

## AGENDA ITEM 10 PLANNING & DEVELOPMENT SERVICE PLANNING DIVISON

455 Mountain Village Blvd. Mountain Village, CO 81435 (970) 728-1392

**TO:** Town of Mountain Village Town Council

FROM: Drew Nelson, Senior Planner

**FOR:** Town Council Public Hearing; January 18, 2024

**DATE:** January 9, 2024

**RE:** Staff Memo – Consideration of a Resolution Regarding a Conditional Use Permit

Application, Lot SS811, 2 Mountain Village Boulevard pursuant to CDC Section

17.4.14

## APPLICATION OVERVIEW: Conditional Use Permit for Driveway Construction and Use on Tract OSP-18A

#### **PROJECT GEOGRAPHY**

**Legal Description:** Tract OSP-18A, Telluride Mountain Village, according to the plat recorded August 23, 1993 in Plat Book 1 at page 1553, County of San Miguel, State of Colorado.

Address: 2 Mountain Village

Boulevard

Applicant/Agent: Ankur Patel, 2

MV Blvd LLC

Owner: Chad Horning, TSG Ski &

Golf, LLC.

Zoning: Open Space

Existing Use: Open Space

Proposed Use: Open Space and

Driveway

Lot Size: 1.231 acres Adjacent Land Uses:

> North: Mountain Village Boulevard, Open Space

South: Vacant / Proposed Single-

Family

East: Open SpaceWest: Open Space



Figure 1: Vicinity Map, OSP-18A (north) and SS811 (south)

#### **ATTACHMENTS**

Exhibit A: Sight Distance Analysis Exhibit B: Staff/Public Comments

<u>Case Summary</u>: Ankur Patel of 2 MV Blvd LLC, on behalf of Chad Horning of TSG Ski & Golf, LLC is requesting Town Council approval of a Conditional Use Permit Application for construction of a driveway on Tract OSP-18A. The construction of a driveway is to serve as access to an approved single-family home on Lot SS811, 2 Mountain Village Boulevard.

The Conditional Use Permit application is required for construction of a driveway on Tract OSP-18A, which is zoned as dedicated open space. Tract OSP-18A is situated between Lot SS811 and Mountain Village Boulevard. Both OSP-18A and Lot SS811 contain wetlands, which has been significantly considered in the design of the proposed home on SS811.

The driveway location on Lot OSP-18A is proposed in an effort to avoid impacts to significant wetlands that encompass Lot SS811. Wetlands are present along the eastern portion of SS811 and in areas adjacent to Arizona Drive, the other public roadway that could reasonably provide access to the site.

A wetland delineation was conducted in 2014, as shown on the existing conditions map dated 6/11/21 in the application materials (Exhibit A). Per the "Finkbeiner Report" conducted by the Environmental Protection Agency in 1990, a comprehensive assessment of wetlands and wetland impacts for the Town of Mountain Village, the sedge-willow wetland that spans the two land tracts is 2.08 acres. Tract OSP-18A is approximately 1.231 acres. An updated preliminary wetlands delineation was submitted with the application for development on SS811, which includes updated mapping and analysis. This analysis was completed in the fall of 2022. The proposed driveway would impact approximately 200 sq ft of the wetland along Mountain Village Boulevard.

The Design Review Board reviewed this application at their regular meeting on January 4, 2024, and unanimously recommended denial of the Conditional Use Permit, finding that a single family driveway with direct access to Mountain Village Blvd. was not meeting their understanding of "community character" as described in the Comprehensive Plan, and due to concerns about potential traffic conflicts on Mountain Village Boulevard.

**Applicable CDC Requirement Analysis:** The applicable requirements cited below follow CDC Section 17.4.14.D Conditional Use Permits, Criteria for Decision and 17.4.14.E General Standards for Review. *Please note that Staff comments will be indicated by* Blue Text.

#### 17.4.14.D. Criteria for Decision.

Section 17.4.14.D contains nine criteria which must be met for approval of a Conditional Use Permit. Staff has described the criteria in relation to the proposed development below.

#### Conformity with Policies, Principles, and Actions of Comprehensive Plan

The predominate land uses in the Future Land Use Map of the Comprehensive Plan are "Single-Family" and "Active Open Space (Limited Use Golf Course, Full Use Ski Resort, and Limited Use Ski Resort) Tract OSP-18A is currently zoned Active Open Space and located between Mountain Village Boulevard and a vacant lot that is designated and zoned as single-family residential. The proposed driveway on Tract OSP-18 would be used for access to a proposed single-family home and otherwise remain as open space.

The future land-use map shows OSP-18A as Resource Conservation Active Open Space. Though the future land use categories do not apply until the property is re-zoned, resource conservation does allow for access as a permitted use per the use table (without a CUP). See below (resource conservation is shown in pale green, vs. olive green for passive open space and kelly green for Limited Line Celf Course active open space):



It could be inferred that the previous drafters of the Comprehensive Plan recognized the proposed access and existing easement across OSP-18A and that is why the future land use category differs from that of the surrounding open space.

As part of the Design Review Board's review, the DRB determined that the application is not in conformance with the Comprehensive Plan. In particular, the DRB cited the following part of the Comprehensive Plan from Chapter 2: Mountain Village Vision (p. 16):

#### Community Character Vision

 The relationship between Mountain Village's natural and built environments creates a sense of place and authentic small-town charm unique to the region. The level of construction in Mountain Village does not reduce the quality of life for residents and visitors.

#### Compatibility and Impacts to Surrounding Land Uses

Surrounding land uses are single-family residential or both passive and active open space. The proposed development on SS811 would take access from Mountain Village Boulevard via Tract OSP-18A or from Arizona Drive. The proposed driveway on Tract OSP-18A would minimize impacts to wetlands to a reasonable extent. Construction of a driveway from Arizona Drive would impose more substantial impacts to wetlands or require the construction of a bridge. This option has been determined by the applicant to be the least impactful alternative.

#### Physical Hazards to Neighborhood, Public Facilities, Infrastructure, or Open Space

The construction of a driveway is considered a typical development activity and will not present a substantial physical hazard to any neighborhood, public facilities, or infrastructure or open space. The applicant has also conducted a line-of-sight study comparing access between the proposed driveway location off Mountain Village Blvd. and the intersection of Arizona Street with Mountain

Village Blvd. It appears that the site line of the proposed driveway location is slightly better than that of the Arizona St. intersection.

The Design Review Board identified traffic concerns with the proposed driveway onto Mountain Village Boulevard. The applicant has provided a traffic study that analyzed sight distances onto the road, which indicates that the sight distances are essentially the same for both the proposed driveway as well as Arizona Street, indicating that both are safe and reasonable designs to avoid conflicts between drivers from any intersection. The DRB was concerned that a driveway accessing Mountain Village Boulevard would be out of character for the main arterial roadway into Town and could potentially confuse drivers, leading to potential conflicts and/or accidents.

#### Significant Adverse Effect to Surrounding Property Owners and Uses

A driveway is necessary for access to the property at Lot SS811. Depending on where access is located, it affects neighboring properties differently. A driveway off of Arizona Drive (orange arrow below) would be highly visible to the owners of Lot 810C. A driveway off of Mountain Village Blvd. presents a new development pattern, as there are no other single-family driveways with direct access to Mountain Village Blvd. until you get beyond the Village Center. DRB should discuss whether granting of a CUP on Lot OSP 18A presents significant adverse effects to surrounding properties.



#### Significant Adverse Effect on Open Space

Tract OSP-18 is approximately 1.231 acres in size. As demonstrated by the Site Grading and Drainage Plan in the application materials for Lot SS811, the proposed driveway runs north to south from Mountain Village Boulevard to Lot SS811.

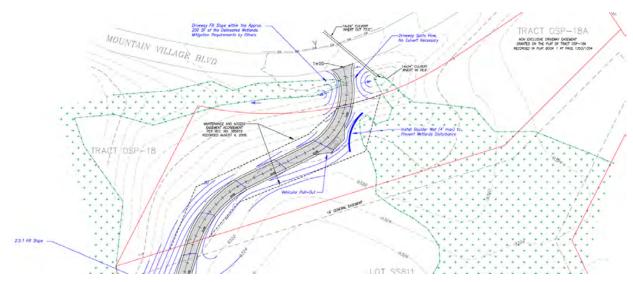


Figure 2: Site Grading and Drainage Plan, per application materials for Lot SS811

Tract OSP-18A is a lot that lies between a primary ingress and egress road to the Town of Mountain Village (Highway 145) and a proposed single-family home. While the lot does prohibit development and therefore preserves open space, it is not a contiguous, large tract of land that is being unreasonably fragmented by the driveway, since development already occurs on all sides.

Although the proposed driveway will cause construction in an open space tract, the location is chosen as it is deemed to be the least impactful to wetlands, which are an important feature of open space and the immediate area.

#### Adverse Environmental and Visual Impacts

A planning alternatives exercise was conducted in 2014/15, to analyze access to the property from either Arizona Drive or Mountain Village Boulevard. It was determined at that time that the access point off Mountain Village Boulevard created the least impact to wetlands. As stated in the Practicable Analysis in Exhibit A, "Access off Arizona Drive would require a 20' x 180' driveway (approximately 3,600 sq. ft.), which would have direct impacts to wetlands and could potentially impact hydrology of adjacent areas due to disruption of groundwater movement." This study was referenced and used as rationale by the applicant of Lot SS811 in determining the most appropriate access to the site.

Following the alternatives exercise, the owner of Lot SS811 prepared a design for access off Mountain Village Boulevard and obtained a permit from the Army Corps of Engineers for impacts to the wetland (see Exhibit A). The issuance of the permit was based on the fact that the "least impactful" alternative had been selected for access. Note that this permit was valid for two years and expired in 2017.

The applicant of Lot SS811 has provided site plans demonstrating the proposed driveway on OSP-18 would impact approximately 200 sq. ft. of wetlands. The DRB found during the November 3, 2022, meeting that this is the least impactful option. The applicant has provided a sight distance analysis (dated October 13, 2023), which indicates that the preferred access from Mountain Village Boulevard would provide better sight distance when turning movements are going to be made onto the street from the proposed driveway over Arizona Drive.

Despite recent changes to federal rules with regard to wetlands, the Town of Mountain Village is still a participant in the Consent Decree with the Environmental Protection Agency from 1997. This Consent Decree requires that the Town be an active partner in regulating wetlands in conformance with the Clean Water Act, the Colorado Water Quality Control Act, and the Town's Wetlands Regulations in Section 17.6.1.B. of the CDC.

#### Adequate Infrastructure

The driveway provides adequate infrastructure for the intended use. Additionally, the revised sight distance study along Mountain Village Boulevard has been included in Exhibit A. Sight distances were determined for both a passenger vehicle and a small box truck at the height of the driver. The analysis was completed in both directions, east and west. LSC Transportation Consultants, Inc. summarized their study by saying, "The existing sight distance along Mountain Village Boulevard from both the preferred location and via Arizona Street are acceptable, but the sight distance to the east is slightly better for the preferred site access directly to Mountain Village Boulevard."

#### Damage or Contamination to Public, Private, Residential, or Agricultural Water Supply

Although wetlands are necessary for the recharge and health of groundwater, the wetland is not used as a direct water supply. It is therefore determined the access driveway will not contaminate or damage any water supply sources. Additionally, the location of the driveway compared to Arizona Street will have a minimal impact on the wetland and can be mitigated effectively.

#### Applicable Town Regulations and Standards

Tract OSP-18A is located in an area currently classified as "Full Use Ski Resort Active Open Space (Class 3 AOS)". The use of land classified as Class 3 AOS for an access road or driveway requires a conditional use permit.

The owner of Lot SS811 has an access easement through OSP-18A from TSG Ski & Golf, LLC, for the use of a driveway to Lot SS811. This easement was recorded with San Miguel County on August 4, 2006. Additionally, the Town Council approved a right-of-way encroachment agreement for an address monument on Mountain Village Boulevard associated with Lot SS811 in 2015 (Resolution Number 2015-0820-16), which reflects that a driveway was contemplated to take access from Mountain Village Boulevard at that time.

#### 17.4.14.E. General Standards for Review

The location of a conditional use shall best serve the proposed use while minimizing potential adverse impacts.

Two access alternatives have been contemplated for the development of Lot SS811 as a single-family residence. Constructing a driveway through Tract OSP-18A is deemed to be the least adverse option. This option has the smallest physical impact to wetlands, which are considered a critical natural feature to protect.

#### **Design Review Board Recommendation**

The Design Review Board reviewed this application on January 4, 2024. The DRB unanimously recommended denial of the application due to the following concerns:

- Community character and aesthetics of a driveway for a single-family residence onto Mountain Village Boulevard, especially at the entrance to the community. This is in conflict with aspects of the Comprehensive Plan
- Impacts to existing wetlands in the Mountain Village Boulevard right-of-way.
- Traffic and turning movements onto Mountain Village Boulevard.
- Concerns regarding construction traffic and staging, additive to future construction traffic in Mountain Village.

**Staff Recommendation:** Staff recommends the Town Council approve the Conditional Use Permit for a driveway on Lot OSP-18A, with the conditions noted below. It should be noted that the Design Review Board recommended **denial** of the application.

Staff Note: It should be noted that reasons for approval or rejection should be stated in the findings of fact and motion.

#### **Proposed Motion:**

If the Town Council determines that there is adequate evidence to approve the Conditional Use Permit, Staff requests said approval condition the items listed below in the suggested motion.

I move to approve Resolution \_\_\_\_\_\_, approving a Conditional Use Permit for a driveway access on Lot OSP-18A to the adjacent Lot SS811, based on the evidence provided in the staff record of memo dated January 8, 2024, and the findings of this meeting with the following conditions:

- 1) Prior to building permit the applicant shall provide an updated wetland delineation.
- 2) Prior to building permit the applicant shall obtain approval and any necessary federal permits for any proposed wetland disturbances.
- 3) If no federal approval is required, the applicant will submit detailed plans regarding any wetland disturbance for staff review and approval in coordination with a contracted wetland consultant.
- 4) Lot OSP-18A shall not be used for the storage of any materials, vehicles, or any other items related to the construction of the home on Lot SS811. All construction activity related to development on SS811 shall be located on that parcel.
- 5) To mitigate the impact to wetlands on OSP-18A, the applicant shall provide a replacement wetland of equal or greater size as well as an agreement with the Town in a form to be approved by the Town Attorney to guarantee functioning of the replacement wetland in perpetuity.
- 6) Prior to building permit the applicant shall provide designs for an address monument sign on Mountain Village Boulevard for staff review and approval with the Design Review Board chairperson.

Should	the	Town	Council	determine	that	there	is	not	adequate	evidence	to	approve	the
Condition	onal	Use Pe	rmit, staf	f would offe	r the	followi	ng	moti	on for deni	al of the ap	pliq	cation:	

I move to approve Resolution	, denying a Conditional Use Permit for a driveway access on
Lot OSP-18A to the adjacent	Lot SS811, based on the evidence provided in the staff record of
memo dated January 8, 2024,	and the findings of this meeting:

#### MEMORANDUM

From: Garfield & Hecht, P.C., Town Attorneys

To: Mountain Village Planning Department

Date: December 18, 2023

RE: Town of Mountain Village Wetlands Regulations

The Town of Mountain Village ("TMV") regulates wetland disturbance associated with land use and development within TMV. TMV's wetlands regulations are codified in Section 17.6.1(B) of the Community Development Code (the "Town Wetland Regulations"). Additionally, certain parts of TMV are subject to both the Wetland Regulations and a Wetland Management Plan ("WMP") imposed by the Consent Decree entered into by the Environmental Protection Agency ("EPA") and Telluride Ski and Golf in 1997. The Consent Decree was the negotiated conclusion of an EPA enforcement action involving unauthorized fill of wetlands in what is now TMV. The wetlands subject to the WMP are those wetlands identified in the WMP or located on land now owned by Telluride Ski and Golf or owned by Telluride Ski and Golf as of April 1997. The Consent Decree was terminated in 2013, but per Section 19 of the Consent Decree, the WMP remains in effect until modified or terminated by the EPA.

The state and federal governments also regulate wetland disturbance under the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.* (the "CWA") and Colorado Water Quality Control Act, C.R.S. §§ 25-8-101, *et seq.* ("WQCA"), and their respective implementing regulations. The EPA and Army Corps of Engineers administer ("ACOE") the CWA, while the Colorado Department of Public Health and Environment ("CDPHE") and its commissions administer the WQCA.

Whether a "wetland" is subject to one or more of the above regulatory schemes depends on the definition of "wetland." The CWA applies to "navigable waters" which is defined to mean "the waters of the United States, including the territorial seas." The state WQCA is and has historically been broader than CWA jurisdiction in that the WQCA covers "state waters," which means "any and all surface and subsurface waters which are contained in or flow through the state." The Town Wetland Regulations define wetland as "an area where water is at, near, or above the land surface long enough to support aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. Determination of wetlands area boundaries shall be according to the United States Army Corps of Engineers delineation requirements." CDC Sec. 17.8.1. Thus, for purposes of regulating wetlands in connection with development in TMV, the threshold wetland determination defers to federal law.

Federal agency definitions of "waters of the United States" and others applicable to wetlands regulation are set forth in 40 CFR 120.2 (EPA regulations) and 33 CFR 328.3 (ACOE regulations). The definitions have changed over time based on evolving agency interpretation of the term and federal appellate and supreme court case law but have come to include wetlands when they are adjacent to or connected with a "water of the United States." Most recently, agency

definitions of "waters of the United States" were reviewed by the U.S. Supreme Court in *Sackett v. EPA*. In its decision issued in May 2023, the Supreme Court ultimately determined that the agency definitions did not comport with the language and intent of the CWA and therefore adopted a new definition of the term. Specifically, the Supreme Court interpreted "waters of the United States" to mean "a relatively permanent body of water connected to traditional interstate navigable waters." It went on to determine that "wetlands" are only considered "waters of the United States" and subject to CWA jurisdiction if the wetland has a continuous surface connection with a water that is a "water of the United States in its own right," making it difficult to determine where the "water" ends, and the "wetland" begins.

In response to *Sackett*, the EPA and ACOE have recently promulgated amendments to their definitions of "waters of the United States," and the Colorado General Assembly is developing statutory amendments to address the impacts of *Sackett* on the scope and the state's administration of the WQCA. But with respect to lands subject to WMP, even though the Consent Decree/WMP were established under and based on the CWA, the scope of the WMP remains the same. As is articulated in both the Consent Decree and WMP, the WMP applies to the wetlands identified in the WMP, whether or not they are jurisdictional wetlands—i.e., wetlands that fall within the purview of the CWA. This position has been reinforced in correspondence from the EPA since at least 2005. And because the WMP was imposed under the Consent Decree and the WMP survived termination of the Consent Decree, its provisions apply unless/until modified or terminated by the EPA or a federal court.

Considering the current CDC definition of wetlands, the impact of *Sackett* on the reach of the CWA, the upcoming state legislative response to *Sackett*, and TMV's contractual obligation to enforce the Consent Decree and WMP as written, TMV staff is actively pursuing a CDC amendment to clarify the scope and alignment of its wetland regulations. While TMV staff and Council work through the process of developing and implementing appropriate CDC changes to address wetlands, the Town's current Wetland Regulations and polices—including enforcement of the WMP—will continue to apply to all property within TMV.

#### LSC TRANSPORTATION CONSULTANTS, INC.



1889 York Street **Denver, CO 80206** (303) 333-1105 FAX (303) 333-1107

E-mail: lsc@lscdenver.com

October 13, 2023

Mr. Matthew Shear 2 MV. LLC matthew@vaulthomecollection.com

Re: SS811/2MV Sight Distance

Evaluation

Mountain Village, CO

LSC #230400

Dear Mr. Shear:

Per your request, we have completed this sight distance evaluation along Mountain Village Boulevard for the proposed SS811/2MV development in Mountain Village, Colorado. Figure 1 shows the vicinity map for the site.

#### INTRODUCTION

The purpose of this letter is to evaluate the sight distance along Mountain Village Boulevard from both the preferred location directly to Mountain Village Boulevard and a less desired option via the Mountain Village Boulevard/Arizona Street intersection. Figure 2 shows the study area, existing topography, and the two site access options.

#### SIGHT DISTANCE EVALUATION FOR SITE ACCESS DIRECTLY TO MOUNTAIN VILLAGE **BOULEVARD (PREFERRED SCENARIO)**

#### **Looking East**

Figure 3 shows a photo looking east along Mountain Village Boulevard from near the preferred site access intersection. The required entering sight distance for a posted speed limit of 30 mph would be 300 feet for passenger vehicles and 390 feet for single-unit (box) trucks. It is important to note the passenger vehicles approaching from the east have a minimum required stopping sight distance of only 200 feet.

#### **Looking West**

Figure 4 shows a photo looking west along Mountain Village Boulevard from near the preferred site access intersection. The required entering sight distance for a posted speed limit of 30 mph would be 300 feet for passenger vehicles and 390 feet for single-unit (box) trucks. It is important to note the passenger vehicles approaching from the west have a minimum required stopping sight distance of only 200 feet.

#### Plan and Profile View

Figure 5 shows the lines of sight plotted on a Plan/Profile sheet. It shows acceptable sight distance is available for passenger cars and single-unit trucks. The approaching passenger vehicles have a stopping sight distance requirement of only 200 feet which is also available.

### SIGHT DISTANCE EVALUATION FOR SITE ACCESS ON ARIZONA STREET (LESS DESIRED SCENARIO)

#### **Looking East**

Figure 6 shows a photo looking east along Mountain Village Boulevard from the intersection with Arizona Street. The required entering sight distance for a posted speed limit of 30 mph would be 300 feet for passenger vehicles and 390 feet for single-unit (box) trucks. It is important to note the passenger vehicles approaching from the east have a minimum required stopping sight distance of only 200 feet.

#### **Looking West**

Figure 7 shows a photo looking west along Mountain Village Boulevard from the intersection with Arizona Street. The required entering sight distance for a posted speed limit of 30 mph would be 300 feet for passenger vehicles and 390 feet for single-unit (box) trucks. It is important to note the passenger vehicles approaching from the west have a minimum required stopping sight distance of only 200 feet.

#### Plan and Profile View

Figure 8 shows the lines of sight plotted on a Plan/Profile sheet. It shows acceptable sight distance is available for passenger cars and single-unit trucks. The approaching passenger vehicles have a stopping sight distance requirement of only 200 feet which is also available.

#### **CONCLUSION**

The existing sight distance along Mountain Village Boulevard from both the preferred location and via Arizona Street are acceptable, but the sight distance to the east is slightly better for the preferred site access directly to Mountain Village Boulevard. The applicant requests access directly to Mountain Village Boulevard.

\* \* \*

We trust this information will assist you in planning for access to the  ${\rm SS}811/2{\rm MV}$  development.

By:

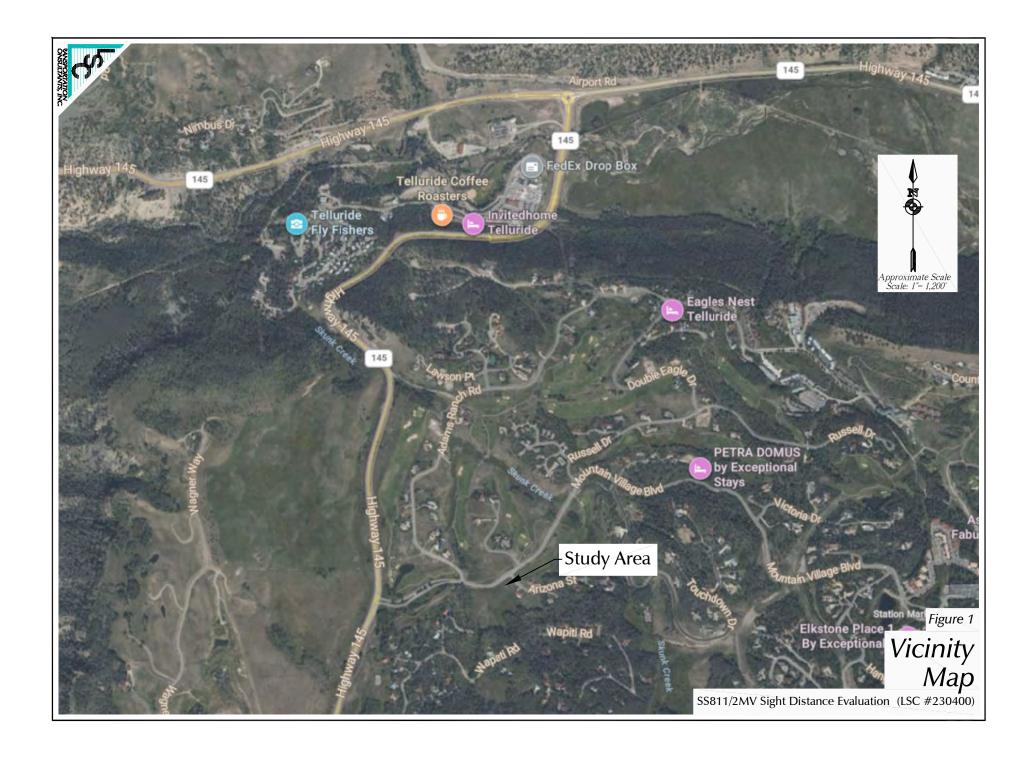
Christopher R. M. Creniana, P.E.

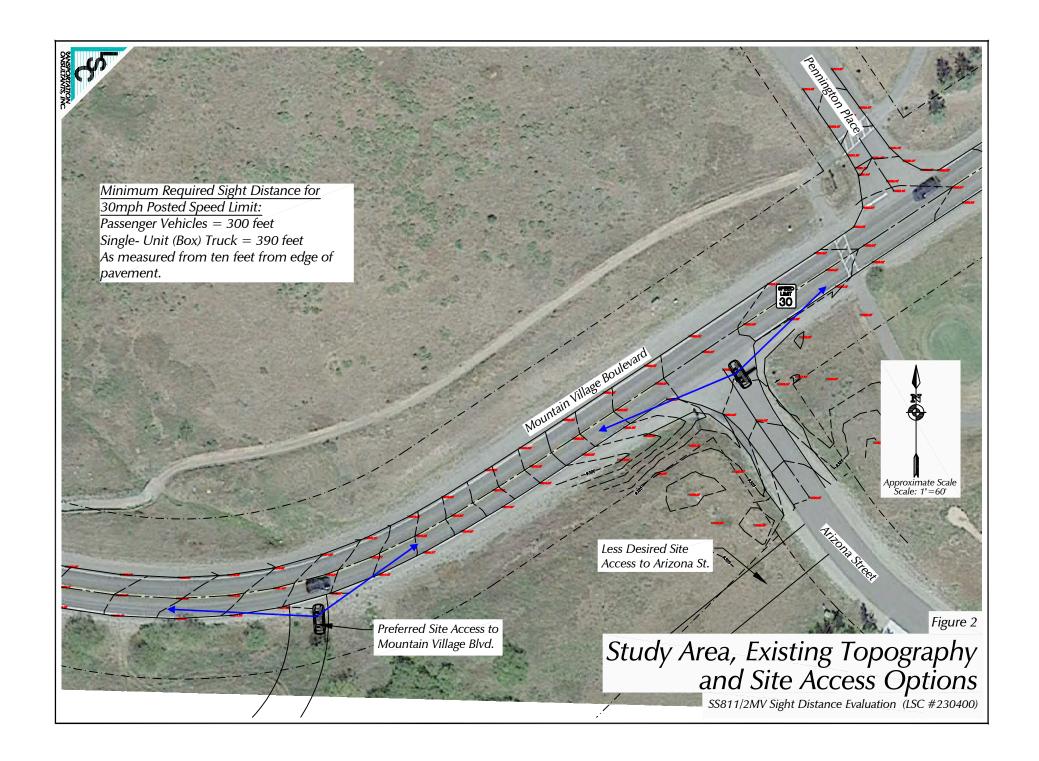
Principal/President A. P.E.

10-13-23

CSM/wc

Enclosures: Figures 1 - 8







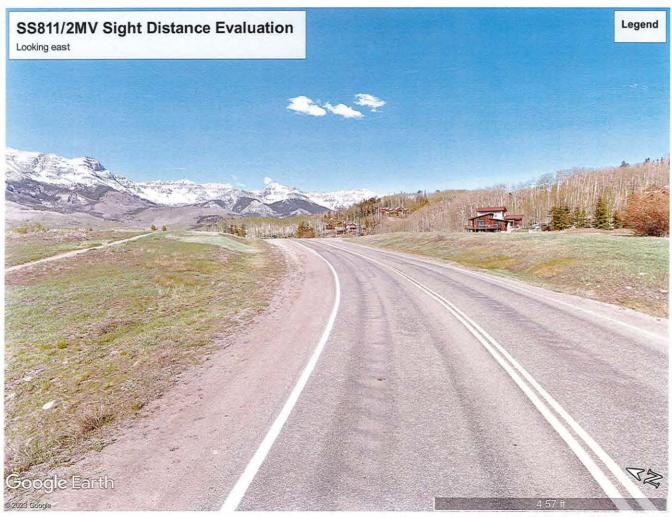


Figure 3

## Mountain Village Blvd. Looking East From Near Preferred Site Access



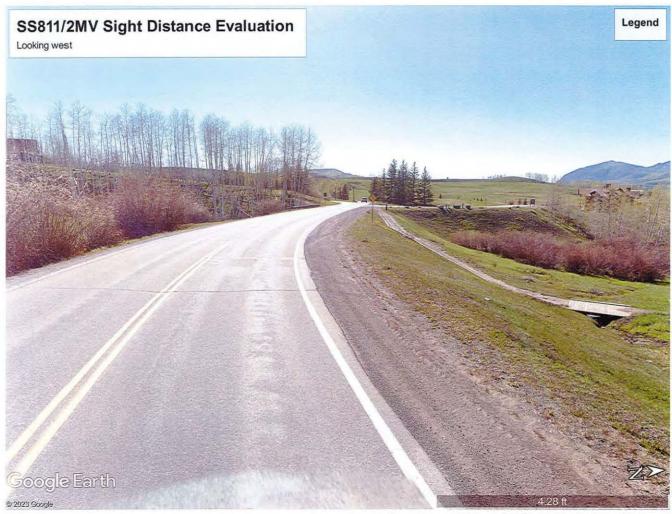
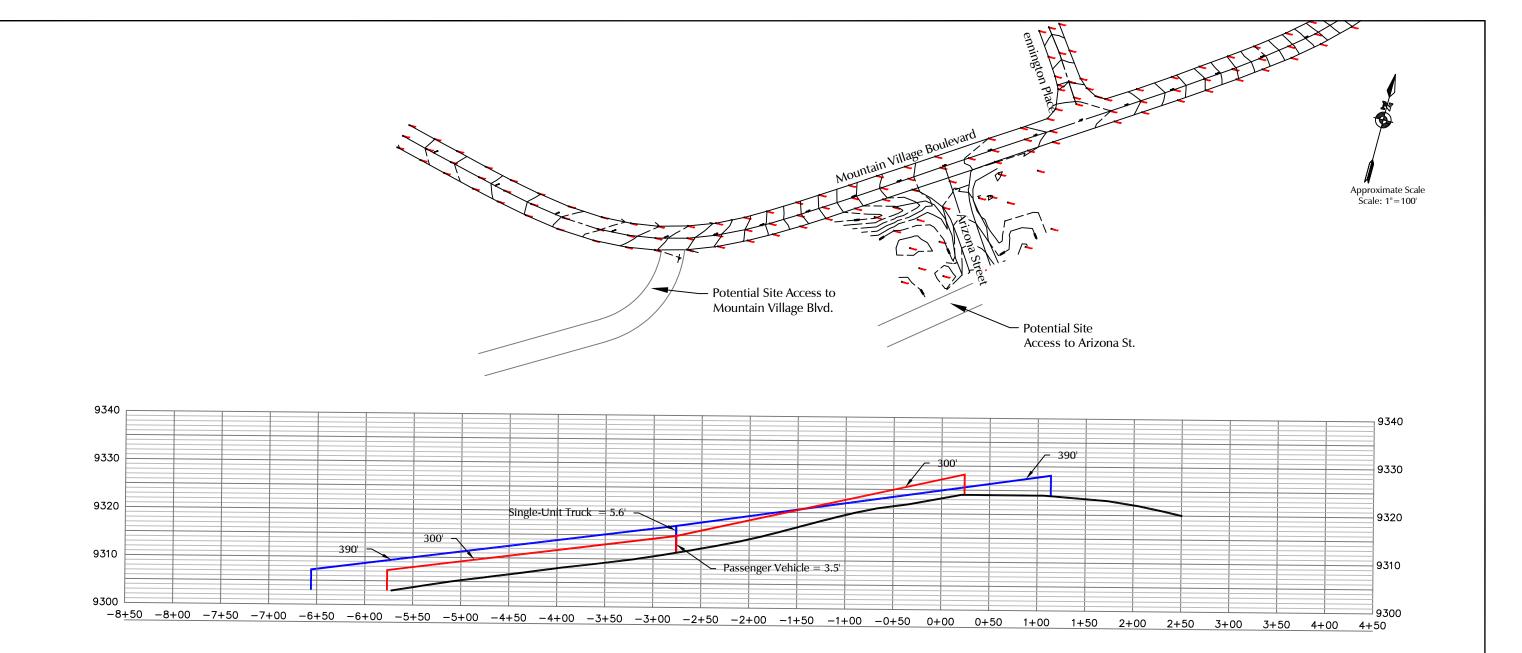


Figure 4

## Mountain Village Blvd. Looking West From Near Preferred Site Access



Note: These entering sight distance lengths are based on the approaching vehicle not having to brake to allow the sideroad vehicles to enter the roadway. The stopping sight distance to avoid a collision is much shorter. The minimum stopping distance for 30mph for approaching passenger vehicles is only 200 feet.

Legend:

Centerline Profile of Mountain Village BoulevardPassenger Car Line of Sight

= Single-Unit Truck Line of Sight

Entering sight distance required based on CDOT Access Code.

Height of Driver Eye and Approaching Vehicle: Passenger Vehicle = 3.5'

Passenger Vehicle = 3.5' Single-Unit Truck = 5.6'

Height of Approaching Vehicle = 4.25









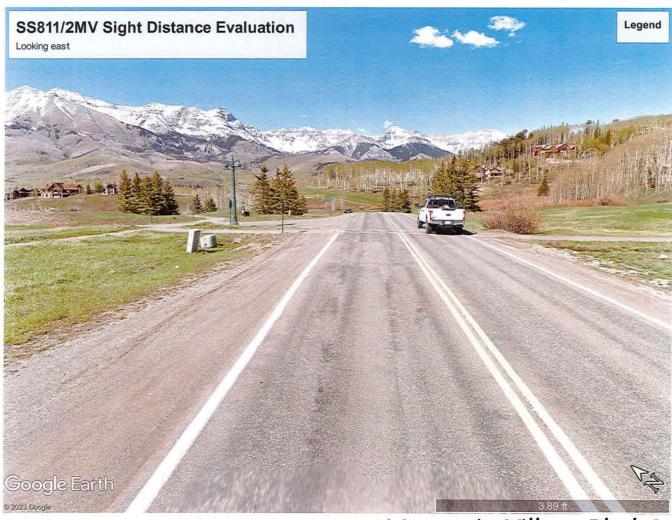


Figure 6

## Mountain Village Blvd. Looking East From Near Arizona Street



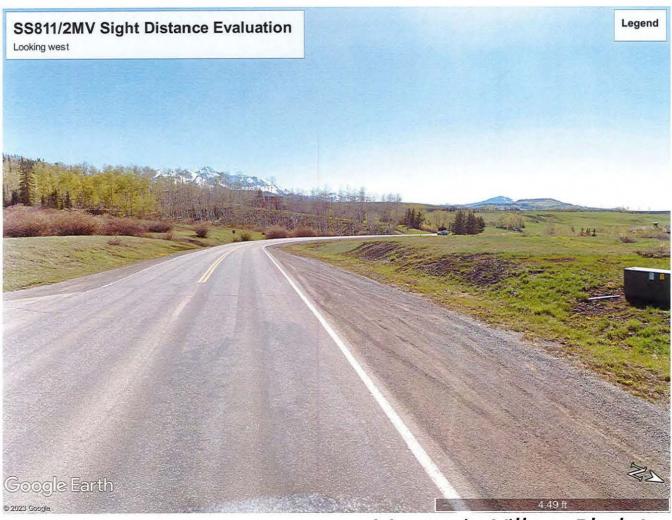
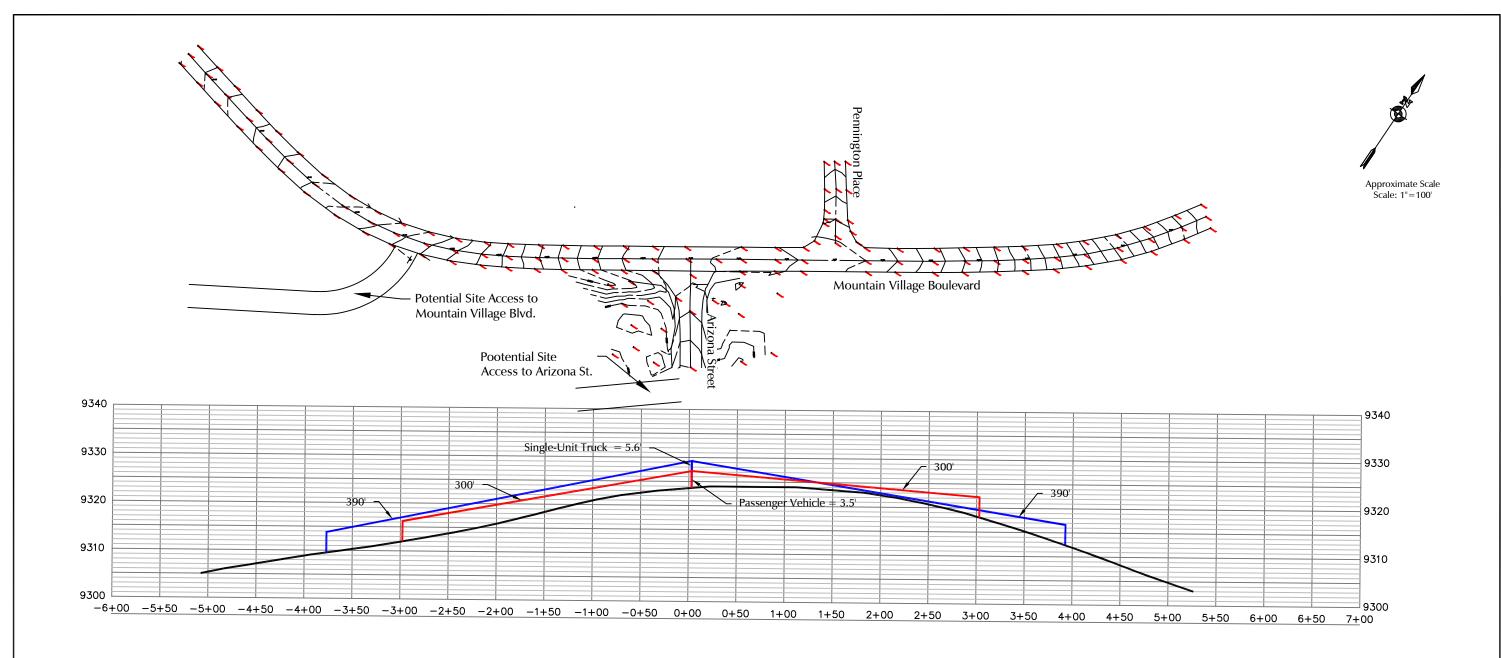


Figure 7

Mountain Village Blvd. Looking West From Near Arizona Street



Note: These entering sight distance lengths are based on the approaching vehicle not having to brake to allow the sideroad vehicles to enter the roadway. The stopping sight distance to avoid a collision is much shorter. The minimum stopping distance for 30mph for approaching passenger vehicles is only 200 feet.

Legend:

= Centerline Profile of Mountain Village Boulevard = Passenger Car Line of Sight

= Single-Unit Truck Line of Sight

Entering sight distance required based on CDOT Access Code.

Height of Driver Eye and Approaching Vehicle:

Passenger Vehicle = 3.5' Single-Unit Truck = 5.6'

Height of Approaching Vehicle = 4.25





Lot SS811 was originally platted as a school site with a planned access/driveway off of Arizona Drive. In 2014/15, Davis Fansler (owner of SS811at the time) sought to evaluate access options to Lot 811, and engaged Chris Hazen of The Terra Firm, Inc. to conduct a comprehensive wetland delineation on the site and to evaluate with the project engineer (David Ballode) access alternatives to Lot SS811. It was determined in 2014 that a significant wetland resource occupies the east half of SS811, and lies between the developable portions of the subject parcel and Arizona Drive. The wetland area on the east half of SS811 was mapped by the Environmental Protection Agency in 1990 as a part of the "Finkbeiner Report" (the comprehensive assessment of wetlands and wetland impacts for the Mountain Village), and was named wetland 92M. Wetland 92M is described in the Finkbeiner report as a 2.08 acre sedge-willow wetland.

Access off of Arizona Drive would require the development of a 3,600 sq. ft. (20' x 180') driveway corridor - an at grade driveway would have direct impacts to wetlands and could potentially impact hydrology of adjacent areas due to a disruption of groundwater movement. An elevated driveway "bridge" could minimize impacts provided that the bottom chord of the bridge is 3-5' above grade, allowing for natural light to reach the plant community below. A bridge design would need to use abutments outside the wetland area, and any necessary supporting abutments along the middle portions of the bridge. Helical piers could also be used to support the bridge spans as they cross over the wetland area.

Alternate access, with a minimal impact to wetlands can be achieved off Mountain Village Blvd. - as identified during the 2014/15 planning alternatives exercise. Ultimately, it was determined that the access point off Mountain Village Blvd. provided the least impactful access alternative based on wetlands. A design was prepared in 2015, and a permit was obtained from the Army Corps of Engineers (ACOE) for the wetland impacts associated with the access point off Mountain Village Blvd. The Nationwide 29 ACOE permit issued (permit ID SPK-2015-0073) was valid for a period of two years, and expired in 2017. The issuance of the NWP permit was in part based on the fact that the "least impactful" alternative had been selected for access.

The rule of thumb the ACOE uses when considering wetland permits hinges on the mindset of "avoid, minimize and then mitigate" wetland impacts - in general, the least impactful alternative should always be weighed as a preferred alternative when considering options.

Chris Hazen The Terra Firm, Inc. PO Box 362 Telluride, Colorado 81435

970.708.1221 cell

#### 2 MV Blvd LLC

450 S. Old Dixie Hwy., Suite 8-9 Jupiter, FL 33458

November 30, 2022

2 MV Blvd LLC ("Applicant") is the owner of Lot SS811, Telluride Mountain Village, commonly known as 2 Mountain Village Boulevard, Mountain Village, CO 81435 ("Single Family Lot"). Prior to its acquisition of the Single Family Lot, Applicant's predecessor in interest, Robert G. Kerrigan and Sharon S. Kerrigan, as grantee ("Grantee"), entered into a Maintenance and Access Easement Agreement recorded with the San Miguel County Clerk and Recorded on August 4, 2005 as Reception Number 385819 ("Easement Agreement") with TSG Ski & Golf, LLC, a Colorado limited liability company, as grantor ("Owner") whereby Owner granted to grantee a driveway easement across OSP-18A, the property that is the subject of this application, to access the Single Family Lot, as more particularly described in the Easement Agreement.

On August 20, 2015, the Town of Mountain Village adopted Resolution 2015-0820-16 ("**Resolution**") approving a revocable encroachment agreement into the Mountain Village Boulevard Right-Of-Way for a new address monument for the Single Family Lot, adjacent to OSP-18A.

OSP-18A is currently classified as "Full Use Ski Resort Active Open Space (Class 3 AOS)". The use of land classified as Class 3 AOS for an access road or driveway requires a conditional use permit. As further described herein, this application meets the criteria for approval of such conditional use permit.

#### Criteria for Approval

This Conditional Use Permit Application meets the criteria for decision contained in Section 17.4.14.D of the Town of Mountain Village Community Development Code (the "CDC"):

- 1. The proposed conditional use is in general conformity with the policies of the principles, policies and actions set forth in the Comprehensive Plan
  - a. The use of a small portion OSP-18A for a driveway is not inconsistent with the Comprehensive Plan. Furthermore, the driveway is necessary to allow for the use of the Single Family Lot for a single family home, a use consistent with the Comprehensive Plan.
- 2. The proposed conditional use is in harmony and compatible with surrounding land uses and the neighborhood and will not create a substantial adverse impact on adjacent properties or on services and infrastructure;
  - a. The use of OSP-18A for a driveway has been located to minimize impact to the Single Family Lot and minimizes any strain on infrastructure. The necessity of the driveway across OSP-18A arises out the extensive wetlands disturbance and bridge construction that would occur in the event the driveway was constructed in any other location across the Single Family Lot.

- 3. The design, development and operation of the proposed conditional use shall not constitute a substantial physical hazard to the neighborhood, public facilities, infrastructure or open space;
  - a. The construction of a driveway will not present a substantial physical hazard to any neighborhood, public facilities, or infrastructure or open space.
- 4. The design, development and operation of the proposed conditional use shall not have significant adverse effect to the surrounding property owners and uses;
  - a. The construction of a driveway will not have an adverse effect on surrounding property owners and is consistent with the surrounding single-family home properties.
- 5. The design, development and operation of the proposed conditional use shall not have a significant adverse effect on open space, or the purposes of the facilities owned by the Town;
  - a. The driveway will not have a significant adverse effect on open space or town facilities and will help preserve wetlands which are a necessary component of open space.
- 6. The design, development and operation of the proposed conditional use shall minimize adverse environmental and visual impacts to the extent possible considering the nature of the proposed conditional use;
  - a. The main purpose of locating the driveway across an adjacent open space parcel, as opposed to locating it on the Single Family Lot, is due to the determination of the Army Corps of Engineers that the placement of the entirety of the driveway on the Single Family Lot would present a substantial disturbance of wetlands. The location of the access driveway for the Single Family Lot across OSP-18A will present the least environmental and visual impact to the land. This is in contrast to placing the driveway in another location inconsistent with the plan proposed under this Application.
- 7. The design, development and operation of the proposed conditional use shall provide adequate infrastructure;
  - a. The driveway provides adequate infrastructure for the intended use.
- 8. The proposed conditional use does not potentially damage or contaminate any public, private, residential or agricultural water supply source; and
  - a. The access driveway will not contaminate or damage any water supply sources.
- 9. The proposed conditional use permit meets all applicable Town regulations and standards.
  - a. As set forth above, the use of Class 3 AOS land for a driveway is a conditionally permitted use and provided the criteria are met, the Town is permitted to issue a conditional use permit for such purposes.

It is important to note that the approved Resolution contemplated the location of the driveway of the Single Family Lot across OSP-18A, directly off of Mountain Village Blvd. While a conditional use permit was not issued in 2015, the Resolution clearly contemplated a driveway across OSP-18A and the Resolution was approved by Town Council at that time. The approval of a conditional use permit at this point would be consistent with the Resolution.

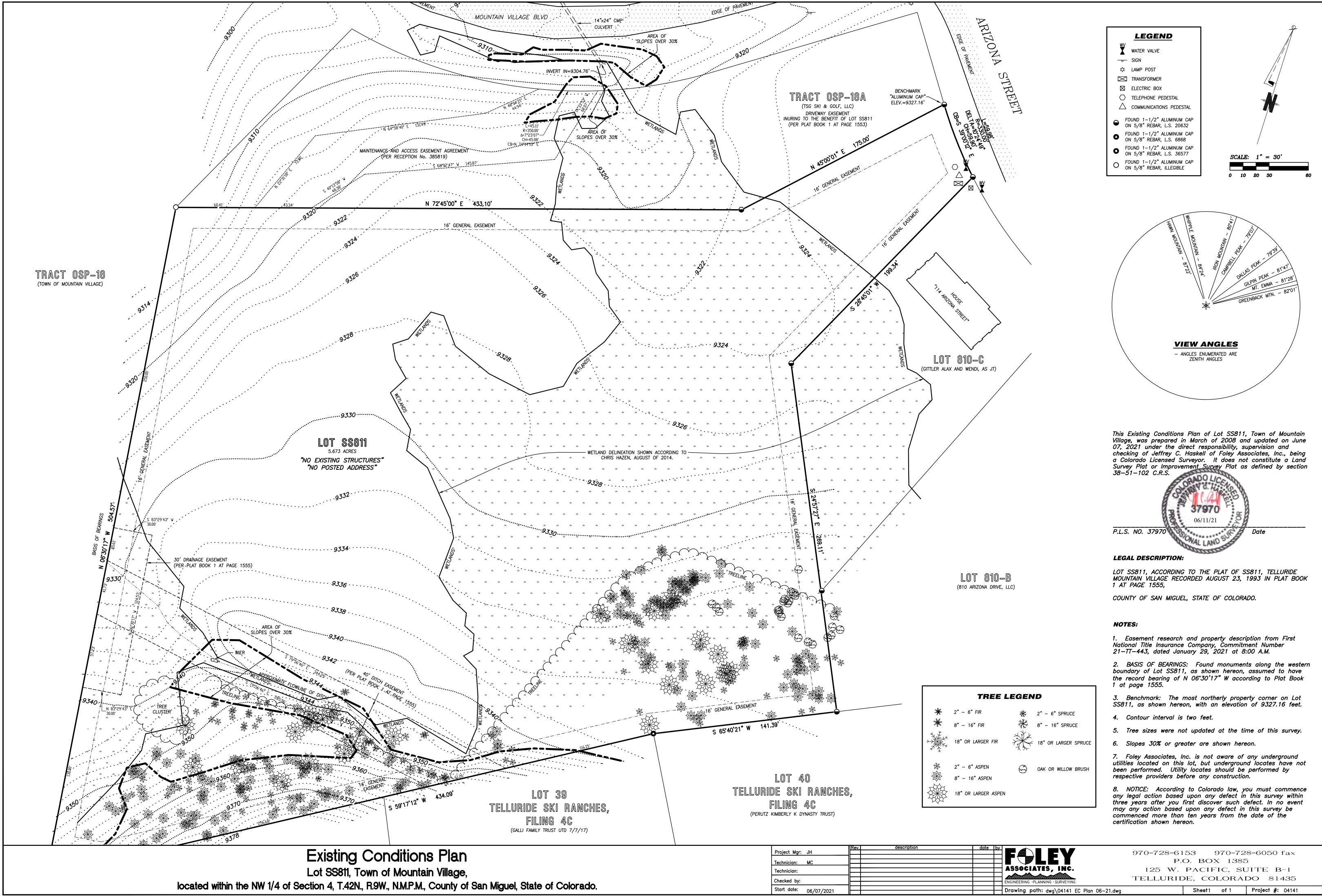
Respectfully Submitted,

2 Mountain Village, LLC, A Colorado limited liability company

11/30/22

Signature of Applicant/Agent

Date



#### **EXHIBIT 1**

# RESOLUTION OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO TOWN COUNCIL APPROVING A REVOCABLE ENCROACHMENT AGREEMENT INTO THE MOUNTAIN VILLAGE BOULEVARD RIGHT-OF-WAY FOR A NEW ADDRESS MONUMENT FOR THE ADJACENT SINGLE FAMILY RESIDENCE LOCATED ON LOT SS-811

#### RESOLUTION NO. 2015-0820-16

#### RECITALS:

- A. The Town of Mountain Village ("Town") is the owner of record of real property described as the Mountain Village Boulevard Right-of-Way; and,
- B. Davis D. Fansler ("Owner") is the owner of record of real property described as Lot SS-811, Town of Mountain Village, CO;
- C. Right-of-way encroachments are a discretionary allowance of the Town Council; and
- D. The proposed revocable encroachment is needed to allow for the new address monument; and,
- E. The Town Council conducted a public meeting on August 20, 2015.

Now, Therefore, Be It Resolved that the Town Council hereby approves a revocable encroachment in the Mountain Village Boulevard Right-of-Way as set forth in Exhibit A with a condition that the Planning Division staff prepares a revocable encroachment agreement for execution by the Town Manager and the Owner.

#### Section 1. Resolution Effect

- A. This Resolution 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 resolutions repealed or amended as herein provided and the same shall be construed and concluded under such prior resolutions.
- B. All resolutions, of the Town, or parts thereof, inconsistent or in conflict with this Resolution, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

#### Section 2. Severability

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

#### Section 3. Effective Date

This Resolution shall become effective on August 20, 2015 (the "Effective Date") as herein referenced throughout this Resolution.

#### Section 4. Public Meeting

A public meeting on this Resolution was held on the 20<sup>th</sup> day of August, 2015 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

Approved by the Mountain Village Town Council at a public meeting on August 20, 2015.

Town of Mountain Village, Town Council

y: Dan Jansen Mayor

Attest:

By: The

Jackie Kennefick, Town Clerk

Approved as to form:

By:

James Mahoney, Assistant Town Attorney

385819
Pase 1 of 6
SAN MIGUEL COUNTY, CO
DORIS RUFFE CLERK-RECORDER
08-04-2006 11:07 AM Recording Fee \$31.00

#### MAINTENANCE AND ACCESS EASEMENT AGREEMENT

This MAINTENANCE AND ACCESS EASEMENT AGREEMENT (the "Agreement") is entered into October 4, 2005, by TSG Ski & Golf, LLC, a Colorado limited liability company, as grantor ("Grantor") and Robert G. Kerrigan and Sharon S. Kerrigan, as grantee ("Grantee").

#### RECITALS

- A. Grantor is the owner of certain real property in the Town of Mountain Village, San Miguel county, Colorado, more particularly described as Tract OSP-18A, Telluride Mountain Village, County of San Miguel, State of Colorado, according to the Plat of Tract OSP-18 and OSP-18A recorded in Plat Book 1 at pages 1553-1554 ("Grantor Property").
- B. Grantee is the owner of certain real property in the Town of Mountain Village, San Miguel County, Colorado, more particularly described as Lot SS811, Town of Mountain Village, according to the plat filed in the office of the Clerk and Recorder in Plat Book 1 at page 2281, and according to the Town of Mountain Village Official Lot List, recorded in Book 586 at page 548, County of San Miguel, State of Colorado, also known by street and number as: Lot SS-811, Mountain Village, Colorado 81435 ("Grantee Property").
- C. The terms, conditions and covenants made by the parties herein are made in their capacities as the owners of the subject properties. As such, the covenants herein are not personal to the parties but rather are personal to and shall run with the land according to the record title holder of the properties.
- D. The Plat of Tract OSP-18 and OSP-18A recorded in Plat Book 1 at pages 1553-1554, Note 1, established a non-exclusive driveway easement ("the Original Easement") inuring to the benefit of Lot SS-811 on, over, across and under Tract OSP-18A for the purpose of constructing, operating and maintaining pedestrian and vehicular access and subsurface utilities to Lot SS-811.
- E. Grantor desires to grant to Grantee an additional easement, consistent with the Original Easement, for the purposes set forth below across certain portions of the Grantor Property, more particularly described on the attached Exhibit A Map and Legal Description ("Easement Area"), in accordance with the terms and conditions of this Agreement.

#### **AGREEMENT**

NOW, THEREFORE, in consideration of \$10.00, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned parties hereby covenant and agree as follows:

- 1. Grant of Easement. Grantor hereby grants to Grantee and its agents, employees, representatives, contractors and subcontractors ("Permittees") a non-exclusive easement for pedestrian and vehicular ingress and egress on, over, through, and across the Easement Area for the purposes of accessing, constructing, operating, maintaining and repairing any improvements to be located on Grantee Property ("Maintenance and Access Easement"), including the construction of a vehicular and pedestrian bridge in the Easement Area to span the small area of wetlands in the Easement Area. Grantor hereby expressly reserves the right to make any use of the Easement Area that does not unreasonably interfere with the Maintenance and Access Easement. Grantee and its Permittees will not use the Easement Area for any use or purpose other than as expressly provided herein. Grantee's times of use of the Maintenance and Access Easement shall be limited to those hours permitted for construction activities under any applicable regulations of the Town of Mountain Village.
- 2. <u>Term of Easement</u>. The term of the Maintenance and Access Easement shall be perpetual.
- 3. <u>Compliance with Laws</u>. All activities carried on by Grantee and its Permittees in the Easement Area shall be conducted in accordance with all applicable laws, including compliance with Wetlands regulations. Grantee's and Permittees' use of the Easement Area shall be done in a manner and with such safeguards as to avoid any personal injury or property damage.
- 4. <u>Construction and Maintenance</u>. Neither Grantee nor Grantor shall have any responsibility to construct or maintain any improvements within the Easement Area. Any damage to the Easement Area or improvements located within the Easement Area caused by Grantee or Permittees shall be repaired at Grantee's sole cost. All work will be done in a professional, workmanlike manner.
- 5. Runs with the Land; Heirs, Successors and Assigns. The easements, benefits and rights granted and agreed to herein and the burdens, duties and obligations imposed and agreed to herein shall run with the land and shall be a benefit of, and burden upon, the Grantor Property and the Grantee Property. Further, the easements, benefits and rights granted and agreed to herein and the burdens, duties and obligations imposed and agreed to herein shall be binding upon and shall inure to the benefit of, and be a burden upon, the heirs, designees, successors, and assigns of both of the parties to this Agreement.
- 6. <u>Indemnity</u>. Grantee hereby agrees to indemnify, defend and hold harmless Grantor from and against any and all claims, actions, causes of actions, liability, losses damages, costs or expenses, including reasonable attorneys fees, and including, without limitation, any and all mechanics' and materialmen's liens and claims, that may be imposed upon or incurred by Grantor and that arise from Grantee's or its Permittees' use of the Easement Area, except to the extent due to Grantor's actions or conditions that are not created on the Easement Area or caused to be created thereon by Grantee or its Permittees.
- 7. Wetland Issues. Grantee acknowledges that it has received and is familiar with the

Wetlands Management Plan for the Telluride Mountain Village dated October 1996 ("Wetlands Management Plan"). Grantee hereby covenants and agrees that any and all construction, operation, maintenance and/or repair carried out within any of the easement areas described herein will comply with the Wetlands Management Plan.

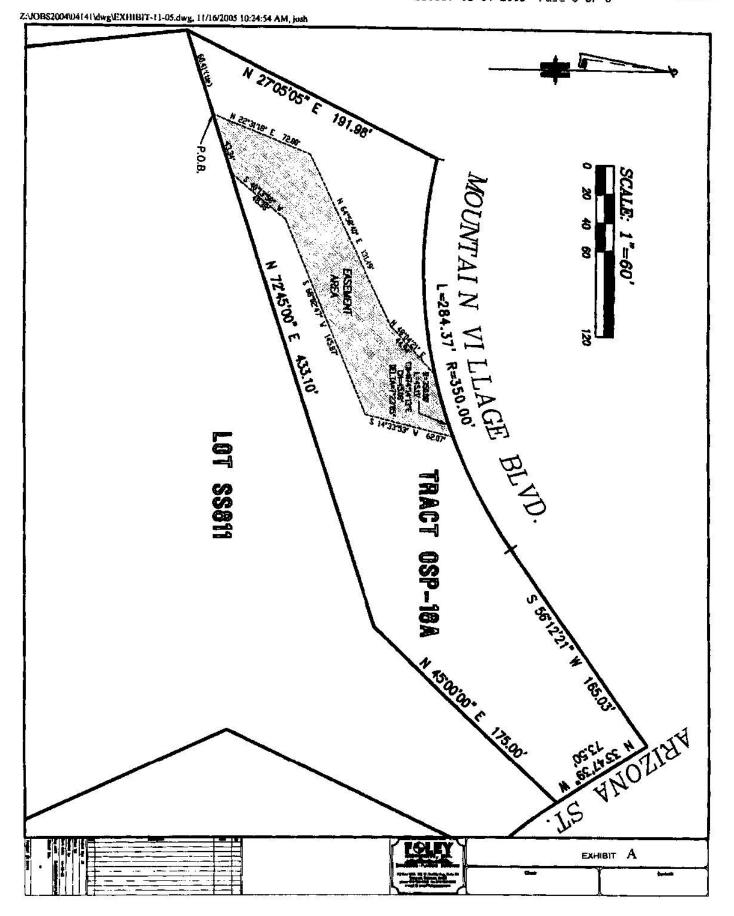
- 8. <u>Contractors and Sub-Contractors Affidavits</u>. Prior to the commencement of any construction relating to the Maintenance Access Easement, Grantee shall cause all of its contractors and subcontractors to execute Contractor and Sub-Contractor Affidavits in accordance with Section 6.2 of the Wetlands Management Plan and shall forward copies of all such affidavits to Grantor.
- 9. <u>Liens</u>. Grantee shall keep the Easement Area free of any liens or encumbrances caused by any act or omission of Grantee or its Permittees.
- 10. <u>Headings</u>. The captions and headings of any section herein are not part of and in no manner or way define, limit, amplify, change or alter any term, covenant or condition of this Agreement.
- 11. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.
- 12. <u>Recordation</u>. This Agreement shall be recorded in the real property records of San Miguel County, Colorado.
- 13. <u>Amendments</u>. No amendments, waivers or modifications hereof shall be made or deemed to have been made unless in writing and executed by the parties to be bound thereby.
- 14. Attorneys' Fees. In the event of any litigation, controversy, claim or dispute between the parties hereto arising out of or relating to this Agreement or the breach or threatened or claimed breach hereof, the prevailing party, whether by judgment of out of court settlement, shall be entitled to recover from the losing party, reasonable expenses, attorneys' fees and other costs incurred in connection therewith, or in the enforcement or collection of any judgment or award rendered therein.

Comm. No: DD 475324

15. Severability. The enforceability, invalidity or illegality of any provision of this Agreement shall not render the other provisions of this Agreement unenforceable, invalid, or illegal or illegal, but rather the unenforceable, invalid or illegal provisions of this Agreement shall be deemed severed from this Agreement, and this Agreement shall remain in full force and effect to the greatest extent permitted by applicable law.

IN WITNESS WHEREOF, the undersigned have executed this Agreement intending it to be effective as of the date first set forth above.

GRANTOR:
TSG Ski & Golf, LLC, a Colorado limited liability company
By: signed]
Iprint name and title] PESONT OPERATIONS
STATE OF COLORADO )
j
COUNTY OF SAN MIGUEL )
The foregoing instrument was acknowledged before me this 28 day of [title], 200 by 15 Thateum [name], Se VI. [title],
TSG Ski & Golf, LtdC, and limited liability company.
My company symptoms: 75-08 Witness The ring of Refficient Seal.
Willa Makers
GRANTEE: Notary Public
Mdet Sex Sharon D. Kenigan
Robert G. Kerrigan Sharon S. Kerrigan
STATE OF FOUDA )
COUNTY OF ESCANDIA )
The foregoing instrument was acknowledged before me this day of
July, 2005, by Robert G. Kerrigan and Sharon S. Kerrigan.
My commission expires: 1913012109 Witness my hand and official seal.
Notary Public
CHARATI D. JENNINGS Notary Public-State of FL
COMM Ever Day 20 2000



## FOLEY ASSOCIATES, INC. CIVIL ENGINEERING AND LAND SURVEYING P. O. BOX 1385 TELLURIDE, CO 81435 970-728-6153

#### LEGAL DESCRIPTION

A portion of Tract OSP-18A, Town of Mountain Village, according to the Plat of Tract OSP-18 and Tract OSP-18A, Telluride Mountain Village filed in the office of the Clerk and Recorder in Plat Book 1 at page 1553, further described as follows:

Beginning at a point on the southern boundary of said Tract OSP-18A the from which the westernmost corner bears S 72°45'00" W, 60.41 feet;

Thence N 22°31'18" E, 72.00 feet;

Thence N 64°58'40" E, 131.49 feet:

Thence N 48°04'21" E, 44.94 feet to a point on the northern boundary of said Tract OSP-18A:

Thence along the northern boundary of said Tract OSP-18A, 45.11 feet along a non-tangential curve concave to the north with a radius of 350 feet, a delta angle of 7°23'05", a chord bearing of N 74°14'13" E and a chord distance of 45.08 feet;

Thence S 14°33'53" W, 62.07 feet;

Thence S 68°02'47" W, 145.87 feet;

Thence S 40°13'58" W, 48.38 feet to a point on the southern boundary of said Tract OSP-18A;

Thence S 72°45'00" W, 43.34 feet along the southern boundary of said Tract OSP-18A to the Point of Beginning,

County of San Miguel, State of Colorado

Z:\JOBS2004\04141\DOC\EXHIBIT-11-05

#### **EXHIBIT 3**



#### DEPARTMENT OF THE ARMY

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

June 15, 2015

Regulatory Division SPK-2015-00073

Mr. Davis Fansler Post Office Box 2758 Telluride, Colorado 81435

Dear Mr. Fansler:

We are responding to your June 5, 2015, request for a preliminary jurisdictional determination (JD), in accordance with our Regulatory Guidance Letter (RGL) 08-02, for the Lot SS-811 Development site. The site is located within the Town of Mountain Village on Lot SS-811, on Mountain Village Boulevard, Latitude 37.9328°, Longitude - 107.8745°, San Miguel County, Colorado.

Based on available information, we concur with the amount and location of wetlands and/or other water bodies on the site as depicted on the enclosed map entitled **Sheet 1**, **Project No. 04141**, **dated January 22**, **2015**, prepared by Foley Associates, Incorporated. The approximately 2.8 acres of wetlands and/or other water bodies present within the survey area are potential waters of the United States regulated under Section 404 of the Clean Water Act.

You should not start any work in potentially jurisdictional waters of the United States unless you have Department of the Army permit authorization for the activity. You may request an approved JD for this site at any time prior to starting work within waters. In certain circumstances, as described in RGL 08-02, an approved JD may later be necessary. You should 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 determination has been conducted to identify the potential limits of wetlands and other water bodies which may be subject to Corps of Engineers' jurisdiction for the particular site identified in this request. A Notification of Appeal Process and Request for Appeal form is enclosed to notify you of your options with this determination.

Please refer to identification number SPK-2015-00073 in any correspondence concerning this project. If you have any questions, please contact Carrie Sheata at the Colorado West Regulatory Branch, 400 Rood Avenue, Room 224, Grand Junction, Colorado 81501, by email at Carrie.A.Sheata@usace.army.mil, or telephone at 970-243-1199 X14. We appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey on our website under Customer Service Survey. For more information regarding our program, please visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,

### Original Signed

Susan Bachini Nall Chief, Colorado West Branch Regulatory Division

#### Enclosures:

- 1. Sheet 1, Project No. 04141, dated January 22, 2015
- 2. Notification of Appeal Form

cc: (w/ encl 1)

Mr. Chris Hazen, The Terra Firm, Incorporated, Post Office Box 362, Telluride, Colorado 81435

Mr. Chris Hawkins, Town of Mountain Village, 455 Mountain Village Blvd. Suite A, Telluride, Colorado 81435



#### DEPARTMENT OF THE ARMY

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

November 2, 2015

Regulatory Division (SPK-2015-00073)

Mr. Davis Fansler Post Office Box 2758 Telluride, Colorado 81435

Dear Mr. Fansler:

We are responding to your October 7, 2015, request for a Department of the Army permit for the Lot SS811 Development project. This project involves work, including discharges of dredged or fill material, in waters of the United States to install utilities and construct a driveway. The site is located within the Town of Mountain Village on Lot SS811, on Mountain Village Boulevard, Latitude 37.9328°, Longitude -107.8745°, San Miguel County, Colorado.

Based on the information you provided, the proposed activity will permanently impact approximately 0.013 acre of wetlands and temporary impact approximately 0.009 acre of wetlands. The proposed activity is authorized by Nationwide General permit number (NWP) 29 Residential Developments. You must comply with the general terms and conditions listed on the NWP information sheet and applicable regional conditions. Information on the NWP and regional conditions are available on our website at

http://www.spk.usace.army.mil/Missions/Regulatory/Permitting/NationwidePermits.aspx. Within 30 days after completion of the authorized work, you must sign the enclosed Compliance Certification and return it to this office.

This verification is valid until March 18, 2017, when the existing NWP's are scheduled to be modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date the NWP is modified, reissued, or revoked, you will have 12 months from the date of the modification, reissuance or revocation of the NWP to complete the activity under the present terms and conditions. Failure to comply with the general and regional conditions of this NWP, or the project-specific special conditions of this authorization, may result in the suspension or revocation of your authorization.

Please refer to identification number SPK-2015-00073 in any correspondence concerning this project. If you have any questions, please contact Carrie Sheata at the Colorado West Regulatory Branch, 400 Rood Avenue, Room 224, Grand Junction, Colorado 81501, by email at Carrie. A. Sheata@usace.army.mil, or telephone at 970-243-1199 X14. We would appreciate your feedback. At your earliest convenience, please tell us how we are doing by completing the customer survey from the link on our website, listed below. For more information regarding our program, please visit our website at www.spk.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,

Original Signed

FOR Susan Bachini Nall Chief, Colorado West Branch Regulatory Division

Enclosure: Compliance Certification

cc: (w/o encl)

Mr. Chris Hazen, The Terra Firm, Incorporated, Post Office Box 362, Telluride, Colorado 81435

Ms. Sarah Fowler, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202

Ms. Savannah Jameson, Town of Mountain Village, 455 Mountain Village Blvd. Suite A, Mountain Village, Colorado 81435

Lot SS811 was originally platted as a school site with a planned access/driveway off of Arizona Drive. In 2014/15, Davis Fansler (owner of SS811at the time) sought to evaluate access options to Lot 811, and engaged Chris Hazen of The Terra Firm, Inc. to conduct a comprehensive wetland delineation on the site and to evaluate with the project engineer (David Ballode) access alternatives to Lot SS811. It was determined in 2014 that a significant wetland resource occupies the east half of SS811, and lies between the developable portions of the subject parcel and Arizona Drive. The wetland area on the east half of SS811 was mapped by the Environmental Protection Agency in 1990 as a part of the "Finkbeiner Report" (the comprehensive assessment of wetlands and wetland impacts for the Mountain Village), and was named wetland 92M. Wetland 92M is described in the Finkbeiner report as a 2.08 acre sedge-willow wetland.

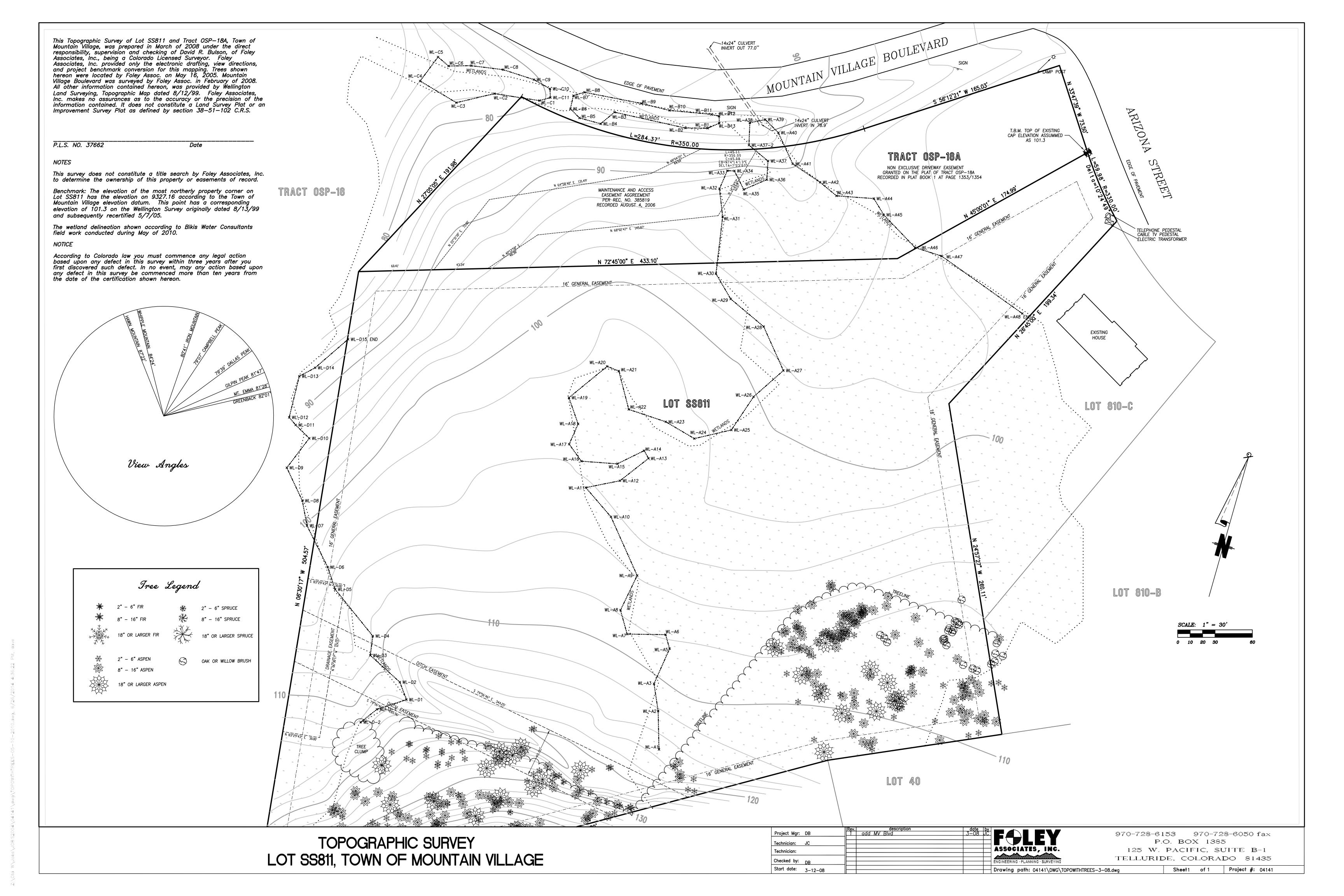
Access off of Arizona Drive would require the development of a 3,600 sq. ft. (20' x 180') driveway corridor - an at grade driveway would have direct impacts to wetlands and could potentially impact hydrology of adjacent areas due to a disruption of groundwater movement. An elevated driveway "bridge" could minimize impacts provided that the bottom chord of the bridge is 3-5' above grade, allowing for natural light to reach the plant community below. A bridge design would need to use abutments outside the wetland area, and any necessary supporting abutments along the middle portions of the bridge. Helical piers could also be used to support the bridge spans as they cross over the wetland area.

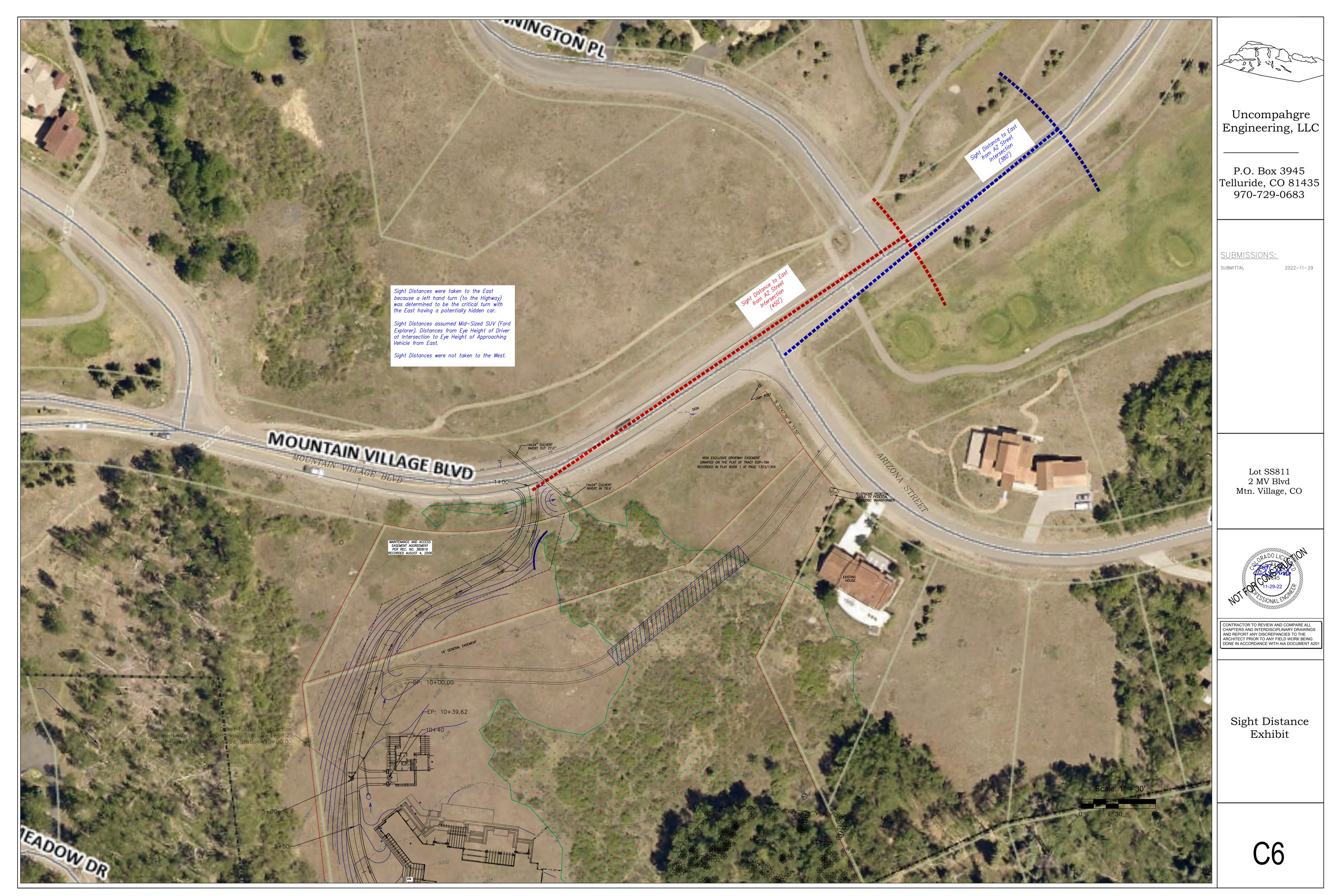
Alternate access, with a minimal impact to wetlands can be achieved off Mountain Village Blvd. - as identified during the 2014/15 planning alternatives exercise. Ultimately, it was determined that the access point off Mountain Village Blvd. provided the least impactful access alternative based on wetlands. A design was prepared in 2015, and a permit was obtained from the Army Corps of Engineers (ACOE) for the wetland impacts associated with the access point off Mountain Village Blvd. The Nationwide 29 ACOE permit issued (permit ID SPK-2015-0073) was valid for a period of two years, and expired in 2017. The issuance of the NWP permit was in part based on the fact that the "least impactful" alternative had been selected for access.

The rule of thumb the ACOE uses when considering wetland permits hinges on the mindset of "avoid, minimize and then mitigate" wetland impacts - in general, the least impactful alternative should always be weighed as a preferred alternative when considering options.

Chris Hazen The Terra Firm, Inc. PO Box 362 Telluride, Colorado 81435

970.708.1221 cell





# 2 MOUNTAIN VILLAGE BLVD



# SPECULATIVE RESIDENCE 2 MOUNTAIN VILLAGE BLVD. MOUNTAIN VILLAGE, CO 81435 **DESIGN REVIEW BOARD**

### PROJECT DIRECTORY

### **CONTRACTOR:**

**CODY ABBOTT** TOP NOTCH CONSTRUCTION 8121 PRESERVE DR. TELLURIDE, CO 81435

### **SURVEYOR:**

FOLEY ASSOCIATES, INC. P.O. BOX 1385 125 W PACIFIC AVE SUITE B-1 TELLURIDE, CO 81435 970-728-6153

### **CIVIL ENGINEER:**

DAVID BALLODE 113 LOST CREEK LN SUITE D MOUNTAIN VILLAGE, CO 81435 970-279-0683

**ARCHITECT:** 

SHORT ELLIOTT HENDRICKSON INC. 2000 SOUTH COLORADO BLVD. TOWER ONE, DENVER, CO. 80222

**STRUCTURAL ENGINEER:** 2000 SOUTH COLORADO BLVD. TOWER ONE, SUITE 6000 **DENVER, CO. 80222** 

### **LANDSCAPE ENGINEER:**

DESIGNSCAPES COLORADO 15440 E FREMONT DR CENTENNIAL, CO 80113 303-721-9003

## **LOCATION MAP**



### LEGAL DESCRIPTION/LOT INFORMATION

LOT SS811 TELLURIDE MOUNTAIN VILLAGE ACC TO PLAT BK 1 PG 1555 8-23-93. LOT NAME: LOT SS81

**ZONING: SINGLE FAMILY RESIDENTIAL** LOT SIZE: 5.673 ACRES

### **BUILDING INFO:**

DESCRIPTION	1-STORY W/ WALKOUT BASEMENT & GUEST HOUSE		
BUILDING HEIGHT	ALLOWED	ACTUAL	
MAXIMUM	35'	29'-2"	
AVERAGE	30'	18'-7"	
PARKING SPACES	2 REQUIRED	6 PROVIDED	

## **DESIGN CRITERIA**

Climate Zone: 6B Elevation: 9338.8 Live Roof Snow Load: 80-180 PSF Ground Snow Load: 130 PSF Wind Speed: 90 MPH (3 Sec. Gust) Exp. C/110 MPH Ultimate

Seismic Zone: C Weathering: Severe Frost Depth: 48 Inches Termite: Moderate Decay: None to Slight

## DRAWING INDEX

A0.0 COVER SHEET & PROJECT DATA

A0.1 ARCHITECTURAL SITE PLAN

A0.4 HEIGHT LIMIT ANALYSIS

A0.5 HEIGHT LIMIT ANALYSIS ELEVATIONS

A0.6 HEIGHT LIMIT ANALYSIS ELEVATIONS

A.1 FLOOR PLANS A.2 ROOF PLAN

A.3 ELEVATIONS

MATERIAL CALCULATIONS

A.8 MATERIAL CALCULATIONS A.9 EXTERIOR MATERIAL DIAGRAM

A.10 SCHEDULES

G1 GUEST HOUSE SCHEMATIC

C1 NOTES

C2.1 SITE GRADING AND DRAINAGE C2.2 GRADING WITH DRIVEWAY PROFILES C3 UTILITIES

C4 CONSTRUCTION MITIGATION

L1 LANDSCAPE

### APPLICABLE CODES

ALL CONSTRUCTION TO BE COMPLETED PER GOVERNING CODES BELOW: 2018 INTERNATIONAL RESIDENTIAL CODE (IRC) W/ LOCAL AMENDMENTS 2018 INTERNATIONAL PLUMBING CODE (IPC) W/ LOCAL AMENDMENTS 2018 INTERNATIONAL MECHANICAL CODE (IMC) W/ LOCAL AMENDMENTS

2018 INTERNATIONAL FUEL GAS CODE W/ LOCAL AMENDMENTS

2018 INTERNATIONAL ENERGY CONSERVATION CODE W/ LOCAL AMENDMENTS

2020 NATIONAL ELECTRICAL CODE

330 SF

2,194 SF

# AREA CALCULATIONS

MAIN HOUSE BASEMENT LEVEL (HEATED): MAIN LEVEL (HEATED): TOTAL HEATED AREA:	2,319 SF 7,007 SF 9,326 SF	GUEST HOUSE UPPER LEVEL (HEATED): MAIN LEVEL (HEATED): TOTAL HEATED AREA:
GARAGE/MECH/STOR. (UNHEATED): COVERED PATIO:	2,050 SF 1,637 SF	GARAGE/MECH/STOR. (UNHEATED): COVERED PATIO:
TOTAL GROSS AREA (UNDER ROOF):	13,013 SF	TOTAL GROSS AREA (UNDER ROOF):

USE EVEL (HEATED): 362 SF TED AREA: 1,430 SF MECH/STOR. (UNHEATED): 434 SF

MAIN HOUSE 13,013 SF 2,194 SF **GUEST HOUSE** 15,197 SF LOT SIZE: 247115.88 15,197 SF = 6%

BUILDING COVERAGE:

Building a Better World for All of Us<sup>®</sup>

THE VAULT HOME COLLECTION 450 S. OLD DIXIE HWY, SITE 8

305.710.4907

**CONTRACTOR** TOP NOTCH CONSTRUCTION 8121 PRESERVE DR.

**CODY ABBOTT** 970-596-1014

TELLURIDE, CO 81435

SHORT ELLIOTT HENDRICKSON, INC 934 MAIN AVENUE, SUITE C DURANGO, COLORADO 81301

CONTACT: ALLISON MILLER PHONE: 970,459,9017

AGE |

2 MOUNTAIN VILLAGE BLVD

SPECULATIVE
2 MOUNTAIN VILLAGE BLVD

This drawing is an instrument of service and shall (SEH). This drawing and the concepts and ideas contained herein shall not be used, reproduced,

approval of SEH. Submission or distribution of this drawing to meet official or regulatory requirements or for other purposes in connection with the project is not be

construed as publication in derogation of any of the **SEH Project** Checked By

Drawn By

**Project Status** DESIGN REVIEW BOARD

SITE/COVER

GENERAL CIVIL ENGINEERING NOTES:

1. THE EXISTING UTILITY LINES SHOWN ON THE PLANS ARE APPROXIMATE. AT LEAST TWO (2) FULL WORKING DAYS PRIOR TO TO COMMENCING CONSTRUCTION, THE CONTRACTOR SHALL CONTACT THE UTILITY NOTIFICATION CENTER OF COLORADO @ 1-800-922-1987 OR 811 TO GET ALL UTILITIES LOCATED. IF ANY OF THESE UNDERGROUND UTILITIES ARE IN CONFLICT WITH THE CONSTRUCTION PLANS, THE CONTRACTOR SHALL NOTIFY THE ENGINEER AND WORK WITH THE ENGINEER TO FIND A SOLUTION BEFORE THE START OF CONSTRUCTION.

INSTALLATION AND SEPARATION REQUIREMENTS SHALL BE COORDINATED WITH THE INDIVIDUAL UTILITY PROVIDERS.

THE UTILITY PROVIDERS ARE: SEWER, WATER, CABLE TV AND FIBEROPTIC: TOWN OF MOUNTAIN VILLAGE NATURAL GAS: BLACK HILLS ENERGY POWER: SAN MIGUEL POWER TELEPHONE: CENTURY LINK

2. PRIOR TO BEGINNING ANY CONSTRUCTION ACTIVITIES, ALL NECESSARY PERMITS SHALL BE OBTAINED BY THE OWNER OR CONTRACTOR.

3. IT IS THE CONTRACTOR'S RESPONSIBILITY TO INSURE THAT EXCAVATED SLOPES ARE SAFE AND COMPLY WITH OSHA REQUIRIEMENTS. REFER TO THE SITE-SPECIFIC REPORT FOR THIS PROJECT FOR ADDITIONAL INFORMATION...

4. ALL TRENCHES SHALL BE ADEQUATELY SUPPORTED OR LAID BACK PER OSHA REGULATIONS.

5. ALL MATERIALS AND CONSTRUCTION SHALL BE IN CONFORMANCE WITH THE TOWN OF MOUNTAIN VILLAGE DESIGN STANDARDS LATEST EDITION. ALL CONSTRUCTION WITHIN EXISTING STREET OR ALLEY RIGHT-OF-WAY SHALL BE SUBJECT TO TOWN OF MOUNTAIN VILLAGE INSPECTION.

6. THE CONTRACTOR SHALL HAVE ONE COPY OF THE STAMPED PLANS ON THE JOB SITE AT ALL TIMES.

7. THE CONTRACTOR SHALL NOTIFY THE TOWN 48 HOURS PRIOR TO THE START OF CONSTRUCTION.

8. THE CONTRACTOR IS RESPONSIBLE FOR IMPLEMENTING AND MAINTAINING EROSION AND SEDIMENT CONTROL MEASURES AT ALL TIMES DURING CONSTRUCTION. THE ADJOINING ROADWAYS SHALL BE FREE OF DEBRIS AT THE END OF CONSTRUCTION ACTIVITIES EACH DAY.

9. THE CONTRACTOR SHALL PROVIDE, ERECT AND MAINTAIN PROPER TRAFFIC CONTROL DEVICES UNTIL THE SITE IS OPEN TO TRAFFIC. ANY TRAFFIC CLOSURES MUST BE COORDINATED WITH THE TOWN OF MOUNTAIN VILLAGE.

10. ALL DAMAGE TO PUBLIC STREETS AND ROADS, INCLUDING HAUL ROUTES, TRAILS, OR STREET IMPROVEMENTS, OR TO PRIVATE PROPERTY, SHALL BE REPAIRED AT THE SOLE EXPENSE OF THE CONTRACTOR TO THE ORIGINAL CONDITIONS.

11. WHEN AN EXISTING ASPHALT STREET IS CUT, THE STREET MUST BE RESTORED TO A CONDITION EQUAL TO OR BETTER THAN ITS ORIGINAL CONDITION. THE FINISHED PATCH SHALL BLEND SMOOTHLY INTO THE EXISTING SURFACE. ALL LARGE PATCHES SHALL BE PAVED WITH AN ASPHALT LAY-DOWN MACHINE.

12. IF DEWATERING IS REQUIRED, THE CONTRACTOR SHALL NOTIFY THE ENGINEER. ANY DISCHARGE REQUIREMENTS SHALL BE COORDINATED WITH THE TOWN OF MOUNTAIN VILLAGE.

13. CONTRACTOR SHALL NOTIFY ALL RESIDENTS IN WRITING 24 HOURS PRIOR TO ANY SHUT-OFF IN SERVICE. THE NOTICES MUST HAVE CONTRACTOR'S PHONE NUMBER AND NAME OF CONTACT PERSON, AND EMERGENCY PHONE NUMBER FOR AFTER HOURS CALLS. ALL SHUT-OFF'S MUST BE APPROVED BY THE TOWN AND TOWN VALVES AND APPURTENANCES SHALL BE OPERATED BY TOWN PERSONNEL.

14. CONTRACTOR SHALL KEEP SITE CLEAN AND LITTER FREE (INCLUDING CIGARETTE BUTTS) BY PROVIDING A CONSTRUCTION DEBRIS TRASH CONTAINER AND A BEAR-PROOF POLY-CART TRASH CONTAINER, WHICH IS TO BE LOCKED AT ALL TIMES.

15. CONTRACTOR MUST BE AWARE OF ALL TREES TO REMAIN PER THE DESIGN AND APPROVAL PROCESS AND PROTECT THEM ACCORDINGLY.

16. THE CONTRACTOR SHALL PROVIDE UNDERGROUND UTILITY AS-BUILTS TO THE TOWN.

17. ALL STRUCTURAL FILL UNDER HARDSCAPE OR ROADS MUST BE COMPACTED TO 95% MODIFIED PROCTOR (MIN.) AT PLUS OR MINUS 2% OF THE OPTIMUM MOISTURE CONTENT. NON-STRUCTURAL FILL SHALL BE PLACED AT 90% (MIN.) MODIFIED PROCTOR.

18. UNSUITABLE MATERIAL SHALL BE REMOVED AS REQUIRED BY THE SOILS ENGINEER. ALL MATERIALS SUCH AS LUMBER, LOGS, BRUSH, TOPSOIL OR ORGANIC MATERIALS OR RUBBISH SHALL BE REMOVED FROM ALL AREAS TO RECEIVE COMPACTED FILL.

19. NO MATERIAL SHALL BE COMPACTED WHEN FROZEN.

20. NATIVE TOPSOIL SHALL BE STOCKPILED TO THE EXTENT FEASIBLE ON THE SITE FOR USE ON AREAS TO BE REVEGETATED.

21. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DUST ABATEMENT AND EROSION CONTROL MEASURES DEEMED NECESSARY BY THE TOWN, IF CONDITIONS WARRANT THEM.

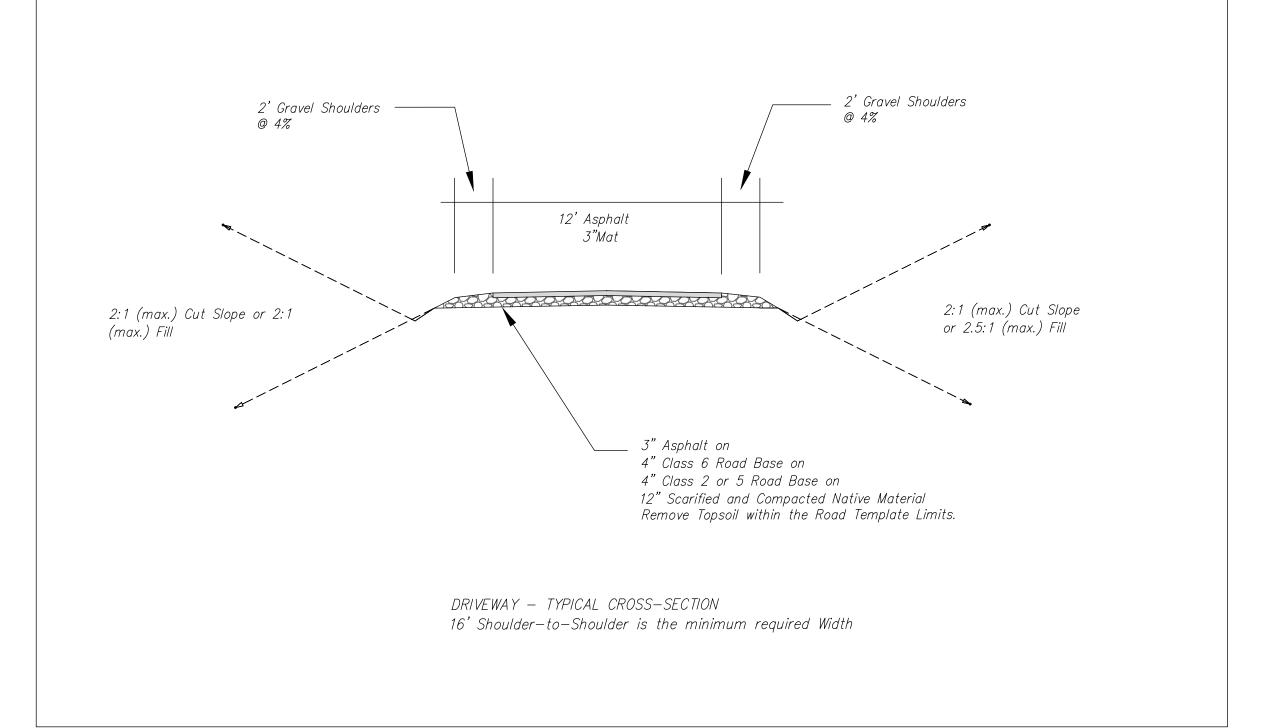
22. ALL DISTURBED GROUND SHALL BE RE-SEEDED WITH A TOWN-APPROVED SEED MIX. REFER TO THE LANDSCAPE PLAN.

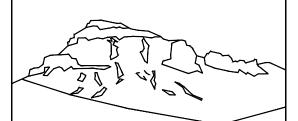
23. THE CONTRACTOR IS REQUIRED TO PROTECT ALL EXISTING SURVEY MONUMENTS AND PROPERTY CORNERS DURING GRADING AND CONSTRUCTION.

24. ALL UNDERGROUND PIPE SHALL BE PROTECTED WITH BEDDING TO PROTECT THE PIPE FROM BEING DAMAGED.

25. HOT TUBS SHALL DRAIN TO THE SANITARY SEWER (OR PUMPED TO AA CLEAN-OUT).

26. THE UTILITY PLAN DEPICTS FINAL UTILITY LOCATIONS BUT HAS BEEN COMPLETED AT A PRELIMINARY STAGE. CONTRACTOR SHALL VERIFY ALIGNMENTS WITH THE ARCHITECT PRIOR TO CONSTRUCTION.





Uncompahgre Engineering, LLC

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

2022-02-18

2022-10-14

**SUBMISSIONS:** 

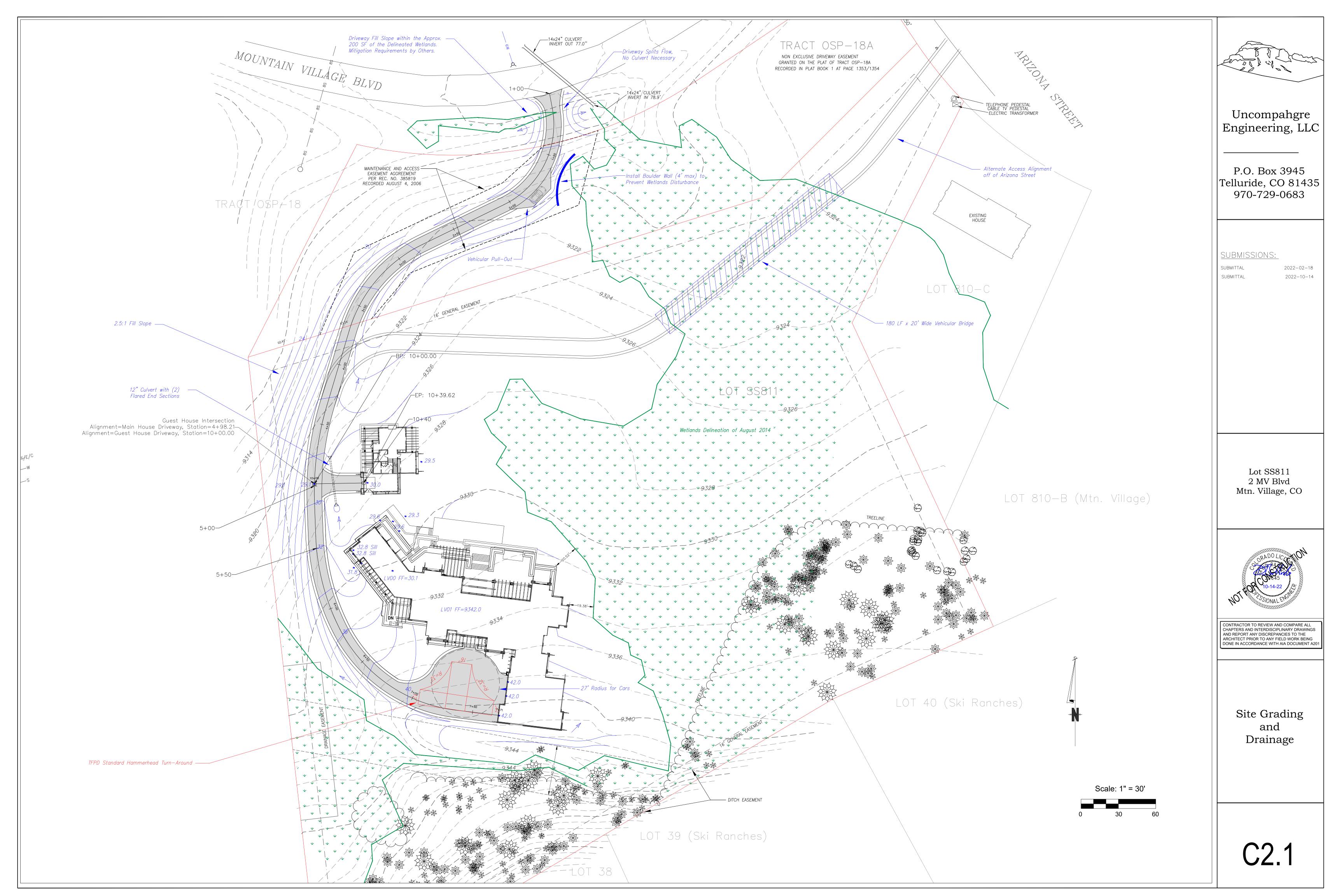
SUBMITTAL

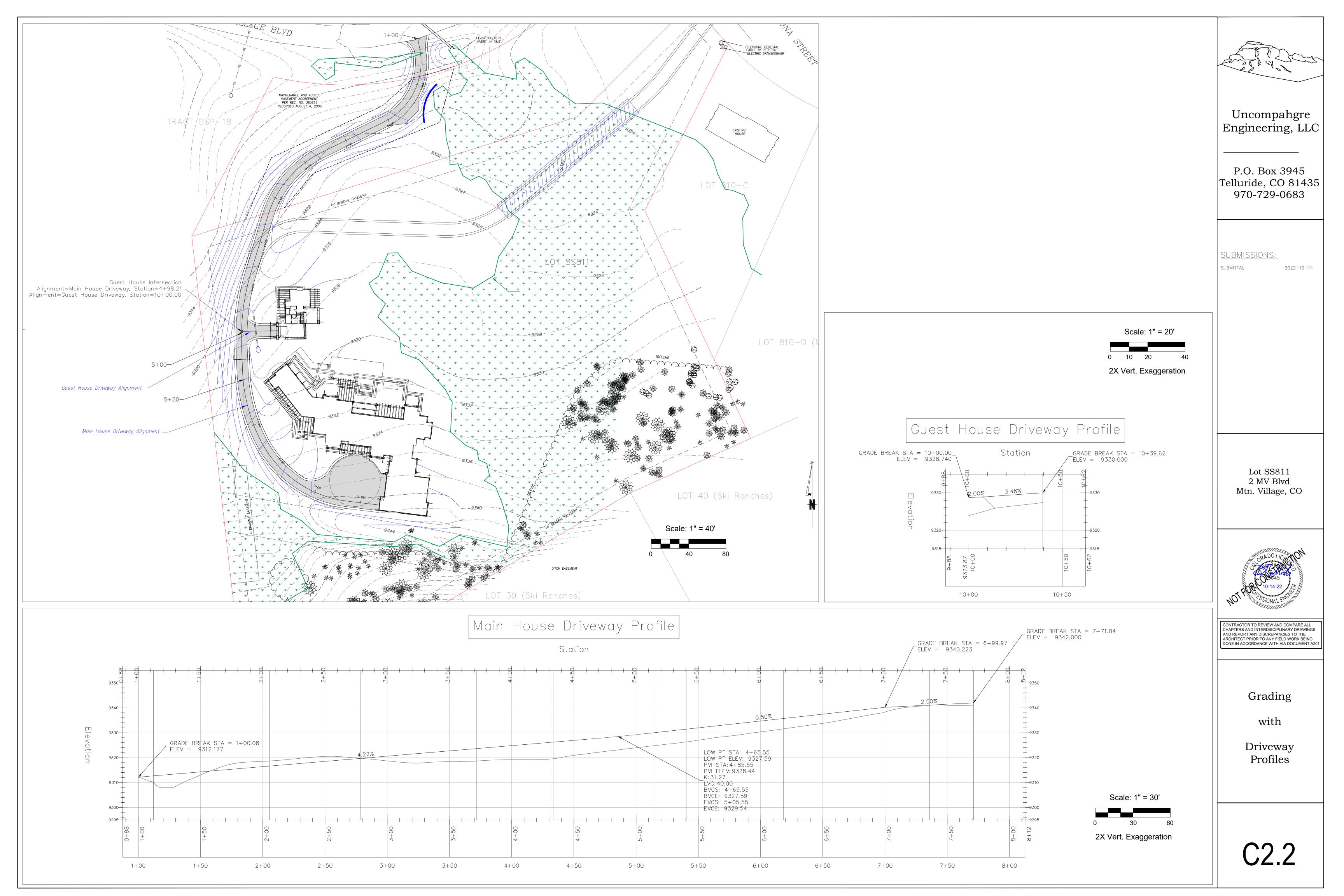
Lot SS811 2 MV Blvd Mtn. Village, CO

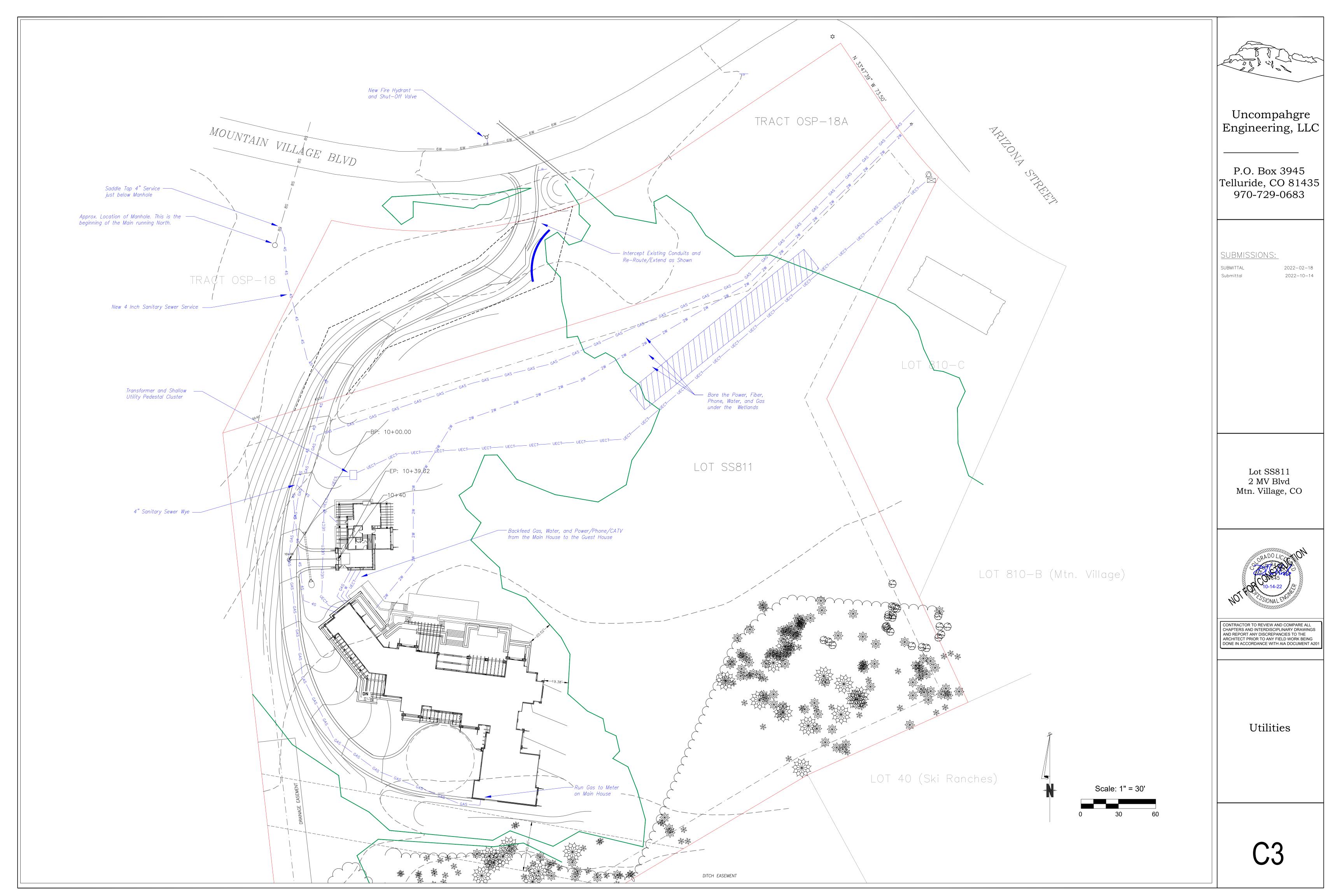


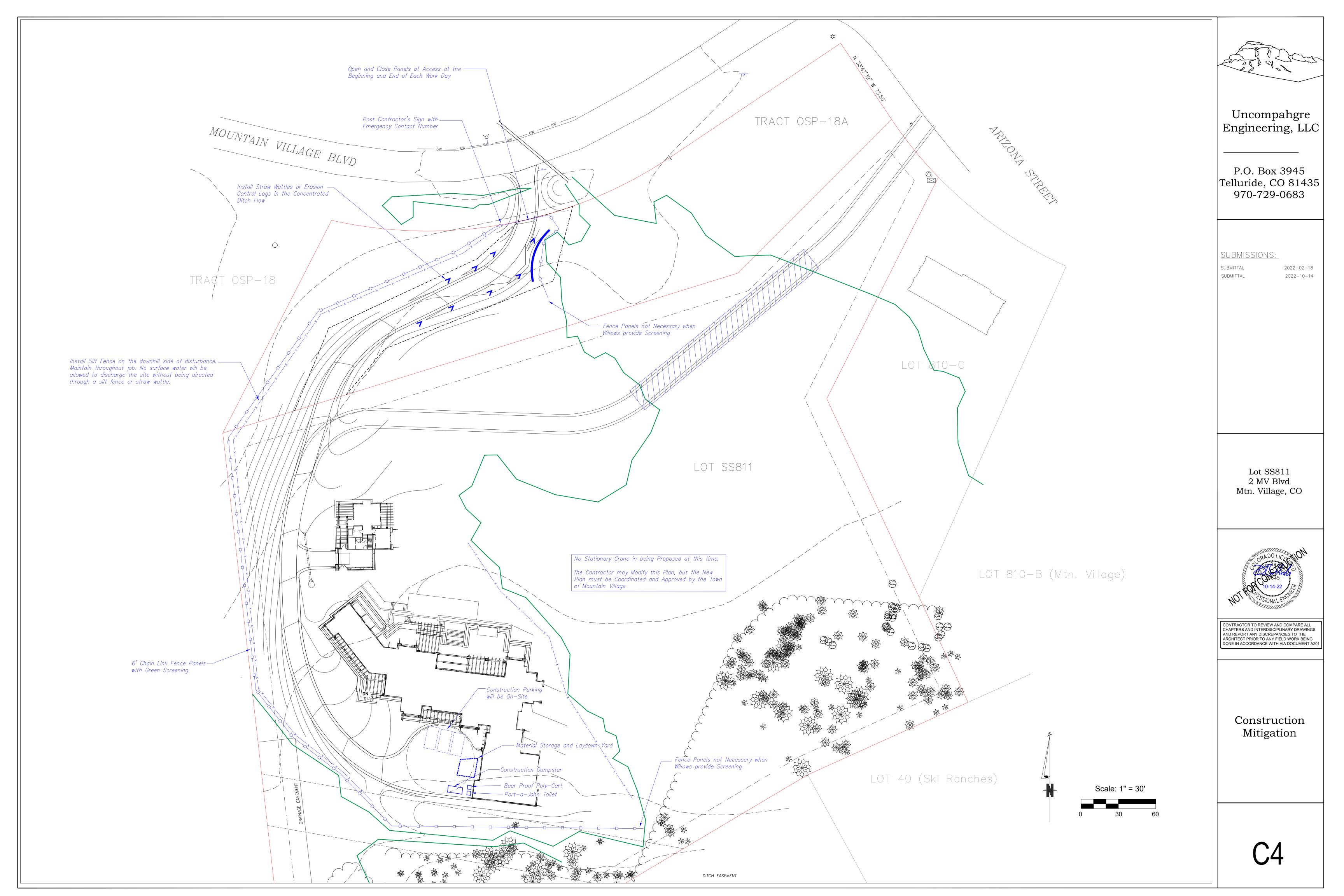
CONTRACTOR TO REVIEW AND COMPARE ALL CHAPTERS AND INTERDISCIPLINARY DRAWINGS AND REPORT ANY DISCREPANCIES TO THE ARCHITECT PRIOR TO ANY FIELD WORK BEING
DONE IN ACCORDANCE WITH AIA DOCUMENT A20:

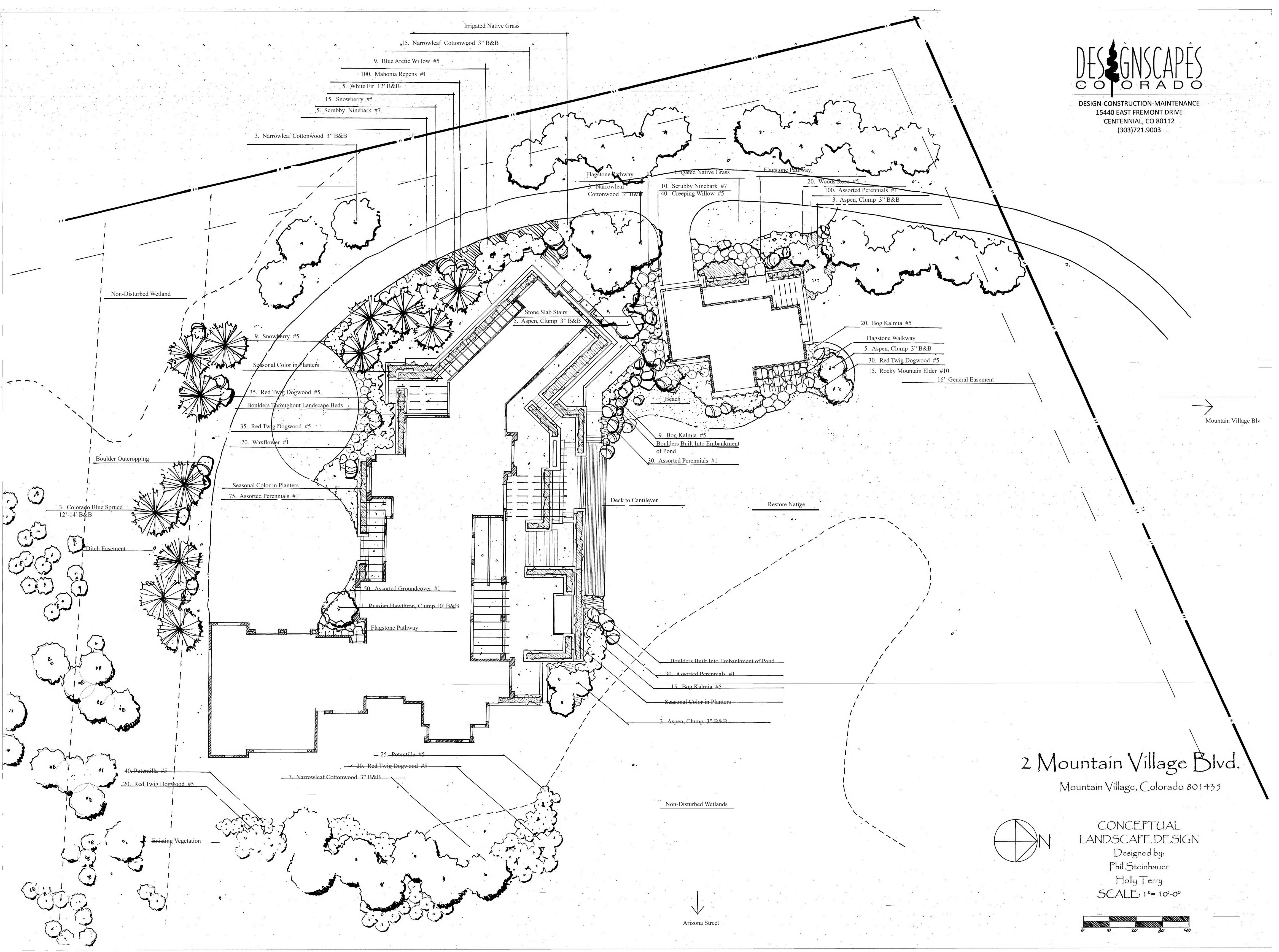
Notes













Building a Better World for All of Us®

THE VAULT HOME COLLECTION 450 S. OLD DIXIE HWY, SITE 8 JUPITER, FL 33458

CONTACT 305.710.4907

**CONTRACTOR** TOP NOTCH CONSTRUCTION 8121 PRESERVE DR. TELLURIDE, CO 81435

CODY ABBOTT 970-596-1014

SHORT ELLIOTT HENDRICKSON, INC. 934 MAIN AVENUE, SUITE C DURANGO, COLORADO 81301

CONTACT: ALLISON MILLER PHONE: 970.459.9017

2 MOUNTAIN VILLAGE BLVD

2 MOUNTAIN VILLAGE BLVD

2 MOUNTAIN VILLAGE BLVD. MOUNTAIN VILLAGE, CO 81435

This drawing is an instrument of service and shall remain the property of Short Elliott Hendrickson, Inc. (SEH). This drawing and the concepts and ideas contained herein shall not be used, reproduced, revised, or retained without the express written approval of SEH. Submission or distribution of this drawing to meet official or regulatory requirements or for other purposes in connection with the project is not be construed as publication in derogation of any of the rights of SEH.

SEH Project Checked By Drawn By

**Project Status** DESIGN REVIEW BOARD

**Issue Date** 10.17.2022

ARCHITECTURAL SITE PLAN

#### LSC TRANSPORTATION CONSULTANTS, INC.



1889 York Street Denver, CO 80206 (303) 333-1105 FAX (303) 333-1107 E-mail: lsc@lscdenver.com

NSULTANTS, INC.

October 13, 2023

Mr. Matthew Shear 2 MV, LLC matthew@vaulthomecollection.com

Re: SS811/2MV Sight Distance

Evaluation

Mountain Village, CO

LSC #230400

Dear Mr. Shear:

Per your request, we have completed this sight distance evaluation along Mountain Village Boulevard for the proposed SS811/2MV development in Mountain Village, Colorado. Figure 1 shows the vicinity map for the site.

#### INTRODUCTION

The purpose of this letter is to evaluate the sight distance along Mountain Village Boulevard from both the preferred location directly to Mountain Village Boulevard and a less desired option via the Mountain Village Boulevard/Arizona Street intersection. Figure 2 shows the study area, existing topography, and the two site access options.

### SIGHT DISTANCE EVALUATION FOR SITE ACCESS DIRECTLY TO MOUNTAIN VILLAGE BOULEVARD (PREFERRED SCENARIO)

#### **Looking East**

Figure 3 shows a photo looking east along Mountain Village Boulevard from near the preferred site access intersection. The required entering sight distance for a posted speed limit of 30 mph would be 300 feet for passenger vehicles and 390 feet for single-unit (box) trucks. It is important to note the passenger vehicles approaching from the east have a minimum required stopping sight distance of only 200 feet.

#### **Looking West**

Figure 4 shows a photo looking west along Mountain Village Boulevard from near the preferred site access intersection. The required entering sight distance for a posted speed limit of 30 mph would be 300 feet for passenger vehicles and 390 feet for single-unit (box) trucks. It is important to note the passenger vehicles approaching from the west have a minimum required stopping sight distance of only 200 feet.

#### Plan and Profile View

Figure 5 shows the lines of sight plotted on a Plan/Profile sheet. It shows acceptable sight distance is available for passenger cars and single-unit trucks. The approaching passenger vehicles have a stopping sight distance requirement of only 200 feet which is also available.

### SIGHT DISTANCE EVALUATION FOR SITE ACCESS ON ARIZONA STREET (LESS DESIRED SCENARIO)

#### **Looking East**

Figure 6 shows a photo looking east along Mountain Village Boulevard from the intersection with Arizona Street. The required entering sight distance for a posted speed limit of 30 mph would be 300 feet for passenger vehicles and 390 feet for single-unit (box) trucks. It is important to note the passenger vehicles approaching from the east have a minimum required stopping sight distance of only 200 feet.

#### **Looking West**

Figure 7 shows a photo looking west along Mountain Village Boulevard from the intersection with Arizona Street. The required entering sight distance for a posted speed limit of 30 mph would be 300 feet for passenger vehicles and 390 feet for single-unit (box) trucks. It is important to note the passenger vehicles approaching from the west have a minimum required stopping sight distance of only 200 feet.

#### Plan and Profile View

Figure 8 shows the lines of sight plotted on a Plan/Profile sheet. It shows acceptable sight distance is available for passenger cars and single-unit trucks. The approaching passenger vehicles have a stopping sight distance requirement of only 200 feet which is also available.

#### **CONCLUSION**

The existing sight distance along Mountain Village Boulevard from both the preferred location and via Arizona Street are acceptable, but the sight distance to the east is slightly better for the preferred site access directly to Mountain Village Boulevard. The applicant requests access directly to Mountain Village Boulevard.

\* \* \*

We trust this information will assist you in planning for access to the  ${\rm SS}811/2{\rm MV}$  development.

Respectfully submitted Support Fig. 100 LICE Transport Fig. 2 39018

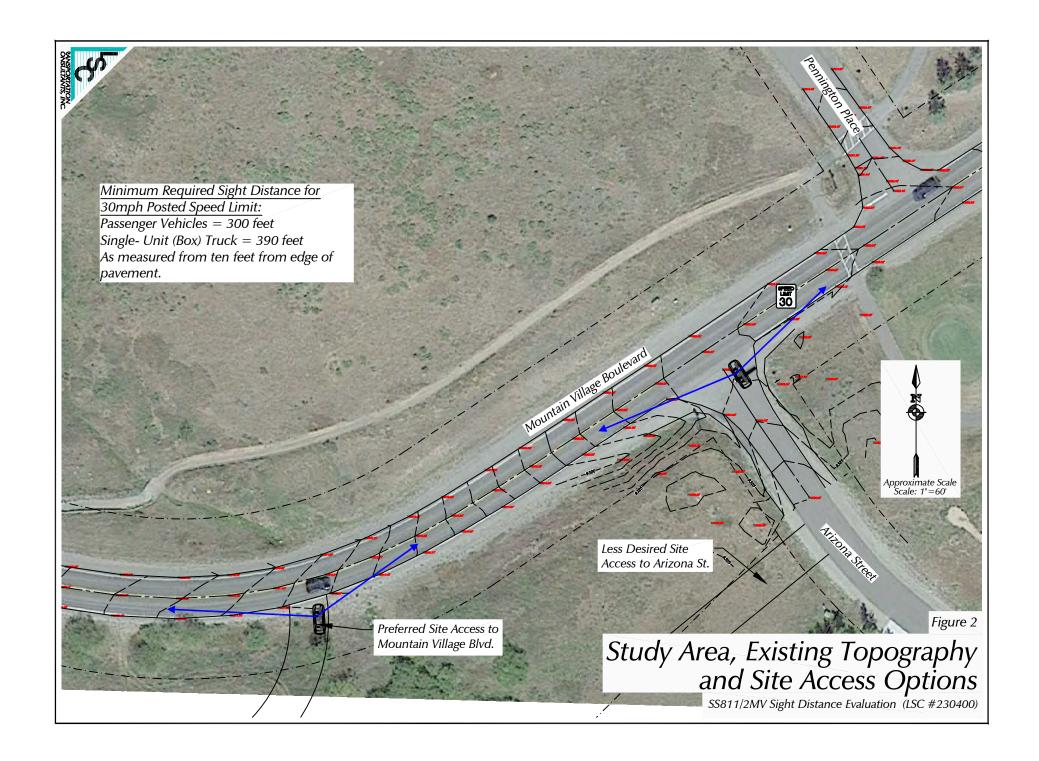
Christopher Cranal Principal President All President Pre

10-13-23

CSM/wc

Enclosures: Figures 1 - 8







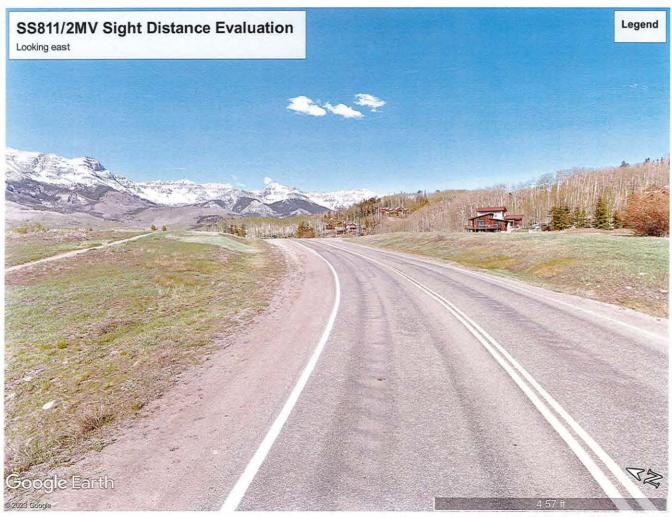


Figure 3

### Mountain Village Blvd. Looking East From Near Preferred Site Access



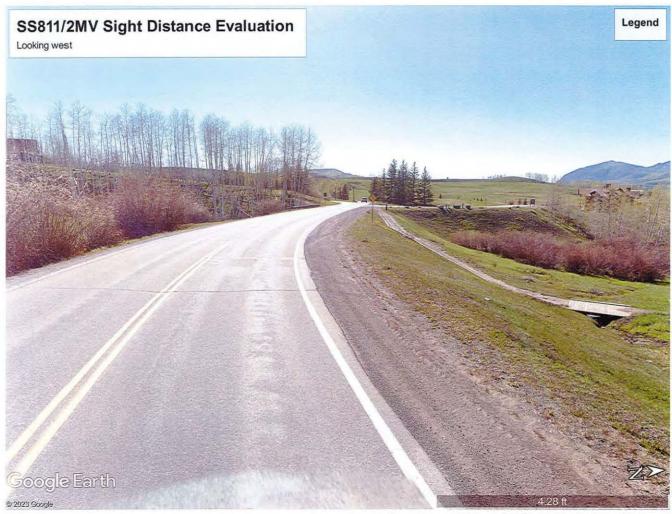
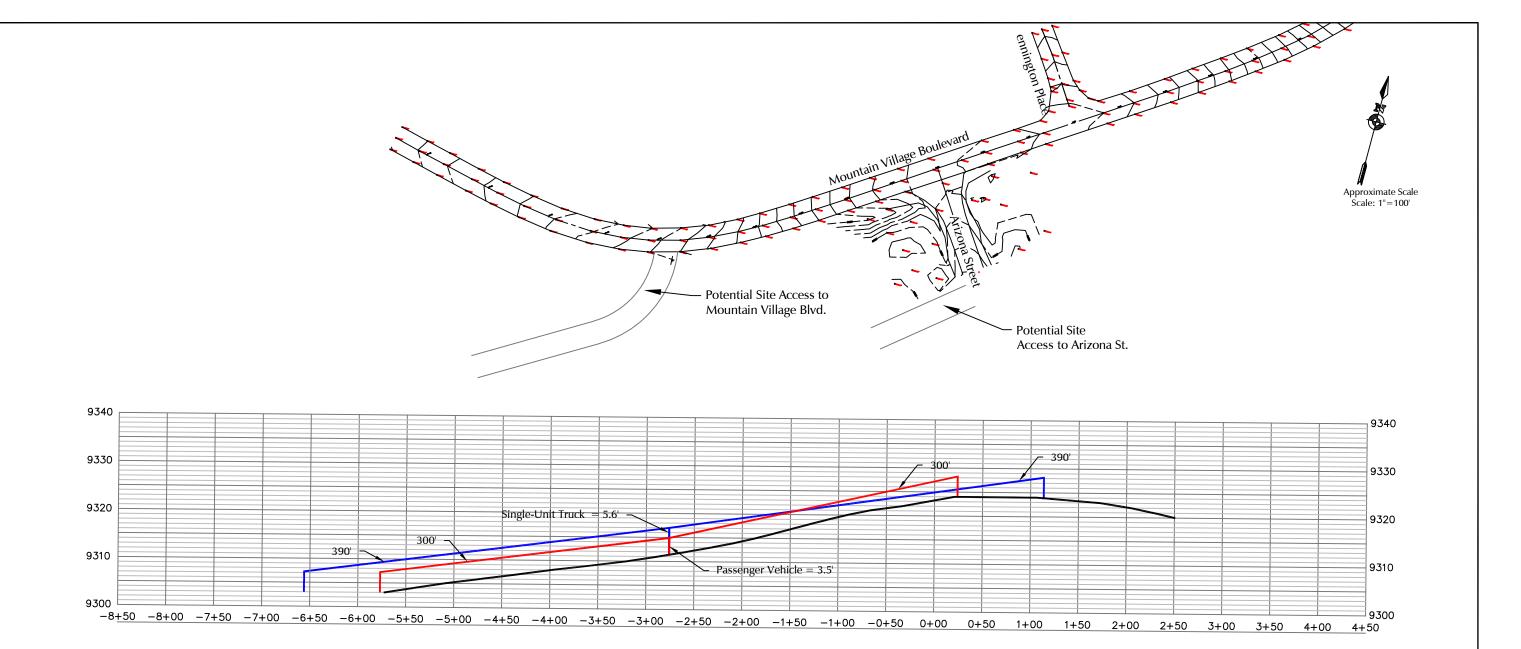


Figure 4

### Mountain Village Blvd. Looking West From Near Preferred Site Access



Note: These entering sight distance lengths are based on the approaching vehicle not having to brake to allow the sideroad vehicles to enter the roadway. The stopping sight distance to avoid a collision is much shorter. The minimum stopping distance for 30mph for approaching passenger vehicles is only 200 feet.

Legend:

= Centerline Profile of Mountain Village Boulevard

= Passenger Car Line of Sight= Single-Unit Truck Line of Sight

Entering sight distance required based on CDOT Access Code.

Height of Driver Eye and Approaching Vehicle:

Passenger Vehicle = 3.5' Single-Unit Truck = 5.6'

Height of Approaching Vehicle = 4.25









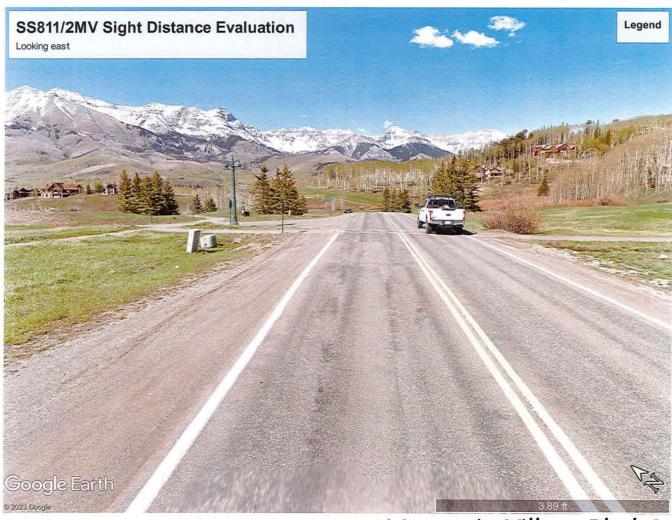


Figure 6

### Mountain Village Blvd. Looking East From Near Arizona Street



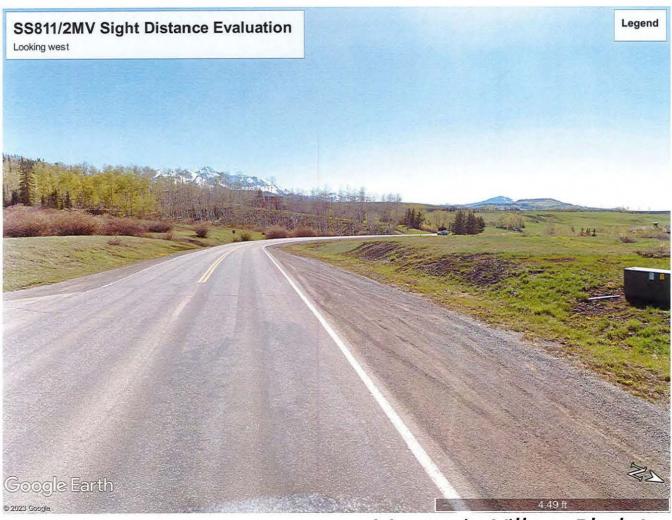
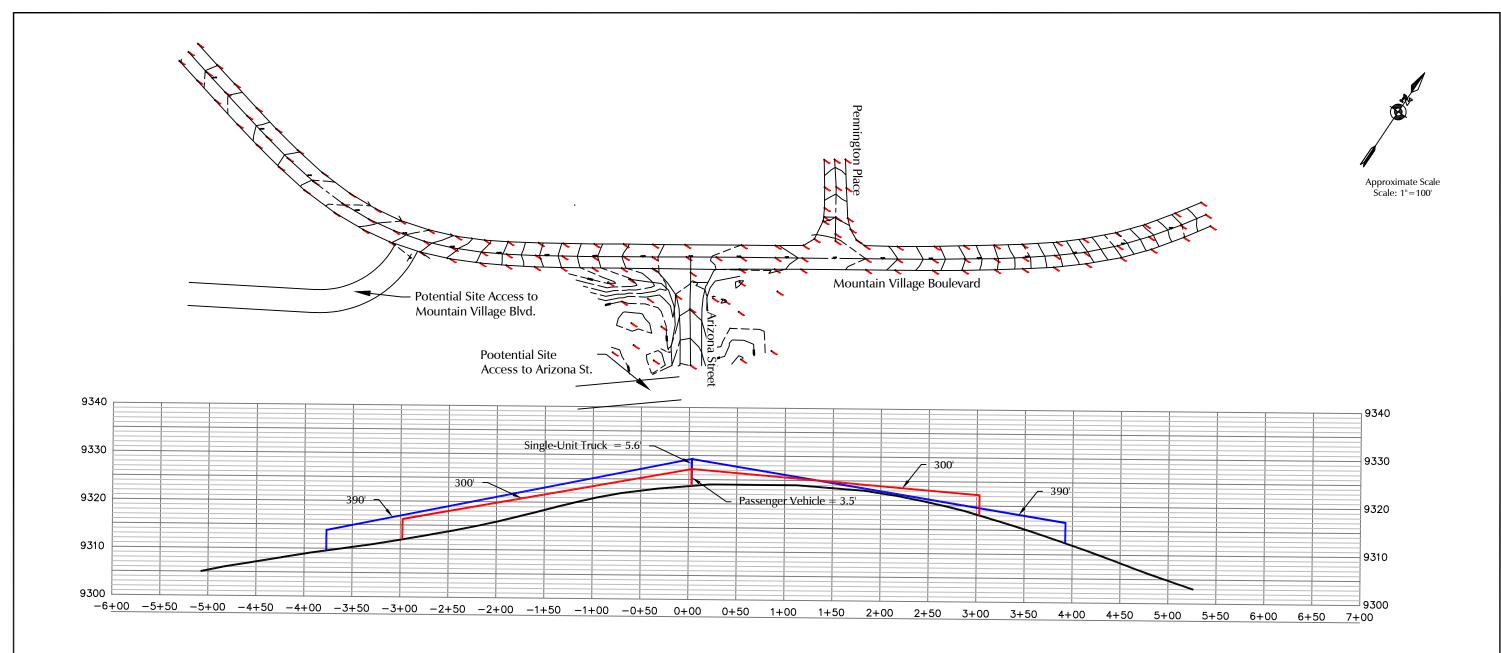


Figure 7

Mountain Village Blvd. Looking West From Near Arizona Street



Note: These entering sight distance lengths are based on the approaching vehicle not having to brake to allow the sideroad vehicles to enter the roadway. The stopping sight distance to avoid a collision is much shorter. The minimum stopping distance for 30mph for approaching passenger vehicles is only 200 feet.

Legend:

= Centerline Profile of Mountain Village Boulevard
= Passenger Car Line of Sight

= Single-Unit Truck Line of Sight

Height of Driver Eye and Approaching Vehicle:

Passenger Vehicle = 3.5'

Single-Unit Truck = 5.6'

Height of Approaching Vehicle = 4.25'

Entering sight distance required based on CDOT Access Code.









January 4, 2024

BILL E. KYRIAGIS 303 575 7506 BKYRIAGIS@OTTENJOHNSON.COM

VIA EMAIL (CD@MTNVILLAGE.ORG; MVCLERK@MTNVILLAGE.ORG)

Design Review Board Town of Mountain Village 455 Mountain Village Boulevard Mountain Village, Colorado 81435

Re: Conditional Use Permit for Driveway Access on Lot OSP-18A for Single-Family Home on Lot SS-811, Pursuant to CDC Section 17.4.14

Dear Design Review Board:

This firm represents 2 MV BLVD, LLC ("**Applicant**"), the owner of Lot SS-811 ("**SS-811**"), in the Town of Mountain Village (the "**Town**") in connection with its application for a Conditional Use Permit ("**CUP**") for driveway access on Lot OSP 18A ("**OSP-18A**"). The DRB will be considering a recommendation to Town Council for the CUP at its January 4, 2024 meeting.

I am specifically writing to respond to comments submitted by Paul Savage on January 2, 2024. Mr. Savage's comments are legally and factually incorrect, and the DRB should recommend approval of the CUP, because it provides the most appropriate access to SS-811, with the most limited impact on the landscape.

Most importantly, Mr. Savage's suggestion that approval of the CUP would constitute an "open space land grab" is categorically false. The purpose was to provide access to SS-811 with as minimal impact on wetlands as possible, after Town staff emphasized the importance of minimizing wetlands disturbance.

First, Mr. Savage's suggestion that it is a surprise, or contrary to Town plans, that SS-811 would take access through OSP-18A is without basis. It has been a matter of public record that SS-811 would have access through OSP-18A, since at least 1993, when OSP-18A was created. I have attached the Plat of Tract OSP-18 and Tract OSP-18A, Telluride Mountain Village, San Miguel County, Colorado, recorded in the real property records of San Miguel County, Colorado on August 23, 1993 in Plat Book 1, Page 1553-54 (the "Plat"). Note 7 of the Plat provides:

Driveway Easement. A non-exclusive easement inuring to the benefit of Lot SS-811 is hereby established and reserved on, over, across, and under the tract of OSP-18A for the purpose of constructing, operating and maintaining pedestrian and vehicular access and subsurface utilities to Lot SS-811

Design Review Board January 4, 2024 Page 2

(the "Original Easement"). The specific location of the Original Easement was not fixed in the Plat, so in 2005, TSG Ski & Golf, LLC ("TelSki") entered into a Maintenance and Access Agreement, which was recorded in the real property records of San Miguel County, Colorado on August 4, 2006 at Reception No. 385819 (the "2005 Easement"). A copy of the 2005 Easement is included in your packet. The 2005 Easement merely defined a specific location for the access easement, and was expressly intended to be consistent with the Original Easement. In other words, there is no "land grab" here, because OSP-18A never existed independent of the access easement benefiting SS-811. This access was contemplated and of record before the Town was even incorporated, and well before most homes in the Town were built (including Mr. Savage's).

As noted above, the reason the Applicant is pursuing this access is that this approach will minimize disturbance of wetlands. In that regard, Mr. Savage's comments also mischaracterizes the wetlands issues associated with development of SS-811. Mr. Savage would prefer that the Town provide access to SS-811 via Arizona Street, a route that that would require construction through a significant amount of wetlands area. He selectively quotes a portion of a report from Chris Hazen (which is included in your packet), stating that building a bridge "could minimize impacts. . ." on those wetlands. However, that was not at all the important part of Mr. Hazen's conclusions. Mr. Hazen specifically concluded that the access through OSP-18A would provide the access that is the least impactful based on wetlands, and emphasized that the least impactful alternative should always be weighed as a preferred alternative when considering development options regarding wetlands.

As noted in the staff report, the wetlands are, themselves, an important feature of the open space in the immediate area. Accordingly, access via OSP-18A will best preserve and minimize disruption to open space. The access via Mountain Village Boulevard has also been determined to be safe and the preferred access point, as reflected in the report from LSC Transportation Consultants, Inc., included in your packet.

Finally, Mr. Savage's other comments about the history of this project are irrelevant. The Applicant is entitled to access to the property, and is pursuing the approach recommended by the Town staff. We respectfully request that the DRB recommend approval of the CUP as it provides the best access to SS-811.

Very truly yours,

Bill E. Kyriagis For the Firm

BEK/lm Attachment

cc: Kastia Lord (By Email)

David McConaughy (By Email (dmcconaughy@garfieldhecht.com)

Paul Wisor (By Email pwisor@mtnvillage.org) Amy Ward (By Email award@mtnvillage.org) Drew Nelson (By Email dnelson@mtnvillage.org)

KNOW ALL MEN BY THESE PRESENTS that The Telluride Company being the owner in fee simple of TRACT OSP-18, Telluride Mountain Village does hereby plat, said real property in accordance with the plat shown hereon:

A Tract of land lacated in the SW 1/4 of the NW 1/4, of Section 4, and in the NE 1/4 of the SE 1/4, the SE 1/4 of the NE 1/4, and in the NW 1/4 of the SE 1/4 of Section 5, all of Township 42 North, Range 9 West of the New Mexico Principal Meridian, County of Son Miguel, State of Colorada more fully described as follows:

Beginning at the northeasterly corner of Tract OSP-18, whence the C - N I/16 corner of Section 4, T.42 N., R.9 W., N.M.P.M., bears N 88" 13" 36" E. 1693.95 feet:

LEGAL DESCRIPTION OF TRACT OSP-IS, TELLURIDE MOUNTAIN VILLAGE

#### TITLE INSURANCE COMPANY CERTIFICATE



TREASURER'S CERTIFICATE

I cartify that according to the records in my office that there are no liens against this subdivision or any part thereof for unpaid State, Cour Municipal, or local taxes or special assessments.



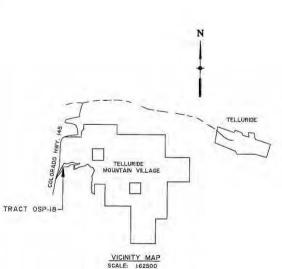
TAX BOND CERTIFICATE

The undersigned Clerk of San Miguel County certifies that dollars have been deposited to cover toxes and assessments against this property which are a lien, but not yet



NOTES

- I. INFORMATION LISTED WITHIN ROAD RIGHTS-OF-WAY REFERS TO CENTERLINE.
- ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH BEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.
- 3. ALL DISTANCES SHOWN ALONG CURVED RIGHTS-OF-WAY ARE ARC LENGTHS.
- ORIGIN OF BEARING: THE NORTH LINE OF THE S 1/2 OF THE SE 1/4 OF SECTION 34, TOWNSHIP 43 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN BEARS S 86 36 10° E WITH ALL OTHER BEARINGS CONTAINED HEREIN RELATIVE THERETO. THIS BEARING WAS ROTATED 01° 26° 50° CLOCKWISE FROM ROGER D. MAHNKE'S SURVEY AS SHOWN ON THE TELLURIDE COMPANY BOUNDARY MAP DATED OCTOBER OF 1980. THIS ROTATION WAS DONE TO BE IN COMPONIBANCE WITH THE PROJECT BEARINGS ESTABLISHED PREVIOUSLY BY KKHAI, INC., DEAVER, COLORADO.
- 5. APPROVAL OF THIS PLAT MAY CREATE A VESTED PROPERTY BIGHT. PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S., AS AMENDED.
- 6. AREA FOR TRACT OSP-IS IS TAKEN ENTIRELY FROM UNPLATTED OPEN SPACE
- 7. DRIVEWAY EASEMENT. A NON-EXCLUSIVE EASEMENT INURING TO THE BENEFIT OF LOT SS-8II IS HEREBY ESTABLISHED AND RESERVED ON, OVER, ACROSS, AND UNDER TRACT OSP-IBA FOR THE PURPOSE OF CONSTRUCTING, OPERATING AND MAINTAINING PEDESTRIAN AND VEHICULAR ACCESS AND SUBSURFACE UTILITIES TO LOT SS-8II.



COVENANTS, CONDITIONS, EASEMENTS, RESTRICTIONS, AND DEFINITIONS

General notes one (i) through fourteen (i4), inclusive, and definitions one (i) through twenty-five (25), inclusive, as shown on sheet one (i) and two (2) of the Plot for the Tellurice Mountain Village, Filing 6, recorded on June 20, 1985 in the office of the Clerk and Recorder for San Miguel County, Colorade, in Plot Book I at Pages 565-571, are incorporated herein by this reference and shall apply to the real property plotted hereby in the same manner as If tally set forth herein, hay amendments to the obove referenced General Notes and Definitions shall apply to the real property plotted hereby. San Miguel County, reserves the right and power to, pursuant to a zoning amendment, modify the covenors, conditions, essements, restrictions, and definitions.

#### PASSIVE OPEN SPACE/RECREATION TRACT

#### ACTIVE OPEN SPACE/RECREATION TRACT

Designates a tract of lond intended to allow uses more intense than those allowed on Passiva Open Space Londs. Uses allowed on the Active Open Space Londs. Uses allowed on the Active Open Space Assertation Tract lands include but are not limited to the following and similar: agoit course, agoit clushes, ago off hallway houses, riding stobles, equestrian facilities, she mountain restorants, ski slopes, ski traits, ski lifts, snowmaking facilities, ski mountain restorants, ski slopes, ski traits, ski lifts, snowmaking facilities, ski mountain restorants, ski patral facilities, ski mountain maintenance facilities, activities, ski mountain restorants, ski patral facilities, ski mountain restorants, son-commercial refusing in the state of th

NOTES OF CLARIFICATION (Plot of Tract OSP-18, Telluride Mountoin Village)

- The Configuration of the following jots, tracts and rights-of-way have been modified by this Plat.
- The following lots, tracts, and rights-of-way have been deleted by this Plat:
- The following jots, tracts, and right-of-way have been created by this Plat: Tract OSP-IB

#### LEGEND

- SET THIS SURVEY, 5/8" REBAR WITH 1 1/2" DIAMETER ALUMINUM CAP MARKED BANNER, INC., 20632
- FOUND THIS SURVEY, 5/8" REBAR WITH I 1/2" DIAMETER ALUMINUM CAP MARKED BANNER, INC., 20632
- FOUND IN PLACE, REBAR WITH I 1/2" DIAMETER ALUMINUM CAP MARKED, LS 6868 FOUND IN PLACE, AS DESCRIBED

#### COUNTY COMMISSIONER'S APPROVAL

This plot has been accepted for filing by the San Miguel County Board of Commissioners and this plot, the uses, densities, standards and definitions

contained herein are hereby approved.

Effective date: Oug 19, 1723 WWenger

> LOT NO. DESIGNATED USE PASSIVE OPEN SPACE/RECREATION TRACT N/A

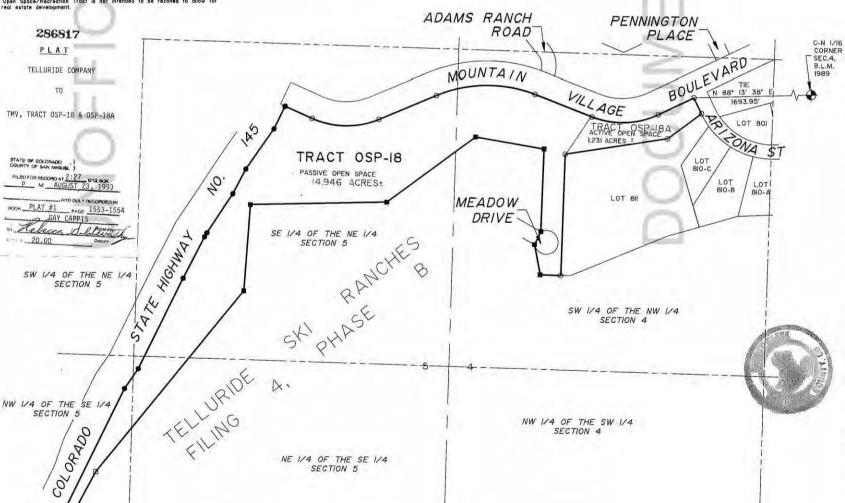


FEET 200

Little Later Later GRAPHIC SCALE SCALE: I INCH = 200 FEET

CERTIFICATE OF OWNERSHIP

Tract OSP-18, Telluride Mauntain Village, as described above contains 16.177 acres



SECTION 5

Ronold D. Allhed

#### ACKNOWLEDGEMENT OF OWNER

State of Colorado )

My commission expires 7- 22-95 PUBLIC

RECORDERS CERTIFICATE

This plot was filed for record in the office of the County Clerk and Recorder of Son Miguel County on this Local day of Angert 1993.

Book No.: 14+ 7/ Page No.: 1553- 1557 Reception No.: 286817 Time: 2: 27 6.7% County Clerk Day Lapper

#### SURVEYOR'S CERTIFICATE

l, Wallace E. Beedle, a Professional Land Serveyor, licensed under the laws of the State of Colorado, do hereby certify that the Plot of Tract OSP-18, Telluride Mountain Village, shown hereon has been prepared under my direct supervision and occurately represents a survey conducted under my direct supervision. This survey comples with applicable San Miguel County and State of Colorado regulations to the best of my knowledge and bellet.

IN WITNESS WHEREOF, I hereuse citix my hand and official seal this 9 day of December 100 nc. 1992.

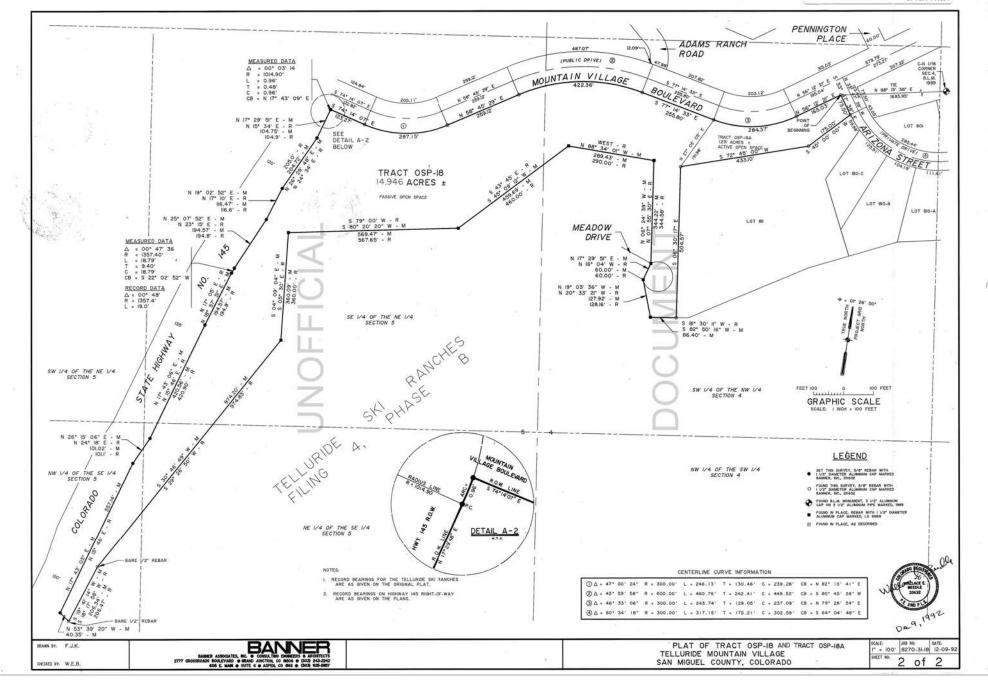
DRAWN BY: F.J.K.

CHECKED BY: W.E.B.

2777 CROSSROADS BOULEVARD • GRAND JUNCTION, CO 81506 • [303] 243-2242 605 E. MAIN • SUITE 6 • ASPEN, CO 81611 • [303] 925-5857

PLAT OF TRACT OSP-18 AND TRACT OSP-18A TELLURIDE MOUNTAIN VILLAGE SAN MIGUEL COUNTY, COLORADO

l"=200' 8270-3I-I8 I2-09-92 of 2



From: Amy Ward

To: Adam Miller; Amy Ward; Banks Brown; Claire Perez; David Eckman; David Craige; Drew Nelson; Ellen Kramer;

<u>garnerdr64@gmail.com</u>; <u>Jason Habib</u>; <u>jim@jh-austin.com</u>; <u>Caton Liz</u>; <u>Scott Bennett</u>

Subject: FW: Vote No Yet Again on the 5th Request for an Open Space Land Grab on OSP-18A

 Date:
 Tuesday, January 2, 2024 10:15:31 AM

 Attachments:
 Screen Shot 2024-01-02 at 9.35.47 AM.pnq

Open Space Land Grab.png Artificial Reflecting Pond.png

Please see the below public comment regarding the Conditional Use Permit on OSP-18A

From: Paul Savage < monoskisavage@gmail.com >

Sent: Tuesday, January 2, 2024 9:44 AM

**To:** mvclerk < mvclerk@mtnvillage.org>; Paul Wisor < pwisor@mtnvillage.org>

Subject: Vote No Yet Again on the 5th Request for an Open Space Land Grab on OSP-18A

Caution: External Message - Please be cautious when opening links or attachments in email.

#### Save Our Open Space - The Corridor is Our Valley Floor

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Building structures of 15,000+ sq ft will cause many environmental issues, and even if they are also built on open space, it still will impact the wetlands. This is not an option of whether we preserve the wetlands or whether we preserve open space; we can preserve both.

When Mountain Village was first developed, without any discussion with the EPA or Army Corps of Engineers, 2/10s of an acre of this wetland was destroyed to construct the boulevard. Town received both federal reprimands as well as bad press for destroying this area. Yet later, the Army Corps of Engineers stated quote "Regardless of impacts and human influence, the wetland area remains robust..." The proposed bridge on Lot 811 will be 2-1/2 times smaller than the area Mountain Village just paved through without any prior approval, yet this bridge will be built to specifications of EPA and the Army Corps of Engineers. The wetlands will continue to remain robust. Any small disturbance will be mitigated according to the federal requirements. The EPA and the Army Corps of Engineers will come up with a suitable plan for building a drive that crosses the wetlands without taking our open space or causing undue damage to the wetlands. This planning is best done by the EPA working with the developer, not by either the Town Council or the DRB.

The developer is responsible for correcting issues with their own lot, just as the rest of this entire community has done before when building out our own lots. Giving away a 1.2-acre tract of open space just to convenience a developer sets a bad precedent that will be exploited as the vast majority of the lots left to develop have substantial build issues. We have all built on our lots assuming that our grand entry corridor would be maintained; this is not fair to the rest of the community who values both wetlands and open space.

The only community support they have received is from the adjacent homeowner on lot 810-C, who is here just a few weeks a year, though The Vault Home Collection refers to them as the most affected by the build. They are the only homeowner who has to gain from the driveway being built on open space, as then the driveway will not be built adjacent to their house as planned on every lot map Mountain Village has ever published. Every other community member loses, as those lot maps have assured us all that the open space that runs continuously on both sides of the boulevard from the entrance to the market subarea, will be forever maintained.

A 2005 driveway easement was sold for \$10 from Telski, which owns the open space. As this is zoned an open space parcel, even Telski also has no right to develop it. No one has the right to build on this open space parcel; the \$10 easement means absolutely nothing. The 2015 Town Resolution expired 7 years ago. This was a bad idea in 2005, it was a bad idea in 2015, and it remains a bad idea today.

The open space development is being considered only under the guise of protecting the wetlands, however their first DRB plan featured a half-acre artificial reflecting pond that would have decimated those same wetlands they are now purporting to protect. Bluntly, it's greenwashing to achieve an open space land grab that degrades our entire community's grand entry and causes traffic congestion and hazards solely to reduce building and maintenance costs to a wealthy developer for an extravagant development.

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The developer needs to understand that many hours have been spent reviewing this same request, asked and answered many times over, and this community does not want to subsidize their build by all of us losing our open space. I urge the DRB to yet again side with your earlier recommendation, Town Council's rejection of this request, and to the benefit of the entire community and not recommend a Conditional Use Permit.

Sincerely, Paul Savage 117 Arizona Dr., Lot 801 Homeowner and Full-Time Resident 970-485-5687 From: Amy Ward
To: Drew Nelson

Subject: FW: Save our Open Space! Forward to mvclerk@mtnvillage.org before Thursday! Thanks!

Date: Wednesday, January 3, 2024 12:29:09 PM
Attachments: Screen Shot 2024-01-02 at 9.35.47 AM.pnq

Open Space Land Grab.png Artificial Reflecting Pond.png

#### photo



#### **Amy Ward**

**Community Development Director, Town of Mountain Village** 

Office | 970-369-8248 | Mobile | 970-729-2985

award@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435







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From: mvclerk <mvclerk@mtnvillage.org>
Sent: Wednesday, January 3, 2024 9:24 AM
To: Amy Ward <award@mtnvillage.org>
Cc: mvclerk <mvclerk@mtnvillage.org>

Subject: FW: Save our Open Space! Forward to mvclerk@mtnvillage.org before Thursday! Thanks!

Public comment.

From: <a href="mailto:rube@montrose.net">rube@montrose.net</a>>

**Sent:** Tuesday, January 2, 2024 3:26 PM **To:** mvclerk < mvclerk@mtnvillage.org >

Subject: FW: Save our Open Space! Forward to <a href="mailto:mvclerk@mtnvillage.org">mvclerk@mtnvillage.org</a> before Thursday! Thanks!

Caution: External Message - Please be cautious when opening links or attachments in email.

Town Of Mountain Village DRB and Council,

On February 9, 2023, I wrote a letter to Council to reject the applicants request to cut a driveway across open space directly from Mountain Village Blvd to access the proposed home on Lot SS 811. Once again, I ask that you reject this request and follow what Paul Savage has stated.

Sincerely,

William "Rube" Felicelli
319 Adams Ranch Rd #1501
Mountain Village, CO
970-708-1406
rube@montrose.net
Former Councilmember and Mayor

## Vote No Yet Again on the 5th Request for an Open Space Land Grab on OSP-18A

Save Our Open Space - The Corridor is Our Valley Floor

This open space development diminishes our grand entry, right at the entrance on Mountain Village Boulevard between Adams Ranch Rd. and Arizona Dr., with a 250-foot driveway extension, vehicle pullout, retaining wall and address monument all located on open space to connect to the boulevard. This would be the only driveway connection to Mountain Village Blvd other than east of the proposed Four Seasons after the boulevard becomes a secondary road. This would create substantial traffic congestion and hazards, especially during the build which is likely to take 3 years at a minimum. Snow removal when the boulevard is at its busiest and slickest would be an ongoing peak-travel hazard on our main thoroughfare. They are asking for something that no other residence, hotel or condo development has in town; to locate a driveway on the only 30mph thoroughfare. They are asking us all to give away our grand entrance and open space solely for them to save on their building and maintenance costs.

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Building structures of 15,000+ sq ft will cause many environmental issues, and even if they are also built on open space, it still will impact the wetlands. This is not an option of whether we preserve the wetlands or whether we preserve open space; we can preserve both.

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Drew Nelson
FW: Save our Open Space! Forward to mvclerk@mtnvillage.org before Thursday! That
Wednesday, January 3, 2024 1:02:29 PM

□ Up State 3004 01 02 at 0.38 47 4M non

Screen Shot 2024-01-02 at 9.35.47 AM.png



Amy Ward

Community Development Director, Town of Mountain Village

Office | 970-369-8248 | Mobile | 970-729-2985

award@mtnvillage.org

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From: mvclerk <mvclerk@mtnvillage.org> Sent: Wednesday, January 3, 2024 11:14 AM To: Amy Ward <award@mtnvillage.org> Cc: mvclerk < mvclerk@mtnvillage.org>

Subject: FW: Save our Open Space! Forward to mvclerk@mtnvillage.org before Thursday! Thanks!

Public comment.

From: Michael Johnson < hawkeye johnson@yahoo.com>

Sent: Wednesday, January 3, 2024 8:09 AM To: mvclerk < mvclerk@mtnvillage.org>

Subject: Fwd: Save our Open Space! Forward to <a href="myclerk@mtnvillage.org">myclerk@mtnvillage.org</a> before Thursday! Thanks!

Caution: External Message - Please be cautious when opening links or attachments in email.

Please do not allow development on open space OSP-18A. No personal residence should be allowed on mountain village boulevard!

Hawkeye Johnson and Deb Madaris MV homeowners since 2005

Sent from my iPad

Begin forwarded message:

From: Paul Savage < monoskisavage@gmail.com > Date: January 2, 2024 at 11:24:17 AM MST

To: hawkeye@gohawkeye.com, rube@montrose.net, eclaugus@sbcglobal.net, rjohnson@mtnvillage.org

Subject: Save our Open Space! Forward to myclerk@mtnvillage.org before Thursday! Thanks!

#### Vote No Yet Again on the 5th Request for an Open Space Land Grab on OSP-18A Save Our Open Space - The Corridor is Our Valley Floor

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### **Applicant's Presented Options Affecting Wetlands**

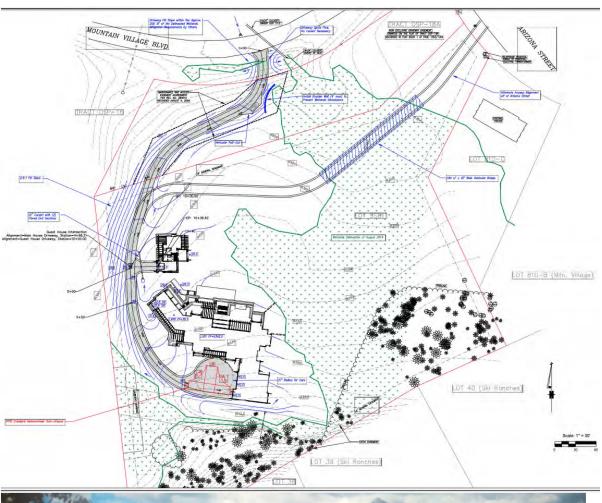
	Artificial 1/2 Acre Reflecting Pond	2. At-Grade Driveway with a Series of Culverts on Applicant's Lot	3. Raised Bridge on Applicant's Lot	4. Driveway on Open Space 5th REQUEST
Wetlands	Maximum Impact	Less Impact	Minimum Impact	Least Impact, but still not zero
Open Space	Zero Impact	Zero Impact	Zero Impact	Maximum Impact
Traffic	Minimum Impact	Minimum Impact	Minimum Impact	Maximum Impact
DRB Status 3rd Review	Initial Review DENIED	No Drawings Presented, Only Footprint Drawn	No Drawings Presented, Only Footprint Drawn	Not Recommended 4-2 Vote - DENIED
Town Council Status 4th Review	N/A	No Drawings Presented, Only Footprint Drawn	No Drawings Presented, Only Footprint Drawn	Conditional Use Permit, 4-2 Vote DENIED AGAIN
DRB 1/4/24 5th Review	N/A	No Drawings Presented, Only Footprint Drawn	No Drawings Presented, Only Footprint Drawn	Asked & Answered,
SUMMARY	RIDUCULOUS	2nd BEST OPTION	*** BEST OPTION ***	Do not subsidize the applicant's build by forfeiting the entire town's open space.

"An elevated driveway "bridge" could minimize impacts provided that the bottom chord of the bridge is 3-5' above grade, allowing for natural light to reach the plant community below."- Chris Hazen

The choice is obvious, a raised bridge on the applicant's lot would eliminate open space impacts, minimize traffic impacts, and according to the applicant's environmental consultant, minimize wetlands impacts.

The EPA and Army Core of Engineers will approve an acceptable option that does not take our open space.

Protect Our Open Space – The Corridor is Our Valley Floor
Do Not Recommend a Conditional Use Permit on OSP-18A





From: Amy Ward

To: Drew Nelson

Subject: FW: DENY The OSP-18A Conditional Use Permit Date: Wednesday, January 3, 2024 1:02:30 PM

### photo



### **Amy Ward**

Community Development Director, Town of Mountain Village

Office | 970-369-8248 | Mobile | 970-729-2985

award@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435







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From: mvclerk <mvclerk@mtnvillage.org>
Sent: Wednesday, January 3, 2024 11:09 AM
To: Amy Ward <award@mtnvillage.org>
Cc: mvclerk <mvclerk@mtnvillage.org>

Subject: FW: DENY The OSP-18A Conditional Use Permit

Public comment.

**From:** Mike Shimkonis <<u>shimmytelluride@gmail.com</u>>

**Sent:** Tuesday, January 2, 2024 9:01 PM **To:** mvclerk < mvclerk@mtnvillage.org>

Subject: DENY The OSP-18A Conditional Use Permit

Caution: External Message - Please be cautious when opening links or attachments in email.

Dear Mountain Village DRB -

I am a Mountain Village resident and concur with Paul Savage's clear letter requesting that you deny this residential development's conditional use permit application. One correction is that the Army Corps' of Engineers, not the EPA, is the agency the developer needs to work with to avoid/minimize/mitigate wetlands without taking away open space or causing undue damage to the wetlands. The EPA is the enforcement arm of the federal government for wetlands violations. The

Army Corps' is the permitting arm for Section 404 permits.

Paul raises several excellent points, including the one regarding the history of wetlands destruction when Mountain Village was first developed. I was hired by Telski/Telco as their spokesperson soon after the battle between the County, the EPA, the Army Corps and Telski began. I was in the middle of that frying pan, and it was not pleasant. The issue made national headlines, hurt the reputation and branding of the ski company and cost Ron Allred and Jim Wells a small fortune, besides all the bad press. If this application had been made in 1993, it would have been stopped dead on arrival. Full Stop.

Having a driveway on Mountain Village Boulevard, as described by Mr. Savage, is a bad idea. The developer is responsible for correcting issues with their lot, but must not be allowed to avoid the expense of a longer bridge by impacting such a significantly busy and important sense of entry into our community. Keep it tucked away and mostly out of sight on Arizona Street, not on Mountain Village Boulevard. Do not be swayed. Vote this down again, for good.

The Mountain Village has grown into a vibrant community in a carefully considered evolution. Allowing a driveway on the boulevard would be an egregious error.

Sincerely,

Mike Shimkonis

From: <u>Kim Schooley</u>

To: <u>Amy Ward; Claire Perez; Jason Habib; Drew Nelson</u>

Subject: FW: Open space

**Date:** Thursday, January 4, 2024 8:54:19 AM

#### Public comment for OSP-18A

----Original Message-----

From: Jonathan Greenspan < jonathangreenspan@kw.com>

Sent: Thursday, January 4, 2024 7:59 AM To: mvclerk <mvclerk@mtnvillage.org>

Subject: Open space

Caution: External Message - Please be cautious when opening links or attachments in email.

#### Hi and good morning

To whom this may concern. I am not in support of trading open space osp-18a for a driveway and pull out area. Every previous potential developer has had to deal with the same issue. There are no driveway easement off of the boulevard at a high rate of speed of 30 on a bend in the road. Furthermore, this will set a precedence for several other potential situation's to grab land for personal use at the expense of the community. They knew what they bought when they bought it. In addition, if they're going to build a 15,000+ square-foot house and guest house and extensive landscaping then they can afford a short bridge to the property for an extremely private enclave. This easement does not make sense, and it is not fair to the rest of the community. So obviously, I personally do not support this request. Thank you very much from 'Jonathan Greenspan' number two Spring Creek Drive Mountain Village.

Sent from my iPhone

Kim Schooley

Deputy Town Clerk, Town of Mountain Village

Office | 970-369-6404 | Mobile | 970-729-9373

kschooley@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435

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From: <u>Kim Schooley</u>

To: <u>Amy Ward; Jason Habib; Claire Perez; Drew Nelson</u>

Subject: FW: Save our Open Space! Forward to mvclerk@mtnvillage.org today! Thanks!

**Date:** Thursday, January 4, 2024 8:55:15 AM

Public comment for Lot OSP-18A

# photo



### Kim Schooley

Deputy Town Clerk, Town of Mountain Village

Office | 970-369-6404 | Mobile | 970-729-9373

kschooley@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435







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**From:** Tracy Walker <mcwalkerr@hotmail.com> **Sent:** Wednesday, January 3, 2024 10:10 PM **To:** mvclerk <mvclerk@mtnvillage.org>

Subject: Fwd: Save our Open Space! Forward to mvclerk@mtnvillage.org today! Thanks!

Caution: External Message - Please be cautious when opening links or attachments in email.

I agree with the attached letter from Paul Savage and also a letter from Mike Shimkonis

Sent from my iPhone

Begin forwarded message:

**From:** Paul Savage < monoskisavage@gmail.com >

**Date:** January 3, 2024 at 8:01:12 AM MST **To:** Tracy Walker < <a href="mailto:mcwalkerr@hotmail.com">mcwalkerr@hotmail.com</a>>

Subject: Save our Open Space! Forward to <a href="mailto:mvclerk@mtnvillage.org">mvclerk@mtnvillage.org</a> today! Thanks!

Vote No Yet Again on the 5th Request for an Open Space

# Land Grab on OSP-18A

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The developer needs to understand that many hours have been spent reviewing this same request, asked and answered many times over, and this community does not want to subsidize their build by all of us losing our open space. I urge the DRB to yet again side with your earlier recommendation, Town Council's rejection of this request, and to the benefit of the entire community and not recommend a Conditional Use Permit.

Sincerely, Paul Savage 117 Arizona Dr., Lot 801 Homeowner and Full-Time Resident 970-485-5687

You can Help! The DRB will address this issue this Thursday, January 4. You can send an email of your own, forward it, or cut and paste this one and change the signature and email it to <a href="mailto:mvclerk@mtnvillage.org">mvclerk@mtnvillage.org</a> before Thursday. Thank you!

From: Amy Ward
To: Drew Nelson

Subject: FW: NO ON 5TH REQUEST FOR OPEN SPACE LAND GRAB!!

Date: Thursday, January 4, 2024 9:31:24 AM

Attachments: Artificial Reflecting Pond.png

Screen Shot 2024-01-02 at 9.35.47 AM.png

Open Space Land Grab.png

# photo



## **Amy Ward**

Community Development Director, Town of Mountain Village

Office | 970-369-8248 | Mobile | 970-729-2985

award@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435







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From: Susan Johnston <SJohnston@mtnvillage.org>

**Sent:** Wednesday, January 3, 2024 5:43 PM **To:** Amy Ward <award@mtnvillage.org>

Subject: FW: NO ON 5TH REQUEST FOR OPEN SPACE LAND GRAB!!

**Public Comment** 

## photo



#### **Susan Johnston**

Town Clerk, Town of Mountain Village

Office | 970-369-6429 | Mobile | 970-729-3440

sjohnston@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435







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**From:** Erica Lindauer < <u>ericalindauerxoxo@gmail.com</u>>

Sent: Wednesday, January 3, 2024 2:56 PM

To: mvclerk < mvclerk@mtnvillage.org >

Subject: NO ON 5TH REQUEST FOR OPEN SPACE LAND GRAB!!

Caution: External Message - Please be cautious when opening links or attachments in email.

#### Save Our Open Space – The Corridor is Our Valley Floor

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The only community support they have received is from the adjacent homeowner on lot 810-C, who is here just a few weeks a year, though The Vault Home Collection refers to them as the most affected by the build. They are the only homeowner who has to gain from the driveway being built on open space, as then the driveway will not be built

adjacent to their house as planned on every lot map Mountain Village has ever published. Every other community member loses, as those lot maps have assured us all that the open space that runs continuously on both sides of the boulevard from the entrance to the market subarea, will be forever maintained.

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The developer needs to understand that many hours have been spent reviewing this same request, asked and answered many times over, and this community does not want to subsidize their build by all of us losing our open space. I urge the DRB to yet again side with your earlier recommendation, Town Council's rejection of this request, and to the benefit of the entire community and not recommend a Conditional Use Permit.

Sincerely, Erica Lindauer Full Time Resident 970-708-4887 From: <u>mvclerk</u>

To: <u>Amy Ward; Claire Perez; Jason Habib; Drew Nelson</u>

Cc: mvclerk
Subject: FW: Osp11a

**Date:** Thursday, January 4, 2024 10:00:16 AM

Public comment.

From: Eileen Claugus <eclaugus@sbcglobal.net>

**Sent:** Thursday, January 4, 2024 9:32 AM **To:** mvclerk <mvclerk@mtnvillage.org>

Subject: Osp11a

**Caution:** External Message - Please be cautious when opening links or attachments in email.

I am very concerned about the proposed development near Arizona street. Open space in our community is a big part of what makes Mountain Village beautiful and special. Please vote NO on the proposed development!!

Eileen Claugus 109 Lawson pt Mountain Village, Co From: <u>Claire Perez</u>
To: <u>Drew Nelson</u>

Subject: FW: Important Comment for Today"s Hearing Date: Thursday, January 4, 2024 10:53:33 AM

# photo



#### **Claire Perez**

Planner II, Town of Mountain Village

Office | 970-369-8103 | Mobile | 970-708-1694

cperez@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435







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From: W Hill <wesleymhill@gmail.com>
Sent: Thursday, January 4, 2024 10:21 AM

**To:** mvclerk <mvclerk@mtnvillage.org>; Kim Schooley <kschooley@mtnvillage.org>; Amy Ward <award@mtnvillage.org>; Jason Habib <jhabib@mtnvillage.org>; Claire Perez

<cperez@mtnvillage.org>

**Subject:** Important Comment for Today's Hearing

Caution: External Message - Please be cautious when opening links or attachments in email.

I am unable to attend the hearing but am compelled to reach out as a resident to support the Mountain Village Blvd access being requested for the CUP application of Lot SS811. With all due respect, I completely disagree with Mr. Savages statements below. It is a false statement to say the applicant is doing a so called "land grab" when they are trying to PROTECT WETLANDS!

I am baffled this is still a discussion and couldn't understand why this was ever opposed to. Please pass this! PROTECT OUR WETLANDS our environment is much too precious and there is no reason not to allow access to Mountain Village Boulevard, many other homes further up the road have direct access.

Sincerely,

Wesley Massey Hill

Telluride Resident

From: mvclerk

To: Amy Ward; Claire Perez; Jason Habib; Drew Nelson

Cc: <u>mvclerk</u>

**Subject:** FW: Save Our Open Space

**Date:** Thursday, January 4, 2024 11:09:14 AM

Attachments: PastedGraphic-3.png

#### Public comment.



## Kim Schooley

Deputy Town Clerk, Town of Mountain Village

Office | <u>970-369-6404</u> | <u>Mobile</u> | <u>970-729-9373</u>

kschooley@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435







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From: Marcin Ostromecki <marcin@gotelluride.com>

**Sent:** Thursday, January 4, 2024 10:06 AM **To:** mvclerk <mvclerk@mtnvillage.org>

Subject: Save Our Open Space

Caution: External Message - Please be cautious when opening links or attachments in email.

# Vote No Yet Again on the 5th Request for an Open Space Land Grab on OSP-18A

Save Our Open Space - The Corridor is Our Valley Floor

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Sincerely,

#### Marcin Ostromecki



Marcin Ostromecki Broker Associate 970.708.4119 marcin@gotelluride.com www.gotelluride.com

567 Mountain Village Blvd, Ste 106A Mountain Village, CO 81435

This message and any attachments are intended for the named addressee, and are confidential, and may contain legally privilege information. The copying or distribution or any information they contain, by anyone other than the addressee, is prohibited. If you received this message in error, please notify the sender immediately by return email and delete the message and any attachments from your system. Thank you.

ALERT! Marcin Ostromecki will never send you wiring information via email or request that you send us personal financial information by email. If you receive an email message like this concerning any transaction involving Marcin Ostromecki, do not respond to the email and immediately contact Marcin Ostromecki via phone.

From: mvclerk

To: <u>Amy Ward; Drew Nelson; Claire Perez; Jason Habib</u>

Cc: mvclerk
Subject: FW: OSP-18A

Date: Thursday, January 4, 2024 4:18:49 PM

One more for you.

## photo



## Kim Schooley

Deputy Town Clerk, Town of Mountain Village

Office | 970-369-6404 | Mobile | 970-729-9373

kschooley@mtnvillage.org

455 Mountain Village Blvd., Ste. A, Mountain Village, CO 81435







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**From:** Ed Healy <eghealy@gmail.com> **Sent:** Thursday, January 4, 2024 3:37 PM **To:** mvclerk <mvclerk@mtnvillage.org>

Subject: OSP-18A

**Caution:** External Message - Please be cautious when opening links or attachments in email.

I'd like to express my support to Paul Savage's opposition to an entrance to this property off Mountain Village Blvd. I live at 130 Arizona St and would like to see the entrance to this property off Arizona Street rather than Mountain Village Blvd for all the reasons Paul listed in his memo to the Town of Mountain Village.

Regards,,

Ed Healy

# A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO APPROVING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A DRIVEWAY ON TRACT OSP-18A

### **RESOLUTION NO. 2024-**

WHEREAS, TSG Ski & Golf, LLC (the "Owner") is the owner of certain real property described as Tract OSP-18A, Mountain Village, Colorado, Assessor Parcel No. 477904216078 (the "Property"); and

WHEREAS, the Property is zoned Active Open Space District; and

WHEREAS, 2 MV Blvd LLC (the "Applicant"), with the Owner's consent, has submitted a Conditional Use Permit application to the Town of Mountain Village (the "Town") to construct a driveway on the Property (the "Application") for the purpose of providing access to a proposed single-family residence on Lot SS811, commonly known as 2 Mountain Village Boulevard, which is owned by the Applicant; and

WHEREAS, the Application consists of the materials submitted to the Town and itemized on Exhibit A, plus all statements, representations, and additional documents of the Applicant and its representatives made or submitted at the public hearings before the Design Review Board ("DRB") and Town Council; and

WHEREAS, Section 17.3.3 of the CDC establishes the permitted and conditional uses of the Active Open Space Zone District; and

WHEREAS, the Applicant's proposed driveway use is eligible for conditional use review by virtue of its inclusion on the list of conditional uses under Section 17.3.3 of the CDC and, therefore, requires the issuance of a Conditional Use Permit pursuant to Section 17.3.4.A of the CDC; and

WHEREAS, the DRB held a public hearing on January 4, 2024, to consider the Application and testimony and comments from the Applicant, Town Staff, and members of the public, and voted unanimously to issue a recommendation of denial to Town Council of the Application; and

WHEREAS, the Town Council held a public hearing on January 18, 2024, to consider the Application, the DRB's recommendation, and testimony and comments from the Applicant, Town Staff, and members of the public, and voted \_\_\_\_ to approve this Resolution ("Approval"); and

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

WHEREAS, the Town Council has considered the general standards for review set forth in Section 17.4.14.E of the CDC, as well as the criteria set forth in Section 17.4.14.D.1 of the CDC and finds that each of the following have been satisfied or will be satisfied upon compliance with the conditions of this Resolution as set forth below:

- 1. The proposed conditional use is in general conformity with the policies of the principles, policies and actions set forth in the Comprehensive Plan;
- 2. The proposed conditional use is in harmony and compatible with surrounding land uses and the neighborhood and will not create a substantial adverse impact on adjacent properties or on services and infrastructure;

- 3. The design, development and operation of the proposed conditional use shall not constitute a substantial physical hazard to the neighborhood, public facilities, infrastructure or open space;
- 4. The design, development and operation of the proposed conditional use shall not have significant adverse effect to the surrounding property owners and uses;
- 5. The design, development and operation of the proposed conditional use shall not have a significant adverse effect on open space or the purposes of the facilities owned by the Town;
- 6. The design, development and operation of the proposed conditional use shall minimize adverse environmental and visual impacts to the extent possible considering the nature of the proposed conditional use:
- 7. The design, development and operation of the proposed conditional use shall provide adequate infrastructure;
- 8. The proposed conditional use does not potentially damage or contaminate any public, private, residential or agricultural water supply source; and
- 9. The proposed conditional use permit meets all applicable Town regulations and standards.

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

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

<u>Section 1. Recitals</u>. The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Resolution.

<u>Section 2. Approval</u>. The Town Council hereby approves a Conditional Use Permit for the construction of a driveway on the Property, as described in the Application.

**Section 3. Conditions.** The Approval is subject to the following terms and conditions:

- a. Prior to the issuance of a building permit in conjunction with this Approval, the Applicant shall provide an updated wetland delineation.
- b. Prior to the issuance of a building permit in conjunction with this Approval, the Applicant shall obtain approval and any necessary federal permits for any proposed wetland disturbances.
- c. If no federal approval is required, the Applicant shall submit detailed plans regarding any wetland disturbance for review and approval by Town Staff in coordination with a contracted wetland consultant.
- d. The Property shall not be used for storage of any materials, vehicles, or any other items related to the construction of the home on Lot SS811. All construction activity related to development on Lot SS811 shall be located on that parcel.

- e. To mitigate the impact to wetlands on the Property, the Applicant shall provide a replacement wetland of equal or greater size and enter into an agreement with the Town, in a form to be approved by the Town Attorney, to guarantee functioning of the replacement wetland in perpetuity.
- f. Prior to the issuance of a building permit in conjunction with this Approval, the Applicant shall provide designs for an address monument sign on Mountain Village Boulevard for review and approval by Town Staff and the DRB Chairperson.

Section 4. Effective Date. This Resolution shall be in full force and effect upon its passage and adoption.

ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on January 18, 2024.

TOWN OF MOUNTAIN VILLAGE, COLORADO

	By: Marti Prohaska, Mayor
ATTEST:	
Susan Johnston, Town Clerk	
APPROVED AS TO FORM:	
David McConaughy, Town Attorney	

# Exhibit A

# [LIST OF APPLICATION MATERIALS]

# A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO DENYING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A DRIVEWAY ON TRACT OSP-18A

## **RESOLUTION NO. 2024-**

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WHEREAS, the Application consists of the materials submitted to the Town and itemized on Exhibit A, plus all statements, representations, and additional documents of the Applicant and its representatives made or submitted at the public hearings before the Design Review Board ("DRB") and Town Council; and

WHEREAS, the DRB held a public hearing on January 4, 2024, to consider the Application and testimony and comments from the Applicant, Town Staff, and members of the public, and voted unanimously to issue a recommendation of denial to Town Council of the Application; and

WHEREAS, the Town Council held a public hearing on January 18, 2024, to consider the Application, the DRB's recommendation, and testimony and comments from the Applicant, Town Staff, and members of the public, and voted to approve this Resolution, denying the Application; and

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

WHEREAS, the Town Council has considered the general standards for review set forth in Section 17.4.14.E of the CDC, as well as the criteria set forth in Section 17.4.14.D of the CDC and finds that each of the following will not be satisfied by the Application:

- 1. The proposed conditional use is in general conformity with the policies of the principles, policies and actions set forth in the Comprehensive Plan;
- 2. The proposed conditional use is in harmony and compatible with surrounding land uses and the neighborhood and will not create a substantial adverse impact on adjacent properties or on services and infrastructure;
- 3. The design, development and operation of the proposed conditional use shall not constitute a substantial physical hazard to the neighborhood, public facilities, infrastructure or open space;
- 4. The design, development and operation of the proposed conditional use shall not have significant adverse effect to the surrounding property owners and uses;
- 5. The design, development and operation of the proposed conditional use shall not have a significant adverse effect on open space or the purposes of the facilities owned by the Town;

- 6. The design, development and operation of the proposed conditional use shall minimize adverse environmental and visual impacts to the extent possible considering the nature of the proposed conditional use;
- 7. The design, development and operation of the proposed conditional use shall provide adequate infrastructure;
- 8. The proposed conditional use does not potentially damage or contaminate any public, private, residential or agricultural water supply source; and
- 9. The proposed conditional use permit meets all applicable Town regulations and standards.

WHEREAS, the Town Council now desires to approve this Resolution, denying the Application.

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

<u>Section 1. Recitals</u>. The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Resolution.

<u>Section 2. Decision</u>. The Town Council hereby finds that the Application does not meet the requirements of the CDC set forth above and, therefore, denies the Application. This decision is based on the documents, testimony, and evidence presented at the meetings before the DRB and Town Council and includes, without limitation, the following findings:

- A. The proposed use is not in harmony or compatible with surrounding land uses and neighborhood because all other lots in the neighborhood are accessed via Arizona Street, and building a driveway for a single-family residence connecting directly onto Mountain Village Boulevard would have an adverse effect on the open space both for the neighborhood and for the aesthetics of this area that serves as the entrance to the Town.
- B. Allowing direct access to Mountain Village Boulevard would cause traffic impacts on the Boulevard as the main arterial thoroughfare into Town and could create hazards.
- C. The use of the open space for driveway purposes does not minimize adverse visual impacts from Mountain Village Boulevard, and the potential environmental impacts relating to the alternative platted access via Arizona Street can be adequately mitigated.

All exhibits to this Resolution are available for inspection at the Town Clerk's Office.

Section 3. Effective Date. This Resolution shall be in full force and effect upon its passage and adoption.

ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on January 18, 2024.

TOWN OF MOUNTAIN VILLAGE, COLORADO

By:		
	Marti Prohaska, Mayor	

ATTEST:
Susan Johnston, Town Clerk
APPROVED AS TO FORM:
David McConaughy, Town Attorney

# Exhibit A

# [LIST OF APPLICATION MATERIALS]