) misdemeanor pursuant to C.R.S. 18-4-508.

7. The word certify as used herein means an expression of professional opinion regarding the facts of this survey and does not constitute a warranty or guarantee, expressed or implied.

8. This survey is prepared for the exclusive use of the party or parties indicated within the surveyor's statement. Said statement does not extend to any unnamed person or parties without an express statement by the surveyor naming said entities.

9. 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 the certification shown herein.

10. There is no evidence of this lot being use as a solid waste dump, sump, or sanitary land fill.

11. There is no evidence of earth moving or building construction within recent months on these lots.

12. There is no observable evidence of recent street or sidewalk construction or repairs.

13. Utilities shown herein are according to best available records and site specific locates. The surveyor makes no assurance as to the accuracy or completeness of the information. Prior to any construction or site disturbance, the contractor is required to call the Utility Location Center of Colorado (\*811) for a site specific Utility locate.

**TITLE COMMITMENT NOTES:**

Land Title Guarantee Company, Order Number ABS86011705, dated June 10, 2021 at 5:00 P.M. as to Lot 67, Lot 69R-2, Lot 71, and Tract OS-3Y "Pond Lots"

Schedule B-2 (TITLE EXCEPTION RESPONSE/CLARIFICATION)

1. Site inspection and Survey performed by Bulson Surveying conditions shown hereon.
2. There are portion of the surveyed property being used for paid and permitted parking although there were no Easements, liens or encumbrances, or claims thereof, not shown by the Public Records brought to the attention of this Surveyor during the course of this Survey.
3. Site inspection and Survey performed by Bulson Surveying conditions are as shown hereon
4. Not survey related.
5. Not survey related.
6. Not survey related.

7. (a) Based upon a search of the USBLM public records, there are no unpatented mining claims affecting the subject property. (b,c) The patent from the United States of America number 131878 dated May 23, 1910 subjects the Land to "any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States". There is no evidence of ditches or water storage structures located within the area of this survey.

8. The are portions of the Pond Lots being used for public access and permit parking. There have been no off-record lease or tenancy agreements brought to the attention of Bulson Surveying during the course of preparing this ALTA/NSPS Survey

9. The Plats noted within this exception pertain to the Town of Mountain Village as a whole and were not acknowledged or approved by the owner of the Subject Property at the time. It is the opinion of the Surveyor that they do not create any easements relevant to the property. It is beyond the scope of this survey to determine whether there are Conditions, Covenants, Restrictions or Notes contained within these Plats that affect the Property.

10. Restrictive Covenants for the Mountain Village noted within this exception are blanket in nature and affect the Pond Lots.

11. The Tap Fee Assignment and Assumption Agreement recorded March 8, 1999 under reception No. 324840 affects Lot 69R2 and Lot 71R and is blanket in nature.

12. The Underground Parking Amendment recorded July 21, 1989 in Book 455 at page 550 references a Lot 152, Telluride Mountain Village and does not appear to affect the property being surveyed, but the document speaks for itself as to its relevance to the subject property

13. The Facilities, Water Rights and Easements noted within this exception affect the Pond Lots and are blanket in nature.

14. The Town of Mountain Village Employee Housing Restrictions noted within this exception affect Lot 71R and is blanket in nature.

15. All easements noted on the Plats cited in this exception are shown and labeled on this ALTA/NSPS Survey, with the exception of easements that have been altered or eliminated by subsequent plats or other legal instruments. Revised easements are shown according to the locations cited in the most current documentation.

16. The Telluride Company reserved the rights to minerals and oil, gas, and other hydrocarbons located on, in, or under Lot 67 according to the deed recorded November 5, 1993 in Book 411 at Page 903 and located on, in, or under Lot 69R-2 and Lot 71R according to the deed recorded March 8, 1999 under Reception Number 324838. There is no visible evidence of mining activity on the subject property

17. According to the Warranty Deed recorded at Book 520, page 23 relating to Lot 67, there were reservations number 13 and 14 which noted a limitation on the used allowed on Lot 67. It is unclear as to the relevance of this reservation and the document speaks for itself.

According to the Warranty Deed recorded at Reception 324838 and relating to Lot 69R-2 and Lot 71R, there were reservations numbers 10-15 which noted a limitation on the used allowed on the Lot 71R. It is unclear as to the relevance of this reservation and the document speaks for itself.

18. According to the Agreement recorded at Book 431, page 544 and relating to Lot 67 and Lot 71R. There are restrictions on Lot 71R which limit what may be constructed on Lot 71R. The location of the Public Walkway noted within the agreement is generally shown hereon although the precise location is unclear

19. The Right-of-Way Easement noted within this exception is blanket in nature and affects Tract OS-3Y

20. The Promissory Note recorded in Book 474 at pages 66-67 is blanket in nature and affects Lot 69R-2

21. The Resolution recorded in Book 482 at page 171 is blanket in nature and affects Lot 69R-2

22. The Resolution recorded in Book 485 at page 259 is blanket in nature and affects Lot 71R

23. The Resolution recorded at reception numbers 318369 and 318449 are blanket in nature and affect Lot 71R

24. The Utility Easement Agreement noted within this exception is blanket in nature and affects Tract OS-3Y

25. The San Miguel Power Association Notice cited within this exception is blanket in nature and affects the Pond Lots

26. The Easement Agreement noted within this exception is blanket in nature and affects Tract OS-3Y

27. The Mountain Village Openspace list noted within this exception is blanket in nature and affects Tract OS-3Y

**TITLE COMMITMENT NOTES:**

Land Title Guarantee Company, Order Number ABS86011452 dated April 02, 2021 at 5:00 P.M. as to Lot 161C-R, Town of Mountain Village "Lot 161C-R"

Schedule B-2 (TITLE EXCEPTION RESPONSE/CLARIFICATION)

1. Site inspection and Survey performed by Bulson Surveying conditions shown hereon.
2. There are portion of Lot 161C-R being used for paid and permitted parking although there were no Easements, liens or encumbrances, or claims thereof, not shown by the Public Records brought to the attention of this Surveyor during the course of this Survey.
3. Site inspection and Survey performed by Bulson Surveying conditions are as shown hereon
4. Not survey related.
5. Not survey related.
6. Not survey related.

7. (a) Based upon a search of the USBLM public records, there are no unpatented mining claims affecting the subject property. (b,c) The patent from the United States of America number 131878 dated May 23, 1910 subjects the Land to "any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States". There is no evidence of ditches or water storage structures located within the area of this survey.

8. The are portions of the Lot 161C-R being used for public access and permit parking. There have been no off-record lease or tenancy agreements brought to the attention of Bulson Surveying during the course of preparing this ALTA/NSPS Survey

9. The United States Patent recorded June 08, 1918, in Book 99 at page 142 reserved a right for ditches and canals constructed by the Authority of the United States. There is a ditch located on the western side of Lot 161C-R as depicted hereon. It is beyond the scope of this Survey to determine if it was constructed under the Authority of the United States.

10. The Plats noted within this exception pertain to the Town of Mountain Village as a whole and were not acknowledged or approved by the owner of the Subject Property at the time. It is the opinion of the Surveyor that they do not create any easements relevant to the property. It is beyond the scope of this survey to determine whether there are Conditions, Covenants, Restrictions or Notes contained within these Plats that affect the Property.

11. Restrictive Covenants for the Mountain Village noted within this exception are blanket in nature and affect the Lot 161C-R.

12. The Water and Sewer Tap Fee notice and agreements noted within this exception do not make specific mention of Lot 161C-R. It is beyond the scope of this survey to how these notices and agreements affect the Property.

13. The Underground Parking Amendment recorded July 21, 1989 in Book 455 at page 550 references a Lot 152, Telluride Mountain Village and does not appear to affect the property being surveyed, but the document speaks for itself as to its relevance to the subject property

14. The Right-of-Way Easement noted within this exception cites a blanket easement over Tract OS3, a portion of which has been included within Lot 161C-R, pursuant to the plat recorded according to the plat recorded April 2, 1999 in plat Book 1 at page 2529. The portion of Lot 161C-R which is subject to this easement is noted hereon

15. The Facilities, Water Rights and Easements noted within this exception affect Lot 161C-R and are blanket in nature.

16. There is a 16' General Easement along the perimeter of Lot 161C-R as indicated hereon. The Agreements noted within this exception relate to this area on Lot 161C-R and affect what may occur within this area of the Lot.

17. The Town of Mountain Village Employee Housing Restrictions noted within this exception affect Lot 161C-R and are blanket in nature.

18. All easements noted on the Plats cited in this exception are shown and labeled on this ALTA/NSPS Survey, with the exception of easements that have been altered or eliminated by subsequent plats or other legal instruments. Revised easements are shown according to the locations cited in the most current documentation.

19. The deeds listed within this exception cite restrictions on future development of portions of Lot 161C-R. These restrictions are noted within each of the deeds and they pertain to previously platted lots which were combined to create Lot 161C-R as depicted on plat recorded April 2, 1999 in plat Book 1 at page 2529. This survey depicts the areas of each of the previous lots and indicates the original deed conveyance for each sub-parcel of Lot 161C-R.

20. The Termination of Title Exceptions listed within this exception remove restrictions on future development of portions of Lot 161C-R which were originally imposed by the deeds cited in Exception 19. These Termination of Title Exceptions pertain to previously platted lots which were combined to create Lot 161C-R as depicted on plat recorded April 2, 1999 in plat Book 1 at page 2529. This survey depicts the areas of each of the previous lots and indicates the original deed conveyance for each sub-parcel of Lot 161C-R.

21. The San Miguel Power Association Notice cited within this exception is blanket in nature and affects Lot 161C-R

22. The Resolution recorded under reception number 325408 is blanket in nature and affects Lot 161C-R

23. This exception notes a deed restriction pertaining to wetland areas. A delineation was performed by Terra Firm, Chris Hazen during July of 2021 and is depicted hereon.

24. This exception notes a 16' General Easement along a portion of the northern boundary of Lot 161C-R as depicted hereon

25. The Construction Access and Staging Implementation Agreement cited in this exception imposed certain blanket restrictions on Lot 161C-R as well as defining an "Parcel 3 Easement" across the interior of Lot 161C-R as depicted hereon.

26. The Modification Agreements cited in this exception revised and imposed certain blanket restrictions on Lot 161C-R as well as defining an "Parcel 3 Easement" across the interior of Lot 161C-R as depicted hereon.

27. The Station Mountain Village Covenant contains a defined "Covenant Area" which allows for the future removal of a portion of an existing wall along the Gondola Station. This Covenant Area is along the southern boundary of Lot 161C-R and is depicted hereon.

28. The Resolutions cited in this exception pertain to allowable development density associated with Lot 161C-R. They are blanket in nature and affect the entire property.

29. The Communication Line easement is not located within Lot 161C-R, nor does it appear to benefit Lot 161C-R

30. The Density Assignment and Transfer cited within this exception does not contain reference to Lot 161C-R and it is unclear whether this density has been assigned to a specific property.

31. The Density Assignment and Transfer cited within this exception does not contain reference to Lot 161C-R and it is unclear whether this density has been assigned to a specific property.

32. The Shoring Easement Agreement noted within this exception allows for the placement of shoring along a portion of the southwestern property line of Lot 161C-R at the location as depicted hereon

33. The Density Assignment and Transfer cited within this exception conveys density previously assigned to Lot 161C-R to other property within the Mountain Village.

34. The Easement noted within this exception is not located within Lot 161C-R, nor does it appear to benefit Lot 161C-R

35. The Density Assignment and Transfer cited within this exception conveys density previously assigned to Lot 161C-R to other property within the Mountain Village.

36. A portion of Lot 161C-R is being used for a surface graveled parking lot as depicted hereon. This exception cites a Conditional Use Permit associated with this parking lot.

37. The Density Assignment and Transfer cited within this exception conveys density previously assigned to Lot 161C-R to other property within the Mountain Village.

38. The Settlement Agreement and Mutual Release cited in this exception is blanket in nature and affects Lot 161C-R

39. The Resolution noted within this exception is blanket in nature and affects Lot 161C-R

40. The Memorandum of Reservation cited within this exception burdens the future development of Lot 161C-R but does contain any defined location and is therefore not depicted.

41. The Memorandum of Reservation cited within this exception burdens the future development of Lot 161C-R but does contain any defined location and is therefore not depicted

42. Bill of Sale cited within this exception conveys density previously assigned to Lot 161C-R to other property within the Mountain Village.

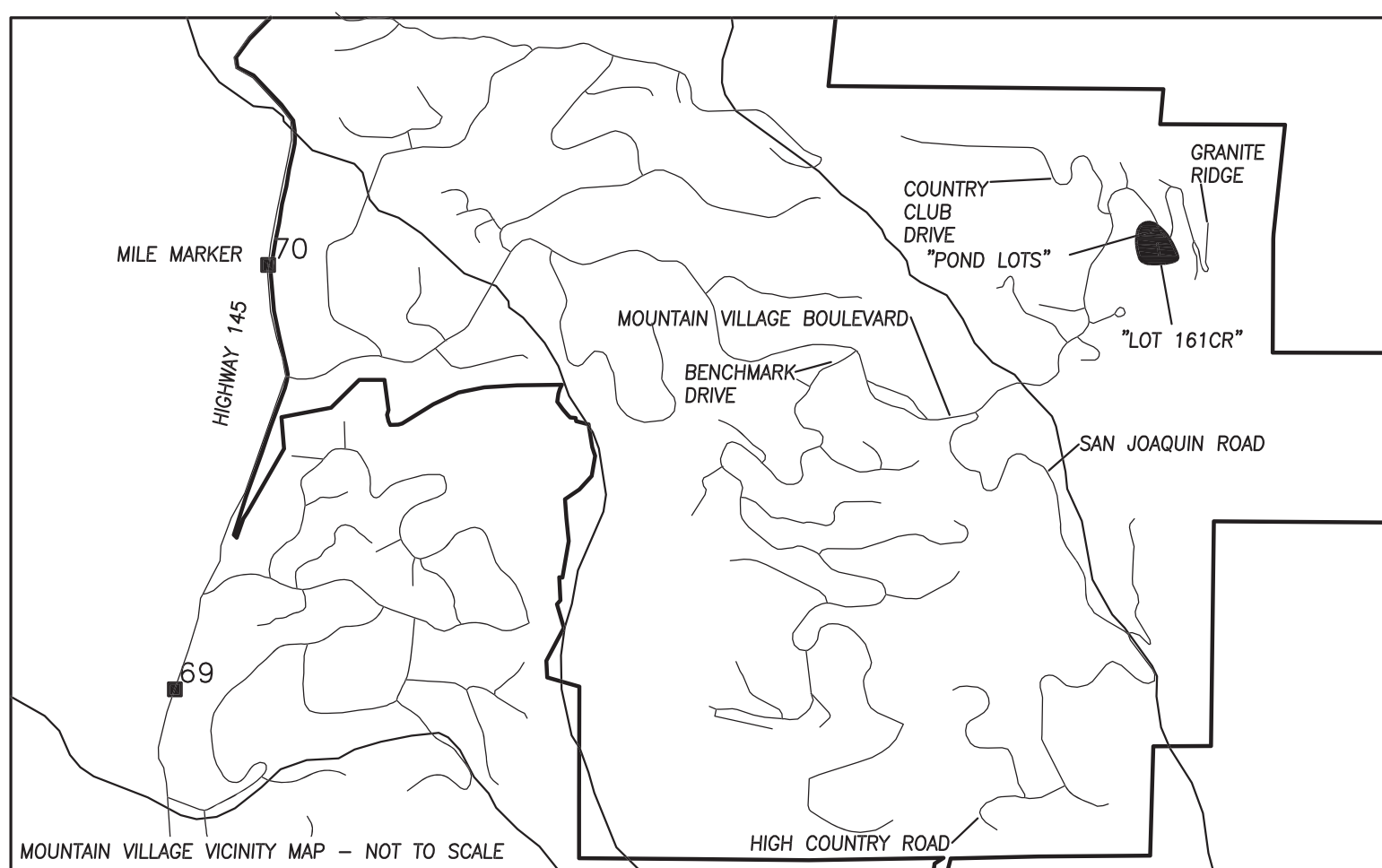
43-50 The Memorandum of Reservation cited within these exception burden the future development of Lot 161C-R but does contain any defined location and are therefore not depicted

**SHEET INDEX:**

1. Certifications/Notes/Density
2. Lot Dimensions/Recorded Easements
3. Topography and Existing Improvements

**VICINITY MAP**

(NOT TO SCALE)

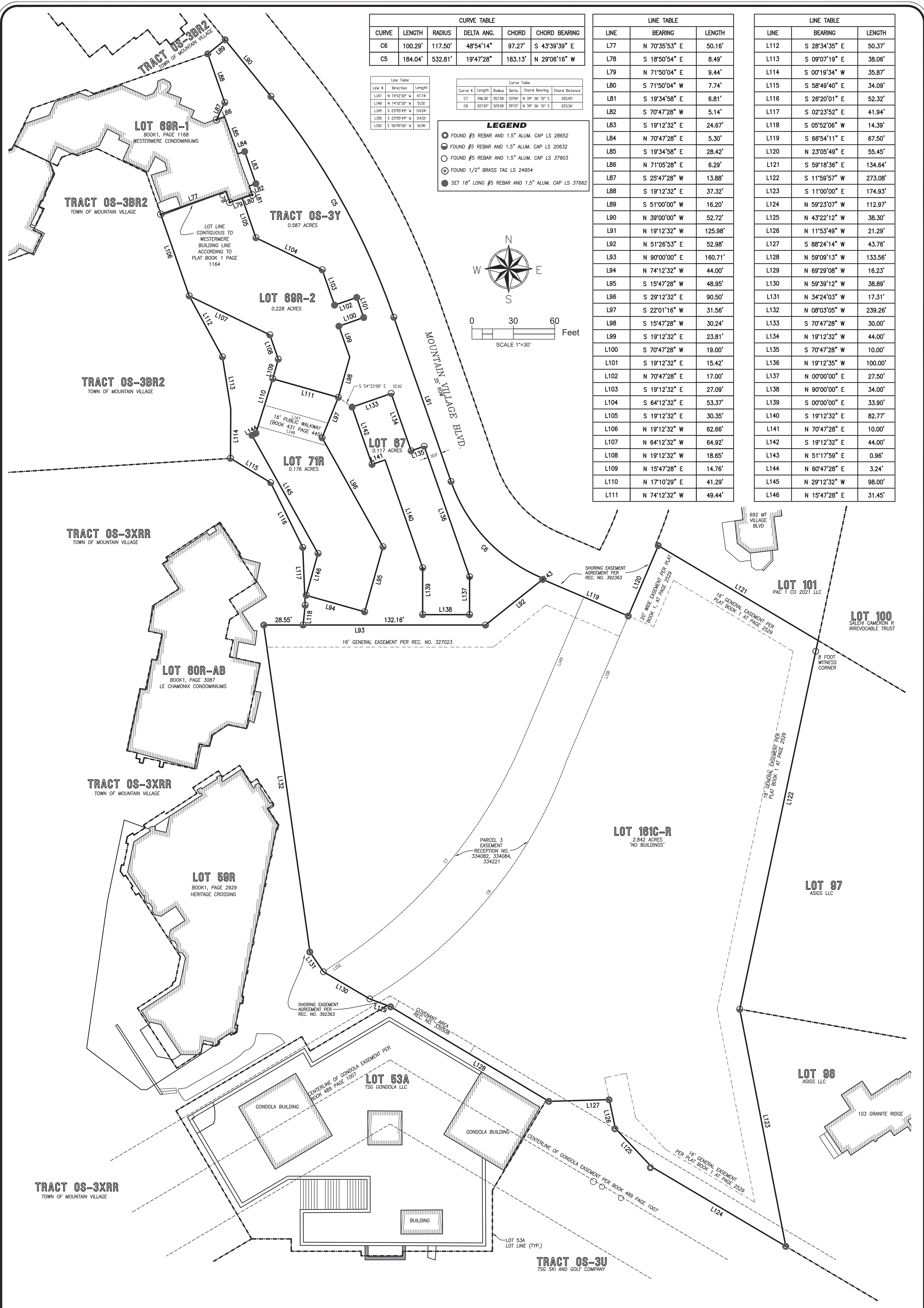


**EXISTING DENSITY**

(ACCORDING TO 08/26/2021 RECORDS OF TOWN OF MOUNTAIN VILLAGE)

| Lot Number | Zoning Designation | Units | Person Equivalent Density |
|------------|--------------------|-------|---------------------------|
| 67         | CONDO              | 14    | 42                        |
| 69R2       | CONDO              | 12    | 36                        |
| 71R        | CONDO              | 9     | 27                        |
| 71R        | EMP APT            | 1     | 3                         |
| 161CR      | CONDO              | 33    | 99                        |
| 161CR      | HOTEL EFF          | 2     | 4                         |

|  |   |
|--|---|
| Ramesh Acquisitions, LLC<br>2434 E. Las Olas Blvd.<br>Fort Lauderdale FL 33301 | <b>Lots 67, 69R-2, 71R, 161C-R and Tract OS-3Y<br/>Town of Mountain Village<br/>San Miguel County, Colorado</b> |
| DATE : August 27, 2021   | <b>BULSON SURVEYING</b>   |
| PROJECT NUMBER<br>21057  |   |

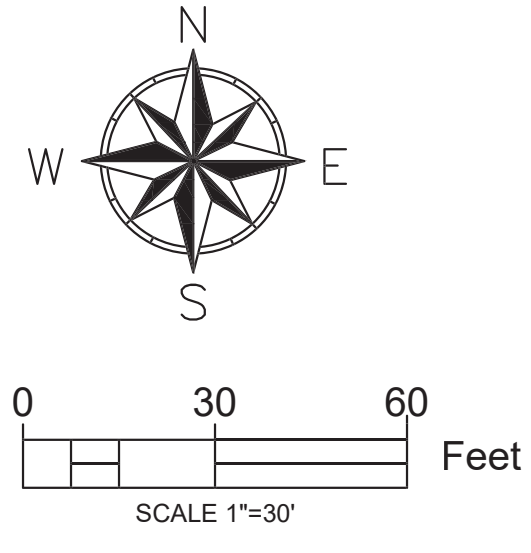


| CURVE TABLE |         |         |            |               |
|-------------|---------|---------|------------|---------------|
| CURVE       | LENGTH  | RADIUS  | DELTA ANG. | CHORD BEARING |
| C6          | 100.29' | 117.50' | 48°54'14"  | S 43°39'39" E |
| C5          | 184.04' | 532.81' | 19°47'28"  | N 29°06'16" W |

| Line Table |               |         |
|------------|---------------|---------|
| Line #     | Direction     | Length  |
| L147       | N 74°12'32" W | 47.74'  |
| L148       | N 74°12'32" W | 51.51'  |
| L149       | S 23°05'49" W | 114.51' |
| L150       | S 23°05'49" W | 114.51' |
| L152       | S 56°09'36" W | 16.97'  |

| Curve Table |         |         |        |               |                |
|-------------|---------|---------|--------|---------------|----------------|
| Curve #     | Length  | Radius  | Delta  | Chord Bearing | Chord Distance |
| C7          | 206.50' | 357.50' | 33°34' | N 39°36'51" E | 203.45'        |
| C8          | 227.87' | 389.50' | 39°31' | N 39°36'51" E | 223.36'        |

- LEGEND**
- FOUND #5 REBAR AND 1.5" ALUM. CAP LS 28652
  - FOUND #5 REBAR AND 1.5" ALUM. CAP LS 20632
  - FOUND #5 REBAR AND 1.5" ALUM. CAP LS 37903
  - FOUND 1/2" BRASS TAG LS 24954
  - SET 18" LONG #5 REBAR AND 1.5" ALUM. CAP LS 37662



| LINE TABLE |               |         |
|------------|---------------|---------|
| LINE       | BEARING       | LENGTH  |
| L77        | N 70°35'53" E | 50.16'  |
| L78        | S 18°50'54" E | 8.49'   |
| L79        | N 71°50'04" E | 9.44'   |
| L80        | S 71°50'04" W | 7.74'   |
| L81        | S 19°34'58" E | 6.81'   |
| L82        | S 70°47'28" W | 5.14'   |
| L83        | S 19°12'32" E | 24.67'  |
| L84        | N 70°47'28" E | 5.30'   |
| L85        | S 19°34'58" E | 28.42'  |
| L86        | N 71°05'28" E | 6.29'   |
| L87        | S 25°47'28" W | 13.88'  |
| L88        | S 19°12'32" E | 37.32'  |
| L89        | S 51°00'00" W | 16.20'  |
| L90        | N 39°00'00" W | 52.72'  |
| L91        | N 19°12'32" W | 125.98' |
| L92        | N 51°26'53" E | 52.98'  |
| L93        | N 90°00'00" E | 160.71' |
| L94        | N 74°12'32" W | 44.00'  |
| L95        | S 15°47'28" W | 48.95'  |
| L96        | S 29°12'32" E | 90.50'  |
| L97        | S 22°01'16" W | 31.56'  |
| L98        | S 15°47'28" W | 30.24'  |
| L99        | S 19°12'32" E | 23.81'  |
| L100       | S 70°47'28" W | 19.00'  |
| L101       | S 19°12'32" E | 15.42'  |
| L102       | N 70°47'28" E | 17.00'  |
| L103       | S 19°12'32" E | 27.09'  |
| L104       | S 64°12'32" E | 53.37'  |
| L105       | S 19°12'32" E | 30.35'  |
| L106       | N 19°12'32" W | 62.66'  |
| L107       | N 64°12'32" W | 64.92'  |
| L108       | N 19°12'32" W | 18.65'  |
| L109       | N 15°47'28" E | 14.76'  |
| L110       | N 17°10'29" E | 41.29'  |
| L111       | N 74°12'32" W | 49.44'  |

| LINE TABLE |               |         |
|------------|---------------|---------|
| LINE       | BEARING       | LENGTH  |
| L112       | S 28°34'35" E | 50.37'  |
| L113       | S 09°07'19" E | 38.06'  |
| L114       | S 00°19'34" W | 35.87'  |
| L115       | S 58°49'40" E | 34.09'  |
| L116       | S 26°20'01" E | 52.32'  |
| L117       | S 02°23'52" E | 41.94'  |
| L118       | S 05°52'06" W | 14.39'  |
| L119       | S 66°54'11" E | 67.50'  |
| L120       | N 23°05'49" E | 55.45'  |
| L121       | S 59°18'36" E | 134.64' |
| L122       | S 11°59'57" W | 273.08' |
| L123       | S 11°00'00" E | 174.93' |
| L124       | N 59°23'07" W | 112.97' |
| L125       | N 43°22'12" W | 38.30'  |
| L126       | N 11°53'49" W | 21.29'  |
| L127       | S 88°24'14" W | 43.76'  |
| L128       | N 59°09'13" W | 133.56' |
| L129       | N 69°29'08" W | 16.23'  |
| L130       | N 59°39'12" W | 38.89'  |
| L131       | N 34°24'03" W | 17.31'  |
| L132       | N 08°03'05" W | 239.26' |
| L133       | S 70°47'28" W | 30.00'  |
| L134       | N 19°12'32" W | 44.00'  |
| L135       | S 70°47'28" W | 10.00'  |
| L136       | N 19°12'35" W | 100.00' |
| L137       | N 00°00'00" E | 27.50'  |
| L138       | N 90°00'00" E | 34.00'  |
| L139       | S 00°00'00" E | 33.90'  |
| L140       | S 19°12'32" E | 82.77'  |
| L141       | N 70°47'28" E | 10.00'  |
| L142       | S 19°12'32" E | 44.00'  |
| L143       | N 51°17'59" E | 0.96'   |
| L144       | N 60°47'28" E | 3.24'   |
| L145       | N 29°12'32" W | 98.00'  |
| L146       | N 15°47'28" E | 31.45'  |

# ALTA/NSPS Land Title Survey

|  |   |
|--|---|
| Ramesh Acquisitions, LLC<br>2434 E. Las Olas Blvd.<br>Fort Lauderdale FL 33301<br><br>DATE: August 27, 2021<br><br>PROJECT NUMBER<br>21057 | <b>Lots 67, 69R-2, 71R, 161C-R and Tract OS-3Y</b><br><b>Town of Mountain Village</b><br><b>San Miguel County, Colorado</b> |
|  |   |
|  | <b>BULSON SURVEYING</b>   |

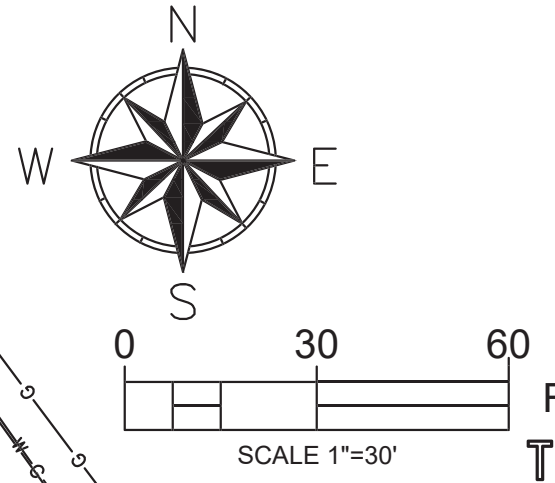
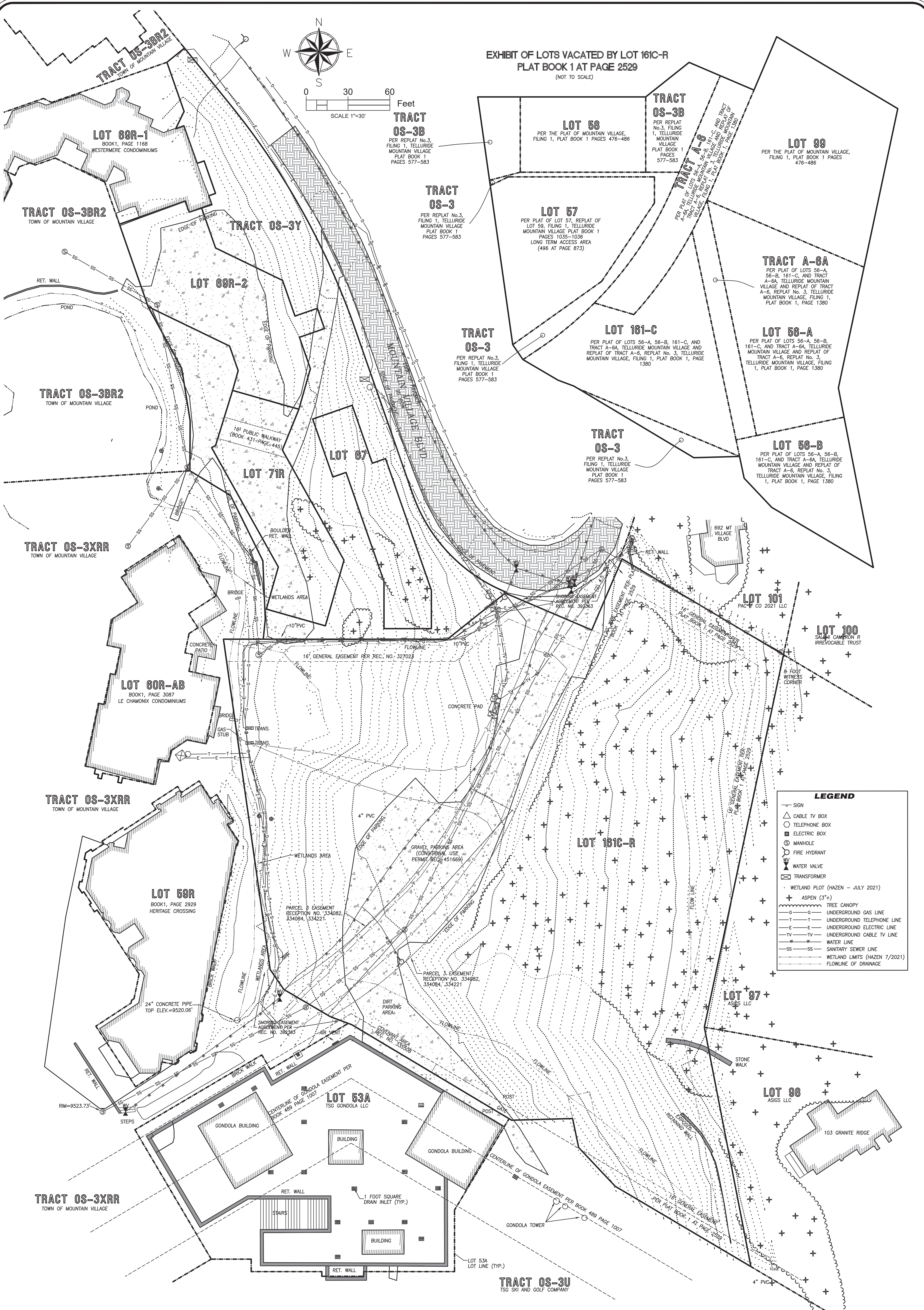


EXHIBIT OF LOTS VACATED BY LOT 161C-R  
 PLAT BOOK 1 AT PAGE 2529  
 (NOT TO SCALE)

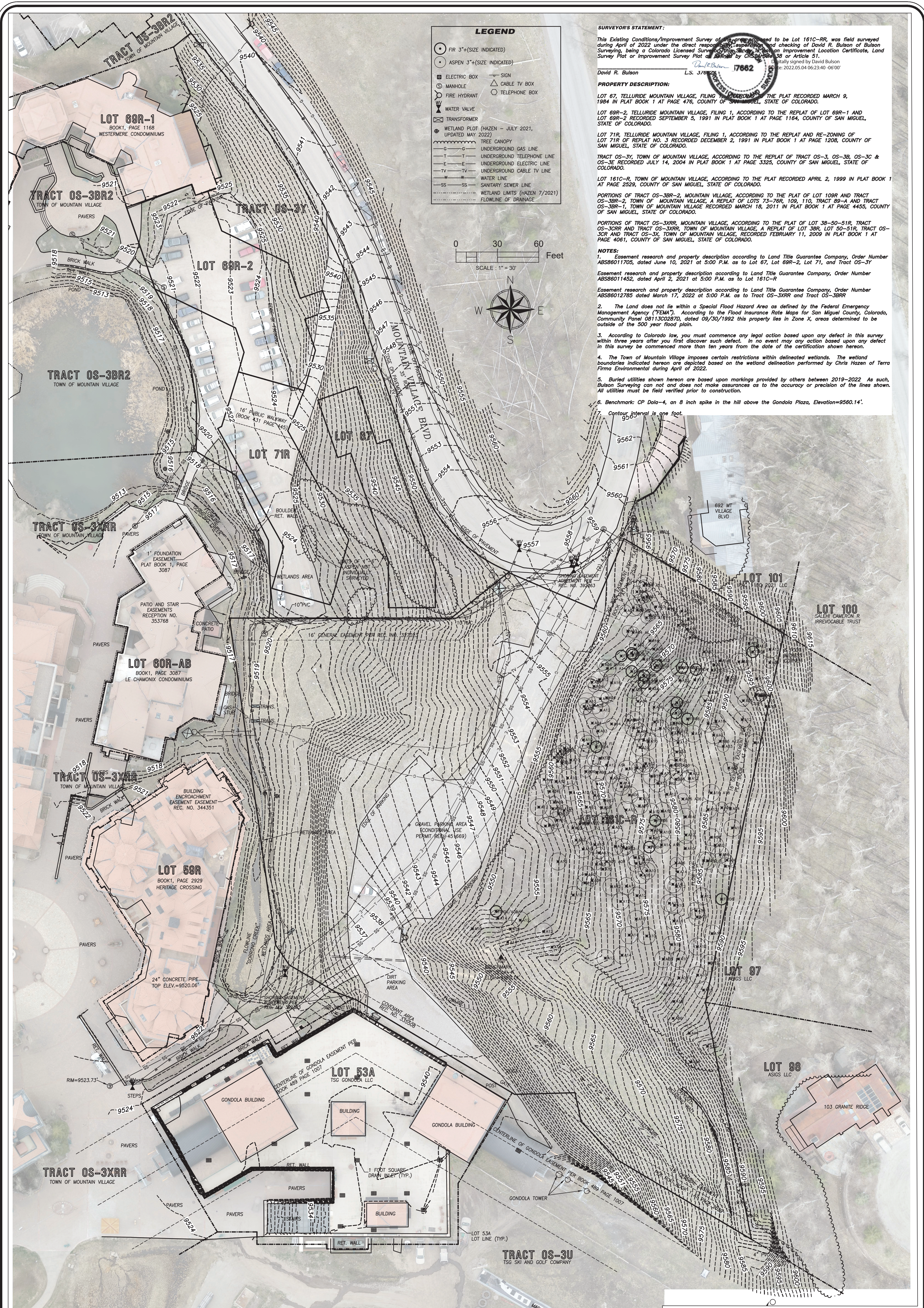


**LEGEND**

- SIGN
- △ CABLE TV BOX
- TELEPHONE BOX
- ELECTRIC BOX
- ⊙ MANHOLE
- ⊕ FIRE HYDRANT
- ⊖ WATER VALVE
- ⊞ TRANSFORMER
- WETLAND PLOT (HAZEN - JULY 2021)
- ASPEN (3"+)
- TREE CANOPY
- G — UNDERGROUND GAS LINE
- T — UNDERGROUND TELEPHONE LINE
- E — UNDERGROUND ELECTRIC LINE
- TV — UNDERGROUND CABLE TV LINE
- W — WATER LINE
- SS — SANITARY SEWER LINE
- WETLAND LIMITS (HAZEN 7/2021)
- FLOWLINE OF DRAINAGE

|  |   |
|--|---|
| Ramesh Acquisitions, LLC<br>2434 E. Las Olas Blvd.<br>Fort Lauderdale FL 33301 | <b>Lots 67, 69R-2, 71R, 161C-R and Tract OS-3Y</b><br><b>Town of Mountain Village</b><br><b>San Miguel County, Colorado</b> |
|  | <b>BULSON SURVEYING</b>   |
| DATE : August 27, 2021   | PROJECT NUMBER<br>21057   |

**ALTA/NSPS Land Title Survey**



**LEGEND**

|               |  |               |                            |
|---------------|--|---------------|----------------------------|
| ○ (with size) | FIR 3"± (SIZE INDICATED)                           | ○ (with size) | ASPEN 3"± (SIZE INDICATED) |
| □             | ELECTRIC BOX                                       | △             | SIGN                       |
| ○             | MANHOLE  | △             | CABLE TV BOX               |
| ○             | FIRE HYDRANT                                       | ○             | TELEPHONE BOX              |
| ○             | WATER VALVE  |               |                            |
| ⊠             | TRANSFORMER  |               |                            |
| ⊠             | WETLAND PLOT (HAZEN - JULY 2021, UPDATED MAY 2022) |               |                            |
| —             | TREE CANOPY  |               |                            |
| —             | UNDERGROUND GAS LINE                               |               |                            |
| —             | UNDERGROUND TELEPHONE LINE                         |               |                            |
| —             | UNDERGROUND ELECTRIC LINE                          |               |                            |
| —             | UNDERGROUND CABLE TV LINE                          |               |                            |
| —             | WATER LINE   |               |                            |
| —             | SANITARY SEWER LINE                                |               |                            |
| —             | WETLAND LIMITS (HAZEN 7/2021)                      |               |                            |
| —             | FLOWLINE OF DRAINAGE                               |               |                            |

**SURVEYOR'S STATEMENT:**  
 This Existing Conditions/Improvements Survey of the parcel proposed to be Lot 161C-RR, was field surveyed during April of 2022 under the direct supervision and checking of David R. Bulson of Bulson Surveying, being a Colorado Licensed Surveyor. This Survey is an Improvement Location Certificate, Land Survey Plat or Improvement Survey Plat as defined by C.R.S. Article 38 or Article 51.  
 Digitally signed by David Bulson  
 David R. Bulson L.S. 376825 17662  
 2022.05.04 06:23:40 -0600

**PROPERTY DESCRIPTION:**  
 LOT 67, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE PLAT RECORDED MARCH 9, 1984 IN PLAT BOOK 1 AT PAGE 476, COUNTY OF SAN MIGUEL, STATE OF COLORADO.  
 LOT 69R-2, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT OF LOT 69R-1 AND LOT 69R-2 RECORDED SEPTEMBER 5, 1991 IN PLAT BOOK 1 AT PAGE 1164, COUNTY OF SAN MIGUEL, STATE OF COLORADO.  
 LOT 71R, TELLURIDE MOUNTAIN VILLAGE, FILING 1, ACCORDING TO THE REPLAT AND RE-ZONING OF LOT 71R OF REPLAT NO. 3 RECORDED DECEMBER 2, 1991 IN PLAT BOOK 1 AT PAGE 1208, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

TRACT OS-3Y, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE REPLAT OF TRACT OS-3, OS-3B, OS-3C & OS-3E RECORDED JULY 14, 2004 IN PLAT BOOK 1 AT PAGE 3325, COUNTY OF SAN MIGUEL, STATE OF COLORADO.  
 LOT 161C-R, TOWN OF MOUNTAIN VILLAGE, ACCORDING TO THE PLAT RECORDED APRIL 2, 1999 IN PLAT BOOK 1 AT PAGE 2829, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

PORTIONS OF TRACT OS-3BR-2, MOUNTAIN VILLAGE, ACCORDING TO THE PLAT OF LOT 109R AND TRACT OS-3BR-2 TOWN OF MOUNTAIN VILLAGE, A REPLAT OF LOTS 73-76R, 109, 110, TRACT 99-A AND TRACT OS-3BR-1, TOWN OF MOUNTAIN VILLAGE RECORDED MARCH 18, 2011 IN PLAT BOOK 1 AT PAGE 4459, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

PORTIONS OF TRACT OS-3XR, MOUNTAIN VILLAGE, ACCORDING TO THE PLAT OF LOT 38-50-51R, TRACT OS-3CR AND TRACT OS-3X, TOWN OF MOUNTAIN VILLAGE, RECORDED FEBRUARY 11, 2009 IN PLAT BOOK 1 AT PAGE 4061, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

**NOTES:**  
 1. Easement research and property description according to Land Title Guarantee Company, Order Number ABS86011705, dated June 10, 2021 at 5:00 P.M. as to Lot 67, Lot 69R-2, Lot 71, and Tract OS-3Y.  
 Easement research and property description according to Land Title Guarantee Company, Order Number ABS86011462, dated April 2, 2021 at 5:00 P.M. as to Lot 161C-R.  
 Easement research and property description according to Land Title Guarantee Company, Order Number ABS86012785 dated March 17, 2022 at 5:00 P.M. as to Tract OS-3XR and Tract OS-3BR.

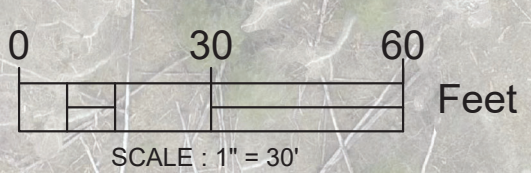
2. The Land does not lie within a Special Flood Hazard Area as defined by the Federal Emergency Management Agency ("FEMA"). According to the Flood Insurance Rate Maps for San Miguel County, Colorado, Community Panel 0811300287D, dated 09/30/1992 this property lies in Zone X, areas determined to be outside of the 500 year flood plain.

3. 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 the certification shown hereon.

4. The Town of Mountain Village imposes certain restrictions within delineated wetlands. The wetland boundaries indicated hereon are depicted based on the wetland delineation performed by Chris Hazen of Terra Firma Environmental during April of 2022.

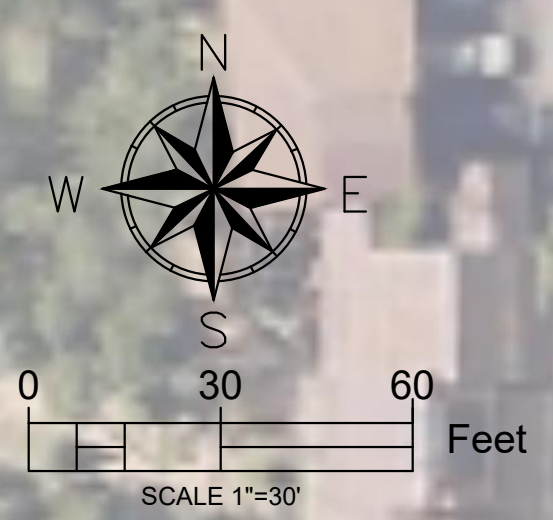
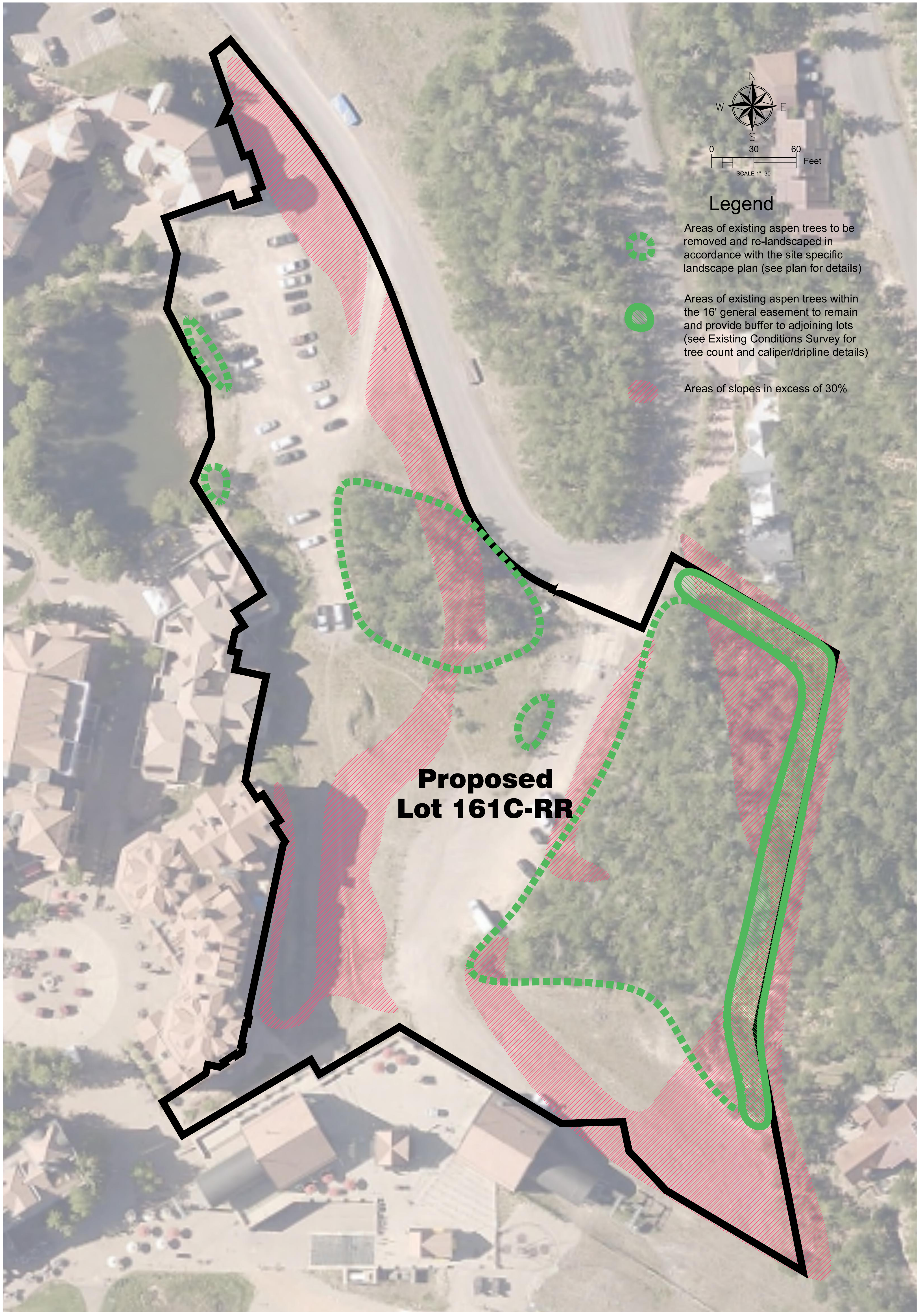
5. Buried utilities shown hereon are based upon markings provided by others between 2019-2022. As such, Bulson Surveying can not and does not make assurances as to the accuracy or precision of the lines shown. All utilities must be field verified prior to construction.

6. Benchmark: CP Dola-4, an 8 inch spike in the hill above the Gondola Plaza, Elevation=9560.14'.  
 7. Contour interval is one foot.






|  |   |
|--|---|
| Ramesh Acquisitions, LLC<br>2434 E. Las Olas Blvd.<br>Fort Lauderdale FL 33301 | <b>Lot 161C-RR</b><br>Town of Mountain Village<br>San Miguel County, Colorado |
| DATE: May 2, 2022  | <b>BULSON SURVEYING</b>   |
| PROJECT NUMBER<br>21057  |   |

# Existing Conditions/Improvements Survey




**Legend**

-  Areas of existing aspen trees to be removed and re-landscaped in accordance with the site specific landscape plan (see plan for details)
-  Areas of existing aspen trees within the 16' general easement to remain and provide buffer to adjoining lots (see Existing Conditions Survey for tree count and caliper/dripline details)
-  Areas of slopes in excess of 30%

**Proposed  
Lot 161C-RR**

**Proposed Lot 161C-RR  
Existing Trees and Slopes**

|   |  |
|---|--|
| <p>Ramesh Acquisitions, LLC<br/>2434 E. Las Olas Blvd.<br/>Fort Lauderdale FL 33301</p> | <p><b>Lots 67, 69R-2, 71R, 161C-R<br/>and Tract OS-3Y<br/>Town of Mountain Village<br/>San Miguel County, Colorado</b></p> |
| <p>DATE : April 27, 2022</p>  | <p> <b>BULSON<br/>SURVEYING</b></p>   |
| <p>PROJECT NUMBER<br/>21057</p>   |  |

GENERAL CIVIL ENGINEERING NOTES:

1. THE EXISTING UTILITY LINES SHOWN ON THE PLANS ARE APPROXIMATE. AT LEAST TWO (2) FULL WORKING DAYS PRIOR TO COMMENCING CONSTRUCTION, THE CONTRACTOR SHALL CONTACT THE UTILITY NOTIFICATION CENTER OF COLORADO @ 1-800-922-1987 OR 811 TO GET ALL UTILITIES LOCATED. IF ANY OF THESE UNDERGROUND UTILITIES ARE IN CONFLICT WITH THE CONSTRUCTION PLANS, THE CONTRACTOR SHALL NOTIFY THE ENGINEER AND WORK WITH THE ENGINEER TO FIND A SOLUTION BEFORE THE START OF CONSTRUCTION.

INSTALLATION AND SEPARATION REQUIREMENTS SHALL BE COORDINATED WITH THE INDIVIDUAL UTILITY PROVIDERS.

THE UTILITY PROVIDERS ARE:  
SEWER, WATER, AND FIBEROPTIC: TOWN OF MOUNTAIN VILLAGE  
NATURAL GAS: BLACK HILLS ENERGY  
POWER: SAN MIGUEL POWER  
TELEPHONE: CENTURY LINK

2. PRIOR TO BEGINNING ANY CONSTRUCTION ACTIVITIES, ALL NECESSARY PERMITS SHALL BE OBTAINED BY THE OWNER OR CONTRACTOR.

3. IT IS THE CONTRACTOR'S RESPONSIBILITY TO INSURE THAT EXCAVATED SLOPES ARE SAFE AND COMPLY WITH OSHA REQUIREMENTS. REFER TO THE SITE-SPECIFIC REPORT FOR THIS PROJECT FOR ADDITIONAL INFORMATION.

4. ALL TRENCHES SHALL BE ADEQUATELY SUPPORTED OR LAID BACK PER OSHA REGULATIONS.

5. ALL MATERIALS AND CONSTRUCTION SHALL BE IN CONFORMANCE WITH THE TOWN OF MOUNTAIN VILLAGE DESIGN STANDARDS LATEST EDITION. ALL CONSTRUCTION WITHIN EXISTING STREET OR ALLEY RIGHT-OF-WAY SHALL BE SUBJECT TO TOWN OF MOUNTAIN VILLAGE INSPECTION.

6. THE CONTRACTOR SHALL HAVE ONE COPY OF THE STAMPED PLANS ON THE JOB SITE AT ALL TIMES.

7. THE CONTRACTOR SHALL NOTIFY THE TOWN 48 HOURS PRIOR TO THE START OF CONSTRUCTION.

8. THE CONTRACTOR IS RESPONSIBLE FOR IMPLEMENTING AND MAINTAINING EROSION AND SEDIMENT CONTROL MEASURES AT ALL TIMES DURING CONSTRUCTION. THIS SITE WILL HAVE ITS OWN STATE CDPHE SWMP PERMIT THAT MUST BE FOLLOWED. THE ADJOINING ROADWAYS SHALL BE FREE OF DEBRIS AT THE END OF CONSTRUCTION ACTIVITIES EACH DAY.

9. THE CONTRACTOR SHALL PROVIDE, ERECT AND MAINTAIN PROPER TRAFFIC CONTROL DEVICES UNTIL THE SITE IS OPEN TO TRAFFIC. ANY TRAFFIC CLOSURES MUST BE COORDINATED WITH THE TOWN OF MOUNTAIN VILLAGE.

10. ALL DAMAGE TO PUBLIC STREETS AND ROADS, INCLUDING HAUL ROUTES, TRAILS, OR STREET IMPROVEMENTS, OR TO PRIVATE PROPERTY, SHALL BE REPAIRED AT THE SOLE EXPENSE OF THE CONTRACTOR TO THE ORIGINAL CONDITIONS.

11. WHEN AN EXISTING ASPHALT STREET IS CUT, THE STREET MUST BE RESTORED TO A CONDITION EQUAL TO OR BETTER THAN ITS ORIGINAL CONDITION. THE FINISHED PATCH SHALL BLEND SMOOTHLY INTO THE EXISTING SURFACE. ALL LARGE PATCHES SHALL BE PAVED WITH AN ASPHALT LAY-DOWN MACHINE.

12. IF DEWATERING IS REQUIRED, THE CONTRACTOR SHALL NOTIFY THE ENGINEER. ANY DISCHARGE REQUIREMENTS SHALL BE COORDINATED WITH THE TOWN OF MOUNTAIN VILLAGE.

13. CONTRACTOR SHALL NOTIFY ALL RESIDENTS IN WRITING 24 HOURS PRIOR TO ANY SHUT-OFF IN SERVICE. THE NOTICES MUST HAVE CONTRACTOR'S PHONE NUMBER AND NAME OF CONTACT PERSON, AND EMERGENCY PHONE NUMBER FOR AFTER HOURS CALLS. ALL SHUT-OFF'S MUST BE APPROVED BY THE TOWN AND TOWN VALVES AND APPURTENANCES SHALL BE OPERATED BY TOWN PERSONNEL.

14. CONTRACTOR SHALL KEEP SITE CLEAN AND LITTER FREE (INCLUDING CIGARETTE BUTTS) BY PROVIDING A CONSTRUCTION DEBRIS TRASH CONTAINER AND A BEAR-PROOF POLY-CART TRASH CONTAINER, WHICH IS TO BE LOCKED AT ALL TIMES.

15. CONTRACTOR MUST BE AWARE OF ALL TREES TO REMAIN PER THE DESIGN AND APPROVAL PROCESS AND PROTECT THEM ACCORDINGLY.

16. THE CONTRACTOR SHALL PROVIDE UNDERGROUND UTILITY AS-BUILTS TO THE TOWN.

17. ALL STRUCTURAL FILL UNDER HARDSCAPE OR ROADS MUST BE COMPACTED TO 95% MODIFIED PROCTOR (MIN.) AT PLUS OR MINUS 2% OF THE OPTIMUM MOISTURE CONTENT. NON-STRUCTURAL FILL SHALL BE PLACED AT 90% (MIN.) MODIFIED PROCTOR.

18. UNSUITABLE MATERIAL SHALL BE REMOVED AS REQUIRED BY THE SOILS ENGINEER. ALL MATERIALS SUCH AS LUMBER, LOGS, BRUSH, TOPSOIL OR ORGANIC MATERIALS OR RUBBISH SHALL BE REMOVED FROM ALL AREAS TO RECEIVE COMPACTED FILL.

19. NO MATERIAL SHALL BE COMPACTED WHEN FROZEN.

20. NATIVE TOPSOIL SHALL BE STOCKPILED TO THE EXTENT FEASIBLE ON THE SITE FOR USE ON AREAS TO BE REVEGETATED.

21. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DUST ABATEMENT AND EROSION CONTROL MEASURES DEEMED NECESSARY BY THE TOWN, IF CONDITIONS WARRANT THEM.

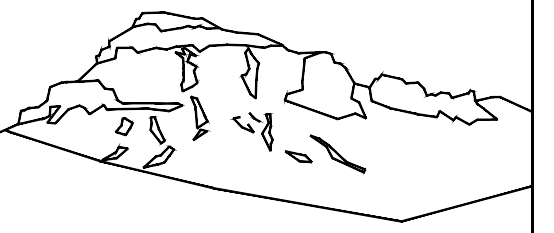
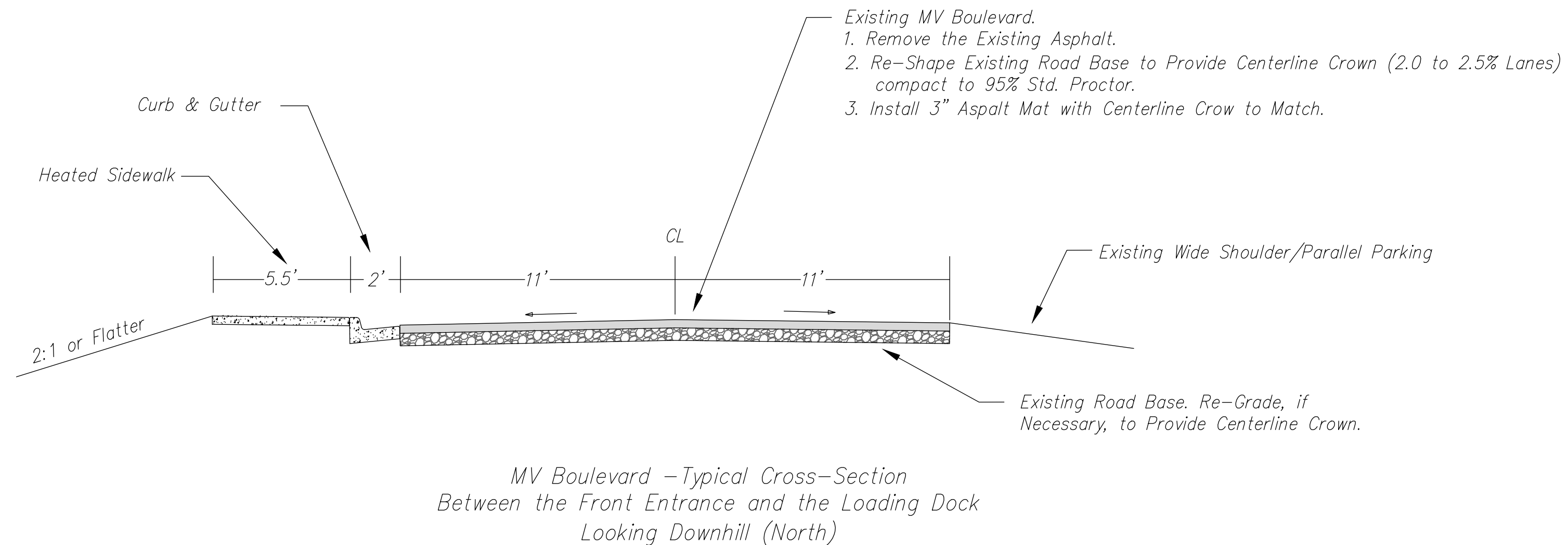
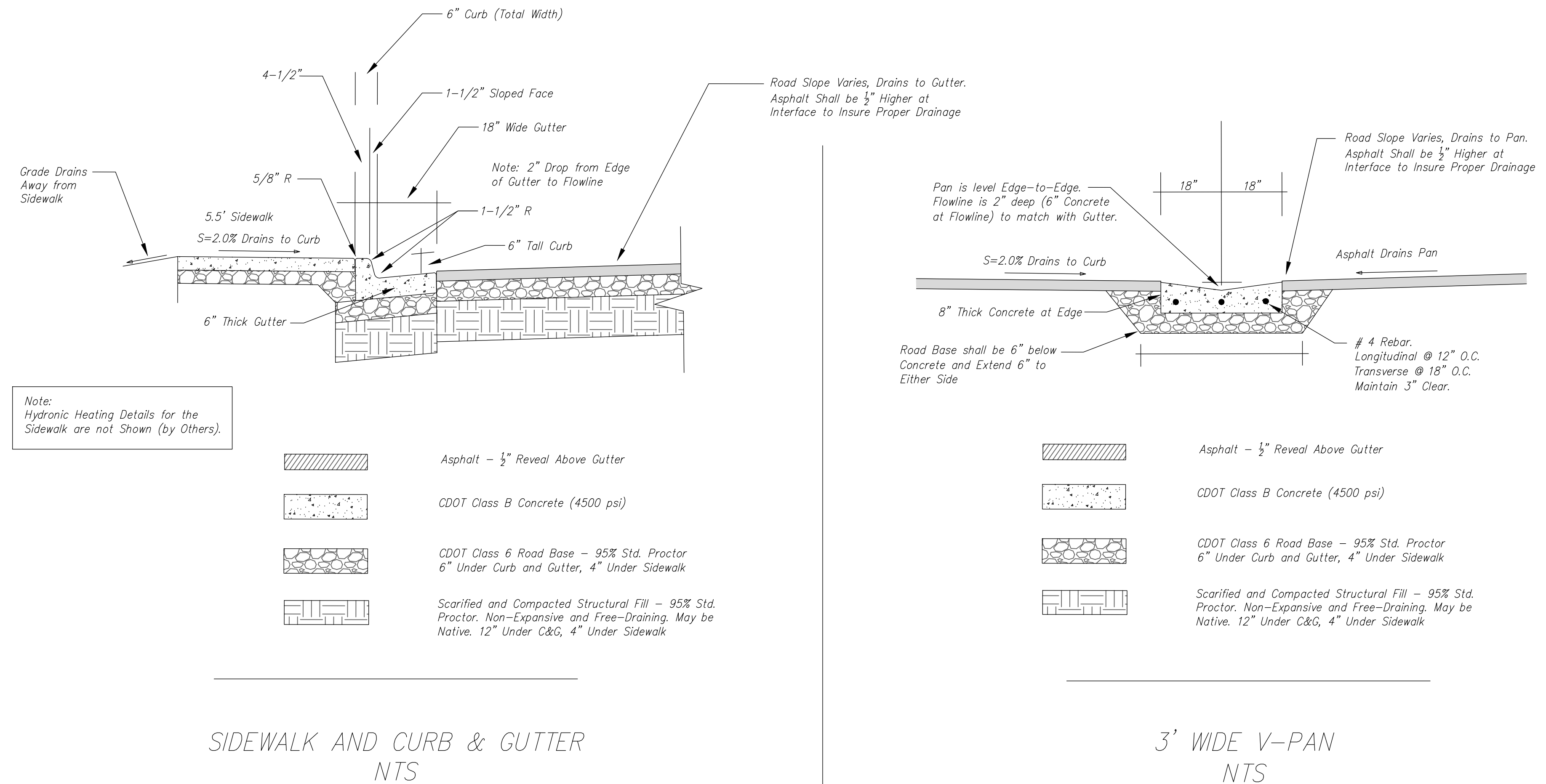
22. ALL DISTURBED GROUND SHALL BE RE-SEEDED WITH A TOWN-APPROVED SEED MIX. REFER TO THE LANDSCAPE PLAN.

23. THE CONTRACTOR IS REQUIRED TO PROTECT ALL EXISTING SURVEY MONUMENTS AND PROPERTY CORNERS DURING GRADING AND CONSTRUCTION.

24. ALL UNDERGROUND PIPE SHALL BE PROTECTED WITH BEDDING TO PROTECT THE PIPE FROM BEING DAMAGED.

25. HOT TUBS SHALL DRAIN TO THE SANITARY SEWER (OR PUMPED TO AA CLEAN-OUT).

26. THE UTILITY PLAN DEPICTS FINAL UTILITY LOCATIONS BUT HAS BEEN COMPLETED AT A PRELIMINARY STAGE. CONTRACTOR SHALL VERIFY ALIGNMENTS WITH THE ARCHITECT PRIOR TO CONSTRUCTION.



Uncompahgre  
Engineering, LLC

P.O. Box 3945  
Telluride, CO 81435  
970-729-0683

SUBMISSIONS:

SUBMITTAL 2022-07-12

Lot 161 CR  
Mtn. Village, CO

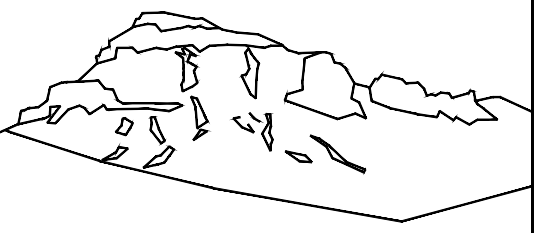


CONTRACTOR TO REVIEW AND COMPARE ALL CHAPTERS AND INTERDISCIPLINARY DRAWINGS AND REPORT ANY DISCREPANCIES TO THE ARCHITECT PRIOR TO ANY FIELD WORK BEING DONE IN ACCORDANCE WITH AIA DOCUMENT A201

Notes

C1





Uncompahgre  
Engineering, LLC

P.O. Box 3945  
Telluride, CO 81435  
970-729-0683

SUBMISSIONS:  
SUBMITTAL 2022-07-12

Lot 161 CR  
Mtn. Village, CO



CONTRACTOR TO REVIEW AND COMPARE ALL  
CHAPTERS AND INTERDISCIPLINARY DRAWINGS  
AND REPORT ANY DISCREPANCIES TO THE  
ARCHITECT PRIOR TO ANY FIELD WORK BEING  
DONE IN ACCORDANCE WITH AIA DOCUMENT A201

Ridge Trail  
Alternate  
Connection

C2.27

# Conceptual Public Easement Area Exhibit



1 OVERALL - SITE PLAN  
SCALE: 1/32" = 1'-0"



0 8' 16' 24' 32' 64' 96'





**AGENDA ITEM #5**  
**TOWN MANAGER**  
455 Mountain Village Blvd.  
Mountain Village, CO 81435  
(970) 729-2654

**TO:** Mountain Village Town Council  
**FROM:** Paul Wisor, Town Manager; Michelle Haynes, Assistant Town Manager  
**DATE:** September 1, 2022  
**RE:** Ratification of Contract to Purchase TBD Highway 145, Telluride, CO 81430

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Executive Summary: The Town of Mountain Village, and the Telluride region as a whole, is in the midst of a housing crisis that directly threatens the quality of life of every Mountain Village resident, second homeowner, business, and visitor. From entry level restaurant workers to top level ski executives, and every other position in between, these critical roles are going unfilled, in large part, because such workers and their families lack viable housing options within or near Mountain Village. Unless this crisis is addressed, the basic services and amenities that make Mountain Village a place like no other, will be diminished or eliminated altogether.

The Town Manager has executed an agreement to purchase raw land in Ilium, commonly known as TBD Highway 145, Telluride, CO 81430 from Alexander Ranch, LLLP, a Colorado limited liability limited partnership and the Alexander Trust Dated June 25, 2014. If the Town, after due diligence review, closes on the property, early estimates indicate the Town could construct 200 deed restricted units to help address the housing crisis.

### **Overview**

The Town Manager has executed a Purchase and Sale Agreement for property commonly known as TBD Highway 145, Telluride, CO 81430 located in Ilium. The contract price is \$7,500,000, as set for in Exhibit A.

A precondition on closing on the property is the ratification of the Purchase and Sale Agreement by Town Council. Ratification of the Purchase and Sale Agreement does not mean the Town will close on the property. The contract provides the Town has a 90 day study period to determine whether the property can support meaningful deed restricted development. The Town also has the ability to exercise two, sixty day extensions, with each extension coming at the cost of \$100,000 in earnest money becoming non-refundable. The Town can terminate the agreement any time during the study period or an extension period.

### **Financial Considerations**

As noted above, the purchase price is \$7,500,000. The Town has already identified significant sources to reduce the overall cost to the Town, and Town staff is also actively working with the State to identify other funding sources to further reduce the cost to the Town. It is anticipated the Town would ultimately be able to recoup its investment after the land is developed per a contractual relationship with the developer of the for sale or for rent product.

### **Proposed Motion**

I move to ratify the contract to purchase the property commonly known as TBD Highway 145, Telluride, CO 81430, as set forth in Exhibit A to the staff report.

**Exhibit A**

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.  
(CBS4-6-21) (Mandatory 1-22)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

**CONTRACT TO BUY AND SELL REAL ESTATE  
(LAND)  
( Property with No Residences)  
( Property with Residences-Residential Addendum Attached)**

Date: August 25, 2022

**AGREEMENT**

**1. AGREEMENT.** Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

**2. PARTIES AND PROPERTY.**

**2.1. Buyer.** The Town of Mountain Village, a home rule municipality of the State of Colorado (Buyer) will take title to the Property described below as  **Joint Tenants**  **Tenants In Common**  **Other Severalty** \_\_\_\_\_.

**2.2. No Assignability.** This Contract **IS NOT** assignable by Buyer unless otherwise specified in **Additional Provisions**.

**2.3. Seller.** Alexander Ranch, LLLP, a Colorado limited liability limited partnership and the Alexander Trust Dated June 25, 2014 (see Addendum) (collectively, Seller) is the current owner of the Property described below.

**2.4. Property.** The Property is the following legally described real estate in the County of San Miguel, Colorado, which shall be more particularly described in the survey and Title Commitment:

**As defined in the Addendum**, known as TBD Highway 145, Telluride, CO 81430 (the Property).

**2.5. Inclusions.** The Purchase Price includes the following items (Inclusions):

**2.5.1. Inclusions. The following items, whether fixture or personal property, are included in the Purchase Price unless excluded under Exclusions: None.**

If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

**2.5.2. Encumbered Inclusions.** Any Inclusions owned by Seller (i.e., owned solar panels) must be conveyed at Closing by Seller free and clear of all taxes (except personal property and general real estate taxes for the year of Closing), liens and encumbrances, except: None.

**2.5.3. Personal Property Conveyance.** Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

**2.5.4. Leased Items.** The following personal property is currently leased to Seller which will be transferred to Buyer at Closing (Leased Items): None.

**2.6. Exclusions.** The following items are excluded (Exclusions): None.

**2.7. Water Rights, Well Rights, Water and Sewer Taps.** See Addendum.

**2.8. Growing Crops.** Intentionally omitted.

**3. DATES, DEADLINES AND APPLICABILITY.**

**3.1. Dates and Deadlines.**

| Item No. | Reference | Event                                       | Date or Deadline          |
|----------|-----------|---|---------------------------|
| 1        | § 3       | Time of Day Deadline                        | 8:00 p.m. Mountain Time   |
| 2        | § 4       | Alternative Earnest Money Deadline          | 3 business days after MEC |
|          |           | <b>Title</b>                                |                           |
| 3        | § 8       | Record Title Deadline (and Tax Certificate) | 15 days after MEC         |
| 4        | § 8       | Record Title Objection Deadline             | See Addendum              |

|    |      |  |                          |
|----|------|--|--------------------------|
| 5  | § 8  | Off-Record Title Deadline  | See Addendum             |
| 6  | § 8  | Off-Record Title Objection Deadline                                      | See Addendum             |
| 7  | § 8  | Title Resolution Deadline  | See Addendum             |
| 8  | § 8  | Third Party Right to Purchase/Approve Deadline                           | N/A                      |
|    |      | <b>Owners' Association</b>   |                          |
| 9  | § 7  | Association Documents Deadline   | N/A                      |
| 10 | § 7  | Association Documents Termination Deadline                               | N/A                      |
|    |      | <b>Seller's Disclosures</b>  |                          |
| 11 | § 10 | Seller's Property Disclosure Deadline                                    | 10 Days after MEC        |
| 12 | § 10 | Lead-Based Paint Disclosure Deadline (if Residential Addendum attached)  | N/A                      |
|    |      | <b>Loan and Credit</b>   |                          |
| 13 | § 5  | New Loan Application Deadline  | N/A                      |
| 14 | § 5  | New Loan Terms Deadline  | N/A                      |
| 15 | § 5  | New Loan Availability Deadline   | N/A                      |
| 16 | § 5  | Buyer's Credit Information Deadline                                      | N/A                      |
| 17 | § 5  | Disapproval of Buyer's Credit Information Deadline                       | N/A                      |
| 18 | § 5  | Existing Loan Deadline   | N/A                      |
| 19 | § 5  | Existing Loan Termination Deadline                                       | N/A                      |
| 20 | § 5  | Loan Transfer Approval Deadline  | N/A                      |
| 21 | § 4  | Seller or Private Financing Deadline                                     | N/A                      |
|    |      | <b>Appraisal</b>   |                          |
| 22 | § 6  | Appraisal Deadline   | N/A                      |
| 23 | § 6  | Appraisal Objection Deadline   | N/A                      |
| 24 | § 6  | Appraisal Resolution Deadline  | N/A                      |
|    |      | <b>Survey</b>  |                          |
| 25 | § 9  | New ILC or New Survey Deadline   | 45 Days after MEC        |
| 26 | § 9  | New ILC or New Survey Objection Deadline                                 | See Addendum             |
| 27 | § 9  | New ILC or New Survey Resolution Deadline                                | See Addendum             |
|    |      | <b>Inspection and Due Diligence</b>                                      |                          |
| 28 | § 2  | Water Rights Examination Deadline  | See Addendum             |
| 29 | § 8  | Mineral Rights Examination Deadline                                      | See Addendum             |
| 30 | § 10 | Inspection Termination Deadline  | See Addendum             |
| 31 | § 10 | Inspection Objection Deadline  | See Addendum             |
| 32 | § 10 | Inspection Resolution Deadline   | See Addendum             |
| 33 | § 10 | Property Insurance Termination Deadline                                  | See Addendum             |
| 34 | § 10 | Due Diligence Documents Delivery Deadline                                | See Addendum             |
| 35 | § 10 | Due Diligence Documents Objection Deadline                               | See Addendum             |
| 36 | § 10 | Due Diligence Documents Resolution Deadline                              | See Addendum             |
| 37 | § 10 | Environmental Inspection Termination Deadline                            | See Addendum             |
| 38 | § 10 | ADA Evaluation Termination Deadline                                      | N/A                      |
| 39 | § 10 | Conditional Sale Deadline  | N/A                      |
| 40 | § 10 | Lead-Based Paint Termination Deadline (if Residential Addendum attached) | N/A                      |
| 41 | § 11 | Estoppel Statements Deadline   | N/A                      |
| 42 | § 11 | Estoppel Statements Termination Deadline                                 | N/A                      |
|    |      | <b>Closing and Possession</b>  |                          |
| 43 | § 12 | Closing Date   | See Addendum             |
| 44 | § 17 | Possession Date  | At Closing               |
| 45 | § 17 | Possession Time  | At Closing               |
| 46 | § 27 | <b>Acceptance Deadline Date</b>  | August 31, 2022          |
| 47 | § 27 | <b>Acceptance Deadline Time</b>  | 11:59 p.m. Mountain Time |

47 3.2. **Applicability of Terms.** If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or completed with "N/A",  
48 or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. Any box

49 checked in this Contract means the corresponding provision applies. If no box is checked in a provision that contains a selection of  
50 "None", such provision means that "None" applies.

51 The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract. The  
52 abbreviation "N/A" as used in this Contract means not applicable.

53 **3.3. Day; Computation of Period of Days; Deadlines.**

54 **3.3.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States  
55 Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of Day Deadline** is specified in § 3.1.  
56 (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines, Examination Deadlines, and Termination Deadlines will end  
57 on the specified deadline date at the time of day specified in the **Time of Day Deadline**, United States Mountain Time. If **Time of**  
58 **Day Deadline** is left blank or "N/A" the deadlines will expire at 11:59 p.m., United States Mountain Time.

59 **3.3.2. Computation of Period of Days.** In computing a period of days (e.g., three days after MEC), when the  
60 ending date is not specified, the first day is excluded and the last day is included.

61 **3.3.3. Deadlines.** If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such  
62 deadline  **Will**  **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked,  
63 the deadline will not be extended.

64 **4. PURCHASE PRICE AND TERMS.**

65 **4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

| Item No. | Reference | Item               | Amount          | Amount          |
|----------|-----------|--------------------|-----------------|-----------------|
| 1        | § 4.1.    | Purchase Price     | \$ 7,500,000.00 |                 |
| 2        | § 4.3.    | Earnest Money      |                 | \$ 375,000.00   |
| 3        | § 4.5.    | New Loan           |                 | \$ N/A          |
| 4        | § 4.6.    | Assumption Balance |                 | \$ N/A          |
| 5        | § 4.7.    | Private Financing  |                 | \$ N/A          |
| 6        | § 4.7.    | Seller Financing   |                 | \$ N/A          |
| 7        |           |                    |                 |                 |
| 8        |           |                    |                 |                 |
| 9        | § 4.4.    | Cash at Closing    |                 | \$ 7,125,000.00 |
| 10       |           | <b>TOTAL</b>       | \$              | \$ 7,500,000.00 |

66 **4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$0 (Seller Concession). The Seller Concession may be used  
67 for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing  
68 Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are  
69 not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge,  
70 expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this  
71 Contract.

72 **4.3. Earnest Money.** The Earnest Money set forth in this Section, in the form of a wire transfer or other good funds, will  
73 be payable to and held by Land Title Guarantee Company – Telluride (Earnest Money Holder), in its trust account, on behalf of both  
74 Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an  
75 **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company  
76 conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have  
77 interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado  
78 residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest  
79 Money Holder in this transaction will be transferred to such fund.

80 **4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the  
81 time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

82 **4.3.2. Disposition of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled  
83 to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 24 and, except as provided  
84 in § 23 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate,  
85 Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release  
86 form), within three days of Seller's receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in § 23  
87 (Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an Earnest Money Release  
88 form, Buyer agrees to execute and return to Seller or Broker working with Seller, written mutual instructions (e.g., Earnest Money  
89 Release form), within three days of Buyer's receipt.

90 **4.3.2.1. Seller Failure to Timely Return Earnest Money.** If Seller fails to timely execute and return the  
91 Earnest Money Release Form, or other written mutual instructions, Seller is in default and liable to Buyer as set forth in **"If Seller**  
92 **is in Default"**, § 20.2. and § 21, unless Seller is entitled to the Earnest Money due to a Buyer default.



93 **4.3.2.2. Buyer Failure to Timely Release Earnest Money.** If Buyer fails to timely execute and return the  
94 Earnest Money Release Form, or other written mutual instructions, Buyer is in default and liable to Seller as set forth in **"If Buyer**  
95 **is in Default, § 20.1. and § 21.** unless Buyer is entitled to the Earnest Money due to a Seller Default.

96 **4.4. Form of Funds; Time of Payment; Available Funds.**

97 **4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing  
98 and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified  
99 check, savings and loan teller's check and cashier's check (Good Funds).

100 **4.4.2. Time of Payment.** All funds, including the Purchase Price to be paid by Buyer, must be paid before or at  
101 Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH**  
102 **NONPAYING PARTY WILL BE IN DEFAULT.**

103 **4.4.3. Available Funds.** Buyer represents that Buyer, as of the date of this Contract,  **Does**  **Does Not** have  
104 funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

105 **4.5. New Loan.** Intentionally omitted.

106 **4.6. Assumption.** Intentionally omitted.

107 **4.7. Seller or Private Financing.** Intentionally omitted.

108 

|                               |
|-------------------------------|
| <b>TRANSACTION PROVISIONS</b> |
|-------------------------------|

109 **5. FINANCING CONDITIONS AND OBLIGATIONS.** Intentionally omitted.

110 **6. APPRAISAL PROVISIONS.** Intentionally omitted.

111 **7. OWNERS' ASSOCIATIONS. OWNERS' ASSOCIATIONS.** Intentionally omitted.

112 **8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**

113 **8.1. Evidence of Record Title.**

114  **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance  
115 company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish  
116 to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price,  
117 or if this box is checked,  an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be issued  
118 and delivered to Buyer as soon as practicable at or after Closing.

119  **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance  
120 company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to  
121 Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.  
122 If neither box in § 8.1.1. or § 8.1.2. is checked, § 8.1.1. applies.

123 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment  **Will**  **Will Not** contain Owner's  
124 Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions  
125 which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap  
126 period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes,  
127 assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by  
128  **Buyer**  **Seller**  **One-Half by Buyer and One-Half by Seller**  **Other** \_\_\_\_\_.  
129 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over  
130 any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New I.L.C. defined below,  
131 among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under  
132 § 8.7. (Right to Object to Title, Resolution).

133 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations, covenants,  
134 conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such  
135 documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title  
136 Documents).

137 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**, copies of all Title  
138 Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county  
139 where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the  
140 party or parties obligated to pay for the owner's title insurance policy.

141 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any  
142 portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

143 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the  
144 Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's  
145 objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or

146 any other unsatisfactory title condition, in Buyer's sole subjective discretion, if the Abstract of Title, Title Commitment or Title  
147 Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment  
148 that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to  
149 Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any  
150 required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents,  
151 or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection,  
152 pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object  
153 to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1.  
154 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable  
155 deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title  
156 Documents as satisfactory.

157 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing  
158 surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without  
159 limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which  
160 Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New  
161 ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown  
162 by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of  
163 Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2.  
164 (Record Title) and § 13 (Transfer of Title), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record**  
165 **Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the  
166 earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice  
167 to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the  
168 provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice  
169 of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if  
170 any, of third parties not shown by public records of which Buyer has actual knowledge.

171 **8.4. Special Taxing Districts.** **SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION**  
172 **INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE**  
173 **PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK**  
174 **FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE**  
175 **CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH**  
176 **INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE**  
177 **SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY**  
178 **TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING**  
179 **FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND**  
180 **RECORDER, OR THE COUNTY ASSESSOR.**

181 **8.5. Tax Certificate.** A tax certificate paid for by  **Seller**  **Buyer**, for the Property listing any special taxing districts  
182 that affect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located  
183 within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may  
184 terminate, on or before **Record Title Objection Deadline**. Should Buyer receive the Tax Certificate after **Record Title Deadline**,  
185 Buyer, at Buyer's option, has the Right to Terminate under § 24.1, by Buyer's Notice to Terminate received by Seller on or before  
186 ten days after Buyer's receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate  
187 would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on  
188 or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Tax  
189 Certificate and the inclusion of the Property in a special taxing district, if applicable, as satisfactory and Buyer waives any Right to  
190 Terminate under this provision. If Buyer's loan specified in §4.5.3. (Loan Limitations) prohibits Buyer from paying for the Tax  
191 Certificate, the Tax Certificate will be paid for by Seller.

192 **8.6. Third Party Right to Purchase/Approve.** Intentionally omitted.

193 **8.7. Right to Object to Title, Resolution.** Buyer has a right to object or terminate, in Buyer's sole subjective discretion,  
194 based on any title matters including those matters set forth in § 8.2. (Record Title), § 8.3. (Off-Record Title), § 8.5. (Special Taxing  
195 District) and § 13 (Transfer of Title). If Buyer exercises Buyer's rights to object or terminate based on any such title matter, on or  
196 before the applicable deadline, Buyer has the following options:

197 **8.7.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice of  
198 Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or  
199 before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives  
200 Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and  
201 waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title  
202 Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3. (Off-Record Title) the  
203 Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the  
204 applicable documents; or

205 **8.7.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 24.1., on or before  
206 the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

207 **8.8. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed  
208 carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property,  
209 including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations,  
210 unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various  
211 laws and governmental regulations concerning land use, development and environmental matters.

212 **8.8.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**  
213 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND TRANSFER OF**  
214 **THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR WATER**  
215 **RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL**  
216 **ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM**  
217 **RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL,**  
218 **GAS OR WATER.**

219 **8.8.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO**  
220 **ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A**  
221 **MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND**  
222 **RECORDER.**

223 **8.8.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT**  
224 **TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION**  
225 **OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING**  
226 **OF CURRENT WELLS AND GAS GATHERING AND PROCESSING FACILITIES.**

227 **8.8.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL**  
228 **INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING**  
229 **DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL**  
230 **AND GAS CONSERVATION COMMISSION.**

231 **8.8.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be excepted, excluded from, or  
232 not covered by the owner's title insurance policy.

233 **8.9. Mineral Rights Review.** Buyer  **Does**  **Does Not** have a Right to Terminate if examination of the Mineral Rights  
234 is unsatisfactory to Buyer on or before the **Mineral Rights Examination Deadline**.

235 **9. NEW ILC, NEW SURVEY.**

236 **9.1. New ILC or New Survey.** If the box is checked, (1)  **New Improvement Location Certificate (New ILC)**; or, (2)  
237  **New Survey** in the form of **an Improvement Survey Plat**; is required and the following will apply:

238 **9.1.1. Ordering of New ILC or New Survey.**  **Seller**  **Buyer** will order the New ILC or New Survey. The  
239 New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a date  
240 after the date of this Contract.

241 **9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on or before  
242 Closing, by:  **Seller**  **Buyer** or:

243 **9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or the provider of  
244 the opinion of title if an Abstract of Title), Seller's attorney, and Buyer's attorney will receive a New ILC or New Survey on or  
245 before **New ILC or New Survey Deadline**.

246 **9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by the surveyor to  
247 all those who are to receive the New ILC or New Survey.

248 **9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a New ILC or New  
249 Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New**  
250 **Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to  
251 Seller incurring any cost for the same.

252 **9.3. New ILC or New Survey Objection.** Buyer has the right to review and object based on the New ILC or New Survey.  
253 If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion,  
254 Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3, or § 13:

255 **9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

256 **9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that was to be  
257 shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

258 **9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received by Seller, on or  
259 before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on  
260 or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey**  
261 **Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the New ILC or New Survey Objection before such  
262 termination (i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**).

## DISCLOSURE, INSPECTION AND DUE DILIGENCE

261 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND SOURCE OF**  
 265 **WATER.**

266 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer  
 267 the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller  
 268 to Seller's actual knowledge and current as of the date of this Contract.

269 **10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller must disclose to Buyer  
 270 any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material  
 271 facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely  
 272 disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing  
 273 or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that  
 274 Seller is conveying the Property to Buyer in an "As Is" condition. "Where Is" and "With All Faults."

275 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections  
 276 (by one or more third parties, personally or both) of the Property, Leased Items, and Inclusions (Inspection), at Buyer's expense. If  
 277 (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the  
 278 electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions and Leased  
 279 Items, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g.,  
 280 heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or  
 281 noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's  
 282 sole subjective discretion, Buyer may:

283 **10.3.1. Inspection Termination.** On or before the **Inspection Termination Deadline**, notify Seller in writing,  
 284 pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition, provided the Buyer did not previously deliver  
 285 an Inspection Objection. Buyer's Right to Terminate under this provision expires upon delivery of an Inspection Objection to Seller  
 286 pursuant to § 10.3.2.; or

287 **10.3.2. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to Seller a written  
 288 description of any unsatisfactory condition that Buyer requires Seller to correct.

289 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection**  
 290 **Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**,  
 291 this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection  
 292 Objection before such termination (i.e., on or before expiration of **Inspection Resolution Deadline**). Nothing in this provision  
 293 prohibits the Buyer and the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by  
 294 executing an Earnest Money Release.

295 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement  
 296 between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at  
 297 Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer  
 298 must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify,  
 299 protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such  
 300 Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against  
 301 any such liability, damage, cost or expense, or to enforce this Section, including Seller's reasonable attorney fees, legal fees and  
 302 expenses. The provisions of this Section survive the termination of this Contract. This § 10.4. does not apply to items performed  
 303 pursuant to an Inspection Resolution.

304 **10.5. Insurability.** Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance Termination**  
 305 **Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and premium for property insurance  
 306 (Property Insurance) on the Property, in Buyer's sole subjective discretion.

307 **10.6. Due Diligence.**

308 **10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information  
 309 pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery**  
 310 **Deadline**:

311 **10.6.1.1. Occupancy Agreements.** All current leases, including agricultural, mineral, and oil and gas leases  
 312 and any amendments thereto or other occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements  
 313 pertaining to the Property that survive Closing are as follows (Leases): \_\_\_\_\_.

314 **10.6.1.2. Leased Items Documents.** Intentionally omitted.

315 **10.6.1.3. Encumbered Inclusions Documents.** Intentionally omitted.

318

319 **10.6.1.4. Other Documents.** If the respective box is checked, Seller agrees to additionally deliver copies  
 320 of the following:  
 321  **10.6.1.4.1.** All contracts relating to the operation, maintenance and management of the  
 322 Property;  
 323  **10.6.1.4.2.** Property tax bills for the last 2 years;  
 324  **10.6.1.4.3.** As-built construction plans to the Property and the tenant improvements, including  
 325 architectural, electrical, mechanical and structural systems; engineering reports; and permanent Certificates of Occupancy, to the  
 326 extent now available;  
 327  **10.6.1.4.4.** A list of all Inclusions to be conveyed to Buyer;  
 328  **10.6.1.4.5.** Operating statements for the past \_\_\_\_\_ years;  
 329  **10.6.1.4.6.** A rent roll accurate and correct to the date of this Contract;  
 330  **10.6.1.4.7.** A schedule of any tenant improvement work Seller is obligated to complete but  
 331 has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;  
 332  **10.6.1.4.8.** All insurance policies pertaining to the Property and copies of any claims which  
 333 have been made for the past \_\_\_\_ years;  
 334  **10.6.1.4.9.** Soils reports, geotechnical reports, inspection reports, surveys and engineering  
 335 reports or data pertaining to the Property (if not delivered earlier under § 8.3.);  
 336  **10.6.1.4.10.** Any and all existing documentation and reports regarding Phase I and II  
 337 environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos,  
 338 PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no  
 339 reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to  
 340 Seller;  
 341  **10.6.1.4.11.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the  
 342 compliance of the Property with said Act;  
 343  **10.6.1.4.12.** All permits, licenses and other building or use authorizations issued by any  
 344 governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use  
 345 authorizations, if any; and  
 346  **10.6.1.4.13.** Other: topographical maps, aerial photographs, and any appraisals of the Property;  
 347 a copy of the most valuation notice for the Property and documents pertaining to the most recent tax appeal for the Property; any  
 348 plans or drawings for the Property; and description of all water rights appurtenant to the Property and copies of all decrees, orders  
 349 diversion records, water court applications, well permit documents, and any other documents related to any water right or well permit  
 350 appurtenant to the Property.

351  
 352 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object based on the Due  
 353 Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory, in Buyer's sole subjective  
 354 discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

355 **10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated;  
 356 or

357 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any  
 358 unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

359 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received by  
 360 Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement  
 361 thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents**  
 362 **Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such  
 363 termination (i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**).

364 **10.6.3. Zoning.** Buyer has the Right to Terminate under § 24.1., on or before **Due Diligence Documents Objection**  
 365 **Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over  
 366 the Property, in Buyer's sole subjective discretion.

367 **10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental inspections of the  
 368 Property including Phase I and Phase II Environmental Site Assessments, as applicable.  Seller  Buyer will order or provide  
 369 **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the  
 370 applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or \_\_\_\_\_  
 371 at the expense of  Seller  Buyer (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an  
 372 evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and  
 373 evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's  
 374 tenants' business uses of the Property, if any.

375 If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental**  
 376 **Inspection Termination Deadline** will be extended by \_\_\_\_\_ days (Extended Environmental Inspection  
 377 **Objection Deadline**) and if such Extended Environmental Inspection **Objection Deadline** extends beyond the **Closing Date**, the

378 **Closing Date** will be extended a like period of time. In such event,  **Seller**  **Buyer** must pay the cost for such Phase II  
379 Environmental Site Assessment.

380 Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4., Buyer has the  
381 Right to Terminate under § 24.1., on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended  
382 Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole  
383 subjective discretion.

384 Buyer has the Right to Terminate under § 24.1., on or before **ADA Evaluation Termination Deadline**, based on any  
385 unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

386 **10.7. Conditional Upon Sale of Property.** *Intentionally omitted.*

387 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer  **Does**  **Does Not**  
388 acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for  
389 the Property.  There is **No Well**. Buyer  **Does**  **Does Not** acknowledge receipt of a copy of the current well permit.

390 **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND**  
391 **WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO**  
392 **DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

393 **10.9. Existing Leases; Modification of Existing Leases; New Leases.** *Intentionally omitted.*

394 **10.10. Lead-Based Paint.** *[Intentionally Deleted - See Residential Addendum if applicable]*

395 **10.11. Carbon Monoxide Alarms.** *[Intentionally Deleted - See Residential Addendum if applicable]*

396 **10.12. Methamphetamine Disclosure.** *[Intentionally Deleted - See Residential Addendum if applicable]*

397 **11. TENANT ESTOPPEL STATEMENTS.** *Intentionally omitted.*

398

399 

|                           |
|---------------------------|
| <b>CLOSING PROVISIONS</b> |
|---------------------------|

400 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

401 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing Company to enable  
402 the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If Buyer is  
403 obtaining a loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing Company, in a  
404 timely manner, all required loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any  
405 additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and  
406 Seller will sign and complete all customary or reasonably required documents at or before Closing.

407 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions  **Are**  **Are Not** executed with this  
408 Contract.

409 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as  
410 the **Closing Date** or by mutual agreement at an earlier date. At Closing, Seller agrees to deliver a set of keys for the Property to  
411 Buyer. The hour and place of Closing will be as designated by Buyer and Seller.

412 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of service vary between  
413 different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

414 **12.5. Assignment of Leases.** *Intentionally omitted.*

415 **13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender  
416 of any payment due at Closing, Seller must execute and deliver the following good and sufficient deed to Buyer, at Closing:  special  
417 warranty deed  general warranty deed  bargain and sale deed  quit claim deed  personal representative's deed   
418 \_\_\_\_\_ deed. Seller, provided another deed is not selected, must execute and deliver a good and sufficient  
419 special warranty deed to Buyer, at Closing.

420 Unless otherwise specified in § 29 (Additional Provisions), if title will be conveyed using a special warranty deed or a general  
421 warranty deed, title will be conveyed "subject to statutory exceptions" as defined in §38-30-113(5)(a), C.R.S.

422 **14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts owed on any liens  
423 or encumbrances securing a monetary sum against the Property and Inclusions, including any governmental liens for special  
424 improvements installed as of the date of Buyer's signature hereon, whether assessed or not, and previous years' taxes, will be paid  
425 at or before Closing by Seller from the proceeds of this transaction or from any other source.

426 **15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND**  
427 **WITHHOLDING.**

428 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required  
429 to be paid at Closing, except as otherwise provided herein.

430 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by  Buyer  Seller  **One-**  
431 **Half by Buyer and One-Half by Seller**  **Other** \_\_\_\_\_.

432 **15.3. Association Fees and Required Disbursements.** Intentionally omitted.

433 **15.4. Local Transfer Tax.** Any Local Transfer Tax must be paid at Closing by  Buyer  Seller  **One-Half by Buyer**  
434 **and One-Half by Seller**  **N/A.**

435 **15.5. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by   
436 **Buyer**  Seller  **One-Half by Buyer and One-Half by Seller**  **N/A.**

437 **15.6. Private Transfer Fee.** Any private transfer fees and other fees due to a transfer of the Property, payable at Closing,  
438 such as community association fees, developer fees and foundation fees, must be paid at Closing by  Buyer  Seller  
439  **One-Half by Buyer and One-Half by Seller**  **N/A.**

440 **15.7. Water Transfer Fees.** Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed  
441 \$ \_\_\_\_\_ for:

442  Water Stock/Certificates  Water District  
443  Augmentation Membership  Small Domestic Water Company  \_\_\_\_\_

444 and must be paid at Closing by  Buyer  Seller  **One-Half by Buyer and One-Half by Seller**  **N/A.**

445 **15.8. Utility Transfer Fees.** Utility transfer fees can change. Any fees to transfer utilities from Seller to Buyer must be  
446 paid by  Buyer  Seller  **One-Half by Buyer and One-Half by Seller**  **N/A.**

447 **15.9. FIRPTA and Colorado Withholding.**

448 **15.9.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be  
449 withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the  
450 amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller  **IS** a foreign  
451 person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign  
452 person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably  
453 requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to  
454 withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or  
455 if an exemption exists.

456 **15.9.2. Colorado Withholding.** The Colorado Department of Revenue may require a portion of the Seller's proceeds  
457 be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to  
458 cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding  
459 is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's  
460 tax advisor to determine if withholding applies or if an exemption exists.

## 461 **16. PRORATIONS AND ASSOCIATION ASSESSMENTS.**

462 **16.1. Prorations.** The following will be prorated to the **Closing Date**, except as otherwise provided:

463 **16.1.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes  
464 for the year of Closing, based on  **Taxes for the Calendar Year Immediately Preceding Closing**  **Most Recent Mill Levy**  
465 **and Most Recent Assessed Valuation.**  **Other** \_\_\_\_\_.

466 **16.1.2. Rents.** Intentionally omitted.

467 **16.1.3. Other Prorations.** None.

468 **16.1.4. Final Settlement.** Unless otherwise specified in Additional Provisions, these prorations are final.

469 **16.2. Association Assessments.** Intentionally omitted.

470 **17. POSSESSION.** Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date** at **Possession Time**,  
471 subject to the Leases as set forth in § 10.6.1.1.

472 If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally  
473 liable to Buyer, notwithstanding § 20.2, (If Seller is in Default), for payment of \$500 per day (or any part of a day notwithstanding  
474 § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered.

475

## GENERAL PROVISIONS

476 **18. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND**  
477 **WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the  
478 condition existing as of the date of this Contract, ordinary wear and tear excepted.

479 **18.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss  
480 prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the  
481 damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds,  
482 will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on  
483 or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect

484 to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were  
485 received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any  
486 deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received  
487 the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to  
488 Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's  
489 insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney  
490 requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such  
491 damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

492 **18.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services),  
493 system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date  
494 of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion  
495 or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or  
496 replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by  
497 Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before  
498 Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the  
499 option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must  
500 not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive  
501 Closing.

502 **18.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may  
503 result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation  
504 action, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's  
505 sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and  
506 Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value  
507 of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

508 **18.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the  
509 Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

510 **18.5. Home Warranty. [Intentionally Deleted]**

511 **18.6. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other casualty will be borne  
512 by the party entitled to the growing crops as provided in § 2.8, and such party is entitled to such insurance proceeds or benefits for  
513 the growing crops.

514 **19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that  
515 their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination  
516 of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal  
517 and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded  
518 in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be  
519 engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must  
520 be complied with.

521 **20. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract.  
522 This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored  
523 or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party  
524 has the following remedies:

525 **20.1. If Buyer is in Default:**

526  **20.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid  
527 by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the parties agree the  
528 amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat  
529 this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

530 **20.1.2. Liquidated Damages, Applicable.** This § 20.1.2. applies unless the box in § 20.1.1. is checked. Seller may  
531 cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that  
532 the Earnest Money amount specified in § 4.1. is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is  
533 fair and reasonable and (except as provided in §§ 10.4, and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to  
534 perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

535 **20.2. If Seller is in Default:**

536 **20.2.1. Specific Performance, Damages or Both.** Buyer may elect to treat this Contract as canceled, in which case  
537 all Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper.  
538 Alternatively, in addition to the per diem in § 17 (Possession) for failure of Seller to timely deliver possession of the Property after  
539 Closing occurs, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance  
540 or damages, or both.



542           **20.2.2. Seller's Failure to Perform.** In the event Seller fails to perform Seller's obligations under this Contract, to  
543 include, but not limited to, failure to timely disclose Association violations known by Seller, failure to perform any replacements or  
544 repairs required under this Contract or failure to timely disclose any known adverse material facts, Seller remains liable for any such  
545 failures to perform under this Contract after Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this  
546 Contract are reserved and survive Closing.

547 **21. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of any arbitration  
548 or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all  
549 reasonable costs and expenses, including attorney fees, legal fees and expenses.

550 **22. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties  
551 must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps  
552 to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is  
553 binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator  
554 and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire  
555 dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that  
556 party's last known address (physical or electronic as provided in § 26). Nothing in this Section prohibits either party from filing a  
557 lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This  
558 Section will not alter any date in this Contract, unless otherwise agreed.

559 **23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must release the Earnest  
560 Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding  
561 the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective  
562 discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest  
563 Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and  
564 legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of  
565 the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one  
566 hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest  
567 Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the time  
568 of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the  
569 obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

570 **24. TERMINATION.**

571 **24.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the  
572 termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written  
573 notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or  
574 before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory  
575 and waives the Right to Terminate under such provision.

576 **24.2. Effect of Termination.** In the event this Contract is terminated, and all Earnest Money received hereunder is timely  
577 returned to Buyer, the parties are relieved of all obligations hereunder, subject to §§ 10.4. and 21.

578 **25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and specified  
579 addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining  
580 thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms  
581 of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or  
582 obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same.  
583 Any successor to a party receives the predecessor's benefits and obligations of this Contract.

584 **26. NOTICE, DELIVERY AND CHOICE OF LAW.**

585 **26.1. Physical Delivery and Notice.** Any document or notice to Buyer or Seller must be in writing, except as provided in  
586 § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or  
587 notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing  
588 must be received by the party, not Broker or Brokerage Firm).

589 **26.2. Electronic Notice.** As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or  
590 Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker  
591 working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not  
592 Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or CTME.

593       **26.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at the email address  
594 of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the  
595 documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

596       **26.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with  
597 the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property  
598 located in Colorado.

599       **27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and  
600 Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 26 on or before  
601 **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and  
602 Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such  
603 copies taken together are deemed to be a full and complete contract between the parties.

604       **28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited  
605 to, exercising the rights and obligations set forth in the provisions of **Title Insurance, Record Title and Off-Record Title: New**  
606 **H.C, New Survey; and Property Disclosure, Inspection, Indemnity, Insurability, and Due Diligence.**

### ADDITIONAL PROVISIONS AND ATTACHMENTS

607  
608       **29. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate  
609 Commission.)

610  
611       **29.1. Ratification:** This Contract has been executed by the Town Manager of Buyer but is conditional upon ratification by  
612 the Town Council of Mountain Village at the next regular meeting of the Council that is scheduled to occur at least 48 hours  
613 after MEC. Should the Town Council fail to ratify the Contract, then it shall be null and void and any Earnest Money  
614 tendered by Buyer shall be fully refunded to Buyer.

615  
616       **29.2. Addendum.** The Addendum is incorporated herein by this reference. The provisions in the Addendum shall supersede  
617 and replace any inconsistent provisions of any section of this Contract.

618  
619       **29.3 1031 Exchange.** The Parties shall cooperate with each other should Seller elect to pursue a 1031 exchange,  
620 provided that the Buyer is not required to incur liability for participating in the exchange and closing is not otherwise  
621 delayed.

622  
623       **29.4 Brokers.** Buyer is not currently represented by a broker with respect to this transaction. Seller is represented by Jim  
624 Lucarelli. Each party shall be responsible for payment of any commissions of their respective brokers due as a result of this  
625 transaction. Each party agrees, to the extent permitted by law, to indemnify and defend the other against any amounts  
626 claimed by any other agents or brokers claiming through such indemnifying party. This indemnity will survive Closing or  
627 any termination of this Contract.

628  
629       **29.5 Notice.** As provided in Section 26 hereof, any document or notice to Buyer shall be directed to Paul Wisor, Town  
630 Manager, at [pwisor@mtmvillage.org](mailto:pwisor@mtmvillage.org), and Michelle Haynes, Planning Director, at [mhaynes@mtmvillage.org](mailto:mhaynes@mtmvillage.org).

631  
632       **29.7 TABOR:** Since Buyer is a municipality subject to Colorado's Taxpayer Bill of Rights, the Parties hereto agree that  
633 Section 10.4 shall be replaced to read as follows:

634  
635       Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for  
636 payment of all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request (Work)  
637 and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer must not permit  
638 claims or liens of any kind against the Property for Work performed on the Property. To the extent permitted by law,  
639 Buyer agrees to indemnify, protect, and hold Seller harmless from and against any liability, damage, cost or expense  
640 incurred by Seller and caused by any such Work, claim, or lien; provided, however, any claims made pursuant to this  
641 provision are limited to actual damages and that are asserted within the 2022 fiscal year or the 2023 fiscal year if closing  
642 under the Contract occurs in 2023. This indemnity includes Seller's right to recover all costs and expenses incurred by  
643 Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including Seller's  
644 reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the termination of this  
645 Contract. This § 10.4. does not apply to items performed pursuant to an Inspection Resolution.

646

647 The foregoing notwithstanding, as a condition to either closing or the release of any earnest money to Buyer should the  
648 Contract be properly terminated by either Buyer or Seller, Buyer shall provide reasonably acceptable evidence to Seller that  
649 all fees, costs and expenses for any work done on the Property at the direction or request of Buyer have been fully paid and  
650 copies of full and final executed lien waivers and releases have been obtained from each consultant or contractor have been  
651 provided to Seller. If required by the title company for Closing, Buyer will execute and deliver its indemnity, subject to  
652 applicable law, to the Title Company and Seller (in a form required by the title company) certifying the status of work or  
653 services it caused to be performed which could give rise to a lien. Buyer will provide to Seller budget resolutions for 2022  
654 and 2023 confirming that Buyer has appropriated (2022) or will appropriate (2023) sufficient funds to fully cover the cost  
655 of Buyer's proposed Work. If Buyer fails to appropriate such funds for 2023 by the deadline required under Colorado law,  
656 Seller may terminate the Contract.

657 **30. OTHER DOCUMENTS.**

658 **30.1. Documents Part of Contract.** The following documents are a part of this Contract: Addendum to Contract to Buy  
659 and Sell Real Estate (Vacant Land) and its exhibits (the Addendum).

660  
661  
662 **30.2. Documents Not Part of Contract.** The following documents have been provided but are **not** a part of this Contract:  
663 None.

664 **SIGNATURES**

665 Buyer's Name: Town of Mountain Village Buyer's Name: \_\_\_\_\_  
  
*Paul Wisor* 8/25/2022  
Buyer's Signature Date Buyer's Signature Date  
Address: 55 Mountain Village Blvd., Suite A Address: \_\_\_\_\_  
Mountain Village, CO 81435  
Phone No.: 970-728-8000 Phone No.: \_\_\_\_\_  
Email Address: pwisor@mtnvillage.org Email Address: \_\_\_\_\_

666 [NOTE: If this offer is being countered or rejected, do not sign this document.]

Seller's Name: Alexander Ranch, LLLP Seller's Name: Alexander Trust Dated June 25, 2014  
*Karen Alexander*  
*Dave Alexander* 8/29/22 *Kirk Alexander*  
Seller's Signature Date Seller's Signature Date  
*Larry Alexander* 8/29/22  
Address: P.O. Box 829 Address: P.O. Box 829  
Norwood, CO 81423 Norwood, CO 81423  
Phone No.: 970-596-8895 Phone No.: 970-596-8895  
Fax No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_  
Email Address: davealexander@montrose.net Email Address: davealexander@montrose.net

667 **END OF CONTRACT TO BUY AND SELL REAL ESTATE**

668

**ADDENDUM TO  
CONTRACT TO BUY AND SELL REAL ESTATE (VACANT LAND)**

THIS ADDENDUM TO CONTRACT TO BUY AND SELL REAL ESTATE (VACANT LAND) (“**Addendum**”) is entered into by and between The Town of Mountain Village, a home rule municipality of the State of Colorado (“**Buyer**”) and Alexander Ranch LLLP, a Colorado limited liability limited partnership, and the Alexander Trust Dated June 25, 2014 (collectively, “**Seller**”) as part of that certain Contract to Buy and Sell Real Estate (Vacant Land) dated August 25, 2022 (the “**Contract**”) between Seller and Buyer. Any capitalized terms not defined herein shall have the meaning given to them in the Contract.

1. **The Property.** Seller is the owner of certain real property located in unincorporated San Miguel County comprising four mining claims described on Exhibit A and as generally depicted on Exhibit B (collectively, the “**Existing Parcel**”). The property to be conveyed to Buyer is an approximately 56.5-acre portion of the Existing Parcel described and depicted on Exhibit B, together with the interests, mineral and other subsurface rights, easements, rights, benefits, improvements, and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as may be excluded in the Contract (the “**Conveyed Parcel**” or the “**Property**”), the boundaries and legal description of which will be agreed upon by Buyer and Seller prior to submission of an application for Subdivision Approval. That portion of the Existing Parcel not conveyed to Buyer, including, but not limited to, the existing gravel pit and surrounding area, together with the interests, mineral and other subsurface rights, easements, rights, benefits, improvements, and attached fixtures appurtenant thereto will be retained by Seller (the “**Retained Parcel**”). While the legal description of the Conveyed Parcel and the Retained Parcel in this Contract may not be complete or accurate, this Contract shall nevertheless be valid and enforceable, and the legal description shall be completed or corrected to meet the requirements of the title company that has, or will, issue the title commitment; provided, however, that in all events, the boundaries and configuration of the Conveyed Parcel and the Retained Parcel and the associated legal description are subject to the mutual approval of the Seller and Buyer and if not mutually agreeable to each Party, either Party may terminate the Contract and, in such event, the Earnest Money shall be returned to Buyer.

2. **Study Period.**

A. Buyer shall have until 5:00 p.m. Mountain Time on the date that is 90 days from MEC (the “**Study Period**”) to: (A) evaluate the title conditions, requirements and exceptions in the Title Commitment, survey matters, off record matters, leaseholds, any improvements, and zoning, subdivision, annexation, and land use issues concerning the Property; (B) inspect the physical conditions affecting the Property; (C) secure any necessary funding or financing for the purchase of the Property, if required by Buyer; (D) evaluate any all other conditions affecting or concerning the Property deemed relevant to Buyer; and (E) resolve any objections regarding any of the foregoing with Seller (the “**Study Matters**”). Except as provided in Paragraph 5 and subject to section 29.6 of the Contract, all of Buyer’s investigations shall be undertaken at Buyer’s cost and expense. Buyer and its agents and consultants shall have the right to enter upon the Property during the Study Period for the purpose of investigating the suitability of the site for Buyer’s intended uses at a day and time that is mutually convenient to the Parties.

B. In the event Buyer has not terminated the Contract during the Study Period, Buyer may, at Buyer’s option, extend the Study Period for one (1) additional sixty (60) day period (the “**First Extension Period**”) by notifying Seller in writing of its intent to do so on or before the last day of the Study Period. At the commencement of the First Extension Period, \$100,000 of the Earnest Money shall become, at that time, nonrefundable (except in the event of a default by Seller) and shall be released to Seller but fully applicable to the Purchase Price at Closing.

C. In the event Buyer has not terminated the Contract during the First Extension Period, Buyer may, at Buyer’s option, extend the Inspection Period for one (1) additional sixty (60) day

period (the “**Second Extension Period**”) by notifying Seller in writing of its intent to do so on or before the last day of the First Extension Period. At the commencement of the Second Extension Period, an additional \$100,000 of the Earnest Money shall become, at that time, non-refundable (except in the event of a default by Seller) and shall be released to Seller but shall be fully applicable to the Purchase Price at Closing.

D. Buyer shall have the right to terminate this Contract for any reason in Buyer’s sole discretion by written notice delivered to Seller before the end of the Study Period, First Extension Period, or Second Extension Period. In that event, the Contract shall terminate and the Earnest Money, plus interest, shall be returned to Buyer subject to and not including the released earnest money paid to Seller in connection with the provision of the First Extension Period, or Second Extension Period provided for above, and both parties shall be relieved of any further obligations hereunder except those that expressly survive termination. In the event Buyer has not terminated the Contract on or before the last day of the Study Period or any extension period, as applicable, all remaining Earnest Money shall become non-refundable, except in the event of a default by Seller, and be fully applicable to the Purchase Price.

E. In the event Buyer terminates the Contract, Buyer agrees to provide copies to Seller of all reports, studies, data, engineering and surveyor work product, and other information generated by Buyer or its consultants regarding the Property (collectively, “**Buyer’s Reports**”); provided that Seller first reimburses Buyer for 50% of the actual costs incurred by Buyer to obtain the Buyer Reports.

3. **Due Diligence Documents.** Seller will provide copies Buyer copies of the Due Diligence Documents indicated in the Contract, to the extent such documents and materials exist and are in the reasonable possession and control of Seller.

4. **Survey.** Seller, at its expense, shall provide Buyer with three (3) copies of an improvement survey plat of the Property, including any access easements thereto prepared from an on-the-ground inspection by a surveyor registered in the State of Colorado, which surveyor shall, seasonal conditions permitting, appropriately locate, stake, and flag all boundary corners of the Property. This survey shall be prepared in accordance with requirements of C.R.S. §38-51-102(9). The survey shall contain a certification in form reasonably acceptable to Buyer benefiting Buyer, any lender designated by Buyer, and the company providing the title commitment.

Buyer may, at Buyer’s expense, contract with Seller’s surveyor to perform other work desired or required by Buyer.

5. **Subdivision/Land Use Approvals.**

A. Seller and Buyer acknowledge and agree that the closing of the sale of the Property and the transaction contemplated in the Contract is expressly contingent upon the successful subdivision or other lawful means resulting in the creation of the Conveyed Parcel and the Retained Parcel as separate parcels on those terms and conditions deemed acceptable to Seller and Buyer respectively in their sole discretions (the “**Subdivision Approval**”). Upon MEC, the parties shall cooperate in good faith to, as soon as practicable, specify the precise legal boundaries of the Conveyed Parcel and the Retained Parcel through the preparation of a parcel map of the Conveyed Parcel and the Retained Parcel by Seller’s surveyor. Thereafter, Seller, following consultation with and approval of Buyer, will prepare and submit a land use application to San Miguel County for a Lot Line Adjustment, Subdivision Exemption for Essential Community Facilities, and/or other agreeable application (the “**Subdivision Exemption Application**”). If necessary for the type of application to be submitted, the Subdivision Exemption Application may designate and describe the Conveyed Parcel as intended to be used and developed for essential governmental or community facilities, including employee housing, and provide that the Retained Parcel(s)

are approved and can continue to be used and developed for its historic or existing uses and such other uses allowed under its applicable zoning (“**Retained Parcel Allowable Uses**”). Buyer shall have the right to review and approve the Subdivision Exemption Application before it is submitted to the County. Seller and Buyer shall each be responsible for any respective terms and conditions imposed as a result of the Subdivision Exemption Application related to their respective development proposals, it being recognized that the Retained Parcel Allowable Uses are pre-existing, grandfathered uses and are not expected to result in conditions such as onsite or offsite infrastructure improvements.

B. After Closing, Buyer may elect to annex the Conveyed Parcel into the Town of Mountain Village and/or apply development restrictions on the Conveyed Parcel under its laws, codes, and regulations, which would be completed by Buyer without the need for any involvement from the Seller. Unless requested or otherwise consented to by Seller, the Retained Parcel will not be annexed into the Town of Mountain Village.

C. The Parties agree that the actions by the County with respect to the Subdivision Approval or other related reviews shall not: (a) result in any change to the Retained Parcel Allowable Uses, (b) result in changes to the size, location, or boundary of the Conveyed Parcel or Retained Parcel as agreed to by Buyer and Seller, (c) impose conditions, restrictions or requirements concerning Seller’s use of and access to the County Road adjacent to the Retained Parcel and/or the Highway #145 intersection, or (d) impose requirements for infrastructure improvements to accommodate the Retained Parcel Allowable Uses. If (1) such conditions will be imposed by the County as conditions of the Subdivision Approval and the same are not consented to by Seller, (2) conditions will be imposed on the Subdivision Approval affecting the Conveyed Parcel that are not acceptable to Buyer in Buyer’s sole subjective discretion, or (3) the County denies the Subdivision Approval, Buyer and Seller agree to meet and confer as soon as practical for up to thirty days or such longer period that the Parties may agree upon, to allow the parties to discuss other mutually acceptable governmental review processes, timelines, costs, and other relevant factors that would allow for the creation of the Conveyed Parcel and Retained Parcel and establish applicable zoning, land use, access and other infrastructure requirements for the respective parcels, which shall be on terms and conditions acceptable to both parties. If the parties are unable to reach such an agreement within said period, Buyer or Seller may terminate the Contract, and all Earnest Money deposited by Buyer will be returned to Buyer.

D. The parties agree that the obligation of Buyer and Seller to close on the Property is subject to obtaining a final, non-appealable Subdivision Approval from the applicable governmental entity and recording of the subdivision plat or other instrument creating the Conveyed Parcel and the Retained Parcel. The Closing Date shall occur within ten (10) business days of the later of the effective date of the Subdivision Approval, the end of the First Extension Period, or the end of the Second Extension Period, as applicable; provided that in no event shall the Closing Date extend beyond the date that is 9 months from MEC (“**Outside Closing Date**”), unless a later date is mutually agreed to in writing by both parties. If not agreed and closing does not occur, then the Contract shall terminate as of the Outside Closing Date and Buyer shall be entitled to a return of any remaining Earnest Money, provided that Buyer is not otherwise in default. The Subdivision Exemption Plat or other applicable instrument will be recorded simultaneously with a successful closing. The legal description of the Property in the Title Commitment shall be updated upon Subdivision Approval and recordation of the subdivision plat or other appropriate instrument. In the event Subdivision Approval is: (i) denied or granted with unacceptable conditions as provided above, (ii) not obtained by the Outside Closing Date or such other date agreed upon by the Parties, or (iii) issued by the County, but is then appealed by another party, Buyer or Seller may terminate this Contract within 5 business days of the effective date of the applicable County action or the appeal of the Subdivision Approval and, upon termination, Buyer shall be entitled to a return of all Earnest Money, provided that Buyer is not otherwise in default. The parties acknowledge that if a Subdivision Approval is

issued by the County, but is appealed by another party, the Seller is not obligated to pursue the appeal and could elect to withdraw the application for the Subdivision Approval.

E. All costs related to subdivision of the Existing Parcel, including all surveying costs and expenses, shall be split equally between Buyer and Seller, with Seller paying the costs up front and Buyer reimbursing Seller for its share upon the termination of the Contract or at Closing. If the application requires the provision of any consulting reports relating to Buyer's development of the Conveyed Property, such as a traffic report, Buyer shall retain and directly pay for such consultant reports in a timely manner. Any such reports relating to the Retained Parcel shall be coordinated and paid for directly by Seller. In the event the Contract is terminated and Buyer is entitled to a return of the Earnest Money, Buyer's share of the Subdivision Approval costs will be released to Seller, and the remainder of the Earnest Money will be released to Buyer.

6. **Water Rights.** Seller advises that there are not any water rights appurtenant to the Property that are being sold, transferred, and conveyed to Buyer pursuant to this Contract. Seller advises that it does own other water rights that Seller would be willing to sell to the Buyer for additional consideration. If requested by Buyer, Seller agrees that it will provide a description of such water rights it would be willing to sell to Buyer as well as all decrees, orders, diversion records, water court applications, well permit documents, and any other documents related to any water right or well permit appurtenant to the Property as part of the Due Diligence Documents. During the Study Period, Buyer may investigate and analyze the water rights documentation to determine whether or not Buyer desires to purchase all or a portion of the Seller's water rights it is willing to sell. Buyer will notify Seller of its election regarding the water rights on or before the end of the Study Period and, if Buyer elects to purchase all or a portion of the water rights, Buyer and Seller shall agree on the price of the same on or before the Inspection Resolution Deadline. If the parties are unable to agree on the price for the desired water rights Buyer, in Buyer's sole discretion, may elect to (1) terminate the Contract, in which case Buyer shall be entitled to a return of the Earnest Money, or (2) proceed with the purchase of the Property only without any water rights. Water rights will be conveyed to Buyer via bargain and sale deed.

7. **Cooperation.** Seller and Buyer agree to cooperate fully with respect to the Subdivision Approval. In this regard, Seller agrees to execute all necessary petitions, agreements, consents, applications, and all other documents reasonably required to obtain the Subdivision Approval, to pursue and present the Subdivision Exemption Application to the County, and to pursue any other matter reasonably related to the Subdivision Approval.

8. **Operations.** Seller agrees, through and including the Closing Date, and at the Seller's sole cost and expense, to (a) keep all existing insurance policies affecting the Property, or any portion thereof in full force and effect; (b) provide all services and continue to operate, manage, and maintain the Property in such condition so that the Property will be in the same condition on the Closing Date as on the date of the Contract; (c) keep Buyer timely advised of any repair or improvement required to keep the Property in a safe and orderly condition; and (d) complete any such repairs or improvements in a timely fashion prior to Closing.

9. **Seller Warranties.** Seller represents and warrants as of the date of the Contract and as of the Closing Date that the following facts and circumstances are true and correct to the actual, reasonable knowledge and belief of Seller, without any duty to further investigate the matter:

A. This Contract constitutes a legal and binding agreement of the Seller enforceable in accordance with its terms and that there exists no restriction on the right of Seller to transfer, sell, convey and assign the Property except as provided herein.

B. Except as may be disclosed in writing to Buyer, Seller has received no notice of, and has no knowledge of any pending or threatened litigation, proceeding, or investigation by any governmental authority or any other person against or otherwise affecting the Property, nor does Seller know of any grounds for any such litigation, proceeding, or investigation.

C. Seller has received no notice of any condemnation proceedings or any special assessment against the whole or any part of the Property other than disclosed in writing to Buyer.

D. Except as may be disclosed in writing to Buyer in the Due Diligence Documents or as set forth in Seller's Property Disclosure Form, Seller has no present knowledge or notice of any patent or latent defects, soils deficiencies, or subsurface abnormalities existing on the Property.

E. Except as may be disclosed in writing to Buyer, Seller has not received any notice, written or otherwise, from any government or quasi-government agency requiring the correction of any condition with respect to the Property, or any part thereof.

F. No assessments billed will be owing prior to Closing for street paving, curbing, sanitary sewers, storm sewers, or other municipal or governmental improvements.

G. There are no delinquent bills for work, labor, or materials done, performed, or furnished that would give rise to a mechanic's lien against the Property.

H. Except as may be disclosed in writing to Buyer, Seller has received no notice of and has no knowledge of any violation or non-conformity of the Property under applicable building, zoning, and other land use regulations of San Miguel County, Colorado.

The representations and warranties of Seller shall survive the Closing for a period of one (1) year. Notwithstanding the foregoing, Buyer acknowledges that Buyer is relying on its own investigation and analysis of the Property and that said Property is being purchased on an "AS IS"/"WHERE IS" basis, subject to such representations and warranties of Seller.

10. **Authority; Signatures.** Seller and Buyer each represent to the other party that it has full right and power to enter into the Contract (including this Addendum) and to close the sale of the Property, subject to obtaining the Subdivision Approval. Further, the person signing on behalf of each party has the authority to so sign and to bind the party for which he or she signs; provided that Buyer's signature is subject to ratification as provided in Section 29.1 of the Contract. The parties consent to the use of electronic signatures on the Contract and this Addendum, which electronic signatures shall be binding.



This Addendum, upon execution by the parties, becomes an integral part of the Contract, and, except as amended or modified by this Addendum, the Contract, in all other respects, remains the same.

**SELLER**

Alexander Ranch, LLLP

*Rene Alexander* *8/29/22*  
Name Date

Title: *Karen Alexander*  
*Kary Alexander*

The Alexander Trust dated June 25, 2014

*Kirk Alexander*  
Name Date  
Title: *8/29/22*

**BUYER**

Town of Mountain Village

*Paul Wisor* *8/25/2022*  
Name: Paul Wisor Date

Title: Town Manager

**EXHIBIT A**

Existing Parcel Legal Description

PARCEL A:

SAN MIGUEL PLACER, MINERAL SURVEY NO. 2068, LOWER SAN MIGUEL MINING DISTRICT, ACCORDING TO THE PATENT RECORDED FEBRUARY 29, 1892 IN BOOK 52 AT PAGE 133, LESS AND EXCEPT THAT PORTION CONVEYED IN DEED RECORDED AUGUST 28, 1950 IN BOOK 214 AT PAGE 456, LESS AND EXCEPT THAT PORTION CONVEYED IN DEEDS RECORDED JUNE 22, 1990 IN BOOK 467 AT PAGE 111 AND 116 AND AS AMENDED BY DEED RECORDED FEBRUARY 15, 1991 IN BOOK 475 AT PAGE 130, LESS AND EXCEPT PARCEL A, ACCORDING TO THE SUBDIVISION EXEMPTION AND REZONING OF PARCEL A OF THE SAN MIGUEL PLACER, MINERAL SURVEY NO. 2068, LOWER SAN MIGUEL MINING DISTRICT RECORDED DECEMBER 7, 2006 IN PLAT BOOK 1 AT PAGE 3767, LESS AND EXCEPT THAT PORTION CONVEYED IN DEED RECORDED NOVEMBER 30, 2006 UNDER RECEPTION NO. 388667, LESS AND EXCEPT THAT PORTION CONVEYED IN DEED RECORDED MAY 2, 2019 UNDER RECEPTION NO. 458368, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

PARCEL B:

PEKIN PLACER, MINERAL SURVEY NO. 2230, UPPER SAN MIGUEL MINING DISTRICT, ACCORDING TO THE PATENT RECORDED OCTOBER 30, 1889 IN BOOK 52 AT PAGE 128, LESS AND EXCEPT THAT PORTION CONVEYED IN DEED RECORDED AUGUST 28, 1950 IN BOOK 214 AT PAGE 456, LESS AND EXCEPT THAT PORTION CONVEYED IN DEEDS RECORDED JUNE 22, 1990 IN BOOK 467 AT PAGE 111 AND 116 AND AS AMENDED BY DEED RECORDED FEBRUARY 15, 1991 IN BOOK 475 AT PAGE 130, COUNTY OF SAN MIGUEL, STATE OF COLORADO

PARCEL C:

SOUDAN PLACER, MINERAL SURVEY NO. 12909, UPPER SAN MIGUEL MINING DISTRICT, ACCORDING TO THE PATENT RECORDED FEBRUARY 19, 1902 IN BOOK 52 AT PAGE 155, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

PARCEL D:

NEW YORK PLACER, MINERAL SURVEY NO. 12721, UPPER SAN MIGUEL MINING DISTRICT, ACCORDING TO THE PATENT RECORDED FEBRUARY 19, 1902 IN BOOK 52 AT PAGE 154, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

**EXHIBIT B**

Description and Depiction of Existing Parcels



**AGENDA ITEM #7**  
**TOWN MANAGER**  
455 Mountain Village Blvd.  
Mountain Village, CO 81435  
(970) 729-2654

**TO:** Mountain Village Town Council  
**FROM:** Paul Wisor, Town Manager  
**DATE:** September 1, 2022  
**RE:** Consideration of Approval of a Letter of Support for the Dolores National Conservation Area

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Executive Summary: After more than a decade of dialogue and negotiation, a broad array of interests in southwest Colorado have crafted a proposal to designate a portion of the Dolores River below McPhee Reservoir as a National Conservation Area (NCA). After a public comment period in September 2021, Senator Bennet introduced legislation in the Senate on July 15, 2022 to designate the area a NCA. A companion bill was introduced by Rep. Boebert in the House in August, 2022. Supporters of the legislation have requested a letter of support from neighboring communities. A fact sheet and form of the letter of support can be found in exhibits A and B, respectively.

### **Financial Considerations**

There are no financial impacts to the Town.

### **Proposed Motion**

I move the Town of Mountain Village sign a letter supporting the creation of the Dolores National Conservation Area.

**Exhibit A**

# Dolores River Canyon National Conservation Area and Special Management Area Act

Fact Sheet - July, 2022

After more than a decade of dialogue and negotiation, a broad array of interests in southwest Colorado have crafted a proposal to designate a portion of the Dolores River below McPhee Reservoir as a National Conservation Area (NCA). Diverse stakeholders include water users, agricultural interests, local governments, OHV users, conservation groups, and recreationists.



## What's in the proposal?

- An NCA on Bureau of Land Management (BLM) lands along the Dolores River Canyon, from below McPhee Dam downstream to the San Miguel/Montrose County line.
- A Special Management Area (SMA) on lands along the canyon managed by the U.S. Forest Service (USFS).
- Permanent release of portions of the Dolores River and tributaries within the NCA boundary from consideration for Wild and Scenic River status.
- Protection for existing water rights and private property rights.
- Continued recognition of and adherence to Dolores Project commitments.
- Will not affect jurisdiction over county roads.
- Travel would be restricted to designated routes and local travel management policies.
- A commitment to continue to work to improve native fish habitat and status through a cooperative effort with the Dolores River Native Fish Monitoring and Recommendation Team, within the constraints of existing Colorado water law and Dolores Project contracts and allocations.
- Protection of the Outstandingly Remarkable Values (ORVs - identified by federal agencies that make a river or stream eligible or suitable for Wild and Scenic River designation) associated with Wild and Scenic suitability, within available water supplies.
- A mineral withdrawal for the NCA: no new mining claims or oil and gas leases would be allowed within the river corridor. Valid existing rights would be honored.
- Whitewater boating will continue to be protected and managed for in the NCA, within available water supplies.



## **DOLORES RIVER NATIONAL CONSERVATION AREA FREQUENTLY ASKED QUESTIONS**

### **What is a National Conservation Area?**

A National Conservation Area (NCA) is a protective congressional designation for federal land that can be tailored to meet specific local needs. Unlike other designations, such as wilderness areas or national parks which must meet the requirements of previous laws (e.g., the Wilderness Act), NCA's are only defined by the designating legislation.

### **Why propose a National Conservation Area?**

- The Dolores River has been found to be suitable for designation as a wild and scenic river by federal land managers. Many in the local water and agriculture communities have concerns about a wild and scenic designation because it would come with a federal reserved water right.
- Local residents, working through the Lower Dolores Plan Working Group (described below) looked at various ways to permanently protect natural, historic, and cultural values by means other than a wild and scenic designation.
- The group agreed on an NCA as the best way to accomplish this goal because National Conservation Areas (NCAs) can be tailored to meet specific local needs. Therefore, an NCA can protect the natural and recreational values of the Dolores River without harming water rights or agriculture.

### **Where did the legislation come from? Who created the proposal?**

- The legislation was crafted over a decade by the Legislative Subcommittee of the Lower Dolores Plan Working Group, which was formed in 2008 as an offshoot of the Dolores River Dialogue.
- The Lower Dolores Plan Working Group had about 50 participants and included representatives from counties with lands in the proposal, water interests, ranchers, boaters, the Ute Mountain Ute Tribe, conservationists, private landowners, mineral interests, and OHV users. The smaller Legislative Subcommittee represented all of the Working Group interests.

### **Why the three-county bill?**

An earlier proposal included lands in Montezuma, Dolores, San Miguel, and Montrose Counties. In 2017 Montezuma and Montrose Counties stopped participating in discussions, yet Dolores and San Miguel Counties wanted to continue to move forward. In 2022, Dolores, San Miguel, and Montezuma Counties all agreed to the current version of the bill.



### **What new designations are in the proposed legislation?**

- The legislation establishes a National Conservation Area (NCA) on BLM lands and a Special Management Area (SMA) on Forest Service lands in the area.
- Because NCA's and SMA's are tailored to meet specific local needs, these two areas are effectively the same, just with different names preferred by each agency.
- The Ponderosa Gorge Roadless Area (as shown on the map) will be managed to preserve its wilderness character.

### **How will this affect water rights?**

- It will have no effect on private water rights, instream flow rights, or McPhee project contracts obligations. It does not create a federal reserved water right, express or implied.
- The Working Group agreed that ongoing discussions on management of releases and flows are best considered outside of the proposed legislation.
- The current venue for this is the Dolores River Native Fish Monitoring and Recommendation Team, which is an informal, multi-disciplinary advisory body.

### **How will this affect Tribal water rights?**

It will not affect tribal rights. The legislation explicitly honors and protects the Ute Mountain Ute water rights settlement.

### **How will the legislation affect private property rights?**

The legislation does not affect private property rights. Further, provisions were added guaranteeing access through the designated area to private property when a natural barrier prevents other access.

### **How will this legislation affect livestock grazing?**

The legislation will not affect grazing, which will continue to be managed as it is now.

### **How will motorized use and the Dolores River Road be affected?**

Motorized travel will be allowed on roads and trails designated in the NCA/SMA management plan. The route commonly known as the Dolores River Road, which begins at the Dove Creek Pump Station and follows the river north until it becomes San Miguel County Road N14, will be unaffected by the legislation except that the non-county portion of the road north of the wildlife closure may not be improved beyond a primitive state, as it is now. The road will remain subject to the seasonal wildlife closure (as managed by Colorado Parks and Wildlife) currently in effect.

### **How will this legislation affect oil and gas, mining and uranium?**

Valid existing mining, oil gas claims, and Department of Energy uranium lease tracts may continue to be developed. The rest of the NCA/SMA is withdrawn, which means that new leasing is prohibited. If DOE uranium leases expire and are abandoned, they become part of the NCA/SMA.

### **How will this legislation affect the Tri-State utility corridor?**

The legislation does not affect the Tri-State utility corridor.

### **How will this legislation affect boating flows?**

The legislation itself does not directly affect boating flows. It requires the Bureau of Reclamation to have meaningful collaboration with interested stakeholders regarding the management of already available flows below McPhee Reservoir.

### **How will this legislation affect native fish?**

The legislation requires land managers to manage the NCA/SMA for the benefit of a number of values, including native fish. However, the legislation does not require changes in flow regimes. The Secretary would be directed to have meaningful collaboration and consider recommendations from interested stakeholders regarding the management of available flows below McPhee Reservoir.

### **Does the legislation designate the Dolores River as a Wild and Scenic River?**

No. The legislation removes the study provision of the Wild and Scenic Rivers Act for the Dolores River within the boundaries of NCA/SMA. In other words, land managers will no longer study that portion of the Dolores River for suitability as a wild and scenic river, which is a necessary step toward designation by Congress.

### **Why not designate the Dolores as a Wild and Scenic River?**

- A wild and scenic river designation carries with it a new federal reserved water right for any unallocated water in a river segment.
- Water and agricultural interests are concerned that a federal right could negatively affect existing private water rights.
- That is why the Dolores River Working Group concluded that an NCA/SMA would permanently protect the natural values of the river corridor, without imposing any new water rights.

### **How does this legislation protect conservation values?**

- The Dolores River is currently listed as suitable for wild and scenic designation by federal land managers, which identify a number of Outstandingly Remarkable Values (ORVs) - including three native fish species, whitewater boating, cultural resources, geology, scenery, and ecology - and requires managers to protect the ORVs.
- The legislation clearly identifies natural, scientific, and historical values of the river (including the ORVs identified above) and requires federal agencies to manage the area to protect and enhance those values.
- New dams on the river and tributaries in the designated area will be prohibited.
- Activities outside the NCA/SMA will not be allowed if they would have significant negative effects on NCA/SMA values.
- Natural values are clearly identified and required to be protected.
- The Ponderosa Gorge would be designated as a roadless area and managed to maintain its current remote and wild condition.

### **Will the legislation put more water in the river for boating or native fish or the environment?**

The legislation does not modify water flow or volume. As noted elsewhere, the Secretary would be required to collaborate with and consider recommendations from interested stakeholders regarding the management of available flows below McPhee Reservoir.

This does not represent a change from current practice because the Dolores River Native Fish Monitoring and Recommendation Team currently provides recommendations for reservoir managers to consider.

### **How will this legislation affect emergency access?**

Not at all. Federal managers in coordination with firefighting and search and rescue authorities may use whatever means necessary to respond to emergencies within the NCA/SMA.

### **How will the NCA be managed?**

- The legislation requires the Secretary of the Interior and Secretary of Agriculture to draft a management plan for the NCA/SMA within 3 years of enactment.
- The legislation creates an Advisory Council to provide input to the federal agencies in preparing the management plan. The Council must consist of key stakeholders in the region, including water interests, grazing, private landowners, conservationists, boaters, the Ute Mountain Ute Tribe, and local counties.
- The Management Plan will detail how the BLM and Forest Service shall manage the activities within the area to protect the values identified in the legislation while preserving pre-existing uses.

**Exhibit B**

DATE

Senator Michael Bennet  
261 Russell Senate Building  
Washington, DC 20510  
Attn: John\_Whitney@bennet.senate.gov

Dear Senator Bennet,

XXX would like to enthusiastically express support for the homegrown Dolores River National Conservation Area and Special Management Area Act you and Senator Hickenlooper introduced in the U.S. Senate last month. XXX, is located XXX and would greatly benefit from the designations proposed in the legislation.

XXX is a diverse community that relies on the Dolores River and surrounding landscape for agriculture, recreation, industry, and tourism. The areas that are included in the bill are important for fishing, whitewater rafting and motorized recreation, as well as some small-scale industry and grazing. The region also brings in visitors from other parts of the state, which help many small businesses located in XXX and around San Miguel County. Also, the area is one of the most magnificent and ecologically significant areas in southwest Colorado. These lands support a variety of fish, wildlife, and birds that our communities enjoy and take pride in.

This proposal was developed by local stakeholders based on consensus, collaboration and a desire to see this area preserved for all sorts of users. We commend you for respecting this process in drafting the bill and introducing it in the Senate.

Given the strong community desire for protections for the Dolores River landscape and the bipartisan nature of the proposal, we support the bill moving quickly through the congressional process.

Thank you for your strong support for the lands in Southwest Colorado, and we appreciate the time and effort it took to get this bill to protect the Dolores River introduced. Please let us know if we can help further this legislation.

Respectfully,



**From:** [Michelle Haynes](#)  
**To:** [towncouncil](#)  
**Cc:** [dmcconaughy@garfieldhecht.com](mailto:dmcconaughy@garfieldhecht.com); [Paul Wisor](#); [mvclerk](#); [Amy Ward](#)  
**Subject:** FW: Lot 161CR PUD comment  
**Date:** Wednesday, September 7, 2022 6:42:58 PM

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Dear Town Council:

Below is one of two public comments provided today regarding 161CR.

Thank you,  
Michelle

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**From:** Michael Grey <[mgrey@piermontproperties.com](mailto:mgrey@piermontproperties.com)>  
**Sent:** Tuesday, September 6, 2022 5:49 PM  
**To:** cd <[cd@mtnvillage.org](mailto:cd@mtnvillage.org)>  
**Subject:** Lot 161CR PUD comment

Dear Council Members:

As a family that fell in love with Telluride and specifically Mountain Village in 1999, we are excited to see new projects expand the Village Core. We became homeowners in 2011 at the Westermere and are in the Village Core intentionally. We enjoy the walkability it provides both summer and winter.

We are believers that new development will help grow and sustain businesses in Mountain Village that has proved difficult over the years. That said, the proposals and renderings we have seen garner the support of the Development Review Board leave us scratching our head with respect to the basic principles of urban planning that are consistently ignored in favor of density density density. This proposal is no different. By example, The Peaks is a wonderful building well situated on its sloping, stand-alone plot. Can we agree that if we put that same building in the heart of the Core adjacent to Westermere and Le Chamonix along the pond that it would be out of scale? If we can't agree on that point, feel free to stop reading here. There would be no point in continuing.

Urban planning ideals incorporate scale and light and air into the approval process. Even in renderings, the buildings along the pond create dark corridors and shadows as they dwarf their existing neighbors. Why? The buildings up on the hill are more akin to The Peaks and how it is situated on its own sloping site but the buildings along the pond are a full 2 ½ stories taller than the buildings they abut. Each of their floors are taller than those of the neighboring buildings. They are not even stepped back as they go up until the 6<sup>th</sup> floor! It's just bad planning and it looks wrong. It looks out of scale with everything around it. The building is over 1.5 times the height of Westermere at the plane of the street as if the height of the building at the street plane has no bearing or impact.

Please respect and protect the beauty of the Core by keeping new projects in scale with their surroundings.

Respectfully submitted,

Michael Grey



**From:** [Michelle Haynes](#)  
**To:** [towncouncil](#)  
**Cc:** [Paul Wisor](#); [dmcconaughy@garfieldhecht.com](mailto:dmcconaughy@garfieldhecht.com); [Amy Ward](#); [mvclerk](#)  
**Subject:** FW: Public comment  
**Date:** Thursday, September 8, 2022 8:18:07 AM

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1 of 2 comments receive this morning.

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**From:** Dr. Tara Gray <[drtaragray@gmail.com](mailto:drtaragray@gmail.com)>  
**Sent:** Wednesday, September 7, 2022 8:13 PM  
**To:** cd <[cd@mtnvillage.org](mailto:cd@mtnvillage.org)>  
**Subject:** Public comment

Hello,

Thank you for the opportunity to submit public comment on the Four Seasons Project. My main concern is that the project does not have adequate parking. The project will be taking away approximately 30 parking spaces that already exist in Mountain Village. There is already a parking problem in Mountain Village. Adding 53 new hotel rooms, 38 residences with 77 keys, 29 condos and 10 apartments equals 207 new residences. Where will all those people park? Where will the current small business owners that park in those lots now park when those parking lots are gone? The Four Seasons Project should probably include 200-250 parking spaces to adequately address the newly needed parking spaces and replace the current parking spaces that the project will annihilate. The current proposal shows only 20 parking spaces. Does this seem logical or adequate? The important issue of parking needs to be adequately addressed with this project to allow people ample parking, especially the owners, workers and clients of small businesses in Mountain Village!

Respectfully,

***Dr. Tara M. Gray, PhD, LPC, LMHC, LPSC, ACS, RPT-S, RPT***

Dr. Tara Gray Counseling & Wellness

Clinical Faculty, Counseling Department, Prescott College

*Pronouns: she/her(s)*

618 Mountain Village Blvd. #203C

Telluride, CO 81435

[www.DrTaraGray.com](http://www.DrTaraGray.com)

(970) 769-9472

**Zoom Link** <https://prescottcollege.zoom.us/j/8756772346>



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**From:** [David Schillaci](#)  
**To:** [cd](#); [Laila Benitez](#); [Dan Caton](#); [Patrick Berry](#); [Pete Duprey](#); [Jack Gilbride](#); [Harvey Mogenson](#); [Marti Prohaska](#)  
**Cc:** [council](#)  
**Subject:** Lot 161CR Four Seasons Hotel Project PUD  
**Date:** Wednesday, September 7, 2022 11:43:30 PM

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Town Council,

I would like to respectfully request that the Lot 161CR Four Seasons Hotel Project PUD in its current form **be rejected and sent back to the drawing board.**

It is the opinion of many, including myself, that the currently proposed design does not remotely fit in with the architectural style of the Mountain Village core. In fact, when looking at the conceptual design images with the current buildings, it looks hideous! If the design of the surrounding buildings were similar, the current conceptual design could be appealing and attractive. However, the PUD does not include razing and re-building all the other buildings in the core.

As a long time resident of the area (since 1989), I can tell you that the concept for the Mountain Village core has always been for it to be a classical European style ski village. This is the brand, It is the branding. If we introduce completely different styles of architecture into the core, this branding will be ruined, leaving the core with no real sense of any brand whatsoever. The core will lose its soul and become just another random base to a ski mountain.

In order to keep the Mountain Village a special place, we need to stop all of the new and different designs from being built. Besides hotel proposals in the core, there have been several houses built in recent years that just do not fit in and frankly stand out in an unattractive way. Moving forward, I suggest that the council needs to look at the design codes to ensure that new buildings and houses have similar architectural style to the surrounding buildings and previous styles.

Please, note that my comments are consistent with my email at the beginning of this PUD process. In other words, this is not my first email concerning this project.

Finally, I appreciate your time and hope that you decide to set the Mountain Village back in the right direction in terms of architectural designs. In doing so, **please reject the Lot 161CR Four Seasons Hotel Project PUD and send it back to the drawing board.**

Sincerely,

David Schillaci  
Mountain Village resident since 1992  
Former Town Council member 2009-2015  
308 Adam's Ranch Rd Unit 22

September 7, 2022

**Via E-mail**

Design Review Board  
Mountain Village Town Council  
C/o Michelle Haynes  
Town of Mountain Village  
455 Mountain Village Blvd.  
Mountain Village, CO 81435  
MHaynes@mtnvillage.org

**RE: Opposition to SPUD Application for Lot 161CR**

Dear Members of the Design Review Board and Town Council:

I write on behalf of my client ASIGS, LLC regarding the proposed final Site-Specific Planned Unit Development for Lot 161CR (the “SPUD”) in advance of the September 8, 2022, second reading. ASIGS has expressed its positions and concerns over the SPUD’s noncompliance with the Community Development Code (“CDC”) and Mountain Village Comprehensive Plan through multiple letters, including correspondence to Town Council and the Design Review Board on July 6 and July 19, 2022. To our surprise, we have never received any response addressing ASIGS’s prior correspondence or its concerns regarding the SPUD’s material deficiencies. It appears that many other Mountain Village residents who have expressed similar concerns to those expressed by ASIGS have also been ignored. My client reiterates its request that the SPUD application be denied, as it is materially noncompliant with the criteria for approval of SPUDs set forth in the CDC and the provisions of the Comprehensive Plan.

The grounds for ASIGS’s objection to the SPUD are summarized below and in my client’s prior correspondence to the Design Review Board and Town Council. We remain available to discuss any of these items further.

**I. Failure to comply with the standards identified in CDC § 17.4.12(H)**

Prior to approval, the SPUD must satisfy all standards identified in CDC section 17.4.12(H). The SPUD, however, does not meet these mandatory criteria. The CDC and Comprehensive Plan require that “visual impacts” be “minimized and mitigated.” CDC § 17.4.12(H)(1). No reasonable efforts were made by the applicant here to minimize the visual

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impacts of this proposed design. On the contrary, this design plan calls for two excessively-high condominium towers to be constructed on the highest elevation portions on the site. This concept necessarily maximizes both the visual impacts of the structure and the prejudice to neighboring property owners. Similarly, the proposed structure must be appropriate in scale and mass in a manner that “fits the site.” CDC § 17.4.12(H)(2).<sup>1</sup> The excessive roofline elevations in the proposed design plan, which are exacerbated based on the proposed locations of the two residential towers, fail to comply with this provision of the CDC and Comprehensive Plan. The developer could easily create a design plan for this site that would provide comparable five-star resort standards while still maintaining compliance with the CDC and Comprehensive Plan and minimizing prejudice to neighboring property owners. *See, e.g.*, 7/6/22 Letter from F. Prioleau (describing prior design plans from other developers). The developer’s vague attempts to justify the extreme maximum heights of the structures being proposed by simply claiming that five-star properties require higher ceilings and taller windows fall woefully short of satisfying the mandatory criteria defined in section 17.4.12(H).

The CDC’s PUD regulations also mandate that “environmental and geotechnical impacts shall be avoided, minimized, and mitigated ....” CDC § 17.4.12(H)(3). The applicant has not satisfied this requirement. Instead, the developer submitted a Technical Memorandum on June 10, 2022, which incorporated a 2007 geotechnical report that had been previously created relating to Lot 161CR. Critically, the 2007 report identifies serious issues concerning soil instability on Lot 161CR. The 2007 report describes “[e]vidence of active slope instability” on the southeast corner of the lot between the gondola and the residence on Lot 97. 2007 Report at § 10.4. The engineers that authored the 2007 report concluded that “it is imperative that there is a review of the events associated with the slope failure prior to assessing the impacts of the structure on development plans for Lot 161C-R.” *Id.* To date, no such review has occurred or been provided with the SPUD. Further, the 2007 report was premised on a building design that was being proposed at that time. The applicant here has not submitted any report that considers or evaluates the impacts of the design plan being proposed now, which includes taller structures that are situated on the steepest portions of Lot 161CR.

The current design plan and excessive heights of the proposed building structures will necessitate a large excavation process that will substantially impact all property owners within close proximity to Lot 161CR. In addition to the PUD regulations’ mandate that geotechnical impacts be avoided, the Design Review Board and Town Council may not approve the SPUD if it presents any potential detriment to public health, safety, or welfare. *E.g.*, CDC § 17.4.16(D)(b). In light of the safety risks and unsafe conditions documented in the 2007 geotechnical report that was incorporated in the initial SPUD application, along with the applicant’s failure to submit a

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<sup>1</sup> This is consistent with CDC § 17.3.4(H)(6)(a)(iv) which mandates that impacts to neighboring properties be mitigated when lot line perimeters are being adjusted, as called for under this SPUD.

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final geotechnical report to date, the uncertainty surrounding this critical issue mandates that no further approvals of the SPUD occur at this time.

## **II. Failure to provide adequate community benefits from hotbeds as contemplated under the Comprehensive Plan**

The Mountain Village Center Development Table 7 encompassed within the Comprehensive Plan provides a target maximum building height for a proposed development on Lot 161CR of 95.5'. However, this deviation from the CDC's maximum height restrictions of 60' that would otherwise apply were premised on the obvious intent that a more traditional hotel-like development occur that would provide a significant number of hotbeds and in turn significant community benefit from tourism revenues, etc. The hotel portion of this proposed development does not require a substantial maximum height variation and is a relatively small component in this overall design plan. Instead, this plan proposes two excessively-tall condominium structures that will provide minimal community benefit and are intended solely to generate profit for the developer. Table 7 does not contemplate multiple high-rise privately-owned condominium structures in the development table. Instead, Table 7 calls for a development that includes roughly 280 total units and over 240 hotbeds, which justifies relaxing the CDC's maximum height restrictions. This SPUD does not come close to meeting Table 7's contemplated hotbed figures or the associated community benefits. The applicant here is simply trying to take advantage of the maximum height described in Table 7 to construct multiple high-rise condominium towers rather than the hotel-type property that was clearly contemplated. Town council should reject this applicant's attempt to benefit from Table 7's height allowances for its own profit without constructing the type of development contemplated under the Comprehensive Plan.

The SPUD seeks to avoid this obvious problem by claiming that the overarching principals of the Comprehensive Plan are met because this development will serve as a five-star resort property. However, the Comprehensive Plan does not contemplate or call for a development on Lot 161CR that includes only a small percentage of hotel rooms and is comprised largely of privately-owned condominium unit structures. This fundamental concept is violative of the Comprehensive Plan's intent and vision for Lot 161CR, as demonstrated through the Mountain Village Center Subarea Plan. The SPUD cannot reasonably justify the drastic departure from the CDC's maximum height restrictions for the condominium towers proposed under this plan, and Town Council should not apply Table 7's relaxed height restrictions to condominium high-rises that were not contemplated under the Comprehensive Plan and would provide little community benefit.

Further, the Comprehensive Plan makes clear that "in no case should the amount of net floor area dedicated to condominium units be increased over 20% of the total net floor area of the building." Comprehensive Plan at 43. It appears that the condominium units called for under this plan exceed the Comprehensive Plan's 20% restriction. Because the condominium towers provide

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little or no community benefit, there is no rational basis for Town Council to approve the SPUD in its current form.

### **III. Failure to comply with the CDC's mandatory methods for measuring average building height**

The PUD regulations make clear that “when possible, the PUD and CDC should be read to be consistent with one another.” CDC § 17.4.12(F). Table 7 in the Comprehensive Plan provides no relief from the CDC’s restrictions of average building heights for Lot 161CR. The SPUD’s average building height drastically exceeds the average building height limit of 48’ authorized in the CDC. CDC § 17.3.12. There is no legal basis to claim that the CDC’s average building height restrictions are inapplicable to this SPUD. There is likewise no basis to claim that the CDC’s formal variance process as defined in section 17.4.16 is irrelevant to all aspects of this application. The SPUD ignores and fails to justify the extreme variance/variation with regard to the average building height of this proposed development. This is for good reason. The high-rise structures called for under this plan are designed to be privately-owned condominium towers which will provide little community benefit. No adequate justification can therefore be made to rationalize the extreme departure from the CDC’s average height restrictions.

CDC section 17.3.11 prohibits applicants from manipulating average building heights through combining the heights of “high-rise structures” and “low secondary roofs.” CDC § 17.3.11(C). Yet this is exactly the method employed by the applicant in calculating the average building heights disclosed in the SPUD. In doing so, the developer failed to follow the method prescribed in the CDC. Had the permissible method been used to calculate the average building height for the proposed structure, the SPUD’s extreme deviation from the CDC’s height restrictions would be apparent. These issues have never been addressed by the Design Review Board, and were not disclosed in the July 13, 2022, Final PUD Summary and Background. Also, the town planning department presented the incorrect average heights put forth by the developer to the Design Review Board, Town Council, and the public on multiple occasions, thereby misrepresenting the impact of the heights of the residence towers to the approving bodies and the public.

### **IV. Failure to provide an accurate 3-D model, erect story poles, or provide a view corridor analysis**

On March 17, 2022, the Design Review Board passed a resolution providing preliminary approval of the overall design plan, subject to a number of conditions. These conditions included:

*Condition 12. Approval of the overall design, including variation requests, is subject to further review of all applicable criteria based on a workable 3D model to be provided by the applicant*

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To date, the applicant has not provided an accurate or complete model. In the current model, the surrounding properties, including the property owned by ASIGS, are depicted using an inaccurate scale. For instance, the property at 730 Mountain Village Boulevard is shown at a higher elevation than it actually sits, which has the obvious result of artificially minimizing the impact of the proposed design plan's excessive height on the surrounding properties. The current model also fails to include the full lots of the bordering properties to the west of Lot 161CR, or allow for setting views from specific elevations. Without an accurate or complete model, the Design Review Board cannot sufficiently evaluate the proposed design plan or the impact of the requested variances on the surrounding properties.

*Condition 13. Approval of the overall design, including variation requests, is subject to further review of all applicable criteria based on story poles to be erected by the applicant to demonstrate the building heights*

As acknowledged by the Board during the March 17 meeting, this condition was imposed based on the numerous concerns over the proposed building height expressed by Mountain Village property owners. Board members also expressed concerns over the proposed building heights, with one member stating that he was "concerned about mass and scale" and that the proposed heights needed to be evaluated from "other angles." See recording from 3/17/22 DRB meeting at 2:18:30-2:19:04.

This condition was never satisfied, and no story poles were ever constructed. Instead, the town's planning department simply raised four balloon lines for one hour at 8:00 a.m. on a weekday morning. This feeble approach did not comply with the condition promulgated by the Design Review Board, and failed to provide all parties with an adequate approach to evaluate the massive size and scale of the proposed structures.

*Condition 15. Approval of the overall design, including variation requests, is subject to further review of all applicable criteria based on a view corridor analysis from Heritage Plaza and the Gondola Plaza to be provided by the applicant*

To our knowledge, no such view corridor was ever provided by the applicant, which again undermines the Design Review Board's, and now Town Council's, evaluation of this design plan and the prejudicial impacts to surrounding property owners.

Finally, the July 20, 2022, Special Design Review Board meeting packet included a July 13 letter to the Board from the Planning Development and Services Director and Senior Planner concerning a review and recommendation to Town Council for this SPUD application. Tellingly, the Services Director and Senior Planner did not even include Conditions 13, 14, or 15 in the letter. As a result, these material conditions were not formally contemplated prior to the July 20 joint

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meeting of the Design Review Board and Town Council, and the conditions were simply treated as having been satisfied.

#### **V. Failure to comply with other general principals of the Comprehensive Plan**

To obtain approval, the SPUD must comply with and promote the principals and policies of the Comprehensive Plan. *E.g.*, CDC § 17.4.12; *see also id.* § 17.1.3 (purpose of CDC is to “implement” and “promote” Comprehensive Plan); § 17.4.16(D)(1)(c) (variances cannot be granted unless applicant met burden of demonstrating proposed variances promotes “intent of the CDC.”). The SPUD and requested variances/variations fail to comply with or promote the Comprehensive Plan, and thus approval of the SPUD should be withheld pursuant to the CDC’s mandates.

For example, the Comprehensive Plan provides that “[p]rotecting public viewsheds, the natural corridor surrounding Mountain Village Boulevard, improving wayfinding and identifying gateways is paramount to preserving this sense of arrival and reinforcing the Town’s identity.” Comprehensive Plan at 35, Land Use Value 7. Given the prominent location and high-profile nature of Lot 161CR, strict enforcement of the Comprehensive Plan’s principles as required under the CDC is paramount. The mass and scale of the proposed design plan do not come remotely close to satisfying Land Use Value 7. Public viewshed from Mountain Village Boulevard will unquestionably be impeded, and the sense of arrival envisioned in the Comprehensive Plan will be detrimentally impacted by the height and other variances requested by the applicant here.

The Comprehensive Plan, and in turn the CDC, further states that “[l]and uses envisioned by the Comprehensive Plan” should be “designed to fit into the surrounding neighborhood to ensure the appropriate scale and context to their surrounding natural and built environments.” Comprehensive Plan at 35, Land Use Value 8. The extreme height variances requested by the developer here directly contradict Land Use Value 8.

As described above in section I of this correspondence, no rational justification for the height variances requested in the SPUD exists given that the structures at issue are not hotel-like structures as contemplated under the Comprehensive Plan, but instead privately-owned condominiums that will provide limited benefits to the community. Given the nature of this project, the requested variations will serve only to maximize profits for the developer and will not advance the vision or intent of the Comprehensive Plan, including Land Use Values 7 or 8.

#### **VI. Failure to comply with open space requirements**

The SPUD seeks to improperly eliminate village core open space in violation of the CDC. The 2012 Open Space Map, as referenced and incorporated in CDC § 17.3.10, defines three distinct types of open space: active; passive; and village core. The CDC requires that the active and passive



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open space categories “not be less than sixty percent (60%) of the total acreage within the Original PUD Boundary.” CDC § 17.3.10(B). The Code does not stop there, however, and clarifies that the minimum requirement that active and passive open space comprise at least 60% of the total acreage excludes “village core open space,” which is on top of the 60% minimum for the other two categories. *Id.* In other words, the village core open space, per the CDC, is in addition to the 60% minimum of active and passive open space. Per the CDC, lot line adjustments impacting open space may only be approved “to the extent that there is no net loss of open space as required herein.” CDC § 17.3.10(H). Village core open space thus cannot be eliminated without replacement, which is entirely consistent with the February 10, 2022, referral letter on the SPUD from the Board of Commissioners of San Miguel County to Town Council. Because the SPUD seeks to eliminate open space without replacement, the CDC prohibits its approval.

## **VII. Failure to disclose the actual party that is funding the community benefits**

The Town’s planning department and the developer have represented that the developer would be providing significant community benefits, which in turn would serve as the primary basis for Town Council approving the many variations requested in the SPUD. However, it remains unclear whether the developer is actually funding most of the community benefits. Section 12.4 of the Purchase and Sale Agreement between TMVOA and the developer requires TMVOA to contribute up to \$7 million in “public benefits” for this development project. The July 20, 2022, Special Design Review Board meeting packet describes certain community benefits. *See* packet at 4. When ASIGS’s counsel raised this issue during the meeting, neither TMVOA nor the Design Review Board were able to provide any clarification on which party was actually funding the SPUD’s community benefits. Notwithstanding this uncertainty, the Design Review Board and Town Council passed resolutions providing preliminary approvals of the height variances based, in whole or in part, on the proposed community benefits purportedly being funded by the developer. It has never been fully disclosed that TMVOA may be the actual party funding some or most of the proposed community benefits, and it would be irregular and improper for Town Council to approve significant height variances based on funding provided by the TMVOA.

## **VIII. Conclusion**

In summary, my clients are supportive of a Four Seasons or comparable luxury hotel development on the Lot 161CR site. However, the SPUD, as currently situated, unreasonably deviates from the CDC’s requirements and the provisions of the Comprehensive Plan. ASIGS again requests that Town Council refrain from approving the SPUD in its current form.

FENNEMORE.

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Sincerely,

FENNEMORE CRAIG, P.C.

A handwritten signature in blue ink, appearing to read "M.P.R.", with a stylized flourish at the end.

Michael P. Robertson