



Agenda Item No. 13
PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT

455 Mountain Village Blvd.
 Mountain Village, CO 81435
 (970) 369-8250

TO: Mountain Village Town Council

FROM: John Miller, Senior Planner

FOR: Meeting of November 21, 2019

DATE: November 4, 2019

RE: First Reading of an Ordinance considering a Major Planned Unit Development (PUD) Amendment to Lots 126R and 152R Planned Unit Development (formerly referred to as the Rosewood PUD and now known as La Montage) including but not limited to, a density transfer and rezone in accordance with CDC Sections 17.3.8 and 17.4.12

APPLICATION OVERVIEW:

PROJECT GEOGRAPHY

Legal Description: Lot 126R, Lot 152R, Tract OSP-126, Tract OSP-118, Telluride Mountain Village, Filing 1 at Reception Number 397455

Address: 200, 208, 221, 223 & 225 Country Club Drive

Applicant/Agent: Alpine Planning, LLC / Chris Hawkins, AICP

Owner: MV Holdings, a WY LLC.

Zoning: Multi-Family / Open Space

Existing Use: Vacant Lands

Proposed Use: Multi-Family

Lot Size: 5.49 Acres

Adjacent Land Uses:

- **North:** Passive OS
- **South:** Active OS
- **East:** Active OS/ Single-Family
- **West:** Single-Family

Attachments:

- Exhibit A: Narrative
- Exhibit B: Plan Set
- Exhibit C: Public and Staff Comments



Proposed Application and Case Summary:

Alpine Planning, Drewett Works, and SALT Architecture (Applicants) working on behalf of MV Holdings, LLC (Owner) of Lot 126R, Lot 152R, Tract OSP-126 and Tract-118 (Properties) are requesting a Major Planned Unit Development Amendment and a concurrent Rezone and Density Transfer. The applicants have held work sessions with both the DRB and the Town Council, initially with a proposal to revoke or rescind the existing site-specific PUD allowing Lot 126R and 152R to revert to the multi-family zoning designations that existing prior to the PUD approval. Town Council felt that the PUD amendment process afforded the town more opportunity for an open public process, allowances for public benefits and creative design; thus, Town Council gave direction to the applicant that the preferred option would be for the applicant to resubmit a proposal to amend the existing PUD. Based on the substantial changes of this application in comparison with the existing Rosewood PUD, this requires a Major PUD amendment per the Community Development Code (CDC).

The applicants have revised their proposal based on feedback provided at the Town Council Work Session as well as a series of neighborhood meetings and based on that feedback are now proposing to amend the existing Lot 126R and 152R PUD to allow for the development of 49 Condominium Units and 4 Employee Apartments. In order to process this request, staff determined that two (2) separate applications are required as follows: (1) a Major PUD Amendment application and concurrent Density Transfer and Rezone application; and, (2) Design Review to ensure any final phased development plans conform with any PUD requirements established by Town Council. Each of these requests will be discussed in detail within the Project Discussion section of this memo below. For this PUD amendment, it is important to note that per the CDC the Town Council “shall focus its review on the other issues associated with [the PUD], such as mass and scale, public benefits, density, and general conformance with the Comprehensive Plan”. This provision will guide the formatting of this memo with a focus placed on the above criteria.

Project Discussion: *This portion of the memo will discuss the individual applications that are being requested along with the merits of each application. Staff notes will be provided in BLUE.*

1. Major PUD Amendment

The purpose and intent of the PUD Regulations are to allow for variations in certain standards of the CDC to allow for flexibility, creativity, and innovation in land use planning and project design. This flexibility is based on the premise that in return for the allowance of certain variations, the developer will provide better design and certain community benefits that would otherwise not be required as part of a development.

In 2007, the town approved the Rosewood PUD that established the current density on the properties as shown in the table below. This approval resulted in an increase in total density units from 310 units to 345 units and provided for a total of 38,666 square feet of commercial space.

2007 Rosewood PUD	units	total density
Current Zoning		
Hotel	56	84
Hotel Efficiency	19	38
Condominium	67	201
Employee Apt/Dorms	22	22
Commercial	38,666 sq ft	
	164	345

The 2007 Rosewood PUD approval also granted several site-specific design variations tied to the proposed public benefits which were to be constructed by the developers. These variations included:

1. Increasing maximum height for Lot 126R, Building A to increase height by 15 ft.
2. Increasing the maximum average height for Lot 126R and 152R by an average increase of 6.66 ft. on Bldg. A and 5.33 ft. on Bldg. B.
3. Variation to allow 51 tandem parking spaces.
4. Variation to Section 4-305 of the LUO to allow single-family designation on former Lot 118 to be rezoned to hotel efficiency designation.
5. A variation on Lot 126 to allow a portion of the building to be seen from San Miguel Canyon to be developed with a condominium zoning designation provided such units have an opportunity to be included in the rental pool.

Currently, as proposed – the La Montagne PUD is requesting three design variations. The following variations should be discussed in order to determine that any proposed public benefits linked to these variations and the PUD are adequate.

1.a - Proposed La Montagne Design Variations: *The proposed variations are solely design requests that could otherwise be allowable by DRB approval. In this case, the applicants are requesting the Council weigh the requested design variations in relation to the proposed public benefits described below in Section 1.b and determine if they are appropriate requests.*

1. Road and Driveway Standards: design variation to allow for retaining walls associated with the driveway and parking area to be over 5 feet in height.

Staff Note: Lot 152R is very narrow and in order to accommodate access to the project's parking garage, the applicants are proposing to utilize retaining walls over 5 feet in height. This is necessitated by the need to provide an access ramp that maintains visual site distances to Country Club Drive for ingress and egress. There are currently two access ramps that would require these walls exceeding the CDC requirement.

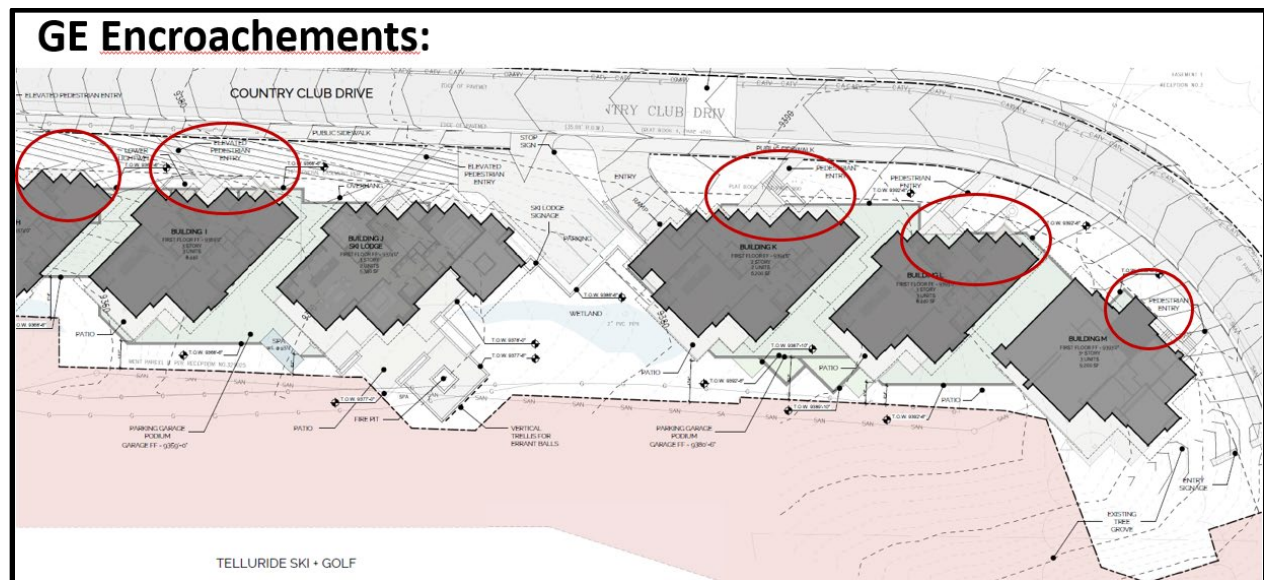
2. Design Variation to allow for more than one curb cut for both Lot 126R and 152R.

Staff Note: The proposed PUD Amendment would require at least five curb cuts as shown below. Per the CDC, the public works director must grant specific approval of any project that requires more than one curb cut from the main road. Staff referred this application to the Public Works Department with no concerns related to access.



3. Roof Dripline encroachments into the northern General Easement (GE) on Lot 152R.

Staff Note: the applicant is requesting a portion of the roof overhang shown below be located within a vertical encroachment of the General Easement. This is due to the limited depth of the lot and geographical wetland constraints that will be discussed in more detail below. Given the height of the encroachment and the overall limited impacts to the GE, staff does not believe this to be problematic.



1.b - Proposed Public Benefits:

1. Conveyance of OSP-118 and OSP-126 to the Town.
2. Re-routing of the Stegosaurus Trail.
3. Employee Housing (Noted by the applicant, see staff comment below)
4. Road and Pedestrian Improvements to Country Club Drive.

Staff Note: Staff would recommend that the applicants provide figures associated with the values of the proposed improvements listed above. This could include assessed values of the open space tracts, costs of road and pedestrian improvements including the Stegosaurus Trail re-route. The provision of Employee Housing is not considered a public benefit in relation to the intent of the PUD regulations. The employee housing is assigned and platted and proposed to be reduced. To be considered a public benefit the applicant would need to demonstrate an excess above the platted and unbuilt employee housing density. The property was originally platted with 5 units of employee apartment density and 16 units of employee dorm density. Although staff recognizes that the overall density of the site has been reduced dramatically which may warrant the reduction of employee units associated with the Hotel and Commercial uses, there is no associated public benefit with the reduction of employee units.

It should also be noted that through the reiterative design process based on feedback from the neighbors, there has been a trend to downzone the property by removing not only density but the public commercial elements of the project. Staff believes that the town could consider additional opportunities to develop public amenities within the project, whether that be commercial or outdoor recreation amenities. PUD's inherently allow for public benefit negotiation in exchange for variations. It's evidenced through other PUDs in analogous resort communities, that the provision of public benefits adds to the overall success of the project which benefits the town through vitality and year-round community vibrancy. Ultimately, the Town Council will need to

determine if the above-proposed public benefits are adequate in relation to the requested design variations or if additional benefits must be considered.

1.c - Massing:

Architect Fellow Sam Jacoby, University College London, details massing as “an important design consideration as it has a direct effect on the visual perception and impact of a building, influencing the sense of enclosure and definition of interior and exterior spaces”¹. The massing of a structure is critical as it has a direct impact on the overall visual impact a building makes. In relation to the La Montagne Project, the designers have intentionally proposed the project to have a long-low horizontal massing. Based on conversations with neighboring properties, the applicants have revised their overall building massing to provide additional view corridors and setbacks that allow for an overall reduced visual mass of the structures. The applicants have intentionally chosen to utilize shed forms in their building mass which has the result of lowering the overall heights of the buildings in comparison with a gabled roof mass. Typically, the PUD process results in taller maximum height allowances and the associated mass of those buildings. In this case, the applicants are meeting the height requirements for the Multi-Family Zone and are not proposing buildings with excessive heights or massing. Massing is otherwise dictated by site coverage and building height, both proposed within what is otherwise required by the underlying zone district of Multi-Family.

1.d - Scale:

Although not defined by the CDC, “Building Scale” is “the perceived relative height and bulk of a building relative that to neighboring buildings”. “Massing and scale of structures should remain in harmony with the immediate natural setting”. “For example, buildings in grand mountain settings should be overscaled with large building materials such as boulders, timbers, and larger than-typical doors and windows”².

Staff Note: The La Montagne design concept could best be described architecturally as a mountain modern vernacular with elements that are reminiscent of existing styles and buildings within the town. Given the high alpine setting of the Mountain Village and the dramatic relief of the surrounding mountains, it would be appropriate to utilize materials provided for above such as natural stone, oversized exposed timbers, and large windows. The proposed design is largely framed by flat/shed roof forms with minor slope variations. Although we don't traditionally see many flat or low sloping roofs, they are becoming more prevalent in the mountain modern vernacular seen in the Mountain Village and surrounding communities. The relatively low pitch of the roof allows for the elements of the architecture to appear as a natural outgrowth of the rolling landscape surrounding the golf course – blending elements of the ground, the hillside, and the mountains in the distance.

The applicants have aimed to denote compliance with things such as the unique site sensitive building location, access, views, solar gain, landscape screening, building materials, and colors. The design team has worked to emulate the “indigenous architecture” which is described as “tectonic [in] nature with its exposed beams, purlins, and wood ceilings”. Within the provided documentation, the applicants have provided massing details for not just the proposed La Montagne project, but also the surrounding single and multi-family structures. From the provided 3D renderings, it appears that the project works well to transition the larger massed structures within and adjacent to the Village Center, with the single-family homes further to the west of the project.

¹ Jacoby, Sam (2016). *Drawing Architecture and the Urban*. Chichester, West Sussex: Wiley. p. 52. ISBN 9781118879405.

² United States Forest Service (2010) FS 710 *The Built Environment Image Guide for the National Forest and Grasslands*.

1.e - Conformance with Comprehensive Plan:

The applicants have provided documentation related to conformance with the Comprehensive (Comp) Plan within the attached narrative. This includes the Comp Plan Future Land Use Map which identifies the properties as Multi-Unit and states that multiunit classifications “provide higher density condominium development for deed-restricted housing, hotbeds, second homes, and similar uses”. In addition to general criteria within the Comp Plan, the applicants have addressed the required criteria provided for PUDs within Section 17.4.12 (H) of the CDC.

Staff Note: The 2011 Comprehensive Plan identifies the properties as areas for multi-family development and specifically identifies Lot 126R as a lot to allow for Mixed-Use Commercial Development in Multi-Unit Projects. Generally speaking, the Mountain Village promotes a land-use pattern envisioned by the Comprehensive Plan and requires that any discretionary land use application is in general conformance with the Land Use Plan, the Subarea Plans, and their associated principles and policies, and the applicable policies of the Comprehensive Plan. Because the subject project is not within a subarea planning area, the general principles and policies of the Comprehensive Plan govern the overall development of the site.

2. Density Transfer and Rezone

Given that the Rosewood PUD increased the densities of the properties, the owner is obligated to work with the town in order to finalize the proposed density on the lots that will be in place once the PUD has been amended. In addition to transferring any excess density into the density bank, the CDC requires that any PUD application request a concurrent rezoning to PUD Zone District. If this application is approved, the zoning map will be modified to reflect the PUD District for the associated properties.

According to the applicant’s narrative, “the proposed Rezoning and Density Transfer result in the elimination of 56 hotel units, 19 hotel efficiency units; 18 condominium units; 1 employee apartment; and 17 employee dorms units”, along with 38,656 square feet of commercial space. All of this density will be required to be transferred to the density bank per the CDC as applicable. The applicant has requested that the remaining employee dorm and apartment density be excluded from this requirement.

Staff Note: Staff does not believe this request can be accommodated as the CDC requires that all excess density be transferred into the density bank. It should be emphasized that the CDC prohibits the transfer of workforce housing density to the density bank or to another lot unless the Town Council determines at its sole discretion that the workforce housing density cannot be built on-site due to a practical hardship. This criterion must be demonstrated by the applicants prior to any density transfer and rezone approval by the Town. The majority of the workforce housing density currently on the site is classified as employee dorm units, and town staff is supportive of a conversion of this density from dorm to condo or apartment. It should also be noted that the applicant has revised the proposal since the work sessions to include 4 employee apartments for a total employee person equivalent of 12. Staff believes the applicants have demonstrated a justification to reduce the workforce housing density by proportionality for the purpose of this hearing.

The reduction in Hotel and Hotel Efficiency Density from the site has allowed for the development to be presented with overall reduced massing and heights different than iterations seen in past projects. The applicants have provided some high-level massing models for Lot 126R within their application materials and have also provided a viewshed analysis for neighboring homes within the immediate vicinity in order to begin to address concerns related to viewshed impacts. From the provided documentation, it would appear that the reduction in density and related reduction in mass may be better suited for the surrounding community rather than the approved site-specific development that currently exists on the properties in the form of the Rosewood PUD.

There are a number of land-uses that occur within the immediate vicinity of the La Montagne development including Open Space, Single-Family, Multi-Family, and Village Center. Given the large masses of neighboring multi-family structures (Peaks, See Forever), this development may serve to buffer adjacent residential single-family uses along Country Club Drive from further development of large multi-family buildings within the Village Center. By creating condominiumized townhomes, a visual and spatial transition is established as you travel west towards the terminus of the roadway.

3. Design Review

On November 7, 2019, the Design Review Board (DRB) held a public hearing to discuss Initial Architectural and Site review for La Montagne Lot 152R. At that meeting, they continued the hearing to December 5 and requested additional information to be provided by the applicant in regard to the architectural design of the project. Any final project design reviewed by the DRB will ultimately need to conform with the relevant site-specific design portions of the amended PUD. The Town Council may determine a need to continue the request for a PUD Amendment until December if it determines that the amendment request cannot proceed based on the mass and scale of the project in relation to the design review. Although the overall design of the project is largely correlated to the density, mass, and scale of the project, it should be noted that the request does not include any variations based on heights or coverage requirements and therefore any reduction in density may result in a similar size and massed development.

This portion of the memo will focus on general design questions that were discussed during the previous Town Council work session for the project.

3.a - Building Siting and Design:

The CDC requires that any proposed development blend into the existing landforms and vegetation. Because Lot 152 is very linear in shape and has delineated wetlands on the site, there are limited areas that can be developed on the site. The site slopes to the south from Country Club Drive and the applicant is proposing to utilize this slope to build the proposed structures into the hillside. This allows for the parking areas to be mostly sub-grade and limits the overall height of the structure. By incorporating linear townhouses along the frontage of Country Club Drive, the project appears to have maximized golf course frontage and view corridors from the site, while minimizing access points and turning movements along the road. Although the project site is relatively flat, there are some sloped portions – particularly along the road frontage as it slopes towards the golf course. The project design proposes to build into this hillside in order to minimize cuts and fills post-development. By incorporating the building's foundations into the sloping hillside of Lot 152R, the project appears to minimize viewshed impacts as seen from Country Club Drive and adjacent homes within the vicinity.

3.b - Parking:

The CDC requires 1.5 parking spaces per unit for a total requirement of 22.5 spaces for lot 152R. The applicant is proposing a total of 25 spaces for Lot 152R including 2 service spaces. This meets the parking requirements for Lot 152R. Lot 126R will be required to provide parking for any future development within its lot boundaries and based on the density requested will be required to provide a total of 54 spaces plus additional service parking. The access to the parking area has been addressed by the applicant by revising the entrance grades to the garage to 5% slope which aids in sight distances for ingress and egress.

3.c - Steep Slopes:

The majority of the steep slopes are located on Lot 126R and the development of Lot 152R will not have impacts on these slopes. The conceptual design for Lot 126R appears to focus on the developable areas of the site with slopes less than 30%.

3.d - Wetlands:

The applicant has provided a wetland delineation report from a wetland specialist that has been approved by the Army Corps of Engineers. The plan proposes to supplement existing low-quality wetlands with storm-water from impervious areas within the development in a way that has the potential to increase the quality of the wetlands and wetland vegetation on the site. There are no proposed disturbances to the delineated wetlands per the submitted application. Although the requirements for wetland restoration and rehabilitation vary, most require some level of authorization under local, state or federal wetland protection regulations. The applicants will be required to comply with any required permitting associated with wetland rehabilitation.

4. Phasing.

The applicant is proposing developing the PUD in two distinct phases with the Lot 152R phase being pursued first. The Lot 152R portion of the PUD is seeking design review approval concurrently with the PUD approval and if approved would be eligible for application for a building permit. The Lot 126R portion is only seeking approval through the PUD amendment of rezoning, density, massing, site coverage, but not design review approval which would be sought at a later date:

Staff believes that the phasing is appropriate for this PUD as the Lot 126R portion and the Lot 152R portion are capable of being standalone projects. The PUD will lock in the density, massing, scale, site coverage, height limits and other elements of the Lot 126R portion of the PUD and will leave only the design review component for future consideration. Any major modifications to these elements would require a PUD amendment by the owner at a future date. The only caveat to this assessment is the provisions of the employee housing units, which are platted on Lot 126R which is proposed to be the second phase of development. Council should consider if it is appropriate for there to be security or assurances in the timing of the development of the employee housing units on Lot 126R associated with the development of the first phase of the PUD which would be the Lot 152R portion of the development. Staff will present options to Town Council related to employee housing and phasing at the hearing.

Criteria for Decision and Staff Findings:

Major PUD Amendment Criteria:

The following criteria shall be met for the review authority to approve a rezoning to the PUD Zone District, along with the associated PUD development agreement:

1. The proposed PUD is in general conformity with the policies, principles, and standards set forth in the Comprehensive Plan;

Staff has provided conclusionary statements within this memo, Section 1.e, detailing the general conformity of the proposal with the 2011 Mountain Village Comprehensive Plan's policies, principles, and standards. In addition to the specific Multi-unit land-use policies that are referenced in this report, the plan also provides general guidance including statements such as "Better sustainability can be achieved by...Concentrating development in high-density areas to achieve economic sustainability", and by "maintaining the original planned density of 8,027-person equivalent density". In addition, economic modeling within the Plan provides that "Mountain Village's economy is vulnerable. This is due to a combination of factors: a dispersed, inadequate hotbed base; annual occupancies that are lower than comparable ski resort communities; and a seasonal economy that has its high point centered on a relatively small number of days in the ski season and festival weekends."

The plan discusses alpine character preservation on page 34 and provides that "much of the land area in Mountain Village is very stable and not expected to change in the future, particularly single-family neighborhoods. Alpine character preservation areas are largely comprised of low density, single-family homes that are nestled into Mountain Village's landscape, integral to creating the open, tranquil alpine ambiance that it is known for". As shown per the Land Use Plan, "these areas may include higher density development such as multiunit buildings and tourism-related amenities as long as their aesthetic is secondary to the surrounding landscape". Criterion Met.

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;
The proposed PUD Amendment is consistent with the underlying multi-family zone district. If the PUD Amendment is approved, then the properties will be required to be rezoned to PUD. There are no other variations related to the proposed zoning. Criterion Met.
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;
The proposed PUD Amendment would allow for the development of the properties in accordance with the Comprehensive Plan in a way that would be much less intensive than the originally approved Rosewood PUD. By incorporating pedestrian improvements, the PUD Amendment will provide amenities to not just the residents of the PUD but also the general public. Criterion Met.
4. The proposed PUD is consistent with and furthers the PUD purposes and intent;
The purpose and intent of the PUD Regulations are to allow for variations in certain standards of the CDC to allow for flexibility, creativity, and innovation in land use planning and project design. Staff believes this application has accomplished this. Criterion Met.
5. The PUD meets the PUD general standards;
Criterion Met.
6. The PUD provides adequate community benefits;
Town Council must determine if the proposed public benefits are adequate in relation to the requested design variations, and if so, should make an affirmative finding that the proposed community benefits are adequate. If the Council determines that the community benefits are not adequate, then the proposal would need to be modified and resubmitted to include additional benefits.
7. Adequate public facilities and services are or will be available to serve the intended land uses;
There are currently adequate public facilities and services available to serve the proposed PUD. All required utilities are currently located within the road right of way adjacent to the project. Based on public concern related to road safety, it may be beneficial for Council to require improvements to Country Club Drive and its associated pedestrian and bike facilities. Based on preliminary submittals, the applicants are proposing improvements based on a provided traffic study and preliminary engineering. There will be a minimal effect on fire and police service as the result of this project. Criterion Met.

8. The proposed PUD shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and
The proposed PUD addressed vehicular and pedestrian circulation, along with parking, trash, and service delivery congestion within their application. As part of the proposed public benefit, the applicants have proposed roadway safety improvements for both vehicular and pedestrian traffic including sidewalks and road improvements. Criterion Met. As with the criteria above Town Council should evaluate whether the improvements proposed and required with the PUD are sufficient for the increase in density and traffic generated.
9. The proposed PUD meets all applicable Town regulations and standards unless a PUD is proposing a variation to such standards.
With the exception of the proposed variations, the PUD meets all town regulations and standards. Criterion Met.

Staff Finding: The requested PUD amendment is in general conformity with the 2011 Mountain Village Comprehensive Plan's policies, principles, and standards; and the underlying zoning. The development as proposed provides for a creative approach to the development of the project in a way that will produce a better development plan than the previously approved PUD and achieves this primarily by reducing the density on the property. The property functions as a transition lot from Village Center zoning to single-family residential.

Rezoning Criteria:

The following criteria shall be met for the review authority to approve a rezoning development application:

- a. The proposed rezoning is in general conformance with the goals, policies, and provisions of the Comprehensive Plan;
Addressed above. Criterion Met.
- b. The proposed rezoning is consistent with the Zoning and Land Use Regulations;
Rezoning is required per the CDC for any PUD or PUD Amendment. Criterion Met.
- c. The proposed rezoning meets the Comprehensive Plan project standards;
Addressed above. Criterion Met.
- d. The proposed rezoning is consistent with public health, safety, and welfare, as well as efficiency and economy in the use of land and its resources;
The proposed rezoning presents no public health, safety or welfare issues and is an efficient use of a multiunit parcel that has been zoned for multi-family development for several years and which is in close proximity to the Village Center. Criterion Met.
- e. The proposed rezoning is justified because there is an error in the current zoning, there have been changes in conditions in the vicinity or there are specific policies in the Comprehensive Plan that contemplate the rezoning;
The proposed rezoning is justified due to changes within the vicinity of the project which justifies the downzoning of the property. Criterion Met.

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

There are currently adequate public facilities and services available to serve the proposed PUD. All required utilities are currently located within the road right of way adjacent to the project. Based on public concern related to road safety, it may be beneficial for Council to require improvements to Country Club Drive and its associated pedestrian and bike facilities. Based on preliminary submittals, the applicants are proposing improvements based on a provided traffic study and preliminary engineering improvements. There will be a minimal effect on fire and police service as the result of this project. Criterion Met.

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

The proposed PUD addressed vehicular and pedestrian circulation, along with parking, trash, and service delivery congestion within their application. As part of the proposed public benefit, the applicants have proposed roadway safety improvements for both vehicular and pedestrian traffic including sidewalks and road improvements. Criterion Met. As with the criteria above Town Council should evaluate whether the improvements proposed and required with the PUD are sufficient for the increase in density and traffic generated.

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

The application is compliant with all applicable town regulations and standards. Criterion Met.

Density Transfer Criteria:

The following criteria shall be met for the Review Authority to approve a density transfer:

- a. The criteria for decision for rezoning are met since such density transfer must be processed concurrently with a rezoning development application (except for MPUD development applications);
- b. The density transfer meets the density transfer and density bank policies; and
- c. The proposed density transfer meets all applicable Town regulations and standards.

Affirmed. See the criteria for rezoning.

Design Review Board Recommendation: The Design Review Board reviewed the application to amend the existing Rosewood PUD as well as the rezone and density transfer at their November 7, 2019, Regular Meeting and voted 7-0 to recommend approval to Town Council.

At the November 7, 2019 meeting, the Initial Architectural and Site Review was continued to the December 5, 2019, regular meeting of the DRB.

Staff Recommendation: If the council determines that the proposed mass and scale, public benefits, and overall project density align with the criteria for approval including conformance with the comprehensive plan, the staff recommends approval with the following suggested motion.

I move to approve, the first reading of an Ordinance for a Major PUD Amendment, Density Transfer and Rezone amending the Lot 126R and 152R PUD, and request the town clerk to set

a public hearing, based on the evidence provided within the Staff Report of record dated November 4, 2019, and with the following conditions:

- 1) The applicant shall submit the Final Draft of the proposed PUD Development agreement to the public hearing for the PUD amendment and Density Transfer / Rezone.
- 2) The final location and design of any buildings, grading, landscaping, parking areas, and other site improvements shall be determined with the required Design Review Process application pursuant to the applicable requirements of the CDC and any amended PUD.
- 3) The applicant shall provide documentation from the Army Corps of Engineers that any wetland rehabilitation project is exempt from Wetland Permitting Requirements or shall provide documentation of an approved rehabilitation plan and permit for the requested wetland improvements.
- 4) Prior to issuance of a CO, the property owner will enter into a General Easement Encroachment Agreement with the Town of Mountain Village for the roofline vertical encroachments.
- 5) A monumented land survey shall be prepared by a Colorado public land surveyor to establish the maximum building height and the maximum average building height.
- 6) A monumented land survey of the footers will be provided prior to pouring concrete to determine there are no additional encroachments into the GE.
- 7) Consistent with town building codes, unenclosed accessory structures attached to buildings with habitable spaces and projections, such as decks, shall be constructed as either non-combustible, heavy timber or exterior grade ignition resistant materials such as those listed as WUIC (Wildland Urban Interface Code) approved products.

If Town Council is unable to determine that the project meets the criteria for approval documented throughout this memo, then staff recommends one of the following options:

1. Continue the first reading of the proposed PUD Amendment and Density Transfer / Rezone until a time that the Initial Architecture and Site Review has been completed by the DRB.
2. Request modifications to the proposed PUD Amendment as shown based on mass, scale, density, or public benefits.

/
 JJM



La Montagne



Major PUD Amendment, Rezoning and Density Transfer

Updated October 29, 2019

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Uncompahgre
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SECTION 2

PROJECT OVERVIEW

MV Holdings, LLC (“Owner”) is the owner of Lot 126R (“North Site”), Lot 152R (“South Site”), Tract OSP-126; and Tract OSP-118, Telluride Mountain Village Filing 1 as recorded in the office of the San Miguel County Clerk and Recorder at Reception Number 397455 (“Property”) as shown in Figure 1. The Owner bought the Property in 2018 with the goal of revisiting the previously approved development plans for the Rosewood Hotel (“Rosewood PUD Plan”) to create an entirely new plan that is based on the land uses envisioned in the Mountain Village Comprehensive Plan (“Comprehensive Plan”); town input, community input and neighbor comments based on several individual meetings and a neighbor meeting.

The new concept being pursued by the Owner under the name “La Montagne” (“La Montagne Project”) that effectively replaces and supersedes the Rosewood PUD Plan in its entirety. The La Montagne Project contemplates a significant reduction in the previously assigned and approved density for the Property; focuses on transitional residential development; and greatly reduced building mass/scale on a “use by right” order, without the need for seeking PUD waivers/variances for building size or height. The goal of the La Montagne Project is to create a premier modern townhome development that provides the perfect retreat for golf, trail, mountain and ski enthusiasts. The La Montagne Project includes the following objectives:

1. Design and plan for a transitional multi-family project based on the underlying Multi-family Zone District that fits within the development pattern of the area, with higher density at See Forever, The Peaks, Lots 122 and 123 and the La Montagne Project transitioning to single-family properties in the area.
2. Participate in the planning and design for safety improvements to Country Club Drive working with the Town and property owners with new sidewalk that could include an uphill bike lane, speed humps, cross-walk, and lower speed limits as allowed by the right-of-way and general easement site condition.
3. Create a “by right” development with height, scale and mass per the Multi-family Zone District, PUD Zone District, and Community Development Code (“CDC”) requirements and allowances as approved and shaped by the PUD Amendment, Rezoning, Density Transfer and Design Review processes.
4. Work and participate with stakeholders to improve the trail system, pedestrian walkways and connectivity to the Mountain Village Center from the site.
5. Cooperate with neighbors to identify and attempt to mitigate visual and other impacts.
6. Keep the current subdivision platting and Property easements generally in place or modify as needed.
7. Facilitate a significant downzoning of the Property and create a new transitional plan by the removal of 75 hotel units, 18 condominium units, 17 employee dorms units, one employee apartment, and elimination of all commercial uses:
 - Decrease the actual unit density from 164 to 53 units (68% reduction)
 - Eliminate commercial density by 38,656 sq. ft. (100% reduction)
 - Reduce the number of employees by approximately 203 employees (92% reduction)
 - Reduce gross square footage and above grade floor area (scale and mass) by over 50%
 - Reduce vehicle trip generation
 - Eliminate all of the Rosewood PUD Plan PUD waivers/variations from the Property



The La Montagne Project is planned with a maximum of 49 condominium units as two distinct phases with the North Site and South Site designed and developed separately, although careful attention will be given with respect to the design of both lots to allow for the orderly coordination between both projects for things like pedestrian flow, through access, utility distributions and the like. The Owner has no immediate plans to develop the North Site.

The South Site is programmed for the development of 15 condominium units, indoor amenity space for a ski and golf lounge, and an outdoor amenity area with deck, fire pit and hot tub. The North Site is planned for 34 condominium units and an amenity building that includes a lobby with concierge, small spa and gym and an outdoor pool area. The Owner contemplates a rental management and operation structure for both the North Site and the South Site that will allow property owners to place their units in a centrally managed and marketed rental pool. The North Site is also required by the Town zoning rules to provide for some work-force housing with four (4) employee apartments planned as discussed in Sections 7 and 8. Table 1 shows the current and proposed density on the Property while Table 2 shows the Property geography and zoning requirements.

The La Montagne Project plans for an integrated trails and sidewalk plan with a new Village Center Trail connecting the Big Billies Trail to the Village Center with a sidewalk along Country Club Drive all the way to the Mountain Village Boulevard crosswalk to the Village Center east of The Peaks. Trail connectivity will be provided to Boomerang Trail, Jurassic Trail and the proposed Stegosaurus Trail. The project will also provide a new alignment of the proposed Stegosaurus Trail onto TSG Ski and Golf, LLC (“TSG”) land that currently trespasses onto Lot 126R provided the Town successfully negotiates an easement for the Stegosaurus Trail with TSG.

The Owner, in pursuing the La Montagne Project, is proposing to submit applications with the Town, seeking to secure Town approvals for this development proposal, which would be reviewed by the Town in the manner prescribed in the CDC, which actions would occur in the context of various noticed public meetings, open



Table 1. Current and Proposed Land Use and Density

Lot	Acreage	Zone District	Zoning Designation	Actual Units	Density Per Unit	Equiv. Units	
Current PUD Density							
126R	3.11	Multi-family	Condominium Units	44	3	132	
			Hotel Units	56	1.5	84	
			Hotel Efficiency Units	19	2	38	
			Employee Dorm Units	17	1	17	
			Employee Apartments	5	3	15	
			Commercial Area	34,001 sq. ft.			
152R	1.47	Multi-family	Condominium Units	23	3	69	
			Commercial Area	4,655 sq. ft.		355	
OSP-118	0.65	Active OS	Open Space				
OSP-126	0.26	Passive OS	Open Space				
Total Current Density for the Property			Condominium Units	67	3	201	
			Hotel Units	56	1.5	84	
			Hotel Efficiency Units	19	2	38	
			Employee Dorm Units	17	1	17	
			Employee Apartments	5	3	15	
			Commercial Area	38,656 sq. ft.			
			Total Person Equivalent Density				
Proposed Amended PUD Density							
126R	3.11	Multi-family	Condominium Units	34	3	102	
			Employee Apartments	4	3	12	
152R	1.47	Multi-family	Condominium Units	15	3	45	
OSP-118	0.65	Active OS	Open Space				
OSP-126	0.26	Passive OS	Open Space				
Total Proposed Density for the Property			Condominium Units	49	3	147	
			Employee Apartments	4	3	12	
			Total Person Equivalent Density				
PUD Amendment Density Reduction							
			Condominium	18	3	54	
			Hotel	56	1.5	84	
			Hotel Efficiency	19	2	38	
			Employee Dorm	17	1	17	
			Employee Apartment	1	3	3	
			Commercial Area	38,656 sq. ft.			
			Total Person Equivalent Density				196



to the further public for comments.

The development applications for the La Montagne Project include:

- A. PUD Amendment application to eliminate the Rosewood PUD Plan and establish the La Montagne Project;
- B. Rezoning Process and Density Transfer Process development applications to change and reduce the uses and densities allowed on Lot 126R and Lot 152R under the Rosewood PUD Approvals, and to rezone to the PUD Zone District; and
- C. Concurrent Design Review Process for the South Site with the Initial Architecture and Site Review (“**Initial Review**”) evaluated with the PUD Amendment, Rezoning Process applications.

CDC Section 17.4.12(I)(5) states:

“**Rezoning Ordinance Required.** Any PUD application shall be required to request rezoning to the PUD Zone District as a part of the PUD Process. The PUD development review process is a Rezoning Process, and a concurrent rezoning development application shall not be required. Because a PUD results in a rezoning to the PUD Zone District, any PUD approval shall be by ordinance.”

The La Montagne Project proposes to rezone Lot 126R and Lot 152R to the PUD Zone District consistent with PUD Regulation policies. CDC Section 17.4.12(N) classifies the PUD Amendment as a “major PUD Amendment” with such applications processed as a class 4 development application per Section 17.4.12(O). While the PUD Regulations state a Rezoning Process development application shall not be required, the development team is erring on the side of caution to request a concurrent rezoning and density transfer to ensure due process.

The Property is located in the Multi-family and open space zone districts and contains 5.49 acres broken out as follows:

Lot 126R:	3.11 acres
Lot 152R:	1.47 acres
OSP-126:	0.26 acres
OSP-118:	0.65 acres
Total	5.49 acres

The lot configuration for Lot 126R and Lot 152R as depicted on the Lot 126R/152R Subdivision Plat (Exhibit A) is not currently contemplated by the Owner as needing to be changed to accommodate the La Montagne Project, therefore, the Lot 126R/152R Subdivision Plat would not be modified, nor is the Owner proposing to modify or terminate the Lot 126R/152R Beneficial Easements at this time, although, some of these easements could be modified or terminated. The development team will be working closely with TSG staff in the planning and design of the La Montagne Project per the Lot 126R/152R Beneficial Easements. The La Montagne Project is designed to leave Boomerang Trail in its current location on Lot 126R and provide an easement for the trail to the Town since no easement is currently provided. The PUD Agreement contemplated the eventual conveyance of tracts OSP-118 and OSP-126 to the Town, which has not yet occurred. The Owner will convey title to Tracts OSP-118 and OSP-126 to the Town concurrent with the recording of a new La Montagne Project PUD agreement.



SECTION 3

PROPERTY HISTORY

Prior owners of the Property secured certain land use approvals from the Town concerning various uses, densities, buildings and other improvements that could be developed on the property, which approvals were reflected in various documents, including, without limitation, the following (“**Town Approval Documents**”):

1. Resolution of the Town Council of the Town of Mountain Village, Colorado Approval of Final Planned Unit Development Application as recorded at Reception Number 391879 (“**PUD Approving Resolution**”).
2. Development Agreement Lot 126R and Lot 152R Town of Mountain Village Planned Unit Development recorded a Reception No 397458 (“**PUD Agreement**”), as amended.
3. The subdivision of the Property that is tied to the PUD Agreement and PUD Approving Resolution as recorded at Reception Number 397455 (“**Lot 126R/152R Subdivision Plat**”).
4. Various easements reflected on the Subdivision Plat granted by the Town of Mountain Village (“**Town**”) and TSG (collectively, the “**Lot 126R/152R Beneficial Easements**”).

The PUD Agreement establishes the land uses and density as well as the siting and mass/scale of buildings and other improvements allowed to be developed on the Property. The uses and densities approved by the Town and reflected in the PUD Agreement allow for the development 67 condominium units; 56 hotel units; 19 hotel efficiency units; 17 employee dorms; 5 employee apartments; and 38,656 sq. ft. of commercial area as detailed in Table 1, which shows the respective uses and densities allowed on Lot 126R and 152R and the proposed density for the La Montagne Project. The PUD Agreement is tied to a detailed site specific development plan for the Property that was created for the Rosewood PUD Plan.

Prior to the Town’s approval of the Rosewood PUD Plan, the Property had been assigned the following land uses and densities: 1 single-family unit, 57 condominium units, 70 hotel units, 2 employee apartments, 16 dorm units and an unspecified amount of commercial area. The PUD Agreement added approximately 48 person equivalents to the Property consisting of 10 condominium units, 5 hotel-type units, 1 employee dorm, 3 employee apartments, and also established the amount of permitted commercial area.

It is important to note that the original zoning on Lot 126 at the time of the Town’s incorporation in 1995 permitted 200 hotel units, 26 condominium units and an unspecified amount of commercial area per the Official Land Use and Density Allocation List at the (“**First Lot List**”). The First Lot List also permitted Lot 130 with 10 condominium units, Lot 118 with 1 single-family unit; and Lots 152A, Lot 152B and Lot 152C with 22 condominium units. Thus, the Property has been permitted to have high density, commercial land uses since the Town’s incorporation. The Comprehensive Plan continues to envision and the Property with multi-family and commercial land uses as discussed in this narrative.



Table 2. Project Summary

Geography and Zoning Requirements		
	Existing/Requirement	Proposed
Lot Size	North Site: 3.11 acres South Site: 1.47 acres	No Change
Zone District	Multi-family Zone District	No Change
Existing + Proposed Density	67 Condominium Units 56 Hotel Units 19 Hotel Efficiency Units 17 Employee Dorm Units 5 Employee Apartments 38,656 sq. ft. Commercial Space	49 Condominium Units 4 Employee Apartments
Maximum Building Height	53 feet for gabled roofs 68’ Maximum Height for Building A	48 feet
Average Building Height	48 feet + 5 feet for gabled roofs	48 feet
Lot Coverage	65%	North Site: 40% South Site: <54.8%
Setbacks North Site		
Front - South	16 feet (General Easement)	16 feet
Rear - North	None Per PUD Development Plan	Approx. 1’ to 9’-3”
Side - East	None Per PUD Development Plan	Approx. 70 feet
Side - West	16 feet (General Easement)	19’-4” to 32’
Setbacks South Site		
Front - North	16 feet (General Easement)	16’ for buildings; <16 feet for limited roof overhangs as PUD variation
Rear - South	None Per PUD Development Plan	0’
Side - East	None Per PUD Development Plan	> 16’
Side - West	None Per PUD Development Plan	10’-8”
Parking North Site		
Zoning Designation	Parking Requirement	Provided Parking
Condominium	32 x 1.5 = 48 spaces	48 spaces
Employee Apts.	4 x 1.5 = 6 spaces	6 spaces
Service Parking	1-5 spaces	4 spaces
Total Parking	58 spaces	58 spaces
Parking South Site		
Zoning Designation	Parking Requirement	Provided Parking
Condominium	15 x 1.5 = 23 spaces	23 spaces
Service Parking	1-5 spaces	2 spaces
Total Parking	28 spaces	25 spaces total



SECTION 4

SITE CONTEXT

Lot 126R is a vacant, open hillside property that is located at the confluence of Boomerang Trail, the Jurassic Trail and an unauthorized social trail on the lot. The Town Trails Master Plan is proposing to remove this unauthorized trail from Lot 126R and create a new Stegosaurus Trail on TSG open space to the north of Lot 126R that can also utilize part of OSP-126 for switchbacks down the hillside to the Jurassic Trail. Lot 126R has a high USGS elevation of 9462 on the north side and a low elevation of 9370 on the southwest side for an overall change of 92 feet over 312 feet and a slope grade of approximately 29.5%. Lot 126R contains slopes that are 30% or greater as shown in Figure 2.

Lot 152R is a very open and vacant site located north of Hole 1 of the Telluride Golf Course. Lot 152R does not have any trails or other improvements except for some natural gas infrastructure as shown on the existing conditions survey. Lot 152R contains modest slopes with a high USGS elevation of 9408 and a low elevation of 9350 for an overall change of 58 feet over a distance of 613 feet and a slope grade of approximately 9.5%. The Lot 152 grade has been shaped by the grading for Country Club Drive and the golf course.

Lot 152R has two wetlands areas that were not identified with the creation of the Rosewood PUD Plan. These wetland areas have been delineated by a qualified wetland consultant as shown on the existing conditions survey. The wetland delineation has been reviewed and approved by the United States Army Corps of Engineers as shown in Exhibit B (please refer to wetland section).

A portion of a gas regulator station is located on both Lot 126R and Lot 152R. The project team will work with Black Hills Energy on a plan for potentially combining and screening the regulator station. It appears that a portion of the gas line infrastructure may be located outside easements shown on the existing condition survey.

SECTION 5

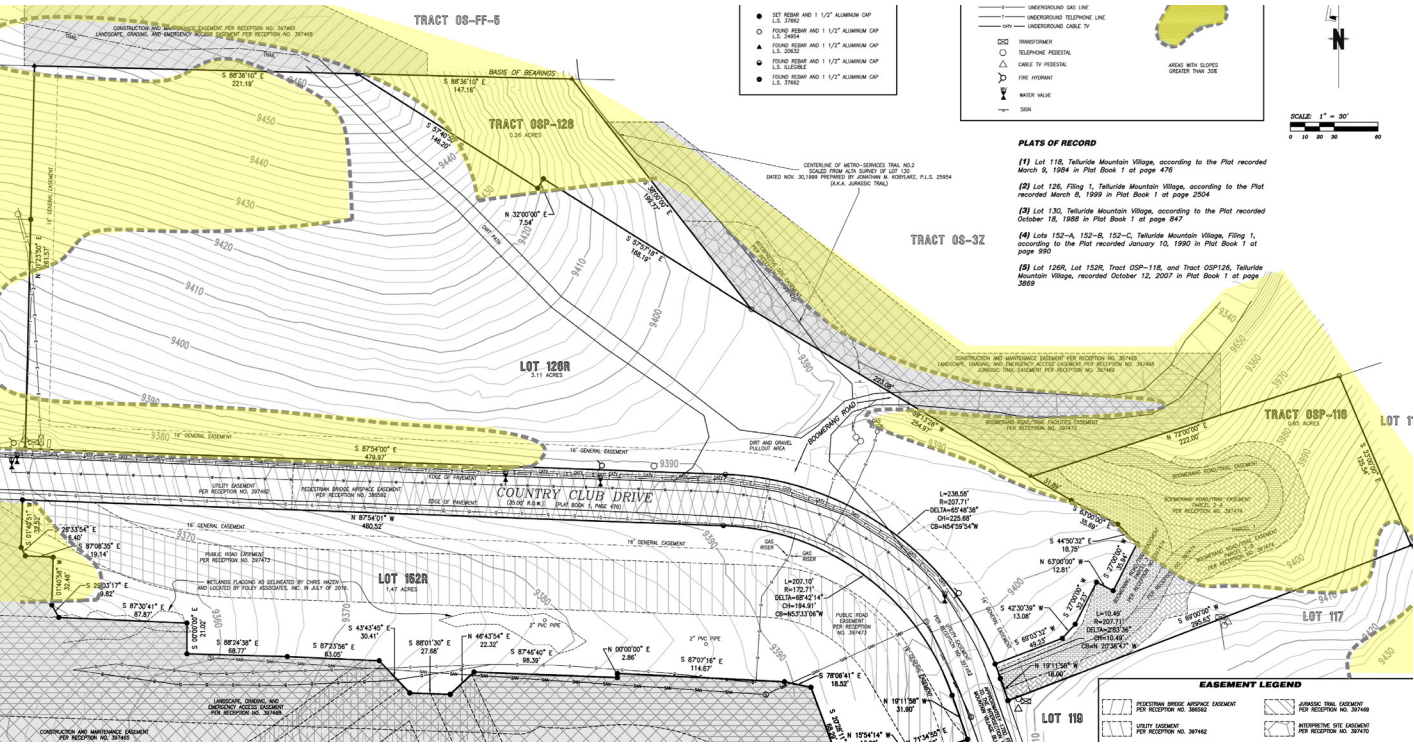
DEVELOPMENT PLAN CHANGES

Work sessions for the La Montagne Project were held with the Mountain Village Town Council and DRB in July that provided great input to help shape the project. The development team has also conducted additional meeting with area neighbors and key stakeholders. All of this input has been very helpful for the project team to revise the La Montagne Project, with the following key changes:

1. Detailed safety improvement plans have been developed for Country Club Drive from Big Billies Trail to Mountain Village Boulevard with improved markings and signage, a six (6) foot sidewalk along the road, an uphill four (4) foot bike lane, crosswalk to Boomerang Road and Jurassic Trail, and speed humps if desired.
2. The condominium density has been reduced by 18 units to reduce scale and mass and provide a better transitional development.
3. All commercial uses have been eliminated from the Property to create a better transitional development, with the 3,000 sq. ft. of planned commercial area eliminated from the project.



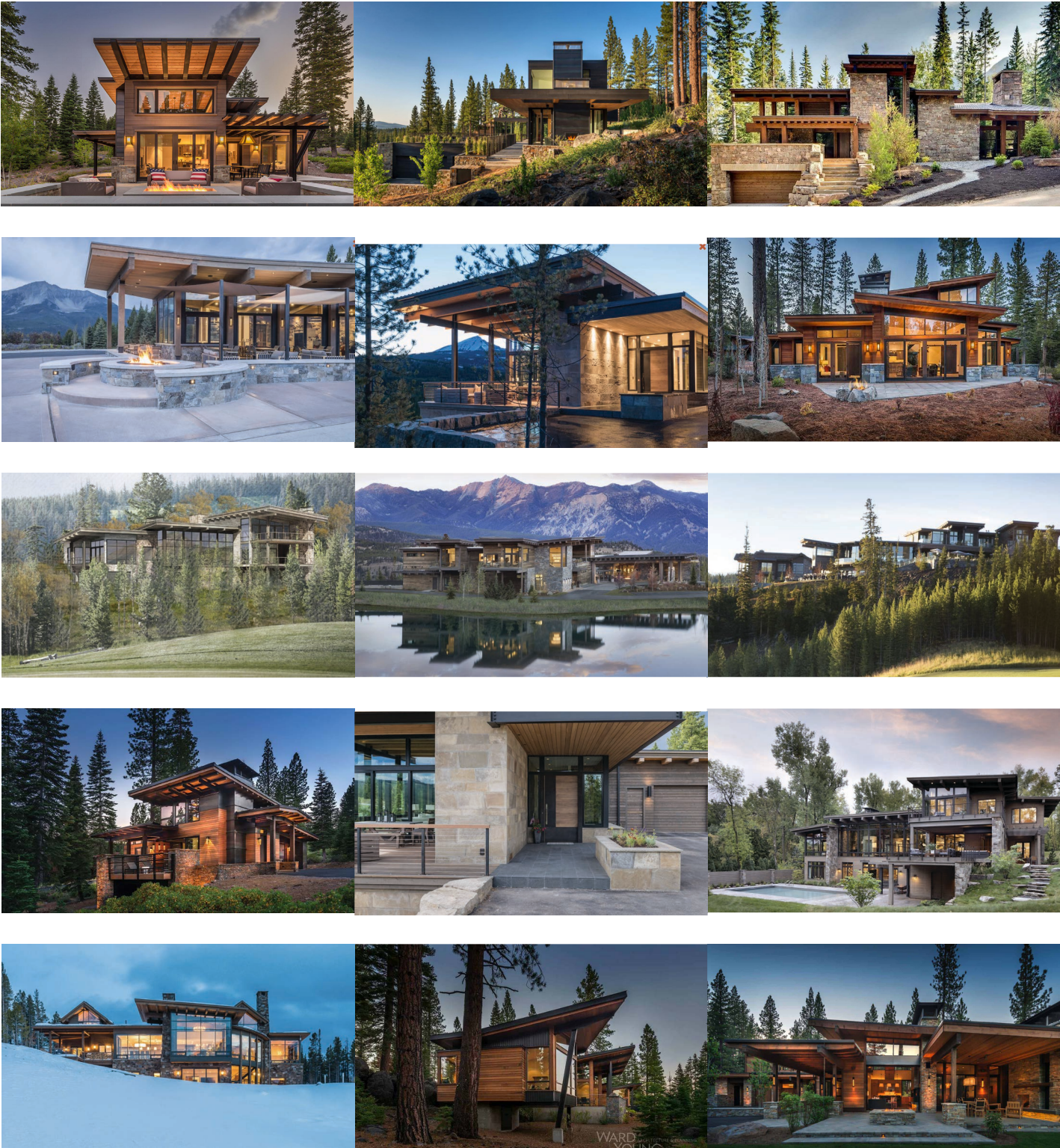
Figure 2. Steep Slopes Map



4. The North Site conceptual plan has been amended to reduce the number of condominium units from 46 to 34 units (26 percent reduction), reduce the floor area from 109,400 to 88,340 sq. ft. for a reduction of 21,060 sq. ft. (19 percent reduction). The North Site lot coverage has been slightly increased from approximately 36 percent to 40 percent.
5. The South Site conceptual plan has been amended to reduce the number of condominium units from 21 to 15 units (29 percent reduction); and to reduce the floor area from 58,200 sq. ft. to sq. ft. by 43,500 sq. ft. for a reduction of 14,700 sq. ft. (25 percent reduction). The South Site lot coverage has by reduced from approximately 65 percent to less than 54.8 percent (>16 percent reduction).
6. A significant building setback has been added to the east side of the South Site to preserve desired views for the Lot 119 property owner, and to provide a much better setback and buffer to the Hole 1 tees with more open space and the aspen trees preserved in this area.
7. Buildings A and B on the North Site have been moved away from the western general easement and the homes on Lots 143A and 143D with the setback increased from 16'-4" to 19'-1" for Building A, and the setback for Building B increased from 16'-5" to 32'.



Design Inspiration



SECTION 6 BUILDING SITING + DESIGN

La Montagne buildings have been carefully sited and designed based on several considerations, including adjacent property owner views, surrounding land use and density, site topography, project views, golf course design, and existing and planned trail connections. Drewett Works Architecture completed detailed visual evaluations for Lot 143A (Hintermeister), Lot 177 (Safdi), and Lot 119 (Krister) to ensure that proposed buildings are sensitively sited to protect views to the extent possible. The Comprehensive Plan and the CDC Comprehensive Plan Project Standards recognizes that visual impacts will occur with development, with the goal to minimize and mitigate visual impacts.

The project is designed to maximize open space on the North Site with only 40% lot coverage when 65% lot coverage is allowed which is a 38% percent reduction in allowed lot coverage. Development on the North Site has been clustered with six (6) buildings in the center of the lot with open space areas in between the buildings, around the main Boomerang and Jurassic trail corridors through the lot and on the edges of the buildings. Development on the North Site steps down towards the east with over a 90 foot setback to the home on Lot 119.

Development on the South Site has also been designed to provide additional open space with the lot coverage of less than 54.8% when 65% is allowed. The gently sloping topography of the South Site allows for the buildings to step up the site following the natural grade. The proposed buildings on the North Site are also designed to step up with the topography of the site and to use the uphill wall of the buildings to retain grades that allows for development to fit into the topography with grading and exterior retaining walls minimized. The South Site has been designed to provide for a landscaped buffer and errant golf ball protection to Hole 1 with landscaping on-site and within a landscaping easement that is granted for Lot 152R.

Organic mountain modern architecture is expressed through stone-veneered foundation elements, vertical wood siding, mill-scale steel porcelain panels, and low reflective standing seam metal roofing. The indigenous architecture additionally has a tectonic nature with its exposed beams, purlins, and wood ceilings. The sloping shed roof forms afford remarkable shade, shadow, and visual layering.

The ample overhangs bolstered with large timbers provide for glass protection and an iconic mountain vernacular design. The overall composition is intended to provide a mountain modern aesthetic with a horizontal nature. This allows the composition to blend harmoniously into the existing fabric of Mountain Village, thus allowing a low visual impact to neighboring properties.

Landscaping has been carefully designed to provide six distinct zones including the golf course buffer planting zone, the high interest pedestrian zone, highly organized drift planting zone, the transitional planting zone, low impact zone and the wildfire mitigation zone. Each zone has specific design and landscaping goals as outlined on the PUD landscaping plan.



The map displays the Mountain Village Center Subarea with various lots and color-coded regions. A legend at the top identifies three categories:

- Single-family (Yellow Color):** Indicated by a red arrow pointing to yellow-colored lots.
- The Property Multiunit (Orange Color):** Indicated by a red arrow pointing to orange-colored lots.
- Village Center (Brown Color):** Indicated by a red arrow pointing to brown-colored lots.

The map includes numerous lot numbers and codes, such as 147C, 147B, 147A, 148A, 148B, 148C, 148D, 148E, 148F, 148G, 148H, 148I, 148J, 148K, 148L, 148M, 148N, 148O, 148P, 148Q, 148R, 148S, 148T, 148U, 148V, 148W, 148X, 148Y, 148Z, 149A, 149B, 149C, 149D, 149E, 149F, 149G, 149H, 149I, 149J, 149K, 149L, 149M, 149N, 149O, 149P, 149Q, 149R, 149S, 149T, 149U, 149V, 149W, 149X, 149Y, 149Z, 150A, 150B, 150C, 150D, 150E, 150F, 150G, 150H, 150I, 150J, 150K, 150L, 150M, 150N, 150O, 150P, 150Q, 150R, 150S, 150T, 150U, 150V, 150W, 150X, 150Y, 150Z, 151A, 151B, 151C, 151D, 151E, 151F, 151G, 151H, 151I, 151J, 151K, 151L, 151M, 151N, 151O, 151P, 151Q, 151R, 151S, 151T, 151U, 151V, 151W, 151X, 151Y, 151Z, 152A, 152B, 152C, 152D, 152E, 152F, 152G, 152H, 152I, 152J, 152K, 152L, 152M, 152N, 152O, 152P, 152Q, 152R, 152S, 152T, 152U, 152V, 152W, 152X, 152Y, 152Z, 153A, 153B, 153C, 153D, 153E, 153F, 153G, 153H, 153I, 153J, 153K, 153L, 153M, 153N, 153O, 153P, 153Q, 153R, 153S, 153T, 153U, 153V, 153W, 153X, 153Y, 153Z, 154A, 154B, 154C, 154D, 154E, 154F, 154G, 154H, 154I, 154J, 154K, 154L, 154M, 154N, 154O, 154P, 154Q, 154R, 154S, 154T, 154U, 154V, 154W, 154X, 154Y, 154Z, 155A, 155B, 155C, 155D, 155E, 155F, 155G, 155H, 155I, 155J, 155K, 155L, 155M, 155N, 155O, 155P, 155Q, 155R, 155S, 155T, 155U, 155V, 155W, 155X, 155Y, 155Z, 156A, 156B, 156C, 156D, 156E, 156F, 156G, 156H, 156I, 156J, 156K, 156L, 156M, 156N, 156O, 156P, 156Q, 156R, 156S, 156T, 156U, 156V, 156W, 156X, 156Y, 156Z, 157A, 157B, 157C, 157D, 157E, 157F, 157G, 157H, 157I, 157J, 157K, 157L, 157M, 157N, 157O, 157P, 157Q, 157R, 157S, 157T, 157U, 157V, 157W, 157X, 157Y, 157Z, 158A, 158B, 158C, 158D, 158E, 158F, 158G, 158H, 158I, 158J, 158K, 158L, 158M, 158N, 158O, 158P, 158Q, 158R, 158S, 158T, 158U, 158V, 158W, 158X, 158Y, 158Z, 159A, 159B, 159C, 159D, 159E, 159F, 159G, 159H, 159I, 159J, 159K, 159L, 159M, 159N, 159O, 159P, 159Q, 159R, 159S, 159T, 159U, 159V, 159W, 159X, 159Y, 159Z, 160A, 160B, 160C, 160D, 160E, 160F, 160G, 160H, 160I, 160J, 160K, 160L, 160M, 160N, 160O, 160P, 160Q, 160R, 160S, 160T, 160U, 160V, 160W, 160X, 160Y, 160Z, 161A, 161B, 161C, 161D, 161E, 161F, 161G, 161H, 161I, 161J, 161K, 161L, 161M, 161N, 161O, 161P, 161Q, 161R, 161S, 161T, 161U, 161V, 161W, 161X, 161Y, 161Z, 162A, 162B, 162C, 162D, 162E, 162F, 162G, 162H, 162I, 162J, 162K, 162L, 162M, 162N, 162O, 162P, 162Q, 162R, 162S, 162T, 162U, 162V, 162W, 162X, 162Y, 162Z, 163A, 163B, 163C, 163D, 163E, 163F, 163G, 163H, 163I, 163J, 163K, 163L, 163M, 163N, 163O, 163P, 163Q, 163R, 163S, 163T, 163U, 163V, 163W, 163X, 163Y, 163Z, 164A, 164B, 164C, 164D, 164E, 164F, 164G, 164H, 164I, 164J, 164K, 164L, 164M, 164N, 164O, 164P, 164Q, 164R, 164S, 164T, 164U, 164V, 164W, 164X, 164Y, 164Z, 165A, 165B, 165C, 165D, 165E, 165F, 165G, 165H, 165I, 165J, 165K, 165L, 165M, 165N, 165O, 165P, 165Q, 165R, 165S, 165T, 165U, 165V, 165W, 165X, 165Y, 165Z, 166A, 166B, 166C, 166D, 166E, 166F, 166G, 166H, 166I, 166J, 166K, 166L, 166M, 166N, 166O, 166P, 166Q, 166R, 166S, 166T, 166U, 166V, 166W, 166X, 166Y, 166Z, 167A, 167B, 167C, 167D, 167E, 167F, 167G, 167H, 167I, 167J, 167K, 167L, 167M, 167N, 167O, 167P, 167Q, 167R, 167S, 167T, 167U, 167V, 167W, 167X, 167Y, 167Z, 168A, 168B, 168C, 168D, 168E, 168F, 168G, 168H, 168I, 168J, 168K, 168L, 168M, 168N, 168O, 168P, 168Q, 168R, 168S, 168T, 168U, 168V, 168W, 168X, 168Y, 168Z, 169A, 169B, 169C, 169D, 169E, 169F, 169G, 169H, 169I, 169J, 169K, 169L, 169M, 169N, 169O, 169P, 169Q, 169R, 169S, 169T, 169U, 169V, 169W, 169X, 169Y, 169Z, 170A, 170B, 170C, 170D, 170E, 170F, 170G, 170H, 170I, 170J, 170K, 170L, 170M, 170N, 170O, 170P, 170Q, 170R, 170S, 170T, 170U, 170V, 170W, 170X, 170Y, 170Z, 171A, 171B, 171C, 171D, 171E, 171F, 171G, 171H, 171I, 171J, 171K, 171L, 171M, 171N, 171O, 171P, 171Q, 171R, 171S, 171T, 171U, 171V, 171W, 171X, 171Y, 171Z, 172A, 172B, 172C, 172D, 172E, 172F, 172G, 172H, 172I, 172J, 172K, 172L, 172M, 172N, 172O, 172P, 172Q, 172R, 172S, 172T, 172U, 172V, 172W, 172X, 172Y, 172Z, 173A, 173B, 173C, 173D,

Figure 4. Density Map for the Area

OSP-126

Country Club Dr

OSP-118

Mountain Village Blvd

Lots 143
2 Units/Acre

North Site
10 Units/Acre

South Site
12 Units/Acre

Lots 151
3 Units/Acre

Comprehensive Plan Parcel A-1
128 Units on 0.868 acre
147 Units/Acre

Lots 122+ 123
Current Density = 89 Units/Acre

See Forever
13 Units/Acre

The Peaks
36 Units/Acre

PUD Amendment Criteria for Decision

General Conformance with the Mountain Village Comprehensive Plan

The Comprehensive Plan states the following regarding the multiunit classification:

Land Use Principle I, Policy B.2.a states:

There are several Comprehensive Plan policies under the Multiunit section that directed changes to the Town's land use regulations which were incorporated into the CDC in 2013, with the Multi-family Zone District created and based on the Multiunit policies. The Comprehensive Plan's Multiunit policies were also incorporated into the CDC's Subdivision Regulations, Design Regulations and Supplementary Regulations to ensure appropriate uses, design considerations and infrastructure.

Land Use Principle I, Policy B.2.c states:

The La Montagne Project has been designed and planned with a transitional density that fits into the area consistent with the envisioned Comprehensive Plan land uses. The single-family area to the east is an island of lower density development that is surrounded by existing and planned higher density development. Figure 4 shows the density of surrounding development with the La Montagne Project providing a transitional density of approximately 9.7 units per acre.

The Peaks density is approximately 36 units per acre and the See Forever density is approximately 14 units per acre. The Comprehensive Plan envisions high density infill development in the area of Lots 122 and Lot 123 with 89 units per acre allowed today and over 100 units per acre envisioned on Parcel A-1 per the Comprehensive Plan’s Village Center Subarea Plan. Sensitive siting and building design for the La Montagne Project combined with landscape buffering further ensures this low, transitional density development fits into the Country Club Drive neighborhood.

The La Montagne Project also conforms to the following policies because multi-family development is envisioned by the Future Land Use Plan.

Land Use Principles, Policies and Actions

- I. “Mountain Village promotes a land use pattern, as envisioned by the Comprehensive Plan, that provides economic and social vibrancy, maintains a minimum of 60% open space, and better protects and preserves open space areas as shown on the Land Use Plan...”
- 1.A “Implement the Comprehensive Plan’s principles, policies and actions.”
- 1.B “Require rezoning, Planned Unit Developments (PUD), subdivisions, special use permits, density transfers, and other discretionary land use applications to be in general conformance with the Land Use Plan, the Subarea Plans and their associated principles and policies, and the applicable policies of the Comprehensive Plan.”
- 1.C “Permit development applications in general conformance with the Comprehensive Plan per the applicable criteria for decisionmaking.”

The Property is located outside of all of the Comprehensive Plan’s subarea plans and just outside the Village Center Subarea so there are no specific Comprehensive Plan targeted densities, building heights, hotbed mix requirements and no recommended public benefits for the Property.

Deed Restricted Housing

The La Montagne Project will provide four (4) deed restricted employee apartments on the Property. The significant downzoning and elimination of approximately 203 employees from the Property represents a 92 percent decrease in the employment generation. This significant decrease in the number of employees generated for the Property warrants a reduction in the current 17 employee dorm units and five employee apartments that are required by the PUD Agreement. The PUD Agreement added one (1) employee dorm and three (3) employee apartments to the Property as one of the public benefits that justified the numerous variations under the Rosewood Hotel. The base employee housing requirement for the Property is therefore 16 employee dorms and two (2) employee apartments for a total of 22 person equivalents of density (“**Base Employee Housing Requirement**”). The reduction in employee housing for the La Montagne Project should be evaluated on the Base Employee Housing Requirement. A 92 percent reduction in employment applied to the 22 person equivalents leaves approximately two (2) person equivalents on the Property which roughly equates to one employee apartment. The La Montagne Project is proposing four (4) employee apartments to provide deed restricted housing as envisioned in the Comprehensive Plan, and to continue to provide a community benefit as required by the PUD Regulations.



Natural Environment

The La Montagne Project avoids disturbance to wetland areas consistent with Comprehensive Plan Policy I.A of the Natural Environment section. The La Montagne Project is also consistent with the CDC Wetland Regulations as discussed in this narrative. Water quality will be protected and stormwater detention is provided consistent with Comprehensive Plan Policy I.D. Forest areas on Tract OSP-118 and a small aspen area on Lot 126R will be protected and preserved consistent with Comprehensive Plan policies. Development constraints on the Property include wetland areas and steep slopes that are 30 percent or greater that are being avoided, minimized and mitigated as outlined in this narrative.

Open Space and Recreation

The La Montagne Project is consistent with the Comprehensive Plan’s Open Space and Recreation principles, policies and actions for several reasons. The La Montagne Project will reroute the unauthorized social trail from Lot 126R to Tract OS-FF-5 for the Stegosaurus Trail as envisioned in the Potential Recreation Projects Plan Map (“**Recreation Plan**”) and the Town Trails Master Plan. This reroute assumes that the Town obtains and easement from TSG for the Stegosaurus Trail prior to the development of the North Site.

The La Montagne Project will also facilitate the planing and provision of a new six (6) foot sidewalk from the Big Billies Trail-Country Club Drive intersection to The Village Center crosswalk east of The Peaks with the sidewalk running on the south side of the road. The La Montagne Project will also facilitate the construction of a new four (4) foot wide uphill bike lane along Country Club Drive to Mountain Village Blvd.

Tracts OSP-126 and OSP-118 are included in the overall design and planning for the La Montagne Project. These open space parcels will be dedicated to the Town as one of the PUD community benefits, with the dedication occurring concurrent with the recording of a new PUD development agreement for the Property.

Consistency with the Underlying Zoning and Zoning Designations

CDC Section 17.4.12(E)(2) requires that the proposed PUD Amendment “...be 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.” The La Montagne Project is consistent with the proposed PUD Zone District and the current Multi-family Zone District. The new PUD agreement for the Property will include dimensional limitations that are based on the current Multi-family Zone District, including maximum height, maximum average height, and lot coverage. The PUD Amendment is also consistent with the PUD Zone District that has the following description and land uses as set forth in CDC Section 17.3.2(B)(9):

“**PUD Zone District.** The Planned Unit Development (“PUD”) Zone District is intended to provide for a development to achieve the new land uses envisioned in the Comprehensive Plan and/or the PUD purposes set forth in the PUD Regulations, with a variety of land uses as envisioned in the Comprehensive Plan.”

The PUD Zone District will allow for the Owner to achieve the PUD purposes as provided for herein, with multi-family land uses as envisioned by the Comprehensive Plan.



CDC Section 17.3.4(I) establishes the specific zone district requirements for the PUD Zone District. Permitted uses include all of the land uses envisioned in the Comprehensive Plan including the proposed multi-family condominiums. The PUD Zone District also allows for accessory buildings and structures such as hot tubs, saunas, swimming pools and similar uses. The La Montagne Project provides for these types of accessory structures. Accessory uses in the PUD Zone District include home occupations and similar uses. No plaza areas are planned for this development as allowed for the PUD Zone District. All land uses will be kept primarily in buildings except for uses that are typically outside, such as a swimming pool, hot tubs, fire pits and deck areas. Required public improvements include the new sidewalk, uphill bike lane, relocated Stegosaurus Trail, and other road and safety improvements that will be based on the proportional cost of the La Montagne Project relative to other users.

Creative Approach for a Better Development Plan

CDC Section 17.4.12(E)(3) requires that “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”. The La Montagne Project provides a creative approach that will produce a better development that would be otherwise possible under the Multi-family Zone District, and will provide for private and public amenities. The La Montagne Project clusters development onto Lot 152R, the central portion of Lot 126R which allows for large areas of both public and private open space with less lot coverage than allowed under the Multi-family Zone District. The PUD Amendment also allows for the current platting and certain community benefits to be retained while allowing for reasonable use of the Property. The PUD Amendment process also allows the community to have more control over the development due to the application of the PUD Regulations. The PUD Amendment allows for the Owner to: provide for the dedication of Tracts OSP-118 and OSP-126; re-route the Stegosaurus Trail as envisioned in the Recreation Plan; provide an easement for Boomerang Road; facilitate the planning and design of major safety improvements for Country Club Drive including a new sidewalk, uphill bike lane, speed humps and speed control; and provide additional employee housing than would otherwise be required for a 54 unit condominium project in Mountain Village. The PUD Amendment also allows for the creation of a transitional development plan as described in this narrative.

The La Montagne Project is only seeking a variation to allow for roof setbacks in the South Site to occur in the front 16 foot general easement as shown on the conceptual site plan. The conceptual plans show limited roof eaves encroaching into the front general easement for Buildings H, I, K, L and M with the largest encroachment setback approximately 13’ for Buildings . The roof eaves are over 25 feet in the air and will not interfere with the surface or underground use of the general easement. These variations allow for the project to better fit the narrow Lot 152R width with the desired roof form design than would be allowed if the general easement encroachments were not permitted. While the roof eaves could be designed to avoid the general easement, we believe the roof plans as submitted provide for a much better design. The CDC PUD Regulations allow for the Town to approve variations to the general easement “in order to allow flexibility, creativity and innovation in land use planning and project design”.

Consistency with PUD Purposes and Intent

CDC Section 17.4.12(E)(4) requires that the PUD Amendment be “...consistent with and furthers the PUD purposes and intent”. The La Montagne Project is consistent with the PUD Regulations Purpose and Intent as outlined in CDC Section 17.4.12(A), with project team comments on consistency shown in *italics*:



1. Permit variations from the strict application of certain standards of the CDC in order to allow for flexibility, creativity and innovation in land use planning and project design. *The PUD Amendment allows for flexibility, creativity and innovation in land use planning and design with clustered development, public open space, less lot coverage, private open space, retention of the current platting, and the provision of significant public benefits. The only variations sought at this time are the roof dripline encroachments into the general easement on Lot 152R as discussed above.*
2. Allow for a creative planning approach to the development and use of land and related physical facilities to produce a better development. *The PUD Amendment allows for the current platting for the Property to be retained while significantly reducing the impacts to the Country Club Drive neighborhood, with reduced mass and scale; reduced building heights; significantly reduced activity levels and traffic; and a new development plan that has been designed to better fit into the neighborhood as a use by right plan, with the only variation sought for limited roof encroachments into the 16 foot General Easement for the South Site. The PUD Amendment allows for the creation of a transitional development with higher density at The Peaks, See Forever, and Lots 122 and 123 transition to low density multi-family development on the Property and single family development to the west. The PUD allows for clustering development on the center area of Lot 126R and the provision of both public and private open space on the edges to buffer surrounding development.*
3. Provide for community benefits. *The PUD Amendment provides for significant public benefits with the rerouting of the Stegosaurus Trail; more employee housing than would be required for a similar project in the town; and facilitating and participating in major safety improvements for Country Club Drive such as a new sidewalk to the Village Center, a new uphill bike lane, and speed humps, if desired.*
4. Promote and implement the Comprehensive Plan. *The PUD Amendment promotes and implements the Comprehensive Plan as outlined in this narrative.*
5. Promote more efficient use of land, public facilities and governmental services. *The PUD Amendment promotes the efficient use of land because it allows for the Owner to realize reasonable use of the Property while providing a transitional development that fits the site with approximately 9.7 units per acre. The average density for built projects in the Multi-family Zone District is approximately 20 units per acre, with the La Montagne Project transitioning from high density built and envisioned development to the east. The Owner has been paying property taxes on the current Property density as provided for in the PUD Agreement, and is willing to significantly downzone the Property via the PUD Amendment, rezoning and density transfer processes to provide for an efficient and transitional development that still provides for reasonable use of the Property. This represents a great planning compromise for the efficient development of the Property.*
6. Encourage integrated planning in order to achieve the above purposes. *The PUD Amendment provides for integrated planning between the North Site and South Site to ensure safe vehicular and pedestrian access and coordinated utility planning. The La Montagne Project also plans for integrated trails; a new sidewalk along Country Club Drive and other safety improvements. The La Montagne Project provides for an integrated land use plan with a transitional density of 9.7 units per acre with higher density projects building and planned to the east that range from 14 to over 100 units per acre.*



PUD General Standards Compliance

CDC Section 17.4.12(E)(5) requires that “The PUD meets the PUD general standards”. The PUD Amendment complies with the applicable General Standards in CDC Section 17.4.12(I). The Owner of the Property has the authority to initiate a PUD Amendment consistent with CDC Section 17.4.12(I)(1). The PUD Amendment, Rezoning Process and Density Transfer Process will require an ordinance per CDC Section 17.4.12(I)(5). The PUD Agreement remains valid and the Owner may propose a PUD Amendment per CDC Section 17.4.12(I)(6). The Density Transfer request is evaluated under Section 8 below and is consistent with the Density Limitation per CDC Section 17.4.12(I)(7). The PUD Amendment provides for landscape buffering to minimize adverse impacts and create attractive public spaces consistent with the surrounding area as required by CDC Section 17.4.12(I)(8). The PUD Amendment provides for adequate public services as required by CDC Section 17.4.12(I)(9) as presented in this narrative. Each phase of the PUD will be self-sufficient and not dependent upon latter phases as required by CDC Section 17.4.12(i)(10).

Adequacy of Community Benefits

CDC Section 17.4.12(E)(6) requires that “The PUD provides adequate community benefits”. The PUD provides for the following community benefits:

- 1. Twice as much public open space than existed prior to the adoption of the PUD Agreement. This community benefit will continue under the amended PUD for the Property and is due to the creation and future dedication of Tracts OS-126 and OSP-118.
- 2. Provision of four (4) employee apartments with the development of Lot 126R. This is one more apartment than existed prior to the adoption of the current PUD Agreement and is three more than warranted based on a 92 percent reduction in the number of employees generated on the Property due to the downzoning.
- 3. Rerouting of the unauthorized social trail on Lot 126R to the Stegosaurus Trail as envisioned in the Town Trails Master Plan if the Town obtains an easement for this trail from TSG.
- 4. Facilitation, planning and participation in significant Country Club Drive improvements including new sidewalk from Big Billies Trail to the Village Center crosswalk east of The Peaks, an uphill bike lane, and speed humps/speed limits based on the design of the road. The Owner will construct and improve all of the improvements through the Property. The Owner has paid for a survey of Country Club Drive and the adjoining general easement,s and is paying for the safety improvement engineering. The Town is budgeting for major improvements to Country Club Drive as a part of the 2020 budget process in coordination with the La Montange Project.

Public Facilities and Services

CDC Section 17.4.12(E)(7) requires “Adequate public facilities and services are or will be available to serve the intended land uses”. Water and sewer services, police protection and broadband are available from the Town. The Telluride Fire Protection District will provide emergency and fire services. Black Hills Energy natural gas infrastructure is located on the Property. San Miguel Power Association will provide electric service. Telecommunications is also available from Century Link.

The development team heard very clearly that the number one issue for the La Montagne Project to address



is public safety associated with the vehicular, pedestrian and bike use of Country Club Drive. To this end the team has prepared a survey of the Country Club Drive Right-of-Way and the general easement along the road. This survey information is the foundation to the proposed civil plan improvements for Country Club Drive that were created to significantly improve public safety. LSC Transportation Consultants, Inc., Uncompahgre Engineering and the development team have created a new plan for Country Club drive to improve safety that includes:

- 1. Required travel lanes for vehicular traffic;
- 2. A new four (4) foot wide uphill bike lane
- 3. A grade separated six (6) foot wide sidewalk on the south side of the road from Big Billies Trail to the Village Center-Mountain Village Boulevard crosswalk east of The Peaks
- 4. Speed humps at designed locations to slow traffic if desired by the community
- 5. Speed limits based on the design of the road (or as desired by the community);
- 6. New crosswalks to provide trail and La Montagne Project connectivity;
- 7. Downhill traffic share the road program for bicycle traffic;
- 8. An overall sign plan to improve safety; and
- 9. Traffic calming as needed to slow down traffic as needed as it enters and passes through the project.

It is important to note that Country Club Drive as designed meets the Town’s Road and Bridge Standards including but not limited to travel lane width, shoulders, grade and centerline curvature. Even though Country Club Drive complies with the Town Road Standards it is critically important to provide a grade-separated sidewalk, and other safety improvements. A cross section of the proposed road design is shown in Figure 5 and the civil plans are in the PUD Amendment plan set. Some of the safety improvements may require an easement from TSG if such cannot be located in the Country Club Right-of-Way and no general easement exists on TSG property.

Intermodal Circulation and Public Safety

CDC Section 17.4.12(E)(8) requires that “The proposed PUD shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion. Vehicular, pedestrian and bicycle safety improvements to Country Club Drive are discussed above. Access to the North Site and South Site have been coordinated and minimized to limit vehicular and pedestrian/bicycle interactions. Access ramp driveways have grades of approximately 5 percent at the road intersections which allow for great visibility and meet the required CDC sight distance. Parking areas are designed within garages that are accessed from the proposed driveways. Short-term, service and delivery parking is planned for both the North Site and South Site. Trash and recycling facilities will be provided on the North Site and South Site.

Compliance with Applicable Town Regulations and Standards

CDC Section 17.4.12(E)(9) requires the PUD Amendment to meet “...all applicable Town regulations and standards unless a PUD is proposing a variation to such standards”. Other Town regulations and standards are discussed in Section 8.



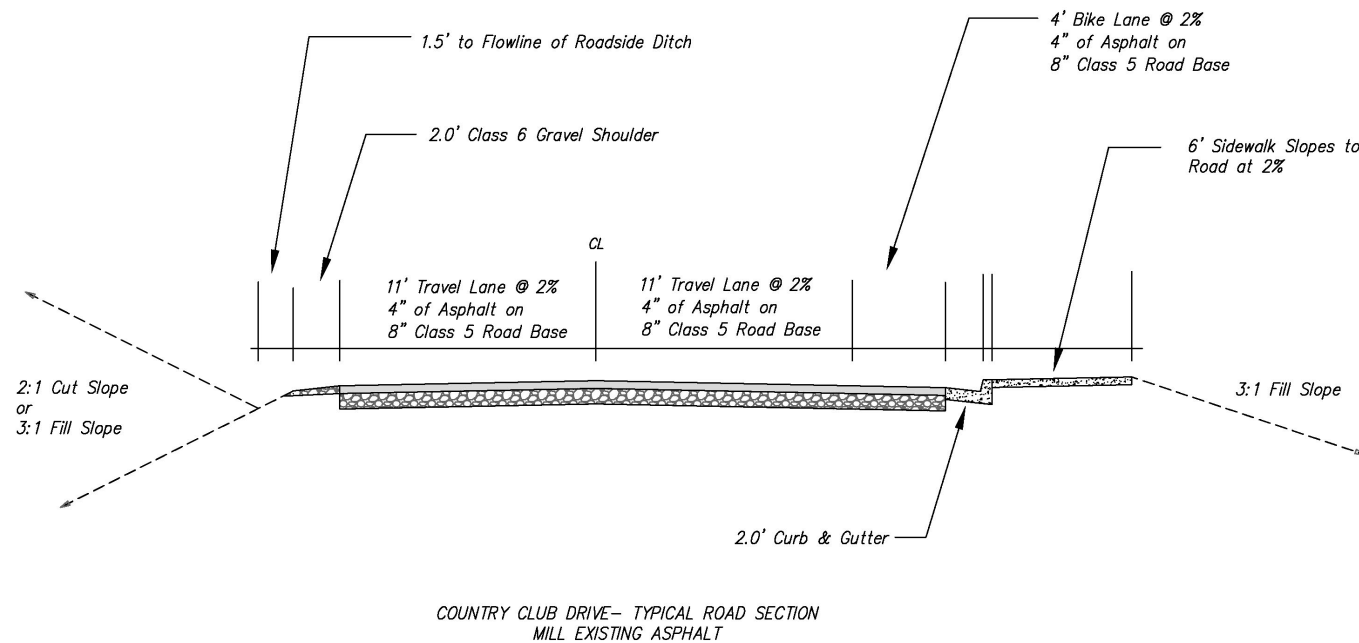


Figure 5. Proposed Country Club Drive Cross Section

Comprehensive Plan Project Standards

CDC Section 17.4.12(H) states establishes the Comprehensive Plan Project Standards as follows with the project teams comments shown in *italics*:

1. Visual impacts shall be minimized and mitigated to the extent practical, while also providing the targeted density identified in each subarea plan development table. It is understood that visual impacts will occur with development. *Visual impacts have been minimized and mitigated. Building massing has been significantly pulled back from the eastern property line of Lot 152R to open up desired views for the Lot 119 owner and reduce the building massing on the Hole 1 tees. Building heights could be up to five (5) feet taller if gable roof forms were used, with the shed roof design reducing visual impacts. Significant landscape buffering will be provided as shown on the landscaping plan for development to the west and east of the Property. Building massing on the North Site has been designed to reduce visual impacts to Lots 143A and 143D to the west. Building roof forms on the west side of the North Site have been designed to be very low profile to mitigate visual impacts to Lot 143A.*
2. Appropriate scale and mass that fits the site(s) under review shall be provided. *The La Montagne Project provides appropriate scale and mass that fits the Property with a very low multi-family density of approximately 11 units per acre. The planning and design for the La Montagne Project provides a transitional land use plan as shown in Figure 4 with high density in the Village Center Subarea that is located to east and the single-family development to the west. The density transitions from approximately 36 units per acre at The Peaks, 13 units per acre at See Forever and over 80 units per acre on Lots 122 and 123 and as envisioned on Parcel A-1 of the Village Center Subarea Plan to 9.7 units per acre at La Montagne. The*



single-family area to the east of the Property in Lots 114 through 121R is an island of single-family density surrounded by high density multi-family resort development. The single-family development to the west of the La Montagne Project has been planned and designed to be located next to high density development with the original County PUD and Town incorporation showing high density development on the Property next to single-family development. There are lots of areas in Mountain Village where high density development is planned and built next to single-family development, with all property owners aware of this planning and zoning when they bought the Property. This development pattern with high density scale and mass next to low density single-family development is also envisioned by the Comprehensive Plan Future Land Use Map.

3. Environmental and geotechnical impacts shall be avoided, minimized and mitigated, to the extent practical, consistent with the Comprehensive Plan, while also providing the target density identified in each subarea plan development table. *Wetlands will be avoided and enhanced with routing of drainage into wetland areas and wetland plantings to provide higher functional values. The La Montagne Project meets the CDC Steep Slope Regulations as discussed in this narrative. Geotechnical analyses prepared by a qualified Colorado Professional Engineer will be provided to the Town as a part of the building permit process. The Property is not located in a Comprehensive Plan subarea so there are no target densities for the North Site or South Site.*
4. Site-specific issues such as, but not limited to the location of trash facilities, grease trap cleanouts, restaurant vents and access points shall be addressed to the satisfaction of the Town. *The Design Review Process development applications will address site specific issues such as trash and recycling, wetlands and grading and drainage, golf course integration, and similar topics. A concurrent Design Review Process application has been submitted for the South Site so these site specific issues for Lot 152R will be addressed with the PUD Amendment, rezoning and density transfer. The PUD agreement for the Property will require a Design Review Process application for the North Site that will address site specific issues.*
5. The skier experience shall not be adversely affected, and any ski run width reductions or grade changes shall be within industry standards. *There are currently no ski runs available adjacent to the Property. The Owner is working with TSG to determine if ski-in/ski-out access and snow making can be provided to Lot 152R and the La Montagne Project. The ski-in/ ski out access is proposed within the existing ski easement to Lot 152R. A future Design Review Process application will be required for this ski access and any snow-making improvements if the Owner successfully negotiates a new easement with TSG.*

Section 8 REZONING + DENSITY TRANSFER

The Owner is requesting a Rezoning Process for the Property from the current Multi-family Zone District to the PUD Zone District as required by the PUD Regulations in Section 17.4.12(I)(5). The rezoning is also needed to transfer density to the Town Density Bank per CDC Section 17.3.8(B):

“Density may be transferred from one lot to another lot or to the density bank provided the density transfer is approved pursuant to the density transfer and rezoning processes as concurrent development applications...”



The PUD Agreement density, the La Montagne Project density and the net effect of the proposed Density Transfer are shown in Table 1. The proposed Rezoning and Density Transfer result in the elimination of 56 hotel units, 19 hotel efficiency units; 18 condominium units; 1 employee apartment; and 17 employee dorms units. The Owner is requesting that all of this density be transferred to the Density Bank except for the employee dorms and employee apartment because the Town can create this density and not violate the Density Limitation. Thus, there is no need to preserve the employee housing density in the Density Bank.

Employee Housing Rezoning Change

The zoning history concerning the Property has consistently contemplated the development of a sizable amount of hotel and commercial development as outlined in the Section 3. The Base Employee Housing Requirement is directly related to and offset/mitigate the 70 units of hotel density and the commercial density that have been historically zoned on the Property.

CDC Section 17.3.9(C) states:

“Certain lots are required to construct and provide workforce housing units concurrent with the free-market development allowed on a lot. Such lots with workforce housing are designated on the official land use and density allocation list.

- 1. Workforce housing density assigned to a lot on the official land use and density allocation list or by an effective resolution shall be built concurrent with any free-market units on that lot, and workforce housing density cannot be transferred to the density bank or to another lot unless the Town Council determines, in its sole discretion, that the workforce housing density cannot be built on a site due to a practical hardship.
 - a. If the Town Council determines a practical hardship exists, the applicant shall be required to transfer the unbuilt workforce housing density to the density bank pursuant to the rezoning and density transfer processes.”

The Owner is aware of the issues and concerns of the neighbors to the Property who have appeared before the Town in recent years and expressed their considerable concern with the mass/scale and zoning and density assigned to the site, and resulting impacts associated with visual impacts, traffic, noise, etc. when prior owners of the property were endeavoring to develop the property in line with these land use allocations. In response to these concerns and changes in market conditions and land use development patterns in the Mountain Village since the Rosewood PUD was approved, the Owner is proposing a significant reduction in the overall land use mix, density and mass and scale being pursued (including the elimination of the hotel density/uses and sizable reduction in commercial density/uses).

As discussed in the application, the proposed rezoning and density transfer and overall reduction in mass/scale will eliminate 75 hotel units, 18 condominium units and 38,656 sq. ft. of commercial area that reduces the free market actual unit density from 142 units to 49 units (66% density reduction). The free market commercial density is reduced by 38,656 sq. ft. (100% reduction). The estimated number of employees being generated from the development is also being reduced by approximately 203 employees (92% reduction).

To make the project viable in light of these changes and to maintain the goal of reducing the overall mass/scale and density for the site, the Owner must likewise modify the Base Employee Housing Requirement; the amount of zoning and density for the Property; and related mass/scale assigned to the site, which would result in a reduction from 16 dorm units and two employee apartments to four (4) employee apartments. The



applicant believes this reduction in the number of employee housing units in the Property from 22 person to 12 person equivalents (4 employee apartments) is proportionate to and is in balance with the reduced free market zoning and density proposed for the La Montagne Project.

The Applicant’s efforts to reduce the overall mass/scale and zoning/density from the Property in response to neighbor concerns and evolving land use patterns would be significantly frustrated if the Town mandated the placement and development of the full extent of the Base Employee Requirement. In order to sustain a functional and viable project, it would not be practical for the applicant to pursue an overall downzoning of the site without a corresponding reduction in the employee housing zoning.

Rezoning and Density Transfer Criteria for Decision

The proposed rezoning complies with the Rezoning Process Criteria for Decision set forth in CDC Section 17.4.9(C)(3) as outlined in the following sections:

General Conformance with the Mountain Village Comprehensive Plan

The proposed rezoning generally conforms to the Comprehensive Plan as set forth in the PUD Amendment section.

Consistency with Zoning and Land Use Regulations

The proposed rezoning and density transfer applications are consistent with the Zoning and Land Use Regulations contained in CDC Section 17.3. Multi-family condominium dwellings and employee apartments are permitted uses in the Multi-family Zone District and the proposed PUD Zone District. The La Montagne Project complies with the maximum height, maximum average height, and lot coverage for the Multi-family Zone District as shown in Table 2. There are no dimensional limitations for the PUD Zone District so the La Montagne Project contemplates the new PUD agreement for the Property will establish dimensional limitations based on the Multi-family Zone District.

The La Montagne Project complies with the Density Limitation since no density is being transferred to the Property and all unused density will be transferred to the Density Bank, except for the employee housing which the Town can freely create and is not subject to the Density Limitation. The Owner intends to transfer 18 condominium units; 56 hotel units; and 19 hotel efficiency units to the Density Bank as provided for in this narrative. Four (4) workforce housing units are proposed that will meet the CDC requirements set forth in Section 17.3.9. The project will meet the CDC Platted Open Space requirements in Section 17.3.10 since Tracts OSP-118 and OSP-126 will be maintained and dedicated to the Town concurrent with the recording of a new PUD agreement for the Property.

Comprehensive Plan Project Standards

The proposed rezoning complies with the Comprehensive Plan Project Standards in CDC Section 17.4.12 (H) as presented in Section 7 of this narrative.

Consistency with Public Health, Safety and Welfare + Efficiency and Economy of Land and its Resources

The proposed rezoning is consistent with the public health, safety and welfare. The proposed development is designed in accordance with the dimensional limitations of the underlying Multi-family Zone District.



Adequate infrastructure and public services are available to the Property as outlined in this narrative. The multi-family land uses in the La Montagne Development are envisioned by the Comprehensive Plan. The La Montagne Project will facilitate needed safety improvements to Country Club Drive, including a new grade separated sidewalk, uphill bike lane, crosswalk and other safety improvements.

Rezoning Justification

The proposed rezoning is justified by specific policies in the Comprehensive Plan with multi-family condominium development envisioned on Lot 126R and Lot 152R. The rezoning to the PUD Zone District is also justified because it is required by the PUD Regulations in Section 17.4.12(I)(5). The rezoning is also justified by changes in the conditions in the Town and vicinity. A hotel and large commercial areas are no longer viable on the Property, and area neighbors desire to significantly downzone the Property with a reduced scale and mass and less intensive land uses. The Town’s CDC rezoning and density transfer policies also recognize the ability to transfer density to the Density Bank or convert density on a development site.

Adequate Public Facilities and Services

The Telluride Fire Protection District will provide fire protection and emergency response services. The Mountain Village Police Department will provide police services. Water and sewer are available from the Town of Mountain Village. Gas and electric services will be provided by Black Hills Energy and SMPA, respectively. Broadband and telecommunications are available from the Town, Century Link and area cellular providers. Driveways within La Montagne will be privately maintained, including snow plowing and snow removal. The Big Billies Trail, Jurassic Trail, Boomerang Trail, the Village Center Trail and the planned Stegosaurus Trail provide unparalleled trail and pedestrian access. The La Montagne Project will provide a shuttle to transport owners and guests to key areas in Mountain Village (Village Center, Town Hall, etc.)

Project Circulation, Parking, Trash and Deliveries

Vehicular, pedestrian and bicycle safety improvements to Country Club Drive are discussed above. Access to the North Site and South Site has been coordinated and minimized to limit vehicular and pedestrian/bicycle interactions. Access ramp and driveways have grades of approximately five (5) percent at the road intersections which allow for great visibility and meet the required CDC sight distance. Parking areas are designed within garages that are accessed from the three proposed driveways. Short-term, service and delivery parking is planned for both the North Site and South Site. Trash and recycling areas will be provided on the North Site and South Site.

Compliance with Other Town Regulations

The proposed development will comply with the requirements of the CDC and any applicable requirements of the Municipal Code.

Wetland Regulations

There are two wetland areas on the South Site that were not identified for the Rosewood PUD Plans. A review of the Rosewood PUD Plans shows that buildings were located on top of the newly identified wetland areas.

CDC Section 17.6.1(B) establishes the Wetland Regulations that are applicable to the Property. Section



17.6.1(B)(2) establishes the following standards with project team comments are shown in *italics*:

- a. Avoid disturbance to wetland areas to the extent practicable, and minimize and mitigate impacts where site conditions preclude the ability to avoid wetland impacts. *The development of the South Site will avoid any disturbance to the wetland areas. The wetland areas will be protected by sturdy fencing, matting or boards during construction. All building walls are setback from the wetland areas with no wetland fill. A few cantilevered decks are proposed over the wetland areas that are elevated 10 feet above the wetland area. The wetland areas are low quality wetlands with low functional values. The project team will provide a detailed wetland enhancement plan to add wetland plants and improve the functional values of the wetlands on the South Site as a part of the required Design Review Process Final Review. The Terra Firm has provided a letter on the South Site wetland areas as shown in Exhibit C.*
- b. Provide appropriate setbacks to wetland areas to the extent practicable. There will be situations where wetland fill or no wetland setbacks are appropriate to implement the Comprehensive Plan, allow for reasonable use, or for site-specific issues or project needs. *It is not practicable to provide setbacks to the wetland areas given the narrow width of Lot 152R and the underlying zoning that allows for up to 23 condominium units. Lot 152R is only 80 to 100 feet in depth which is very shallow for a multi-family lot in Mountain Village. The front 16 foot general easement reduces the functional width to approximately 65 to 84 feet at the narrowest points. The development is avoiding the wetland areas which further limits the developable areas of the South Site. Lot 152R has been replatted approximately three times without any general easement on the golf course which the project team believes is due, in part, to the narrow width. This narrow width combined with the underlying density necessitate that development be located as close as possible to the wetland areas to allow for reasonable use of Lot 152R, with the decks of Buildings H and K proposed to slightly cantilever over the wetland areas with approximately ten feet o clearance. Detailed construction mitigation plans will be provided with the required Final Review to ensure the wetland areas will not have any soil disturbance.*
- c. If a developer proposes to cause disturbance or fill to a wetland area, the CDC required development application shall include a thorough, written evaluation of practical alternatives to avoiding any fill, excavation or disturbance of any wetland. *This standard is not applicable since no wetland disturbance is proposed.*
- d. The review authority shall only allow for wetland disturbance or fill if it is demonstrated that there is not a practicable alternative to avoiding such activities and if the following criteria are met. *This standard is not applicable since no wetland disturbance is proposed.*
- e. The review authority should allow for the reconfiguration of a lot with surrounding lots by the Subdivision Process to avoid wetland impacts if practicable. *It is not practicable to reconfigure the lot due to the golf course design and layout with TSG owning all of the land on the east, west and south sides of Lot 152R.*
- f. All development applications for lots that contain wetlands or that are in close to proximity of wetlands on adjoining lots shall, as a part of the applicable development application, submit a wetlands delineation performed by a USACE qualified consultant. *The wetland delineation for the South Site has been approved by the United States Army Corps of Engineers as shown in Exhibit B.*



Steep Slope Regulations

The Property contains steep slopes that are 30 percent or greater as shown in Figure 4. Section 17.6.1(C)(2) (a) of the CDC states that:

“Building and development shall be located off slopes that are thirty percent (30%) or greater to the extent practical.

i. In evaluating practicable alternatives, the Town recognizes that it may be necessary to permit disturbance of slopes that are 30% or greater on a lot to allow access to key viewsheds, avoid other environmental issues, buffer development and similar site-specific design considerations.”

It is not practicable to avoid all steep slope areas because the Property contains large areas of slopes that are 30 percent or greater. Lot 126R and Lot 152R were platted and zoned for high density development with full knowledge of the steeper slopes that existed on the Property. Avoiding the steep slope areas on Lot 126R and Lot 152R would not allow for the historic or current density assigned to the Property, and would deny the owner reasonable use. The development of steep slopes allows for clustering in the central location of Lot 126R while also providing accesses to key viewsheds. Lot 126R is located immediately next to an extensive open space buffer for all of Mountain Village that leads down to the Valley Floor. It should also be noted that Lot 143A to the west is entirely located in a steep slope area that leads into the North Site with development already approved higher on the hillside in this area of the town.

The purpose of the Steep Slope Regulations “...is to prevent the development of steep slopes that are thirty percent (30%) or greater to the extent practicable in order to protect water quality, visual resources and slope stability.” Plans for the North Site and South Site will include a thorough engineered plan that will protect water quality and slope stability. The Town zoning has always contemplated development on the south facing hillside of Lot 126R with extensive open space located to the North of the Property. Development has been designed to fit the topography of the North Site and South Site with extensive landscaping, and natural colors and materials to mitigate visual impacts. Large areas of private open space will further mitigate visual impacts.

CDC Section 17.6.1(C)(2)(c) states the review authority will only allow for steep slope disturbance if the following criteria are met, with the project team comments shown in *italics*:

- i. The proposed steep slope disturbance is in general conformance with the Comprehensive Plan. *The proposed steep slope disturbance is envisioned by the Comprehensive Plan’s Future Land Use Map that shows multi-family development on the North Site and South Site.*
- ii. The proposed disturbance is minimized to the extent practical. *Soil disturbance in undisturbed areas will be minimized to the extent practical.*
- iii. A Colorado professional engineer or geologist has provided:
 - (a) A soils report or, for a subdivision, a geologic report; or
 - (b) An engineered civil plan for the lot, including grading and drainage plans.

And the proposal provides mitigation for the steep slope development in accordance with the engineered plans. *A geotechnical soils report will be provided with the building permits for the North Site and South Site.*



A Colorado PE has prepared engineered civil plan for the Property.

General Easement and Setbacks

CDC Section 17.3.14 establishes the provisions related to general easements and setbacks. The only platted general easements are located on the north side of Lot 152R along Country Club Drive; on the south side of Lot 126R along Country Club Drive; and along the west side of Lot 126R adjacent to the single-family development to the west.

La Montagne avoids locating any buildings in the platted general easements except for some limited roof eaves as shown on the Lot 152R site plan. These roof eaves are located over 25 feet above the ground surface of the General Easement that will not interfere with the surface or underground use of the easement. We are seeking the use of the General Easement for roof eaves as the only PUD variation as discussed above.

Grading work in the general easement will be needed for project grading (including retaining walls), sidewalks, trail connectivity, landscaping and similar site improvements. Project signage and address monuments will also be proposed in the front general easements.

There are no general easement along the western, eastern and southern lot lines of Lot 152R or along the northern and eastern side of Lot 126R. CDC Section 17.3.14(B) states:

“For lots outside the Village Center Zone District where a general easement does not exist and lots where the general easement has been vacated, the review authority may require the establishment of a building setback as determined by the DRB at the time of review of a development application.”

We are seeking to obtain the Design Review Board’s approval of the following setbacks for areas that do not have a general easement as shown on the PUD Site Plan on Sheet:

Lot 126R

- Building B: Approximately 14’-4” to northern property line
- Building C: Approximately 3’ - 3” to northern property line
- Building D: Approximately 7’ - 2” to northern property line
- Building E: Approximately 1’ to norther property line
- Building F: Approximately 7’-11” to northern property line

One the main purposes of the 16 foot general easement is to provide a buffer area that is free from development when lots are in close proximity to one another outside the Village Center (Village Center lots do not have general easements or setbacks in most instances). The proposed northern setbacks for the North Site are justified by the fact that a large open space tract exists to the north of Lot 126R (Tract OS-FF-5). Buildings heights on the northern side of Lot 126R will be minimized to the extent practical. Buildings C, D and E are located on the downhill side of a geographic ridge to the north of the development area. The project team does not believe that Buildings C, D, E or G will be visible from the Valley Floor and will erect story poles of the northern facades for the formal rezoning and density transfer public hearings.



Lot 152R

Building G: Approximately 10'-8" to western property line and 0' to southern property line

Building H: Approximately 11' - 4" to southern property line

Building I: Approximately 0' for spa pool and amenity deck to southern property line

Building J: Approximately 17' - 9" to southern property line

Building K: Approximately 3'-3" to southern property line

Building L: Approximately 0' to southern property line

The setbacks on Lot 152R are warranted due to the narrow lot width and the front general easement of 16' that leaves approximately 65 feet to 84 feet for the development of a multi-family townhouse project. The wetland areas on Lot 152R further constrain development from the central area of the Property which necessitates the setbacks as shown in order to allow for reasonable use. The setbacks on Lot 152R are also justified by the large open space tract to the south (Tract OS-1R-1) with the closest development at The Peaks located over 450 feet away.

The Town has never required a the platting of a 16 foot general easement or setback on the western, southern or eastern lot lines of the South Site. This allows for zero lot line development which is needed in order to achieve the permitted density. The Rosewood PUD Plan reflects this zero lot line development. The TSG landscape easement and other Lot 152 beneficial easements further support the intended zero lot line development with easements for construction, maintenance, drainage, utilities and landscaping needed in order to successfully achieve the envisioned density on the South Site. These easements provide room to construct and maintain the project, and to provide a good transitional landscape buffer to Hole 1 and the associated tee boxes.

Ridgeline Lots

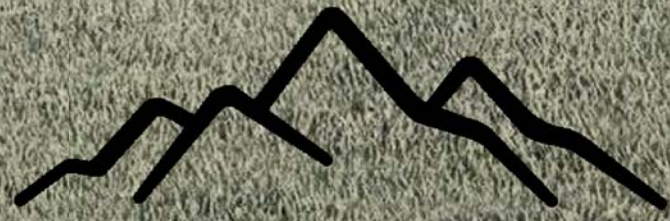
Lot 126R is a Ridgeline Lot per CDC Section 17.5.6 subject to the following regulations, with our comments shown in *italics*:

1. All structures shall have varied facades to reduce the apparent mass. *The building mass on the North Site will be broken up by the use of several smaller buildings instead of one large building. Each building on the North Site will have varied facades.*
2. To the extent practical, foundations shall be stepped down the hillsides to minimize cut, fill and vegetation removal. *The North Site development will be designed with individual buildings with foundations that step down the hillside.*
3. Building and roofing materials and colors shall blend with the hillside. *The color of the building and roofing materials on the North Site will blend with the surrounding hillside and mountainside colors.*
4. Colors and textures shall be used that are found naturally in the hillside. *North Site buildings will be designed with colors and textures that are found naturally in the hillside and mountainside areas.*
5. Reflective materials, such as mirrored glass or polished metals, shall not be used. *Reflective materials will not be used.*
6. To the extent practical, no exterior lights shall be installed on the east side of buildings. Any required exterior lighting shall be shielded, recessed, or reflected so that no lighting is oriented towards the east side of the building. *Any required lighting on the east and north sides of the buildings will be minimized, shielded or recessed.*





La Montagne



La Montagne

TELLURIDE, COLORADO



DREWETT WORKS // ARCHITECTURE

DESIGN ARCHITECT



LOCAL ARCHITECT



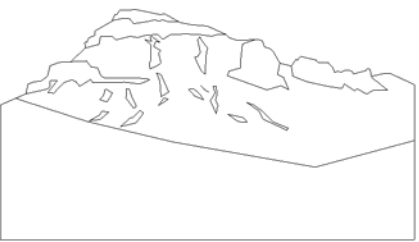
LANDSCAPE ARCHITECT



PLANNING



DEVELOPMENT GROUP



CIVIL ENGINEERING



FINBRO CONSTRUCTION

GENERAL CONTRACTOR

LOT 126R

UNIT COUNTS		NOTES	
UNIT COUNT		LOT 126R = 175,559 SF	
BUILDING A (7)	17,800 SF	HEIGHTS = MAX HEIGHT 48' - MAX AVERAGE HEIGHT 48'	
BUILDING B (6)	15,500 SF	ZONE DISTRICT = MULTI-FAMILY OUTSIDE VILLAGE CORE	
BUILDING C (7)	17,540 SF	ALLOWABLE SITE COVERAGE = 65% 65% = 114,119 SF	
BUILDING D (7)	19,950 SF		
BUILDING E (6)	14,500 SF	CURRENT LOT COVERAGE = 70,408 SF = 40%	
BUILDING F (1)	4,500 SF	PARKING REGULATIONS (1.5 PER UNIT MIN.) 56 REQUIRED	
(34) UNITS	88,430 SF	EMPLOYEE HOUSING 4 UNITS (1.5 PER UNIT)	6
CLUBHOUSE	2,500 SF	SERVICE PARKING	(1-5)
AMENITY SPACE (SPA - GYM)	2,000 SF		
EMPLOYEE HOUSING			
APARTMENTS (4)	2,500 SF	TOTAL = 66 PARKING SPOTS	32,000 SF

LOT 152R SUMMARY

UNIT COUNTS		NOTES	
ROOM COUNT		LOT SIZE = 64,152 SF	
BUILDING H (2)	6,040 SF	HEIGHTS = MAX HEIGHT 48' - MAX AVERAGE HEIGHT 48'	
BUILDING I (3)	8,360 SF	ZONE DISTRICT = MULTI-FAMILY OUTSIDE VILLAGE CORE	
BUILDING J (2)	5,500 SF	ALLOWABLE SITE COVERAGE = 65% 65% = 41,698 SF	
BUILDING K (2)	6,040 SF		
BUILDING L (3)	8,360 SF	PROPOSED LOT COVERAGE = 35,165 SF = 54.8%	
BUILDING M (3)	9,200 SF		
(15) UNITS	43,500 SF	PARKING REGULATIONS (1.5 PER UNIT MIN.) 22.5 REQUIRED	
SKI LOUNGE	4,200 SF	(SURFACE PARKING) - 3 PARKING SPOTS	
		(WEST GARAGE) - 14 PARKING SPOTS	12,800 SF
		(EAST GARAGE) - 19 PARKING SPOTS	11,900 SF
		TOTAL =	33 PARKING SPOTS 23,000 SF

SHEET INDEX

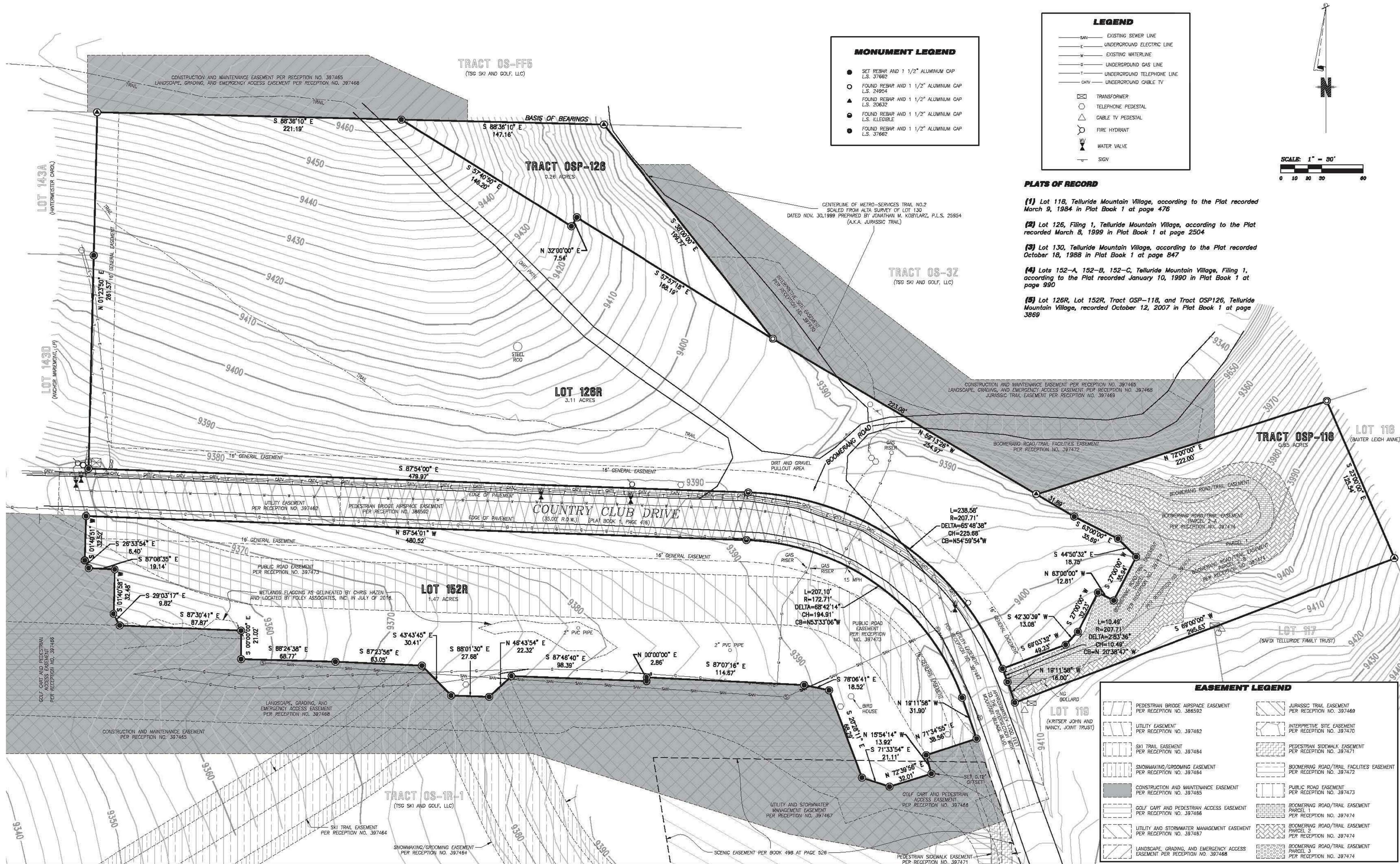
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PUD1.1 SURVEY	PUD4.9 CONCEPTUAL VIEW - CC ROAD VIEW WEST
PUD1.2 SLOPE ANALYSIS	PUD4.10 CONCEPTUAL VIEW - CLUB VIEW NORTH
PUD1.3 SITE PLAN	PUD4.11 CONCEPTUAL VIEW - NORTH PROPERTY
PUD1.3.1 OVERHANG EXHIBIT	PUD4.12 CONCEPTUAL VIEW - WESTERN PROPERTY
PUD1.3.2 SITE COVERAGE DIAGRAM	PUD4.13 CONCEPTUAL VIEW - AERIAL @ CORE
PUD1.4 CIVIL - OVERALL SITE PLAN	PUD4.14 CONCEPTUAL VIEW - AERIAL
PUD1.4.1 CIVIL C2.1 COUNTRY CLUB DR. IMPROVEMENTS	PUD4.15 CONCEPTUAL VIEW - AERIAL
PUD1.4.2 CIVIL C2.2 COUNTRY CLUB DR. IMPROVEMENTS	
PUD1.5 CONCEPTUAL LANDSCAPING PLAN	
PUD1.6 HEIGHT ANALYSIS - ROOF PLAN	
PUD1.7 CONCEPTUAL SITE SECTIONS	
PUD1.8 CONCEPTUAL SITE SECTIONS	
PUD4.1 CONCEPTUAL VIEW - GOLF COURSE	
PUD4.2 CONCEPTUAL VIEW - GOLF COURSE	
PUD4.3 CONCEPTUAL VIEW - GOLF COURSE	
PUD4.4 CONCEPTUAL VIEW - CC ROAD ENTRY	
PUD4.5 CONCEPTUAL VIEW - VIEW NORTH	
PUD4.6 CONCEPTUAL VIEW - CC ROAD VIEW EAST	
PUD4.7 CONCEPTUAL VIEW - SOUTH @ CLUB	

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

LA MONTAGNE CONDOMINIUMS

PUD LOT 152R-126R

PUD1.0



- MONUMENT LEGEND**
- SET REBAR AND 1 1/2" ALUMINUM CAP L.S. 37662
 - FOUND REBAR AND 1 1/2" ALUMINUM CAP L.S. 24954
 - ▲ FOUND REBAR AND 1 1/2" ALUMINUM CAP L.S. 20632
 - FOUND REBAR AND 1 1/2" ALUMINUM CAP L.S. 11603
 - FOUND REBAR AND 1 1/2" ALUMINUM CAP L.S. 37662

- LEGEND**
- SAN — EXISTING SEWER LINE
 - E — UNDERGROUND ELECTRIC LINE
 - W — EXISTING WATERLINE
 - G — UNDERGROUND GAS LINE
 - T — UNDERGROUND TELEPHONE LINE
 - CATV — UNDERGROUND CABLE TV
 - ⊠ TRANSFORMER
 - TELEPHONE PEDESTAL
 - △ CABLE TV PEDESTAL
 - ⊕ FIRE HYDRANT
 - ⊕ WATER VALVE
 - SIGN —

- PLATS OF RECORD**
- (1) Lot 118, Telluride Mountain Village, according to the Plat recorded March 9, 1984 in Plat Book 1 at page 476
 - (2) Lot 126, Filing 1, Telluride Mountain Village, according to the Plat recorded March 8, 1999 in Plat Book 1 at page 2504
 - (3) Lot 130, Telluride Mountain Village, according to the Plat recorded October 16, 1988 in Plat Book 1 at page 847
 - (4) Lots 152-A, 152-B, 152-C, Telluride Mountain Village, Filing 1, according to the Plat recorded January 10, 1990 in Plat Book 1 at page 990
 - (5) Lot 126R, Lot 152R, Tract OSP-118, and Tract OSP126, Telluride Mountain Village, recorded October 12, 2007 in Plat Book 1 at page 3869

- EASEMENT LEGEND**
- PEDESTRIAN BRIDGE AIRSPACE EASEMENT PER RECEPTION NO. 386592
 - UTILITY EASEMENT PER RECEPTION NO. 397482
 - SKI TRAIL EASEMENT PER RECEPTION NO. 397484
 - SNOWMAKING/GROOMING EASEMENT PER RECEPTION NO. 397484
 - CONSTRUCTION AND MAINTENANCE EASEMENT PER RECEPTION NO. 397485
 - GOLF CART AND PEDESTRIAN ACCESS EASEMENT PER RECEPTION NO. 397486
 - UTILITY AND STORMWATER MANAGEMENT EASEMENT PER RECEPTION NO. 397487
 - LANDSCAPE, GRADING, AND EMERGENCY ACCESS EASEMENT PER RECEPTION NO. 397488
 - JURASSIC TRAIL EASEMENT PER RECEPTION NO. 397469
 - INTERPRETIVE SITE EASEMENT PER RECEPTION NO. 397470
 - PEDESTRIAN SIDEWALK EASEMENT PER RECEPTION NO. 397471
 - BOOMERANG ROAD/TRAIL FACILITIES EASEMENT PER RECEPTION NO. 397472
 - PUBLIC ROAD EASEMENT PER RECEPTION NO. 397473
 - BOOMERANG ROAD/TRAIL EASEMENT PARCEL 1 PER RECEPTION NO. 397474
 - BOOMERANG ROAD/TRAIL EASEMENT PARCEL 2 PER RECEPTION NO. 397474
 - BOOMERANG ROAD/TRAIL EASEMENT PARCEL 3 PER RECEPTION NO. 397474

ALTA/NSPS Land Title Survey
Lots 126R and 152R and Tracts OSP-118 and OSP-126, Town of Mountain Village

Project Mgr:	DB	368270309	4068	NO
Technician:	MC			
Checked by:				
Start date:	02/07/2018			

FOLEY ASSOCIATES, INC.
ENGINEERING PLANNING SURVEYING

970-728-6153 970-728-6050 fax
P.O. BOX 1385
125 W. PACIFIC, SUITE B-1
TELLURIDE, COLORADO 81435

Drawing path: dwp\ALTA 02-2018\91026 ALTA 02-18.dwg Sheet 2 of 3 Project #: 91026

EXISTING CONDITIONS
1" = 30'-0"

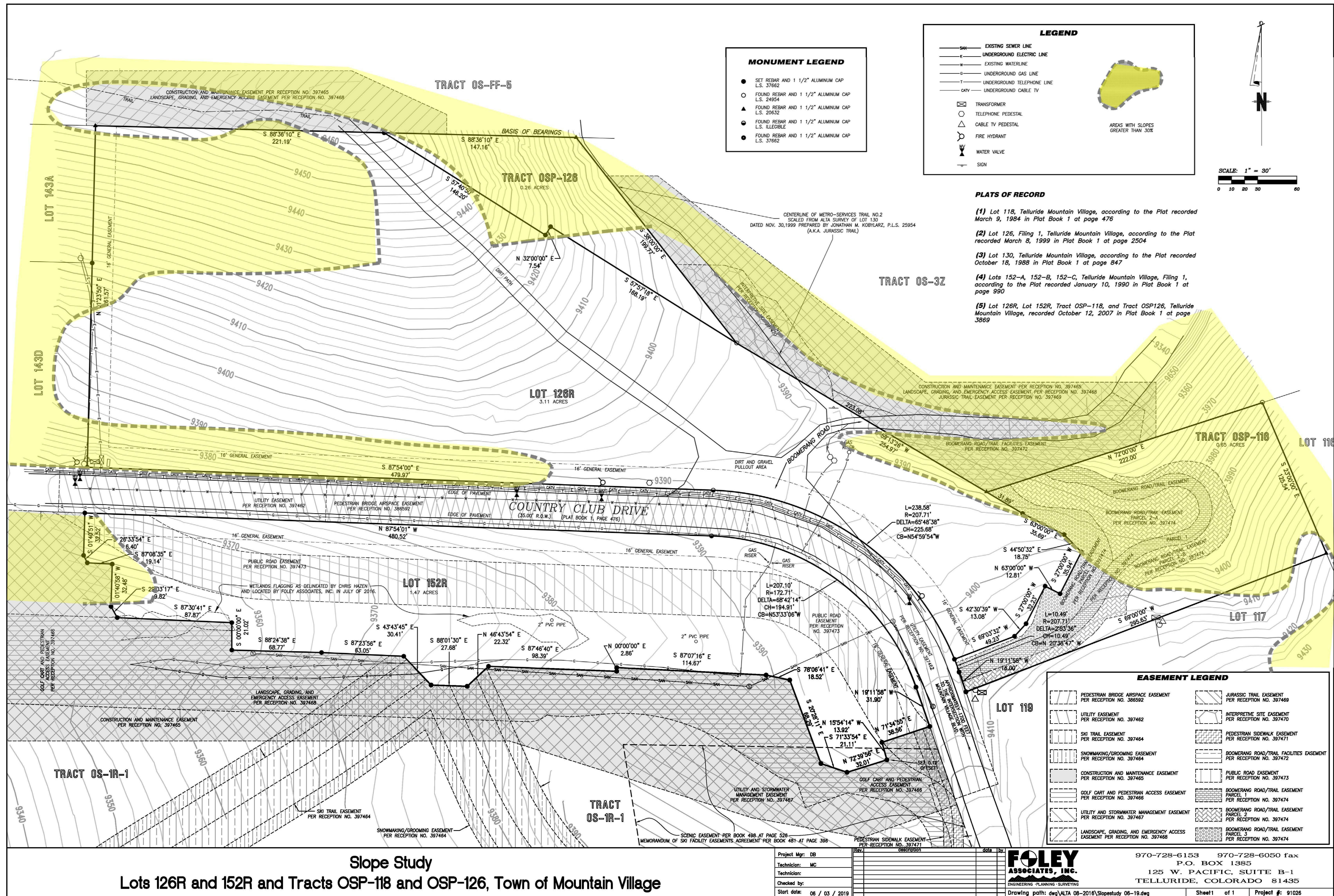
LA MONTAGNE CONDOMINIUMS

DATE: 10-28-2019
PROJECT: 18-32

SURVEY

PUDI.1

F:\old m\josh\J0851991\31025\dwg\ALTA 08-2016\01026 SlopeStudy 06-19.dwg, 6/4/2016 4:42:47 PM, Dave Blanton



LA MONTAGNE CONDOMINIUMS

DATE: 10-28-2019
PROJECT: 18-32

SLOPE ANALYSIS

PUDI.2



*REFER TO PUD1.5 FOR LANDSCAPE PLAN



LA MONTAGNE CONDOMINIUMS

SITE PLAN

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

OPEN SPACE

16' EASEMENT/ SETBACK

ADJACENT EASEMENTS

PROPOSED BUILDING OUTLINES

LOT 152R SUMMARY

UNIT COUNTS

NOTES

ROOM COUNT

BUILDING H (2)
BUILDING I (3)
BUILDING J (2)
BUILDING K (2)
BUILDING L (3)
BUILDING M (3)
(15) UNITS

6,040 SF
8,360 SF
5,500 SF
6,040 SF
8,360 SF
9,200 SF
43,500 SF

SKI LOUNGE

4,200 SF

LOT 126R

UNIT COUNTS

NOTES

UNIT COUNT

BUILDING A (7)
BUILDING B (6)
BUILDING C (7)
BUILDING D (7)
BUILDING E (6)
BUILDING F (1)
(34) UNITS

17,800 SF
15,500 SF
17,540 SF
19,950 SF
14,500 SF
4,500 SF
88,430 SF

CLUBHOUSE
AMENITY SPACE (SPA - GYM)
EMPLOYEE HOUSING
APARTMENTS (4)

2,500 SF
2,000 SF
2,500 SF

LOT 152R SUMMARY

UNIT COUNTS

NOTES

LOT SIZE = 64,152 SF
HEIGHTS = MAX HEIGHT 48' - MAX AVERAGE HEIGHT 48'
ZONE DISTRICT = MULTI-FAMILY OUTSIDE VILLAGE CORE
ALLOWABLE SITE COVERAGE = 65% 65% = 41,698 SF
PROPOSED LOT COVERAGE = 35,165 SF = 54.8%

PARKING REGULATIONS (1.5 PER UNIT MIN.) 22.5 REQUIRED
(SURFACE PARKING) - 3 PARKING SPOTS
(WEST GARAGE) - 14 PARKING SPOTS
(EAST GARAGE) - 19 PARKING SPOTS
TOTAL = 33 PARKING SPOTS

23,000 SF

LOT 126R

UNIT COUNTS

NOTES

LOT 126R = 175,559 SF
HEIGHTS = MAX HEIGHT 48' - MAX AVERAGE HEIGHT 48'
ZONE DISTRICT = MULTI-FAMILY OUTSIDE VILLAGE CORE
ALLOWABLE SITE COVERAGE = 65% 65% = 114,113 SF
CURRENT LOT COVERAGE = 70,408 SF = 40%

PARKING REGULATIONS (1.5 PER UNIT MIN.) 56 REQUIRED
EMPLOYEE HOUSING 4 UNITS (1.5 PER UNIT)
SERVICE PARKING (1-5)

6
4

TOTAL = 66 PARKING SPOTS

32,000 SF

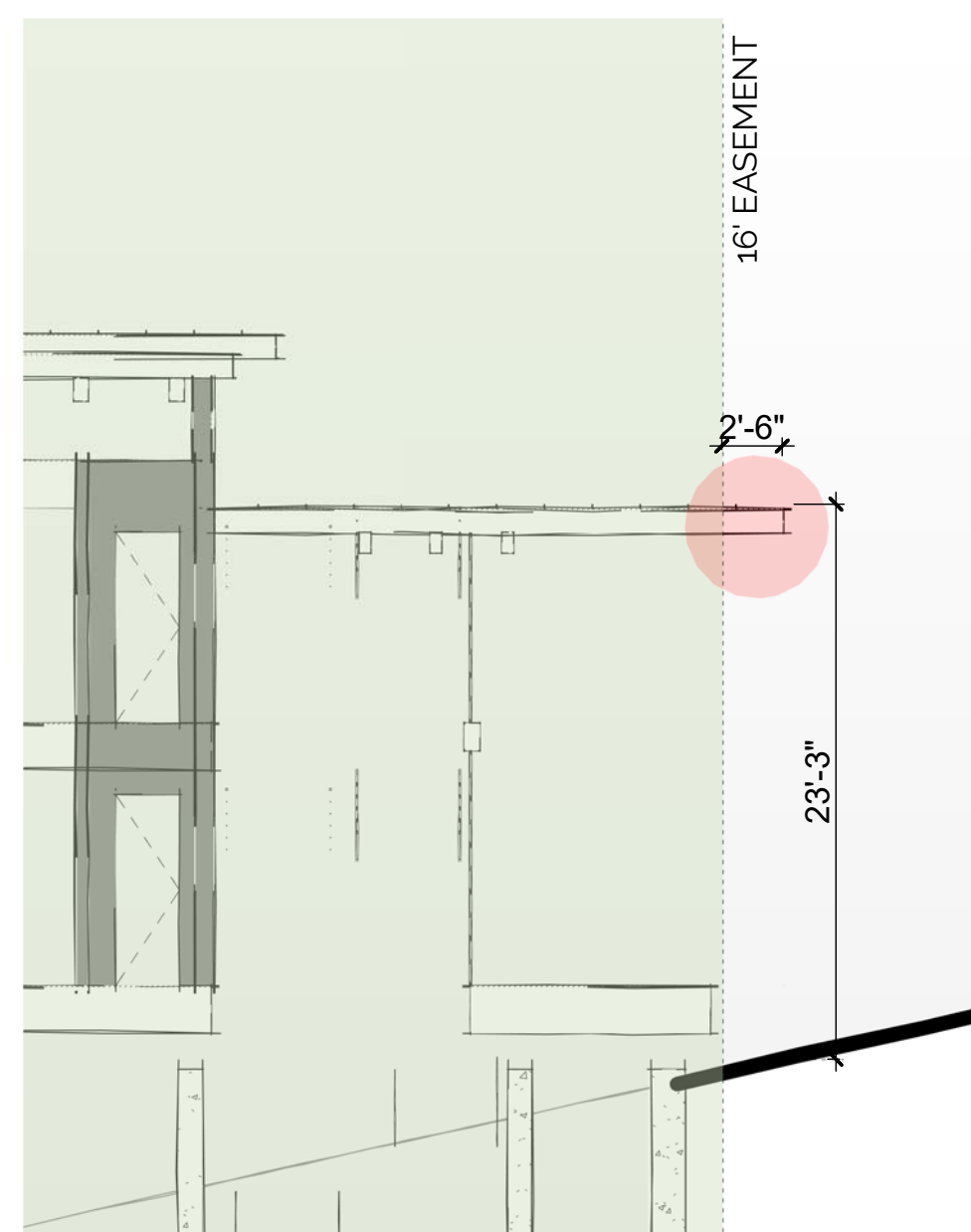
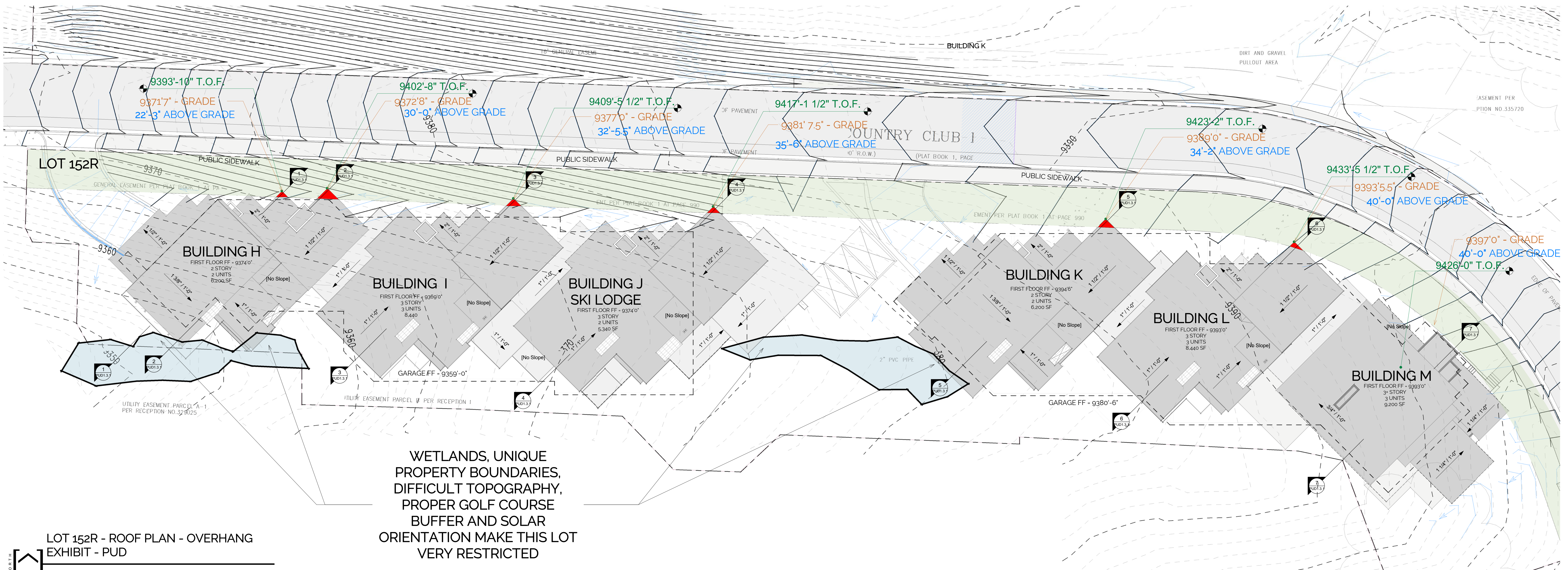
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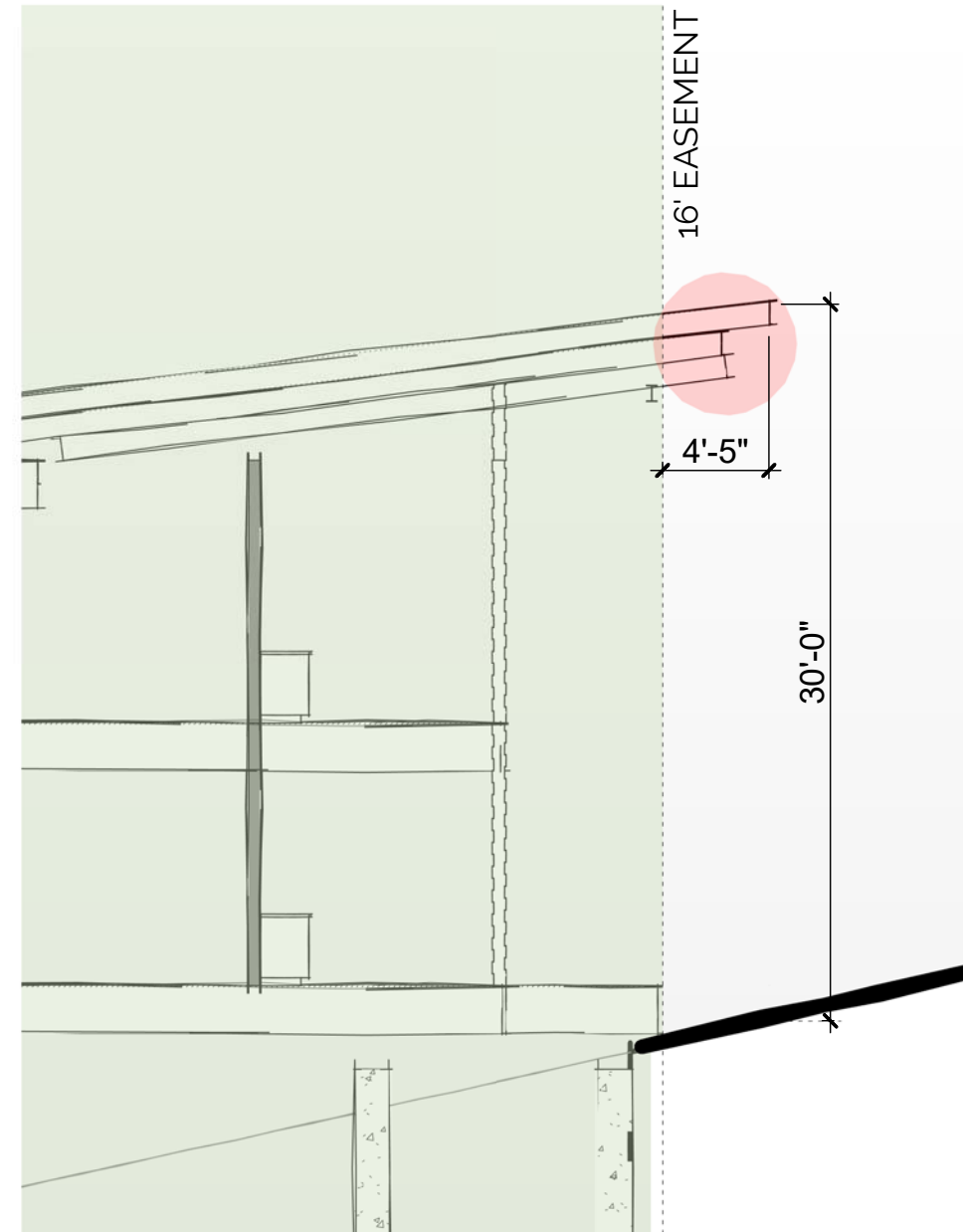
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1.3

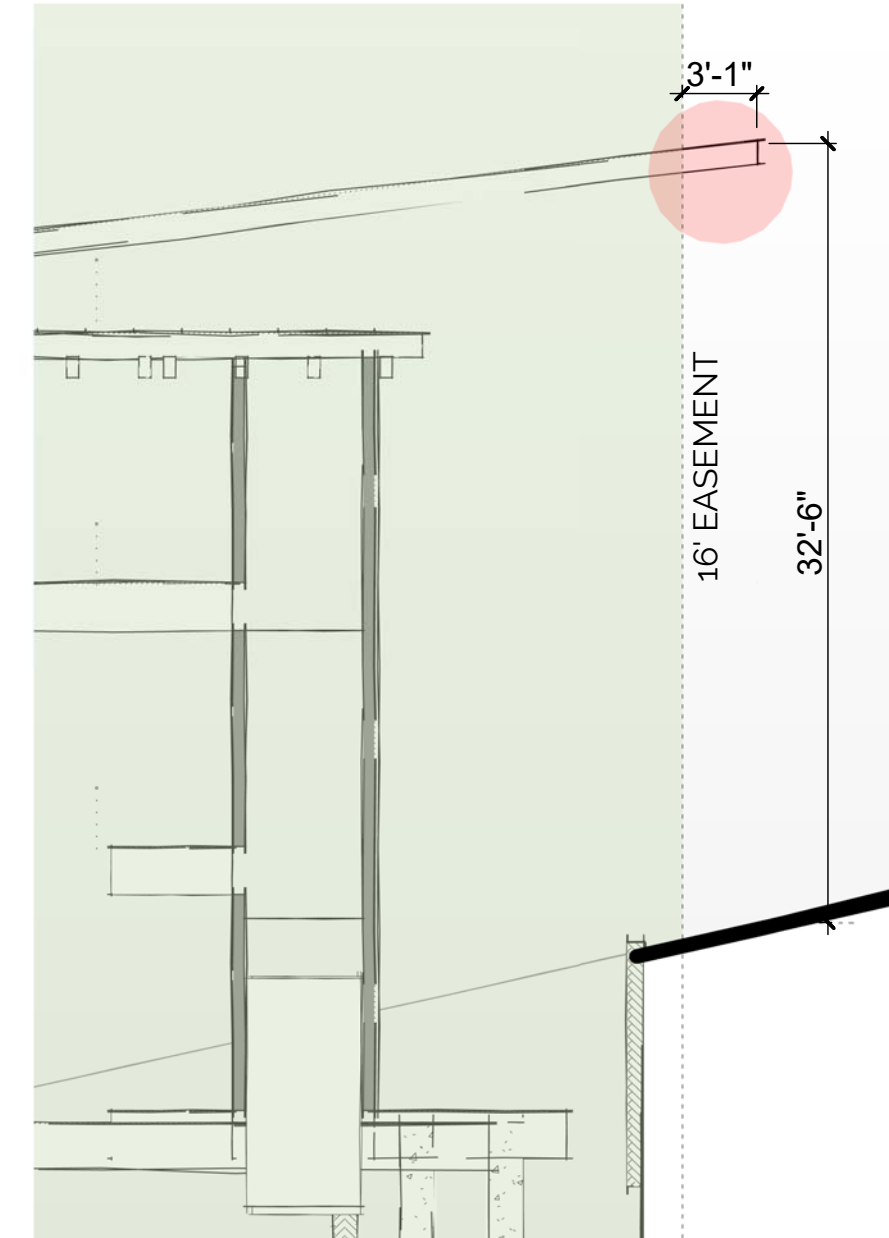
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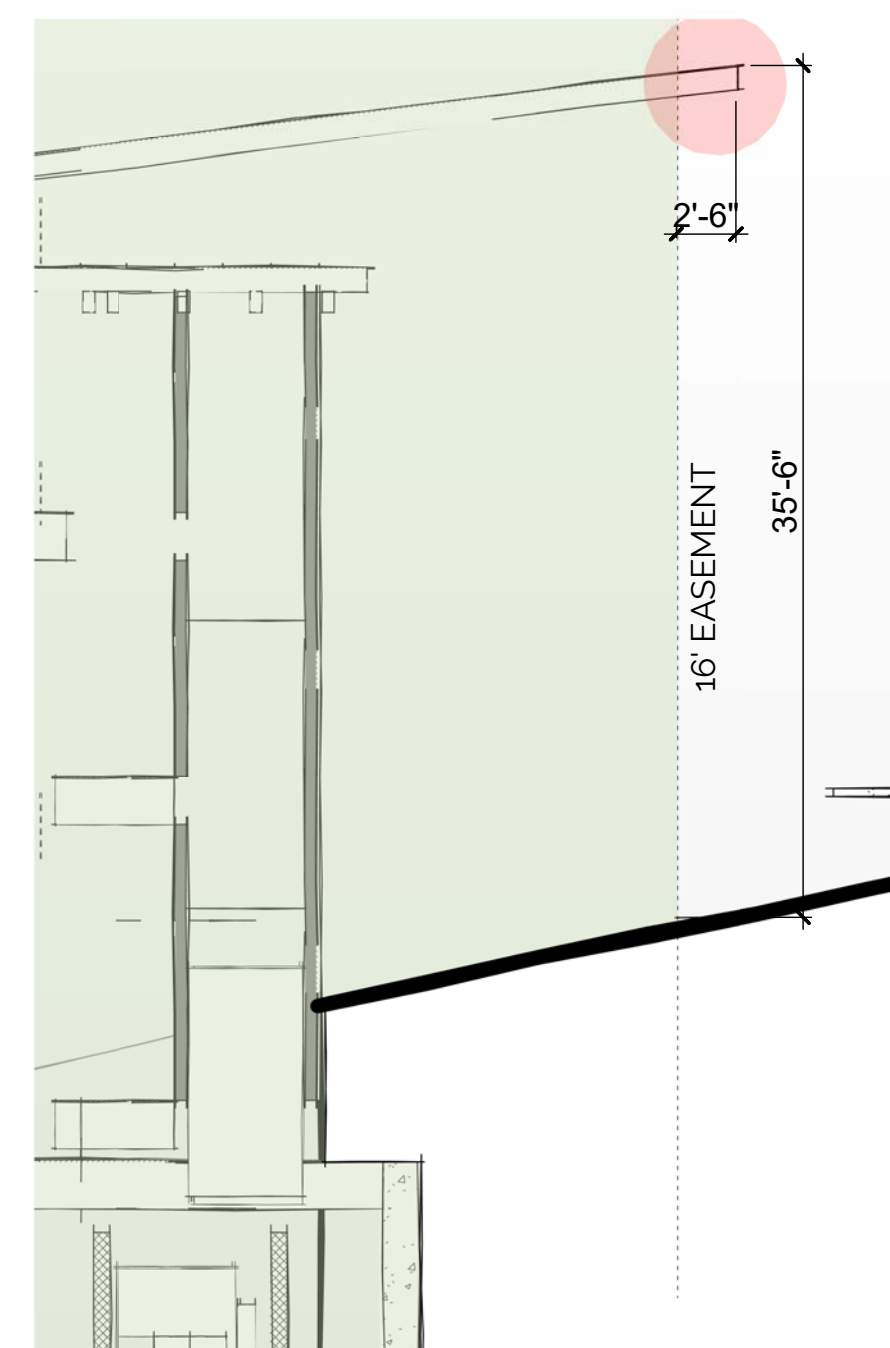
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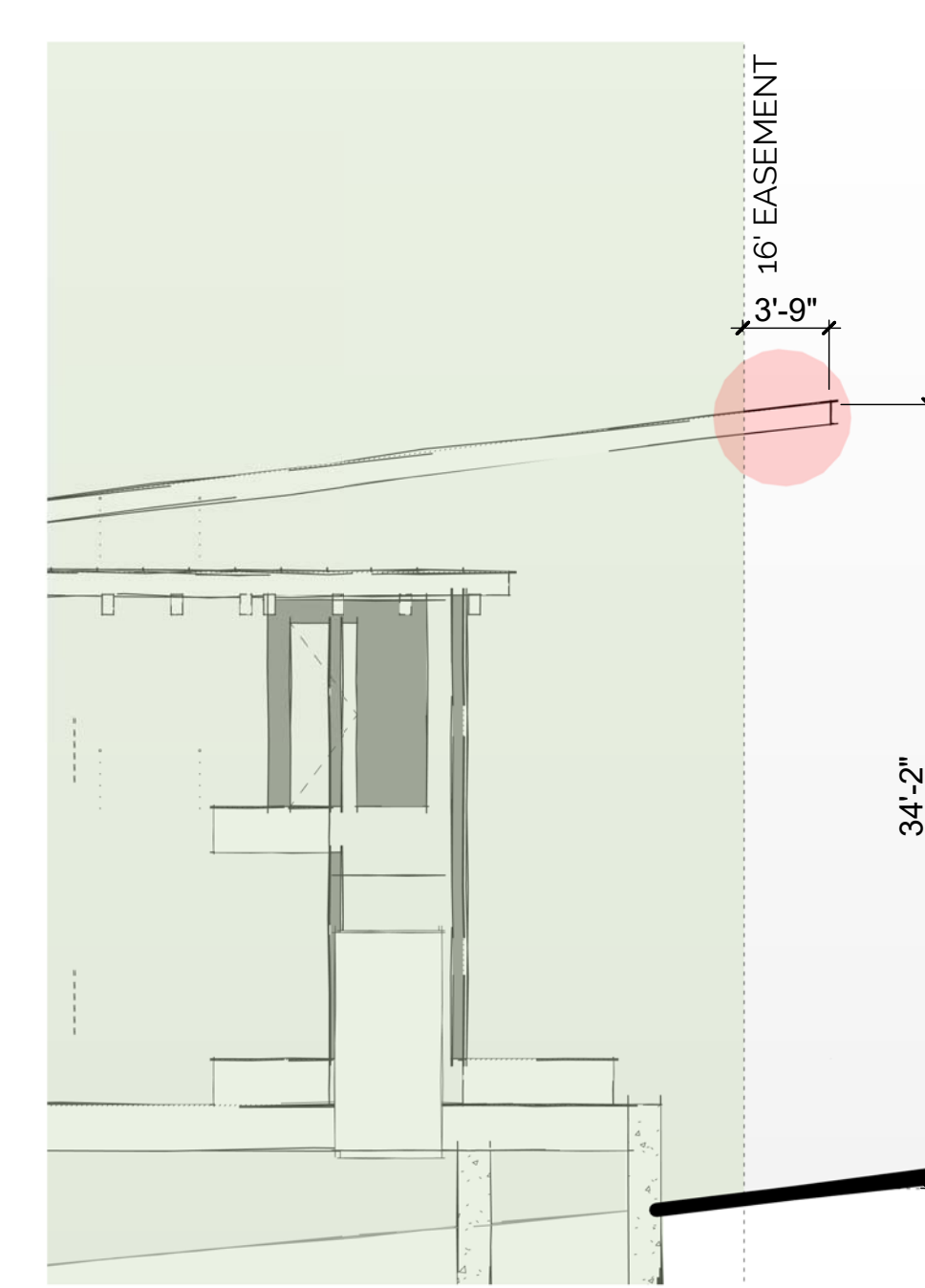
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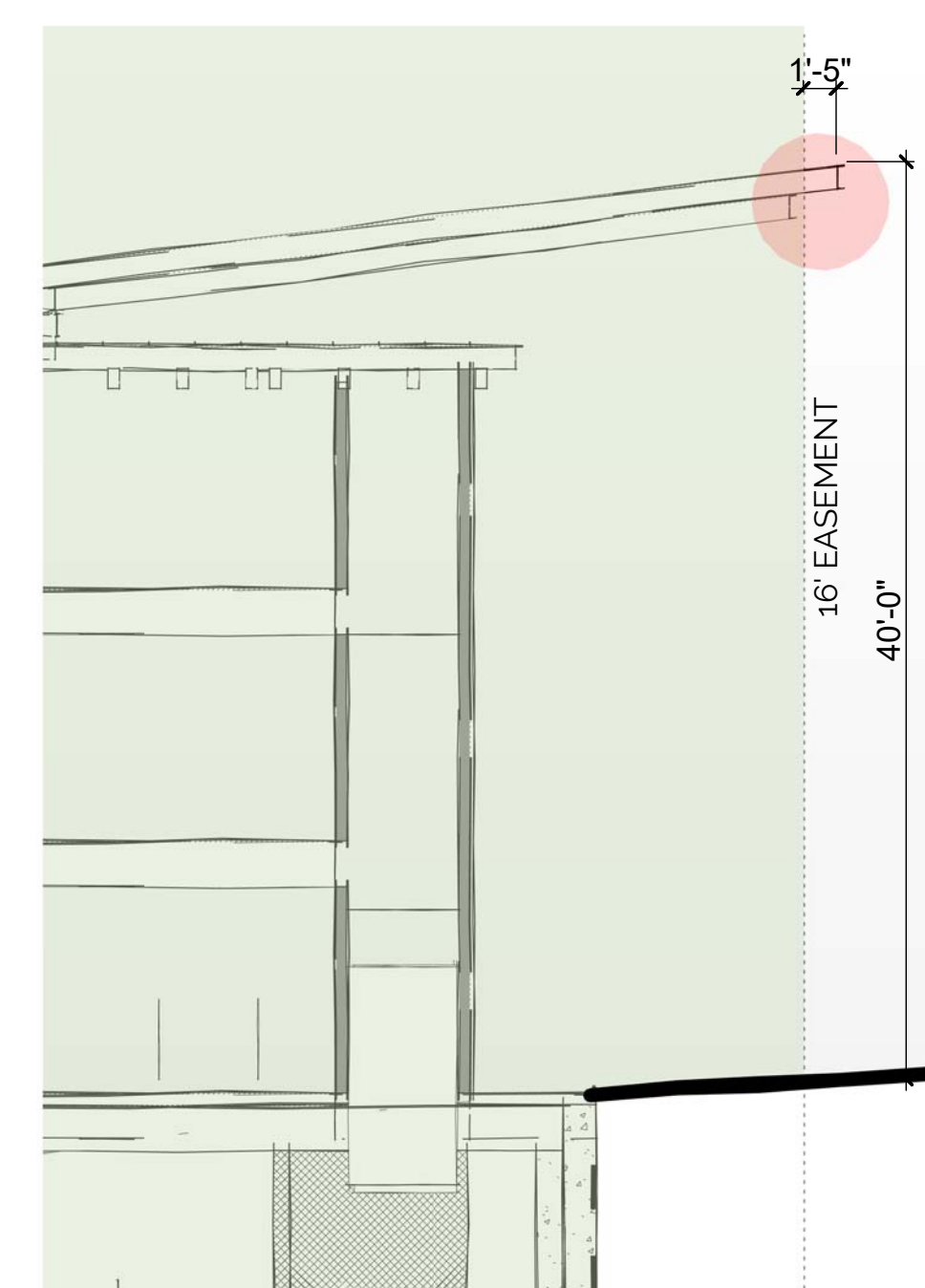
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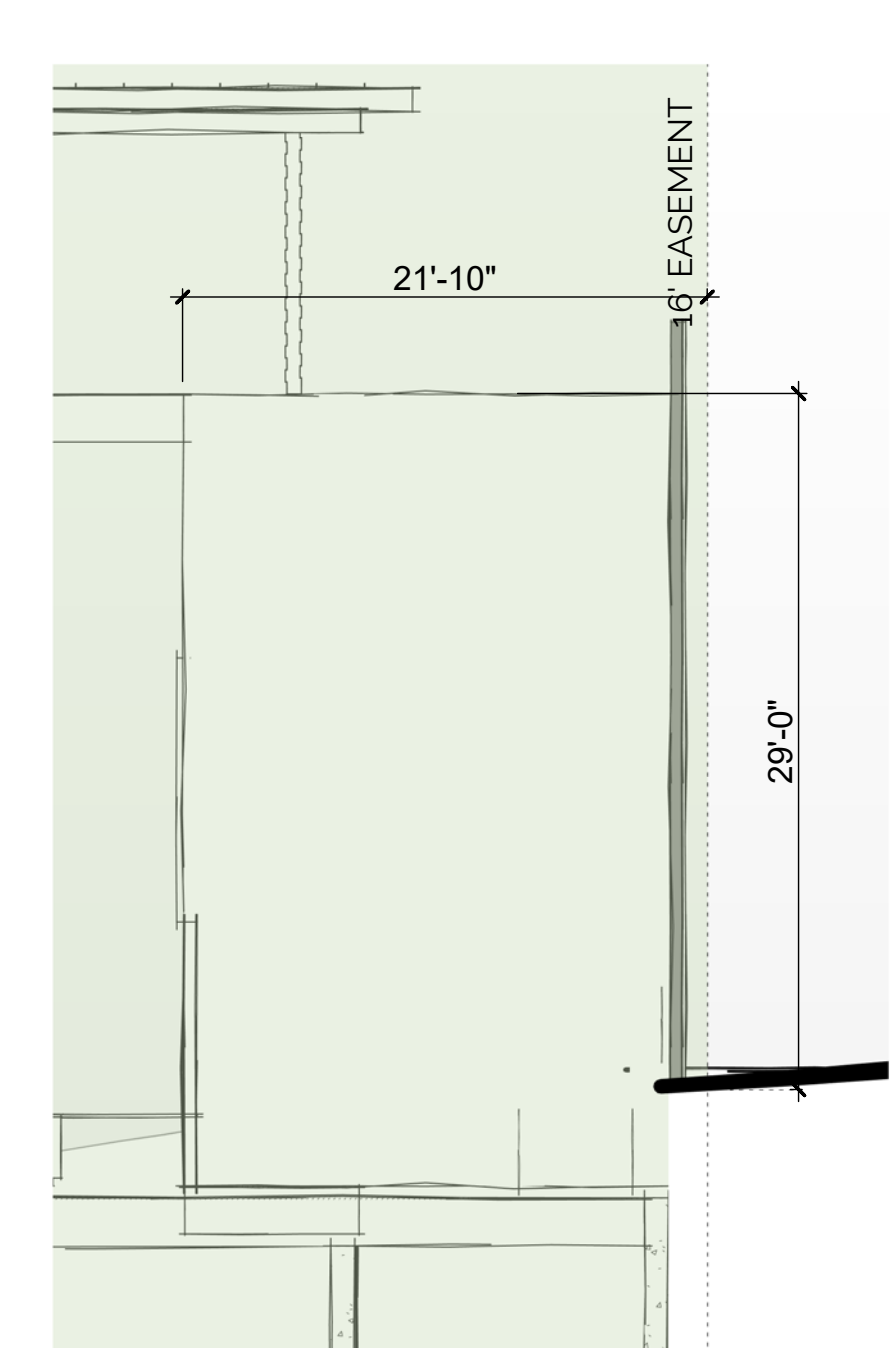
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[5] OVERHANG STUDY 5
1/8" = 1'-0"



[6] OVERHANG STUDY 6
1/8" = 1'-0"



[7] OVERHANG STUDY 7
1/8" = 1'-0"



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
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OVERHANG EXHIBIT

PUDI.3.1



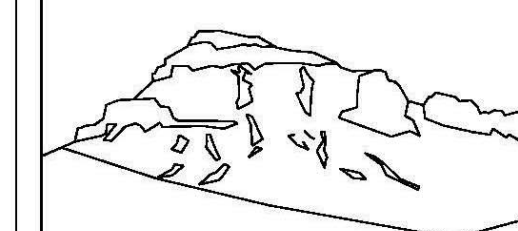
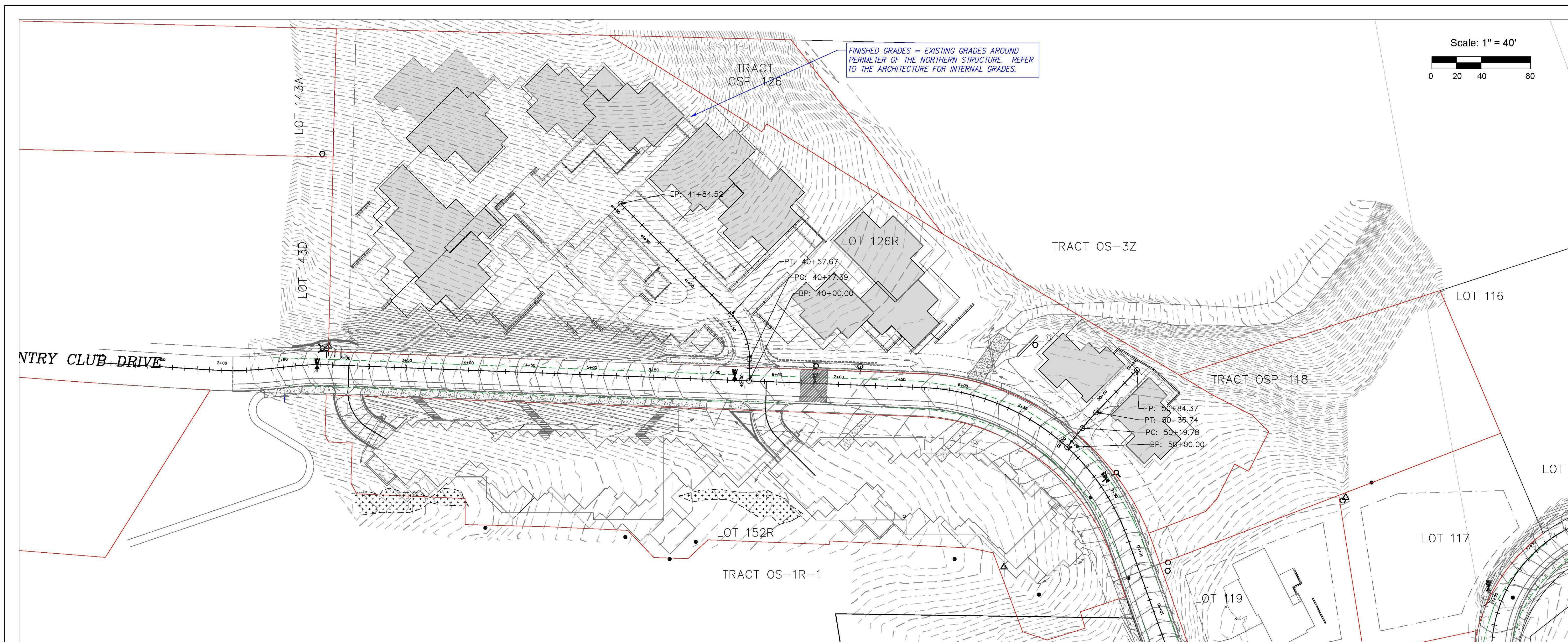
LA MONTAGNE CONDOMINIUMS

SITE COVERAGE DIAGRAM

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

LOT 126R		NOTES	
UNIT COUNTS			
UNIT COUNT		LOT 126R = 175,559 SF	
BUILDING A (7)	17,800 SF	HEIGHTS = MAX HEIGHT 48' - MAX AVERAGE HEIGHT 48'	
BUILDING B (6)	15,500 SF	ZONE DISTRICT = MULTI-FAMILY OUTSIDE VILLAGE CORE	
BUILDING C (7)	17,540 SF	ALLOWABLE SITE COVERAGE = 65% 65% = 114,113 SF	
BUILDING D (7)	19,950 SF	CURRENT LOT COVERAGE = 70,408 SF = 40%	
BUILDING E (6)	14,500 SF	PARKING REGULATIONS (1.5 PER UNIT MIN.) 56 REQUIRED	
BUILDING F (1)	4,500 SF	EMPLOYEE HOUSING 4 UNITS (1.5 PER UNIT)	6
(34) UNITS	88,430 SF	SERVICE PARKING (1-5)	4
CLUBHOUSE	2,500 SF		
AMENITY SPACE (SPA - GYM)	2,000 SF		
EMPLOYEE HOUSING			
APARTMENTS (4)	2,500 SF		
		TOTAL = 66 PARKING SPOTS	32,000 SF

LOT 152R SUMMARY		NOTES	
UNIT COUNTS			
ROOM COUNT		LOT 152R = 64,152 SF	
BUILDING H (2)	6,040 SF	HEIGHTS = MAX HEIGHT 48' - MAX AVERAGE HEIGHT 48'	
BUILDING I (3)	8,360 SF	ZONE DISTRICT = MULTI-FAMILY OUTSIDE VILLAGE CORE	
BUILDING J (2)	5,500 SF	ALLOWABLE SITE COVERAGE = 65% 65% = 41,698 SF	
BUILDING K (2)	6,040 SF	CURRENT LOT COVERAGE = 35,165 SF = 54.8%	
BUILDING L (3)	8,360 SF	PARKING REGULATIONS (1.5 PER UNIT MIN.) 22.5 REQUIRED	
BUILDING M (3)	9,200 SF	(SURFACE PARKING) - 3 PARKING SPOTS	
(15) UNITS	43,500 SF	(WEST GARAGE) - 14 PARKING SPOTS	12,800 SF
SKI LOUNGE	4,200 SF	(EAST GARAGE) - 19 PARKING SPOTS	11,900 SF
		TOTAL =	33 PARKING SPOTS 23,000 SF



Uncompahgre
Engineering, LLC

P.O. Box 3945
Telluride, CO 81435
970-729-0683

SUBMISSIONS:
PUD SUBMITTAL 2019-08-22

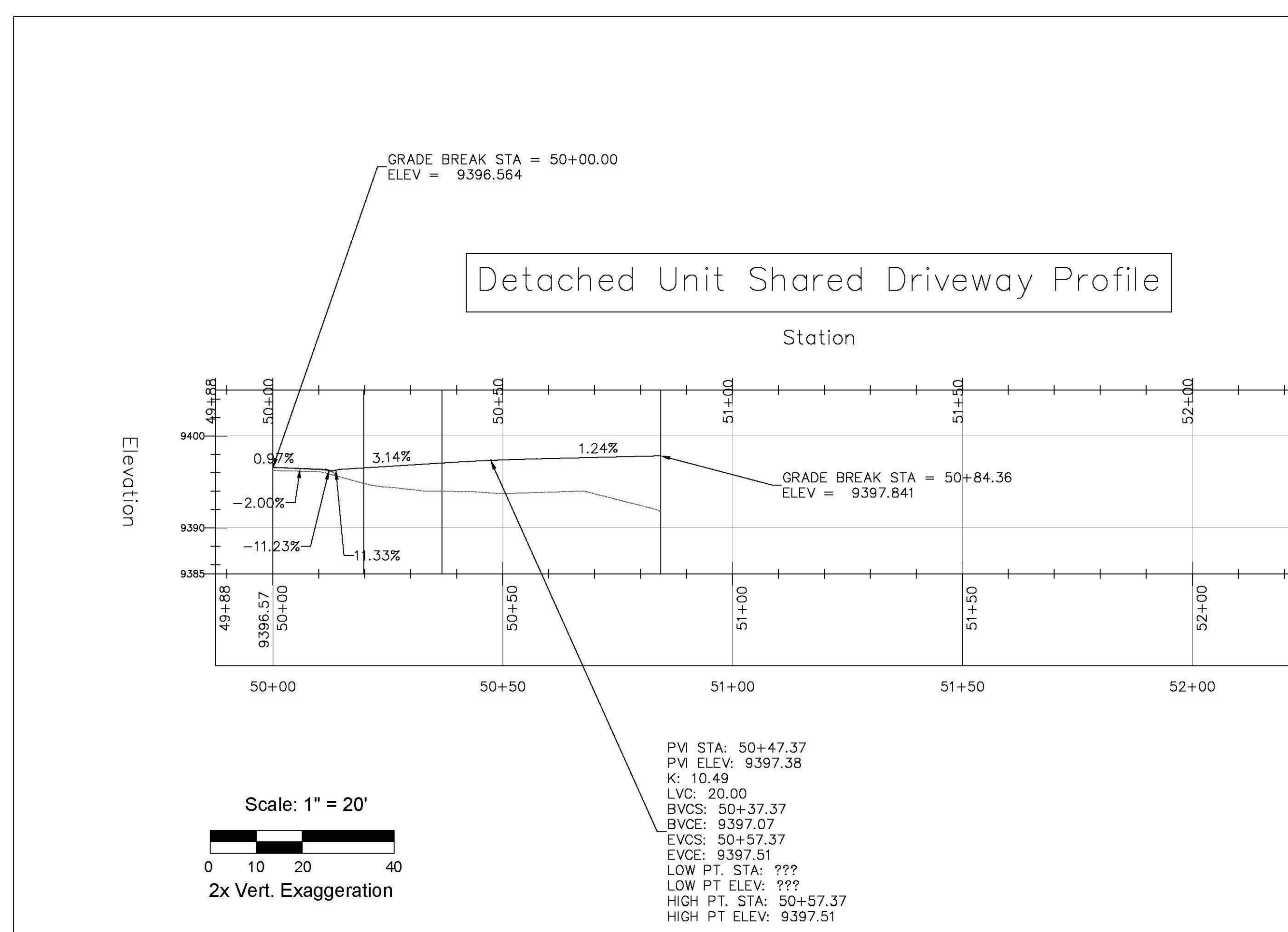
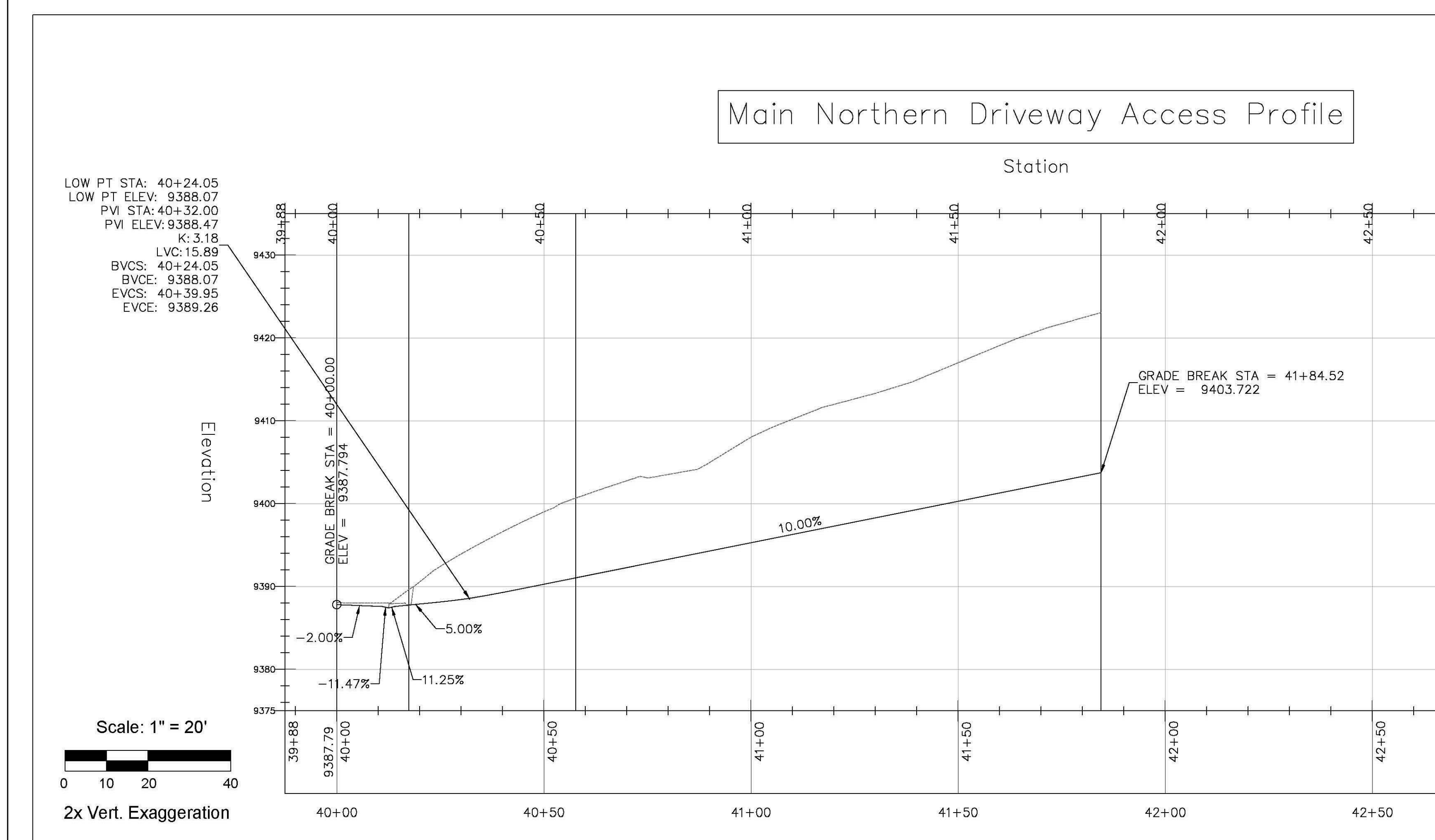
La Montagne
Lot 152R and 126R
Country Club Dr.
Mtn. Village, CO



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

Over-All
Site Plan
for
PUD

C1.0

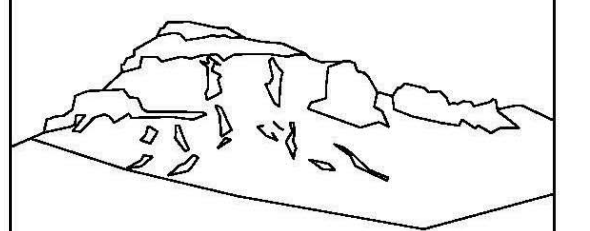
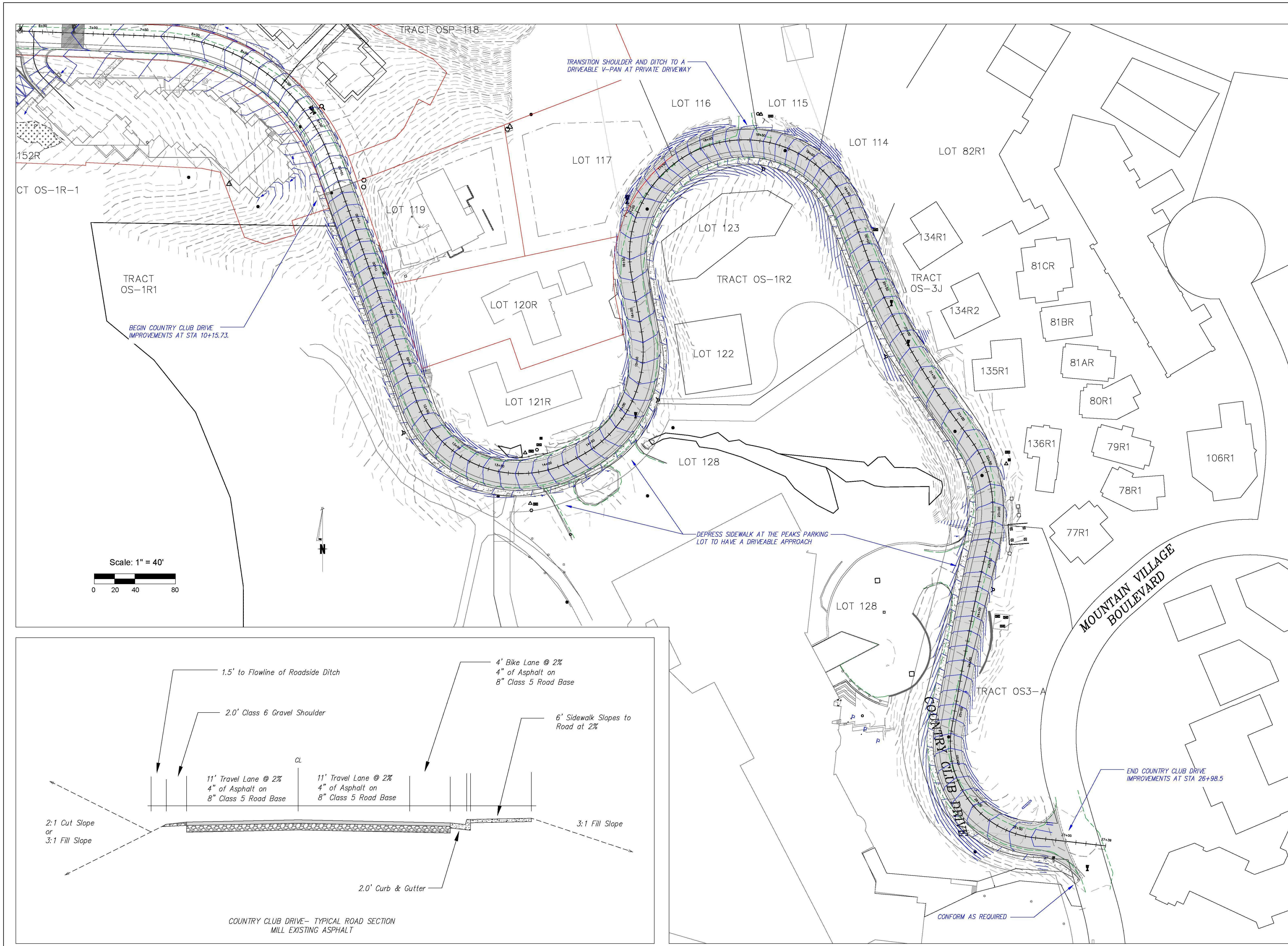


LA MONTAGNE CONDOMINIUMS

CIVIL - OVERALL SITE PLAN

DATE: 10-28-2019
PROJECT: 18-32

PUDI.4



Uncompahgre
Engineering, LLC

P.O. Box 3945
Telluride, CO 81435
970-729-0683

SUBMISSIONS:

SUBMITTAL 2019-08-22

Le Montant
Lot 152
Country Club Dr.
Mtn. Village, CO

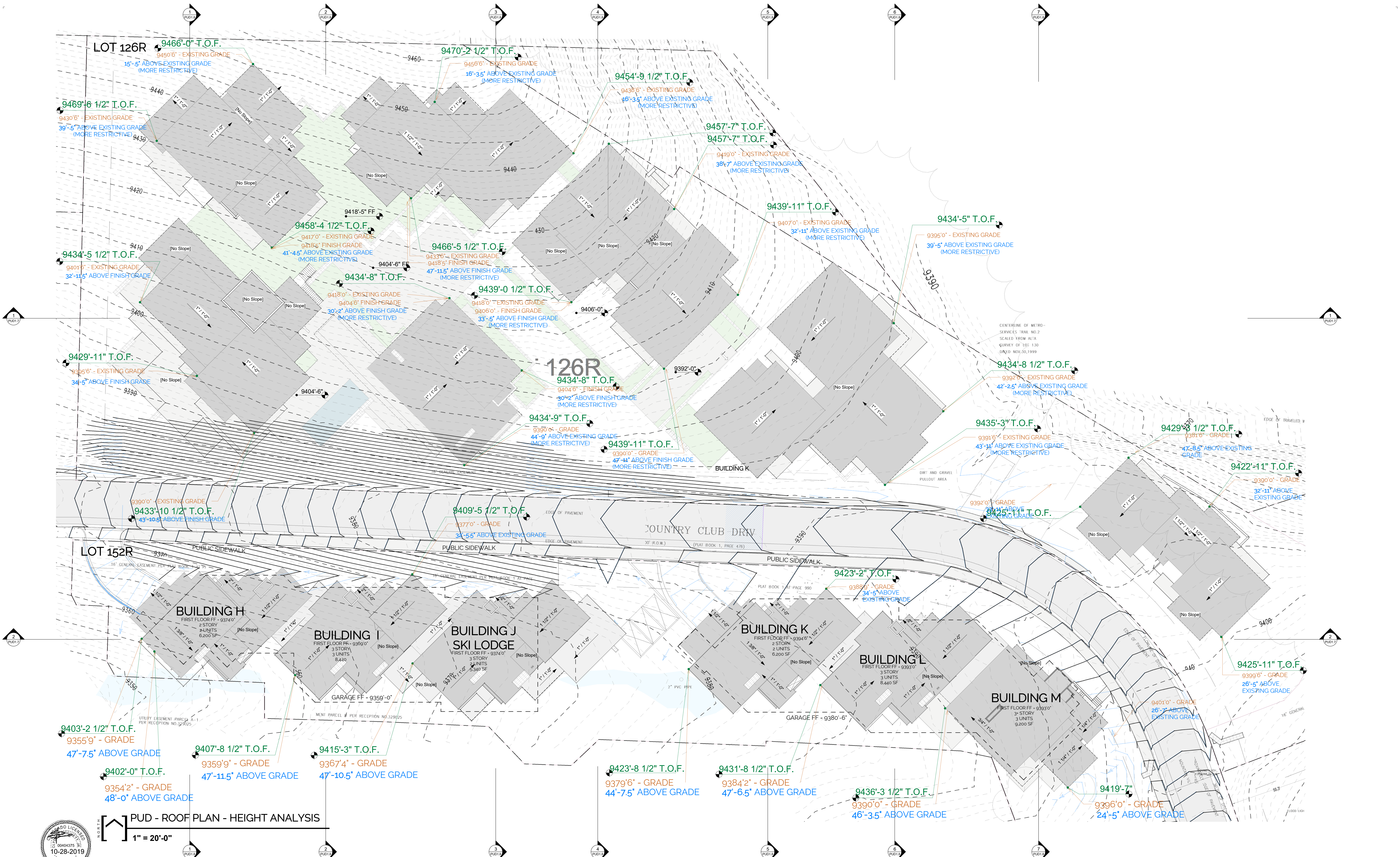


CONTRACTOR TO REVIEW AND COMPARE ALL
CHAPTERS AND INTERDISCIPLINARY DRAWINGS
AND REPORT ANY DISCREPANCIES TO THE
ARCHITECT PRIOR TO ANY FIELD WORK BEING
DONE IN ACCORDANCE WITH AIA DOCUMENT A201

Conceptual
Country Club Dr.
Improvements

Plan View

C2.1



PUD - ROOF PLAN - HEIGHT ANALYSIS
1" = 20'-0"

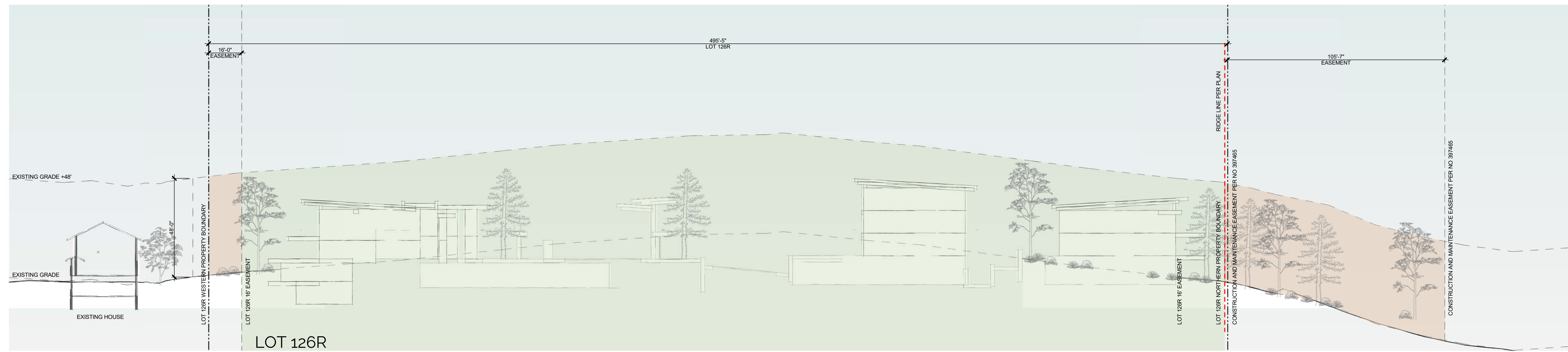
LA MONTAGNE CONDOMINIUMS

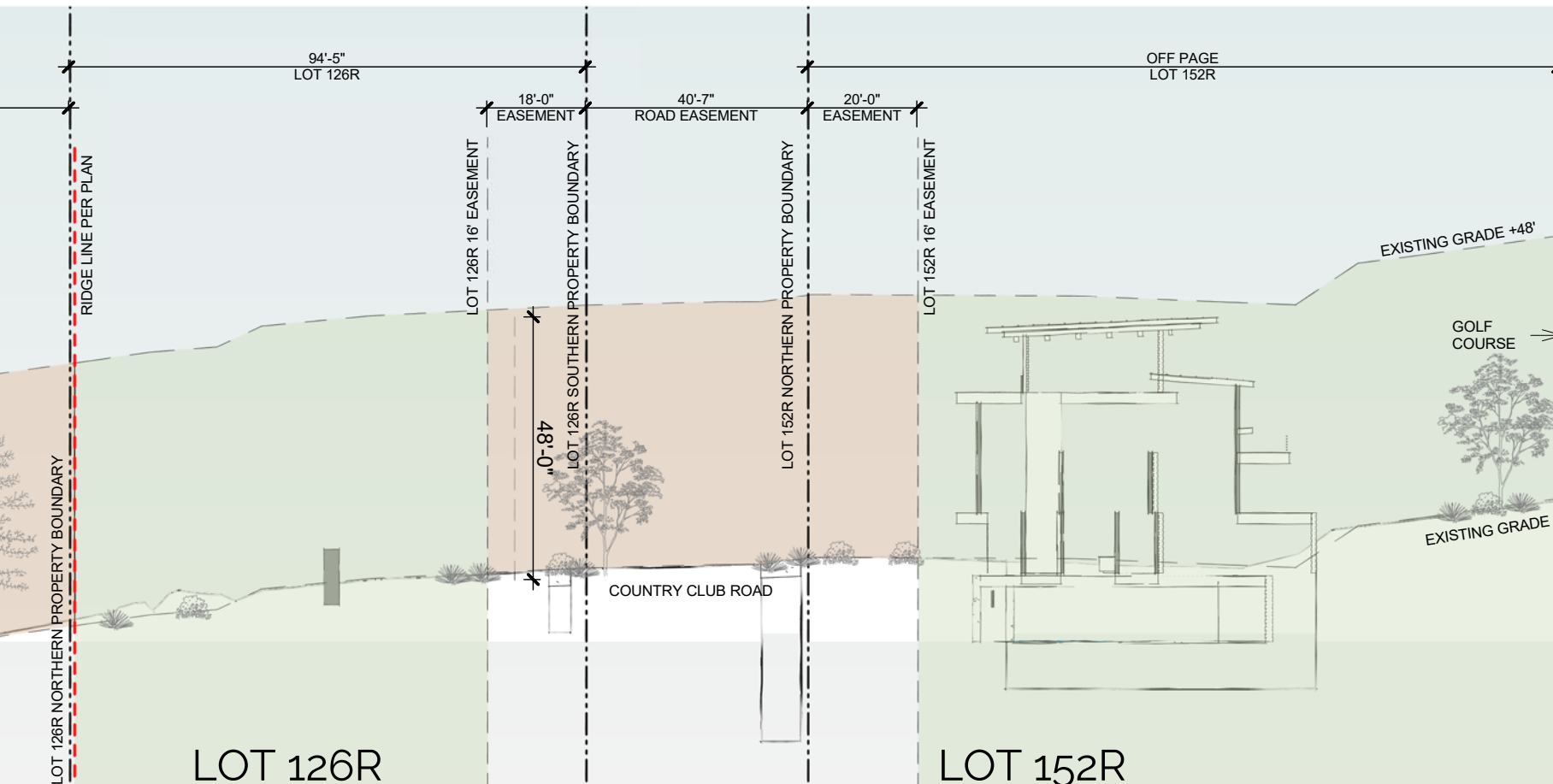
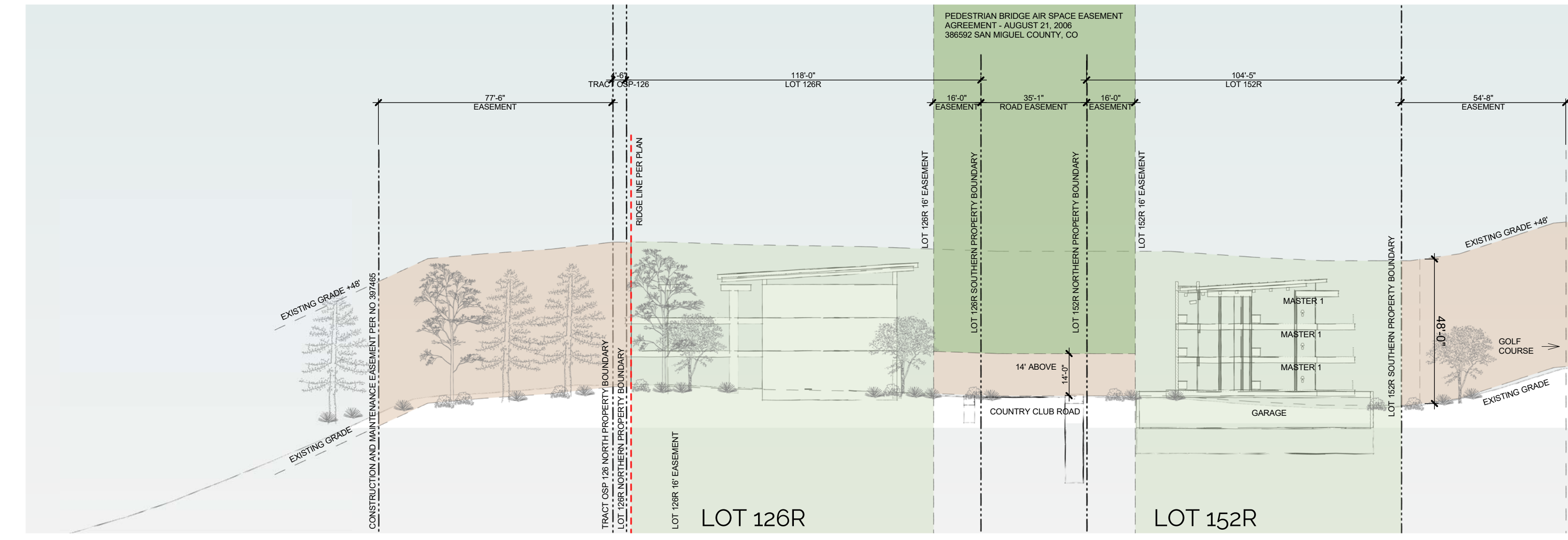
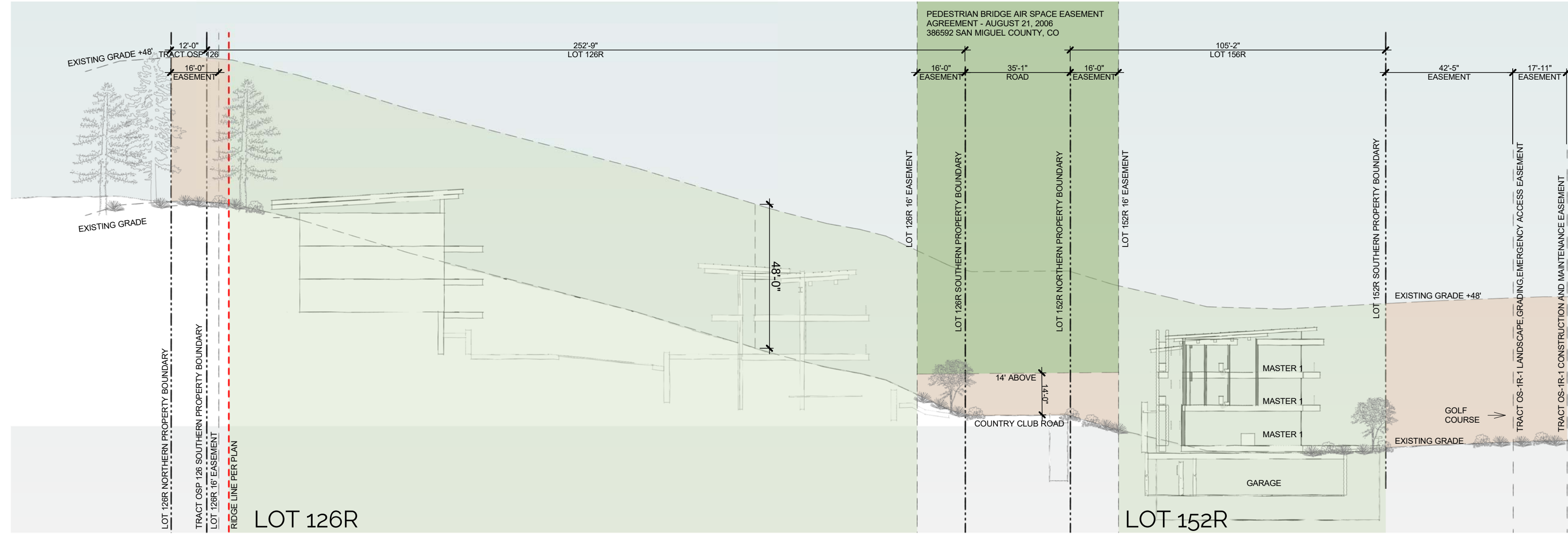
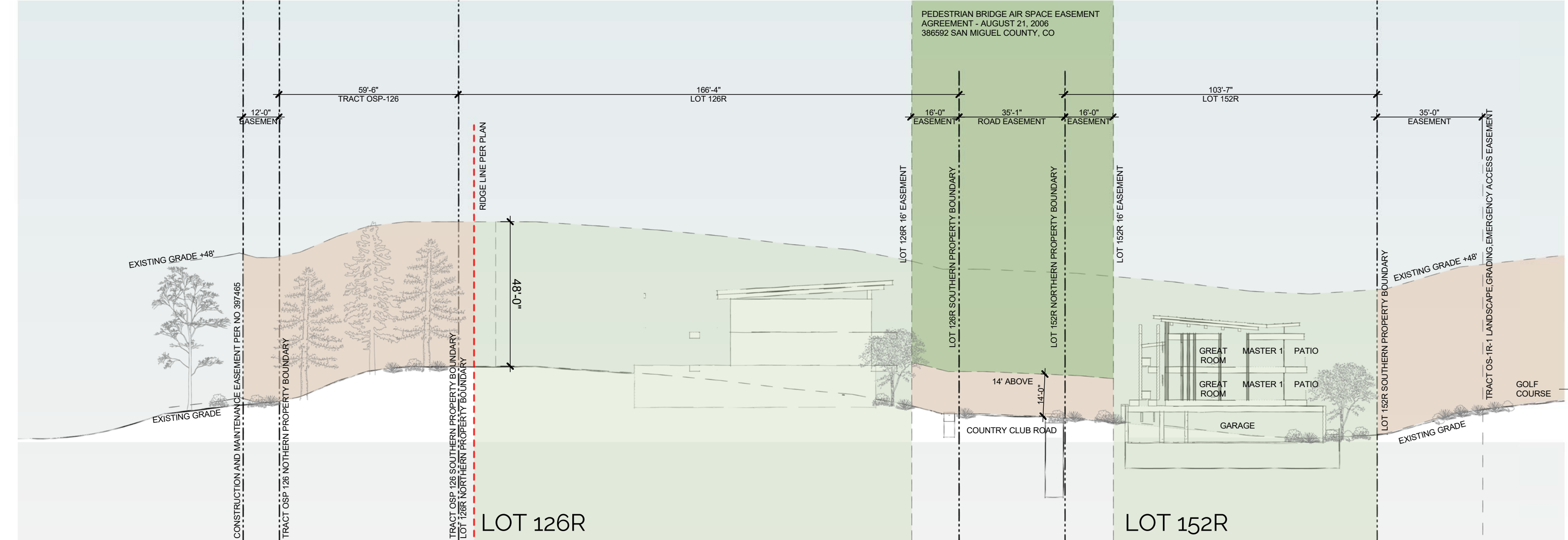
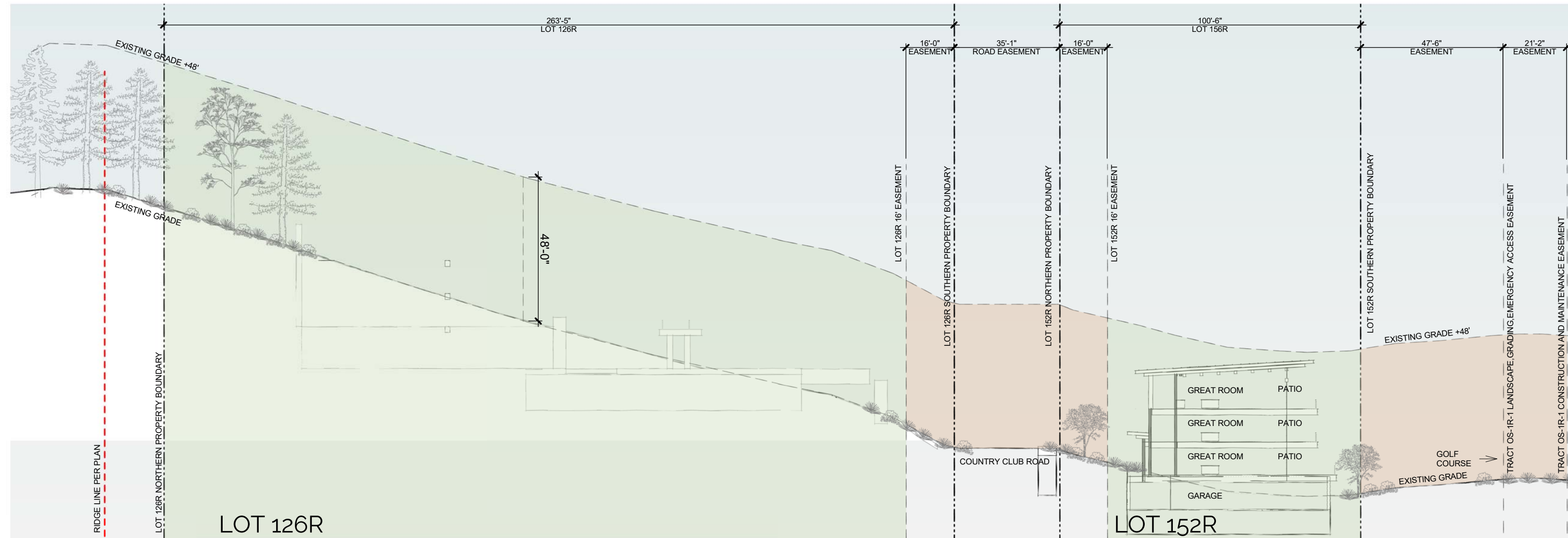
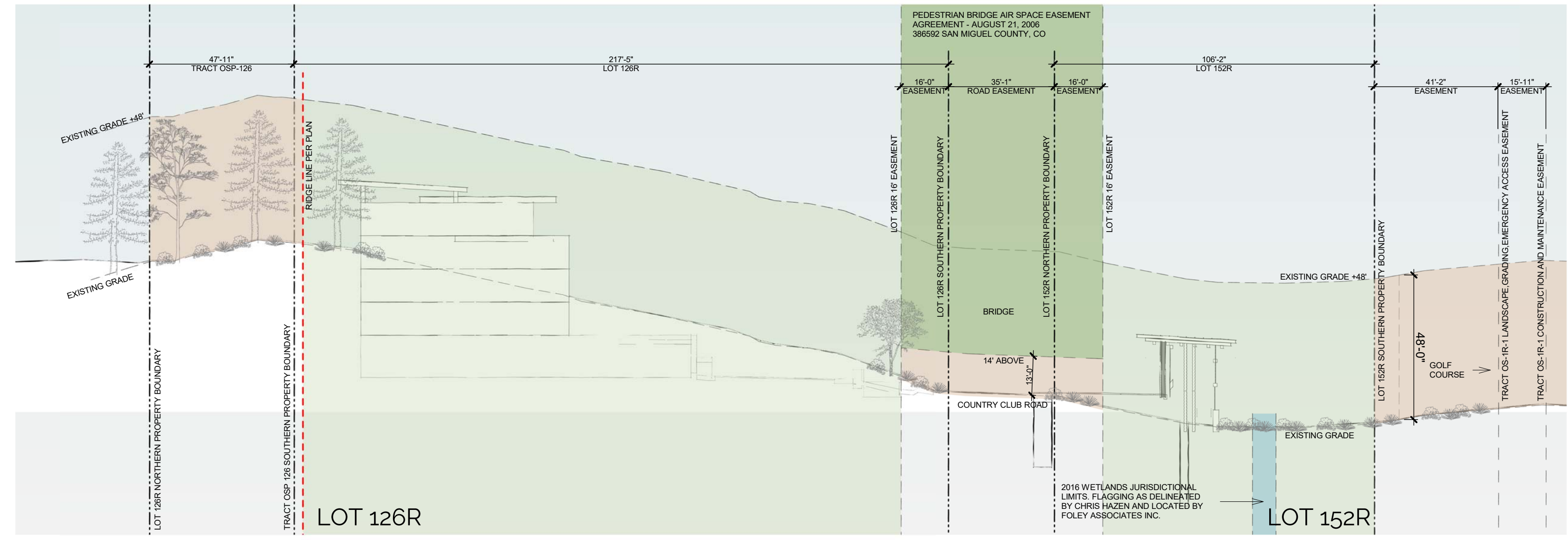
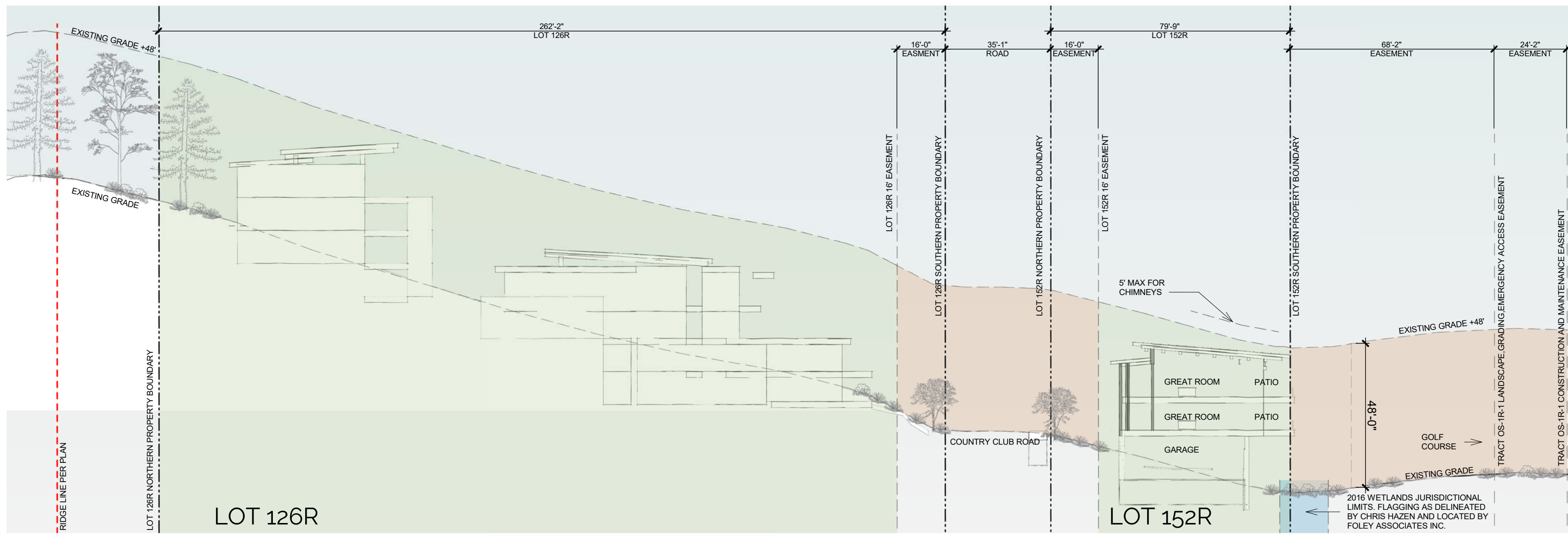
HEIGHT ANALYSIS - ROOF PLAN

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

TOF- TOP OF FASCIA

PUDI.6





LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL SITE SECTIONS

PUD1.8



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - GOLF COURSE

PUD4.1



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - GOLF COURSE

PUD4.2



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - GOLF COURSE

PUD4.3



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - CC ROAD ENTRY

PUD4.4



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - VIEW NORTH

PUD4.5



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - CC ROAD VIEW EAST

PUD4.6



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - SOUTH @ CLUB

PUD4.7



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - NORTH @ CLUB

PUD4.8



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - CC ROAD VIEW WEST

PUD4.9



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - CLUB VIEW NORTH

PUD4.10



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - NORTH PROPERTY

PUD4.11



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - WESTERN PROPERTY

PUD4.12



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - AERIAL @ CORE

PUD4.13



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - AERIAL

PUD4.14



LA MONTAGNE CONDOMINIUMS

PROJECT: 18-32
DATE: 10-28-2019
REVISION DATE: 11-14-2019

CONCEPTUAL VIEW - AERIAL

PUD4.15

[1] Lot 118, Telluride Mountain Village, according to the Plat recorded March 9, 1929 in Plat Book 1 at page 478

[2] Lot 126, Filling 1, Telluride Mountain Village, according to the Plat recorded March 8, 1929 in Plat Book 1 at page 2504

[3] Lot 130, Telluride Mountain Village, according to the Plat recorded October 18, 1958 in Plat Book 1 at page 847

[4] Lots 152-A, 152-B, 152-C, Telluride Mountain Village, Filling 1, according to the Plat recorded January 10, 1990 in Plat Book 1 at page 950.

NOTE: Bearings and distances shown in parentheses reflect record information according to the Plats listed above

- BELL TIGHTENING: 1/2" ALUMINUM CAP
LS 37462
- FOUNDED PUMP AND 1 1/2" ALUMINUM CAP
LS 24019
- ▲ FOUNDED PUMP AND 1 1/2" ALUMINUM CAP
LS 20632
- FOUNDED PUMP AND 1 1/2" ALUMINUM CAP
LS 28052
- FOUNDED PUMP AND 1 1/2" ALUMINUM CAP
LS 31120
- FOUNDED PUMP AND 1 1/2" ALUMINUM CAP
LS 37462

PAGE 3870

Project No:	08	FOLEY ASSOCIATED, INC.	970-728-6153 970-728-6050 Fax
Telephone:	08/08		P.O. BOX 1353
Terminator:			125 W. PACIFIC, SUITE B-1
Channel Ref:	08		TULLEDGE, COLORADO 81435
Mod. Ref:		Drawings with 2/28-5.25-57 (W) (M) (N) (S) 6-10-01	Sheet 2 of 4 Project No. 31528



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

March 23, 2018

Regulatory Division (SPK-2005-75621)

Northside Trust I
Attn: Mr. Dave Gertner
64 Wall Street, STE 212
Norwalk, CT 06850

Dear Mr. Gertner:

We are responding to your request for a preliminary jurisdictional determination (JD) for the Mountain Village Lot 152R project site. The approximately 1.5-acre project site is located along the south side of Country Club Drive, approximately 0.4 mile east of Prospect Creek, at Latitude 37.940375°, Longitude -107.850703°, Town of Mountain Village, San Miguel County, Colorado.

Based on available information, we concur with your aquatic resources delineation for the site as depicted on the enclosed January 19, 2018, Wetland Delineation Lot 152R, Mountain Village, CO, map prepared by Foley Associates, Incorporated (enclosure 1). The approximately 0.06 acre (~2,600 square feet) of palustrine emergent wetlands present within the survey area represents the extent of aquatic resources ("waters of the United States") that may potentially be considered jurisdictional under Section 404 of the Clean Water Act.

Per your request, we have completed a preliminary JD for the site. Enclosed find a copy of the *Preliminary Jurisdictional Determination Form* (enclosure 2). Please sign and return the completed form to this office, at the address listed below, within 30 days of the date of this letter. If you do not return the signed form within 30 days, we will presume concurrence and finalize the preliminary JD. If you believe that certain of the aquatic resources are not within the Corps' jurisdiction, you may request an approved JD for this site at any time prior to starting work within aquatic resources, including after a permit decision is made. We recommend you provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

This preliminary JD has been conducted to identify the potential limits of wetlands and other aquatic resources at the project site which may be subject to U.S. Army Corps of Engineers regulation under Section 404 of the Clean Water Act. A *Notification of Appeal Process and Request for Appeal Form* is enclosed to notify you of your options with this determination (enclosure 3).

Please refer to identification number SPK-2005-75621 in any correspondence concerning this project. If you have any questions, please contact me at the Colorado West Regulatory Section, 400 Rood Avenue, Room 224, Grand Junction, Colorado 81501, by email at Benjamin.R.Wilson@usace.army.mil, or telephone at 970-243-1199 ext. 1012.

Sincerely,

Benjamin R. Wilson
Project Manager
Colorado West Section

Enclosures (3)

cc:

Mr. Chris Hazen, The Terra Firm, Incorporated, chrishazen@gmail.com

Ms. Michelle Haynes, Planning and Development Services Director, Town of Mountain Village, mhaynes@mtnvillage.org

LOT 126R

SCALE: 1"=50'

[illegible]

WETLAND DELINEATION
LOT 152R,
MOUNTAIN VILLAGE, CO
January 19, 2018

FOLEY
ASSOCIATES, INC.
ENGINEERING • PLANNING • SURVEYING

PO Box 1385 125 W. Pacific Ave. Suite B1
Telluride, Colorado, 81435
phone 970-725-6153 fax 970-728-6050
e-mail to sam@foleyassoc.com

Area of exhibit represents extents of survey area.

Client:

Contact:
THE TERRA FIRM, INC.
P.O. BOX 362
TELLURIDE, CO 81435

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

Sacramento District

This preliminary JD finds that there “*may be*” waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

Regulatory Branch: **Colorado West** File/ORM #: **SPK-2005-75621** PJD Date: **March 23, 2018**

State: **CO** City/County: **Mountain Village, San Miguel County**
Nearest Waterbody: **Prospect Creek**
Location (Lat/Long): **37.940556°, -107.85°**
Size of Review Area: **1.5 acres**

Name/Address
Of Property **Northside Trust I**
Attn: Mr. Dave Gertner
64 Wall Street, STE 212
Norwalk, CT 06850

Owner/
Potential
Applicant

Identify (Estimate) Amount of Waters in the Review Area

Non-Wetland Waters:

linear feet ft wide acre(s)

Stream Flow: **N/A**

Wetlands: 0.06 acre(s)

Cowardin Class: **Palustrine, emergent**

Name of any Water Bodies Tidal:
on the site identified as
Section 10 Waters: Non-Tidal:

☒ Office (Desk) Determination
☐ Field Determination:
Date(s) of Site Visit(s):

SUPPORTING DATA: Data reviewed for preliminary JD (check all that apply – checked items should be included in case file and, where checked and requested, appropriately reference sources below)

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- ☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☐ Data sheets prepared by the Corps.
- ☐ Corps navigable waters' study.
- ☒ U.S. Geological Survey Hydrologic Atlas:
 - ☐ USGS NHD data.
 - ☐ USGS HUC maps.
- ☐ U.S. Geological Survey map(s). Cite scale & quad name: **1:24K; Telluride**
- ☒ USDA Natural Resources Conservation Service Soil Survey.
- ☐ National wetlands inventory map(s).
- ☐ State/Local wetland inventory map(s).
- ☐ FEMA/FIRM maps.
- ☐ 100-year Floodplain Elevation (if known):
- ☒ Photographs: ☒ Aerial
☒ Other
- ☐ Previous determination(s). File no. and date of response letter:
- ☐ Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and Date of Regulatory Project Manager
(REQUIRED)

Signature and Date of Person Requesting Preliminary JD
(REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring “preconstruction notification” (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Mr. Dave Gertner		File No.: SPK-2005-75621	Date: March 23, 2018
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
→	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer (address on reverse). This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Ben Wilson
Project Manager, Colorado West Branch, Regulatory Division
U.S. Army Corps of Engineers
Colorado West Regulatory Section
400 Rood Avenue, Room 224
Grand Junction, Colorado 81501
Phone: 970-243-1199 X1012, FAX 970-241-2358
Email: Benjamin.R.Wilson@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh
Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Pacific Division
1455 Market Street, 2052B
San Francisco, California 94103-1399
Phone: 415-503-6574, FAX 415-503-6646
Email: Thomas.J.Cavanaugh@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

August 22, 2019

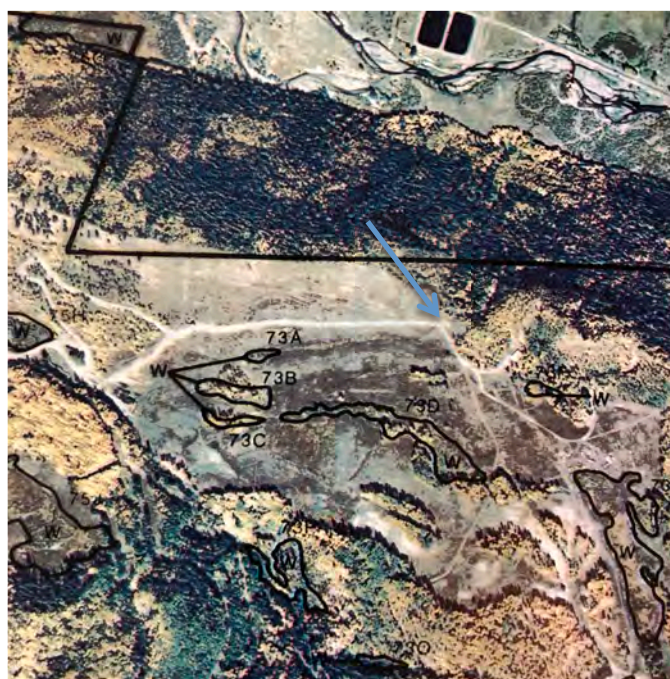
Michael R. Kettell
Strategic Real Estate Partners

RE: Wetlands/Lot 152R

Mike I wanted to provide additional information to you concerning the wetlands at Lot 152R, their origins, and how they have evolved over the past 20 years – hopefully the supporting facts contained here-in help to establish a common narrative going forward concerning the wetlands and their history at Lot 152R.

In October of 1990, the Environmental Protection Agency (EPA) published a report titled Aerial Photographic Analysis of Wetland Conversion Activity, Telluride Mountain Village, Colorado. This report (commonly referred to as the “Finkbeiner Report”) cataloged the wetlands of the Mountain Village using aerial photography collected between 1979-1989, and quantified impacts resulting from ski run/golf course/roadway construction and development of ponds. The report’s comprehensive index identified 65 individual wetlands within the greater study area of the Mountain Village.

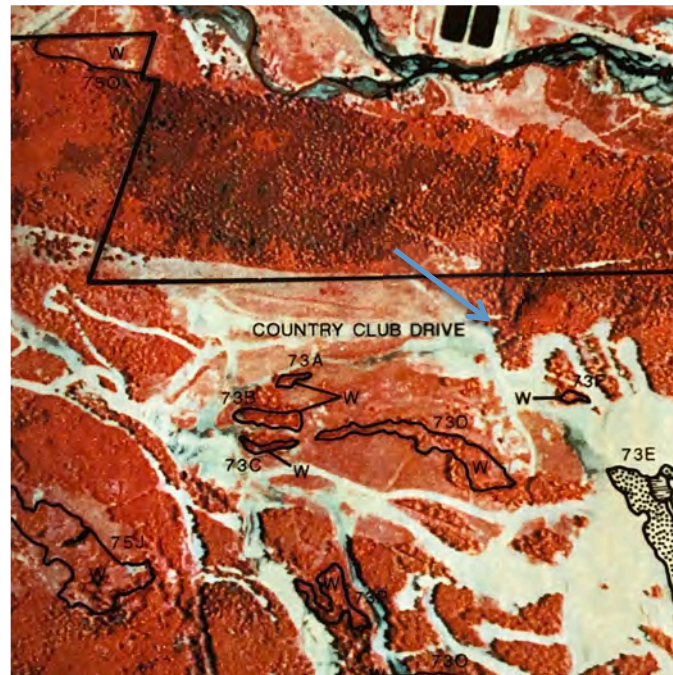
Photo analysis from October 1, 1979 (the oldest photos used in the Finkbeiner Report) does not identify any wetland areas adjacent to, or on the location of Lot 152R. Similarly, the photos from July 27th, 1986; September 24th, 1988; and, November 7th, 1989 did not have any identified wetlands near present day Lot 152R.



1979 – blue arrow to top of Boomerang Road.

In the 1979 imagery, Boomerang Road and the service road, which became Country Club Drive, can be seen clearly, and wetlands were identified in the Gorrano Creek drainage and other downslope locations, west of the top of Boomerang Road.

Wetland areas are identified with polygons drawn around their perimeter and by a naming system developed by the report's author.

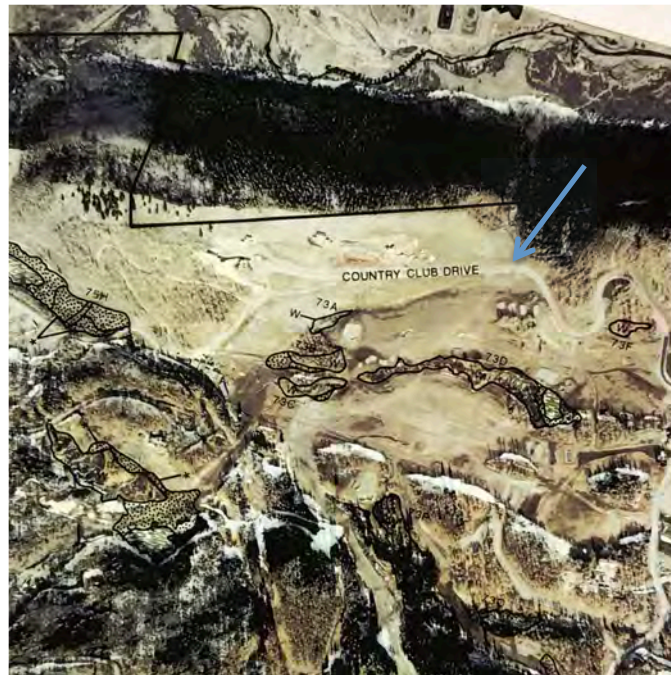


1986 - Infrared photography.

Photography used from 1986 relied on color-infrared film, where healthy vegetation is depicted as red because of its high levels of reflectivity in the near-infrared portion of the light spectrum. Disturbed ground appears as white, and significant disturbance can be seen near the top of Boomerang Road. Additionally, Country Club Drive has been identified on the 1986 photography. No disturbance to identified wetlands is shown in 1986.



1988



1989

The 1988 and 1989 photoset show the golf course hole 1 tee boxes, and significant disturbance in the vicinity of Lot 152R. Other wetlands areas identified on the 1979 photograph can be seen and those that were impacted prior to 1988/89 are identified with fill patterns inside the wetland polygons.

The wetlands that exist on Lot 152R presently, were not historic wetlands that predate construction activities in Mountain Village. The wetlands on Lot 152R have evolved since the development of the Mountain Village, and it is likely that the source water seen on Lot 152R is groundwater that has been brought to the surface due to grading activities, or it is water that is following pipes/trench backfill downslope and emerging on Lot 152R.

As such, the wetland area on Lot 152R will benefit from additional hydrologic input, and the functions and values of the wetland habitat can be improved through direct measures such as: 1. Routing water from hardscape elements to improve saturated conditions in the wetlands (provided run-off is not potentially polluted by hydrocarbons); 2. Diversifying the plant community to include a broader range of plant types; and, 3. Improve down slope water quality by routing waters through improved wetlands where natural infiltration minimizes overland flow and sediment transport/erosion.

Feel free to contact me with questions concerning my findings or my suggestions for improving the wetland habitat at Lot 152R.

Respectfully,

Chris Hazen (*via email*)
Principal

John A. Miller

From: Finn KJome
Sent: Thursday, October 10, 2019 11:17 AM
To: John A. Miller
Subject: RE: Referrals for La Montagne (Lots 126R and 152R)

Hi John,
Here are the Public Works comments:

No issues with the road realignment. All road-right-away widths and 16ft General Easements along the road must remain. It is expected that the G E will be used for snow storage. Landscaping should consider this.

No issues with the sewer realignment. Public Works will need the proper easements and access to maintain the sewer. There is no sewer main in Country Club Drive to serve the north side of the road. This must be installed with the road realignment. Please provide a plan.

All water taps needed for this project should be stubbed out from under Country Club Drive while the road is being realigned. Please provide a plan.

More detail is needed to show how the drainage is being handled along Country Club Drive. Please provide more detail. Sidewalk maintenance responsibility will need to be defined.

No issues with the retaining wall. Retaining walls should be clearly called out that it will be the responsibility of the HOA to keep them maintained.

A cross walk at Boomerang should be explored for the trail system.

Irrigation water calculations will need to be provided.

Finn

Finn KJome
Public Works Director
Town of Mountain Village

From: John A. Miller <JohnMiller@mtnvillage.org>
Sent: Thursday, September 12, 2019 4:00 PM
To: John A. Miller <JohnMiller@mtnvillage.org>
Cc: Finn KJome <FKJome@mtnvillage.org>; Steven LeHane <SLeHane@mtnvillage.org>; Jim Loebe <JLoebe@mtnvillage.org>; Chris Broady <CBroady@mtnvillage.org>; jim.telfire@montrose.net; jeremy@smpa.com; brien.gardner@blackhillscorp.com; kirby.bryant@centurylink.com; Forward jim.telluridefire.com <jim@telluridefire.com>
Subject: Referrals for La Montagne (Lots 126R and 152R)

Afternoon all,

The following links will take you to the plans for the proposed La Montagne project at the former Rosewood PUD site. The proposal includes the following:

1. PUD Amendment and Density Transfer / Rezone <https://townofmountainvillage.com/media/10.3.19-DRB-Lots-126R-and-152R-PUD-Amendment-Density-Transfer-and-Rezone-Formally-Rosewood-PUD.pdf>
2. Design Review for Lot 152R ONLY. <https://townofmountainvillage.com/media/10.3.19-DRB-Lot-152R-Initial-Architecture-and-Site-Review.pdf>

John A. Miller

From: Jim Boeckel <jim@telluridefire.com>
Sent: Tuesday, September 17, 2019 3:02 PM
To: John A. Miller
Subject: Re: Referrals for La Montagne (Lots 126R and 152R)

John,

Don't have any problem with the PUD amendment and density transfer. For Lot 1252R I have the following comments and questions

1. Buildings shall have fire sprinkler system installed. System shall be NFPA 13 due to accessibility issues. Fire department connection shall be freestanding type accessible from Country Club Dr.
2. Buildings shall have fire alarm systems installed and system shall be monitored.
3. Standpipes shall be installed in the buildings
4. A dry horizontal standpipe shall be installed accessible with 2 -2-1/2 inch hose valve connections at front and rear of each building. Fire Department Connection for the Dry Horizontal standpipe shall be a freestanding type accessible from Country Club Dr.

Questions

1. Distance from edge of Country Club Dr. to balcony's/ windows for rescue purposes?
2. Are decks/walkways snow melted?

Locations for hose valves, Fire Department Connections, shall be coordinated with the Fire District prior to bidding of project(s).

If you have any questions please contact me.

On Thu, Sep 12, 2019 at 3:59 PM John A. Miller <JohnMiller@mtnvillage.org> wrote:

Afternoon all,

The following links will take you to the plans for the proposed La Montagne project at the former Rosewood PUD site. The proposal includes the following:

1. PUD Amendment and Density Transfer / Rezone <https://townofmountainvillage.com/media/10.3.19-DRB-Lots-126R-and-152R-PUD-Amendment-Density-Transfer-and-Rezone-Formally-Rosewood-PUD.pdf>
2. Design Review for Lot 152R ONLY. <https://townofmountainvillage.com/media/10.3.19-DRB-Lot-152R-Initial-Architecture-and-Site-Review.pdf>

ORDINANCE NO. 2019-XXXX-_____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO APPROVING 1.) A MAJOR PUD AMENDMENT TO MODIFY THE SITE-SPECIFIC DEVELOPMENT PLANS AND ASSOCIATED VESTED PROPERTY RIGHTS ON LOTS 126R AND LOT 152R; AND 2.) REZONE OF LOT 126R AND 152R; AND, 3.) DENSITY TRANSFER TO TRANSFER REMAINING DENSITY FROM THE LOTS TO THE DENSITY BANK PER THE MAJOR PUD AMENDMENT

Section 1. PUD Amendment

WHEREAS, the Town of Mountain Village (the “**Town**”) is a legally created, established, organized and existing Colorado municipal corporation under the provisions of Article XX of the Constitution of the State of Colorado (the “**Constitution**”) and the Home Rule Charter of the Town (the “**Charter**”); and,

WHEREAS, pursuant to the Constitution, the Charter, the Colorado Revised Statutes and the common law, the Town has the authority to regulate the use and development of land and to adopt ordinances and regulations in furtherance thereof; and,

WHEREAS, MV Holdings, LLC (the “**Applicant**”) is the owner of record of real property described as Lots 126R and 152R, Town of Mountain Village as further described on the plat recorded on October 12, 2007 in Plat Book 1 at Page 3869 at Reception Number 397455 (the “**Property**”); and,

WHEREAS, the Town Council approved a PUD development on the Property by Resolution Number 2007-0315-05 on March 15, 2007 as recorded at Reception Number 391879; and,

WHEREAS, a development agreement between the Town and the previous property owner was entered into on September 21, 2007 as recorded at Reception Number 397458 (the “**PUD Agreement**”); and,

WHEREAS, the PUD Agreement created a vested property right for a period of three (3) years that was valid until April 11, 2010 (the “**Vested Property Right**”); and,

WHEREAS, the Vested Property Right was extended by the Town Council to March 18, 2013 by the First Amendment to the Development Agreement, Lot 126R and Lot 152R, Town of Mountain Village Planned Unit Development as recorded at Reception Number 412188 (the “**First Amendment**”); and,

WHEREAS, the previous PUD owner submitted a major PUD amendment development application on March 15, 2013 seeking a further extension of the Vested Property Right which Vested Property Right was automatically extended by the virtue of the PUD amendment application, pending action thereon by the Town Council (the “**PUD Extension Application**”); and,

WHEREAS, the Applicant submitted a Major PUD amendment development application on August 22, 2019 seeking to amend the existing PUD and Vested Property Right (the “**Third Amendment**”); and,

WHEREAS, the Second Amendment has been processed and evaluated pursuant to the Town of Mountain Village Community Development Code (the “**CDC**”); and,

WHEREAS, the Design Review Board conducted a public hearing on the PUD amendment in accordance with the Community Development Code on November 7, 2019, with public notice of such application as required by the public hearing noticing requirements of the CDC; and,

WHEREAS, the Town Council finds the proposed PUD amendment meets the PUD criteria for decision contained in CDC Section 17.4.12.E as set forth in the record and as follows:

1. The proposed PUD is in general conformity with the policies, principles, and standards set forth in the Comprehensive Plan;

Staff has provided conclusionary statements within the staff memo of record, Section 1.e, detailing the general conformity of the proposal with the 2011 Mountain Village Comprehensive Plan's policies, principles, and standards. In addition to the specific Multi-unit land-use policies that are referenced in this report, the plan also provides general guidance including statements such as "Better sustainability can be achieved by...Concentrating development in high-density areas to achieve economic sustainability", and by "maintaining the original planned density of 8,027-person equivalent density". In addition, economic modeling within the Plan provides that "Mountain Village's economy is vulnerable. This is due to a combination of factors: a dispersed, inadequate hotbed base; annual occupancies that are lower than comparable ski resort communities; and a seasonal economy that has its high point centered on a relatively small number of days in the ski season and festival weekends."

The plan discusses alpine character preservation on page 34 and provides that "much of the land area in Mountain Village is very stable and not expected to change in the future, particularly single-family neighborhoods. Alpine character preservation areas are largely comprised of low density, single-family homes that are nestled into Mountain Village's landscape, integral to creating the open, tranquil alpine ambiance that it is known for. As shown per the Land Use Plan, these areas may include higher density development such as multiunit buildings and tourism-related amenities as long as their aesthetic is secondary to the surrounding landscape. Criterion Met.

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; The proposed PUD Amendment is consistent with the underlying multi-family zone district. If the PUD Amendment is approved, then the properties will be required to be rezoned to PUD. There are no other variations related to the proposed zoning. Criterion Met.
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; The proposed PUD Amendment would allow for the development of the properties in accordance with the Comprehensive Plan in a way that would be much less intensive than the originally approved Rosewood PUD. By incorporating pedestrian improvements, the PUD Amendment will provide amenities to not just the Residents of the PUD but also the general public. Criterion Met.
4. The proposed PUD is consistent with and furthers the PUD purposes and intent; The purpose and intent of the PUD Regulations are to allow for variations in certain standards of the CDC to allow for flexibility, creativity, and innovation in land use planning and project design. Criterion Met.
5. The PUD meets the PUD general standards;

Criterion Met.

6. The PUD provides adequate community benefits; Town Council has determined the proposed public benefits are adequate in relation to the requested design variations. Criterion Met.
7. Adequate public facilities and services are or will be available to serve the intended land uses; There are currently adequate public facilities and services available to serve the proposed PUD. All required utilities are currently located within the road right of way adjacent to the project. Based on public concern related to road safety, it may be beneficial for Council to require improvements to Country Club Drive and its associated pedestrian and bike facilities. Based on preliminary submittals, the applicants are proposing improvements based on a provided traffic study and preliminary engineering for improvements. There will be a minimal effect on fire and police service as the result of this project. Criterion Met.
8. The proposed PUD shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and The proposed PUD addressed vehicular and pedestrian circulation, along with parking, trash, and service delivery congestion within their application. As part of the proposed public benefit, the applicants have proposed roadway safety improvements for both vehicular and pedestrian traffic including sidewalks and road improvements. Criterion Met.
9. The proposed PUD meets all applicable Town regulations and standards unless a PUD is proposing a variation to such standards. With the exception of the proposed variations, the PUD meets all town regulations and standards. Criterion Met.

The requested PUD amendment is in general conformity with the 2011 Mountain Village Comprehensive Plan's policies, principles, and standards; and the underlying zoning. The development as proposed provides for a creative approach to the development of the project in a way that will produce a better development plan than the previously approved PUD and achieves this primarily by reducing the density on the property. The property functions as a transition lot from Village Center zoning to single-family residential.

Section 2. Density Transfer and Rezone

- A. MV Holdings ("**Owner**") has submitted to the Town: (1) a concurrent rezoning development application for a rezoning of Lots 126R and 152R to zone the subject lots the PUD Zone District along with transferring the remaining unplatted density to the Town Density Bank ("**Applications**") pursuant to the requirements of the Community Development Code ("**CDC**").
- B. The owner proposed to amend the existing PUD on Lots 126R and 152R and as such is required to rezone the property to the PUD Zone District and transfer any remaining density to the Town's Density Bank.

- C. The Property has the following zoning designations pursuant to the Official Land Use and Density Allocation List and zoning as set forth on the Town Official Zoning Map:

Lot	Acreage	Zone District	Zoning Designation	Actual Units	Person Equivalent per Actual Unit	Total Person Equivalent Density
Zoned Density						
126R	3.11	Multi-Family	Condo	44	3	132
			Hotel	56	1.5	84
			Hotel Efficiency	19	2	38
			Employee Dorm	17	1	17
			Employee	5	3	15
			Apartment	34,001SF		
			Commerical			
152R	1.47	Multi-Family	Condo	23	3	69
			Commerical	4,655 SF		
OSP-118	0.65	AOS				0
OSP-126	0.26	POS				0
Total Zoned Density:				164		355
Unbuilt Density				164		355

- D. At a duly noticed public hearing held on November 7, 2019, the DRB considered the Applications, testimony and public comment and recommended to the Town Council that the Applications be approved with conditions pursuant to the requirement of the CDC.
- E. At its regularly scheduled meeting held on _____, 2019, the Town Council conducted a public hearing on this Ordinance, pursuant to the Town Charter and after receiving testimony and public comment, closed the hearing and approved the Applications and this Ordinance on second reading.
- F. This Ordinance rezones trhe property as follows.

Lot	Acreage	Zone District	Zoning Designation	Actual Units	Person Equivalent per Actual Unit	Total Person Equivalent Density
Zoned Density						
126R	3.11	Multi-Family	Condo	34	3	102
			Hotel	0	1.5	0
			Hotel Efficiency	0	2	0
			Employee Dorm	0	1	0

			Employee Apartment Commerical	4 0 SF	3	12
152R	1.47	Multi- Family	Condo Commerical	15 0 SF	3	45
OSP- 118	0.65	AOS				0
OSP- 126	0.26	POS				0
Total Zoned Density:				53		159
Unbuilt Density				53		159

- G. The meeting held on _____, 2019 was duly publicly noticed as required by the CDC Public Hearing Noticing requirements, including but not limited to notification of all property owners within 400 feet of the Property, posting of a sign and posting on the respective agendas.
- H. The Town Council hereby finds and determines that the Applications meet the Rezoning Process Criteria for Decision as provided in CDC Section 17.4.9(D) as follows:

Rezoning Findings

1. The proposed rezoning is in general conformance with the goals, policies and provisions of the Comprehensive Plan; Addressed above. Criterion Met.
2. The proposed rezoning is consistent with the Zoning and Land Use Regulations; Rezoning is required per the CDC for any PUD or PUD Amendment. Criterion Met.
3. The proposed rezoning meets the Comprehensive Plan project standards; Addressed above. Criterion Met.
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; The proposed rezoning presents no public health, safety or welfare issues and is an efficient use of a multiunit parcel that has been zoned for multi-family development for several years and which is in close proximity to the Village Center. Criterion Met.
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; The proposed rezoning is justified due to changes within the vicinity of the project which justifies the downzoning of the property. Criterion Met.
6. Adequate public facilities and services are available to serve the intended land uses; There are currently adequate public facilities and services available to serve the proposed PUD. All required utilities are currently located within the road right of way adjacent to the project. Based on public concern related to road safety, it may be beneficial for Council to require improvements to Country Club Drive and its associated pedestrian and bike facilities. Based on preliminary submittals, the applicants are proposing

improvements based on a provided traffic study and preliminary engineering improvements. There will be a minimal effect on fire and police service as the result of this project. Criterion Met.

7. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; The proposed PUD addressed vehicular and pedestrian circulation, along with parking, trash, and service delivery congestion within their application. As part of the proposed public benefit, the applicants have proposed roadway safety improvements for both vehicular and pedestrian traffic including sideways and road improvements. Criterion Met. As with the criteria above Town Council should evaluate whether the improvements proposed and required with the PUD are sufficient for the increase in density and traffic generated.
 8. The proposed rezoning meets all applicable Town regulations and standards; The application is compliant with all applicable town regulations and standards. Criterion Met.
- I. The Town Council finds that the Applications meet the Rezoning Density Transfer Process criteria for decision contained in CDC Section 17.4.10(D)(2) as follows:

Density Transfer Findings

1. The criteria for decision for a rezoning are met, since such density transfer must be processed concurrently with a rezoning development application
2. The density transfer meets the density transfer and density bank policies.
3. The proposed density transfer meets all applicable Town regulations and standards.

Affirmed. See the criteria for rezoning.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO AS FOLLOWS:

Section 3. PUD Amendment

The Amended PUD and associated Vested Right is hereby established for a period of 5 years until _____xx, 20XX with the following conditions:

Add conditions from memo

Section 4. Effect on Zoning Designations

This Resolution changes the zoning designations on the Properties from the Multi-Family Zone District to PUD Zone District.

Section 5. Ordinance Effect

- A. This Ordinance shall have no effect on pending litigation, if any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided and the same shall be construed and concluded under such prior ordinances.
- B. All ordinances, of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 6. Authorization for Mayor to Sign Development Agreement

The Mayor is hereby authorized to sign the second amendment to the PUD Agreement that extends the PUD approval and associated vested property rights until _____.

Section 7. Severability

The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause or portion of this Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of this Ordinance.

Section 8. Effective Date

This Ordinance shall become effective on ____XX, 20XX (the “Effective Date”) as herein referenced throughout this Ordinance.

Section 9. Public Hearing

A public hearing on this Ordinance was held on the XXth day of ____, 20xx in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435, with public notice of such application as required by the public hearing noticing requirements of the CDC.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 21ST day of November, 2019.

TOWN OF MOUNTAIN VILLAGE

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

By: _____
Laila Benitez, Mayor

ATTEST:

Jackie Kennefick, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village,
Colorado this XXth day of ____, 20XX.

TOWN OF MOUNTAIN VILLAGE

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

By: _____
Laila Benitez, Mayor

ATTEST:

Jackie Kennefick, Town Clerk

Approved As To Form:

J. David Reed, Town Attorney

I, Jackie Kennefick, 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. 2019-XXXX-____ ("Ordinance") is a true, correct and complete copy thereof.

2. The Ordinance was introduced, read by title, approved on first reading with minor amendments 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 ____ XX, 20XX, 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				
Martinique Davis Prohaska				
Peter Duprey				
Patrick Berry				
Natalie Binder				
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 _____, 20XX in accordance with Section 5.2b of the Town of Mountain Village Home Rule.

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 ____ XX, 20XX. 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				
Martinique Davis Prohaska				
Peter Duprey				
Patrick Berry				
Natalie Binder				
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 _____, 20XX.

Jackie Kennefick, Town Clerk

(SEAL)



**PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT**

455 Mountain Village Blvd.
Mountain Village, CO 81435
(970) 369-8250

TO: Mountain Village Town Council
FROM: John Miller, Senior Planner
FOR: Town Council Meeting, November 21, 2019
DATE: November 13, 2019
RE: Public Comments

The public comments within this packet relate to the applicant's request for a Major PUD Amendment. It should be noted that prior to this application, there were several comments provided to staff pertaining to the previous two work sessions and the requested PUD Revocation. Although staff maintains a record of these comments, this application specifically pertains to the Major PUD Amendment request and the public comments included have been received by staff subsequent to the application and public notice for the PUD Amendment.

The town received a total of 13 comments from the public opposing the project from the following members of the public:

1. Greg and Milly Martin; September 11, 2019
2. Curtis Laub; September 23, 2019
3. Herman Klemick; September 27, 2019
4. Alan Safdi; September 27, 2019
5. Nancy Orr; October 29, 2019
6. Kristen Lange; November 8, 2019
7. Sandy Lange; November 8
8. Sandy Lange; November 12
9. James McMorran; November 12
10. Cindy McMorran; November 12
11. David Koitz; November 12, 2019
12. Casey Rosen; November 13, 2019
13. John Horn, et al; November 13, 2019

John A. Miller

From: Molly Martin <molly.mollymartin.martin@gmail.com>
Sent: Wednesday, September 11, 2019 7:35 AM
To: John A. Miller
Subject: La Montagne Project

Dear Mr. Miller,

The project proposed on Country Club Drive is concerning to say the least. The density proposed in an already built-out neighborhood will forever impact the livability for this currently well-balanced neighborhood. The traffic on Country Club Drive will be unacceptable and out of character for what is now a quiet setting.

Another concern is the noise and staging of materials during construction. Many, including Peaks and See Forever owners and guests will be impacted for the entire, lengthy process. I would hope the council will reconsider the density of such a project.

Gregg and Molly Martin
Peaks owners

Sent from my iPad

John A. Miller

From: curtlaub@gmail.com
Sent: Monday, September 23, 2019 2:42 PM
To: John A. Miller
Subject: RE: PPS

Hello!

I have a few thoughts about this proposed development.

As a long-time owner in the Terraces neighborhood, I am not thrilled about the idea of developing this parcel, but I guess it had to happen sometime.

Assuming that development is inevitable, is it possible to design it so it fits in with the existing buildings along Country Club Drive? This is a relatively huge development and will dominate the visuals of this area. The flat roofs and modern, non-rustic, materials are completely different than, and foreign to, anything presently extant.

The See Forever development is also huge and visually dominating, but the peaked roofs and rustic materials allow it to blend in very appealingly.

The current visuals of La Montagne, by comparison, look like the cheap dormitories quickly thrown up by the mid-western college my son attended.

We are turning a potential asset into a distinct liability here.

As an aside, in recent years I have been totally mystified by the trend in new construction in the Village. New homes have been approved that completely fly in the face of the existing styles. Flat, oddly-shaped roofs and weirdly angular buildings are joltingly unpleasant to behold.

I just realized that what I wrote above is not totally accurate. There are a couple of these modern monstrosities on the hillside way above my condo, but I don't have to look at them if I don't want to....and I don't. My opinion of the dormitory-esque appearance of the development on offer stands.

Thanks for your attention!

Curtis H. Laub, MD
Terraces 302

From: John A. Miller <JohnMiller@mtnvillage.org>
Sent: Monday, September 23, 2019 3:02 PM
To: curtlaub@gmail.com
Subject: RE: PPS

Curt,

Thanks for your comments. I would be happy to add them to the record and forward to the DRB and Town Council. Would you like to resubmit a single comment or would you like me to use the two that I currently have?

Thanks,
J

John A Miller III, CFM
Senior Planner
Planning & Development Services
Town of Mountain Village
455 Mountain Village Blvd, Suite A
Mountain Village, CO 81435
O :: 970.369.8203
C :: 970.417.1789



From: curtlaub@gmail.com <curtlaub@gmail.com>
Sent: Friday, September 20, 2019 3:24 PM
To: John A. Miller <JohnMiller@mtnvillage.org>
Subject: PPS

John,

I guess my very recent email is not totally accurate. There are a couple of these modern monstrosities on the hillside way above my condo, but I don't have to look at them if I don't want to....and I don't. My opinion of the dormitory-esque appearance of the development on offer stands.

Curt



Virus-free. www.avast.com

John A. Miller

From: John A. Miller
Sent: Friday, September 27, 2019 2:12 PM
To: Herman KLEMICK
Subject: RE: Rosewood and other large developments in or past the core.

Thanks Mr. and Mrs. Klemick,
I will ensure a copy of this email is included in the packet for DRB.

Thanks,
J

John A Miller III, CFM
Senior Planner
Planning & Development Services
Town of Mountain Village
455 Mountain Village Blvd, Suite A
Mountain Village, CO 81435
O :: 970.369.8203
C :: 970.417.1789

-----Original Message-----

From: Herman KLEMICK <hklemick@hotmail.com>
Sent: Friday, September 27, 2019 1:59 PM
To: John A. Miller <JohnMiller@mtnvillage.org>
Subject: Rosewood and other large developments in or past the core.

Mr. Miller, My name is Herman Klemick. My wife, Diane, and I own #23 in Aspen Ridge and once built and owned a home on Pole Cat. We have been coming to the Village for over 25 years. The new Rosewood development and lot 161 or any other projects will be a huge nightmare to all businesses and property owners on Mountain Village Blvd. because of the construction traffic for years. The Opra project had hundreds of concrete trucks every day going up and down the road starting at 7 AM. This disturbed the homeowners day in and day out for over a year. MV Blvd. was not constructed or designed for heavy construction over several years which these proposed projects will take. Think of the disruption of the businesses in the Village. Think of the noise, dirt, damage to the road itself and the huge inconvenience to the homeowners. These projects should not be approved. I am a friend of Tim, Kunda, Jim Royer, Lela and her husband Antón. I have told them of my feelings that we do not need any more major projects in the core.! Thank you for reading this and please read it at the DRB meeting. Herman and Diane

Sent from my iPhone

John A. Miller

From: John A. Miller
Sent: Tuesday, October 29, 2019 10:25 AM
To: John A. Miller
Subject: RE: REVISED Public notice of proposed La Montagne hearings

Yes. Nancy Orr

Sent from my iPad

From: John A. Miller
Sent: Friday, September 27, 2019 5:06 PM
To: Nancy Orr <nancy.b.orr@gmail.com>
Subject: RE: REVISED Public notice of proposed La Montagne hearings

I appreciate the comment, Ms. Orr. Would you like me to add it to the public record and provide to DRB and Town Council?

Thanks,
J

John A Miller III, CFM
Senior Planner
Planning & Development Services
Town of Mountain Village
455 Mountain Village Blvd, Suite A
Mountain Village, CO 81435
O :: 970.369.8203
C :: 970.417.1789



From: Nancy Orr <nancy.b.orr@gmail.com>
Sent: Friday, September 27, 2019 12:42 PM
To: John A. Miller <JohnMiller@mtnvillage.org>
Subject: Re: REVISED Public notice of proposed La Montagne hearings

Just when everyone leaves!!! Nancy Orr

Sent from my iPad

On Sep 27, 2019, at 10:18 AM, Town of Mountain Village Planning Department <JohnMiller@mtnvillage.org> wrote:

John A. Miller

From: Kristen Lange <klange892@gmail.com>
Sent: Friday, November 8, 2019 4:21 PM
To: Michelle Haynes; John A. Miller; mahoney@jdreedlaw.com
Subject: Mountain Village Town Council

Michelle, John, and Jim,

Please pass this email on to the Mountain Village Town Council and cause it to be included in the public record for November 21 Council meeting on this matter.

Thanks,
Kristen Lange

--

Dear Mountain Village Town Council,

Telluride, specifically the town of Mountain Village, has been a special place for me growing up, and until recent years, I didn't realize how unique of a town it is. Growing up in the 90s, I have such fond memories of coming to Telluride and staying at my grandparents' home in Ski Ranches, and I can remember how exciting it was when my parents decided to buy a home in Mountain Village on Country Club Drive in 2000.

My sister and I spent countless summers attending Telluride camps, going to the 4th of July parade, mountain biking all over town, and skiing/snowboarding in the winter. These days, I look forward to visiting Telluride on several trips every ski season to get away from the craziness of San Francisco (where I currently reside) and share the special place with close friends.

From personal experience and conversations with friends who frequent other mountain towns / ski resorts, I've come to realize that Mountain Village is unlike any other ski town in the United States development-wise...and we have to preserve that. Tahoe, Vail, Aspen, the list goes on...all beautiful areas, but they have been over-developed which causes everyone's most-dreaded things...long lift / gondola lines, overcrowded runs, restaurant waits, parking challenges, etc...these are things you go to Mountain Village to escape. Mountain Village has had plenty of development since our family became homeowners nearly 20 years ago, and in the past 4-5 years, it's become undeniable that the town is changing and unfortunately becoming more crowded. Let's make sure this doesn't get out of control causing Mountain Village to become just another ski town. Please don't let the La Montagne project go through and impede on the beauty, tranquility, and safety of Country Club Drive and the overall Mountain Village town that we all want to enjoy as it is now in decades to come.

Thank you for your consideration.

Best,
Kristen Lange
248 Country Club Dr.

--

Cell: [\(317\) 752-2204](tel:3177522204)
Email: klange892@gmail.com

John A. Miller

From: Sandy Lange <sandy@lange.us>
Sent: Friday, November 8, 2019 6:42 PM
To: Michelle Haynes; John A. Miller; Jim Mahoney
Cc: Horn John (jhorn@rmi.net)
Subject: Lots 126R and 152R

Michelle, John, and Jim

Please pass this email on to the Mountain Village Town Council and cause it to be included in the public record for November 21 Council meeting on this matter.

Thanks, Sandy Lange

To: Mountain Village Town Council,

You will undoubtedly be receiving numerous emails on this one...

In the mid-70's, I lived in Aspen for a couple years. In 1978 my parents and I visited Telluride for the first time. By 1984 my parents had built a second home in Ski Ranches. As you know the history, at that time Mountain Village didn't exist. Looking back, it's remarkable to see how the area has developed since then. And, it's even more impressive that for the most part that development has been done in an appropriate and thoughtful manner.

In 2000, when my parents moved to Cortez, we purchased our home in Mountain Village - 248 Country Club Dr. Until this current project consideration, development along CCD past The Peaks has also been appropriate and thoughtful. We now run the risk of reversing that positive direction.

With but a few exceptions, development in Mountain Village and Telluride has managed to escape the urban sprawl and densely packed multi-story hotels and condos that stand out during a visit to Aspen or Vail. We have done, and can continue to do, better in Mountain Village.

Any objective view of the proposed La Montagne project should clearly see it is not appropriate to the surrounding area. Regardless of the planning done decades ago, once you get past the S-curves on Country Club Drive the rest of the neighborhood is clearly single family residential. No amount of rationalizing can deny this basic fact.

Further, it doesn't take a PhD in Transportation and Highway Engineering to know that the traffic increase that would come from the proposed development would create a serious safety risk. Absent eliminating those S-curves, good old common sense dictates that there is no practical way to make the road safe. Greatly increased traffic + sharp, blind corners = accidents waiting to happen. And by the way, where will the Peaks park all their overflow cars that many nights now line the road to the first corner? Apparently there's a sidewalk in the developer's proposal, maybe that will double as parking; or maybe there's also an underground garage for all those cars?

Finally, when is enough enough? We were in town in both July and September. During both visits MV and Telluride were downright crowded. It was difficult to get into restaurants, find parking, and even walk the

sidewalks in town. We, collectively, have a good thing going in Telluride and MV, but it can be ruined with over development. With growth as achieved now, businesses should be successful, and if that growth begins to taper the quality of life will still be maintained. Developing single family homes on these lots can still be profitable for the developer; although I don't believe it's Council's responsibility to ensure any developer's success, particularly one with no long standing connection to the area...from what I understand, this appears to be just another business deal for them and when done they would most likely become scarce.

Please put a stop to this now, and let's all enjoy the coming ski season.

We appreciate your thoughtful consideration.

Best regards,
Sandy and Cindy Lange
248 Country Club Dr.

PS. Council could hardly have chosen a more inconvenient date for this meeting; almost no chance that part time residents will be in town that week.

Alexander (Sandy) Lange
317-973-5160

John A. Miller

From: Sandy Lange <sandy@lange.us>
Sent: Tuesday, November 12, 2019 11:54 AM
To: Michelle Haynes; John A. Miller; Jim Mahoney
Cc: Horn John (jhorn@rmi.net)
Subject: RE: La Montagne - 2

Michelle, John, and Jim

Please pass this email on to the Mountain Village Town Council and cause it to be included in the public record for November 21 Council meeting on this matter.

Thanks, Sandy Lange

To: Mountain Village Town Council,

While I've tried as best possible from a distance to keep up with all the details of this La Montagne project, and my prior emails on the subject stand, I've now also had time to do a deep dive into the nitty gritty of this one.

To start, I fully endorse and agree with everything John Horn has provided on the project. The details overwhelmingly point to La Montagne being inappropriate for Mountain Village and Country Club Dr. While all details are important, three stand out to me. In brief...

1. The developers promote this as a transition between high density and the existing single family residences on CCD. Problem with that is we already have the transition in place, it's called The Peaks and Sea Forever. Past those 2, lots 114 - 121 and beyond are already single family...the transition has been made and works just fine. Done.
2. Unless Town want to take OS-118 and straighten Country Club Dr., no amount of developer mitigation is going to make CCD safe for such increased traffic...cars, walkers, bikers and the Telluride dogs. Mr. Horn documents this clearly.
3. What do you know about the developers? I question their level of commitment to the quality of life in MV and Telluride. "The Owner has no immediate plans to develop the North Site." What? They want us to just take it on faith that they'll develop the North Site as "anticipated" (because "anticipated" is apparently the best we get at this stage). Either commit to all, or none; and "none" is the only correct response. How can you approve a half-project? This alone should shut this one down.

From their submission: "...and other road and safety improvements that will be based on the proportional cost of La Montagne Project relative to other users...". I bet they were laughing out loud when they wrote that one...I was when I read it. Translation: "We're not gonna do a darn thing to the road [SL: not that they even can - see above] since this will be debated and drag on long after we're gone."

I've run lots of businesses, but admittedly never a hospitality business like this. Interesting though - apparently Rosewood decided (and apparently MV Council agreed) that for roughly 3X the number of units they'd need 203 employees. Yet the developers seem to think they can get by with 92% few employees, and still have a spa, gym and the other amenities a development like this must need. Maybe they'll use robots...or maybe they don't view it as an issue because by then they'll have moved on.

Council owes it to us who have invested in the greater Telluride community - many of us since before MV even existed - to appropriately ask "who are these developers and what's their long term commitment to the health of OUR community?" It's not unreasonable to ask the question with whom are you dealing. Let's not let an opportunistic development group leave us all high and dry after they've made their money and moved on.

I know TSG want hot beds. Fine, fill the ones that exist...this is not the place to add more.

Please...put this one out if its misery now.

With a cheerful disposition towards all,

Sandy Lange
248 Country Club Dr.

John A. Miller

From: James McMorran <jdmcmorran57@gmail.com>
Sent: Tuesday, November 12, 2019 4:54 AM
To: Michelle Haynes; John A. Miller; jmahoney@jdreedlaw.com
Cc: jhorn@rmi.net; hjh2839@aol.com; barutha@msn.com; mcm3333@sbcglobal.net; wcval@aol.com; tleiser@banderaventures.com; ross@rossimage.com; pgmitchell@cox.net; mgardner267@gmail.com; lisaandboyce@yahoo.com; jonathan@jmh4.com; John A. Miller; jmahoney@jdreedlaw.com; jgardner267@gmail.com; dhinden@anchor-prop.com; caseycrosen@yahoo.com; carlotta482@mindspring.com; bingo.eaton@cox.net; alansafdi@gmail.com; Sandy@lange.us; Michelle Haynes
Subject: Comments on Proposed La Montagne Development

I have the following comments on the proposed La Montagne development, request these be made available to the Town Council and included in the record of the November 21st meeting.

Previously, I have made the Town Council and Design Review Board aware, verbally and in writing, that I do not support the development principally on the grounds of 7 - 10 X higher density to that of the immediately adjacent properties and the resulting negative impact on the community, neighborhood, safety (pedestrian and automotive) and timely evacuation in the event of a wildfire.

I have read the developers most recent proposal. Contrary to the implication in their proposal, my prior concerns and requests remain with respect to the current proposal.

Comments are as follows:

1. Much is made of this being a less dense proposal or the lots having been zoned as multi-family since 1995; I.e. Country Club residents knew what they were buying into. However, in 25 years, much has changed in Mountain Village and we believed good decisions would be made through the more rigorous current approval process; decisions consistent with the how Mountain Village has developed during that period and consistent with post 1995 Comprehensive Plan, "It recognizes the importance of space, tranquility....that make Mountain Village unique....it seeks to protect them by suggesting more restrictive zoning....and provides for a true sense of community". I hope the Town Council will make a good decision based on current MV development and planning requirements versus a 1995 document or the very weak rationale of, "its less dense than the last proposal".

2. Figure 3 of the developer's own proposal shows how anomalous the proposed density and design is; 23 unique residences to the west, 7

unique buildings to the east and 58 cookie cutter units jammed in between. Note that Figure 3 shows the developer's proposal in the best light by omitting to label the 7 residences to the east and omitting to draw in the outline of the 58 units — presumably because it would highlight the anomalous density. At one of the meetings, the developer described these 7 single family residences to the east as “an anomaly”. \$30 million of real estate value is more more than an anomaly — we see it as the beginning of the Country Club Drive neighborhood and community!

3. Safety & Environment

- Where is the independent traffic study referenced at the last Town Council meeting?
- The developer's proposed sidewalk to Mountain Village Boulevard is contingent upon TSG granting easements. Resolving this must be a condition precedent to approval otherwise the developer's statements have no meaning.
- In the proposal it states the wetland setbacks can't be provided — because of the proposed density, footprint and a narrow lot. Of course the developer controls the footprint of the proposal and with a smaller footprint (and lower density) the wetlands setback could be achieved. I find the developer's rationale disrespectful of the planning process and the authority of the Town. This precedent should not be allowed.
- Evacuation is again completely unaddressed and satisfactory resolution must also be a condition precedent.
- The developer's proposal on sidewalks raises a new, unaddressed issue of snow clearance; where will the snow go between the north and south development other than on the proposed sidewalks? This underlines the need to progress through the rigors of a planning process and allow time to identify, understand and resolve issues before granting approval.

In summary, I believe many, if not all, of the issues can be resolved by reducing the density to conform with the existing structures on Country Club Drive to the immediate east and west. I do support the development of the lots as multi-family units; we have some magnificent duplex units on Country Club drive that could be used as a guide.

James McMorran

John A. Miller

From: Cindy <mcm3333@sbcglobal.net>
Sent: Tuesday, November 12, 2019 8:34 AM
To: Michelle Haynes; John A. Miller
Cc: jmahoney@jdreedlaw.com; jhorn@rmi.net; hjh2839@aol.com; barutha@msn.com; wcval@aol.com; tleiser@banderaventures.com; ross@rossimage.com; pgmitchell@cox.net; mgardner267@gmail.com; lisaandboyce@yahoo.com; jonathan@jmh4.com; jgardner267@gmail.com; dhynden@anchor-prop.com; caseycrosen@yahoo.com; carlotta482@mindspring.com; bingo.eaton@cox.net; alansafdi@gmail.com; Sandy@lange.us; James McMorran
Subject: Comments on Proposed La Montagne Development

In my earlier letter, I had previously made the Town Council aware of my opposition to the proposed La Montagne development. I have read the developer's latest proposal and my earlier concerns remain, namely:

- The density is far too high relative to the other existing residences on Country Club Drive
- Pedestrian safety as a result of the increased density remains unresolved. With the increased density, walking on Country Club Drive to Mountain Village Boulevard will be very dangerous, especially in winter.
- The proposed dense block of architecturally identical units between existing unique residences to the east and west will destroy the sense of community and neighborhood that currently exists on Country Club Drive. This would also be at odds with the overall character of Mountain Village and spirit of the Comprehensive Development Plan.

I have heard repeatedly, prospective buyers should have known of the possibility of this development. Well, as newcomers to Mountain Village, we didn't. There was nothing that would have raised that alarm. I didn't look at the charming hill and think, oh, they may house a couple of hundred people here - I better check!! Multi-family development was known but an ultra high density development didn't even seem like a remote possibility, it would be so inconsistent with the existing neighborhood.

Like a puzzle, "Don't force pieces that don't fit."

I request the Town Council give guidance to the developer to revert with a proposal which better conforms with the character of Mountain Village, Country Club Drive and its own Comprehensive Development Plan.

Cindy McMorran

John A. Miller

From: David Koitz <dkoitz@gmail.com>
Sent: Tuesday, November 12, 2019 12:34 PM
To: John A. Miller
Cc: Community Telluride; Virginia Howard (vrhtelluride@gmail.com); Gretchen Koitz
Subject: Opposition to La Montagne Proposal

Dear John Miller and Mountain Village Council members...

We are writing to add our voices in opposition to the La Montagne development proposal. As residents of Mountain Village, we are not immediately adjacent to the proposed development sites, but like those families who are, we will be negatively affected by it. The traffic, the noise and the high population density, the obstructed views from the core and the golf course, and the damage done to the character of the town will very much affect us. It will impact everyone in Mountain Village and especially those living in or near the core. Although the land it would fill was zoned initially for high density, there was no residential community in the vicinity at that time... it was open space as it has been for the decades to follow while the Village developed. In those years, a residential enclave of 30 or more single family homes emerged nearby and created a beautiful and unique residential neighborhood that fit well with the vast spacial area facing the west side of the Village and the Colorado landscape it sat on. Simply put, while high-density zoning for the land in question may have been a reasonable design concept in the layout of the Village at the start, much has happened in the ensuing decades that makes a project of this nature no longer fit. Put simply, it is way out of character and would represent sloppy and somewhat haphazard community development prompted more by developer interests than those of the community at large. Site lines will change for the immediately affected homes, and for the the golf course, too. The views from the condos and hotel above and the adjacent core will lose their wonderful allure of the immense beauty looking to the west, south and north. The project would simply impose on, not embellish what we have.

We do not want our town to become another Aspen, Vail, Breckenridge... another Silverthorne, Dillon, or Frisco, swarming with cars and people. This project is a harbinger of such... if the line is crossed, there will be no turning back. It is a red flag for those who love what the Village has finally blossomed into.

Having attended the Design Board review meeting on the La Montagne proposal last June, we had hoped the immediately affected community would rise up. And the crowds visiting Telluride over the last July 4th weekend was a wake up call to all residents to what has already developed... the potential emergence of a vast change that will forever alter the amazing uniqueness of both the Telluride and Mountain Village communities and how they have carefully accommodated development in what is one of the most beautiful places in this country.

As someone once opined, "it is sacred space." Let's do our best to keep it.

Sincerely,

David and Gretchen Koitz

John A. Miller

From: Casey Rosen <caseycrosen@yahoo.com>
Sent: Wednesday, November 13, 2019 6:10 AM
To: Michelle Haynes; John A. Miller; James Mahoney
Cc: Hank Hintermeister; Doug Hynden; Alan Safdi; Bingo Eaton; Pete Mitchell; Cynthia McMorran; James McMorran; George and Cynthia Barutha; Lisa Boyce; 1Carlotta Horn; Tom Leiser; Johnathon and Kristen Harris; Ross Meridith; Michael Gardner; Jackie Gardner; Sandy Lange; Bill & Karen Valaika; John Horn
Subject: Re: Lots 126R and 152R

Dear Mountain Village Town Council

I am writing in advance of the November 21st public hearing at which you are planning to discuss the La Montagne project. Unfortunately, the meeting falls before the ski season begins and during a time when most people, including me, are out of town so I am sharing my thoughts via email.

Since my email below from early in the summer, I have attended a public workshop with the project developer and communicated with him directly. My initial objections and concerns about the project remain despite the minor changes and reduced unit count.

It is still too dense.

It is not consistent with the single family Country Club Drive neighborhood.

It will still be hazardous & endanger people.

It has no benefit to the public and the overall community - only the developer.

Others have focused on this so I will not, but there still remain significant procedural issues in how this project is being handled by Town Council.

In addition to these factors, several new concerns have come up or become clearer.

Snow will be a major problem. Last winter, Country Club Drive had a 5 to 6 foot high wall of snow on either side. This is where the project is envisioning a sidewalk but during the winter, there won't be one. Existing and now all of the new residents and guests at the additional 52 units will be forced to use Country Club Drive without sidewalks. I cannot imagine that this will work well.

Secondly, during the public workshop, the developer Mike Kettell assured me and other neighbors that construction staging and traffic would not extend west beyond the project. This commitment needs to be included in any approval for construction here. The project has plenty of land and is envisioned to occur in phases so it would be completely unfair if further burdens are placed on residents to the west by construction traffic staging, parking and using the balance of Country Club Drive.

Finally, I had a long debate with the developer about the economic viability of the project. As I am sure you are all well aware, there has never been an economically successful townhome or condominium project in the history of Mountain Village. I'm not sure why this case would be different but one of the challenges that developers have faced in the past is that their projects have simply been too big for the shallow Telluride market. Based on historical residential sales velocity in Mountain Village, it is likely to take a number of years to sell all of the units or even the first phase. A large capital intensive project in a small and shallow second home market starting at the peak of the economic cycle with rapidly rising construction costs has proven to be highly problematic in our market. Having a failed project in Mountain

Village does not help anyone and will detract from property values broadly. The project as high-end home sites should still be very profitable but will not have the magnified risk and extended timeline of a full town home development. This seems very wise given the true depth of Telluride's residential market and where we are in the economic cycle. Timing is everything.

It would be highly appreciated if this and my earlier email below could be placed into the public record and shared with the mayor and balance of Town Council.

Casey Rosen
2968 Natoma Street
Miami, Florida 33133
305-582-5731

On Jul 16, 2019, at 12:23 AM, Casey Rosen <caseycrosen@yahoo.com> wrote:

Dear Mountain Village Town Council

My wife Lisa Boyce and I own 253 Country Club Drive in Mountain Village. We are writing to share our thoughts in advance of the work session this Thursday at which you are scheduled to discuss plans for Lots 126R and 152R and ask that this be included in the record for the work session.

Last week we attended a DRB meeting where details of the La Montagne project were presented by DRB staff and representatives of the owner. Based on this, our conclusions are:

- The project is way too dense. Development of only the 152R parcel as planned would more than double the number of residential units on Country Club Drive. Together with lot 126R, this project is completely out of scale with the existing low density single family neighborhood.
- Because it is too dense, the project is not an appropriate transition between the Mountain Village core and the Country Club Drive single family neighborhood.
- Safety will be a major problem. The project will be located at the confluence of a narrow two lane road with no sidewalks and three heavily used trails (Boomerang, Big Billies & Jurassic). Due to its "S" configuration with blind corners, Country Club Drive is already dangerous and massively increasing traffic here with the combination of hikers, bikers, dogs, skiers, delivery people, snow plows, garbage trucks, existing residents and visitors is a scenario for disaster.
- The design of ingress and egress with underground parking for the 152R parcel is a particularly problematic safety issue with cars entering Country Club Drive from a steep, below grade, low visibility angle through very few access points.
- Benchmarking the La Montagne plan against the Rosewood PUD to argue that La Montagne is not too dense is wrong. The Rosewood PUD was wildly out of scale and should never have been approved. Using it to help support a less dense but still totally inappropriate project is a mistake.
- Similar to the point above, arguing that the site was planned for high density use in the past so the La Montagne plan is OK is also wrong and misses the point. Town Council gets to decide now how this site should be developed and high density here is simply not compatible with the neighborhood or needed. Poor ideas and planning in the past should not be the road map for decisions now.

Mountain Village Town Council is the ultimate authority in deciding what to do with these parcels and the decision will have profound effects on the safety, quality of life and home values for Mountain Village residents - in particular, those who live on Country Club Drive. You were elected to make the right decisions in cases like this and have significant guidance in the form of the Mountain Village Community Development Code and Comprehensive Plan. Among many others things, the Comprehensive Plan makes serving the public interest and the overall community a PRIMARY goal and gives you responsibility to protect the public interest, vision, health safety and welfare of the community.

Based on this, it is your obligation to require the La Montagne project to be:

- Dramatically less dense than currently contemplated.
- Consistent with the single family Country Club Drive neighborhood.
- Developed in a way that does not endanger people.
- Beneficial to the public and the overall community - not just the developer.

In this case, we suggest the PUD amendment process as this will give the community maximum certainty. The history of planning for these parcels has been terrible and we are counting on you not to let previous mistakes support new ones.

Sincerely,

Casey Rosen

John A. Miller

From: John Horn <jhorn@rmi.net>
Sent: Wednesday, November 13, 2019 6:11 PM
To: Pete Duprey; Marti Prohaska; Jack Gilbride; Natalie Binder; Dan Caton; Laila Benitez; Patrick Berry
Cc: Jim Mahoney; John A. Miller; Michelle Haynes
Subject: November 21, 2019 - Council Meeting - La Montagne PUD - Written Comments
Attachments: NTC-1 Process Part 2 Who Is Driving The Bus.docx; NTC-2 Process Part 3 An Inadequate Process.docx; NTC-3 Substantive Review Criteria.docx; NTC-4 Conformity With The Comprehensive Plan.docx

Dear Town Council

This email is in regard to the pending application involving the proposed La Montagne PUD on Lots 126R and 152R. This application will impact the daily lives of our families and every member of the Mountain Village community for the rest of their lives, some families dramatically more than others. The decisions you will be making on this application will be felt for not just years, but for generations to come. Yes, this is a very, very big deal!

At the July 18th public hearing on this matter, Councilperson Caton advised the citizens of this community to “*do written comments*” because “*we do read them*”. Twelve days later in the July 30, 2019 KOTO radio show, Off The Record, Councilperson Caton further advised the citizens that “*it’s important that we encourage everyone to make their views known, and make sure it’s not just an emotional issue.*” We agree with Councilperson Caton and have taken his advice to heart; and pursuant to his advice we have prepared the following four attached memorandums which are endorsed by myself and four other community members:

1. Exhibit NTC-1: Lots 126R and 152R -Getting the Procedure Right . . . Part 2: Who Is Driving The Bus
2. Exhibit NTC-2: Lots 126R and 152R -Getting the Procedure Right . . . Part 3: An Inadequate Process
3. Exhibit NTC-3: Lots 126R and 152R - Substantive Review Criteria
4. Exhibit NTC-4: Lots 126R and 152R - Conformity With The Comprehensive Plan

We request that these four memorandums be included in the record of the upcoming November 21, 2019 Council public hearing on this application.

As you will see, taken together the four memorandums total 64 pages, yes, an enormous body of work. One reaction could be that it might be unreasonable and unrealistic to expect the Council to read that many pages from one group of community members because if everyone did it then it would be nearly impossible to process all the information. However, for the following reasons it appears such a concern is insupportable:

1. The extensiveness of the memorandums is mainly caused by the fact that the Town has not yet given clear guidance on the density, mass and scale of the project. Lacking that guidance, we had no choice but to address all the relevant provisions in the Community Development Code and Comp Plan.
2. As members of this community we did not make the rules (i.e. the CDC and Comp Plan), previous Council’s did, but we all have to live by these rules. The simple fact is the previous Councils have made a “whole lotta rules” (i.e. criteria) that apply to Council’s decisions on this application; and responding to those rules/criteria requires quite an effort, please bear with us and read them, we think you may find it quite informative.

3. Few people possess the background, expertise and time necessary to perform this type of analysis and, therefore, it is highly unlikely “everyone”, let alone anyone, else will be submitting such extensive information.

4. The two applications and two accompanying narratives filed by the applicant total 137 pages; that is an awful lot of information and data to address.

5. Please be assured that we would rather be doing just about anything other than writing these memorandums, but, as you know, the decisions you, the Town Council, will be making will have such a tremendous impact on the lives of our families that we feel we had no choice but to spend the tremendous amount of time necessary to prepare these memorandums, we only request that you do us the courtesy of carefully reading them in their entirety.

The simple reality is that making the tough decisions that will preserve cherished ideals that make Mountain Village such an outstanding community lies solely with you as our elected leaders. The decisions you must make will not be easy, if they were easy then they would already have been made. Fortunately, as the memorandums explain, the facts and the regulatory criteria appear to make it pretty clear, the proposed development is much too big for the site and neighborhood, and must be reduced to a size that is compatible with the surrounding single-family neighborhood.

If you make the tough decisions today, some people will not be happy today, but this community will thank you for generations to come. We stand ready to assist you in making the tough decisions.

Sincerely,
John Horn

1 To: Town Council
 2 Town of Mountain Village
 3 Via email
 4 Cc: Michelle Haynes (MHaynes@mtnvillage.org), John Miller (JohnMiller@mtnvillage.org)
 5 and Jim Mahoney (jmahoney@jdreedlaw.com)
 6 From: John Horn, Doug Hynden, James McMorran, Casey Rosen and Sandy Lange
 7 Date: November 14, 2019
 8 Re: Lots 126R and 152R
 9 -Getting the Procedure Right . . . Part 2: Who Is Driving The Bus

11 **SUMMARY**

13 It appears the Council members are faced with a decision, are they going to drive and control this
 14 PUD amendment process or are they going to let the developer drive and control it? If Council
 15 elects to take control of this process then it appears it will be necessary for Council to be crystal
 16 clear as to what steps it will require to be taken to ensure a thorough, open and transparent
 17 process is followed. If the Council is not crystal clear then it is likely be relegated to a reactionary
 18 capacity in which it is driven to react to a process driven by the developer, the road the application
 19 currently appears to be on. For a discussion on a suggested PUD amendment process please see
 20 accompanying Exhibit NTC-2, Re: Lots 126R and 152R-Getting the Procedure Right . . . Part 3: PUD
 21 Amendment Process.

23 An anxious and very concerned group of citizens are watching and waiting to see if their Town
 24 Council will provide the leadership they hope for from their elected officials; knowing the persons
 25 on the Council we are confident the Council will take control of the process.

27 **DISCUSSION**

29 To address this issue, it appears the following bit of chronological history may be of assistance.

31 1. **July 18, 2019**: The following is an excerpt from the recording of the July 18, 2019 Town Council
 32 meeting:

34 *"So, I think we have some clear direction on the PUD question, was there a second part?"*
 35 *(Mayor Benitez, starting at time stamp 4:18:02)*

37 *"I think at this point it would be best to let the applicant re-circle back and understand what*
 38 *the PUD amendment would mean to their project."* (John Miller, Planner)

40 *"I would agree with John now that you've got that process direction I think they heard*
 41 *comments from the public on the density though, and so if they are going to make an*
 42 *application on that, if you guys wanted to comment, you know too much density, too little,*
 43 *where are they at density-wise it might help the applicant as well I would assume."* (Jim
 44 Mahoney, Town Attorney)

46 *"I guess it is kind of hard because if we look at current conditions we would say absolutely*
 47 *too much but, I mean, if we have a better understanding of what mitigation might be in*
 48 *place and how it could be improved I think then we can have more realistic bit of feedback,*
 49 *am I . . . (indiscernible agreement). (Mayor Benitez)*

50
 51 *. . . like an open house, where the public came . . . but I think if a lot of the neighbors came,*
 52 *you know, I'm assuming they'd have a lot of feedback from that and maybe what they*
 53 *thought would be appropriate and take into consideration as well" (Councilperson Binder,*
 54 *ending at time stamp 4:19:18)*

55
 56 2. **July 30, 2019**: The following is an excerpt from the July 30, 2019 KOTO radio show, Off The
 57 Record:

58
 59 *"The developers were very quick the next day to ask to meet and to say you know we heard*
 60 *you, we heard the people in the community and we want, we want something that is a*
 61 *better fit in the community as well so we'd like to work with the Town and the community to*
 62 *see where there's maybe some middle ground; and so they are already talking about*
 63 *reducing the density even further; looking at different ways that they can add some public*
 64 *benefit to that street and that little neighborhood to make this more of win-win for everyone*
 65 *involved; but there is still a long road to go with this; it would be an amendment to their*
 66 *Planned Use Development application. So it's still a pretty long road but one of the things I*
 67 *thought was important is when, you know, they were asked to maybe consider putting*
 68 *together some public outreach events they jumped on it and said they would be doing a*
 69 *number of those and not just with that portion of the neighborhood but community-wide to*
 70 *make sure their getting input from everyone about, you know, this is a small area, what is*
 71 *going to fit best." (Mayor Benitez starting at time stamp*
 72

73 3. **August 20 (+/-), 2019**: On or about August 20, 2019, Alpine Planning, LLC, on behalf of the
 74 developer, MV Holdings, LLC, submitted a document labeled on the first page as "Major PUD
 75 Amendment Application".

76
 77 4. **August 27, 2019**: On August 27, 2019 the application for the Lot 126R and 152R PUD Amendment
 78 along with the application for initial architecture and site review on Lot 152R were deemed
 79 complete by Town staff. On August 30th, staff notified the applicant verbally (via telephone) of the
 80 application having been deemed complete and discussed the next steps to be required for public
 81 noticing including adjacent property mailings and property postings. Assuming Town staff took the
 82 full seven-day application completeness review period set forth in CDC Section 17.4.3.C.1, it
 83 appears the developer filed its application a speedy 33+/- days after the July 18, 2019 Council
 84 meeting.

85
 86 5. **August 30, 2019**: By written notice, dated August 30, 2019, the public was notified that public
 87 hearings regarding the PUD amendment and initial architecture and site review applications were
 88 scheduled for October 3, 2019 (DRB) and November 21, 2019 (Town Council).
 89

6. **September 27, 2019:** By written notice, dated September 27, 2019, only six days before the scheduled DRB meeting, *“the public hearings for the Lot 126R and 152R PUD Amendment are to be continued to the regularly scheduled November 7, 2019 meeting of the DRB.”*

7. **October 3, 2019:** On October 3, 2019 (44 days after the application was filed on approximately August 20, 2019), the developer held a public “informal meeting with the development team”.

8. Let us take a moment to look at the significance of this chronology of events.

8.1 Despite the fact that the issue of density was **the key substantive issue** being addressed at the July 21st Council meeting, and after being prompted by the Town Attorney, the Council declined the opportunity to give guidance on the issue of density because, as Mayor Benitez stated in paragraph 1 above, a *“better understanding of what mitigation might be in place and how it could be improved”* was necessary before the Council could give realistic feedback. Four items appear to be clear from the Mayor’s statement:

8.1.1 Additional analysis needs to be performed and given to Council in order for it to obtain a *“better understanding of what mitigation might be in place and how it could be improved”*. Earlier in the July 18, 2019 Council meeting, a majority (if not all) of the Council, endorsed Mayor Benitez’s statement that a *“very comprehensive”* traffic study and traffic analysis was necessary to ensure that what the Council is studying is indicative of what the community is really experiencing—*“don’t want to look at that street in October”* (see recorded July 18, 2019 Council meeting starting at time stamp 4:13:05). We agree with the Mayor.

8.1.2 Upon completion the additional analysis will have to be discussed by Council in a meeting involving public input, and only then will the Council be able to provide realistic feedback.

8.1.3 Before proceeding with an application it seems it would have been prudent for the developer to obtain realistic feedback from the Council and, because the developer failed to do so, it is proceeding at its own peril. It should be pointed out that when Town Attorney, Jim Mahoney, asked the Council *“if you guys [i.e. Council] wanted to comment, you know too much density, too little, where are they at density-wise it might help the applicant as well I would assume”*, he turned and looked directly at the developer’s representatives and gave them the opportunity to press the Council for guidance on the issue of density, the representatives remained silent and passed on the opportunity to seek clarity on this critical issue; by remaining silent the developer assumed the risks of incurring extensive design and architectural fees without first receiving Council’s guidance on the issue of density.

8.1.4 Clearly the analysis identified by Council has neither been performed nor discussed in a public meeting. Consequently, unless a Town representative has provided the developer with differing guidance outside of a public meeting, it appears the developer has chosen to proceed at its peril with its application despite unequivocal guidance from the Council that additional information was needed.

136
137 8.2 There appear to be three significant items contained in Mayor Benitez's July 30, 2019
138 Off The Record comments:
139

140 8.2.1 *"The developers were very quick the next day to ask to meet"*. It is not clear (i)
141 who at the Town (staff or Council members) the developers met with or (ii) what
142 was discussed and what sort of guidance the developers received from the Town
143 representatives. But one has cause to wonder what was discussed because a short
144 time later the developer felt confident enough to submit an application for a 58-unit
145 project at a density dramatically higher than the density of the surrounding single-
146 family neighborhood. In the July 18, 2019 Council meeting the Council discussed the
147 need for an open and transparent process, accordingly, in an effort to get everyone
148 on the same page, it may be helpful for all Town representatives who met with the
149 developer between the July 18th meeting and the date the developer filed the
150 current application to disclose, in detail, what was discussed with the developer and
151 any guidance given to the developer.
152

153 8.2.2 *"[T]hey were asked to maybe consider putting together some public outreach*
154 *events they jumped on it and said they would be doing a number of those"*. Based on
155 this statement it appears that the logical conclusion would be that the developer
156 would first hold the public outreach events and then, based on the input from the
157 events, submit their application. Contrary to this logic, only after the developer filed
158 its applications around August 20, 2019 did the developer initiate efforts to hold
159 public outreach events (notice for an October 3, 2019 outreach event was dated
160 September 26, 2019—approximately one month after the application was filed).
161

162 Actions speak louder than words, and despite the Mayor's July 30th statement that
163 the developer wants *"something that is a better fit in the community as well so we'd*
164 *like to work with the Town and the community to see where there's maybe some*
165 *middle ground"*, the developer appears to have totally disregarded public input
166 when it submitted its application for a 58 unit project at a density dramatically
167 higher than the density of the surrounding single family neighborhood.
168

169 8.2.3 *"So it's still a pretty long road but one of the things I thought was important is*
170 *when, you know, they were asked to maybe consider putting together some public*
171 *outreach events they jumped on it"*. It appears the Mayor and the developer may be
172 on different roads, one long and one short. While it is unclear what is the Mayor's
173 definition of a *"long road"*, the developer's short road is clearly defined by the fact
174 that it filed its application approximately one month after the July 18, 2019 Council
175 meeting, ostensibly with the goal of receiving final approval at the November 21, 2019
176 Council meeting (nothing in the application indicates a different goal). And it is
177 probably safe to say the public is very interested in knowing both the length and the
178 route of the road this application is on. We agree with the Mayor on the length of
179 the road, it appears it is necessary to get the developer on the same road.
180

8.3 Off season is a well-known phenomenon in Mountain Village, no one is here. There were very few people in Town to attend the informal meeting with the development team on October 3rd, and there will be even less people in Town to attend the DRB meeting on November 7th and the Town Council meeting on November 21st. If limiting public participation is the goal, then this schedule could not be better planned.

9. While we are reviewing past occurrences that are relevant to this process, we would like to point out one additional item that may work to highlight the need for Council to drive this process. Every Mountain Village land use process starts with the same thing, an application. As will be discussed in greater detail the memorandums that accompany this memorandum, it appears this application may be so incomplete such that the November 21, 2019 Council public hearing should be canceled or continued. Items that appear incomplete include the following:

9.1 Although page 1 of the written application (copy attached as Exhibit NTC-1.1) is labeled Major PUD Amendment Application, subsequent pages "5 of 9" and "7 of 9" are labeled Conceptual Worksession Submittal Application. Hmm, which is it?

9.2 Although the following items are not delineated in the Major PUD Amendment form, it appears to be pretty clear they are required by the CDC:

9.2.1 Section 17.12.4.B.1.a states:

"B. Overview of the PUD Process

1. A PUD may be created in either of two ways: the Site-specific PUD Process ("SPUD") or the Master PUD Process ("MPUD").

*a. The SPUD results in approval of rezoning to a PUD district **and a detailed set of design plans, a PUD development agreement, a subdivision (if needed), a density transfer (if needed), a site-specific development plan** and a vested property right."*

While it may have been submitted, on the Town's website we were not able to find (i) a detailed set of design plans for the North Site, or (ii) a PUD development agreement or (iii) a site-specific development plan are contained in any of the documents available to the public on the Town's website.

The CDC definition of a Site-Specific Development Plan provides guidance as to the required level of the *"detailed set of design plans"* where the definition states *"a development permit has been issued and no further development approvals are required except for a building permit as required by the Building Codes"*. A development permit can only be issued if the design plans have received Final Review approval from the DRB pursuant to Section 17.4.11.C.3.b. So, what does this all mean? It means that **in order to receive final approval of its PUD amendment the developer must receive DRB Final Review approval for both the South Site and the North Site**. When you step back and think about this it makes all the sense in the world. The PUD is being presented and processed as a single integrated project and, therefore, its *"detailed set of design plans"* should be processed as a single set of

plans to ensure they in fact work and, as the developer states in its narrative, *"ensure safe vehicular and pedestrian access and coordinated utility planning."* Granted this requires that more upfront time and money must be expended by the developer, but the CDC requires it and the members of the community deserve the assurance that the project is completely thought through before it is approved. It appears the developer is only seeking DRB Final Review approval for the South Site, the CDC appears to require the developer to do the work and submit the *"detailed set of design plans"* for both the North Site and the South Site, not only the South Site as currently proposed. In its leadership role we request the Council to require a *"detailed set of design plans"* for the North Site.

Regardless of the fact that they are not referenced in the Major PUD Amendment application form, the detailed plans for the North Site, the PUD development agreement and the site-specific development plan are keystone components of the CDC requirements and must be made available to the Town and the public, and the sooner the better for everyone involved. Lacking these keystone components it appears either tabling or a continuance may be necessary at the November 21st meeting.

10. It appears the Council members are faced with a decision; are they going to drive and control the process or are they going to let the developer drive and control it? If Council elects to take control of this process then it appears it will be necessary for Council to be crystal clear as to what steps it will require to be taken to ensure a thorough, open and transparent process is followed. If the Council is not crystal clear then it will be relegated to a reactionary role in which it is driven to react to a process driven by the developer, the road the application currently appears to be on. For a discussion on a suggested PUD amendment process please see accompanying Exhibit NTC-2, Re: Lots 126R and 152R-Getting the Procedure Right . . . Part 3: PUD Amendment Process.

As noted above, an anxious and very concerned group of citizens are watching and waiting to see if their Town Council will provide the leadership they hope for from their elected officials; knowing the persons on the Council we are confident the Council will take control of the process.

END OF MEMORANDUM

To: Town Council
Town of Mountain Village
Via email
Cc: Michelle Haynes (MHaynes@mtnvillage.org), John Miller (JohnMiller@mtnvillage.org) and
Jim Mahoney (jmahoney@jdreedlaw.com)
From: John Horn, Doug Hynden, James McMorran, Casey Rosen and Sandy Lange
Date: November 14, 2019
Re: Lots 126R and 152R
-Getting the Procedure Right . . . Part 3: An Inadequate Process

SUMMARY

Section 17.4.12.O.3. states *"The criteria for decision for a PUD amendment are the same as for the creation of a PUD."* Although the criteria *"for a PUD amendment are the same as for the creation of a PUD"*, the process for a PUD amendment only takes two steps while a new PUD takes five steps; does that make sense to you? The current PUD amendment application is, in actuality, a new PUD because the current Rosewood approval is being totally abandoned and replaced with a completely new design. Consequently, does it not make sense to follow a process that resembles a five-step new PUD process?

The PUD amendment process is a class 4 application which only entails a short two-step process, first DRB reviews the application and makes a recommendation to Council and second Council makes the final decision. On the other hand, an application for a new PUD involves a five-step process, conceptual, sketch and final; the conceptual and final steps each involve two steps and so a new PUD review process effectively has five steps.

The strength of the five-step process lies in the fact that it prevents an application from proceeding from one step to the next (i.e. conceptual to sketch, and then from sketch to final) until all the issues of the current step are identified and resolved. In doing so it eliminates the possibility of everyone, including the developer, from wasting time, resources and money in designing and reviewing an application that is too dense and too large in terms of mass and scale.

In this memorandum you will see the problems the current, ambiguous and inadequate two-step PUD amendment process is causing for everyone involved, the developer, concerned citizens, Town staff, DRB and Council. You will also learn about the Community Development Code's ("CDC") sound five-step new PUD process, the logical way it builds on the previous step and how it eliminates the current problems. **Finally, you will learn how the CDC provides Council with the tools to require and implement virtually the same five-step process used for a new PUD.**

If you would like to view an example of the confusion being caused by the ambiguous and inadequate two-step PUD amendment process, then simply go to the Town website and watch the end of the DRB's deliberations regarding this item at their November 7th meeting. By utilizing the five-step process an open, thorough and transparent process, controlled by the Town Council, can be assured; and at the end of the day, an open, thorough and transparent process is in the best interest of everyone involved.

DISCUSSION

1. Let us be clear from the beginning, as we believe you will see from the below discussion, the PUD amendment process of the Town's CDC appears to be wholly inadequate in terms providing a logical, coherent, open, thorough and transparent process controlled by the Town Council. This observation should not be taken as a knock on the CDC drafters; despite all the best efforts and intentions of anyone drafting a land use code as sizeable as the Town's CDC, the soundness of any group of land use regulations can only be ascertained when they are subjected to the bright lights of an actual real-world application. However, do not despair, those same drafters have provided a method and roadmap to overcome the inadequacy. Please allow us to explain.

2. In an effort to (i) afford the Town Council maximum control over the process, (ii) provide the greatest amount of transparency and (iii) achieve a result that will provide the greatest level of project detail and, consequently, the greatest level of project certainty, at the July 21, 2019 Council meeting, the Council unanimously agreed that the developer of Lots 126R and 152R must follow the PUD amendment process set forth in Sections 17.4.12.N and O of the CDC. So far so good, but what does the PUD amendment process involve? The first step in answering that question is found in the following sections of the CDC:

2.1 "17.4.12.O. b. Major Amendments. Major PUD amendment development applications shall be processed as class 4 development applications."

A "class 4 development application" is defined as follows:

"17.4.2 OVERVIEW OF DEVELOPMENT REVIEW PROCESSES

A. There are five (5) development review processes that are used for evaluating land use development applications governed by the CDC:

4. Class 4 application: DRB-Town Council development application review process; and"

A class 4 application is a simple two-step process, first DRB reviews the application and makes a recommendation to Council and second Council makes the final decision.

So, what is the inadequacy in a class 4 development application process? It appears the best way to understand the inadequacy is to start by identifying a sound process and then compare and contrast it to the inadequate class 4-only process; to understand the sound process let us move on to paragraph 3.

3. Fortunately, for a sound process we have to look no further than Section 17.4.12.D of the PUD regulations which sets forth the **review process for a new PUD**. In a nutshell, Section 17.4.12.D sets forth a five-step review process for a new PUD. The soundness in this process is in the logical way it builds on the previous step.

3.1 Stage one in this process is set forth in Section 17.4.12.D.1.a which states:

*"a. Step 1, **Conceptual SPUD**. **The conceptual SPUD is processed as a class 4 application.***

*i. **The purpose of the conceptual SPUD is to provide the DRB, the Town Council, the applicant and the public an opportunity to engage in an exploratory discussion of the SPUD development proposal (including proposed uses, density, maximum building height and floor area and community benefits)**, to raise issues and concerns and to examine*

alternative approaches to development.

(a) **The DRB shall focus its review and comments on design-related issues pursuant to the Design Regulations.**

(b) **The Town Council shall focus its review on the other issues associated with a SPUD, such as mass and scale, public benefits, density, and general conformance with the Comprehensive Plan.**

ii. **Conceptual SPUD approval authorizes the applicant to submit a sketch PUD development application.**

iii. *Conceptual SPUD approval is effective for a period of twelve (12) months from the date of approval, unless the Town Council, upon request of the applicant, grants an extension of the approval."*

The key aspects of conceptual stage one are the following:

3.1.1 It gets everyone on the same page in terms of the "proposed uses, density, maximum building height and floor area and community benefits". Failure to achieve absolute clarity on these issues is detrimental to everyone involved, the applicant, the public, Town staff and the Council. Without absolute clarity the applicant is injured because it is left guessing what the design parameters are and is forced to spend potentially enormous amounts of time and money designing a project that is well above what is allowed under the land use code and acceptable to the Council and the public. The public is injured because they are subjected to the stress and uncertainty resulting from not knowing the parameters of the impact on the community and their neighborhoods resulting from the project. Town staff is injured because they may be required to spend time reviewing a project that is well above what is allowed under the land use code and acceptable to the Council. The Council is injured because they are prevented from practicing good governance. Unfortunately, this appears to be exactly the situation currently occurring with this application as we review an application for 58 units despite little, if any, guidance from Council with respect to density, mass and scale.

3.1.2 Stage one clearly defines the items that DRB must focus on and the items Council must focus on and thereby avoid duplication and conflicting results. Requiring Council to be the sole arbiter on the issues of "mass and scale, public benefits, density, and general conformance with the Comprehensive Plan" makes logical sense because as elected officials directly accountable to the voters, the Council alone should be deciding these cornerstone issues that will control the development. Unfortunately, with the current application two problems exist because this five-step process is not currently being followed:

3.1.2.1 Extensive overlap exists between what has been submitted to DRB for its review and to Council for its review. As a result, without better guidance DRB is likely to end up wasting its time discussing issues outside of its scope of authority.

3.1.2.2 The time and resources of everyone (i.e. applicant, public, Town staff and DRB) involved may be wasted because they are being asked to review “*design-related Issues*” for a project that may ultimately be determined to be too dense and too large in terms of mass and scale. This appears to be a classic example of putting the cart before the horse, a problem that can be avoided if a sound five-step process is followed.

3.1.3 Because stage one prevents the applicant from going to stage two, sketch plan, before it receives stage one conceptual plan approval, it eliminates the possibility of the developer wasting time and money designing a project that exceeds the allowed density, mass and scale, it eliminates the need for the Town staff, DRB and the public to waste time and resources reviewing a project that exceeds the allowed density, mass and scale, and it eliminates a whole lot of stress and uncertainty for everyone involved. Unfortunately, with the current application it appears three problems exist because a five-step process is not currently being followed:

3.1.3.1 The developer appears to have spent considerable time and money developing a plan for 58 units for which it is not clear as to whether or not it exceeds acceptable density, mass and scale.

3.1.3.2 The public may be being forced to waste time, resources and money reviewing a project that appears to exceed acceptable density, mass and scale.

3.1.3.3 Town staff and DRB may be reviewing a project that exceeds the acceptable density, mass and scale.

3.2 Stage two is set forth in Section 17.4.12.D.1.b which states:

*b. Step 2, **Sketch SPUD**. The sketch SPUD is processed as a [1-step] class 3 application.*

*i. The purpose of the sketch SPUD is for the applicant to present its development application to the DRB with Design Review Process plans that are **designed/engineered solutions to the issues and concerns identified during the conceptual SPUD stage and to address the criteria for decision**.*

*ii. **Sketch SPUD approval authorizes the applicant to submit a final PUD application**.*

iii. Sketch SPUD approval shall be effective for a period of twelve (12) months from the date of approval, unless the DRB, upon request of the applicant, grants an extension of the approval.

The key aspects of sketch stage two are the following:

3.2.1 Based on the clear direction that would be given in the stage one conceptual approval, the developer is able to devote its time and money designing a project that complies with the density, mass and scale parameters identified in stage one.

3.2.2 Because the developer has received clear direction in stage one, the code requires the developer to provide “*designed/engineered solutions to the issues and concerns identified during the conceptual SPUD stage and to address the criteria for decision.*” This requirement is logical, fair and necessary. It is logical and fair because the developer has clear guidance and will be spending its time and money designing a project that is within the parameters set by the Council. It is necessary for two reasons, (i) it is in everyone’s best interest to identify and ensure acceptable solutions exist as early in the process as possible and (ii) ensure an open, thorough and transparent process. Unfortunately, because this process is not being followed neither the “*issues and concerns*” nor the “*designed/engineered solutions*” have been identified, clearly contrary to everyone’s best interest.

3.2.3 Because it prevents the applicant from going on to stage three, final plan, before it receives stage two sketch plan approval, it eliminates the possibility of developer wasting time and money in the third step design phase for a project that cannot solve issues identified at the conceptual step and it ensures the public that only viable projects are allowed to proceed. Unfortunately, because this process is not being followed it appears the developer may have wasted time and money in the preparation of the current application and the public is at risk that critical “*concerns and issues*” may not be capable of being solved (e.g. the dangers associated with the Country Club Dr. roadway).

3.3 Stage three is set forth in Sections 17.4.12.D.1.c, e and f which state:

c. Step 3, **Final SPUD**. The final SPUD is processed as a [2-step] class 4 application.

i. **The purpose of the final SPUD is for the applicant to address to the DRB and Town Council, in a detailed manner, all issues and concerns raised during the sketch PUD stage and to present the Final SPUD plans and associated documents for consideration.**

(a) **The DRB shall focus its review and comments on design-related issues pursuant to the Design Regulations.**

(b) **The Town Council shall consider all issues associated with the SPUD, such as mass and scale, public benefits, density, and general conformance with the Comprehensive Plan.**

ii. Final SPUD approval shall include approval of an ordinance rezoning the property to a SPUD and approving the SPUD development agreement.

iii. Final SPUD approval shall remain in effect for three (3) years following the date of the Town Council ordinance approving the PUD, unless the time frame is extended by Town Council. The Town Council may approve a longer vesting period for a final SPUD based on unique circumstances or development objectives.

e. Rezoning. A SPUD application shall concurrently request to rezone to the PUD Zone District.

f. Final SPUD Development Agreement.

i. **The final SPUD development application shall be accompanied by a proposed development agreement** for consideration by Town Council.

The SPUD development agreement shall include:

(a) Proposed, permitted and accessory uses;

(b) Density and zoning designations;

(c) Maximum and average building heights;

(d) Floor area;

(e) Permitted variations to the CDC;

(f) Massing as reflected in associated design review plans;

(g) Required hotbed mix (if any per the Comprehensive Plan);

(h) Maximum building height and floor area;

(i) Any project phasing; and,

(g) A list of community benefits for the entire SPUD agreement, which specifies which dedications, conditions, contributions etc. are to be made and the triggers of such benefits in connection with any phasing of the project. The development agreement must specify the individual trigger for the required conveyance or payment of the listed community benefit. The final SPUD development agreement shall also address providing the needed requirements for security and completion and warranty of improvements as for any development."

The key aspects of the final stage are the following:

3.3.1 By this point in the process all the concerns and issues, and corresponding solutions, have been identified and so the purpose of stage three is to ensure what has been agreed to has in fact been implemented. Great detail is expected and, in fact, required at this final step because if an issue is identified after final approval is granted, then there may be no recourse to require the developer to correct it. Unfortunately, because this process is not being followed there is no way to ensure that what has been agreed to has been implemented because neither the "concerns and issues" nor the corresponding "designed/engineered solutions" have been identified.

3.3.2 Once again, stage three, final plan, clearly defines the items that DRB must focus on (i.e. “*design-related issues pursuant to the Design Regulations*”) and the items Council must focus on (i.e. “*such as mass and scale, public benefits, density, and general conformance with the Comprehensive Plan*”) and thereby avoid duplication and conflicting results.

3.3.3 Stage three, final plan, requires a “*SPUD application shall concurrently request to rezone to the PUD Zone District*”. This is necessary to avoid any confusion as to what is the underlying zoning of the property, confusion that currently exists on this property.

3.3.4 “*The final SPUD development application shall be accompanied by a proposed development agreement*”. A development agreement is one of the **cornerstone components** of any PUD approval, without it there simply can be no approval because of the numerous critical issues that it must address. Unfortunately, with the current application two problems exist because the five-step process is not currently being followed:

3.3.4.1 A development agreement exists for the current Rosewood PUD that is being amended by the application, a cursory reading of the Rosewood agreement immediately shows that it is totally inapplicable and must be replaced in its entirety.

3.3.4.2 Although the current application ostensibly has the goal of receiving final approval at the November 21, 2019 Council meeting (nothing in the application indicates a different goal), it fails to include a draft development agreement. It is difficult to conceive how Council can even begin to consider approving this application in the absence of such a cornerstone component of any PUD; and the public is left totally in the dark.

4. Now that we have identified a sound process, let us review the inadequate process that currently controls PUD amendments. As noted above, the PUD amendment process is set forth in Section 17.4.12.O.b. which states:

“17.4.12.O.b. Major Amendments. ***Major PUD amendment*** development applications shall be processed as ***class 4 development*** applications.”

A “class 4 development application” is defined as follows:

“17.4.2 OVERVIEW OF DEVELOPMENT REVIEW PROCESSES

A. There are five (5) development review processes that are used for evaluating land use development applications governed by the CDC:

4. Class 4 application: DRB-Town Council development application review process; and”

A class 4 application is a simple two-step process, first DRB reviews the application and makes a recommendation to Council and second Council makes the final decision. Unfortunately, this process is totally silent as to what is the scope of DRB's review and recommendation.

It is important to note that stage one conceptual approval and stage three final approval of the PUD process are both, in and of themselves, class 4 processes. Unfortunately, for the reasons identified in paragraph 3 above, subjecting this PUD amendment application to only a two-step class 4 process results in an inadequate process fraught with problems that do harm and a disservice to everyone involved, rather than the sound and logical three step conceptual, sketch and final Section 17.4.12.D process.

5. At this point we have identified both the inadequate two-step process and a sound five-step process which, if implemented, will resolve the inadequacy. So, the question now appears to be whether the Council has the ability to require the five-step process, or a reasonable facsimile of it, to be followed? Fortunately, thanks again to the CDC drafters, the answer appears to be a resounding "yes" and the basis for this "yes" answer can be found in the following sections of the CDC.

5.1 Sections 17.4.2.K.3.c.i and ii state:

"c. Continuance.

*i. The **public hearing may identify additional issues that relate to applicable requirements or criteria for decisions set forth in this CDC, and the applicant may be required by the review authority to address such new issues prior to taking formal action** on a development application. Where development application revisions are required by the review authority, **the review authority shall determine, at its public hearing or meeting, the timeline for submitting such revisions or new information** to the Planning Division and continue the public hearing or meeting to a date certain, which will allow sufficient time for proper analysis and preparation of a supplemental staff report by the Planning Division.*

*ii. **If a hearing is continued, the applicant shall submit, at least 14 calendars days prior to the continued hearing (unless otherwise specified by the review authority provided there is enough time to review the revised plans and prepare a staff report), any additional required submittal documents or new information to address the review authority's concerns per the applicable requirements and criteria for decision set forth in this CDC. Failure to address such requirements in the required timeframe shall result in a further continuance of the application.*** (Emphasis added)

Section 17.4.4.J. states:

"17.4.4.J. Submittal Requirements

1. The Planning Division shall publish submittal requirements for each type of development review process as provided for by this CDC. Submittal requirements shall be based on the requirements of this CDC and criteria for decision.

a. The Planning Division may amend the submittal requirements from time to time by publishing new submittal requirements.

2. Situations will occur when all of the listed submittal requirements will not be needed and **situations when items not listed as submittal requirements will be needed in order for the Town to have sufficient information to fully evaluate the impacts of a development application. The Planning Division is therefore authorized to determine, based on the nature of a development application, whether to waive submittal requirements or require additional submittal requirements that are not addressed in the published submittal requirements.**

5.2 So now the question becomes how do these provisions of the CDC sections cited in paragraph 5.1 give the Council the authority to require the developer to follow a process virtually identical to the five-step conceptual/sketch/final PUD approval process set forth in Section 17.4.12.D? Please allow us to explain.

5.2.1 Section 17.4.2.K.3.c.i provides that the **"public hearing may identify additional issues that relate to applicable requirements or criteria for decisions set forth in this CDC, and the applicant may be required by the review authority to address such new issues prior to taking formal action on a development application."** As noted in the cover email that delivered this memorandum to you, we have requested that this Exhibit NTC-2 and Exhibits NCT-1, NCT-3 and NCT-4 be included in the record for the November 21, 2019 hearing. Consequently, with these four exhibits plus all the other written input and in-person comments you will receive from other members of the public in the record, it appears that **"additional issues"** have been or will be identified **"that relate to applicable requirements or criteria for decisions"** such that **"the applicant may be required by the [Council] to address such new issues prior to taking formal action"**. The Council's ability to require additional information is buttressed by the provisions of Section 17.4.4.J.2 noted above.

5.2.2 With the need for and the ability to require additional information established, Section 17.4.2.K.3.c.i authorizes the Council to **"determine, at its public hearing or meeting, the timeline for submitting such revisions or new information to the Planning Division and continue the public hearing or meeting to a date certain"**. Pursuant to this provision it appears quite clear that Council can impose and require the developer to follow a process identical to the five-step conceptual/sketch/final PUD approval process set forth in Section 17.4.12.D.

CONCLUSION

Well, there you have it, an inadequate two-step process and a solution that provides a sound five-step process to overcome the inadequacy. At the July 18, 2019 Council meeting the Council members were unanimous in stating their intention to maintain maximum Town control over this PUD amendment application (why would the Council choose any other process that gives them less control) because it will result in the most transparent process and the greatest level of project detail and, consequently, the greatest level of project certainty. It appears one can only conclude that following a five-step Section 17.4.12.D-type process is in the best interest of the

Mountain Village community in general, the Country Club Drive neighborhood in particular and, at the end of the day, it is in the best interest of the developer of Lots 126R and 152R.

As the saying, "if there is a will then there is a way." Through a five-step Section 17.4.12.D-type process the Council has been given the keys to the bus, the only question is whether the Council will use the keys to take control of the steering wheel and drive the bus? Once again, an anxious and very concerned group of citizens are watching and waiting to see if their Town Council will provide the leadership they hope for from their elected officials; knowing the persons on the Council we are confident the Council will provide that leadership.

END OF MEMORANDUM

1 To: Town Council
 2 Town of Mountain Village
 3 Via email
 4 Cc: Michelle Haynes (MHaynes@mtnvillage.org), John Miller (JohnMiller@mtnvillage.org) and
 5 Jim Mahoney (jmahoney@jdreedlaw.com)
 6 From: John Horn, Doug Hynden, James McMorran, Casey Rosen and Sandy Lange
 7 Date: November 14, 2019
 8 Re: Lots 126R and 152R
 9 - Substantive Review Criteria

11 **SUMMARY**

13 Section 17.4.12.O.3 states that **“The criteria for decision for a PUD amendment are the same as for the**
 14 **creation of a PUD”**, and those criteria are numerous. In the July 30, 2019 KOTO radio show, Off The
 15 Record, Councilperson Caton advised the citizens of this community that *“it’s important that we*
 16 *encourage everyone to make their views known, and make sure it’s not just an emotional issue.”* In this
 17 memorandum, together with Exhibit NTC-4, we have taken Councilperson Caton’s sound advice to heart
 18 and are making our views known to Council regarding what we hope is an unemotional assessment of
 19 how the criteria for decision apply to the current application.

21 Whether knowingly or not, the developer bought into the existing Rosewood PUD Plan’s substantive and
 22 procedural provisions when it purchased Lots 126R and 152R. The existing PUD Plan cuts two ways, on
 23 the one hand it assures the developer it has the right to develop the lots pursuant to the Rosewood PUD
 24 Plan, but on the other hand the developer’s only “by-right use” is the full-blown 164 unit Rosewood PUD
 25 Plan, not 163 units, not 100 units, not 55 units, not even 1 unit. If the developer wishes to develop a
 26 new project that is different from the current Rosewood PUD Plan, then it has the burden of showing
 27 that the new project complies with all the CDC criteria for a new PUD.

29 And so, after you finish reading this memorandum, we feel it is likely to be apparent that the current
 30 proposal fails, dramatically, to comply with the criteria in the Community Development Code (“CDC”),
 31 and the root cause of the failure is that the proposal is too large in terms of density, mass and scale.
 32 Nearly every problem with the proposal, including but not limited to issues such as impacts on wetlands,
 33 lack of affordable housing, adding to a dangerous road situation and incompatibility with the adjacent
 34 single-family neighborhood all stem from the same root cause, the proposal is simply too big.

36 When you boil the substantive and political issues down to their most basic, basic level, the controlling
 37 issue is pretty simple, Council must balance the health, safety, welfare and quality of life of all members
 38 of the Mountain Village community against the level of profit the developer of the property may
 39 achieve. Harsh? Yes, but it is just that simple. The Town must be fair to the developer, because if it isn’t
 40 fair then it will have a chilling effect on future investment in the Town. But the need to be fair must be
 41 balanced against what is in the long-term best interest of the entire Mountain Village community. The
 42 Town does not have a responsibility to ensure the developer maximizes its profit, the Fifth Amendment
 43 to the United States Constitution requires only that the Town allows the developer a **reasonable use** of
 44 its property. Based on the analysis set forth in this memorandum, it appears the long-term best interest
 45 of the Mountain Village community requires this proposal to be dramatically reduced in terms of
 46 density, mass and scale. Yes, on a relative scale, the developer’s profit will be reduced, but, on an

absolute scale (which is the only scale that matters) it will nevertheless be a sizable and Constitutionally acceptable “reasonable” level.

While (i) what the families in the neighborhood knew or did not know when they purchased their property and (ii) what zoning and density existed in 1984, or exists today on November 21, 2019, may help to provide context, both are essentially TOTALLY IRRELEVANT, red herrings, when it comes to determining whether the current application complies with the criteria in the 2019 CDC. The reason it is totally irrelevant is that, as you will see further on in this memorandum, what a neighbor knew when they purchased their property or what Lots 126R and 152R historical zoning and density were are not relevant to determining whether the application complies with the 2019 CDC substantive criteria that control the Council’s decision. If you are made aware of a provision in the CDC that refers to a neighbor’s knowledge or the properties’ zoning history, then please let us know because we looked and have yet to find anything.

The citizens of this community did not make the rules (i.e. the CDC and Comp Plan), previous Councils did, but the citizens have to live by the rules, and so do the developer of Lots 126R and 152R and Town Council. Previous Councils have made a “whole lotta rules” (i.e. criteria) that control this application and so this is going to take a while, please bear with us and read on, we think you may find it quite informative.

DISCUSSION

1. Regardless of whatever process the Town Council chooses to follow, the substantive review criteria are controlled by the same sections of the CDC. The starting point for identifying the applicable substantive review criteria is set forth in Section 17.4.12.O.3 which states:

“O.3 Criteria for Decision. The criteria for decision for a PUD amendment are the same as for the creation of a PUD.”

So far so good, but what are the criteria for decision “for the creation of a PUD”? For the answer to this question we must look the following subsections of Section 17.4.12 of the CDC.

“B. Overview of the PUD Process

1. A PUD may be created in either of two ways: the Site-specific PUD Process (“SPUD”) or the Master PUD Process (“MPUD”).

a. The SPUD results in approval of rezoning to a PUD district and a detailed set of design plans, a PUD development agreement, a subdivision (if needed), a density transfer (if needed), a site-specific development plan and a vested property right.

E. Criteria for Decision

The following criteria shall be met for the review authority to approve a rezoning to the PUD Zone District, along with the associated PUD 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.

G. PUD Community Benefits

1. **One or more of the following community benefits shall be provided** in determining whether any of the CDC requirements should be varied or if the rezoning to the PUD Zone District and concurrent (for SPUD) or subsequent (for MPUD) rezoning, subdivision, or density transfer request should be granted for a PUD:

a. Development of, or a contribution to, the development of public benefits or public improvements, or the attainment of principles, policies or actions envisioned in the Comprehensive Plan (unless prohibited under number 2 below), such as benefits identified in the public benefit table.

2. The provision of hotbeds, commercial area, **workforce housing** or the attainment of other subarea plan principles, policies and actions on development parcels identified in a subarea plan development table **shall not be considered community benefits** as required by this section, **and are instead required in order to achieve general conformance with the Comprehensive Plan.**

H. Comprehensive Plan Project Standards

Each final SPUD or MPUD plan **shall** include specific criteria and requirements to **satisfy the following Comprehensive Plan project standards:**

1. **Visual impacts** shall be minimized and mitigated to the extent practical, while also providing the targeted density identified in each subarea plan development table. It is understood that visual impacts will occur with development.

2. **Appropriate scale and mass** that fits the site(s) under review shall be provided.

3. **Environmental** and geotechnical **impacts** shall be avoided, minimized and mitigated, to the extent practical, consistent with the Comprehensive Plan, while also providing the target density identified in each subarea plan development table.

4. Site-specific issues such as, but not limited to the location of trash facilities, grease trap cleanouts, restaurant vents and access points shall be addressed to the satisfaction of the Town.

5. The skier experience shall not be adversely affected, and any ski run width reductions or grade changes shall be within industry standards.

I. General Standards

1. *Authority to Initiate.* A development application for a PUD may be filed only by the owner(s) of fee title to all land to be included within such PUD or other person holding written consent thereto from the owner(s) of all land to be included in such PUD, or any combination thereof. No PUD may be approved without the written consent of the landowner(s) whose property is included in the PUD.

2. *Eligible Property.*

a. **SPUD.** A development application for a SPUD may be made for a single parcel of land or **contiguous parcels of land controlled by a single landowner** or by a group of landowners to be developed as a unified plan pursuant to the PUD Regulations.

3. *Minimum PUD Size.* There is **no minimum land area** or property size to be included in a SPUD or MPUD application.

4. *Minimum Density.*

a. **SPUD.** The **minimum density** to be included in a SPUD **is ten (10) dwelling units**. Commercial, public and other non-residential projects may also be proposed as part of an SPUD.

5. *Rezoning Ordinance Required.* Any PUD application **shall be required to request rezoning to the PUD Zone District** as a part of the PUD Process. The PUD development review process is a Rezoning Process, and a concurrent rezoning development application shall not be required. Because a PUD results in a rezoning to the PUD Zone District, any PUD approval shall be by ordinance.

a. All ordinances for rezonings that change the zone district to PUD shall be accompanied by a map that shows the new zoning and the boundaries of such district.

b. **A PUD development agreement** shall not become effective or be recorded until thirty (30) days after the date of the ordinance approving the same.

6. **Prior-Approved PUDs.**

a. PUDs approved prior to the effective date of the CDC are valid and enforceable under the terms and conditions of the approved development agreements. **Modifications to such PUDs may be proposed pursuant to the PUD amendment process.**

b. A developer of a PUD approved prior to the effective date of the CDC may propose to create a new PUD pursuant to the PUD Regulations following the process and requirements set forth herein.

7. *Density Transfer.* An increase in density shall require the transfer of density to the property from the density bank or other lot(s) within the town boundaries, except for the creation of additional workforce housing, subject to the workforce housing restriction.

a. For SPUD, a separate density transfer development application is not required.

c. All density transfer requests shall conform to the Density Limitation and the CDC.

188 8. Landscaping and Buffering. The landscaping and public spaces proposed for the PUD
 189 shall provide buffering of uses from one another to minimize adverse impacts and shall
 190 create attractive public spaces consistent with the character of the surrounding
 191 environment, neighborhood and area.

192
 193 9. Infrastructure. The development proposed for the PUD shall include sufficient
 194 infrastructure, including but not limited to vehicular and pedestrian access, mass transit
 195 connections, parking, traffic circulation, fire access, water, sewer and other utilities.

196 10. Phasing. Each phase (if any) of the development proposed for the PUD shall be self-
 197 sufficient and not dependent upon later phases. Phases shall be structured so that the
 198 failure to develop subsequent phases shall not have any adverse impacts on the PUD, the
 199 surrounding environment, neighborhood and area.

200
 201 *K. Guarantee of Public Improvements*

202 A PUD developer shall be responsible for the construction of all infrastructure, public facilities
 203 and improvements that are necessary for the development of the PUD or that are required as a
 204 condition of approval of the PUD or by the CDC. The developer shall also be responsible for
 205 entering into an improvements agreement for the construction of public improvements in a
 206 form and amount satisfactory to the Town. The guarantee of public improvements shall be
 207 contained in the PUD development agreement and be in general conformance with the public
 208 improvements policy set forth in the Subdivision Regulations.”

209
 210 Now that we have identified the criteria “for the creation of a PUD”, in the following paragraphs we will
 211 attempt to apply the criteria to the current application by going through each criterion, one-by-one. As
 212 noted in our cover email, please be assured that we would rather be doing just about anything other
 213 than writing these memorandums, but because the decisions you, the Town Council, will be making on
 214 this application will impact the daily lives of our families and every member of the Mountain Village
 215 community for the rest of their lives, some families (i.e. the families of the Country Club Dr.
 216 neighborhood) dramatically more than others, these efforts are crucial. This is a **VERY, VERY BIG DEAL!**

217
 218 As mentioned earlier, when you boil the substantive issues down to their most basic, basic level, the
 219 controlling issue is pretty simple, Council must balance the health, safety, welfare and quality of life of
 220 all members of the Mountain Village community against the level of profit the developer of the property
 221 may achieve; yes it is just that simple. The Town does not have a responsibility to ensure the developer
 222 maximizes its profit, the Fifth Amendment to the United States Constitution requires only that the Town
 223 allows the developer a reasonable use of its property and, by extension, a reasonable profit. By the
 224 developer’s own calculations, it anticipates making between \$200 and \$475 per saleable square foot.
 225 The current application appears to contain 140,070 saleable square feet which translates to between
 226 \$28,014,000 and \$66,533,250 of profit, not bad. But at what cost to the Mountain Village community?
 227 The developer will sell out the project over a few years and then, in all likelihood, will be long gone, but
 228 the members of our entire community will live with any negative impacts from the development for the
 229 rest of their lives, and for generations to come. It is imperative that the Council ensures its substantive
 230 decisions do not result in long-term negative impacts to the community and when balancing the
 231 interests of the community against the potentially enormous profits to the developer, the Council must
 232 err on the side of protecting the interests of the community.

At the July 18, 2019 Council meeting the developer's consultant was quick to point out that Lot 126 was zoned for a hotel since the beginning of the Mountain Village when the first plat was recorded in 1984. Based on this fact the consultant implicitly asserted two things, (i) all the relevant planning issues were identified, addressed and adequately resolved in 1984 and subsequent approvals and (ii) because the planning issues were adequately resolved in 1984 the project does not need to address those issues today, 35 years later. However, this is 2019 and the simple reality is that while what zoning and density existed in 1984, or exists today on November 21, 2019, helps to provide context, they do not vest any rights in the developer and are essentially TOTALLY IRRELEVANT, a red herring, when it comes to determining whether the current application complies with the criteria in the 2019 CDC and Comp Plan. The reason it is totally relevant is that, as you will see further on in this memorandum, the lots' past or current zoning and density are not relevant to any of the substantive criteria that control the Council's decision. It could be argued the developer's reference to the lots' past or current zoning and density appears to be a backdoor effort to justify the high density, mass and scale (i.e. maximize its' profit); but as we know the United States Constitution requires only that the Town allow the developer a reasonable use of its property (and a reasonable profit).

For anyone who has lingering questions about the irrelevance of the lots' past or current zoning and density, they should ask the developer to show them the analysis that occurred in prior years and prove that it was thorough, sound and addresses all the 2019 criteria set forth in the CDC and Comp Plan. The reality is that an analysis addressing the 2019 criteria was never done and so it would seem to be an error for the Council to assume all the relevant planning issues were identified, addressed and adequately resolved in the prior years and, therefore, the project does not need to address those issues today.

It is not the duty of either Town government or its concerned citizens to prove that adequate analysis was not performed throughout the history of these lots. Instead, as the proponent, the developer bears the burden of proving compliance with all current 2019 criteria. Because the developer is implicitly asserting current 2019 criteria have somehow been adequately addressed in past historical analysis, the developer must clearly produce proof of that analysis; lacking such proof the developer must start all over from scratch, zip, zero. Two wrongs do not make a right, today in 2019 do not fail to do the analysis that was not done in 1984 and subsequent years.

Whether knowingly or not, the developer bought into the PUD Plan's substantive and procedural provisions when it purchased Lots 126R and 152R. The PUD Plan cuts two ways, on the one hand it assures the developer it has the right to develop the lots pursuant to the PUD Plan, but on the other hand the developer's only "by-right use" is the full-blown 164 unit PUD Plan, not 163 units, not 100 units, not 55 units, not even 1 unit. The CDC that imposes this land use regime on the lots was adopted in 2013, the developer recorded its acquisition deed on July 30, 2018 and so based on constructive notice the developer is deemed to have had a full and complete understanding of the effects of the Town's land use regime on its property when it acquired it in July, 2018. When a developer buys a development property it does so with the intent of making a substantial profit, but in doing so the developer knows that with the potential for great profit comes a corresponding potential for great risk. When this developer purchased this property, it did so with all the risks inherent in the Rosewood PUD Plan and the CDC's PUD processes.

Also, it has been asserted (with words to the effect) "a hotel has been planned on Lot 126 since the beginning of the Mountain Village and so the families who make up the single-family neighborhood that

surrounds Lots 126R and 152R knew a high density project was planned for Lots 126R and 152R and, therefore, it is not fair for them to oppose a high density project on these lots". Similar to historical zoning, the simple reality is that while what the families in the neighborhood knew or did not know when they purchased their property may help to provide context, although even that is questionable, what they knew is essentially TOTALLY IRRELEVANT, a red herring, when it comes to determining whether the current application complies with the criteria in the 2019 CDC and Comp Plan. The reason it is totally relevant is that, as you will see further on in this memorandum, what a neighbor knew when they purchased their property is not relevant to any of the 2019 substantive criteria that control the Council's decision. Similar to above, it could be argued the developer's reference to the neighbors' knowledge appears to be a backdoor effort to justify the high density, mass and scale (i.e. maximize its' profit).

The duty of local government (i.e. including both San Miguel County and the Town of Mountain Village) was and is to promote and protect the health, safety and general welfare of its citizens. A careful review of the history of the zoning, platting and density allocations for Lots 126R and 152R will show that neither the County nor the Town have addressed the 2019 criteria set forth in the Town's current CDC, they couldn't because they did not exist! The families on Country Club Drive do not make the rules (i.e. the CDC and Comp Plan), but they have to live by the rules and criteria of the CDC, and so do the developer of Lots 126R and 152R and Town Council. Regardless of whatever zoning and density may have existed on Lots 126R and 152R when each family invested their hearts, souls and financial resources in their home on Country Club Drive, the fact is that the substantive criteria in the CDC and Comp Plan require the developer of the lots to either develop the lots in precise conformity with the existing Rosewood PUD Plan or start all over from scratch, zip, zero. The real-world effect of the 2019 criteria is that they render moot and totally irrelevant whatever (i) Lots 126R and 152R's zoning history and (ii) the zoning and density that may have existed on Lots 126R and 152R when each family invested hearts, souls and finances in Country Club Drive.

With that background we will now proceed with the exhaustive (some will say painfully exhausting) review of the applicable substantive criteria that this project must comply with.

2. Section 17.12.4.E.1 states:

*"1. The proposed PUD is in **general conformity** with the policies, principles and standards set forth in the **Comprehensive Plan**;"*

Yikes, talk about starting with a tough criterion! Nineteen little words that trigger the analysis of what is likely the most critical factor in the review of the application. In fact, we believe the Comp Plan analysis is so critical that it makes most sense to dedicate an entirely separate memorandum to address this criterion, and so we ask you to please review Exhibit NTC-4 regarding Conformity With The Comprehensive Plan to address this criterion.

3. Section 17.12.4.E.2 states:

"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;"

Currently the underlying zoning on the lots is Multi-family Zone District. The Multi-Family Zone District allows for as few as two units (possibly even one unit) up to the 164 units currently on the lots and even beyond. Consequently, the Multi-family Zone District allows for the 58 units in the application, just as it allows for 8 to 12 Detached Single-family Condominiums which would be compatible with the 1.78 residences per one-acre density of the neighborhood.

4. Section 17.12.4.E.3 states:

"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;"

Huh? Talk about a nebulous criterion, what in the world does this mean? This criterion is going to be a stretch to meet for a developer who is attempting to build so many condominiums. Attempting to squeeze as many condominiums units as possible on the property does not appear to represent *"a creative approach to the development"*. To the contrary, a design that (i) presents a jammed in appearance relative to the openness of the surrounding golf course and single-family homes, (ii) pushes the buildings as close to the lot lines as possible, creating a 48' tall corridor-effect along hole 1 and a 30-35' tall corridor-effect along Country Club Dr. (just look closely at the developer's drawings) (iii) presses up against the wetlands, (iv) is likely to choke off the subsurface wetland water source and (v) is totally out of character with the single-family lots that surround it, appears to be anything but creative in a manner that will *"produce a better development than would otherwise be possible"*. On the other hand, if maximizing profit is the goal, then perhaps this is a very *"creative approach"*.

Regarding *"amenities for residents of the PUD and the public in general"*, consider the following:

4.1 Regarding *"amenities for residents of the PUD"*, the developer's narrative states:

"The North Site is planned for 36 condominium units and an amenity building that includes a lobby with concierge, small spa and gym and an outdoor pool area."

But the narrative also states:

"The Owner has no immediate plans to develop the North Site."

There is nothing in the application that assures the amenities will ever be built, nothing; in the future the current developer or a subsequent landowner could come in with a whole new development plan for Lot 126 that eliminates these amenities. Furthermore, if this project experiences the level of success that most condominium development projects have experienced in Mountain Village (i.e. foreclose and/or bankruptcy), then one must question the likelihood that these amenities will ever be built unless the Town requires a cash bond to ensure their construction.

4.2 Regarding amenities for *"the public in general"*, the developer's narrative states:

"The La Montagne Project provides for an integrated trails and sidewalk plan with a new Village Center Trail connecting the Big Billies Trail to the Village Center with a sidewalk"

along Country Club Drive all the way to the Mountain Village Boulevard crosswalk to the Village Center east of The Peaks. Trail connectivity will be provided to Boomerang Trail, Jurassic Trail and the proposed Stegosaurus Trail. The project will also provide a new alignment of the proposed Stegosaurus Trail onto TSG land that currently trespasses onto Lot 126R provided the Town successfully negotiates an easement for the Stegosaurus Trail with TSG.”

Hmmm, at first glance it sounds pretty good, but upon a closer look it appears that in fact it amounts to very little; let us take a closer look.

4.2.1 A “new Village Center Trail connecting the Big Billies Trail to the Village Center with **a sidewalk along Country Club Drive** all the way to the Mountain Village Boulevard crosswalk to the Village Center east of The Peaks”. The value of this “amenity” is questionable when you consider the following:

4.2.1.1 Anyone who has spent any meaningful amount of time on Country Club Dr. knows that because of the wind tunnel effect created by the Boomerang Road saddle, the portion of Country Club Dr. extending from the easterly 35% of Lot 152R to the south end of the putting green by the first tee experiences a tremendous amount of drifting snow. There have been many, many winters in which the plowed snowbanks on the south side of the road stand six to eight feet tall for a good part of the winter. Unfortunately, as shown by these two photo segments from the developer’s narrative, those snowbanks happen to be located in the exact same place as the sidewalk proposed by the developer; consequently, for three to five months of every year it appears the sidewalk will be impassable.





In his October 10, 2019 email to John Miller, the Town's Public Works Director, Finn Kjome, stated:

*"All road-right-away widths and 16 ft General Easements along the road must remain. **It is expected that the GE will be used for snow storage.** Landscaping should consider this . . . **Sidewalk maintenance responsibility will need to be defined.**"*

Mr. Kjome's comments appear pretty clear, the area where the developer is proposing to locate the sidewalk is expected to "be used for snow storage". Nothing in the developer's application addresses "Sidewalk maintenance responsibility". It seems like these issues might be somethings that would be addressed in the missing PUD development agreement.

4.2.1.2 Later on in the narrative the developer states "Required public improvements include the new sidewalk, uphill bike lane, relocated Stegosaurus Trail, and other road and safety improvements **that will be based on the proportional cost of the La Montagne Project relative to other users**" and even further on the narrative states "**Some of the safety improvements may require an easement from TSG if such cannot be located in the Country Club Right-of-Way and no general easement exists on TSG property.** The project team will be working with the Town to schedule stakeholder meetings on the safety improvements and **modify the plans as needed based on Town, and property owner input.**" Whoa, now that is some mighty fine wiggle-off-the-hook language, let us explain.

a. As shown in the quote in paragraph 4.2 above, the developer unequivocally claimed the "La Montagne Project provides for an integrated trails and sidewalk plan", but now we see that all the safety improvements are conditioned on reaching a sharing agreement with "**other users**" for payment of a "**proportional cost of**" the safety improvements. Good luck with that, why will the other landowners,

with absolutely nothing to gain, agree to pay for improvements needed by this developer; sounds like herding cats. Bottom line, the developer is **not** unconditionally committing to provide and pay for **any** safety improvements.

b. Even if the developer was willing to unconditionally commit to pay for all the safety improvements, the narrative is crystal clear that sufficient property rights are not currently in the control of the developer to allow for their construction, **“Some of the safety improvements may require an easement from TSG if such cannot be located in the Country Club Right-of-Way and no general easement exists on TSG property.”** If the rights are not obtained then does that mean the safety improvements will not be provided?

c. Any sidewalk that is a sufficient distance away from the asphalt road to ensure it is not impassable for 3 to 5 months per year due to snow drifts will have to be located on top of or southwest of the berm next to the golf cart path leading to the first tee. Now, how well will that work for golfers when (i) a steady stream of chatty pedestrians passing close by the first tee and putting green invades the beginning of their golf experience and (ii) the line of evergreen trees that currently buffer them from the road disappear to accommodate the construction of the safety improvements, chances are it will not have a happy ending.

5. Section 17.12.4.E.4 states:

“4. The proposed PUD is consistent with and furthers the PUD purposes and intent;”

Of course, this begs the question, what are the *“PUD purposes and intent”*? Section 17.4.12.A provides us with the answer:

“17.4.12 PLANNED UNIT DEVELOPMENT REGULATIONS

A. Purpose and Intent

The purpose and intent of the Planned Unit Development (“PUD”) Regulations is to:

- 1. Permit variations from the strict application of certain standards of the CDC in order to allow for flexibility, creativity and innovation in land use planning and project design;*
- 2. Allow for a creative planning approach to the development and use of land and related physical facilities to produce a better development;*
- 3. Provide for community benefits;*
- 4. Promote and implement the Comprehensive Plan;*
- 5. Promote more efficient use of land, public facilities and governmental services; and*
- 6. Encourage integrated planning in order to achieve the above purposes.”*

Ok, this looks like a good time to go through these six items. we have to warn you though, things are going to start to get repetitive because the substantive criteria set forth in the CDC are repetitive.

5.1 “1. Permit variations from the strict application of certain standards of the CDC in order to allow for flexibility, creativity and innovation in land use planning and project design”. In addressing a similarly nebulous issue in paragraph 4 above, we stated that this criterion is going to be a stretch to meet for this developer who is attempting to build as many condominiums as possible. Attempting to squeeze as many condominiums units as possible on the property does not appear to represent “creativity and innovation in land use planning and project design”. To the contrary, this design that (i) presents a jammed in appearance relative to the openness of the surrounding golf course and single-family homes, (ii) pushes the buildings as close to the lot lines as possible, creating a 48’ tall corridor-effect along hole 1 and a 30-35’ tall corridor-effect along Country Club Dr. (just look closely at the developer’s drawings) (iii) presses up against the wetlands, (iv) is likely to choke off the subsurface wetland water source and (v) is totally out of character with the single-family lots that surround it, appears to be anything but creative in a manner that justify “variations from the strict application of certain standards of the CDC”.

5.2 “2. Allow for a creative planning approach to the development and use of land and related physical facilities to produce a better development”. **REPETITION ALERT**, same as 5.1 above.

5.3 “3. Provide for community benefits”. **REPETITION ALERT**, same as 4.2, and its subparagraphs, above.

5.4 “4. Promote and implement the Comprehensive Plan.”, **REPETITION ALERT**, as mentioned in paragraph 2 above, because the Comp Plan analysis is so huge, we have dedicated an entirely separate memorandum to address these criteria, and so we ask you to please review Exhibit NTC-4 regarding Conformity With The Comprehensive Plan.

5.5. “5. Promote more efficient use of land, public facilities and governmental services”. Huh? Another nebulous criterion, what in the world does this mean? To respond to this criterion the only idea that comes to mind is to comment on the developer’s response to this item contained in its narrative which states:

“The PUD Amendment promotes the efficient use of land because it allows for the Owner to realize reasonable use of the Property while providing a transitional development that fits the site with approximately 11 units per acre. The average density for built projects in the Multi-family Zone District is approximately 20 units per acre, with the La Montagne Project transitioning from high density built and envisioned development to the east. The Owner has been paying property taxes on the current Property density as provided for in the PUD Agreement, and is willing to significantly downzone the Property via the PUD Amendment, rezoning and density transfer processes to provide for an efficient and transitional development that still provides for reasonable use of the Property. This represents a great planning compromise for the efficient development of the Property.”

5.5.1 Allow “**for the Owner to realize reasonable use of the Property**”, yes, and as they say, “beauty lies in the eyes of the beholder”. Let us be honest with ourselves on this point, this developer’s goal, the goal of all developers for that matter, is to maximize their profit. There is nothing wrong with maximizing profit on a development, just as

long as the quality of life of the community in which it is located is not damaged. Once again, this is the crux of Council's decision on this application, balancing the level of the developer's profit against the negative impacts of an oversized development on the Mountain Village community for generations to come. As discussed earlier, by the developer's own calculations, it anticipates making between \$200 and \$475 per saleable square foot. The current application appears to contain 140,070 saleable square feet which translates to between \$28,014,000 and \$66,533,250 of profit. If the 54-unit project is reduced by 60% to 22 units it still translates into between \$11,205,600 and \$26,613,300. We'd submit that these sort of 8-figure returns is a "*reasonable use of the Property*". On page 18 of the Comp Plan it states "*Mountain Village is a multigenerational community*", those of us here today have a solemn duty to preserve the quality of life of Mountain Village for generations to come and not sacrifice it for the transitory profit of a developer who is likely to be gone just as soon as the ink dries on the last set of closing documents.

5.5.2 Developer's statement that its proposal represents "*a transitional development that fits the site with approximately 11 units per acre*" reflects some creative (i.e. distorted) math. The density of the single-family Country Club Drive neighborhood that surrounds this property is 1.78 residences per one acre, this density is calculated by totaling up the acreage of the developable lots (i.e. none of the adjacent open space is included in the acreage calculation), and then dividing the total acreage by the number of units allowed on the acreage. The density of the application's developable Lots 126R and 152R (i.e. not including Tracts OSP-118 and OSP-126) is 12.66 residences per one acre (i.e. $1.47 + 3.11 = 4.58$ acres; $58 \text{ units} \div 4.58 \text{ acres} = 12.66 \text{ units/acre}$); **in other words, the density of the proposed project is 7.11 (12.66 divided by 1.78 = 7.11) times greater than the density of the existing Country Club Drive single-family neighborhood.**

With 7.11 times more density it would be disingenuous to try to argue the proposed project is "*a transitional development that fits*" in the existing Country Club Drive single-family neighborhood. To put this in context, think about how your own personal quality of life would be affected if a project 7.11 times bigger than your neighborhood was built on the lot next door to you? At this point you are probably experiencing a sigh of relief as you think "well that will never happen to my family", unfortunately that is exactly what is happening to the families on Country Club Dr. What would have happened to the level of safety and quality of life of the Meadows neighborhood if the Council had allowed the developer to build the 130-unit project it proposed on Lot 640A instead of TSG's current 30-unit apartments?

If a 5-foot tall person weighs 475 pounds (i.e. 164 units) they are dangerously overweight, and if that person reduces their weight to 200 pounds (i.e. 58 units) on a relative basis they are better off but still dangerously overweight. At 164 units the current Rosewood PUD Plan imperils the health, safety and general welfare of all the citizens of Mountain Village, and while the 58 units in the proposed plan is better on a relative basis, they still imperil the health, safety and general welfare of the citizens of Mountain Village. The Council must be careful to not be lulled into believing that because the project has been reduced from 164 units to 58 units that somehow it is

577 acceptable, because clearly it is not acceptable based on the CDC and Comp Plan criteria
 578 the Council must judge this project on.
 579

580 Someone may argue that “what constitutes a ‘good transition’ lies in the eyes of the
 581 beholder”, however, every conclusion must have a sound factual basis. It is hard to
 582 comprehend, impossible some might say, how anyone can conclude that a
 583 condominium project with 7.11 times the density of the 7 single-family homes on the
 584 east of it and the 24 single-family homesites on the west of it qualifies as a “good
 585 transition”. On a relative scale 58 units are clearly better than 164 units, but on an
 586 absolute scale (and the absolute scale is the scale by which this proposal must be
 587 measured) 58 units and the negative impacts they will wreak on this community are
 588 extremely incompatible with the neighborhood and in conflict with the CDC criteria by
 589 which this project must be judged. On an absolute scale it appears the density of the
 590 project should be reduced to the range of 1.78 residences per one acre in order to be
 591 truly compatible with the neighborhood.
 592

593 5.5.3 **“The Owner has been paying property taxes on the current Property density”**. We
 594 all pay property taxes, it is a cost that goes with the privilege of property ownership.
 595 When a developer buys a development property it does so with the intent of making a
 596 substantial profit, but in doing so the developer knows that with the potential for great
 597 profit comes a corresponding potential for great risk. When this developer purchased
 598 this property, it did so with all the risks inherent in property ownership, including the
 599 payment of property taxes. Totally irrelevant, another red herring.
 600

601 5.5.4 Finally, the developer states it **“is willing to significantly downzone the Property”**.
 602 In each of the narratives the developer submitted with its three applications for work
 603 sessions, DRB PUD amendment and Council PUD amendment, the developer stated *“The*
 604 *Owner bought the Property in 2018 with the goal of revisiting the previously approved*
 605 *development plans for the Property (“Rosewood PUD Plan”) and working with the Town,*
 606 *while taking into account the input from the neighbors, **to create an entirely new plan***
 607 ***for the Property, which effectively replaces and supersedes the Rosewood PUD Plan in***
 608 ***its entirety.**”* So, let us be clear on this, even before the developer closed on its purchase
 609 of the property it knew the Rosewood PUD Plan was both physically and economically
 610 unworkable. From the beginning the developer knew it was incurring all the risks that
 611 would be associated with changing the property’s density, mass and scale and that a
 612 reduced development would have to be designed and approved in conformance with
 613 the CDC, the only question was how big would the reduction be? Consequently, let us
 614 not be lulled into thinking that the in the course of this process the developer has
 615 “found religion” and magnanimously become willing to do anything other than what has
 616 been the developer’s intention from the start.
 617

618 5.6 *“6. Encourage integrated planning in order to achieve the above purposes.”* Once again, huh?
 619 More nebulous criteria. Just as above, to respond to this criterion the only idea that comes to
 620 mind is to comment on the developer’s response to this item contained in its narrative which
 621 states:
 622

“The PUD Amendment provides for integrated planning between the North Site and South Site to ensure safe vehicular and pedestrian access and coordinated utility planning. The La Montagne Project also plans for integrated trails; a new sidewalk along Country Club Drive and other safety improvements. The La Montagne Project provides for an integrated land use plan with a transitional density of 11 units per acre with higher density projects building and planned to the east that range from 14 to over 100 units per acre.”

5.6.1 “The PUD Amendment provides for **integrated planning between the North Site and South Site** to ensure safe vehicular and pedestrian access and coordinated utility planning.” Planning the North Site and South Site together makes very good sense. Unfortunately, the developer is only presenting a detailed planning of the South Site which is contrary to the requirements of the Section 17.4.12.B.1.a which states:

“B. Overview of the PUD Process

1. A PUD may be created in either of two ways: the Site-specific PUD Process (“SPUD”) or the Master PUD Process (“MPUD”).

a. The SPUD results in approval of rezoning to a PUD district and a detailed set of design plans, a PUD development agreement, a subdivision (if needed), a density transfer (if needed), a site-specific development plan and a vested property right.”

Chapter 17.8, Definitions, defines “site-specific development plan” as follows:

“Site-Specific Development Plan: The final approved development application plans for a development where (a) a development permit has been issued and no further development approvals are required except for a building permit as required by the Building Codes; and (b) an applicant has also concurrently sought and obtained a vested property right pursuant to the vested property rights process as set forth in Chapter 4.”

Section 17.4.12.B.1.a is crystal clear that three things are necessary for final approval of a SPUD, “detailed set of design plans, a PUD development agreement . . . a site-specific development plan”; and the definition of a Site-Specific Development Plan provides similarly crystal clear guidance as to the required level of the “detailed set of design plans” where it states “a development permit has been issued and no further development approvals are required except for a building permit as required by the Building Codes”. A development permit can only be issued if the design plans have received Final Review approval from the DRB pursuant to Section 17.4.11.C.3.b. So, what does this all mean? It means that **in order to receive final approval of its PUD amendment the developer must receive DRB Final Review approval for both the South Site and the North Site**. When you step back and think about this it makes all the sense in the world. The PUD is being presented and processed as a single integrated project and, therefore, its “detailed set of design plans” should be processed as a single set of plans to ensure they in fact work and, as the developer states, “*ensure safe vehicular and pedestrian access and coordinated utility planning.*” Granted this requires that more upfront time and money be expended by the developer, but the CDC requires it and the

members of the community deserve the assurance that the project is completely thought through before it is approved. The developer is only seeking DRB Final Review approval for the South Site, it must be required to do the work and submit the “*detailed set of design plans*” for both the North Site and the South Site, not only the South Site as currently proposed.

5.6.2 “The La Montagne Project also plans for integrated trails; a new sidewalk along Country Club Drive and other safety improvements.” **REPETITION ALERT**, same problems as 4.2, and its subparagraphs, above.

5.6.3 “The La Montagne Project provides for an integrated land use plan with a transitional density of 11 units per acre”. **REPETITION ALERT**, same problems as 5.5.2 above.

6. Section 17.12.4.E.5 states:

“5. The PUD meets the PUD general standards;”

Of course, this begs the question, what are the “PUD general standards”? Section 17.4.12.I provides us with the answer; for the purposes of this discussion, only the applicable portions of Section 17.4.12.I are addressed in the following:

“4. Minimum Density.

a. SPUD. The minimum density to be included in a SPUD is ten (10) dwelling units. Commercial, public and other non-residential projects may also be proposed as part of an SPUD.

5. Rezoning Ordinance Required. Any PUD application shall be required to request rezoning to the PUD Zone District as a part of the PUD Process. The PUD development review process is a Rezoning Process, and a concurrent rezoning development application shall not be required. Because a PUD results in a rezoning to the PUD Zone District, any PUD approval shall be by ordinance.

8. Landscaping and Buffering. The landscaping and public spaces proposed for the PUD shall provide buffering of uses from one another to minimize adverse impacts and shall create attractive public spaces consistent with the character of the surrounding environment, neighborhood and area.

9. Infrastructure. The development proposed for the PUD shall include sufficient infrastructure, including but not limited to vehicular and pedestrian access, mass transit connections, parking, traffic circulation, fire access, water, sewer and other utilities.

10. Phasing. Each phase (if any) of the development proposed for the PUD shall be self sufficient and not dependent upon later phases. Phases shall be structured so that the failure to develop subsequent phases shall not have any adverse impacts on the PUD, the surrounding environment, neighborhood and area.”

6.1 In accordance with Section 17.4.12.I.4.a, the application proposes a density greater than “ten (10) dwelling units.” The big question is how much greater? Ten dwelling units would be compatible with the neighborhood.

6.2 As the Council determines what process it will follow for this application it should keep in mind Section 17.4.12.I.5’s requirement that any “**PUD application shall be required to request rezoning to the PUD Zone District as a part of the PUD Process.**”

6.3 Regarding Section 17.4.12.I.8, it is hard to comprehend how the proposed design complies with the requirement that “**The landscaping and public spaces proposed for the PUD . . . shall create attractive public spaces consistent with the character of the surrounding environment, neighborhood and area.**” Because it is located in a low-density single-family neighborhood and golf course, unlike the surrounding area, the application proposes a very dense development whose landscaping and public areas are inconsistent with the surrounding area.

The Telluride Golf Course is one of the premier amenities to both Mountain Village residents and guests and so it is hard to understand how the 48’ tall corridor-like effect (yikes-yes 48’) created along hole 1 by the virtually solid row of buildings (due to building overlapping) on Lot 152R can be viewed as consistent with the neighborhood. Similarly, the northern edge of the Lot 152R buildings will create a 30’ to 35’ tall corridor-like effect along Country Club Dr., once again it is hard to understand how that can be viewed as consistent with the neighborhood. Chances are this development will be known as the “La Canyon Corridor Condominiums” if it is allowed to go forward. If you would like to get a true sense of what these condominium corridors will look and feel like, then just take the below photos to the Village Center and see for yourself. Amazing, if it was not so disturbing . . . should someone be saying “Fore” for reasons other than flying golf balls!

Plaza Building Viewed From Heritage Plaza



749 Klammer Building Viewed From Mountain Village Blvd.



750
751
752 6.4 Regarding Section 17.4.12.I.9, “The development proposed for the PUD shall include
753 **sufficient** infrastructure, including but not limited to **vehicular and pedestrian access**, mass
754 transit connections, parking, **traffic circulation**”. Everyone involved in this process, including the
755 developer, recognize the issues and potential dangers related to “vehicular and pedestrian
756 access, mass transit connections, parking, traffic circulation”, unfortunately, although the
757 current application ostensibly has the goal of receiving final approval at the November 21, 2019
758 Council meeting (nothing in the application indicates a different goal), **NOTHING** has been done
759 at this point to measure and quantify the issues and potential dangers; and as we all know, you
760 cannot fix a problem until you clearly define the problem. We agree with Councilperson Caton’s
761 advice from July 30, 2019 in KOTO’s Off The Record Program when he stated “Once we can
762 figure out how to make that [i.e. road] safer, then we think it is appropriate for us to consider
763 whether it’s a significant increase in residents down that road or a small increase in residents
764 down that road. One way or another this has all got to be taken as a package” (time stamp
765 17:20).
766

767 6.5 Additionally in regard to Section 17.4.12.I.9, later on in the July 30, 2019 in KOTO’s Off The
768 Record Program Councilperson Caton stated the Town should not allow the development of
769 “things that are out of character or that put too much of a strain, or where we haven’t provided
770 the infrastructure as we talked about earlier, especially housing for the people who will support
771 whatever development we do.” We agree Dan. Clearly, we currently have a shortage of
772 affordable housing and new high-density developments such as La Montagne will only add to
773 the problem if they do not fully and completely mitigate the impacts they create. In the
774 developer’s narrative it states “The estimated number of employees being generated from the
775 development is also being reduced by approximately 203 employees (92% reduction).” If you do
776 the math you learn the following:
777

Employees Eliminated	203.00
----------------------	--------

Percentage Eliminated	92%
Total Employees Before Elimination	220.65
Total Employees Before Elimination	220.65
Employees Eliminated	(203.00)
Employees Remaining	17.65
Employee Apts Proposed	4
Employees per Emp. Apt	3
Employees Accommodated	12
Employees Remaining	17.65
Employees Accommodated	(12.00)
Employee Accommodation Shortfall	5.65
Employee Apt. Unit Shortfall	2

And so, by the developer's own calculation, the application is two Employee Apartments short of accommodating the number of employees generated by the current application. At this point we do not have an opinion as to whether the developer's estimate of 220.65 employees is a correct estimate, but it seems the Council should carefully analyze this estimate to ensure it was arrived at correctly because it is an issue that should be addressed in this and all future high-density projects. As the saying goes, *"if you have a problem and you have dug yourself into a deep hole, the first thing you should do is stop digging"*. Do not make our community's affordable housing problem worse by not requiring this development to fully mitigate its affordable housing impact, and this may require less free-market units and more affordable housing units.

6.6 Regarding Section 17.4.12.I.10, because so much information is currently missing from the application it seems it is impossible to determine at this time whether *"Each phase (if any) of the development proposed for the PUD shall be self sufficient and not dependent upon later phases"*, it appears that determination will have to wait for another day.

7. Section 17.12.4.E.6 states:

"6. The PUD provides adequate community benefits"

Related to this section is Section 17.12.4.G which states:

"G. PUD Community Benefits"

1. One or more of the following community benefits shall be provided in determining whether any of the CDC requirements should be varied or if the rezoning to the PUD Zone District and concurrent (for SPUD) or subsequent (for MPUD) rezoning, subdivision, or density transfer request should be granted for a PUD:

a. Development of, or a contribution to, the development of public benefits or public improvements, or the attainment of principles, policies or actions envisioned in the Comprehensive Plan (unless prohibited under number 2 below), such as benefits identified in the public benefit table.

2. **The provision of** hotbeds, commercial area, **workforce housing** or the attainment of other subarea plan principles, policies and actions on development parcels identified in a subarea plan development table **shall not be considered community benefits as required by this section**, and are instead required in order to achieve general conformance with the Comprehensive Plan.”

I will address both sections here.

Developer’s narrative states:

“CDC Section 17.4.12(E)(6) requires that “The PUD provides adequate community benefits”. The PUD provides for the following community benefits:

1. Twice as much public open space than existed prior to the adoption of the PUD Agreement. This community benefit will continue under the amended PUD for the Property and is due to the creation and future dedication of Tracts OS-126 and OSP-118.

2. Provision of four (4) employee apartments with the development of Lot 126R. This is one more apartment than existed prior to the adoption of the current PUD Agreement and is three more than warranted based on a 92 percent reduction in the number of employees generated on the Property due to the downzoning.

3. Rerouting of the unauthorized social trail on Lot 126R to the Stegosaurus Trail as envisioned in the Town Trails Master Plan if the Town obtains an easement for this trail from TSG.

4. Facilitation and participation in significant Country Club Drive improvements including new sidewalk from Big Billies Trail to the Village Center crosswalk east of The Peaks, an uphill bike lane, and speed humps/ speed limits based on the design of the road. The Owner will construct and improve all of the improvements through the Property. The Owner has paid for a survey of Country Club Drive and the adjoining general easements and is paying for the safety improvement engineering.”

7.1 Developer asserts that “Twice as much public open space than existed prior to the adoption of the PUD Agreement. This community benefit will continue under the amended PUD for the Property and is due to the creation and future dedication of Tracts OS-126 and OSP-118.” If we are not mistaken, Tracts OS-126 and OSP-118 have existed for twelve (12) years and so it is hard to comprehend how their continued existence rises to the level of a community benefit that results from this application; are you also having a hard time following that logic or is it just us? It should also be noted that paragraphs 2 and 36 of the Council Resolution that approved the Rosewood PUD, recorded at Reception #391879, state:

“2. The Applicant shall convey fee title ownership of the proposed Open Space Lots OS-126 and OS-118 to the Town of Mountain Village.

36. Tract OS-118 will be transferred to the Town following the completion of the relocation of the Boomerang Road/Trail onto Tract OS-118, but in any event, the transfer of Tract OS-118 shall occur prior to the issuance of a certificate of occupancy for occupiable space in the Project."

This resolution is currently in effect and so regardless of who is the owner of Tracts OS-126 and 118, it appears the practical effect of these paragraphs is that the property owner is already obligated to convey these tracts to the Town. Consequently, it appears the developer is trying to claim a public benefit for something it is already obligated to do.

Additionally, the beneficial value of the "future dedication of Tracts OS-126 and OSP-118" is questionable. Other than the fact that the tracts will be left in their natural state, there is no utilitarian use to the Town or the members of the community. As the costly and somewhat unpleasant ownership history of the open space such as in the See Forever project exhibits, owning random parcels of open space is not always in the Town's best interest; analyze carefully and proceed cautiously before accepting title to open space.

7.2 Due to over 18 years of open and continuous use, a public prescriptive easement already exists for access to the Boomerang Road and Jurassic trails and so the granting of a pedestrian trail easement merely avoids any litigation that would otherwise be necessary to confirm the public's existing prescriptive easement property rights. Clearly, the Town has not and should not be in the business of threatening litigation, but it would seem to be an error if the Council ignored the value and relevance of this prescriptive easement in this PUD process. If you look carefully on the ALTA/NSPS Land Title Survey of Lots 126R and 152R provided by the developer, you will see that the alignment of the prescriptive easement is located about 25' to 30' feet from developer's proposed Buildings E and F1, it is in the developer's best interest to relocate the trail to eliminate a constant flow of the public through the middle of its development.

7.3 Contrary to the developer's narrative about the benefit of providing four employee apartments, pursuant to Section 17.12.4.G.2, workforce housing "shall not be considered community benefits as required by this section'.

7.4 "3. Rerouting of the unauthorized social trail on Lot 126R to the Stegosaurus Trail as envisioned in the Town Trails Master Plan if the Town obtains an easement for this trail from TSG." Just as with the Boomerang Road prescriptive easement, a prescriptive easement exists over Lot 126R along the alignment referred to in the developer's narrative as the "unauthorized social trail". Once again, if you look carefully on the ALTA/NSPS Land Title Survey of Lots 126R and 152R provided by the developer, you will see that the alignment of this prescriptive easement goes directly through Buildings C, D and E and, therefore, it is in the developer's best interest to relocate the trail to eliminate this conflict with a major portion of its project.

The developer also recognizes that the Stegosaurus Trail may never be built unless "the Town obtains an easement for this trail from TSG" and so the reality is that any rerouting may prove to be valueless to the Town.

7.5 “4. Facilitation and participation in significant Country Club Drive improvements including new sidewalk from Big Billies Trail to the Village Center crosswalk east of The Peaks, an uphill bike lane, and speed humps/ speed limits based on the design of the road. The Owner will construct and improve all of the improvements through the Property. The Owner has paid for a survey of Country Club Drive and the adjoining general easements and is paying for the safety improvement engineering.” This all sounds pretty good, but as discussed in paragraph 4.2.1.2 above, elsewhere in the narrative the developer states “Required public improvements include the new sidewalk, uphill bike lane, relocated Stegosaurus Trail, and other road and safety improvements **that will be based on the proportional cost of the La Montagne Project relative to other users**” and even further on the narrative states “**Some of the safety improvements may require an easement from TSG if such cannot be located in the Country Club Right-of-Way and no general easement exists on TSG property.** The project team will be working with the Town to schedule stakeholder meetings on the safety improvements and **modify the plans as needed based on Town, and property owner input.**” As noted above that is some mighty fine wiggle-off-the-hook language because in effect the developer is saying it is willing to participate if all the other “stakeholder” (an undefined group) participate, and if the other stakeholders don’t participate then it won’t either.

One key group of stakeholders that make up part of the group of “other users” referred to by the developers is comprised of **all** the individual hotel and condominium unit owners in the Peaks. Why each owner and not simply The Peaks Owners Association, Inc.? The answer to that question is found in the Peaks condominium declaration which vests ownership of all the common elements in the Peaks in each owner as a tenant in common with all other Peaks owners; Lot 128, is the lot upon which the Peaks is built and it is over Lot 128 that a significant portion of the developer’s proposed “significant Country Club Drive improvements” must be built. The practical legal effect of this is that in order to obtain an easement to construct the “significant Country Club Drive improvements” over Lot 128, it appears **each and every** owner in the Peaks must approve and actually sign a document granting the easement. Good luck on accomplishing that!

8. Section 17.12.4.E.7 states:

“7. Adequate public facilities and services are or will be available to serve the intended land uses;”

This application marks the first application for a high-density project in the Mountain Village since the “Great Recession”. As such it appears to be an ideal time for the Town to reassess and determine the physical capacities (and therefore the level of new development those capacities can serve) of all the “public facilities and services” the Town owns and manages (e.g. roads, water, sewer, CATV, gondola, etc.). This assessment and determination appear necessary in view of such things (i) the need to upgrade the regional wastewater treatment plant and the associated costs, (ii) the shortage of affordable housing as highlighted in the Trust For Community Housing’s July, 2019 report entitled “The Impacts of Affordable Housing on the Telluride Area Economy and Community”, (iii) the persistent and projected extreme drought conditions experienced by Mountain Village and its effects on the quantity of water the Town is able to supply, (iv) traffic congestion and safety and (v) the fact that the gondola has reached its maximum capacity and the resulting poor user experience that is already being felt many days of the year.

Similar to the discussion in paragraph 6.5 above, with respect to ALL Town “public facilities and services” we agree with Councilperson Caton’s advice that the Town should not allow the development of “things that are out of character or that put too much of a strain, or where we haven’t provided the infrastructure as we talked about earlier, especially housing for the people who will support whatever development we do.”

9. Section 17.12.4.E.8 states:

“8. The proposed PUD shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion;”

As discussed in paragraph 6.4 above, you cannot fix a problem until you clearly define the problem and at this point there appears to be unanimous Councilmember agreement that the problem has not been defined; as Mayor Benitez stated, “there is still a long road to go with this”. **A safe Country Club Dr. is but one of many elements that make up the quality of life of our community, once the road problems and solutions are identified we must not be fooled into thinking that the issue of a safe road ultimately controls the amount if density allowed on Lots 126R and 152R because, instead, compatibility with the neighborhood is and must be the issue that ultimately controls the amount if density allowed on the lots.**

10. Section 17.12.4.E.9 states:

“9. The proposed PUD meets all applicable Town regulations and standards unless a PUD is proposing a variation to such standards.”

In the narrative submitted with its July 18, 2019 work session application, the developer stated “The use of shed roof forms means that no shed roof peak will exceed 48 feet above pre or post construction grade. If gable roof forms were used the building heights could be five feet higher for both maximum and average building heights.” At first blush this lack of a request for a variation seems to be a concession by the developer for which the developer seems to imply the community should be appreciative, but if you look closer it appears that is not the case, please let us explain. By using a shed roof, the developer is able to dramatically increase the square footage (i.e. density, mass and scale) of its project over what it could achieve using a gable roof form. The reason for this increase is that on the top floor a shed roof facilitates a tall ceiling which a gable roof would not facilitate and, therefore, allows a fully functional top floor which a gable roof will not.

Because Council has not yet been able to provide clear guidance on what density will be allowed on the property, DRB and the community members are being asked to review design-related issues (e.g. roof forms, building heights and setbacks, angles and grades of driveways, roof overhangs, etc.) for a project that may ultimately be determined to be too dense and too large in terms of mass and scale. Consequently, in an effort to avoid wasting time commenting on a design that may be totally discarded, we will postpone commenting until the Council has provided clear guidance on what density will be allowed.

11. Section 17.12.4.K states:

993 *"K. Guarantee of Public Improvements*

994 *A PUD developer shall be responsible for the construction of all infrastructure, public facilities*
995 *and improvements that are necessary for the development of the PUD or that are required as a*
996 *condition of approval of the PUD or by the CDC. The developer shall also be responsible for*
997 ***entering into an improvements agreement** for the construction of public improvements in a*
998 *form and amount satisfactory to the Town. The guarantee of public improvements shall be*
999 *contained in the PUD development agreement and be in general conformance with the public*
1000 *improvements policy set forth in the Subdivision Regulations."*

1001
1002 At this point in the process it appears the *"infrastructure, public facilities and improvements that are*
1003 *necessary for the development of the PUD or that are required as a condition of approval of the PUD or*
1004 *by the CDC"* cannot be clearly defined and, therefore, drafting the required improvements agreement is
1005 premature. Nevertheless, because the current application ostensibly has the goal of receiving final
1006 approval at the November 21, 2019 Council meeting, the failure to provide a draft improvements
1007 agreement is another example of the applications incompleteness that places the Council, Town staff
1008 and concerned citizens at a disadvantage because critical issues that should be addressed in the
1009 improvements agreement have not been identified and properly addressed.

1010
1011 **END OF MEMORANDUM**

To: Town Council
 Town of Mountain Village
 Via email
 Cc: Michelle Haynes (MHaynes@mtnvillage.org), John Miller (JohnMiller@mtnvillage.org) and
 Jim Mahoney (jmahoney@jdreedlaw.com)
 From: John Horn, Doug Hynden, James McMorran, Casey Rosen and Sandy Lange
 Date: November 14, 2019
 Re: Lots 126R and 152R
 - Conformity With The Comprehensive Plan

SUMMARY

Section 17.12.4.E.1 of the Community Development Code (“CDC”) requires that “*The proposed PUD is in general conformity with the policies, principles and standards set forth in the Comprehensive Plan*”. The Comp Plan is 99 pages long, now that is a lot of “*policies, principles and standards*”. We have combed through the Comp Plan in an effort to identify all “*policies, principles and standards*” that are relevant to this application; as a result of this search we have identified 50 different items, a nice even, and quite large, number.

“[G]eneral conformity with the policies, principles and standards” appears to be best summed up by the ten Comp Plan excerpts that appear below in Table 1:

Table 1

5.8 Page 7	<i>The Comprehensive Plan is the adopted advisory document that sets forth the Mountain Village Vision and the way to achieve the vision through principles, policies and actions. <u>The Comprehensive Plan is intended to direct – the present and future – physical, social and economic development that occurs within the town. In short, the Comprehensive Plan defines the public interest and the public policy base for making good decisions.</u></i>
5.6 Page	<i>8. APPROPRIATENESS AND FIT OF LAND USES: <u>Land uses envisioned by the Comprehensive Plan are designed to “fit” into the surrounding neighborhood to ensure appropriate scale and context to their surrounding natural and built environments.</u> Through detailed analysis of environmental constraints, topography, access and existing conditions, the town will achieve the delicate balance between preserving its existing strengths while providing new amenities necessary to improve year-round economic vibrancy.</i>
5.7 Page 5	<i><u>But the Comprehensive Plan is not just about economics and money. It clearly recognizes the importance of Mountain Village’s exceptional residential neighborhoods and their interconnections with ski runs and golf fairways. It recognizes the importance of the space, tranquility and extraordinary views that make Mountain Village unique among alpine resort communities, and it seeks to protect them</u> by suggesting more restrictive zoning on the vast majority of land in the town. <u>The Comprehensive Plan also provides the framework for the creation of a true sense of community.</u></i>
5.27 Page	<i><u>D. Respect the integrity of single family and duplex areas.</u> Any proposed rezoning of single-family and duplex lots should be considered exceptional and must meet specific conditions, such as separation and buffering from other single-family and duplex lots.</i>
5.4 Page 34	<i>3. ALPINE CHARACTER PRESERVATION: <u>Much of the land area in Mountain Village is very stable and not expected to change in the future, particularly single-family</u></i>

	<u>neighborhoods.</u> <i>Alpine character preservation areas are largely comprised of low density, single-family homes that are nestled into Mountain Village’s landscape, integral to creating the open, tranquil alpine ambiance that it is known for.</i>
5.5 Page 35	<u>7. GATEWAYS: Living in and visiting Mountain Village is all about a lifestyle and experience that can be found nowhere else,</u> <i>from the time one arrives until the time ones leaves.</i>
5.25 Page 38	<u>e. Consider revisiting all uses allowed in multiunit areas to ensure such uses are appropriate</u> <i>and provide additional design considerations as needed.</i>
5.11 Page 9	<u>9. Better sustainability can be achieved by:</u> <ul style="list-style-type: none"> • <u>Concentrating development in high density areas</u> <i>to achieve economic sustainability and vibrancy;</i> • <u>Protecting residential neighborhoods;</u> • <u>Maintaining the pristine and quiet character of the community.</u>
5.16 Page 18	<u>3. Mountain Village is a community where small-town values are important and people can make social and emotional connections.</u> <i>The community character of Mountain Village complements Telluride; it recognizes and embraces its distinctions and similarities.</i>
5.30 Page 50	<u>Focus high density, mixed-use development in Mountain Village Center</u> <i>by significantly increasing the hotbed inventory to improve the overall economic viability and activity in Mountain Village Center and the town as a whole.</i>

Based on the above ten items two things appear to be beyond question:

A. **“Protecting residential neighborhoods”** is one of the, if not the, paramount goal of the Comp Plan.

B. High density development belongs in the Mountain Village Center Subarea.

If protecting residential neighborhoods is the paramount goal of the Comp Plan, then defining the Country Club Dr. neighborhood appears to be of paramount importance. Fortunately, the Comp Plan appears to do an excellent job of defining the neighborhood in which Lots 126R and 152R are located. Based on the Comp Plan’s Mountain Village Center Subarea Plan Map it is clear that (i) all the Country Club Dr. single-family home lots and Lots 126R and 152R **lie outside of the Village Center Subarea** and (ii) the Peaks, See Forever Village and Lots 122 and 123 **all lie within the Village Center Subarea**; in other words, these groups (i) and (ii) lie in different neighborhoods. This conclusion is bolstered by the dictionary definitions of “neighborhood” and “community” discussed below.

The bottom line is that the Comp Plan makes clear that Lots 126R and 152R lie within a single-family neighborhood and that the character and tranquility of that single-family neighborhood must be respected and preserved by ensuring that development on Lots 126R and 152R is compatible with the single-family neighborhood.

DISCUSSION

1. Section 17.12.4.E.1 of the Community Development Code (“CDC”) requires:

49 *"1. The proposed PUD is in general conformity with the policies, principles and standards set*
50 *forth in the Comprehensive Plan;"*
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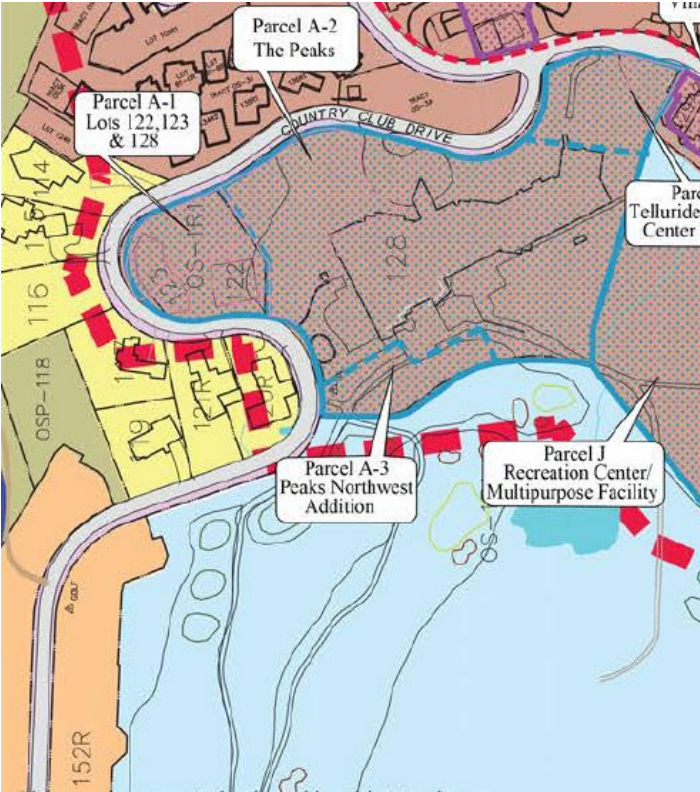
52 As noted in Exhibit NTC-3, the analysis of this criterion is likely the most critical factor in the review of
53 the application. In fact, we believe that the analysis is so critical that it makes most sense to dedicate
54 this entirely separate memorandum to address this criterion.
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56 2. In the Executive Summary portion of the Town's "Mountain Village Comprehensive Plan" ("Comp
57 Plan") it states:
58

59 *"But the Comprehensive Plan is not just about economics and money. It clearly recognizes the*
60 *importance of Mountain Village's exceptional residential neighborhoods and their*
61 *interconnections with ski runs and golf fairways."*
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63 In Table 2 below you will find 50 excerpts from the Comp Plan that are relevant to this application, 50
64 excerpts that appear to clearly establish the paramount importance of the fact that any future
65 development in the Mountain Village must be compatible with the surrounding neighborhood. After you
66 finish reading this memorandum, we hope you will agree that a 207,570 square foot 58-unit
67 condominium project on Lots 126R and 152R is simply not compatible with the surrounding single-family
68 neighborhood and that its density must be reduced to a level that is compatible with the 1.78 units per
69 acre of the neighborhood.
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71 3. In order for a development to be compatible with its surrounding neighborhood, it would seem we
72 must first define what constitutes the neighborhood. Fortunately, the Comp Plan appears to do an
73 excellent job of defining the neighborhood in which Lots 126R and 152R are located. In the following
74 drawing please find the portion of the Comp Plan's Mountain Village Center Subarea Plan Map that is
75 relevant to this application:
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A review of this portion of the map shows that in this area (i) Country Club Dr. forms the norther boundary of the Mountain Village Center and (ii) a line starting just below where the golf course cart path intersects Country Club Dr. forms the western boundary of the Mountain Village Center. Clearly, (i) all the Country Club Dr. single-family home lots and Lots 126R and 152R lie **outside of the Village Center Subarea** and (ii) the Peaks, See Forever Village and Lots 122 and 123 all **lie within the Village Center Subarea**. The Comp Plan states (at page 36) *“As testing progressed, various parcels were placed into logical geographic groupings, — subareas — so that they could be considered more holistically.”* The Comp Plan is clear, the Peaks, See Forever Village and Lots 122 and 123 all lie within one *“logical geographic grouping -- subareas”* and the Country Club Dr. single-family homes lie in another.

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Based on this line and this quote, it is hard

to comprehend how anyone could argue the Peaks, See Forever Village and Lots 122 and 123 on the one hand and the Country Club Dr. single-family home lots and Lots 126R and 152R on the other hand are part of the same neighborhood.

As further support for this conclusion, please note that there is no definition of “neighborhood” in either the Comp Plan or the CDC, accordingly we must look elsewhere for a definition. The online Merriam-Webster defines “neighborhood” as follows:

Definition:	Applicability To This Matter
<i>“neighborhood</i>	
<i>noun</i>	
<i>neigh·bor·hood</i> / \ ˈnā-bər-ˌhūd \	
<i>Definition of neighborhood</i>	
<i>1 : neighborly relationship ... a closer feeling of brotherhood, a more efficient sense of neighborhood ... — Nathaniel Hawthorne</i>	As expressed in emails and testified to on July 18 th by persons with homes on Country Club Dr., they and their families have developed personal relationships with most of the other families who live in the single-family homes on the street; <i>“neighborly relationships”</i> if you will. No one spoke of similar relationships being

	developed with owners in either the Peaks or See Forever.
<i>2 : the quality or state of being neighbors : PROXIMITY "... refugees from the country, driven by fear or the neighborhood of armies."— F. L. Paxson</i>	These families describe how they walk their dogs together in the morning, hike, ski and golf together, and share dinner and cocktails with the other single-family homeowners. No one speaks of similar interactions with owners in either the Peaks or See Forever.
<i>3</i>	
<i>a : a place or region near : VICINITY . . . "traveled to a place somewhere in the neighborhood of that city"</i>	This portion of the definition does not appear to be relevant.
<i>b: an approximate amount, extent, or degree cost . . . "in the neighborhood of \$100</i>	This portion of the definition does not appear to be relevant.
<i>4</i>	
<i>a : the people living near one another . . . "The whole neighborhood heard about it.</i>	From a practical perspective, there is no physical interaction, commonality or relationship between the families that live in the single-family homes and the people who live in the Peaks and See Forever.
<i>b: a section lived in by neighbors and usually having distinguishing characteristics . . . "lived in a quiet neighborhood"</i>	The day-to-day rhythms of life (i.e. "distinguishing characteristics") in the single-family homes on Country Club Dr. and life in the Peaks and See Forever could not be more different. In one you know the names of your neighbors, and their dog, and in the other you rarely see and hardly know your neighbor; and certainly, the two groups have little if any interaction.

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Microsoft WORD's Smart Lookup function defines neighborhood as follows:

<i>"1. a district, especially one forming a community within a town or city . . . "she lived in a wealthy neighborhood of Boston"</i>	If you ask any owner in the Peaks or See Forever whether they consider themselves to be a member of the Country Club Dr. single-family neighborhood, then it appears that any intellectually honest answer would be a resounding no. Similarly, if you ask any owner of a Country Club Dr. single-family home whether they consider the Peaks or See Forever to be a part of their
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	neighborhood, then the answer would also be a resounding no. These apparently immutable facts should strongly considered by Council.
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In view of the significance of the word “community” in defining “neighborhood”, it would appear that it is important to understand how WORD’s Smart Lookup function defines “community”:

<p><i>“1. a group of people living in the same place or having a particular characteristic in common. “the scientific community”</i></p> <p><i>Synonyms: group, section, body, company, set, circle, clique, coterie, ring, band, faction, gang, bunch</i></p>	<p>As discussed above, the families in the Country Club Dr. single-family homes have much in common with each other, and very little, if anything, in common with condominium owners in the Peaks or See Forever relative to the issue of defining the “neighborhood”.</p>
<p><i>2. a feeling of fellowship with others, as a result of sharing common attitudes, interests, and goals. “the sense of community that organized religion can provide”</i></p>	<p>As discussed above, “a feeling of fellowship with others, as a result of sharing common attitudes, interests, and goals” clearly exists among the families in the Country Club Dr. single-family homes, a feeling and sharing that does not extend to the owners in the Peaks or See Forever.</p>

Based on these definitions it is hard to comprehend how anyone could argue the Peaks, See Forever Village and Lots 122 and 123 on the one hand and the Country Club Dr. single-family home lots and Lot 126R and 152R on the other hand are part of the same neighborhood.

4. Several times in its narrative the developer asserts the concept that its proposal constitutes a **“transitional”** multi-family project based on the underlying Multi-family Zone District that fits within the development pattern of the area, with higher density at See Forever, The Peaks, Lots 122 and 123 and the La Montagne Project **transitioning** to single-family properties in the area.” The implication is that providing a **“transitional”** multi-family project” is relevant or significant under either the CDC or the Comp Plan, or both. A word search for “transitional” in the CDC results in 14 hits, none of which even remotely relate to this concept, instead the term is only used in reference to design issues such as plantings, road grades and window openings. A word search for “transitional” in the Comp Plan results in 3 hits, none of which even remotely relate to this issue. The bottom line appears to be that any discussion of the transitional value of the proposed development is irrelevant in terms of the CDC and Comp Plan criteria.

Despite the irrelevance of transitioning, it is probably helpful to point out that members of the neighborhood were mystified by the assertion that the project provided a “good transition” from Country Club Drive’s single-family neighborhood to the high-density Peaks and See Forever projects. There is a saying that “beauty lies in the eyes of the beholder”. While to an extent it can be argued that “what constitutes a ‘good transition’ lies in the eyes of the beholder”, ultimately every position must have a sound factual basis and there appears to be no basis for the claim that this project provides a good transition. It is hard to comprehend, impossible some might say, how anyone can conclude that a

condominium project with 7.15 times the density of the single-family homes on the east and west of it qualifies as a “good transition”. On a relative scale 58 units is clearly better than 164 units, but **on an absolute scale (and that is the scale by which this proposal must be measured)** 58 units is still vastly incompatible with the neighborhood. On an absolute scale the density of the project must be reduced to the range of 1.78 residences per one acre in order to be compatible with the neighborhood.

5. With the above foundation, let us now address the application’s “*general conformity with the policies, principles and standards set forth in the Comprehensive Plan*”. To accomplish this, we have attempted to identify what appear to be the portions of the Comp Plan that are relevant to this application, we have identified 50 items. It may be determined that other portions of the Comp Plan are relevant and, if that is the case, then we request the opportunity to address them. So here we go.

Table 2

Item & Page #	Comp Plan	Comments
5.1 Page 18	<u>3. Development strikes the appropriate balance between the needs of Mountain Village and the resort so that neither dominates nor has an adverse impact on the other. Maintaining this balance is central to retaining and preserving the essential attributes of Mountain Village as an appropriately-scaled, attractive alpine community.</u>	5.1.1 When you boil the substantive issues down to their most basic, basic level, the controlling issue is pretty simple, Council must “ <i>strike the appropriate balance</i> ” between the health, safety, welfare and quality of life of all members of the Mountain Village community for generations to come against the level of profit the developer of the property may achieve; yes it is just that simple. In doing so the Comp Plan requires the Council to preserve “ <i>the essential attributes of Mountain Village as an appropriately-scaled, attractive alpine community</i> ”. As discussed elsewhere in the Comp Plan, preserving single-family neighborhoods is one of the “ <i>the essential attributes of Mountain Village</i> ” and a 207,570 square foot project with 58 units is not “ <i>appropriately-scaled</i> ” for the Country Club Dr. single-family neighborhood in which it is proposed to be located.
5.2 Page 22	<u>6. Locating development near transportation nodes is a key consideration in preserving the environment and Mountain Village’s quality of life.</u>	5.2.1 In its narrative the developer states “ <i>The La Montagne Project will provide a shuttle to transport owners and guests to key areas in Mountain Village (Village Center, Town Hall, etc.)</i> ”. If “ <i>a shuttle to transport owners and guests to key areas in Mountain Village</i> ” is necessary, then it seems hard to claim the proposed

		development is “ <i>near transportation nodes</i> ” as required by the Comp Plan.														
5.3 Page 22	1. <i>Mountain Village</i> promotes actions that preserve and <u>protect the environment</u> and natural resources, locally and globally.	5.3.1 As a community Mountain Village is either going to put its proverbial “money where its mouth is” or it is not. The proposed design presses up against the wetlands and is likely to choke off the subsurface wetland water source which does not seem to “ <i>preserve and protect the environment and natural resources</i> ” and, therefore, is contrary to the Comp Plan.														
5.4 Page 34	<p>3. ALPINE CHARACTER PRESERVATION: <u>Much of the land area in Mountain Village is very stable and not expected to change in the future, particularly single-family neighborhoods.</u> Alpine character preservation areas are largely comprised of low density, single-family homes that are nestled into Mountain Village’s landscape, integral to creating the open, tranquil alpine ambiance that it is known for.</p> <p>As shown per the Land Use Plan, <u>these areas may include higher density development such as multiunit buildings</u> and tourism-related amenities <u>as long as their aesthetic is secondary to the surrounding landscape.</u></p>	<p>5.4.1 This provision could not be any clearer and the single-family homeowners on Country Club Dr. are simply asking that its “<i>very stable</i>” single-family neighborhood not be changed by a Council decision. Contrary to this provision, a 207,570 square foot project with 58 units will dramatically and forever change the character of this neighborhood in a very negative manner.</p> <p>5.4.2 Yes multiunit buildings are contemplated in this area, but only “<i>as long as their aesthetic is secondary to the surrounding landscape.</i>” The narrative shows the following square footage:</p> <table><tr><td>Saleable Condos North SF</td><td>92,490</td></tr><tr><td>Saleable Condos South SF</td><td>47,580</td></tr><tr><td>4 Employee. Apt.</td><td>10,000</td></tr><tr><td>80 North Parking Spaces</td><td>32,000</td></tr><tr><td>38 South Parking Spaces</td><td>23,000</td></tr><tr><td>Clubhouse</td><td>2,500</td></tr><tr><td>Total SF</td><td>207,570</td></tr></table> <p>It is hard to comprehend how the aesthetic of a 207,570 square foot development with 58 units “<i>is secondary to the surrounding landscape</i>”; based on the renderings contained in the developer’s narrative, the development certainly does not appear to be secondary.</p> <p>5.4.3 And let us not forget that “multiunit” only means greater than one, and how</p>	Saleable Condos North SF	92,490	Saleable Condos South SF	47,580	4 Employee. Apt.	10,000	80 North Parking Spaces	32,000	38 South Parking Spaces	23,000	Clubhouse	2,500	Total SF	207,570
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		much greater than one is limited by the requirement that it is compatible with the surrounding single-family neighborhood.
5.5 Page 35	7. GATEWAYS: <u><i>Living in and visiting Mountain Village is all about a lifestyle and experience that can be found nowhere else, from the time one arrives until the time ones leaves.</i></u>	5.5.1 Ask any family in the Country Club Dr. single-family neighborhood and they will tell you loudly and clearly that for them “ <i>Living in and visiting Mountain Village is all about a lifestyle and experience that can be found nowhere else</i> ”. And in their next breath they will implore you to help them preserve the “ <i>lifestyle and experience</i> ” of the neighborhood they cherish so dearly and not ruin it by allowing an incompatible development.
5.6 Page	8. APPROPRIATENESS AND FIT OF LAND USES: <u><i>Land uses envisioned by the Comprehensive Plan are designed to “fit” into the surrounding neighborhood to ensure appropriate scale and context to their surrounding natural and built environments.</i></u> Through detailed analysis of environmental constraints, topography, access and existing conditions, the town will achieve the delicate balance between preserving its existing strengths while providing new amenities necessary to improve year-round economic vibrancy.	5.6.1 At 207,570 square feet with 58 units the proposal neither fits “ <i>into the surrounding neighborhood</i> ” nor ensures an “ <i>appropriate scale and context to their surrounding natural and built environments.</i> ” This mandate cannot be any clearer, we only ask Council to follow it.
5.7 Page 5	<u><i>But the Comprehensive Plan is not just about economics and money. It clearly recognizes the importance of Mountain Village’s exceptional residential neighborhoods</i></u> and their interconnections with ski runs and golf fairways. <u><i>It recognizes the importance of the space, tranquility and extraordinary views that make Mountain Village unique among alpine resort communities, and it seeks to protect them</i></u> by suggesting more restrictive zoning on the vast majority of land in the town. <u><i>The Comprehensive Plan also provides the framework for the creation of a true sense of community.</i></u>	5.7.1 As discussed above, when you boil the substantive issues down to their most basic, basic level, the controlling issue is pretty simple, Council must “ <i>strike the appropriate balance</i> ” between the health, safety, welfare and quality of life of all members of the Mountain Village community against the level of profit the developer of the property may achieve. This excerpt of the Comp Plan is crystal clear, this community and the “ <i>the Comprehensive Plan is not just about economics and money.</i> ” Instead, this community and the Comp Plan recognize “ <i>the importance of Mountain Village’s exceptional residential neighborhoods and . . . [the] tranquility and extraordinary views that make Mountain Village unique . . . and it seeks to protect them</i> ”. Once again, this mandate cannot be any clearer, we only ask to Council to follow it.

5.8 Page 7	<p><i>The Comprehensive Plan is the adopted advisory document that sets forth the Mountain Village Vision and the way to achieve the vision through principles, policies and actions. <u>The Comprehensive Plan is intended to direct – the present and future – physical, social and economic development that occurs within the town. In short, the Comprehensive Plan defines the public interest and the public policy base for making good decisions.</u></i></p>	<p>5.8.1 When the Comp Plan was adopted in 2011 it was only advisory, but with the adoption of the CDC in 2013 it became mandatory pursuant to Section 17.12.4.E.1 which states:</p> <p><i>“1. The proposed PUD is in general conformity with the policies, principles and standards set forth in the Comprehensive Plan;”</i></p> <p>Based on the discussion throughout this and the other “Exhibit NTC” memorandums it appears “<i>the public interest and the public policy</i>” defined by the Comp Plan requires the development to be scaled down from 58 units to a size and density compatible with the 1.78 units per acre density of the single-family neighborhood that surrounds it.</p>
5.9 Page 7	<p><i>The Comprehensive Plan does not regulate zoning on a property; it is advisory and does not have the force and effect of law. <u>The Comprehensive Plan can become a part of the town’s laws by amending the LUO to require “general conformance” with the Comprehensive Plan for certain development applications, such as subdivisions, rezonings, density transfers, Planned Unit Developments (PUD) or other discretionary development review applications. When a development application is evaluated regarding its general conformance with the Comprehensive Plan, the Town Council and Design Review Board (DRB) should evaluate the application against the entirety of the goals, policies and actions contained in the Comprehensive Plan and need not require with every provision contained therein. Nonetheless, the Town Council and DRB may require that an applicant satisfy any particular goal, action or policy if such compliance is deemed necessary to attain general conformance.</u></i></p>	<p>5.9.1 As discussed in 5.8.1 above, the Comp Plan became part of the Town’s mandatory laws with the adoption of the CDC in 2013 and, consequently, “<i>general conformance’ with the Comprehensive Plan</i>” is required for “<i>Planned Unit Developments (PUD)</i>” and “<i>the Town Council and Design Review Board (DRB) should evaluate the application against the entirety of the goals, policies and actions contained in the Comprehensive Plan</i>”. Based on the discussion throughout this and the other “Exhibit NTC” memorandums it appears that requiring this development to be compatible with the surrounding single-family neighborhood is required by the Comp Plan when viewed in the context of “<i>the entirety of the goals, policies and actions contained in the Comprehensive Plan</i>”.</p>
5.10 Page 9	<p><i>Sustainability is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.</i></p>	<p>5.10.1 In their joint campaign letter Mayor Benitez and Councilmember Caton pointed out:</p>

	<p><u>Simply put, sustainable planning seeks outcomes that provide improved environmental health, economic health and social health.</u> These three pillars of sustainability, as they are often called, are especially relevant at the community planning level, where decisions regarding protection of the environment and environmental initiatives can have far-reaching impacts on economic and social health and vice versa. It is the intention and objective of Mountain Village to uphold the highest level of environmental, social and economic sustainability in guiding the next 30 years, so that the town can:</p> <ol style="list-style-type: none"> 1. <u>Promote a rich social fabric</u> within the community; 2. Create a vibrant year-round economy; and 3. Enhance protection while reducing negative impacts on the town's natural environment. 	<p><i>"One measure of increased vitality is the 40.7% increase in our hotels, restaurants, and retail revenues. Those revenues went from \$69.9 million in 2014 to \$98.4 million in 2019, marking a sharp increase in our local economy! <u>This increase in vitality must also be managed so as not to overshadow the livability of our town.</u> We continue to commit to that balance."</i></p> <p>Clearly the Town's economy is growing and doing well. Jamming 207,570 square feet with 58 units development into the Country Club Dr. single-family neighborhood will negatively impact the "livability of our town" in a dramatic manner and so it is incumbent on the Council to scale back the size of this project to ensure it is compatible with the single-family neighborhood and, thereby, preserve the "rich social fabric" and "livability of our town".</p>
5.11 Page 9	<p><u>9. Better sustainability can be achieved by:</u></p> <ul style="list-style-type: none"> • <u>Concentrating development in high density areas</u> to achieve economic sustainability and vibrancy; • <u>Protecting residential neighborhoods;</u> • <u>Maintaining the pristine and quiet character of the community.</u> 	<p>5.11.1 High density is and should be concentrated in the Village Center Subarea because the synergy created by concentrating development results in a vibrancy that can never be achieved by scattering high density 58-unit projects such as La Montagne outside the Village Center Subarea.</p> <p>5.11.2 Once again, the "Protecting residential neighborhoods" and "Maintaining the pristine and quiet character of the community" excerpts could not be more crystal clear and controlling, and the single-family homeowners on Country Club Dr. are simply asking that these provisions be applied to their neighborhood.</p>
5.12 Page 15	<p><u>Residents and visitors of Mountain Village have high expectations for the future,</u> and the town must continue to make great strides to keep pace with such expectations.</p>	<p>5.12.1 Yes, the residents of the Country Club Dr. single-family neighborhood "have high expectations for the future" of their community and their neighborhood and they are asking their Town Council follow</p>

		the dictates of the Comp Plan and assist them in meeting their expectations.
5.13 Page 16	<p>UNIVERSAL VISION STATEMENT</p> <p><u>Mountain Village</u> is a vibrant, healthy town that <u>provides a high quality of life and experiences for full-time and part-time residents</u> and visitors. This is achieved through a sustainable year-round economy, a diversity of housing choices, world-class recreation, environmental stewardship, excellent community services, and well-built and well-designed infrastructure.</p>	<p>5.13.1 On page 15 the Comp Plan states “the <u>Vision Statements convey the community’s priorities for preserving what makes Mountain Village unique</u> and desirable while improving and evolving in order to remain a top resort destination and outstanding place to live.” That being the case, then it appears that providing a “high quality of life and experiences for full-time and part-time residents” should be a priority for the Council. Ask any person who calls the Country Club Dr. single-family neighborhood home and they will readily tell you Mountain Village currently provides them with a “high quality of life”, and in the next breath they will confirm that a 207,570 square foot development with 58 units will go a long way towards ruining their quality of life.</p>
5.14 Page 18	<p>1. <u>Mountain Village is a walkable, pedestrian friendly community</u> where diverse, interconnected neighborhoods and a vibrant commercial center are bordered by open space, outdoor recreation amenities, and other land uses that support a sustainable community.</p>	<p>5.14.1 The existing dangerous vehicle/bicycle/pedestrian situation that engulfs Country Club Dr. from the Mountain Village Blvd. intersection down to Lots 126R and 152R is well documented. The road design of Country Club Drive is fundamentally and permanently limited and will never be able to handle the increased impacts resulting from the excessive amount of density proposed in La Montagne, and no amount of calming measures (e.g. flashing speed signs, bicycle lanes, pedestrian sidewalks that are covered by snow 4-5 months a year, etc.) will sufficiently mitigate the road’s limitations; accidents have already happened on this section of roadway and so please do not make a bad situation worse.</p> <p>5.14.2 Adding any level of development that is not compatible with the existing single-family neighborhood will only serve to needlessly exacerbate the already dangerous situation. If the proposed excessive density is approved then, unfortunately, it is likely only a matter of</p>

		time before disaster strikes. It appears the only rational and responsible action Council can take is to limit any development on the property to a level that is compatible with the existing single-family neighborhood.
5.15 Page 18	<i>1. The relationship between <u>Mountain Village's natural and built environments creates a sense of place and authentic small-town charm</u> unique to the region.</i>	5.15.1 It is hard to imagine how plunking down a 207,570 square foot development with 58 units in the middle of the Country Club Dr. single-family neighborhood will do anything but ruin any " <i>sense of place and authentic small-town charm</i> " that currently exists in the Country Club Dr. single-family neighborhood.
5.16 Page 18	<i>3. <u>Mountain Village is a community where small-town values are important and people can make social and emotional connections.</u> The community character of Mountain Village complements Telluride; it recognizes and embraces its distinctions and similarities.</i>	5.16.1 As noted earlier, in emails from and testimony on July 18 th by persons with homes on Country Club Dr., they and their families have developed close personal relationships with most of the other families who live in the single-family homes on the street; " <i>social and emotional connections</i> " reflecting " <i>small-town values</i> " if you will. If approved, the proposed development will tear apart the very fabric of these " <i>small-town values</i> ".
5.17 Page 22	<i>1. <u>Mountain Village</u> has a low-impact, environmentally friendly transportation system that <u>provides safe, convenient travel options for pedestrians, cyclists and motorists</u> to the ski area facilities, parking facilities, commercial centers, and throughout Mountain Village and the region. The gondola remains an important transportation link to Telluride.</i>	5.17.1 As discussed in paragraph 5.14.2 above, adding any level of development that is not compatible with the existing single-family neighborhood will only serve to needlessly exacerbate the already dangerous " <i>pedestrians, cyclists and motorists</i> " situation which is contrary to the requirement to provide " <i>safe, convenient travel options for pedestrians, cyclists and motorists</i> ". Nothing will be safe if 58 units are added to Country Club Dr.
5.18 Page 22	<i>3. <u>Pedestrian and bike routes provide safe, nonvehicular connections</u> between neighborhoods and activity and community centers.</i>	5.18.1 Same as paragraph 5.17.1 above.
5.19 Page 25	<i>1. The Mountain Village town government is responsive, accountable and accessible. It acts with honesty, integrity, respect and professionalism.</i>	5.19.1 We all look forward to continue working with a " <i>responsive, accountable and accessible</i> " Council and Town staff who act with " <i>honesty, integrity, respect and professionalism</i> " in a thorough, open and transparent process.

5.20 Page 27	<p><u>The principles, policies and actions for each element are the most important part of the Comprehensive Plan because they represent how the community wants to move forward in order to implement the Mountain Village Vision.</u> The Comprehensive Plan Elements provide a policy base by which decisions can be made and recommendations provided. More so, each element is multifaceted, with the main intent to guide Mountain Village toward achieving a desired future state and provide specific guidance on the economic, physical, social, recreational and cultural development of the town. The Comprehensive Plan Elements also intend to:</p>	<p>5.20.1 This excerpt highlights the importance of the Comp Plan to the Council’s decision-making criteria” <i>because they represent how the community wants to move forward in order to implement the Mountain Village Vision.</i>” By this point in your review it is likely to be clear that preserving the quality of life of the Town’s residents is the paramount criteria in the Council’s review of this application. Accordingly, it would appear that preserving the Country Club Dr. single-family neighborhood is the paramount criteria for the Council to address.</p>
5.21 Page 27	<p>1. Provide a policy guide for the Town Council, DRB and staff in evaluating certain development proposals.</p>	<p>5.21.1 Further confirmation of the importance of the Comp Plan in guiding the DRB’s and Council’s decision-making criteria in their review of this application.</p>
5.22 Page 27	<p>3. <u>Provided information</u> to citizens, visitors, regional communities and developers <u>on how Mountain Village will reach the Mountain Village Vision.</u></p>	<p>5.22.1 Puts the developer and the residents of the Town on notice as to the importance of the Comp Plan to the Council’s decision-making criteria in Council’s review of this application.</p>
5.23 Page 38	<p>B. The following land use classification policies shall be applied to the Land Use Plan.</p> <p>1. <u>Single-Family and Duplex</u></p> <p>b. <u>Minimize environmental impacts and ensure development fits into and blends with the existing environment and character of the area.</u></p> <p>e. Create new subdivision regulations to <u>ensure that all development provides adequate infrastructure, fits into the natural conditions of a site,</u> and avoids land with development constraints.</p> <p>f. <u>Respect the integrity of single family and duplex areas.</u> Any proposed rezoning of single-family and duplex-zoned lots must be considered exceptional and must meet specific conditions, such as separation and buffering from other single-family and duplex lots.</p>	<p>5.23.1 This excerpt appears to remove any doubt as to the requirement to preserve the Country Club Dr. single-family neighborhood by ensuring the proposed development “<i>fits into and blends with the existing environment and character of the area</i>”. It is hard to fathom how the Comp Plan could be any clearer; the directive to “<i>Respect the integrity of single family and duplex areas</i>” bolsters this requirement.</p> <p>5.23.2 As Councilperson Caton pointed out on KOTO’s July 30, 2019 Off The Record Program, affordable housing must be viewed as part of our community’s infrastructure. Clearly, we currently have a shortage of affordable housing and new high-density developments such as La Montagne will only add to the problem if they do not fully and completely mitigate the impacts they create. In the developer’s narrative it states “<i>The estimated number of employees being generated from the</i></p>

		<p><i>development is also being reduced by approximately 203 employees (92% reduction)."</i> If you do the math it appears that at a minimum the developer is short two employee apartments under the current proposal.</p> <p>Furthermore, as mentioned elsewhere, now may be an ideal time for the Town to reassess and determine the physical capacities (and therefore the level of new development those capacities can serve) of all the "<i>public facilities and services</i>" it owns and manages (e.g. roads, water, sewer, CATV, gondola, etc.).</p>
5.24 Page 38	<p>2. Multiunit</p> <p><u>a. Allow mixed-use commercial development in multiunit projects in appropriate locations in Meadows, the Ridge, <u>Lot 126</u>, Mountainside Lodge and other locations <u>where Town Council determines, in its sole discretion, that commercial development is appropriate and necessary to serve the project or the neighborhood.</u></u></p>	<p>5.24.1 This excerpt is the ONLY result from a word search of the Comp Plan for the terms "126", "152" and "Rosewood".</p> <p>5.24.2 Clearly a "<i>multiunit</i>" project is contemplated on Lot 126, but remember, as little as a duplex or two detached single-family condominium dwellings constitute a "<i>multiunit</i>" project. The point is that nothing in this excerpt suggests that the "<i>multiunit</i>" project on this site should be as massive as 207,570 square feet with 58 units and commercial uses. Instead, as overwhelmingly required by the numerous other provisions of the Comp Plan cited in this memorandum, the "<i>multiunit</i>" project on this site must be compatible with the existing single-family neighborhood and it is up to the Council to determine what is appropriate.</p>
5.25 Page 38	<p><u>c. Consider minimizing environmental impacts and <u>ensure development fits into and blends with the existing environment and character of the area.</u></u></p> <p><u>e. Consider revisiting all uses allowed in multiunit areas to ensure such uses are <u>appropriate</u> and provide additional design considerations as needed.</u></p> <p><u>f. Create new subdivision regulations <u>to ensure that all development provides adequate infrastructure, fits into the natural conditions</u></u></p>	<p>5.25.1 Just as with the excerpt cited in 5.24 above, these three excerpts appear in the "Multiunit" section of the Land Use Plan Policies portion of the Comp Plan. As such they are the provisions that are most focused on multiunit projects such as this.</p> <p>5.25.2 In its narrative the developer states:</p> <p><i>"It is not practicable to provide setbacks to the wetland areas given the narrow width of Lot 152R and the underlying zoning that</i></p>

	<p><i>of a site, and avoids land with development constraints.</i></p>	<p><i>allows for up to 23 condominium units. Lot 152R is only 80 to 100 feet in depth which is very shallow for a multi-family lot in Mountain Village. The front 16 foot general easement reduces the functional width to approximately 65 to 84 feet at the narrowest points. The development is avoiding the wetland areas which further limits the developable areas of the South Site. Lot 152R has been replatted approximately three times without any general easement on the golf course which the project team believes is due, in part, to the narrow width. This narrow width combined with the underlying density necessitate that development be located as close as possible to the wetland areas to allow for reasonable use of Lot 152R, with the decks of Buildings H and K proposed to slightly cantilever over the wetland areas with approximately ten feet of clearance.”</i></p> <p>The reality is that there is a simple solution to all these problems identified by the developer, in fact it is a solution that is required by these three excerpts, <u>reduce the density of the project</u>. Reducing the density will “<i>ensure development fits into and blends with the existing environment and character of the area</i>” and ensure the development “<i>fits into the natural conditions of a site, and avoids land with development constraints.</i>” The Council must ask itself, with respect to protecting the environment is this Town going follow the dictates of the Comp Plan or merely pay lip service to them?</p> <p>5.25.3 This multiunit site is currently zoned for 164 units; this excerpt requires the Town to revisit the uses on this site to “<i>ensure such uses are appropriate and</i></p>
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		<i>provide additional design considerations as needed.” Everyone, including the developer, agrees the existing 164-unit project is not appropriate. Similarly, everyone, except the developer, agrees the proposed 207,570 square feet with 58 units are not appropriate either.</i>
5.26 Page 40	<i>B. <u>Require rezoning, Planned Unit Developments (PUD)</u>, subdivisions, special use permits, density transfers, and other discretionary land use applications <u>to be in general conformance with the Land Use Plan</u>, the Subarea Plans and their associated principles and policies, and the applicable policies of the Comprehensive Plan.</i>	5.26.1 Same as 5.9.1 above.
5.27 Page	<i>D. <u>Respect the integrity of single family and duplex areas</u>. Any proposed rezoning of single-family and duplex lots should be considered exceptional and must meet specific conditions, such as separation and buffering from other single-family and duplex lots.</i>	5.27.1 This excerpt could not be any clearer and the single-family homeowners on Country Club Dr. are simply asking that this provision be applied to their neighborhood. It is hard to imagine how a 207,570 square foot development with 58 units respect the integrity of the exiting Country Club Dr. single-family area.
5.28 Page 40	<i>G. <u>Require a rezoning, PUD, subdivision or density transfer to meet the following criteria:</u></i> <i>6. The proposal will meet the following or equivalent standards:</i> <i>b. <u>Ensure appropriate scale and mass that fits the site(s)</u> under review.</i> <i>c. <u>Avoid, minimize and mitigate environmental and geotechnical impacts, to the extent practical</u>, consistent with the Comprehensive Plan <u>while also providing the target density</u> identified in each Subarea Plan Development Table.</i> <i>d. <u>Address all site-specific issues to the satisfaction of the town</u> such as, but not limited to, the location of trash facilities, grease trap cleanouts, restaurant vents, and access points.</i>	5.28.1 While a 207,570 square foot development with 58 units may physically fit on the site (barely-see paragraph 5.25.2), it certainly does not fit with the character of the neighborhood. 5.28.2 As discussed in 5.25.2 above, with respect to wetlands this proposal does not “Avoid, minimize and mitigate environmental and geotechnical impacts, to the extent practical”. 5.28.3 It should be noted there is no target density for Lots 126R and 152R, they are merely labeled “multiunit”; and as we know, as little as a duplex or two detached single-family condominium dwellings constitute a “multiunit” project. 5.28.4 Due to the flaw in the current process, at this point in time it is impossible to identify “all site-specific issues” making it impossible to address them “to the satisfaction of the town”.

5.29 Page 41	<p><i>I. Mountain Village promotes a land use pattern, as envisioned by the Comprehensive Plan, that provides economic and social vibrancy, maintains a minimum of 60% open space, and better protects and preserves open space areas as shown on the Land Use Plan. The following policies and actions should be considered by Town Council:</i></p> <p><i>I. Create two separate processes for creating a PUD: (i.) a site specific PUD process that evaluates <u>detailed engineered and architectural plans</u>; and (ii.) a master phased PUD (MPPUD) process that considers large phased PUDs which implement the policies of the Comprehensive Plan with detailed architectural and engineered plans provided in phases over time with the assurance the criteria outlined in G above will be met at a future date.</i></p>	<p>5.29.1 This application involves a SPUD and, therefore, requires the developer to provide “<i>detailed engineered and architectural plans</i>” for evaluation in order to create a “site-specific development plan” as required by CDC Section 17.4.12.B.1.a. However, contrary to this requirement, the developer is not providing “<i>detailed engineered and architectural plans</i>” for the North Site. Consequently, the developer should be required to provide “<i>detailed engineered and architectural plans</i>” for the North Site before this process can proceed any further.</p>
5.30 Page 50	<p><u>Focus high density, mixed-use development in Mountain Village Center</u> by significantly increasing the hotbed inventory to improve the overall economic viability and activity in Mountain Village Center and the town as a whole.</p>	<p>5.30.1 This excerpt could not be any clearer, “<i>Focus high density</i>” in the Mountain Village Center, not in the middle of low-density single-family neighborhoods such as Country Club Dr. At a density of 12.66 units/acre the proposed 207,570 square foot development with 58 units and commercial space certainly qualifies as a “<i>high density, mixed-use development</i>” that belongs in the Mountain Village Center, not in the Country Club Dr. single-family neighborhood.</p>
5.31 Page 50	<p><i>Improved traffic circulation with a roundabout at the intersection of Mountain Village Boulevard and Country Club Drive.</i></p>	<p>5.31.1 This is evidence of the fact that the Town has been aware of the existing dangerous vehicle/bicycle/pedestrian situation that engulfs Country Club Dr. since the time the Comp Plan was adopted; please do not make it worse by approving a high-density project.</p>
5.32 Page 50	<p><i>Prioritize pedestrian circulation to and within Mountain Village Center.</i></p>	<p>5.32.1 Please do not make it worse by approving a high-density project.</p>
5.33 Page 72	<p><u>There is an emphasis throughout the Comprehensive Plan to protect the natural landscape that is found within and around Mountain Village.</u> The visitor experience that draws so many people to Mountain Village would not be possible without the town’s spectacular setting. <u>But</u></p>	<p>5.33.1 The Telluride Golf Course is one of the premier amenities to both Mountain Village residents and guests and so it is hard to understand how the 48’ foot high corridor-like effect (yikes-yes 48’) created by the virtually solid row of buildings (due to building overlapping) on Lot 152R can</p>

	<p><u>it is not only the aesthetic appeal of the area's natural resources that make their protection so important, it's their role in maintaining regional ecological health that make conservation policies so significant to Mountain Village's future.</u> The natural areas found throughout Mountain Village provide important wildlife habitat for a myriad of alpine-dwelling species; <u>the wetlands ensure that the hydrology of the area is protected;</u> and the riparian corridors provide important habitat linkages to the national forest that surrounds Mountain Village. <u>Wetlands and riparian areas provide several key functions and values</u> including wildlife habitat, water quality protection, floodwater attenuation, and maintenance of surface water flow. The following principles, policies and actions provide a foundation to <u>protect natural resources within and around Mountain Village</u> and recognize the role that the town plays in sharing this responsibility with neighboring communities, public agencies, nongovernmental organizations and other regional partners.</p>	<p>be viewed as protecting "the natural landscape that is found within and around Mountain Village." Similarly, the northern edge of the Lot 152R buildings create a 30' to 35' corridor-like effect along Country Club Dr., once again it is hard to understand how that can be viewed as protecting "the natural landscape that is found within and around Mountain Village."</p> <p>5.33.2 , A design that (i) pushes the buildings as close to the lot lines as possible, (ii) presses up against the wetlands, (ii) is likely to choke off the subsurface wetland water source and (iv) is totally out of character with the single-family lots that surround it, appears to show little regard for preserving "the area's natural resources" despite the fact they are necessary for providing "several key functions and values including wildlife habitat, water quality protection, floodwater attenuation, and maintenance of surface water flow."</p>
5.34 Page 72	<p><u>I. Mountain Village is committed to the protection of its sensitive natural resources from incompatible development and activities.</u> Town Council should consider the creation of regulations in the LUO and the Design Regulations that include the following policies and actions and also ensure ongoing town monitoring for compliance and protection of sensitive resources.</p>	<p>5.34.1 Are we? Is this Town going follow these dictates of the Comp Plan or merely pay lip service to them? The CDC regulations are in place, it only takes leadership and political courage to follow them. The citizens of this community are looking to Council for this leadership and political courage.</p>
5.35 Page 72	<p>WETLANDS AND WATER QUALITY</p> <p>A. <u>Avoid disturbance to wetland areas to the maximum extent possible,</u> and minimize and mitigate impacts where site conditions preclude the ability to avoid wetland impacts.</p> <p>B. Create and adopt wetland regulations based on current planning practices and the Wetlands Management Plan for the Telluride Mountain Village, dated October 1996, that is shown as Exhibit 5 of the EPA Consent Decree under United States District Court for the District of</p>	<p>5.35.1 As discussed in paragraph 5.25.2, in its narrative the developer states "It is not practicable to provide setbacks to the wetland areas given the narrow width of Lot 152R and the underlying zoning that allows for up to 23 condominium units. Lot 152R is only 80 to 100 feet in depth which is very shallow for a multi-family lot in Mountain Village." The reality is that there is a simple solution to these problems identified by the</p>

	<p>Colorado, Civil Action No. 93-k- 2181 (Management Plan). At a minimum, the wetland regulations should require the following</p> <p>1. <u>Avoid further impacts to wetlands</u> and other waters be avoided, if possible (Section 5.0 of the Management Plan).</p> <p>2. <u>Avoid of wetland impacts where possible.</u> If avoidance is not possible, minimize and mitigate wetland impacts (Section 5.0 of the Management Plan).</p> <p>3. Provide a thorough, written evaluation of practical alternatives to any fill, excavation or disturbance of any wetland (Section 5.1.A of the Management Plan).</p> <p>4. Allow for the reconfiguration of a lot with surrounding lots to avoid wetland impacts if possible (Section 5.1.B of the Management Plan).</p> <p>5. <u>Design</u> proposed roads, utilities, ski runs and <u>parking facilities to avoid</u>, minimize or mitigate <u>wetland impacts</u> (Section 5.1.C of the Management Plan).</p>	<p>developer, in fact it is a solution that is required by this excerpt, <u>reduce the density of the project and limit the underground parking on Lot 152R so it does not dry up the wetland's water source.</u></p> <p>5.35.2 Once again, is this Town going follow these dictates of the Comp Plan to avoid "<u>wetland impacts where possible</u>" or merely pay lip service to them?</p>
5.36 Page 73	<p>C. <u>Provide appropriate setbacks to wetland areas where possible.</u></p>	<p>5.36.1 This is easily accomplished, reduce the density of the project. Yet again, is this Town going follow these dictates of the Comp Plan or merely pay lip service to them?</p>
5.37 Page 78	<p>Build summer trailhead parking on Country Club Drive at Boomerang and Jurassic Trailheads.</p>	<p>5.37.1 Whoa, wait a second, is this a good idea? Do we really want to encourage more traffic on Country Club Dr.? Do we really want to build a parking lot on Tract OS-118, is there even room on the tract once the realigned trail is built? What do the owner of Lot 117 and the developer think of having a parking lot next door?</p>
5.38 Page 83	<p>4. <u>Require</u> all new hotbed site developments, or <u>hotbed site developments that seek a PUD modification or a modification to a development agreement, to provide (i) van, bus or limousine service</u> to pick up guests from the Telluride and Montrose airports; (ii) van or bus service for employees living in surrounding communities outside the Telluride Region; or (iii) provide equitable funds to the town, a transit district, or a cooperative of hotbed developments to the operate a regional transit services.</p>	<p>5.38.1 The nature and scope of this service can only be determined once the density of the project is established. In view of the existing dangerous vehicle/bicycle/pedestrian situation, does the Council really want to approve a 58-unit project that will add more than twice the amount of "<u>van, bus or limousine</u>" traffic that currently exists?</p> <p>5.38.2 This is another reason that this application should be tabled or continued</p>

		until a complete application, including an amended development agreement is provided by the developer.
5.39 Page 83	4. Strive to <u>minimize on-street parking</u> to the maximum extent practical.	5.39.1 Problems with on-street parking on Country Club Dr. already exist at the Peaks, please be sure provisions are in place for this development to ensure <u>zero</u> on-street parking occurs because it will only exacerbate an already very dangerous situation.
5.40 Page 84	<p>E. <u>Ensure</u> the road, <u>sidewalk</u> and trail systems in Mountain Village <u>are maintained</u> and improved, <u>as needed</u>.</p> <p>1. Periodically <u>evaluate</u> road intersection safety and capacity, road maintenance needs, and associated <u>sidewalks</u> and trails installation and maintenance <u>to ensure safe levels of service</u>, overall safety, and the provision of well-maintained roads, sidewalks and trail systems.</p>	<p>5.40.1 This issue has been beaten to death by everyone. The Comp Plan requires the analysis and a solution.</p> <p>5.40.2 There have been many, many winters in which the plowed snowbanks on the north side of Lot 152R stand six to seven feet tall for a good part of the winter. Unfortunately, those snowbanks happen to be located in the exact same place as the sidewalk proposed by the developer; consequently, for three to five months of every year it appears the sidewalk will be impassable and unable <u>“to ensure safe levels of service”</u>.</p> <p>5.40.3 In his October 10, 2019 email to John Miller, the Town’s Public Works Director, Finn Kjome, stated:</p> <p><i>“All road-right-away widths and 16 ft General Easements along the road must remain. It is expected that the GE will <u>be used for snow storage</u>. Landscaping should consider this . . . Sidewalk maintenance responsibility will need to be defined.”</i></p> <p>Mr. Kjome’s comments appear pretty clear, the area where the developer is proposing to locate the sidewalk is expected to <u>“be used for snow storage”</u>. Nothing in the developer’s application addresses <u>“Sidewalk maintenance responsibility”</u>, it seems like that issue is something that would be addressed in the missing PUD development agreement.</p>

<p>5.41 Page 84</p>	<p><u>2. Promote the pedestrian nature of Mountain Village by providing sidewalks along roads where needed in high density areas and provide trails in lower density areas consistent with the Potential Recreation Projects Plan.</u></p> <p><u>a. Maintain plowed sidewalks only in high density areas during the winter months. Sidewalks in low density areas should not be plowed during the winter months.</u></p>	<p>5.41.1 The existing dangerous vehicle/bicycle/pedestrian situation persists year around. The issue presented by the enormous snowdrifts must be addressed.</p> <p>5.41.2 The developer's narrative acknowledges it does not have either the legal right or the commitment of other "stakeholder" to pay for the sidewalk and, therefore, it may never be built. That is a problem!</p>
<p>5.42 Page 85</p>	<p><u>Local governance is the primary means for a community to realize and protect its vision, express opinions, and protect the public interest, health, safety and welfare.</u></p> <p><u>Responsive governance is creating and maintaining a government that is responsive to the community's needs and desires.</u> <i>In the end, good, responsive governance makes great communities.</i></p> <p><i>I. Mountain Village Town Council, boards and employees fully embrace and recognize the importance of being an excellent civil servant, with the primary goal of serving the public interest and the overall community.</i></p>	<p>5.42.1 Pretty heady stuff, and <u>VERY, VERY</u> important. This is where the rubber meets the road. The decisions Council makes on this application will have effects for not just years but for generations to come, this is a <u>VERY BIG DEAL</u>. The decisions will not be easy, if they were easy then they would already have been made. No one envies the difficult decision each councilmember is faced with, but the reality is that is what each of you signed up for when you ran for Council. However, the facts and the regulatory criteria appear to make it pretty clear, the proposed development is much too big for the site.</p> <p>If you make the tough decisions today, some people may not be happy with you <u>today</u>, but this community will thank you for <u>generations to come</u>.</p> <p>5.42.2 As members of this community we do not make the rules, Town government makes the rules; and as evidenced by the lengthy memorandums we have submitted, the rules applicable to this project are extensive. We would rather not have to draft such lengthy submittals, but the Town's lengthy rules leave us no choice. It is likely you would rather not have to review our lengthy submittals, but being a responsive government requires your review, and we deeply appreciate your efforts and commitment.</p>

5.43 Page 86	<p><i>III. All town employees and representatives act with honesty, integrity, respect and professionalism.</i></p> <p><i>A. Maintain high ethical standards and respect in the conduct of all business.</i></p>	5.43.1 Once again, pretty heady stuff and we feel our current Council, DRB and staff reflect these ideals. If the Council provides a thorough, open and transparent process then the dictates of this excerpt will be accomplished. A key to accomplishing this will be ensuring all material discussions on this application will occur in open meetings and not in executive sessions.
5.44 Page 90	<p><i>By-right Development: <u>development</u> that is permitted by the underlying zoning and Design Regulations <u>that does not require</u> subdivision, <u>rezoning, density transfer or other discretionary development review applications.</u></i></p>	5.44.1 Without question, a PUD amendment is an “other discretionary development review applications” and, by this definition, does not qualify as a “By-right Development”. Therefore, despite the three “by right” references in the developer’s narrative, no aspect of its application should be viewed as a “By-right Development”.
45	<p><u>General Conformance: a suggested review criteria of the Comprehensive Plan that is intended to be applied to certain development review applications such as rezoning, density transfers</u> and subdivisions. When a development application is evaluated regarding its general conformance with the Comprehensive Plan, <u>the Town Council and Design Review Board (DRB) should evaluate the application against the entirety of the goals, polices and actions contained in the Comprehensive Plan and need not require compliance with every provision contained therein.</u> Nonetheless, <u>the Town Council and DRB may require that an applicant satisfy any particular goal, action or policy if such compliance is deemed necessary to attain general conformance.</u></p>	5.45.1 Section 17.12.4.E.1 requires that “The proposed PUD is in general conformity with the policies, principles and standards set forth in the Comprehensive Plan”, this excerpt defines what is required to achieve “general conformity”. In this memorandum we have attempted to set forth “the entirety of the goals, polices and actions contained in the Comprehensive Plan” that are applicable to this application. When viewed in its entirety, there appears to be little question that the proposed 207,570 square foot development with 58 units must be dramatically reduced in density, mass and scale to ensure it protects and is compatible with the existing single-family neighborhood.
5.46 Page 91	<p><i>Planned Unit Development (PUD): a development review process that allows for variations to the LUO and Design Regulations pursuant to criteria, such as provision of a public benefit, which results in a detailed development agreement.</i></p>	5.46.1 The extent to which this proposal is allowed to exceed the density, mass and scale of the existing single-family neighborhood is dependent in part on the nature and size of the “public benefits” provided by the development. Mitigating impacts created by the development (e.g. traffic calming measures (e.g. flashing speed signs, bicycle lanes, pedestrian sidewalks that are covered by snow 4-5 months a year, etc.) and affordable

		<p>housing clearly do not constitute “<i>public benefits</i>”.</p> <p>5.46.2 Tracts OS-126 and OSP-118 have existed for 12 years and so it is hard to comprehend how their continued existence rises to the level of a community benefit. It should also be noted that paragraphs 2 and 36 of the Council Resolution that approved the Rosewood PUD, recorded at Reception #391879, state:</p> <p style="padding-left: 40px;"><i>“2. The Applicant shall convey fee title ownership of the proposed Open Space Lots OS-126 and OS-118 to the Town of Mountain Village.</i></p> <p style="padding-left: 40px;"><i>36. Tract OS-118 will be transferred to the Town following the completion of the relocation of the Boomerang Road/Trail onto Tract OS-118, but in any event, the transfer of Tract OS-118 shall occur prior to the issuance of a certificate of occupancy for occupiable space in the Project.”</i></p> <p>Regardless of who is owner of Tracts OS-126 and 118, it appears the practical effect of these paragraphs is that the property owner is already obligated to convey these tracts to the Town. Consequently, it appears the developer is trying to claim a public benefit for something it is already obligated to do.</p>
5.47 Page 42	<p><u>E. Conduct neighborhood meetings to develop a list of improvements that promote a better sense of community</u> and distinct identity for each neighborhood and subarea within Mountain Village.</p>	<p>5.47.1 Developer’s narrative states the current plan “<i>is based on the land uses envisioned in the Mountain Village Comprehensive Plan (“Comprehensive Plan”); town input, community input and neighbor comments based on several individual meetings.</i>” While we may not have spoken to everyone who participated in the “<i>several individual meetings</i>” we feel we have spoken with most of the individuals; and based on our discussions</p>

		the meetings can best be characterized as one-way conversations in which the developer's representatives told the participants what the development was going to be and why. The participants indicated that their suggested substantive changes to density, mass and scale were completely ignored and only suggestions that merely rose to the level of "rearranging deck chairs on the sinking Titanic" were considered by the developer. The only public meeting was held at the beginning of the fall off season on October 3, 2019. Bottom line, the developer has failed to secure any of the meaningful input contemplated by this excerpt.
5.48 Page 21	21 1. <u>Mountain Village offers an exceptional setting in which to live, work, invest and visit. Residential neighborhoods are surrounded by scenic alpine landscapes, forested mountain open space, alpine vistas, and wildlife habitat.</u> A system of open space creates attractive buffers between the built and natural environments and gives context to the built environment. Together, open space conservation and recreation contribute to the quality of life and a robust economy in Mountain Village.	5.48.1 Sounds pretty idyllic, in fact it sounds like the description you will currently get from most families who live in the Country Club Dr. single-family neighborhood. Those families are asking the Council to preserve "exceptional setting in which" they live and work by requiring this development to be compatible with their single-family neighborhood.
5.49 Page 83	C. Provide a world class, intra-town gondola and bus mass transportation system that connects all neighborhoods in Mountain Village in order to <u>significantly reduce vehicular trips</u> , improve sustainability, and offer convenient, efficient transportation for residents and guests.	5.49.1 In its narrative the developer states "The La Montagne Project will provide a shuttle to transport owners and guests to key areas in Mountain Village (Village Center, Town Hall, etc.)". If "a shuttle to transport owners and guests to key areas in Mountain Village" then it seems hard to see how this proposal will "significantly reduce vehicular trips".
5.50 Page 86	V. <u>Mountain Village creates and instills a culture of community</u> and community service that encourages more volunteerism and citizen participation in Mountain Village's town government. A. <u>Create a better sense of community and civic vitality by improving the quality of the town's social infrastructure that consists of networks of organizations and institutions, community gathering places, bonds of friendship and neighborliness</u> , civility, access to	5.50.1 As expressed in emails and testified to on July 18 th by persons with single-family homes on Country Club Dr., they and their families have developed personal relationships with most of the other families who live in the single-family homes on the street; a "sense of community" based on "bonds of friendship and neighborliness" if you will. Clearly, the families in the Country Club Dr. single-family neighborhood have established "all

	<i>information, opportunities for civic and electoral engagement and opportunities for philanthropic giving. Together, all of these elements create a welcoming, engaging, informed, and inclusive community where residents identify Mountain Village as their home and a place where they belong, feeling connected to friends and the community.</i>	<i>of these elements [to]create a welcoming, engaging, informed, and inclusive community where [they]identify Mountain Village as their home and a place where they belong, feeling connected to friends [in their neighborhood] community.”</i> Allowing a 207,570 square foot development with 58 units will go a long way towards ruining any “sense of community” and “social infrastructure”.
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153 END OF MEMORANDUM