

ORDINANCE NO. 2024-13

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,
COLORADO CONDITIONALLY APPROVING DENSITY TRANSFER FOR
LOTS 373R AND 374R (TO BE REPLATTED AS LOT 374R2)**

WHEREAS, All Views LLC, a Colorado limited liability company, and DAMB Properties LLC, a Colorado limited liability company (collectively, the “Owners”), are the owners of certain real property described as Lot 373R and Lot 374R, respectively, commonly known as 539 Benchmark Drive, Mountain Village, Colorado (together, the “Property”); and

WHEREAS, All Views LLC and DAMB Properties LLC (together, the “Applicant”) have submitted a Minor Subdivision application to the Town of Mountain Village (the “Town”) to replat the Property into a single parcel known as Lot 374R2 (“Subdivision Application”); and

WHEREAS, in connection with its Subdivision Application, the Applicant has applied to transfer the one unit of single-family density resulting from the creation of Lot 374R2 into the Mountain Village Density Bank (“Density Application”), which application consists of the materials submitted and itemized on Exhibit A, attached hereto, 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 the Town of Mountain Village Town Council (“Town Council”); and

WHEREAS, the Subdivision Application and the Density Application are being processed and considered concurrently by the DRB and Town Council; and

WHEREAS, the DRB held a public hearing on September 5, 2024, to consider the Density Application 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 Density Application, subject to conditions; and

WHEREAS, the Town Council held a public hearing on September 19, 2024 to consider the Density Application, the DRB’s recommendations, and testimony and comments from the Applicant, Town Staff, and members of the public, and voted 7-0 to approve the Density Application, subject to conditions and a second reading of this Ordinance to be held at a public hearing on October 17, 2024; and

WHEREAS, the Town Council held a public hearing on October 17, 2024 to consider the second reading of this Ordinance and testimony and comments from the Applicant, Town Staff, and members of the public, and voted 7-0 to approve the Density Application; and

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

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.9 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below:

1. The proposed rezoning is in general conformity with the policies, principles and standards set forth in the Comprehensive Plan;
2. The proposed rezoning is consistent with the Zoning and Land Use Regulations;
3. The proposed rezoning meets the Comprehensive Plan project standards;

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

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.10 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below:

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO, as follows:

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

Section 2. Approvals. The Town Council hereby approves the Density Application, subject to the conditions set forth below. All exhibits to this Ordinance are available for inspection at the Town Clerk’s Office. The Town Council specifically approves the following density transfer:

Table 1. Lots 373R and 374R Zoning Designations and Density – Existing and Proposed

	Existing Zoning Designations Built	Existing Zoning Designations Platted, Unbuilt	Proposed Zoning Designations Built	Proposed Zoning Designations Platted, Unbuilt	Person Equivalents	Total Person Equivalents
Lot 373R	0	1	0	0	4	
Lot 374R	1	0	1	0	4	
TOTAL:						8

Lot 374R2	1	0	1	0	4	4
To Density Bank (from 373R)				1	4	4
					TOTAL:	8

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

- 3.1. The Town Council must separately approve the Subdivision Application.
- 3.2. All conditions of approval of the Subdivision Application as set forth in Resolution 2024-0919-15 (“Subdivision Approval”) are incorporated as conditions of this approval.
- 3.3. The density transfer authorized hereby shall not be effective until the Effective Date of this Ordinance.
- 3.4. The owner of record of density in the Density Bank shall be responsible for all dues, fees, and any taxes associated with the assigned density and zoning until such time as the density is either transferred to a lot or another person or entity.
- 3.6. All representations of the Applicant, whether within Rezoning or Subdivision Applications submittal materials or at the DRB or Town Council public hearings, are conditions of this approval.
- 3.7. Town staff shall update the density bank and lot list accordingly.

Section 4. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 5. Effective Date. This Ordinance shall become effective on October 30, 2024 (“Effective Date”) and shall be recorded in the official records of the Town kept for that purpose and shall be authenticated by the signatures of the Mayor and the Town Clerk.

Section 6. Public Hearing. A public hearing on this Ordinance was held on the 17th day of October, 2024 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado 81435.

Section 7. Publication. The Town Clerk or Deputy Town Clerk shall post and publish notice of this Ordinance as required by Article V, Section 5.8 of the Charter.


INTRODUCED, READ, AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 19th day of September, 2024.

TOWN OF MOUNTAIN VILLAGE:

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

By: 
Martinique Prohaska, Mayor

ATTEST:


Susan Johnston, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado
this 17th day of October, 2024.

TOWN OF MOUNTAIN VILLAGE:


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

By: 
Martinique Prohaska, Mayor

ATTEST:


Susan Johnston, Town Clerk

Approved as to Form:


David McConaughy, Town Attorney

I, Susan Johnston, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No. 2024-13 ("Ordinance") is a true, correct, and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on September 19, 2024, by the affirmative vote of a quorum of the Town Council as follows:

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

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on September 30, 2024 in accordance with Section 5.2(d) of the Town of Mountain Village Home Rule Charter.
4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on October 17, 2024. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

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

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 17th day of October, 2024.

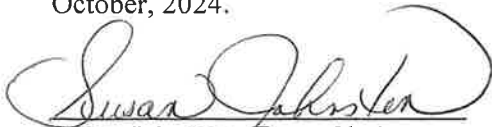

 Susan Johnston, Town Clerk
 (SEAL)

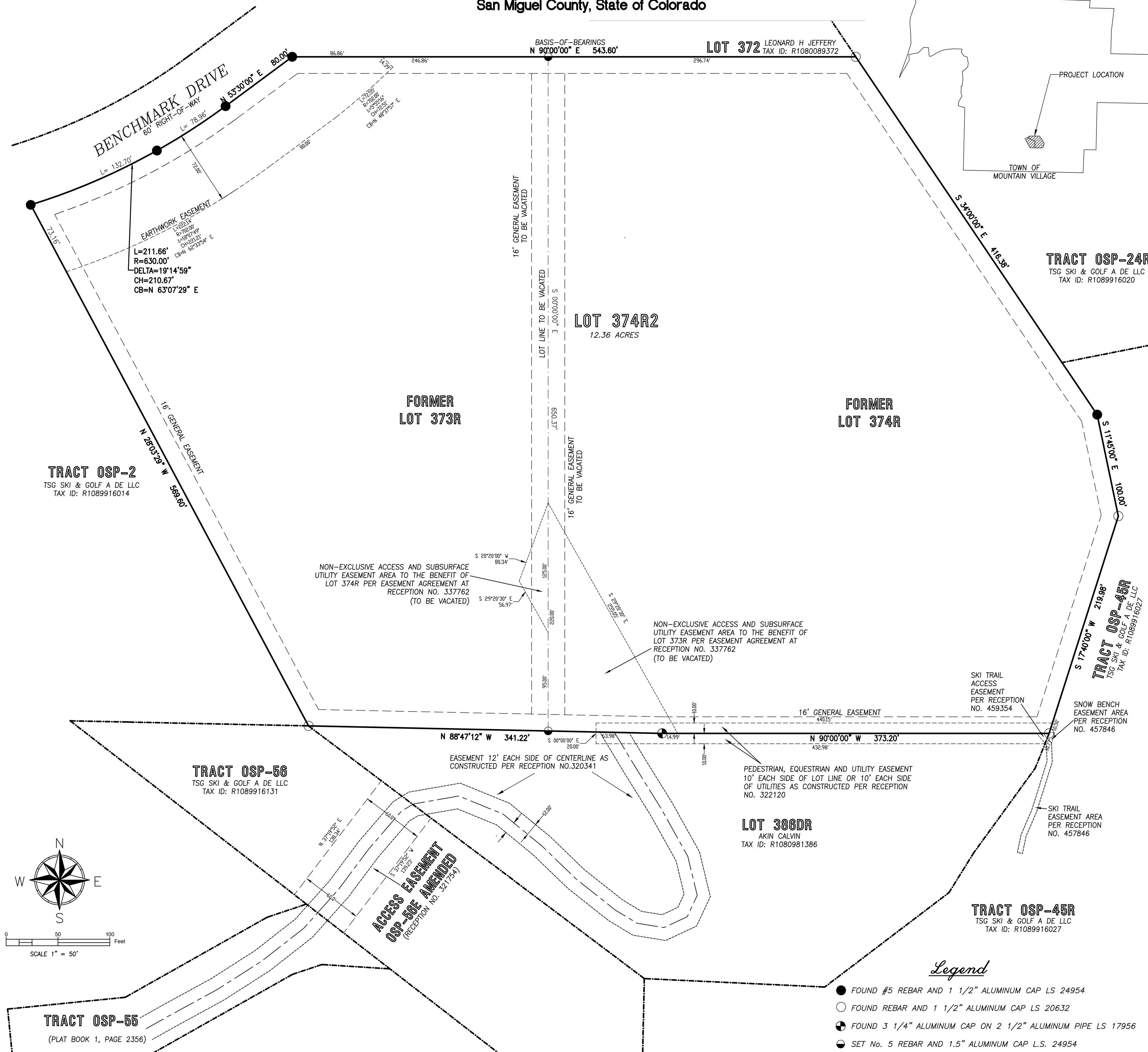


Exhibit A

[LIST OF REZONING APPLICATION MATERIALS]

**Lot 374R2, Telluride Mountain Village,
a Replat to vacate the lot line between Lot 373R and Lot 374R, Town of Mountain Village
located within S10 T42N R9W N.M.P.M.
San Miguel County, State of Colorado**

Vicinity Map
NOT TO SCALE



NOTES:

- Approval of this plat may create a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended.
- Easement research and property description from Land Title Guarantee Company, Order Number TR86015421, dated March 20, 2024 at 5:00 P.M.
- NOTES OF CLARIFICATION:
 - The Configuration of the following lots, tracts, and right-of-way have been modified by this plat: none
 - The following lots have been created by this plat: Lot 374R2
 - The following lots have been deleted by this plat: Lot 373R and Lot 374R
- The Basis of Bearings for this survey is based on the found rebar and monuments along the northern boundary of Lot 374R and 373R. The bearing along this boundary was measured as N 90°00'00" W according to the replat recorded October 31, 2000 in Plat Book 1 at page 2820, County of San Miguel, State of Colorado.
- Lineal units represented hereon are shown in U.S. Survey Feet or a decimal portion thereof.
- This survey is valid only if a print or electronic copy has a seal and signature of the surveyor noted within the statement above.
- Any person who knowingly removes, alters, or defaces any public land survey monument and/or boundary monument or accessory, commits a class two (2) misdemeanor pursuant to C.R.S. 18-4-50B.
- The word certify as used hereon means an expression of professional opinion regarding the facts of this survey and does not constitute a warranty or guarantee, expressed or implied.
- This survey is prepared for the exclusive use of the party or parties indicated within the surveyor's statement. Said statement does not extend to any unnamed person or parties without an express statement by the surveyor naming said entities.
- NOTICE: 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 defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.
- Town of Mountain Village Resolution No. _____ recorded at Reception No. _____ approving Town of Mountain Village Ordinance No. _____ recorded at approving _____
- Notice is hereby given that the area included in the Replat described herein is subject to the regulations of the Community Development Code, of the Town of Mountain Village, February 15, 2024 as amended.
- 16' GENERAL EASEMENT:** A perpetual easement, as depicted hereon, inuring to the benefit of the Town of Mountain Village its successors, designees and assigns for the purpose of constructing, installing, maintaining, repairing and accessing utilities, drainage, electrical service, communication service, water, sanitary sewer and storm sewer, retaining structures, and above ground utility equipment, pedestals, transformers and facilities, including without limitation grading, recontouring, revegetating and landscaping.

TITLE INSURANCE COMPANY CERTIFICATE:
Land Title Guarantee Company does hereby certify that we have examined the title to all lands herein shown on this plat and that the title to this land is in the names of those persons shown in the Owners Certificate which is on the face hereof and is free of all liens and taxes, except as follows:

Title Insurance Company Representative _____ Date _____
TOWN OF MOUNTAIN VILLAGE APPROVAL:
I, _____ as Mayor, of the Town of Mountain Village, Colorado, do hereby certify that this Replat has been approved by the Town of Mountain Village Town Council in accordance with Ordinance No. _____ the Development Agreement recorded at Reception No. _____ and Town of Mountain Village Resolution No. _____ recorded at Reception No. _____ which authorized my execution of this Replat.
_____, Mayor, Date _____

ACKNOWLEDGEMENT:
State of Colorado) ss
County of San Miguel)
The foregoing signature was acknowledged before me this _____ day of _____, 2024 A.D.
by _____ as mayor of the Town of Mountain Village
My commission expires _____
Witness my hand and seal.

Notary Public
PLANNING APPROVAL:
Date: _____
Community Development Director _____

TREASURER'S CERTIFICATE:
I, the undersigned, Treasurer of the County of San Miguel, do hereby certify that according to the records of the San Miguel County Treasurer there are no liens against the subdivision or any part thereof for unpaid state, county, municipal or local taxes or special assessments due and payable, in accordance with Mountain Village Municipal Code Section 17.4.1
Dated this _____ day of _____, 20____.
San Miguel County Treasurer _____

OWNERS CERTIFICATE:

- DAMB Properties, LLC, a Colorado limited liability company ("Owner") is the current fee simple owner of the following described real property located in the Town of Mountain Village, San Miguel County, Colorado ("Property"):
Lot 373R, Telluride Mountain Village, Filing 18, according to the Replat of Lots 373 and 374, Telluride Mountain Village, Filing 18, recorded October 31, 2000 in Plat Book 1 at Page 2820 ("Lot 373R"), which is currently an unimproved lot.
Lot 374R, Telluride Mountain Village, Filing 18, according to the Replat of Lots 373 and 374, Telluride Mountain Village, Filing 18, recorded October 31, 2000 in Plat Book 1 at Page 2820 ("Lot 374R"), which is currently improved with a single-family residence.
- The Owner does hereby make and approve the within plat, entitled "Lot 374R2, Town of Mountain Village, a Replat to vacate the Lot Lines Between Lots 373R and 374R" ("Lot 374R2 Replat").
- The purpose of this Lot 374R2 Replat is to: (a) vacate the lot boundary lines of Lots 373R and 374R, Town of Mountain Village and combine them into one lot designated as Lot 374R2 as shown and depicted herein; (b) vacate a portion of the General Easement over a portion of Lot 374R2 as depicted and identified on this Lot 374R2 Replat; and (c) terminate, vacate and release certain easements as described hereinbelow and depicted on this Lot 374R2 Replat. In connection with the processing of this Lot 374R2 Replat, the Owner has applied for the transfer of density from Lot 373R to the Town of Mountain Village Density Bank. This Lot 374R2 Replat does not change the current zoning of Lot 374R2 nor modify allowable uses and/or densities (following the density transfer from Lot 373R) that can occur on Lot 374R2.
- The Owner does hereby fully and finally terminate, vacate and release the easements benefitting and burdening Lots 373R and 374R as established by the Easement Agreement recorded in Reception No. 337762 as described hereinbelow and depicted on this Lot 374R2 Replat.

THE FOREGOING IS HEREBY ACKNOWLEDGED AND AGREED TO BY THE UNDERSIGNED AS OF _____, 2024.
DAMB Properties, LLC, a Colorado limited liability company
By: _____
STATE OF _____)
COUNTY OF _____) ss.
The within Lot 374R2 Replat and Owner Certificate was acknowledged before me this _____ day of _____, 2024, by _____ as the _____ of DAMB Properties, LLC, a Colorado limited liability company.
Witness my hand and official seal.
Notary Public
My commission expires: _____

SURVEYOR'S CERTIFICATE:
I, David R. Bulson of Bulson Surveying, a Professional Land Surveyor licensed under the laws of the State of Colorado, do hereby certify that this LOT 374R2, TELLURIDE MOUNTAIN VILLAGE, A REPLAT TO VACATE THE LOT LINE BETWEEN LOT 373R AND LOT 374R, shown hereon has been prepared under my direct responsibility and checking and accurately represents a survey conducted under my direct supervision. This survey complies with applicable provisions of Title 38, Article 51, C.R.S. to the best of my knowledge and belief.
IN WITNESS WHEREOF, I here unto affix my hand and official seal this _____ day of _____, A.D. 20____.

No. 37662 Date _____
GENERAL EASEMENT VACATION:
The undersigned being the beneficiaries of record of those portions of land labeled as 16-foot general easement (G.E.) as established along the former lot line between Lot 373R and Lot 374R, and as shown on the Plat recorded in Plat Book 1 at Page 2820 in the Office of the Clerk and Recorder of San Miguel County and as designated on this Lot 374R2 Replat as "16' GENERAL EASEMENT TO BE VACATED" do hereby vacate and relinquish that portion of said easement as shown vacated on this replat. The remaining areas of the 16-foot general easement (G.E.) not shown or designated for vacation on this Lot 374R2 Replat shall remain in place and not vacated by this Lot 374R2 Replat.
Mayor, _____ Date _____
Town Manager _____ Date _____

RECORDER'S CERTIFICATE:
This Plat was filed for record in the Office of the San Miguel County Clerk and Recorder on this _____ day of _____, 20____, at Reception No. _____, _____ Time _____
San Miguel County Clerk _____

- Legend**
- FOUND #5 REBAR AND 1 1/2" ALUMINUM CAP LS 24954
 - FOUND REBAR AND 1 1/2" ALUMINUM CAP LS 20632
 - ⊕ FOUND 3 1/4" ALUMINUM CAP ON 2 1/2" ALUMINUM PIPE LS 17956
 - SET No. 5 REBAR AND 1.5" ALUMINUM CAP L.S. 24954

Damb Properties LLC a CO LLC 539 Benchmark Drive Mountain Village, CO 81435	Lot 374R2 Town of Mountain Village S10 T42N R9W NMPM
June 26, 2024	
PROJECT: 24008	

C:\Users\daveb\Bulson Surveying\Jobs (Active)\24008 Lot 374R2 replat\04032024.dwg 6/26/2024 10:15:59 AM DWG To PDF.plt

LOT LINE VACATION PLAT/ MINOR SUBDIVISION APPLICATION

NARRATIVE

July 12, 2024

Applicant: DAMB Properties, LLC, a Colorado limited liability company and All Views LLC, a Colorado limited liability company

Subject Property: Lot 373R and Lot 374R, Telluride Mountain Village (“**Property**”)

All Views LLC, a Colorado limited liability company is the current fee simple owner of the Lot 373R, Telluride Mountain Village, Filing 18, according to the Replat of Lots 373 and 374, Telluride Mountain Village, Filing 18, recorded October 31, 2000 in Plat Book 1 at Page 2820 (“**Lot 373R**”), which is currently an unimproved lot,

DAMB Properties, LLC, a Colorado limited liability company is the current fee simple owner of the Lot 374R, Telluride Mountain Village, Filing 18, according to the Replat of Lots 373 and 374, Telluride Mountain Village, Filing 18, recorded October 31, 2000 in Plat Book 1 at Page 2820 (“**Lot 374R**”), which is currently improved with a single-family residence

All Views LLC and DAMB Properties, LLC are affiliated/related entities owned by the same underlying members. DAMB Properties, LLC and All Views LLC (“**Applicant**”) have jointly submitted its form applications with the Town of Mountain Village seeking the following: (A) approval of a replat to vacate the existing lot line boundaries for and between Lot 373R and Lot 374R, Telluride Mountain Village (“**Lot 374R2 Replat**”), which would result in the creation of one single-family lot designated as Lot 374R2; and (B) the transfer of single-family density from former Lot 373R to the Town Density Bank and any related zoning change that is needed to accompany the density transfer.

Prior to the recordation of the Lot 374R2 Replat, All Views LLC will deed its rights, title and interests in Lot 373R to DAMB Properties, LLC; thereupon DAMB Properties, LLC will be the sole owner of Lot 373R and Lot 374R and will be the sole party signing the Lot 374R2 Replat.

The Lot 374R2 Replat will result in the creation of an excess single-family unit of density that is associated with the unused density attributable to the absence of a residence on Lot 373R. The Applicant’s intend and the Application proposes that the excess unit of single-family density will be transferred to the Town Density Bank and continue to be owned by and credited to DAMB Properties, LLC. As such, the Application submitted by the Applicant will also include a request for a Density Transfer taking the unused density associated with the undeveloped residence on Lot 373R

The Lot 374R2 Replat also contemplates the vacation of an access and utility easement that burdens a portion of Lot 374R and benefits Lot 373R, which will not be necessary when the lots are combined into the combined lot.

In connection with the Lot 374R2 Replat, the Owner states and confirms as follows:

1. No additional lots or parcels are being created by this application,
2. No changes to underlying zoning will occur on either lot.

3. As contemplated by the Application, one unit of single-family density will be transferred from the site to the density bank.
4. The 16' General Easement running through the center of the property, where the lot lines are being vacated is being vacated. The 16' General Easement will be continued around the perimeter of Lot 374R2.

Compliance with the Community Development Code. The Lot 374R2 Replat complies with all applicable standards of CDC, including Section 17.4.13. Of note, the Owner contends as follows:

- The Lot 374R2 Replat is in general conformance with the Comprehensive Plan for the following reasons:
 - It preserves the residential density assigned to the Property.
 - The proposed subdivision of the Property is consistent with the Zoning and Land Use Regulations.
 - Concentrates development on Lot 374R2 to the current site of the existing residence on Lot 374R, leaving much of the remainder of the lot not developed. Although no plans current exist for a guest home, the Applicant will continue to have a right to develop an accessory dwelling on the resulting Lot 374R2 site at some point in the future, which would comply with applicable provisions of the Community Development Code.
 - Protects important environmental elements and features on the Property
- The Lot 374R2 Replat does not contemplate or propose any rezoning of the property. The application does contemplate the transfer of the excess unit of single-family density to the density bank.
- The Lot 374R2 Replat is consistent with the Subdivision Regulations. In particular:
 - The residential lot access adjoining Town roads and have access rights over certain easements and access tracts that serve Lot 374R.
 - The subdivision will be served by an existing private access driveway designed to Town road standards
 - The design, width and shape of the lots take advantage of topographic features, are suitably designed to accommodate the proposed development activities and are logically arranged to be able to be served by shared utilities and access.
 - Development on Lot 374R were designed and constructed in accordance with Town drainage design standards.
 - Fire protection is being provided to Lot 374R
 - Development on Lot 374R will continue to be served by existing water, sewer and other utilities which have been designed in accordance with applicable Town standards.
 - There are adequate public facilities serving the proposed development of the Property.
 - The site is currently zoned for two residential lots and the application will result in the reduction in density from two residences to one, so no new demands on public facilities will occur.
 - The lot will continue to be served by the existing driveway.
- The Lot 374R2 Replat is consistent with the public health, safety and welfare, as well as the efficient and economical use of the Property.
 - The clustered nature of the development enhances the ability to preserve and protect important environmental features on the Property, including steeper area to the north of the lot.
 - The continued use of the proposed residential lots will conform to the requirements of the CDC.

- Lot 374R2 as depicted and laid out on the Lot 374R2 Replat, meets all applicable Town regulations and standards and will be able to accommodate the contemplated uses and activities proposed by the Owner.
- Lot 374R2 as depicted and laid out on the Lot 374R2 Replat will not create vehicle or pedestrian circulation hazards or cause parking, trash or special delivery congestion given that the property is developed.

The Lots 374R2 Density Transfer conforms with the policies and provisions of the CDC stated in Section 17.3.8 and the procedures stated in 17.4.10 and meets all applicable Town regulations and standards.

The Owner looks forward to presenting this information to the Town Council and DRB during the upcoming noticed meetings and hearings.

Sincerely

By: _____
Thomas G. Kennedy, Authorized Agent

Table of Submitted Materials

The following documents are being submitted with the Town prescribed form Applications for the Rezone/ Subdivision Application and this Narrative.

Exhibit	Document
A	Proof of Ownership/Title Report
B	Owner Authorization/Agency Letter
C	Vicinity Map
D	Copy of [draft] Lot 374R2 Replat