

ORDINANCE NO. 2023-14

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO, REZONING CERTAIN PORTIONS OF SITE-SPECIFIC PUD LOT 109R TO ACTIVE OPEN SPACE VILLAGE CENTER AND PORTIONS OF ACTIVE OPEN SPACE VILLAGE CENTER TO SITE SPECIFIC PUD LOT 109R, AND A SMALL PORTION OF SITE SPECIFIC PUD LOT 109R TO ACTIVE OPEN RIGHT OF WAY**

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 Official Records of the Clerk and Recorder for San Miguel County, Colorado (“**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**”)<sup>1</sup>; and

WHEREAS, the Developer has submitted an application, which consists of the materials submitted to the Town and itemized on Exhibit A, to replat Lot 109R and the Town Property (the “**Major Subdivision Application**”) for the purpose of a land exchange whereby Developer shall convey certain portions of Lot 109R to the Town and the Town shall convey certain portions of Tract OS-3BR-2R-1 to Developer. The property to be conveyed by Developer to the Town is referred to in this Ordinance as the “**Replacement Town Property**.” The Replacement Town Property includes (a) those portions of Lot 109R immediately adjacent to Tract OS-3BR-2R-1 being incorporated by the replat attached hereto as Exhibit B (the “**Replat**”) into and made a part of the Town Open Space Parcel (the “**Open Space Replacement Town Property**”) and (b) that portion of Lot 109R being approximately 81 square feet in size and identified on the Replat as “ROW Tract” (the “**ROW Tract**”). The property to be conveyed by the Town to Developer is referred to in this Ordinance as the “**Contributed Town Property**.” The parties acknowledge and agree that the Replat describes and depicts (a) “**Lot 109R2**” (being Lot 109R as supplemented by the Contributed Town Property and exclusive of the Replacement Town Property); (b) the “**Town Open Space Parcel**” (being the Town Property as supplemented by the Replacement Town Property and exclusive of the Contributed Town Property); and (c) the ROW Tract; and

WHEREAS, the purpose of this Ordinance is to act on the required rezoning of the Replacement Town Property to bring it into the same zoning designation as the Town Property, and the Town Council will simultaneously be considering a separate ordinance concerning the Developer’s application for a Major Planned Unit Development (“**PUD**”) Plan for the Lot 109R2 (the “**PUD Ordinance**”); and

WHEREAS, this Ordinance is contingent upon the Town Council’s approval of a Major Subdivision Application by resolution to be considered simultaneously with second reading of this Ordinance to, upon the recording of the Replat, create the Open Space Replacement Town Property and ROW Tract and transfer ownership of the Open Space Replacement Town Property and ROW Tract to the Town; and

WHEREAS, the Developer has applied to rezone the Replacement Town Property as open space (“**Rezoning Application**”) in connection with its application for approval of a Major PUD Amendment for Lot 109R2, including the Contributed Town Property, which is being considered simultaneously with this Ordinance (the “**Major PUD Amendment Application**”); and

WHEREAS, the DRB held public hearings regarding the Major PUD Amendment Application, which included the proposal to transfer and rezone certain portions of Lot 109R into Town open space, on May 5, 2022

---

<sup>1</sup> 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.

and May 31, 2022, and voted 3-1 to issue a recommendation of approval to the Town Council concerning the Application, subject to further consideration by the DRB for final design review and for its recommendation regarding the related Major Subdivision Application; and

WHEREAS, the Town Council considered the PUD Ordinance on first reading at its regular meetings on June 16, 2022 and August 18, 2022, and voted to continue the matter to November 17, 2022 so as to allow the Developer time to submit the Major Subdivision Application and final design review materials; and

WHEREAS, the Town Council again considered the PUD Ordinance on first reading at its regular meeting on November 17, 2022, but voted to continue the matter to January 19, 2023 so as to allow the DRB to conduct a further public meeting regarding final design review and the Major Subdivision Application before the Town Council would make a decision as to the Major PUD Amendment Application; and

WHEREAS, following a DRB meeting held on December 1, 2022, the DRB recommended to the Town Council approval of the Major PUD Amendment Application and the Major Subdivision Application, subject to conditions, as well as approval of the required rezoning outlined in this Ordinance; and

WHEREAS, the Town Council has considered the Rezoning Application, the DRB's recommendations, and testimony and comments from the Developer, Town staff, and members of the public at public meetings on June 15, 2023 and August 17, 2023 and at a duly noticed public hearing on September 20, 2023; and

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.9.C.3 of the Town's Community Development Code ("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:

1. The proposed rezoning is in general conformance with the goals, policies and provisions of the Comprehensive Plan;
2. The proposed rezoning is consistent with the Zoning and Land Use Regulations;
3. The proposed rezoning meets the Comprehensive Plan project standards (CDC section 17.4.12(H));
4. The proposed rezoning is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources;
5. The proposed rezoning is justified because there is an error in the current zoning, there have been changes in conditions in the vicinity or there are specific policies in the Comprehensive Plan that contemplate the rezoning;
6. Adequate public facilities and services are available to serve the intended land uses;
7. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and
8. The proposed rezoning meets all applicable Town regulations and standards.

WHEREAS, the Town Council now desires to approve the Rezoning 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.** The Town Council hereby approves the Rezoning Application, subject to the conditions set forth below. All exhibits to this Ordinance are available for inspection at the Town Clerk’s Office. The Town Council specifically approves the following rezoning:

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

Existing Lot/Tract Name	Current Zoning	Current Size Acres
Lot 109R	PUD	.825 acres
Tract OS-3BR-2	AOS Village Center	1.969 acres

**Approximate Before and After Lot Areas to be rezoned consistent with the proposed subdivision plat**

New Lot/Tract Name	New Zoning	Proposed Size Acres	Net Change Acres
Lot 109R2	Site Specific PUD	.83 acres	.008 acre increase
Tract OS-3BR-2R-1R	AOS Village Center	1.958 acres	.011 acre decrease
ROW Tract	AOS Right of Way	.001 acres	.001 acre increase

**Section 3. Conditions.** The approval of the Rezoning Application is subject to the following terms and conditions:

3.1. The Town Council must separately approve the Major PUD Amendment Application. All conditions of the PUD Ordinance are incorporated by reference herein.

3.2 The Town Council must separately approve the Major Subdivision Application, which concerns the re-subdivision of Lot 109R and OS-3BR-2R-1 and creation of Lot109R2, the Town Open Space Parcel and ROW Tract pursuant to the Replat.

3.2. All conditions of approval of the Major Subdivision Application as set forth in Resolution 2023-0920-21 (“**Subdivision Approval**”) are incorporated as conditions of this approval.

3.3 The Town and Developer shall enter into the Amended and Restated Development Agreement approved by the PUD Ordinance which shall incorporate by reference all conditions of this approval and the Subdivision Approval. 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.

3.4 All representations of the Developer, whether within Rezoning or Subdivision Applications submittal materials or at the DRB or Town Council public hearings after December 1, 2022, are conditions of this approval.

3.5 The rezoning created hereby shall not become effective until all of the following have occurred (such date being referred to in this Ordinance as the “**Rezoning Effective Date**”):

- a. The Effective Date of this Ordinance.
- b. The land swap involving the Contributed Town Property and the Replacement Town Property has been completed as provided by the Amended and Restated Development Agreement; and
- c. The Replat has been recorded in the Official Records of the Clerk and Recorder for San Miguel

County, Colorado.

3.6. The approved rezone, further described on the Replat, shall be shown on a map reflecting the new zoning and associated boundaries, to be provided with second reading of this Ordinance as required by the CDC. The precise boundaries of each zone district shall conform to the Replat being considered as part of the Major Subdivision Application.

3.7. Town staff shall update the Town's Official Zoning Map to reflect the changes made by this Ordinance as soon as practicable after the Rezoning Effective Date.

3.8. The rezone approval is conditioned upon the approval of the major subdivision and PUD approvals.

**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 30 days following re-publication after second reading ("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. Public Hearing.** A public hearing on this Ordinance was held on the 20<sup>th</sup> day of September, 2023 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado 81435.

**Section 7. Publication.** The Town Clerk or Deputy Town Clerk shall post and publish notice of this Ordinance as required by Article V, Section 5.9 of the Charter.

**INTRODUCED, READ, AND REFERRED** to public hearing before the Town Council of the Town of Mountain Village, Colorado this 17<sup>th</sup> day of August 2023.

**TOWN OF MOUNTAIN VILLAGE:**

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



By: \_\_\_\_\_  
Martinique Prohaska, Mayor

**ATTEST:**

  
Susan Johnston, Town Clerk

**HEARD AND FINALLY ADOPTED** by the Town Council of the Town of Mountain Village, Colorado this 20<sup>th</sup> day of September 2023.

**TOWN OF MOUNTAIN VILLAGE:**

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




By: \_\_\_\_\_  
Martinique Prohaska, 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. 2023-14 ("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 August 17, 2023, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Marti Prohaska, Mayor	X			
Scott Pearson, Mayor Pro-Tem	X			
Harvey Mogenson	X			
Patrick Berry	X			
Peter Duprey	X			
Jack Gilbride	X			
Tucker Magid	X			

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 August 23, 2023 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 September 20, 2023. At the public hearing, the Ordinance was considered, read by title, and approved with 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
Marti Prohaska, Mayor	X			
Scott Pearson, Mayor Pro-Tem	X			
Harvey Mogenson	X			
Patrick Berry	X			
Peter Duprey	X			
Jack Gilbride	X			
Tucker Magid	X			

5. After the Council's approval of the second reading of the Ordinance with amendments, the Ordinance was published in full within 7 days of final passage in the Telluride Daily Planet, a newspaper of general circulation in the Town, on September 27, 2023 in accordance with Section 5.2(f) of the Town of Mountain Village Home Rule Charter.
6. 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 20<sup>th</sup> day of September 2023.

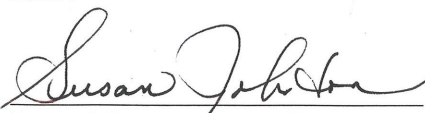
  
 Susan Johnston, Town Clerk  
 (SEAL)



Exhibit A

List of Rezoning Application Materials

2023

Approved Cases - 2023



## **Exhibit A**

### **List of Application Materials 109R subdivision**

1. Subdivision narrative see Consolidated Application Narrative for Major PUD Amendment, Major Subdivision and Rezoning dated July 19, 2023 – see August 17, 2023 Town Council packet.
2. Applicants revised narrative dated 9.8.23
3. Applicants narrative and materials dated 7.19.23
  - a. Existing Conditions Improvements Survey dated October 17, 2022
  - b. Replat and Rezone option #1 - reflecting current platting of town open space and 109R
4. Replat and Rezone Option #2 – if parallel replat is approved) due to 161CR replat of town open space

### **List of Application Materials 109R rezone**

1. See PUD list of application materials, rezone addressed in the consolidated application narrative for the major PUD amendment, subdivision rezoning dated July 19, 2023 – see August 17, 2023 Town Council packet.
2. Zoning Exhibit dated April 28, 2023



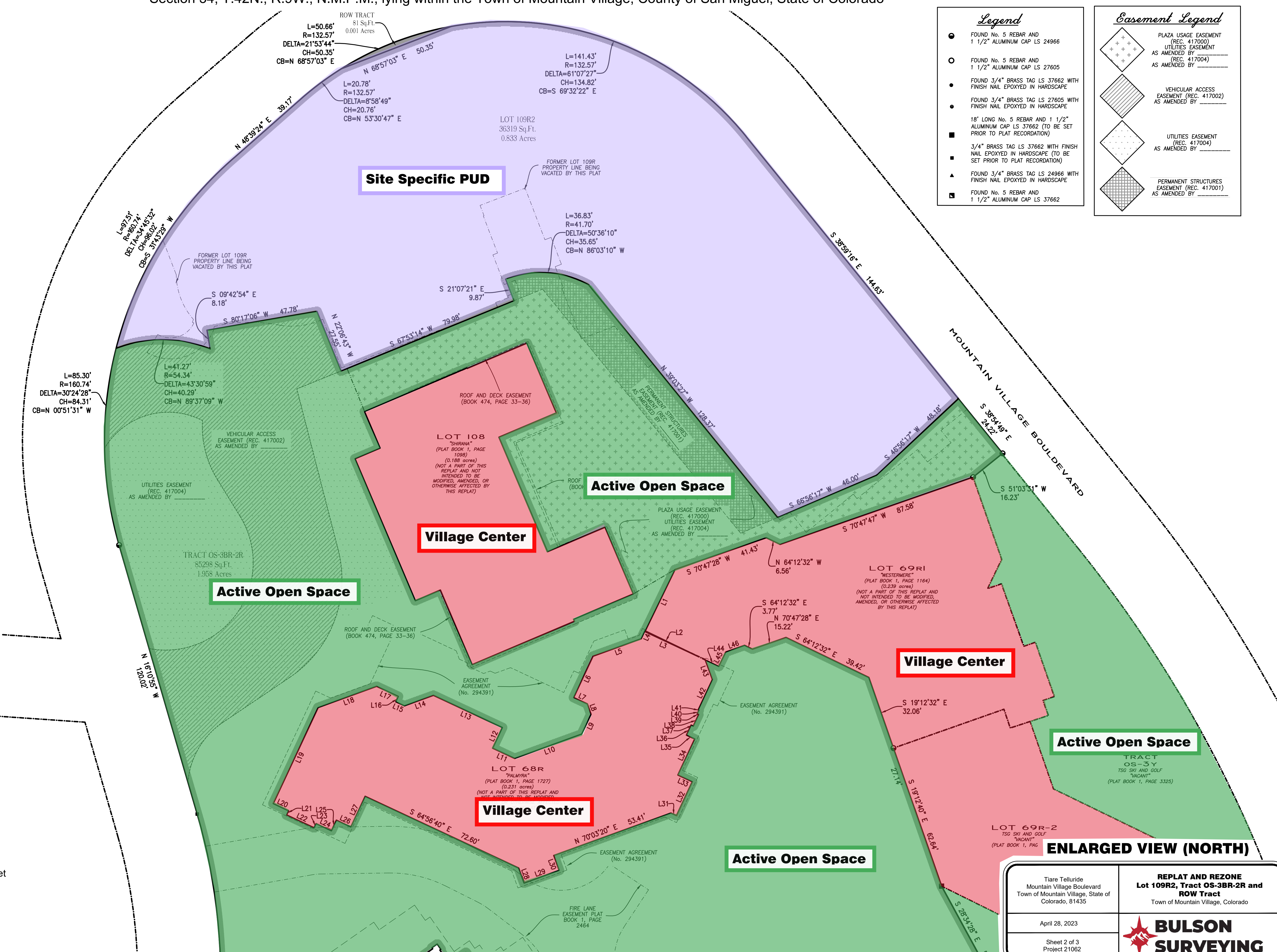
Exhibit B

Approved Rezone Exhibit

### ZONING EXHIBIT Lot 109R2, Tract OS-3BR-2R and ROW Tract

A Subdivision of Tract OS-3BR-2 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'

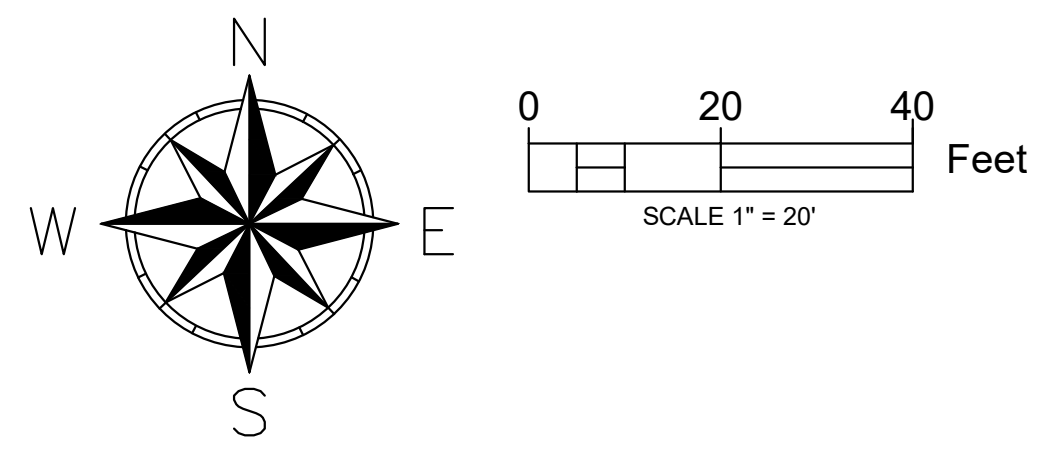


**Legend**

- 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) AS AMENDED BY \_\_\_\_\_
- ◆ 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	<b>REPLAT AND REZONE</b> <b>Lot 109R2, Tract OS-3BR-2R and ROW Tract</b> Town of Mountain Village, Colorado
April 28, 2023	<b>BULSON SURVEYING</b>
Sheet 2 of 3 Project 21062	

C:\Users\jared\Bulson Surveying Dropbox\Bulson Surveying Jobs (Completed)\Jobs 2021\21062\Receiving Exhibit 09111023.dwg, 9/11/2023 11:02:17 AM, DWG to PDF.pc3