

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,
COLORADO, CONDITIONALLY APPROVING A MAJOR SUBDIVISION FOR LOT 109R AND
TRACT OS-3BR-2 AND A PORTION OF 109R TO BE REPLAT INTO AOS RIGHT OF WAY**

RESOLUTION NO. 2023-0920-21

WHEREAS, Tiara Telluride, LLC (“Developer”) is the owner of certain real property described as Lot 109R, Town of Mountain Village, Colorado, according to the plat recorded as Reception No. 416994 (“Lot 109R”) and

WHEREAS, the Town of Mountain Village (“Town”) is the owner of certain real property adjacent to Lot 109R presently described as open space parcel OS-3BR-2 according to the plat recorded as Reception No. 416994 but which has been previously approved by the Town Council to be replatted as open space parcel Tract OS-3BR-2R-1 according to the replat recorded on September 26, 2023, in Plat Book 1, Page _____ at Reception No. 482496 (the “Town Property”)¹; and

WHEREAS, the Developer has submitted a Major Subdivision application to the Town (“**Subdivision Application**”) to replat Lot 109R and the Town Property to effectuate a land exchange by creating new parcels within Lot 109R to be conveyed to the Town and other parcels within the Town Property to be conveyed to the Developer, all as depicted on the plat set forth in **Exhibit A** hereto (the “Plat”); and

WHEREAS, the purpose of this Major Subdivision Application is to adjust the boundaries of Lot 109R and the Town Property to be consistent with a Major PUD Amendment being considered by the Town Council on second reading of Ordinance No. 2023-13 (the “**PUD Ordinance**”) simultaneously with the Town Council’s consideration of this Resolution; and

WHEREAS, the Town Council is also simultaneously considering second reading of Ordinance No. 2023-14 (the “**Rezoning Ordinance**”) to rezone the portions of the Town Property being conveyed to the Developer to PUD and to rezone the portions of Lot 109R being conveyed to the Town to open space; 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 at the public meetings before the DRB and Town Council from and including December 1, 2022; and

WHEREAS, the DRB held a public meeting on December 1, 2022, to consider the Subdivision Application and testimony and comments from the Developer, Town Staff, and members of the public, and voted to issue a recommendation of approval to the Town Council concerning the Subdivision Application, subject to conditions; and

WHEREAS, the Town Council has conducted public meetings and public hearings regarding the Subdivision Application as reflected in the recitals to the PUD Ordinance which culminated in a vote to approve the PUD Ordinance on second reading at the Town Council meeting of September 20, 2023, and at said meeting the Town Council considered the DRB’s recommendations, testimony and comments from the Developer, Town Staff, and members of the public, and voted unanimously 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

¹ Town Staff is authorized to fill in the recording information when available. The draft replat is available for inspection at the office of the Town Clerk.

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 Plat, 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.

2.1 The Town Council hereby approves the Subdivision Application and the Plat in substantially the form attached as Exhibit A, subject to the conditions set forth below. The Town Council hereby authorizes the Mayor and Town Clerk to sign the Plat and any related 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.

2.2 The Town Council has previously approved a separate subdivision of the Town Property pursuant to Resolution No. 2023-0518-09 on May 18, 2023, (the "**Open Space Replat**") which upon recordation will alter the legal description and parcel identifications for the Town Property. In the event that the Open Space Replat is executed and recorded prior to the Plat approved by this Resolution, then the boundaries, parcel identifications, and other matters reflected on the Plat shall be revised to be consistent with the Open Space Replat, and Town Staff shall have authority to review and approve all such revisions, provided, however, that the acreage and location of the adjustment parcels between the Town Property and Lot 109R as shown on the Plat shall remain the same. Similarly, if the Plat approved by this Resolution is recorded first, then the Open Space Replat shall be revised to

be consistent with the Plat approved hereby. In either case, no further review or approval by the Town Council shall be necessary, provided that both plats are consistent with the intent of their original approvals.

2.3 The following tables show the approximate land area to be adjusted by approval of the Plat:

Table 1. Break Down of land to be added to OS-3BR-2 and to 109R from OS-BR-2

Existing Lot/Tract Name	Current Zoning	Current Size
Lot 109R	PUD	.825 acres (35,928 sq. ft.)
Tract OS-3BR-2	AOS Village Center	1.969 acres

Table 2. Approximate Before and After Lot Areas

Proposed Lot/Tract Name	Proposed Zoning	Proposed Size	Net Change (sq.ft.)
Lot 109R2	PUD	.833 acres	.008 acre increase (391 sq ft)
Tract OS-3BR-2R-1	AOS Village Center	1.958 acres	.011 decrease (479 sq ft)
ROW Tract	AOS Right of Way	.001 acres	.001 increase (81 sq ft approx..)

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

3.1 The Town Council must separately approve the related PUD Ordinance and Rezoning Ordinance. If both ordinances are not approved by vote of the Town Council within ninety (90) days after adoption of this Resolution, this Resolution shall become null and void.

3.2 All conditions of the PUD Ordinance and the Rezoning Ordinance are conditions of this Subdivision Approval and are incorporated by reference herein, including but not limited to the condition requiring the Town and Developer to enter into a Development Agreement as referenced in the PUD Ordinance.

3.3 All Public Improvements to be dedicated to the Town, including those required as conditions of the PUD Ordinance, 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 are described in the PUD Ordinance and/or the exhibits thereto.

3.4 The Developer shall coordinate with Town Staff and the Town Attorney to ensure that the Plat creates all necessary easements, vacates all obsolete easements over the property or town-owned property, and modifies existing easements as appropriate prior to recordation of the Plat, provided that certain easements as identified in the Development Agreement may be granted after construction based on as-built conditions but prior to a certificate of occupancy for the structures such easements are intended to benefit. Easement modifications are subject to the PUD regulations and may either fall into a minor or major PUD amendment process. 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 Plat. Any such easement agreements with the Town shall be recorded at the same time as the

Plat. Any title exceptions to be included in the certificate of dedication and ownership on the Plat shall be subject to review and approval by the Town Attorney.

3.5 Town Staff will review and must approve the final proposed Plat 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.

3.6 Town Staff has the authority to provide ministerial and conforming comments, including but not limited to comments relative to timing and order of recordation of documents as determined by the Town Manager, and on the mylar prior to recordation of the Plat.

3.7 Permanent monuments on the external boundary of the subdivision shall be set within thirty (30) days of the recording of the Plat. 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 Plat.

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

3.9 The Developer will work with Town Staff and San Miguel County's Emergency Management Coordinator to create street addresses for the parcels shown on the Plat as may be necessary.

3.10 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 Subdivision 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.

3.11 Prior to recording, the final form of the plat shall be subject to staff review and approval, including any prior adjustments associated with the Open Space Replat, or changes of OS-3BR-2R parcel associated with the Four Seasons development approvals.

3.12 The developer shall add the density table associated with the PUD approval, and zoning on the face of the final plat prior to recordation consistent with the final approved PUD amendment.

3.13 Because the sidewalk around the Project (as defined in the PUD Ordinance) will not meet ADA standards due to the grade, the Developer shall assure ADA access is provided through the development prior to issuance of a building permit.

3.14 Construction drawings must demonstrate how the sidewalk will integrate with and over the Mountain Village Boulevard bridge. If improvements to the bridge are necessary as a result of construction of the Project, these costs shall be borne by the applicant and secured as part of the public improvements.

3.15 The Developer shall address all of the town engineer concerns as noted in the letter dated May 26, 2023 prior to issuance of a building permit.

3.16 The See Forever pedestrian and access easement (as described in the PUD Ordinance and exhibits thereto) must be depicted on the Plat prior to recordation and shall also be dedicated by deed prior to recordation of the Plat upon commencement of the Approval Period as described in the PUD Ordinance and Development Agreement. Once constructed the dimensions of this easement may be adjusted accordingly by legal instrument to the satisfaction of the Town Attorney.

3.17 As part of the building permit application, the Developer shall submit a utility relocation plan to relocate the existing utilities and a utilities management plan that will manage the relocation of utilities and any possible interruption of service during construction.

3.18 All representations of the Developer, whether within the Subdivision Application materials or made at the DRB or Town Council meetings on or after December 1, 2022, are conditions of this Subdivision Approval.

3.19 The Developer shall reimburse the Town for all costs of outside consultants, including but not limited to legal, engineering, survey, and planning services relating to the application.

3.20 The applicant will conform to the public improvements to the requirements of CDC Section 17.4.13.L. Public Improvements Policy and as found in the associated Development Agreement.

3.21 The fee for purchase of town land in the amount of \$106,894 will be due prior to building permit issuance.

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 shall expire at the same time as the approvals of the PUD Application as described in the PUD Ordinance and Development Agreement.

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

ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on September 20, 2023.

TOWN OF MOUNTAIN VILLAGE, COLORADO

By: 

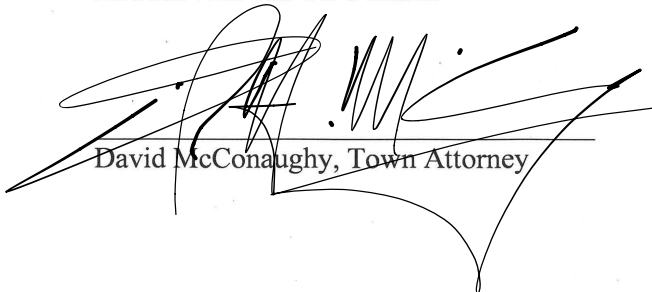
Martinique Prohaska, Mayor

ATTEST:



Susan Johnston, Town Clerk

APPROVED AS TO FORM:



David McConaughy, Town Attorney

Exhibit A

PLAT

PLAT

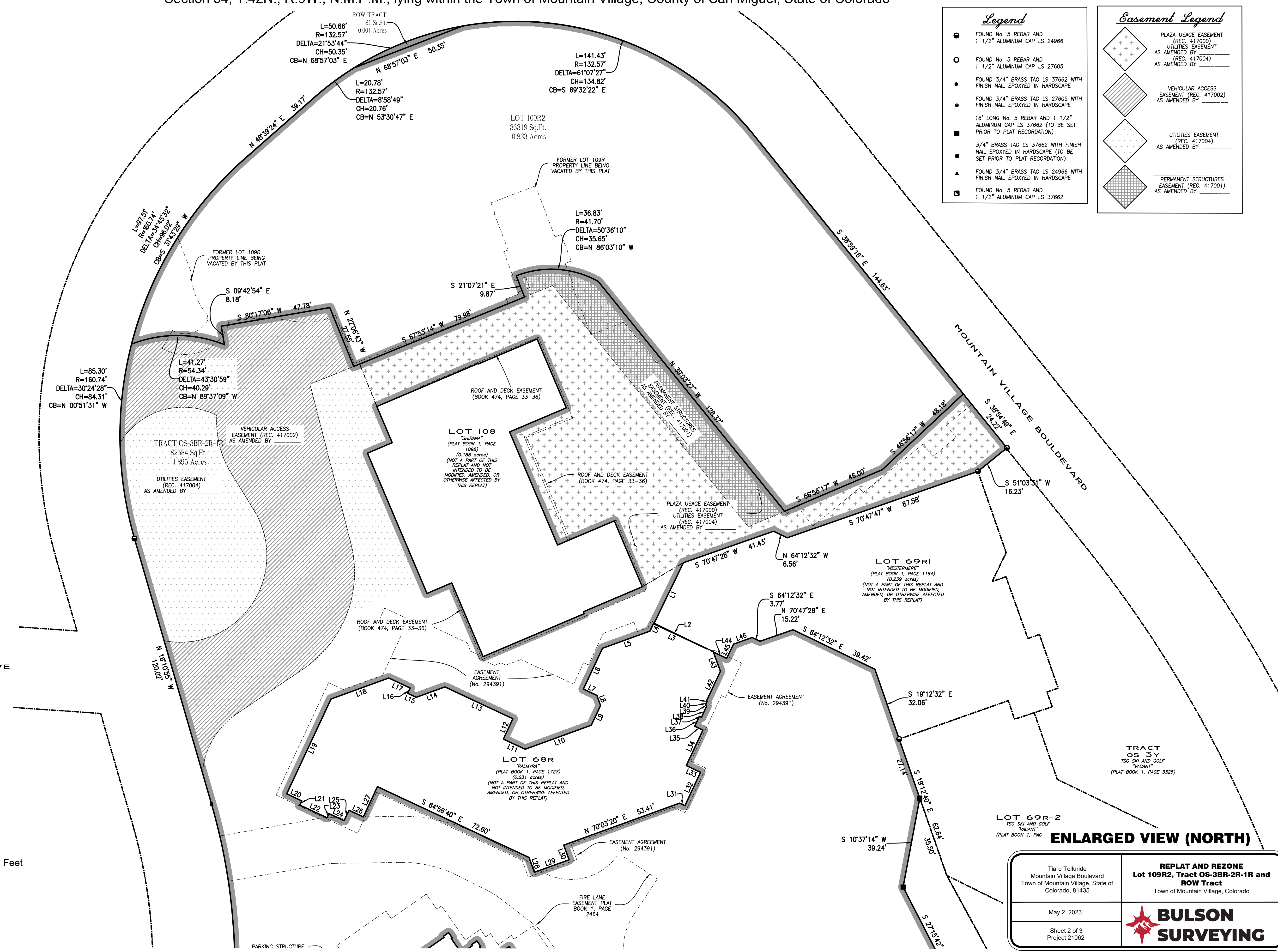
PLAT

REPLAT AND REZONE

Lot 109R2, Tract OS-3BR-2R-1R and ROW Tract

A Subdivision of Tract OS-3BR-2R-1 and Lot 109R, 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

LINE	BEARING	LENGTH
L1	S 25°47'28" W	29.22'
L2	N 64°12'32" W	24.20'
L3	N 64°56'40" W	24.39'
L4	S 25°03'20" W	3.48'
L5	S 70°03'20" W	21.96'
L6	S 25°03'20" W	19.52'
L7	S 64°56'40" E	6.43'
L8	S 19°56'40" E	4.69'
L9	S 25°03'20" W	9.44'
L10	S 70°03'20" W	30.55'
L11	N 64°56'40" W	10.41'
L12	N 25°03'20" E	9.75'
L13	N 64°56'40" W	32.56'
L14	S 70°03'20" W	13.23'
L15	N 64°56'40" W	4.12'
L16	N 25°03'20" E	2.53'
L17	N 64°56'40" W	10.25'
L18	S 70°03'20" W	26.63'
L19	S 25°03'20" W	45.43'
L20	S 64°56'40" E	7.26'
L21	S 25°03'20" W	2.00'
L22	S 64°56'40" E	13.00'
L23	N 25°03'20" E	2.00'
L24	S 64°56'40" E	7.25'
L25	N 25°03'20" E	5.00'
L26	S 64°56'40" E	6.84'
L27	N 25°03'20" E	14.50'
L28	S 19°56'40" E	6.65'
L29	N 70°03'20" E	16.00'
L30	N 19°56'40" W	6.75'
L31	S 64°56'40" E	2.61'
L32	N 25°03'20" E	16.00'
L33	N 64°56'40" W	6.83'
L34	N 25°03'20" E	17.03'
L35	N 64°56'40" W	3.92'
L36	N 25°03'20" E	4.76'
L37	S 64°56'40" E	1.01'
L38	N 25°03'20" E	5.40'
L39	N 64°56'40" W	0.68'
L40	N 25°03'20" E	1.78'
L41	N 64°56'40" W	0.33'
L42	N 25°03'20" E	14.37'
L43	N 19°56'40" W	8.93'
L44	S 64°12'32" E	6.39'
L45	N 25°47'28" E	6.86'
L46	N 70°27'23" E	8.58'



Legend

- FOUND No. 5 REBAR AND 1 1/2" ALUMINUM CAP LS 24966
- FOUND No. 5 REBAR AND 1 1/2" ALUMINUM CAP LS 27605
- FOUND 3/4" BRASS TAG LS 37662 WITH FINISH NAIL EPOXYED IN HARDSCAPE
- FOUND 3/4" BRASS TAG LS 27605 WITH FINISH NAIL EPOXYED IN HARDSCAPE
- 18" LONG No. 5 REBAR AND 1 1/2" ALUMINUM CAP LS 37662 (TO BE SET PRIOR TO PLAT RECORDATION)
- 3/4" BRASS TAG LS 37662 WITH FINISH NAIL EPOXYED IN HARDSCAPE (TO BE SET PRIOR TO PLAT RECORDATION)
- ▲ FOUND 3/4" BRASS TAG LS 24966 WITH FINISH NAIL EPOXYED IN HARDSCAPE
- FOUND No. 5 REBAR AND 1 1/2" ALUMINUM CAP LS 37662

Easement Legend

- ◆ PLAZA USAGE EASEMENT (REC. 417000)
- ◆ UTILITIES EASEMENT AS AMENDED BY (REC. 417004)
- ◆ VEHICULAR ACCESS EASEMENT (REC. 417002) AS AMENDED BY
- ◆ UTILITIES EASEMENT (REC. 417004) AS AMENDED BY
- ◆ PERMANENT STRUCTURES EASEMENT (REC. 417001) AS AMENDED BY

ENLARGED VIEW (NORTH)

Tiare Telluride Mountain Village Boulevard Town of Mountain Village, State of Colorado, 81435	REPLAT AND REZONE Lot 109R2, Tract OS-3BR-2R-1R and ROW Tract Town of Mountain Village, Colorado
May 2, 2023	BULSON SURVEYING
Sheet 2 of 3 Project 21062	

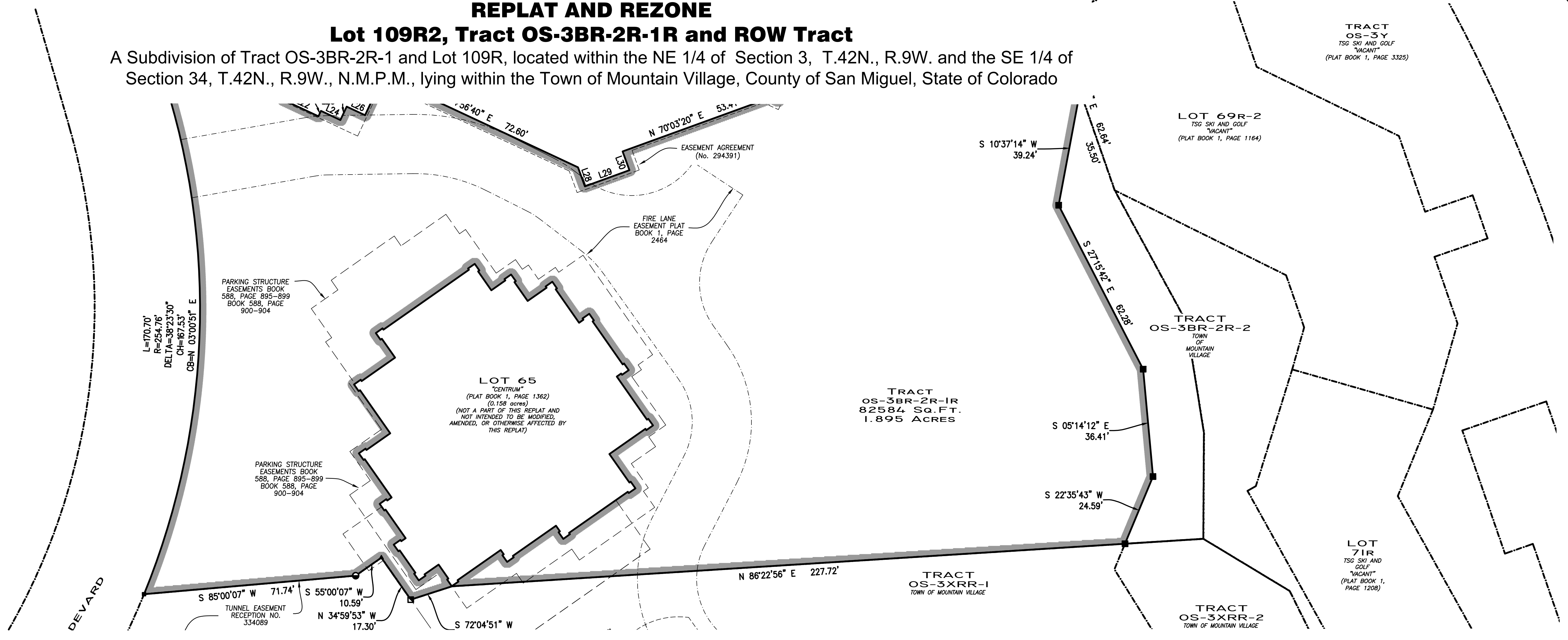
C:\Users\daveb\Bulson Surveying Jobs (Complete)\Jobs 2021\21062\Replat Revised OS Configuration 04272023.dwg, 4/30/2023 12:56:45 PM, DWG To PDF.pc3

REPLAT AND REZONE

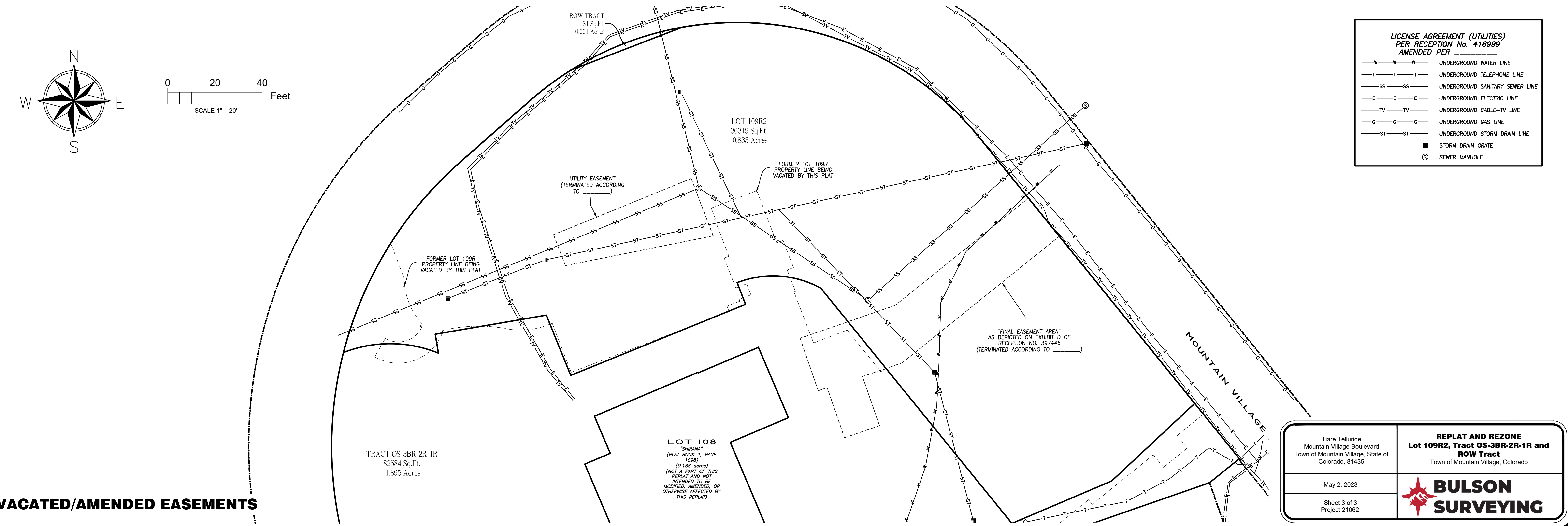
Lot 109R2, Tract OS-3BR-2R-1R and ROW Tract

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Legend	
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■	FOUND No. 5 REBAR AND 1 1/2" ALUMINUM CAP LS 37662



ENLARGED VIEW (SOUTH)



LICENSE AGREEMENT (UTILITIES) PER RECEPTION No. 416999 AMENDED PER	
—W—W—W—	UNDERGROUND WATER LINE
—T—T—T—	UNDERGROUND TELEPHONE LINE
—SS—SS—SS—	UNDERGROUND SANITARY SEWER LINE
—E—E—E—	UNDERGROUND ELECTRIC LINE
—TV—TV—TV—	UNDERGROUND CABLE-TV LINE
—G—G—G—	UNDERGROUND GAS LINE
—ST—ST—ST—	UNDERGROUND STORM DRAIN LINE
■	STORM DRAIN GRATE
⊙	SEWER MANHOLE

VACATED/AMENDED EASEMENTS

Tiare Telluride Mountain Village Boulevard Town of Mountain Village, State of Colorado, 81435	REPLAT AND REZONE Lot 109R2, Tract OS-3BR-2R-1R and ROW Tract Town of Mountain Village, Colorado
May 2, 2023	BULSON SURVEYING
Sheet 3 of 3 Project 21062	

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Exhibit B
LIST OF SUBDIVISION APPLICATION MATERIALS

Exhibit B - List of Subdivision Submittal Materials 109R

Initial Major Subdivision Submittal 9.28.22 deemed complete on 10.27.2022

- Major Subdivision Application (same as above) dated March 11, 2022
- P. Wisor agency letter for TMV dated October 11, 2022
- 109R Major Subdivision Application Narrative/Project Summary submitted October 21, 2022
- McGrath Incorporated dated August 4, 2022 re: Lot 109R PUD amendment, snowmelt system design
- Scott Heidergot email dated March 31, 2022 to Katsia Lord
- Town of Mountain Village Fireplace Permit 224 recorded at reception no. 47644
- Solar Ready design for low-slope roof image by GAF
- Bird Friendly Glazing
- LSC Transportation Consultants, Inc dated August 17, 2022
- Conceptual Replat dated March 6, 2022
- Title Commitment Fidelity National Title Co October 14, 2021
- Warrantee Deed October 14, 2021
- Existing Conditions dated August 1, 2010
- Proposed Replat dated 10.4.22 (3 sheets) revised to October 14, 2022
- Lot 109R Easement Table dated October 21, 2022
- Exhibit D-1 First Amendment to and Partial Termination and Relinquishment of License Agreement (Utilities)
 - Exhibit A License Area
- Exhibit D-2 First Amendment to and Partial Termination and Relinquishment of Easement Agreement (Plaza Usage) dated 10.21.22 draft
 - Exhibit A Depiction of Easement Area
 - Exhibit B Depiction of Easement Area – to be added
- EXHIBIT D-3 First Amendment to and Partial Termination and Relinquishment of Easement Agreement (Permanent Structures) dated October 21, 2022 draft
 - Exhibit A New Easement Area
 - Exhibit B Description of Easement Area – to be added
- EXHIBIT D-4 First Amendment to and Partial Termination and Relinquishment of Easement Agreement (Vehicular Access) dated October 21, 2022 draft
 - Exhibit A New Easement Area
 - Exhibit B Description of Easement Area to be added
- EXHIBIT D-5 First Amendment to and Partial Termination and Relinquishment of Easement Agreement (Mountain Village Blvd Work)
 - Exhibit A New Easement Area
 - Exhibit B Description of Easement Area to be added
- EXHIBIT D-6 First Amendment to and Partial Termination and Relinquishment of Easement Agreement (Utilities)
 - Exhibit A New Easement Area
 - Exhibit B Description of Easement Area (to be added)
- Public Improvements Table
- Geotechnical Engineering Study, Project No. M22015GE Lambert and Associates, dated August 4, 2022
- Initial Rezone Submittal deemed complete October 26, 2022
- Rezone/density transfer application dated September 23, 2022

- Agency letter dated March 6, 2022
- Warrantee deed dated October 14, 2021
- Executive Summary dated August 8, 2022
- Rezoning/density transfer application narrative dated September 23, 2023

August 18, 2022 Continued first reading of an ordinance and ratification of consent to a major subdivision application by the Town Council that includes Village Center active open space – consent provided. First reading continued to the November 17, 2022 Town Council meeting in order to provide time for the application to submit the major subdivision, rezone and final design review materials.

Subdivision Submittal

- Subdivision Application dated August 9, 2022
- Project summary dated August 8, 2022
- Geotechnical report dated August 4, 2022
- Existing Conditions Topo/Survey dated October 17, 2022
- Combined Topo and Boundary survey dated February 11, 2022
- Conceptual Replat dated March 7, 2022

December 1, 2022 DRB meeting to provide recommendations to Town Council on the major subdivision, rezone and final design review. The Final design review was approved with conditions. The DRB provided a positive recommendation regarding the subdivision and rezone to the Town Council.

Submittal Materials in the packet

- Major Subdivision Application Development Narrative dated October 21, 2022
- Existing Conditions Improvements Survey dated February 11, 2022
- Proposed Replat and Rezone Plat (3 pages dated October 14, 2022)

June 15, 2023

Rezone and Subdivision Application materials

- Warrantee deed dated October 14, 2022
- Title report updated to April 6, 2023
- Agency letter dated March 3, 2022
- Subdivision Submittal for first reading dated May 2, 2023
- Consolidated Application Narrative for Major PUD Amendment,
- Major Subdivision and Rezoning (See Legal Documents) in PUD packet dated May 2, 2023
- Existing Conditions Improvements Survey dated October 17, 2022
- Replat and Rezone Lot 109R2, Tract OS-3BR-2R and ROW Tract
- (Applies to current platting configuration of OS-3BR-2) dated May 2, 2022 3 sheets)
- Replat and Rezone Lot 109R2, Tract OS-3BR-2R-1R and ROW Tract
- (Applies if parallel replat of OS-3BR-2 is approved) dated May 2 2022 3 sheets

August 17, 2023 Rezone First Reading

- First Reading Submittal for the rezone and subdivision Submittal dated July 19, 2023

- Consolidated Application Narrative for Major PUD Amendment,
- Major Subdivision and Rezoning (See Legal Documents)
- Existing Conditions Topo/Survey
- Replat and Rezone Lot 109R2, Tract OS-3BR-2R and ROW Tract
- (Applies to current platting configuration of OS-3BR-2) dated May 2, 2023 3 sheets
- Replat and Rezone Lot 109R2, Tract OS-3BR-2R-1R and ROW Tract
- (Applies if parallel replat of OS-3BR-2 is approved) dated May 2, 2023 3 sheets

September 20, 2023 Rezone First Reading, Subdivision Resolution and approval

- Subdivision narrative – consolidated major Major PUD Amendment Application, Major Subdivision and Rezoning Application – Narrative Lot 109R, Town of Mountain Village, San Miguel County, Colorado dated September 8, 2023
- Subdivision Submittal dated July 19, 2023 including the following materials
 - Consolidated Application Narrative for Major PUD Amendment,
 - Major Subdivision and Rezoning (See Legal Documents)
 - Existing Conditions Improvement Survey dated October 17, 2022
 - Replat and Rezone Lot 109R2, Tract OS-3BR-2R and ROW Tract
(Applies to current platting configuration of OS-3BR-2) dated May 2, 2023 3 sheets
 - Replat and Rezone Lot 109R2, Tract OS-3BR-2R-1R and ROW Tract
(Applies if parallel replat of OS-3BR-2 is approved) dated May 2, 2023 3 sheets
 - Zoning Exhibit dated April 28, 2023