



**PLANNING AND DEVELOPMENT SERVICES  
DEPARTMENT**

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

**TO:** Town Council  
**FROM:** Drew Nelson, Senior Planner  
**FOR:** Meeting of February 15, 2024  
**DATE:** February 7, 2024  
**RE:** Consideration of a Resolution Approving a Height Variance at Lot 165 Unit 3, 130 Cortina Drive, pursuant to CDC Section 17.3.11&12 and 17.4.16

**Legal Description:** Unit 3 Cortina Land Condominiums Acc To The Map Of The Cortina Land Condominiums A Colorado Common Interest Community Lot 165 Town Of Mountain Village

**Address:** 130 Cortina Drive

**Applicant/Agent:** Kristine Perpar, Shift Architects LLC

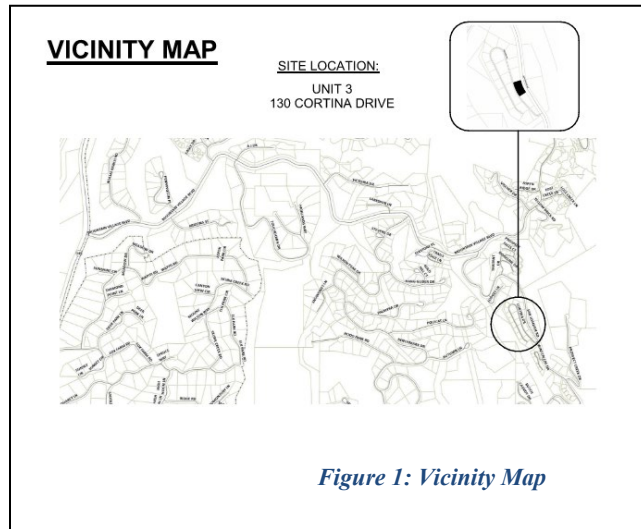
**Owner:** Chalets at Cortina, LLC

**Zoning:** Multi-Family

**Existing Use:** Vacant

**Proposed Use:** Single-Family Condominium

**Lot Size:** .339 acres



*Figure 1: Vicinity Map*

**Adjacent Land Uses:**

- **North:** Multi-Family
- **East:** Multi-Family
- **West:** Multi-Family
- **South:** Multi-Family

**ATTACHMENTS**

Exhibit A: Resolution

**BACKGROUND:**

Kristine Perpar of Shift Architects LLC is requesting a Height Variance to develop a new single-family detached condominium on Lot 165 Unit 3, 130 Cortina Drive.

The site is extremely sloped, with a majority of the site having a grade of over 50%. While the structure reads as a single story from Cortina Drive, it is a four-story building that steps down the site towards San Joaquin Road. Due to the slope of the site and the setback requirements, the applicant is requesting a maximum height and average height variance.

The DRB reviewed an initial application at a regular meeting on February 1, 2024, and has recommended approval of the variance request. The DRB also voted to continue the requested Initial Architecture and Site Review (IASR) at that meeting, which included a condition that if the Height Variance is not approved by Council, the applicant must return to DRB for an updated IASR review.

**Applicable CDC Requirement Analysis:** The applicable requirements cited may not be exhaustive or all-inclusive. The applicant is required to follow all requirements even if an applicable section of the CDC is not cited. ***Please note that Staff comments will be indicated by italicized Text.***

*Table 1: Relevant information from CDC Sections 17.3.11-14; 17.5.6 (materials); 17-5.8 (parking)*

<b><u>CDC Provision</u></b>	<b><u>Requirement</u></b>	<b><u>Proposed</u></b>
<b>Maximum Building Height</b>	35' (shed) Maximum	53.31'
<b>Avg. Building Height</b>	30' Maximum	35.76'
<b>Maximum Lot Coverage</b>	65% (9,598.4 sq ft)	21% (3,072 sq ft)
<b>General Easement Setbacks</b>	No encroachment	N/A
<b>Roof Pitch</b>		
Primary		2:12
Secondary		5:12
<b>Exterior Material</b>		
Stone	35% minimum	36%
Windows/Door Glazing	40% maximum	16%
Metal	n/a	
Wood	n/a	
<b>Parking</b>	2 spaces*	2 spaces

### **Chapter 17.3: ZONING AND LAND USE REGULATIONS**

#### **17.3.11 and 17.3.12: Building Height and Building Height Limits**

Sections 17.3.11 and 17.3.12 of the CDC provide the methods for measuring maximum building height and average building height, along with providing the height allowances for specific types of buildings based on their roof form. The proposed design incorporates shed roof forms. Single-family condominium developments are granted a maximum height of 35 feet for shed roofs, with a maximum average of 30 feet. The average height is an average of measurements from a point halfway between the roof ridge and eave. The maximum height is measured from the highest point on a roof directly down to the existing grade or finished grade, whichever is more restrictive.

*Staff: The primary roof form of the proposed structure is shed and is therefore granted a maximum height of 35 feet and an average height of 30 feet. The applicant has indicated that the maximum height of the current proposed structure is 53.31 feet and has an average height of 35.76 feet. Due to the extreme slope of the site (an average 53% slope for the site) as well as an existing retaining wall that runs parallel on Cortina Drive for the length of the property, the applicant is requesting a variance to both the maximum height and average height of 18.31 feet and 5.76 feet, respectively. The area of impact for the variance is limited to the garage area and portions of a shed roof form which is driven by the extreme slope of the lot. The height variances are desired to provide for additional*

stories and square footage, as the steep natural grade of the site and the existing retaining wall limit the size of the building footprint and therefore the size of an individual story.

The applicant has indicated that they feel difficulties as it relates to accessing the site and developing a driveway that follows CDC requirements for slope.

Figures 2-5 show the elevations as they relate to the natural grade and height measurements of the proposed structure and Figure 6 shows the 35' parallel offset to show portions of the structure above the 35-foot threshold.

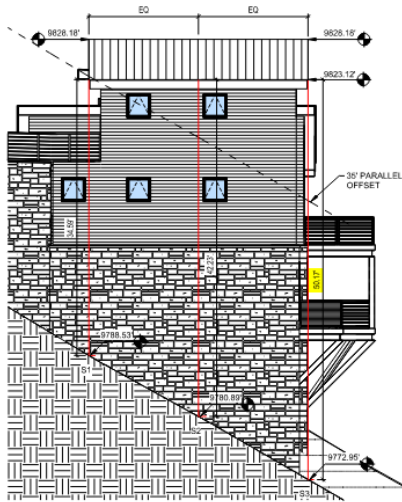


Figure 2 – South Elevation Height

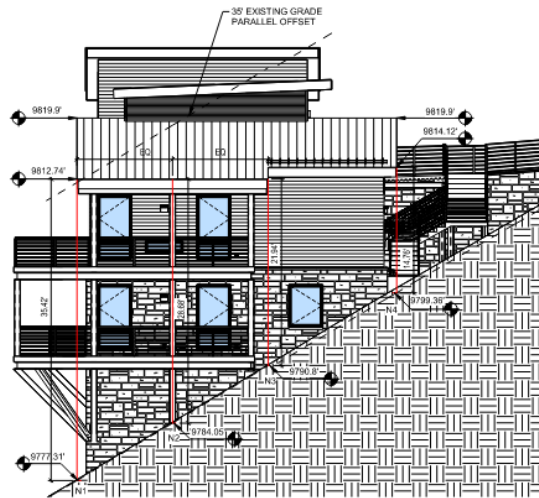


Figure 3 – North Elevation Height

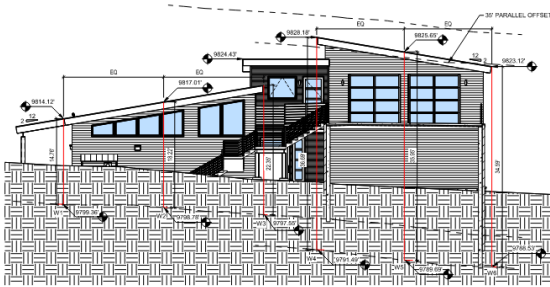


Figure 4 – West Elevation Height

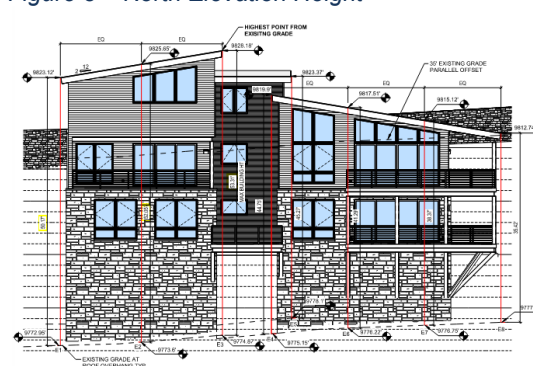


Figure 5 – East Elevation Height

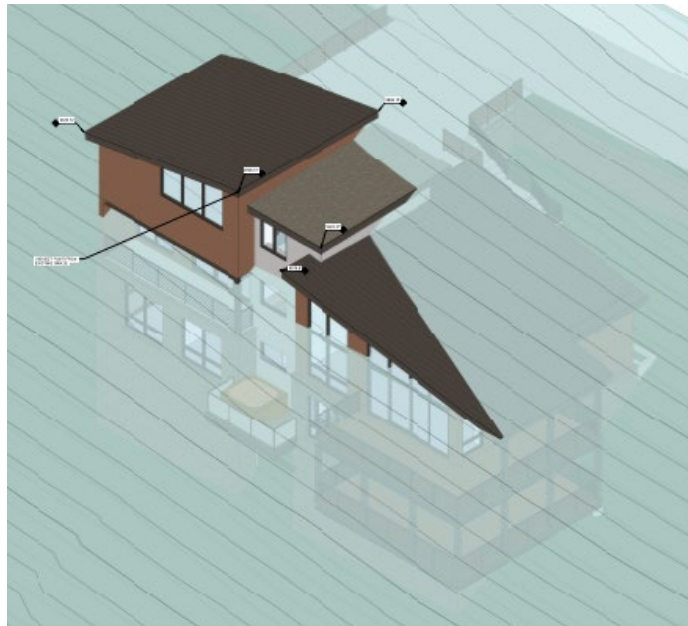


Figure 6 – Height Analysis 3D Planar View with 35' Offset

According to the CDC, the following criteria shall be met for the review authority to approve a variance:

a. The strict development application of the CDC regulations would result in exceptional and undue hardship upon the property owner in the development of property lot because of special circumstances applicable to the lot such as size, shape, topography or other extraordinary or exceptional physical conditions;

*Staff: The entirety of the lot has significant slopes, with a majority of the site having a slope greater than 53%. Additionally, the impractical levels of excavation and site disturbance make it difficult to expand the home's footprint in order to decrease its overall height. Both circumstances limit the ability of the lot to adequately site a development within a strict application of the CDC regulation. Staff believes both of these issues could constitute special circumstances.*

b. The variance can be granted without substantial detriment to the public health, safety and welfare;

*Staff: This excess height poses no threat to public health, safety and welfare.*

c. The variance can be granted without substantial impairment of the intent of the CDC;

*Staff: Staff does not believe the granting of this variance represents a "substantial impairment of the intent of the CDC" as the proposed structure adheres to a majority of the design regulations if the CDC, as outlined throughout this memo.*

d. Granting the variance does not constitute a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district, such as without limitation, allowing for a larger home size or building height than those found in the same zone district;

*Staff: The DRB has approved height variances before due to unique site conditions related to the slope of a lot. The Town Council should discuss whether this variance represents the granting of special privilege in excess of that enjoyed by other property owners.*

*e. Reasonable use of the property is not otherwise available without granting of a variance, and the variance being granted is the minimum necessary to allow for reasonable use;*

*Staff: The proposed development and associated height variance request allows the lot to be used in a manner similar to that of other sites within the Cortina subdivision and throughout Mountain Village. The Town Council should discuss if a larger driveway grade could reduce the requested height variance. The current driveway grade is at 3%, less than the 8% maximum.*

*f. The lot for which the variance is being granted was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created;*

*g. The variance is not solely based on economic hardship alone; and*

*h. The proposed variance meets all applicable Town regulations and standards unless a variance is sought for such regulations or standards.*

*Staff: Staff believes the criteria for f-h are all being met.*

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

#### **DRB RECOMMENDATION**

The DRB by a vote of 5-2 recommended approval to the Town Council regarding the height variance application for Lot 165 Unit 3 with conditions found in the proposed motion at their regular meeting on February 1, 2024. The two dissenting votes were based on the DRB members believing that Criteria E – “variance being granted is the minimum necessary” – was not met.

#### **STAFF RECOMMENDATION**

In terms of the Height Variance application, Staff has provided a motion for both approval and denial depending on the findings of Town Council.

If the Town Council chooses to **approve** of the **variance**, then staff suggests the following motion:

*I move to approve a Resolution Approving a Height Variance allowing a maximum height of 18.31 feet above the allowable and an average height of 5.76 feet above the allowable, per the height restrictions listed in the CDC for portions of a new single-family detached condominium located at Lot 165 Unit 3, 130 Cortina Drive based on the evidence provided in the staff record of memo dated February 15, 2024, and the findings of this meeting and with the following conditions:*

- 1. The approved height variance is valid only with the design presented for Initial DRB review on March 7, 2024, and is valid only for the 18-month period of that design approval. One 6-month extension of the original design review approval is allowable.*
- 2. The height variance is specific to the area described in the staff memo in figure 2, and represented in the DRB approved drawings. Should any modifications to the building design occur, including future expansion, that the variance would not cover portions of the building that are not thus described.*

If the Town Council chooses to **deny** the **variance** then staff suggests the following motion:

*I move to deny a Resolution Approving a Height Variance at Lot 165, Unit 3, 130 Cortina Drive based on the evidence provided in the staff record of memo dated February 15, 2024 and the findings of this meeting.*

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,  
COLORADO APPROVING A VARIANCE OF THE MAXIMUM HEIGHT LIMITATIONS OF  
THE MOUNTAIN VILLAGE MUNICIPAL CODE TO UNIT 3, LOT 165**

**RESOLUTION NO. \_\_\_\_\_**

WHEREAS, Chalets at Cortina 2, LLC (the "Owner") is the owner of certain real property described as Unit 3, Lot 165, Mountain Village, Colorado, Assessor Parcel No. 477903405004, and commonly known as 130 Cortina Drive (the "Property"); and

WHEREAS, Kristine Perpar of Shift Architects, LLC (the "Applicant"), with the Owner's consent, has submitted a request to the Town of Mountain Village (the "Town") for a variance to the maximum height limitations (the "Variance Request") found in the Town's Community Development Code ("CDC") for the purpose of developing a single-family detached condominium on the Property; and

WHEREAS, the Variance Request consists of the materials submitted to the Town, plus all statements, representations, and additional documents of the Applicant and its representatives made or submitted at the public hearings before the DRB and Town Council; and

WHEREAS, the DRB held a public hearing on February 1, 2024, to consider the Variance Request and testimony and comments from the Applicant, Town Staff, and members of the public, and voted unanimously to issue a recommendation of approval to Town Council of the Variance Request; and

WHEREAS, the Town Council held a public hearing on February 15, 2024, to consider the Variance Request, the DRB's recommendations, and testimony and comments from the Applicant, Town Staff, and members of the public, and voted unanimously to approve this Resolution ("Variance Approval"); and

WHEREAS, the public hearings and meetings to consider the Variance Request were duly noticed and held in accordance with the CDC; and

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.16 of the CDC and finds that each of the following have been satisfied or will be satisfied upon compliance with the conditions of this Resolution set forth below:

1. The strict development application of the CDC regulations would result in exceptional and undue hardship upon the property owner in the development of property lot because of special circumstances applicable to the lot such as size, shape, topography or other extraordinary or exceptional physical conditions;
2. The variance can be granted without substantial detriment to the public health, safety and welfare;
3. The variance can be granted without substantial impairment of the intent of the CDC;
4. Granting the variance does not constitute a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district, such as without limitation, allowing for a larger home size or building height than those found in the same zone district;
5. Reasonable use of the property is not otherwise available without granting of a variance, and the variance being granted is the minimum necessary to allow for reasonable use;
6. The lot for which the variance is being granted was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created;
7. The variance is not solely based on economic hardship alone; and



8. The proposed variance meets all applicable Town regulations and standards unless a variance is sought for such regulations or standards.

WHEREAS, the Town Council now desires to approve the Variance Request, subject to the terms and conditions set forth below.

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

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

**Section 2. Approval.** The Town Council hereby approves a variance of 13.79 feet above the allowable maximum height and a variance of 4.29 feet above the allowable average height as outlined in the CDC for portions of a new single-family detached condominium to be constructed on the Property, as described in the Variance Request.

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

- 3.1. The approved height variance is valid only with the design presented for Initial DRB review on March 7, 2024, and is valid only for the 18 month period of that design approval. One 6-month extension of the original design review approval is allowable.
- 3.2. The height variance is specific to the area described in the staff memo in figure 2 and represented in the DRB approved drawings. Should any modifications to the building design occur, including future expansion, that the variance would not cover portions of the building that are not thus described.

**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 February 15, 2024.**

TOWN OF MOUNTAIN VILLAGE,  
COLORADO

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

ATTEST:

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

APPROVED AS TO FORM:

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