

**AGENDA
CITY OF GUNNISON
PLANNING & ZONING COMMISSION
Rev 5/20/16**

**DATE: WEDNESDAY, MAY 25 2016
TIME: 7:00 P.M.
PLACE: CITY HALL, COUNCIL CHAMBERS, 201 WEST VIRGINIA AVE.**

REGULAR MEETING

7:00 P.M.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE TO THE FLAG**
- III. PUBLIC HEARING AND POSSIBLE ACTION – CONDITIONAL USE APPLICATION, CU 16-3, SUBMITTED BY EVAN AND COLLEEN STRAUSS, FOR THE CONSTRUCTION OF MULTI-FAMILY RESIDENTIAL (3 UNITS) IN THE COMMERCIAL ZONE DISTRICT.**
- IV. SCHEDULED CITIZEN – JASON MULLINS**
- V. CONSIDERATION OF THE MAY 11, 2016 MEETING MINUTES**
- VI. COUNCIL UPDATE**
- VII. COMMISSIONER COMMENTS**
- VIII. PLANNING STAFF UPDATE**
- IX. ADJOURN**

To comply with ADA regulations, people with special needs are requested to contact the City of Gunnison Community Development Department at 641-8090. This agenda is subject to change, including the addition or deletion of items at any time. Regular Meetings and Special Meetings are recorded and action can be taken. Minutes are on the City website at www.cityofgunnison-co.gov. Work sessions are not recorded and formal action cannot be taken. For further information, contact the Community Development Department at 641-8090.

TO: Planning and Zoning Commission
FROM: Community Development Staff
DATE: May 20, 2016
RE: Conditional Use – Multi-Family Residential

CODE PROVISIONS

The City's *Land Development Code (LDC)*, Section 2.6 states that a multi-family residential use requires a Conditional Use permit to exist in the Commercial (C) district zone. Conditional Uses are those land uses that are generally compatible with the permitted uses in a zone district, but require site-specific review of their location, intensity, density, configuration and operating characteristics. Conditions may be imposed in order to ensure compatibility of the uses at a particular location and mitigate potentially adverse impacts.

The *LDC* Section 7.2 specifies that Conditional Use applications be reviewed by the City of Gunnison Planning and Zoning Commission (Commission) at a Public Hearing after 15 days public notice. The Commission may approve, approve with conditions, deny or remand the application back to the applicant with instructions for modification.

APPLICANTS

The applicants, Evan and Colleen Strauss, are requesting a Conditional Use for the construction of multi-family residential dwelling units in the Commercial zone district. The legal description of the property is Parcel A, Boundary Line Adjustment, Shelafo Property, City and County of Gunnison, Colorado. The applicants' narrative states:

“Requesting that said property described in the application (zoned commercial) be considered for conditional residential use. The property is currently under contract (see attached) and owners Evan Strauss and Colleen Strauss will take possession on the 6th of May, 2016...”

We are considering several different residential configurations including a duplex with a garage apartment (3 units). The following packet is for this scenario. There is the possibility we look at doing a triplex depending on how the profit and building costs work out. Either scenario we are requesting three residential type units for the said property.

At the current time the City of Gunnison is in the process of changing the dimensional standards for the density through a text amendment. Two residential units are allowed on the property under a conditional use. The text amendment will allow for three units on the property.

We believe a residential use in this neighborhood would fit in well. Currently the vast majority of the neighbors are single family dwellings...”

SITE ASSESSMENT

The property is located on the southwest corner of Teller Street and Virginia Avenue within the Commercial zone district. The RMU (Residential / Mixed Use) district zone is located to the north and R1 (Single Family Residential) is to the east. Surrounding uses are single family residential to the north with multi-family residential and commercial accommodations to the south. The City Legion Park is to the east of the site.

The property has historically been the Teller Mini Golf Course and has one small shed on the property. The applicant is proposing to redevelop the site with three residential units. The applicant anticipates either a duplex and garage with an additional unit above or a triplex.



The property is 9,218.75 square feet (73.75' x 125') and the Commercial zone density limitations are 14 units per acre. The *LDC* allows 2.96 or 2 residential units (rounding down). A Text Amendment would need to be initiated to modify the density within the Commercial zone district to accommodate the request of three units on this site.

DEPARTMENTAL COMMENTS

Building Official: No issue.

Fire Marshal: No issue.

Parks and Recreation Department: No issue.

Police Department: No issue.

Public Works Director: No issue.

City Engineer: No issue.

Water and Sewer Superintendent: No issue.

Electric Superintendent: No issue.

STAFF OBSERVATIONS

1. The applicant is requesting a Conditional Use application for multi-family dwelling units with the Commercial zone district.
2. Residential dwelling units are compatible with the uses in the surrounding neighborhood.
3. The commercial lot is removed from the commercial corridor along Highway 50 and is located adjacent to the RMU and R1 (City Park) zone districts.

4. Up to two dwelling units may be allowed with Conditional approval on the subject site with the current *LDC* dimensional standards.
5. The applicant is asking for Conditional Use approval for three residential dwelling units.
6. Does the Planning Commission desire to initiate a Text Amendment to change the density limitations for the Commercial zone district? A Text Amendment would be subject to approval by the City Council.
7. The requested residence does not affect the health, safety and welfare of the community.

REVIEW STANDARDS

The *LDC* Section 7.5 contains seven specific standards that must be met for a Conditional Use Application to be approved:

A. Consistency with Master Plan. The use shall be consistent with the City of Gunnison Master Plan.

No Conflict:

Chapter 6, Housing, Goal: Gunnison’s housing inventory includes diverse housing types in mixed use areas. New construction will be based on energy efficiency. New homes are compatible with community character with respect to density, design and demographics.

B. Conformance to Codes. The use shall conform to all other applicable provisions of this *LDC* and the *City of Gunnison Municipal Code*, including but not limited to:

- a. **Zone District Standards.** The purpose of the zone district in which it is located, the dimensional standards of that zone district, Section 2.4 (Principal Use Table) and Section 2.6 (Base Zone district Dimensional Standards).

Possible Conflict: The purpose of the Commercial zone district is to provide locations for offices, service uses, hotel accommodations and businesses retailing durable and convenience goods.

While the site has the potential of generating City sales tax the location of the site is separated from the highway corridor and is on the edge of the Commercial zone district. The proposed residential use is compatible with the surrounding neighborhood and the *LDC* contemplates mixed commercial/residential uses.

The applicant is proposing three units on the site; however, the *LDC* density only allows two units (.212 acre times 14 units per acre equals 2.96 units) in the Commercial zone district. The Planning and Zoning Commission may initiate a Text Amendment that would be subject to approval by the City Council before three units may be allowed on the site.

- b. **Specific Use Regulations.** All Conditional Use applications shall comply with all applicable Special Use Regulations set forth in Section 3 of this *LDC*.

No Conflict: The proposed multi-family residential use complies with the special use regulations.

c. **General Development Standards.** All Conditional Use applications shall comply with all applicable regulations, criteria and standards set forth in Section 4 of this *LDC*.

No Conflict: The parcel is vacant and compliance of Section 4 of this LDC will be completed through the building permit process. The site provides ample space to meet all the development standards.

d. **Natural Resource Protection Standards.** All Conditional Use applications shall comply with all applicable regulations, criteria and standards set forth in Section 5, Natural Resource Protection Standards, of this *LDC*.

No Conflict.

C. Use Appropriate and Compatible. The use shall be appropriate to its proposed location and be compatible with the character of neighboring uses, or enhance the mixture of complementary uses and activities in the immediate vicinity.

No Conflict: Multi-family dwelling units at this location is appropriate and compatible with the neighborhood.

D. Traffic. The use shall not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking or loading problems. Necessary mitigating measures shall be proposed by the applicant.

No Conflict: The site provides ample room for off-street parking.

E. Nuisance. The operating characteristics of the use shall not create a nuisance and the impacts of the use on surrounding properties shall be minimized with respect to noise, odors, vibrations, glare, and similar conditions.

No Conflict: The multi-family dwelling units should not create a nuisance.

F. Facilities. There shall be adequate public facilities in place to serve the proposed use, or the applicant shall propose necessary improvements to address service deficiencies which the use would cause.

No Conflict:

G. Environment. The use shall not cause significant deterioration to water resources, stormwater volume and quality, wetlands, wildlife habitat, scenic characteristics, or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.

No Conflict.

ACTION

During the Planning and Zoning Commission meeting of May 25, 2016, Commissioner _____ moved, Commissioner _____ seconded and the Planning and Zoning Commission voted to APPROVE Conditional Use application, CU 16-3 submitted by Evan and Colleen Strauss for the construction of multi-family dwelling units (3) on Parcel A, Boundary Line Adjustment, Shelafo Property, with the following findings of fact and conditions:

Findings of Fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.
2. The Planning and Zoning Commission finds that this application is for a Conditional Use to allow the applicant to construct multi-family dwelling units (three) in the Commercial zone district.
3. The Planning and Zoning Commission finds that multi-family dwellings at this location is compatible with the surrounding neighborhood.
4. The Planning and Zoning Commission finds that the site provides ample room to comply with the standards of the *LDC* and final review of the site will be conducted during the building permit process.
5. The Planning and Zoning Commission finds that the proposed residential use will not have a significant effect on future City sales tax revenues.
6. The Planning and Zoning Commission finds the *LDC* currently allows a maximum of two units on this site and an additional unit is subject to approval of a Text Amendment to the *LDC*.
7. The Planning and Zoning Commission finds that multi-family dwelling units will not affect the health, safety or welfare of the community.
8. The Planning and Zoning Commission finds that the review standards for Conditional Uses have been or will be met based on the following condition:

Conditions:

1. The applicant shall apply for a building permit prior to Conditional Use expiration of May 25, 2019.
2. A Text Amendment to the *LDC*, to allow three units on this site, is subject to City Council approval. This Conditional Use approves two units and a third unit is contingent upon approval of a Text Amendment to the *LDC*, Table 2-5 (Nonresidential Zone District Dimensional Standards), Maximum Density within the Commercial zone district.

Application Fact Sheet
City of Gunnison Land Development Code
Minimum Application Contents
In accordance with §6.5 C.

City of Gunnison
P.O. Box 239
Gunnison, CO 81230
(970)641-8090

Applicant Name(s): Evan & Colleen Strauss

Phone #: 970-596-2897 Fax #: _____ E-Mail: mountainhomebuilders1@gmail.com

Mailing Address: 119 N. Boulevard

City: Gunnison State: CO Zip: 81230

Legal Description

Site Address of Property: 107 N. Teller Zoning Commercial
Block: #6 Lot(s): _____ Addition: 549705

Disclosure of Ownership- Please provide one of the following: 7 N15 Lot 19, All 20-24 Blk 17 original gunnis
and N10 FT lot 19, All Lots 20-24
Blk 6 Butchers Add.

- Assessor Parcel Info
- Mortgage
- Deed
- Judgments
- Liens
- Contract
- Easement Agreement
- Other Agreements - Contract to buy & sell real estate

Summary of Request:

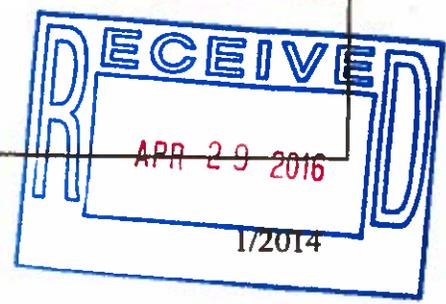
Requesting that said lot (zoned commercial) can be considered for conditional use for residential.

- Attachments: Vicinity Map (8.5"x11") Description of Proposal
- Names, Addresses and Map of Adjoining Property Owners (From Assessor's Office)
- Vested Property Rights Authorization of Agent (Power of Attorney from Owner, if not the applicant)
- Site Plan (11"x17") to scale, includes dimensions and location of all structures, parking spaces and access, snow storage, landscaping, live cover, utility lines, road/street names, land uses of adjacent properties, setbacks. Include a table for all dimensional requirements based on §2.6. (See attached sample)

YOU ARE REQUIRED TO SUBMIT FOUR (4) COMPLETE COPIES OF YOUR APPLICATION

Signature(s) [Signatures] Date 4-15-16
Colleen Strauss Date 4-15-16

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Conditional Use | <input type="checkbox"/> Variance | For Office Use Only |
| <input type="checkbox"/> Major Subdivision | <input type="checkbox"/> Minor Subdivision | <input type="checkbox"/> Zoning Amendment |
| <input type="checkbox"/> Mobile Home/RV Park | <input type="checkbox"/> PUD | <input type="checkbox"/> Subdivision Exemption |
| <input type="checkbox"/> Consolidated Application | | <input type="checkbox"/> Vacation |



Description of Proposal

Requesting that said property described in the application (zoned commercial) be considered for conditional residential use. The property is currently under contract (see attached) and owners Evan Strauss and Colleen Strauss will take possession on the 6th of May, 2016. Also attached is a statement of authority from the current owners.

We are considering several different residential configurations including a duplex with a garage apartment (3 Units). The following packet is for this scenario. There is the possibility we look at doing a triplex depending on how the profit and building costs work out. Either scenario we are requesting three residential type units for the said property.

At the current time the City of Gunnison is in the process of changing the dimensional standards for the density through a text amendment. Two residential units are allowed on the property under a conditional use. The text amendment will allow for three units on the property.

We believe a residential use in this neighborhood would fit in well. Currently the vast majority of the neighbors are single family dwellings (please see attached vicinity map and owners list).

Thank you for your consideration and look forward to your approval on this matter.

Evan and Colleen Strauss

 4-29-16
 4/29/16



AUTHORIZATION OF AGENT

I/We, the undersigned owner(s) of the following described real property located in the City of Gunnison, Colorado, hereby authorize the following individual(s):

Evan and Colleen Strauss	119 N Boulevard, 81230	360-927-0342
Name	Address	Phone

to act in my/our behalf concerning the application for action under the *Land Development Code* of the City of Gunnison.

Legal description and street address of the property for which application is being made:

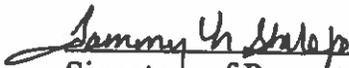
N 15 Lot 19, All 20-24 Blk 17 Original Gunnison and N 16 FT Lot 19, All lots 20-24 Blk 6 Butchers addition #5 49705 Resident parcel A or 107 N. Teller St.

Type/s of permit applied for:

- 1) Conditional Use 3) _____
- 2) _____ 4) _____

FIRST OWNER OF RECORD:

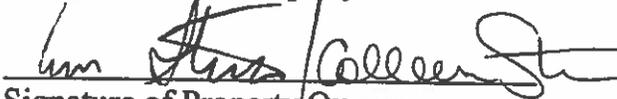
Stephen and Tammy Shelafo
Printed Name of Property Owner


Signature of Property Owner

04/29/2016
Date

SECOND OWNER OF RECORD:

Evan and Colleen Strauss
Printed Name of Property Owner

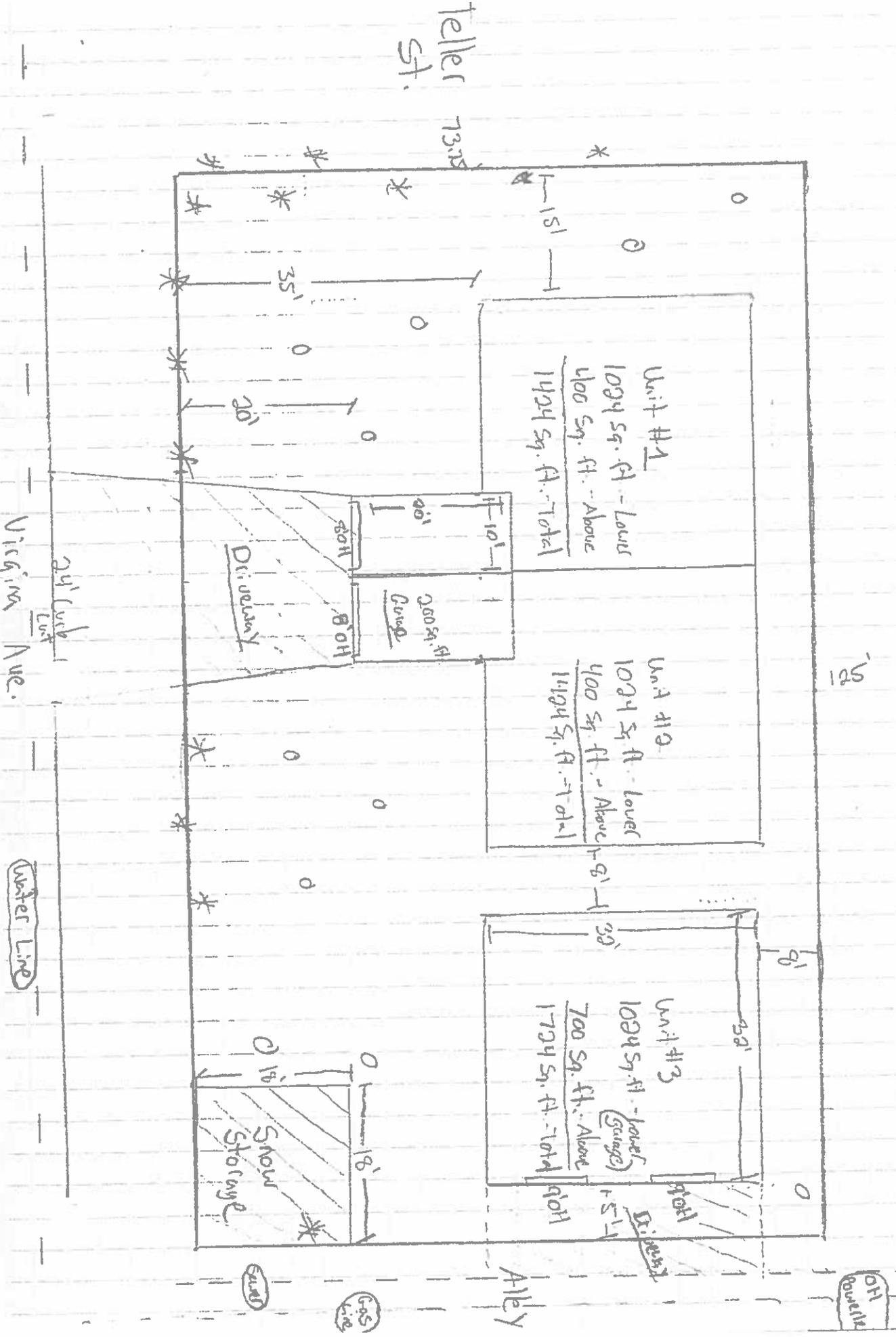

Signature of Property Owner

04/29/2016
Date

Site Plan 107 Teller St.

Scale = 1" = 15'

Key: * - Large Pine Trees
 O - Bushes
 Circle - Utilities



Site Plan Information

- Applicant name: Evan & Colleen Strauss
- Site address: 107 N Teller Gunnison, CO 81330
- Total Parcel size: 9,218.75 Sq. ft.

- Dimensional standards

<u>Dimension</u>	<u>Required</u>	<u>Actual</u>
• Structures	50%	99% - 4,572 Sq. ft.
• Landscaping	10%	20%
• Parking / Access	40%	19%

- Landscaping Requirements:

10% of property

- Total Parking / Access dimensions:

- Parking 1 $10' \times 20' = 200$
- Parking 2 $10' \times 20' = 200$
- Parking 3 $10' \times 20' = 200$
- Parking 4 $10' \times 20' = 200$
- Parking 5 $32' \times 32' = 1024$
- Total parking = 1824 Sq. ft. / 19%

- Parking Requirements

- Unit #1 - 2 parking spaces
- Unit #2 - 2 parking spaces
- Unit #3 - 2 parking spaces
- Total spaces - 6 parking spaces

Notes

Snow storage (Approx. 18'x18')
Will be on northwest side of property and be 17% of parking.
Landscaping is live and 20% of lot w/ exception of driveways.

Vicinity Map

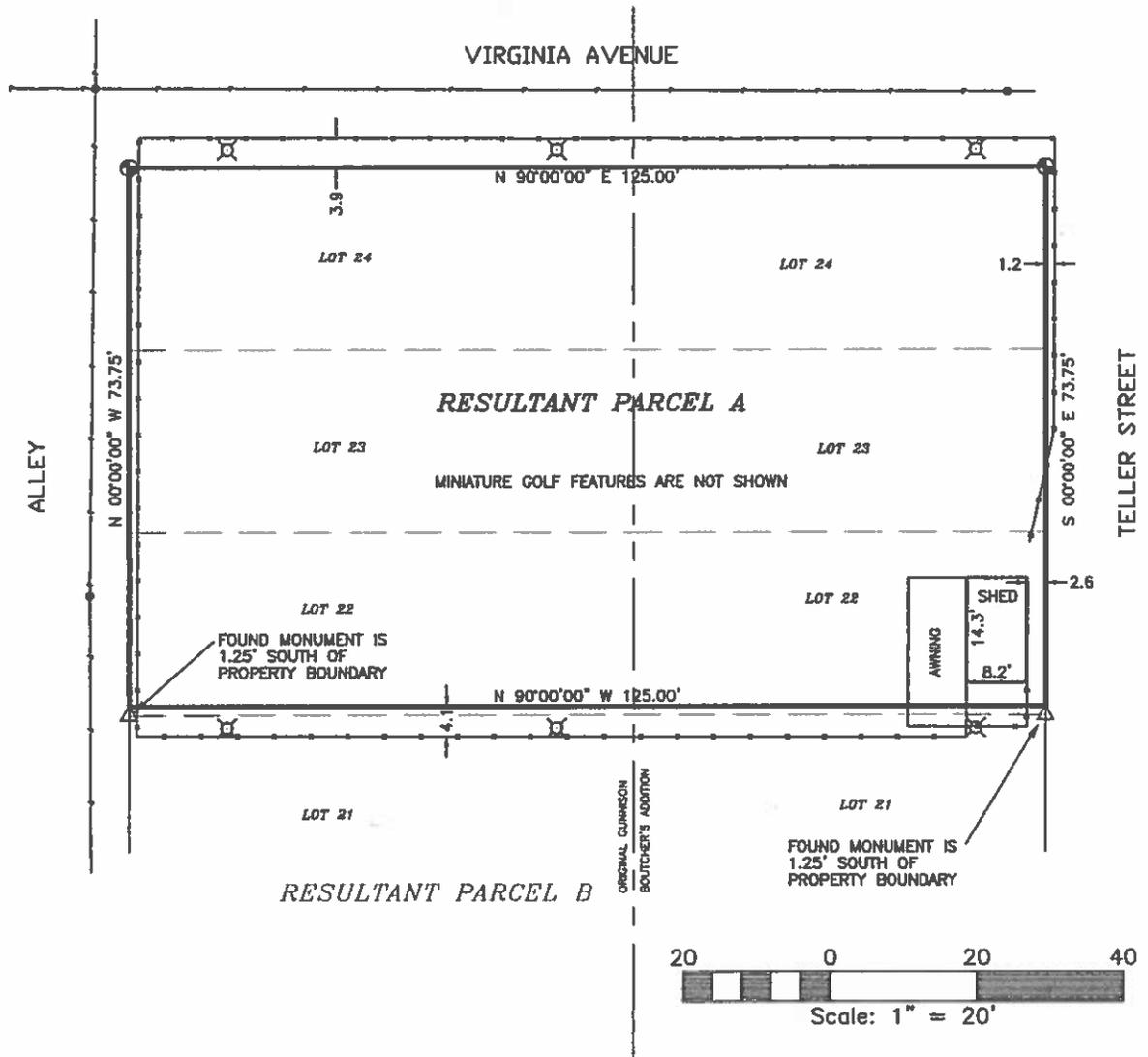


Ownership Surrounding 107 N. Teller

<u>NAME</u>	<u>ACCOUNT NUMBER</u>	<u>MAILING ADDRESS</u>	<u>SITUS ADDRESS</u>
GALLOWICH PROPERTIES LLC	R001617	400 E TOMICHI AVE, GUNNISON, CO 81230	400 E TOMICHI AVE, GUNNISON, CO 81230
EBBOT MATTHEW HENRY BREKKE EBBOTT RENEE MARIE	R001557	206 N COLORADO ST, GUNNISON, CO 81230	206 E VIRGINIA AVE, GUNNISON, CO 81230
HOLADAY MARY WONG HOLADAY DOUGLAS M	R001558	336 HURLBUTT ST, WILTON, CT 06897	410 E VIRGINIA AVE, GUNNISON, CO 81230
BEIRIGER LAURA DENISE BEIRIGER RONALD WAYNE	R001918	7927 STATE HIGHWAY 112, DEL NORTE, CO 81132	418 E VIRGINIA AVE, GUNNISON, CO 81230
THOMAS LEAH B	R001913	515 S MAIN ST, GUNNISON, CO 81230	500 E VIRGINIA AVE, GUNNISON, CO 81230
LEGION PARK, PARKS & RECREATION DEPARTMENT	R001921	200 SPENCER AVE, GUNNISON, CO 81230	TOMICHI AVE
SANGOSTI SANTO J FAMILY TRUST	R001618	PO BOX 71, GUNNISON, CO 81230	412 E TOMICHI AVE, GUNNISON, CO 81230
JJALL PROPERTIES LLC	R002060	600 W TOMICHI AVE, <i>Gunnison, CO 81230</i>	137 W TOMICHI AVE, <i>Gunnison, CO 81230</i>

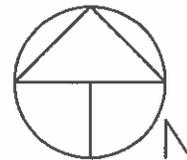
IMPROVEMENT LOCATION CERTIFICATE

PARCEL A, BOUNDARY LINE ADJUSTMENT — SHELAFO PROPERTY, REC. NO. 625590
 CITY OF GUNNISON
 GUNNISON COUNTY, COLORADO
 STREET ADDRESS: TBD N. TELLER ST.



LEGEND

- ⊕ Found rebar rebar with plastic cap stamped "LS 33647"
- △ Found PK Nail with aluminum washer stamped "LS 33647"
- P—P— Overhead utility lines
- X—X— Fence
- ⊗ Yard light



IMPROVEMENT LOCATION CERTIFICATE

I hereby certify that this Improvement Location Certificate was prepared for BIGHORN REALTY & GUNNISON COUNTY ABSTRACT, that it is not a land survey plat or improvement survey plat, and that it is not to be relied upon for the establishment of fence, building, or other future improvement lines.

I further certify that the improvements on the above described parcel on this date of APRIL 5, 2016, except utility connections, are entirely within the boundaries of the parcel, except as shown, that there are no visible encroachments upon the described premises by the improvements on any adjoining premises, except as indicated, and that there is no apparent evidence or sign of any easement crossing or burdening any part of said parcel, except as noted on this drawing.

Date: 4-5-16

Timothy E. Pearson
 Timothy E. Pearson
 Colorado L. S. No. 34979



JOB NO. 16-3-9
 PEARSON SURVEYING
 GUNNISON, CO 81230
 970-641-2910



Coldwell Banker | Bighorn Realty
Brian Cooper
Ph: 970.275.8022

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(CBS4-6-15) (Mandatory 1-16)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

**CONTRACT TO BUY AND SELL REAL ESTATE
(LAND)**

Property with No Residences)
 Property with Residences-Residential Addendum Attached)

Date: 3/23/2016

AGREEMENT

1. AGREEMENT. Buyer agrees to buy and Seller agrees to sell, the Property described below on the terms and conditions set forth in this contract (Contract).

2. PARTIES AND PROPERTY.

2.1. Buyer. Buyer, *Evan Strauss and Colleen Strauss*, will take title to the Property described below as

Joint Tenants **Tenants In Common** **Other n/a.**

2.2. No Assignability. This Contract Is Not assignable by Buyer unless otherwise specified in **Additional Provisions.**

2.3. Seller. Seller, *Stephen Shelafo and Tammy Shalafo*, is the current owner of the Property described below.

2.4. Property. The Property is the following legally described real estate in the County of Gunnison, Colorado:

N15FT LOT 19, ALL 20-24 BLK 17 ORIGINAL GUNNISON AND N10FT LOT 19, ALL LOTS 20-24 BLK 6 BOUTCHERS ADDN #549705 Resultant parcel A per Pearson Surveying plat dated 7/9/13 known as No. 107 N Teller Street, Gunnison, CO 81230,

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

2.5. Inclusions. The Purchase Price includes the following items (Inclusions):

2.5.1. Inclusions. The following items, whether fixtures or personal property, are included in the Purchase Price unless excluded under Exclusions:

All attached fixtures/structures on property If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

2.5.2. Personal Property - Conveyance. Any personal property must be conveyed at Closing by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except n/a.

Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

2.6. Exclusions. The following items are excluded (Exclusions): n/a

2.7. Water Rights, Well Rights, Water and Sewer Taps.

2.7.1. Deeded Water Rights. The following legally described water rights:

City of Gunnison ditch rights

Any deeded water rights will be conveyed by a good and sufficient n/a deed at Closing.

2.7.2. Other Rights Relating to Water. The following rights relating to water not included in §§

2.7.1, 2.7.3, 2.7.4 and 2.7.5, will be transferred to Buyer at Closing: n/a



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2.7.3. Well Rights. Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well," used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is n/a.

2.7.4. Water Stock Certificates. The water stock certificates to be transferred at Closing are as follows: n/a

2.7.5. Water and Sewer Taps. The parties agree that water and sewer taps listed below for the Property are being conveyed as part of the Purchase Price as follows: n/a *
If any water or sewer taps are included in the sale, Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be paid, if any, time and other restrictions for transfer and use of the taps.

2.7.6. Conveyance. If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.

2.8. Growing Crops. With respect to growing crops, Seller and Buyer agree as follows:
n/a

3. DATES AND DEADLINES.

Item No.	Reference	Event	Date or Deadline	
1	§ 4.3	Alternative Earnest Money Deadline	3/25/2016	Friday
		Title		
2	§ 8.1	Record Title Deadline	4/6/2016	Wednesday
3	§ 8.2	Record Title Objection Deadline	4/20/2016	Wednesday
4	§ 8.3	Off-Record Title Deadline	4/6/2016	Wednesday
5	§ 8.3	Off-Record Title Objection Deadline	4/20/2016	Wednesday
6	§ 8.4	Title Resolution Deadline	4/27/2016	Wednesday
7	§ 8.6	Right of First Refusal Deadline	n/a	
		Owners' Association		
8	§ 7.3	Association Documents Deadline	n/a	
9	§ 7.4	Association Documents Objection Deadline	n/a	
		Seller's Property Disclosure		
10	§ 10.1	Seller's Property Disclosure Deadline	4/6/2016	Wednesday
		Loan and Credit		
11	§ 5.1	Loan Application Deadline	n/a	
12	§ 5.2	Loan Objection Deadline	n/a	
13	§ 5.3	Buyer's Credit Information Deadline	n/a	
14	§ 5.3	Disapproval of Buyer's Credit Information Deadline	n/a	
15	§ 5.4	Existing Loan Documents Deadline	n/a	
16	§ 5.4	Existing Loan Documents Objection Deadline	n/a	
17	§ 5.4	Loan Transfer Approval Deadline	n/a	
18	§ 4.7	Seller or Private Financing Deadline	n/a	
		Appraisal		
19	§ 6.2	Appraisal Deadline	n/a	
20	§ 6.2	Appraisal Objection Deadline	n/a	
21	§ 6.2	Appraisal Resolution Deadline	n/a	
		Survey		
22	§ 9.1	New ILC or New Survey Deadline	4/20/2016	Wednesday
23	§ 9.3	New ILC or New Survey Objection Deadline	4/22/2016	Friday

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LAST DATE

24	§ 9.4	New ILC or New Survey Resolution Deadline	5/2/2016	Monday
		Inspection and Due Diligence		
25	§ 10.3	Inspection Objection Deadline	n/a	
26	§ 10.3	Inspection Resolution Deadline	n/a	
27	§ 10.5	Property Insurance Objection Deadline	4/6/2016	Wednesday
28	§ 10.6	Due Diligence Documents Delivery Deadline	4/6/2016	Wednesday
29	§ 10.6	Due Diligence Documents Objection Deadline	5/3/2016	Tuesday
30	§ 10.6	Due Diligence Documents Resolution Deadline	5/4/2016	Wednesday
31	§ 10.6	Environmental Inspection Objection Deadline	n/a	
32	§ 10.6	ADA Evaluation Objection Deadline	n/a	
33	§ 10.7	Conditional Sale Deadline	n/a	
34	§ 11.1	Tenant Estoppel Statements Deadline	n/a	
35	§ 11.2	Tenant Estoppel Statements Objection Deadline		
		Closing and Possession		
36	§ 12.3	Closing Date	5/6/2016	Friday
37	§ 17	Possession Date	5/6/2016	Friday
38	§ 17	Possession Time	n/a	
39	§ 28	Acceptance Deadline Date	3/25/2016 12:00 noon	Friday
40	§ 28	Acceptance Deadline Time	n/a	
41	n/a	n/a	n/a	
42	n/a	n/a	n/a	

3.1. **Applicability of Terms.** Any box checked in this Contract means the corresponding provision applies. Any box, blank or line in this Contract left blank or completed with the abbreviation "N/A", or the word "Deleted" means such provision, including any deadline, is not applicable and the corresponding provision of this Contract to which reference is made is deleted. If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

4. **PURCHASE PRICE AND TERMS.**

4.1. **Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$75,000.00	
2	§ 4.3	Earnest Money		\$2,000.00
3	§ 4.5	New Loan		
4	§ 4.6	Assumption Balance		
5	§ 4.7	Private Financing		
6	§ 4.7	Seller Financing		
7	n/a	n/a		
8	n/a	n/a		
9	§ 4.4	Cash at Closing		\$73,000.00
10		TOTAL	\$75,000.00	\$75,000.00

4.2. **Seller Concession.** At Closing, Seller will credit to Buyer \$ n/a (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure, at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense

232 or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in
233 this Contract.

234 **4.3. Earnest Money.** The Earnest Money set forth in this section, in the form of a personal
235 check, will be payable to and held by Gunnison County Abstract (Earnest Money Holder), in its trust
236 account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this
237 Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The
238 parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing
239 Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest
240 Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado
241 residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited
242 with the Earnest Money Holder in this transaction will be transferred to such fund.

243 **4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest
244 Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money**
245 **Deadline**.

246 **4.3.2. Return of Earnest Money.** If Buyer has a Right to Terminate and timely terminates,
247 Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set
248 forth in § 25 and, except as provided in § 24, if the Earnest Money has not already been returned following receipt
249 of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written
250 mutual instructions (e.g., Earnest Money Release form), within three days of Seller's receipt of such form.

251 **4.4. Form of Funds; Time of Payment; Available Funds.**

252 **4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan
253 proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws,
254 including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good
255 Funds).

256 **4.4.2. Time of Payment; Available Funds.** All funds, including the Purchase Price to be
257 paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow
258 disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**. Buyer
259 represents that Buyer, as of the date of this Contract, **Does** **Does Not** have funds that are immediately
260 verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

261 **4.5. New Loan.** (Omitted as inapplicable)

262 **4.6. Assumption.** (Omitted as inapplicable)

263 **4.7. Seller or Private Financing.** (Omitted as inapplicable)

264 **TRANSACTION PROVISIONS**

265 **5. FINANCING CONDITIONS AND OBLIGATIONS.** (Omitted as inapplicable)

266 **5.3. Credit Information and Buyer's New Senior Loan.** (Omitted as inapplicable)

267 **5.4. Existing Loan Review.** (Omitted as inapplicable)

268 **6. APPRAISAL PROVISIONS.**

269 **6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser,
270 engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The
271 Appraisal may also set forth certain lender requirements, replacements, removals or repairs necessary on or to
272 the Property as a condition for the Property to be valued at the Appraised Value.

273 **6.2. Appraisal Condition.** The applicable appraisal provision set forth below applies to the respective
274 loan type set forth in § 4.5.3, or if a cash transaction (i.e. no financing), § 6.2.1 applies.

275 **6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is
276 less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer
277 may, on or before **Appraisal Objection Deadline**, notwithstanding § 8.3 or § 13:

278 **6.2.1.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

279 **6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by either
280 a copy of the Appraisal or written notice from lender that confirms the Appraisal Value is less than the Purchase
281 Price.

282 **6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or

309 before **Appraisal Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof
310 on or before **Appraisal Resolution Deadline** (§ 3), this Contract will terminate on the **Appraisal Resolution**
311 **Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination,
312 i.e., on or before expiration of **Appraisal Resolution Deadline**.
313

314 **6.3. Lender Property Requirements.** If the lender imposes any requirements, replacements, removals
315 or repairs, including any specified in the Appraisal (Lender Requirements) to be made to the Property (e.g., roof
316 repair, repainting), beyond those matters already agreed to by Seller in this Contract, Seller has the Right to
317 Terminate under § 25.1, (notwithstanding § 10 of this Contract), on or before three days following Seller's receipt
318 of the Lender Requirements, in Seller's sole subjective discretion. Seller's Right to Terminate in this § 6.3 does
319 not apply if, on or before any termination by Seller pursuant to this § 6.3: (1) the parties enter into a written
320 agreement regarding the Lender Requirements; or (2) the Lender Requirements have been completed; or (3) the
321 satisfaction of the Lender Requirements is waived in writing by Buyer.
322

323 **6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be
324 timely paid by Buyer Seller. The cost of the Appraisal may include any and all fees paid to the appraiser,
325 appraisal management company, lender's agent or all three.
326
327

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329 **7. OWNERS' ASSOCIATION.** This Section is applicable if the Property is located within a **Common**
330 **Interest Community** and subject to such declaration.

331 **7.1. Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A
332 **COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE**
333 **OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION**
334 **FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF**
335 **THE ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE**
336 **FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY**
337 **ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE**
338 **ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT.**
339 **THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT**
340 **THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY**
341 **THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE**
342 **ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD**
343 **INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS**
344 **SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES**
345 **AND REGULATIONS OF THE ASSOCIATION.**
346

347 **7.2. Owners' Association Documents.** Owners' Association Documents (Association
348 Documents) consist of the following:
349

350 **7.2.1.** All Owners' Association declarations, articles of incorporation, bylaws, articles of
351 organization, operating agreements, rules and regulations, party wall agreements;
352

353 **7.2.2.** Minutes of most recent annual owners' meeting;
354

355 **7.2.3.** Minutes of any directors' or managers' meetings during the six-month period
356 immediately preceding the date of this Contract. If none of the preceding minutes exist, then the most recent
357 minutes, if any (§§ 7.2.1, 7.2.2 and 7.2.3, collectively, Governing Documents); and
358

359 **7.2.4.** The most recent financial documents which consist of: (1) annual and most recent
360 balance sheet, (2) annual and most recent income and expenditures statement, (3) annual budget, (4) reserve
361 study, and (5) notice of unpaid assessments, if any (collectively, Financial Documents).
362

363 **7.3. Association Documents to Buyer.**
364

365 **7.3.1. Seller to Provide Association Documents.** Seller is obligated to provide to Buyer the
366 Association Documents, at Seller's expense, on or before **Association Documents Deadline**. Seller authorizes
367 the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's obligation to provide
368 the Association Documents is fulfilled upon Buyer's receipt of the Association Documents, regardless of who
369 provides such documents.
370

371 **7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents.
372 Buyer has the Right to Terminate under § 25.1, on or before **Association Documents Objection Deadline**, based
373 on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective discretion.
374 Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer, at Buyer's
375 option, has the Right to Terminate under § 25.1 by Buyer's Notice to Terminate received by Seller on or before ten
376 days after Buyer's receipt of the Association Documents. If Buyer does not receive the Association Documents,
377 or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's
378 Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to
379 Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory, and
380 Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.6 (Right of First
381 Refusal or Contract Approval).
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8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.

8.1. Evidence of Record Title.

8.1.1. Seller Selects Title Insurance Company. If this box is checked, Seller will select the title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price, or if this box is checked, an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing.

8.1.2. Buyer Selects Title Insurance Company. If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.

If neither box in § 8.1.1 or § 8.1.2 is checked, § 8.1.1 applies.

8.1.3. Owner's Extended Coverage (OEC). The Title Commitment **Will** **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded), and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller** **Other *n/a*.**

Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.4 (Right to Object to Title, Resolution).

8.1.4. Title Documents. Title Documents consist of the following: (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title Documents).

8.1.5. Copies of Title Documents. Buyer must receive, on or before **Record Title Deadline**, copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the party or parties obligated to pay for the owner's title insurance policy.

8.1.6. Existing Abstracts of Title. Seller must deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

8.2. Record Title. Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.4 (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.4 (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

8.3. Off-Record Title. Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal and options) not shown by public records, of which Seller has actual knowledge (Off-Record Matters). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2 and § 13), in Buyer's

462 sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an
463 Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing
464 or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's
465 Notice to Terminate or Notice of Title Objection pursuant to this § 8.3 (Off-Record Title), any title objection by
466 Buyer and this Contract are governed by the provisions set forth in § 8.4 (Right to Object to Title, Resolution). If
467 Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline
468 specified above, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual
469 knowledge.
470

471 **8.4. Right to Object to Title, Resolution.** Buyer's right to object to any title matters includes, but is not
472 limited to those matters set forth in §§ 8.2 (Record Title), 8.3 (Off-Record Title) and 13 (Transfer of Title), in
473 Buyer's sole subjective discretion. If Buyer objects to any title matter, on or before the applicable deadline, Buyer
474 has the following options:
475

476 **8.4.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any
477 title matter (Notice of Title Objection) on or before the applicable deadline, and if Buyer and Seller have not agreed
478 to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on the
479 expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's Notice of
480 Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for
481 that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title Deadline or the Off-
482 Record Title Deadline, or both, are extended to the earlier of Closing or ten days after receipt of the applicable
483 documents by Buyer, pursuant to § 8.2 (Record Title) or § 8.3 (Off-Record Title), the Title Resolution Deadline also
484 will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable
485 documents; or
486

487 **8.4.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under §
488 25.1, on or before the applicable deadline, based on any unsatisfactory title matter, in **Buyer's sole subjective**
489 **discretion.**
490

491 **8.5. Special Taxing Districts.** SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL
492 OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON
493 THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE
494 PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH
495 DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO
496 DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD
497 INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY
498 CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE
499 PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY
500 COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.
501

502 Buyer has the Right to Terminate under § 25.1, on or before **Off-Record Title Objection Deadline**, based on
503 any unsatisfactory effect of the Property being located within a special taxing district, in Buyer's sole subjective
504 discretion.
505

506 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property or a
507 right to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of
508 such right. If the holder of the right of first refusal exercises such right or the holder of a right to approve
509 disapproves this Contract, this Contract will terminate. If the right of first refusal is waived explicitly or expires, or
510 the Contract is approved, this Contract will remain in full force and effect. Seller must promptly notify Buyer in
511 writing of the foregoing. If expiration or waiver of the right of first refusal or approval of this Contract has not
512 occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.
513

514 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should
515 be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title,
516 ownership and use of the Property, including, without limitation, boundary lines and encroachments, set-back
517 requirements, area, zoning, building code violations, unrecorded easements and claims of easements, leases and
518 other unrecorded agreements, water on or under the Property, and various laws and governmental regulations
519 concerning land use, development and environmental matters.
520

521 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE.** THE SURFACE ESTATE OF THE
522 PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER
523 OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR
524 WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS,
525 GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH
526 INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO
527 ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.
528

529 **8.7.2. SURFACE USE AGREEMENT.** THE USE OF THE SURFACE ESTATE OF THE
530 PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE
531 AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY
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539 **CLERK AND RECORDER.**

540 **8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR**
541 **ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL**
542 **COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING**
543 **WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING FACILITIES.**

544 **8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL**
545 **INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING**
546 **DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL**
547 **AND GAS CONSERVATION COMMISSION.**

548 **8.7.5. Title Insurance Exclusions. Matters set forth in this Section, and others, may be**
549 **excepted, excluded from, or not covered by the owner's title insurance policy.**

550 **8.8. Consult an Attorney. Buyer is advised to timely consult legal counsel with respect to all such**
551 **matters as there are strict time limits provided in this Contract (e.g., Record Title Objection Deadline and Off-**
552 **Record Title Objection Deadline).**

553 **9. NEW ILC, NEW SURVEY.**

554 **9.1. New ILC or New Survey. If the box is checked, a New Improvement Location Certificate (New**
555 **ILC) New Survey in the form of n/a is required and the following will apply:**

556 **9.1.1. Ordering of New ILC or New Survey. Seller Buyer will order the New ILC or New**
557 **Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form,**
558 **certified and updated as of a date after the date of this Contract.**

559 **9.1.2. Payment for New ILC or New Survey. The cost of the New ILC or New Survey will be paid,**
560 **on or before Closing, by: Seller Buyer or: n/a**

561 **9.1.3. Delivery of New ILC or New Survey. Buyer, Seller, the issuer of the Title Commitment (or**
562 **the provider of the opinion of title if an Abstract of Title), and n/a will receive a New ILC or New Survey on or**
563 **before New ILC or New Survey Deadline.**

564 **9.1.4. Certification of New ILC or New Survey. The New ILC or New Survey will be certified by the**
565 **surveyor to all those who are to receive the New ILC or New Survey.**

566 **9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection. Buyer may select a New**
567 **ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or change**
568 **to the New ILC or New Survey Objection Deadline. Buyer may, in Buyer's sole subjective discretion, waive a**
569 **New ILC or New Survey if done prior to Seller incurring any cost for the same.**

570 **9.3. New ILC or New Survey Objection. Buyer has the right to review and object to the New ILC or New**
571 **Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's**
572 **sole subjective discretion, Buyer may, on or before New ILC or New Survey Objection Deadline,**
573 **notwithstanding § 8.3 or § 13:**

574 **9.3.1. Notice to Terminate. Notify Seller in writing that this Contract is terminated; or**

575 **9.3.2. New ILC or New Survey Objection. Deliver to Seller a written description of any matter that**
576 **was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller**
577 **to correct.**

578 **9.3.3. New ILC or New Survey Resolution. If a New ILC or New Survey Objection is received by**
579 **Seller, on or before New ILC or New Survey Objection Deadline, and if Buyer and Seller have not agreed in**
580 **writing to a settlement thereof on or before New ILC or New Survey Resolution Deadline, this Contract will**
581 **terminate on expiration of the New ILC or New Survey Resolution Deadline, unless Seller receives Buyer's**
582 **written withdrawal of the New ILC or New Survey Objection before such termination, i.e., on or before expiration of**
583 **New ILC or New Survey Resolution Deadline.**

584 **DISCLOSURE, INSPECTION AND DUE DILIGENCE**

585 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND**
586 **SOURCE OF WATER.**

587 **10.1. Seller's Property Disclosure. On or before Seller's Property Disclosure Deadline, Seller agrees**
588 **to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's**
589 **Property Disclosure form completed by Seller to Seller's actual knowledge, current as of the date of this Contract.**

590 **10.2. Disclosure of Latent Defects; Present Condition. Seller must disclose to Buyer any latent**
591 **defects actually known by Seller. Seller agrees that disclosure of latent defects will be in writing. Except as**
592 **otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "As**
593 **Is" condition, "Where Is" and "With All Faults."**

594 **10.3. Inspection. Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to**
595 **have inspections (by one or more third parties, personally or both) of the Property and Inclusions (Inspection), at**
596 **Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls,**
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615 structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property,
616 (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and communication
617 services), systems and components of the Property (e.g., heating and plumbing), (4) any proposed or existing
618 transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the
619 Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole
620 subjective discretion, Buyer may, on or before **Inspection Objection Deadline**:

621 **10.3.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

622 **10.3.2. Inspection Objection.** Deliver to Seller a written description of any unsatisfactory
623 physical condition that Buyer requires Seller to correct.

624 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before
625 **Inspection Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on or
626 before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless
627 Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or before
628 expiration of **Inspection Resolution Deadline**.

629 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other
630 written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering
631 reports, or other reports performed at Buyer's request (Work) and must pay for any damage that occurs to the
632 Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any kind against the
633 Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold Seller harmless from
634 and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or
635 lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against
636 any such liability, damage, cost or expense, or to enforce this section, including Seller's reasonable attorney
637 fees, legal fees and expenses. The provisions of this section survive the termination of this Contract. This § 10.4
638 does not apply to items performed pursuant to an Inspection Resolution.

639 **10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of
640 and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or
641 before **Property Insurance Objection Deadline**, based on any unsatisfactory provision of the Property
642 Insurance, in Buyer's sole subjective discretion.

643 **10.6. Due Diligence.**

644 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver
645 copies of the following documents and information pertaining to the Property (Due Diligence Documents) to Buyer
646 on or before **Due Diligence Documents Delivery Deadline**:

647 **10.6.1.1.** All contracts relating to the operation, maintenance and management of the
648 Property;

649 **10.6.1.2.** Property tax bills for the last 2 years;

650 **10.6.1.3.** As-built construction plans to the Property and the tenant improvements,
651 including architectural, electrical, mechanical, and structural systems, engineering reports, and permanent
652 Certificates of Occupancy, to the extent now available;

653 **10.6.1.4.** A list of all Inclusions to be conveyed to Buyer;

654 **10.6.1.5.** Operating statements for the past n/a years;

655 **10.6.1.6.** A rent roll accurate and correct to the date of this Contract;

656 **10.6.1.7.** All current leases, including any amendments or other occupancy agreements,
657 pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive
658 Closing are as follows (Leases): n/a

659 **10.6.1.8.** A schedule of any tenant improvement work Seller is obligated to complete
660 but has not yet been completed and capital improvement work either scheduled or in process on the date of this
661 Contract;

662 **10.6.1.9.** All insurance policies pertaining to the Property and copies of any claims
663 which have been made for the past 2 years;

664 **10.6.1.10.** Soils reports, surveys and engineering reports or data pertaining to the
665 Property (if not delivered earlier under § 8.3);

666 **10.6.1.11.** Any and all existing documentation and reports regarding Phase I and II
667 environmental reports, letters, test results, advisories, and similar documents respective to the existence or
668 nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances, and/or
669 underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller
670 warrants that no such reports are in Seller's possession or known to Seller;

671 **10.6.1.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning
672 the compliance of the Property with said Act;

673 **10.6.1.13.** All permits, licenses and other building or use authorizations issued by any
674 governmental authority with jurisdiction over the Property and written notice of any violation of any such permits,
675 licenses or use authorizations, if any; and
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n/a

10.6.1.14. Other documents and information:

10.6.2. Due Diligence Documents Review and Objection. Buyer has the right to review and object to Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

10.6.2.1. Notice to Terminate. Notify Seller in writing that this Contract is terminated; or

10.6.2.2. Due Diligence Documents Objection. Deliver to Seller a written description of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

10.6.2.3. Due Diligence Documents Resolution. If a Due Diligence Documents Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination, i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**.

10.6.3. Zoning. Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

10.6.4. Due Diligence – Environmental, ADA. Buyer has the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable. Seller Buyer will order or provide **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or n/a, at the expense of Seller Buyer (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Objection Deadline** will be extended by na days (Extended Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such event, Seller Buyer must pay the cost for such Phase II Environmental Site Assessment.

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § **10.6.5, Buyer has the Right to Terminate under § 25.1, on or before Environmental Inspection Objection Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

Buyer has the Right to Terminate under § 25.1, on or before **ADA Evaluation Objection Deadline**, based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

10.7. Conditional Upon Sale of Property. This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as n/a. Buyer has the Right to Terminate under § 25.1 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This § 10.7 is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.

10.8. Source of Potable Water (Residential Land and Residential Improvements Only). Buyer Does Does Not acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for the Property. There is No Well. Buyer Does Does Not acknowledge receipt of a copy of the current well permit.

Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.

10.9. Existing Leases; Modification of Existing Leases; New Leases. Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.

11. TENANT ESTOPPEL STATEMENTS.

11.1. Tenant Estoppel Statements Conditions. Buyer has the right to review and object to any Estoppel Statements. Seller must obtain and deliver to Buyer on or before **Tenant Estoppel Statements**

768 **Deadline**, statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at
769 the Property (Estoppel Statement) attached to a copy of the Lease stating:
770

771 11.1.1. The commencement date of the Lease and scheduled termination date of the Lease;

772 11.1.2. That said Lease is in full force and effect and that there have been no subsequent
773 modifications or amendments;

774 11.1.3. The amount of any advance rentals paid, rent concessions given, and deposits paid to
775 Seller;

776 11.1.4. The amount of monthly (or other applicable period) rental paid to Seller;
777 11.1.5. That there is no default under the terms of said Lease by landlord or occupant; and

778 11.1.6. That the Lease to which the Estoppel is attached is a true, correct and complete copy of
779 the Lease demising the premises it describes.
780

781 **11.2. Tenant Estoppel Statements Objection.** Buyer has the Right to Terminate under § 25.1, on or
782 before **Tenant Estoppel Statements Objection Deadline**, based on any unsatisfactory Estoppel Statement, in
783 Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Tenant**
784 **Estoppel Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel
785 Statement.
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CLOSING PROVISIONS

791 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

792 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing
793 Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and
794 Seller and their designees. If Buyer is obtaining a new loan to purchase the Property, Buyer acknowledges
795 Buyer's lender is required to provide the Closing Company, in a timely manner, all required loan documents and
796 financial information concerning Buyer's new loan. Buyer and Seller will furnish any additional information and
797 documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller will
798 sign and complete all customary or reasonably required documents at or before Closing.
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800 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions Are Are Not
801 executed with this Contract.
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803 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the
804 date specified as the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing will
805 be as designated by **GCA**.
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807 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality, and extent of
808 service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title
809 companies).
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814 **13. TRANSFER OF TITLE.** Subject to tender of payment at Closing as required herein and compliance by
815 Buyer with the other terms and provisions hereof, Seller must execute and deliver a good and sufficient
816 **General** deed to Buyer, at Closing, conveying the Property free and clear of all taxes except the general taxes
817 for the year of Closing. Except as provided herein, title will be conveyed free and clear of all liens, including any
818 governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether
819 assessed or not. Title will be conveyed subject to:
820

821 13.1. Those specific Exceptions described by reference to recorded documents as reflected in the
822 Title Documents accepted by Buyer in accordance with **Record Title**,

823 13.2. Distribution utility easements (including cable TV),

824 13.3. Those specifically described rights of third parties not shown by the public records of which
825 Buyer has actual knowledge and which were accepted by Buyer in accordance with **Off-Record Title** and **New**
826 **ILC or New Survey**,

827 13.4. Inclusion of the Property within any special taxing district, and

828 13.5. Any special assessment if the improvements were not installed as of the date of Buyer's
829 signature hereon, whether assessed prior to or after Closing, and
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831 13.6. Other n/a.
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836 **14. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid will be paid at or before
837 Closing from the proceeds of this transaction or from any other source.
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840 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

841 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs
842 and all other items required to be paid at Closing, except as otherwise provided herein.
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15.2. Closing Services Fee. The fee for real estate closing services must be paid at Closing by
 Buyer Seller **One-Half by Buyer and One-Half by Seller**
 Other n/a.

15.3. Status Letter and Record Change Fees. Any fees incident to the issuance of Association's statement of assessments (Status Letter) must be paid by None Buyer Seller One-Half by Buyer and One-Half by Seller. Any record change fee assessed by the Association including, but not limited to, ownership record transfer fees regardless of name or title of such fee (Association's Record Change Fee) must be paid by None Buyer Seller One-Half by Buyer and One-Half by Seller.

15.4. Local Transfer Tax. The Local Transfer Tax of n/a % of the Purchase Price must be paid at Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller.

15.5. Private Transfer Fee. Private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller. The Private Transfer fee, whether one or more, is for the following association(s): n/a in the total amount of n/a% of the Purchase Price or \$ n/a.

15.6. Water Transfer Fees. The Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed \$ n/a for:
 Water Stock/Certificates Water District
 Augmentation Membership Small Domestic Water Company n/a and must be paid at Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller

15.7. Sales and Use Tax. Any sales and use tax that may accrue because of this transaction must be paid when due by None Buyer Seller One-Half by Buyer and One-Half by Seller.

16. PRORATIONS. The following will be prorated to the Closing Date, except as otherwise provided:

16.1. Taxes. Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on Taxes for the Calendar Year Immediately Preceding Closing Most Recent Mill Levy and Most Recent Assessed Valuation, Other n/a.

16.2. Rents. Rents based on Rents Actually Received Accrued. At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address. Seller must assign to Buyer all Leases in effect at Closing and Buyer must assume Seller's obligations under such Leases.

16.3. Association Assessments. Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to Closing Date by the Association will be the obligation of Buyer Seller. Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller. Seller represents that the Association Assessments are currently payable at approximately \$ n/a per n/a and that there are no unpaid regular or special assessments against the Property except the current regular assessments and n/a. Such assessments are subject to change as provided in the Governing Documents. Seller agrees to promptly request the Association to deliver to Buyer before Closing Date a current Status Letter.

16.4. Other Prorations. Water and sewer charges, propane, interest on continuing loan, and n/a.

16.5. Final Settlement. Unless otherwise agreed in writing, these prorations are final.

17. POSSESSION. Possession of the Property will be delivered to Buyer on Possession Date at Possession Time, subject to the Leases as set forth in § 10.6.1.7.

If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer for payment of \$ 50 per day (or any part of a day notwithstanding § 18.1) from Possession Date and Possession Time until possession is delivered.

GENERAL PROVISIONS

18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.

18.1. Day. As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings as applicable).

18.2. Computation of Period of Days, Deadline. In computing a period of days, when the ending date is

922 not specified, the first day is excluded and the last day is included (e.g., three days after MEC). If any deadline
923 falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline Will Will Not be
924 extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline
925 will not be extended.
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928 **19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION;**
929 **AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be
930 delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

931 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other
932 perils or causes of loss prior to Closing in an amount of not more than ten percent of the total Purchase Price
933 (Property Damage), and if the repair of the damage will be paid by insurance (other than the deductible to be paid
934 by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the
935 Property before Closing Date. Buyer has the Right to Terminate under § 25.1, on or before Closing Date if the
936 Property is not repaired before Closing Date or if the damage exceeds such sum. Should Buyer elect to carry out
937 this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds
938 that were received by Seller (but not the Association, if any) resulting from damage to the Property and
939 Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the
940 Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may
941 agree to extend the Closing Date to have the Property repaired prior to Closing or, at the option of Buyer, (1)
942 Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and
943 Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney
944 requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will
945 receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that
946 applies to the insurance claim.
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948 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and
949 communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or
950 plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier,
951 then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and
952 quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or
953 Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer
954 covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or
955 before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 25.1, on or before
956 Closing Date, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of
957 such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit,
958 Seller's right for any claim against the Association, if any, will survive Closing. Seller and Buyer are aware of the
959 existence of pre-owned home warranty programs that may be purchased and may cover the repair or replacement
960 of such Inclusions.
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962 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending
963 condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify
964 Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 25.1, on or before
965 Closing Date, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to
966 consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a
967 credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or
968 Inclusions but such credit will not include relocation benefits or expenses, or exceed the Purchase Price.
969

970 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to
971 walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions
972 complies with this Contract.
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974 **19.5. Risk of Loss - Growing Crops.** The risk of loss for damage to growing crops by fire or other
975 casualty will be borne by the party entitled to the growing crops as provided in § 2.8 and such party is entitled to
976 such insurance proceeds or benefits for the growing crops.
977

978 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller
979 acknowledge that the respective broker has advised that this Contract has important legal consequences and has
980 recommended the examination of title and consultation with legal and tax or other counsel before signing this
981 Contract.
982

983 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in
984 this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including
985 Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided
986 in this Contract or waived, the non-defaulting party has the following remedies:
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988 **21.1. If Buyer is in Default:**
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998 **21.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money
999 (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is
1000 not a penalty, and the Parties agree the amount is fair and reasonable. Seller may recover such additional
1001 damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force and effect
1002 and Seller has the right to specific performance or damages, or both.

1003 **21.1.2. Liquidated Damages, Applicable.** This § 21.1.2 applies unless the box in § 21.1.1.
1004 is checked. Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to
1005 Seller, and retained by Seller. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES,
1006 and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4, 22,
1007 23 and 24), said payment of Earnest Money is SELLER'S ONLY REMEDY for Buyer's failure to perform the
1008 obligations of this Contract. Seller expressly waives the remedies of specific performance and additional
1009 damages.
1010

1011 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all
1012 Earnest Money received hereunder will be returned and Buyer may recover such damages as may be proper.
1013 Alternatively, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to
1014 specific performance or damages, or both.
1015

1016 **22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of
1017 any arbitration or litigation relating to this Contract, prior to or after Closing Date, the arbitrator or court must
1018 award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.
1019

1020 **23. MEDIATION.** If a dispute arises relating to this Contract, (whether prior to or after Closing) and is not
1021 resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties
1022 meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot
1023 impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the
1024 settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of
1025 such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not
1026 resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at
1027 that party's last known address (physical or electronic as provided in § 27). Nothing in this Section prohibits either
1028 party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written
1029 notice requesting mediation. This section will not alter any date in this Contract, unless otherwise agreed.
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1031 **24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must
1032 release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the
1033 event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the
1034 Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any
1035 proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of
1036 competent jurisdiction, (Earnest Money Holder is entitled to recover court costs and reasonable attorney and legal
1037 fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder
1038 receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number
1039 of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest
1040 Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does
1041 receive a copy of the Lawsuit, and has not interpleaded the monies at the time of any Order, Earnest Money Holder
1042 must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of
1043 **Mediation.** This Section will survive cancellation or termination of this Contract.
1044

1045 **25. TERMINATION.**

1046 **25.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to
1047 Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to
1048 Terminate), provided such written notice was received on or before the applicable deadline specified in this
1049 Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to
1050 Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate
1051 under such provision.
1052

1053 **25.2. Effect of Termination.** In the event this Contract is terminated, all Earnest Money received
1054 hereunder will be returned and the parties are relieved of all obligations hereunder, subject to §§ 10.4, 22, 23 and
1055 24.
1056

1057 **26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and
1058 specified addenda, constitute the entire agreement between the parties relating to the subject hereof, and any
1059 prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract.
1060 No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable
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1074 unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists
1075 or is intended to be performed after termination or Closing survives the same. Any successor to a Party receives
1076 the predecessor's benefits and obligations of this Contract.
1077

1078
1079 **27. NOTICE, DELIVERY, AND CHOICE OF LAW.**

1080 **27.1. Physical Delivery and Notice.** Any document, or notice to Buyer or Seller must be in writing,
1081 except as provided in § 27.2, and is effective when physically received by such party, any individual named in
1082 this Contract to receive documents or notices for such party, the Broker, or Brokerage Firm of Broker working with
1083 such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage
1084 Firm).
1085

1086 **27.2. Electronic Notice.** As an alternative to physical delivery, any notice, may be delivered in electronic
1087 form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, the
1088 Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be
1089 received by the party; not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email
1090 or n/a.
1091

1092 **27.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at
1093 the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the
1094 information necessary to access the documents, or (3) facsimile at the Fax No. of the recipient.
1095

1096 **27.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in
1097 accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a
1098 contract in Colorado for real property located in Colorado.
1099

1100
1101 **28. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by
1102 Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of such
1103 acceptance pursuant to § 27 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If
1104 accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be
1105 executed by each party, separately, and when each party has executed a copy thereof, such copies taken
1106 together are deemed to be a full and complete contract between the parties.
1107

1108
1109 **29. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith
1110 including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing**
1111 **Conditions and Obligations, Title Insurance, Record Title and Off-Record Title, New ILC, New Survey and**
1112 **Property Disclosure, Inspection, Indemnity, Insurability, Due Diligence, Buyer Disclosure and Source of**
1113 **Water.**
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1118 **ADDITIONAL PROVISIONS AND ATTACHMENTS**
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1120
1121 **30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado
1122 Real Estate Commission.)
1123

1124 *n/a*

1125 **31. ATTACHMENTS.**

1126 **31.1.** The following attachments are a part of this Contract:
1127

1128 *n/a*

1129 **31.2.** The following disclosure forms are attached but are not a part of this Contract:
1130

1131 *n/a*
1132

1133
1134 **SIGNATURES**
1135

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1140 *Evan Strauss*

ES

1141
1142 Date: 3/24/2016

1143 Buyer: *Evan Strauss*
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Colleen Strauss

Date: 3/24/2016

CS

Buyer: *Colleen Strauss*

[NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 32]

Stephen Shelafo

Date: 3/25/2016

SS

Seller: *Stephen Shelafo*

Address: *125 W Virginia Gunnison CO 81230*

Phone: Fax:

Email Address:

Tammy Shalafo

Date: 3/25/2016

TS

Seller: *Tammy Shalafo*

Address: *125 W Virginia Gunnison CO 81230*

Phone: Fax:

Email Address:

32. COUNTER; REJECTION. This offer is Countered Rejected.
Initials only of party (Buyer or Seller) who countered or rejected offer

END OF CONTRACT TO BUY AND SELL REAL ESTATE

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Buyer)

Broker Does Does Not acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Buyer as a Buyer's Agent Seller's Agent Transaction-Broker in this transaction. This is a Change of Status.

Brokerage Firm's compensation or commission is to be paid by Listing Brokerage Firm
 Buyer Other n/a.

Brokerage Firm's Name: **Coldwell Banker | Bighorn Realty**

Brian Cooper

Date: 3/25/2016

Broker's Name: **Brian Cooper**

Address: **305 6th Street Crested Butte, CO 81224**

Ph: **970.275.8022** Fax: Email: **brian.cooper@coldwellbanker.com**

34. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker Does Does Not acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a Seller's Agent Buyer's Agent Transaction-Broker in this transaction. This is a Change of Status.

Brokerage Firm's compensation or commission is to be paid by Seller Buyer Other *n/a*.

Brokerage Firm's Name: **The Clarke Agency**

Cathie Elliot

Date: 3/24/2016

Broker's Name: **Cathie Elliot**

Address: **241 N Main Street Gunnison, CO 81230**

Ph: 970-641-0511 Fax: n/a Email:

CBS4-6-15. CONTRACT TO BUY AND SELL REAL ESTATE (LAND)

CTM eContracts - ©2016 CTM Software Corp.

27

Tammy Shalafa

Date: 4/14/2016

Seller: **Tammy Shalafa**

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Evan Strauss

Date: 4/14/2016

Buyer: **Evan Strauss**

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Colleen Strauss

Date: 4/14/2016

Buyer: **Colleen Strauss**

33

AE41-6-15. AGREEMENT TO AMEND/EXTEND CONTRACT

CTM eContracts - ©2016 CTM Software Corp.



Coldwell Banker | Bighorn Realty
Brian Cooper
Ph: 970.275.8022

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (AE41-6-15) (Mandatory 1-16)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

AGREEMENT TO AMEND/EXTEND CONTRACT

Date: 4/13/2016

1. This agreement amends the contract dated 3/23/2016 (Contract), between **Stephen Shelafo and Tammy Shalafo** (Seller), and **Evan Strauss and Colleen Strauss** (Buyer), relating to the sale and purchase of the following legally described real estate in the County of **Gunnison, Colorado:**

N15FT LOT 19, ALL 20-24 BLK 17 ORIGINAL GUNNISON AND N10FT LOT 19, ALL LOTS 20-24 BLK 6 BOUTCHERS ADDN #549705 Resultant parcel A per Pearson Surveying plat dated 7/9/13

known as No. **107 N Teller Street, Gunnison, CO 81230** (Property).

NOTE: If the table is omitted, or if any item is left blank or is marked in the "No Change" column, it means no change to the corresponding provision of the Contract. If any item is marked in the "Deleted" column, it means that the corresponding provision of the Contract to which reference is made is deleted.

2. **§3. DATES AND DEADLINES. [Omitted as inapplicable]**

3. Other dates or deadlines set forth in the Contract are changed as follows:

n/a

4. Additional amendments:

Buyer name is amended from Evan Strauss and Colleen Strauss to Wild River Properties LLC. Title will be taken as Wild River Properties LLC.

All other terms and conditions of the Contract remain the same.

This proposal expires unless accepted in writing by Seller and Buyer as evidenced by their signatures below and the offering party to this document receives notice of such acceptance on or before n/a.

Date Time

Stephen Shelafo

Date: 4/14/2016

Seller: **Stephen Shelafo**

MEMBERS	PRESENT	ABSENT	EXCUSED
Erik Niemeyer	X		
Erich Ferchau			X
Andy Tocke	X		
Bob Beda	X		
Sharon Cave			X
Greg Larson	X		
Councilor Matt Schwartz	X		

OTHERS PRESENT: Community Development Director Steve Westbay, Planner Andie Ruggera, Planning Technician Michelle Spain.

I. CALL TO ORDER 7:00pm

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. UNSCHEDULED CITIZENS

IV. PUBLIC HEARING AND POSSIBLE ACTION – CONDITIONAL USE APPLICATION- CU 16-2, SUBMITTED BY MIKE COLE, GUNNISON VALLEY DEVELOPMENT, FOR A SINGLE FAMILY DWELLING IN THE COMMERCIAL ZONE DISTRICT.

Open Public Hearing. Chair Larson opened the public hearing at approximately 7:01 p.m.

Proof of Publication. Proof of publication was entered into the record.

Review of Process. Planner Ruggera commenced the application review.

The City’s *Land Development Code (LDC)*, Section 2.6 states that a multi-residential use requires a Conditional Use permit to exist in the Commercial (C) district zone. Conditional Uses are those land uses that are generally compatible with the permitted uses in a zone district, but require site-specific review of their location, intensity, density, configuration and operating characteristics. Conditions may be imposed in order to ensure compatibility of the uses at a particular location and mitigate potentially adverse impacts.

The *LDC* Section 7.2 specifies that Conditional Use applications be reviewed by the City of Gunnison Planning and Zoning Commission (Commission) at a Public Hearing after 15 days public notice. The Commission may approve, approve with conditions, deny or remand the application back to the applicant with instructions for modification. The applicant is Mike Cole for Gunnison Valley Development LLC. He is requesting a Conditional Use for a Single Family Residence in the Commercial district. The legal description is Lots 15-17, Block 25, West Gunnison Addition. There is residential R-3 use along the south side of the parcel, and Commercial retail use along Tomichi Avenue. The site plan supplied in the packet shows Single Family on the north side of the parcel and the south will have future development. This type of development has not been identified. Any future Commercial development is subject to

compliance with Table 2-3, the Principal Use Table of the Land Development Code. Any additional residential units would require a Conditional Use permit submitted to this Board.

Applicant Presentation.

Michael Cole for Gunnison Valley Development LLC. His intentions will be to condominiumize it at a later date. Mr. Cole asked for clarification on the process in the future. If things change he could utilize commercial. No further description from the applicant or questions from the Commission.

Public Input. None

Staff Presentation.

APPLICANTS

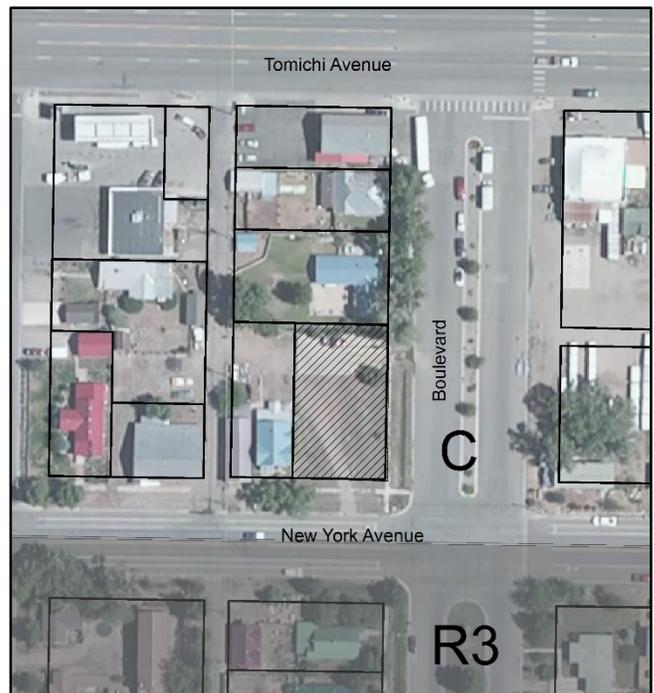
The applicant, Mike Cole, Gunnison Valley Development, is requesting a Conditional Use for the construction of a single family dwelling with the future development of up to two more residential units in the Commercial zone district. The legal description of the property is Lots 15-17, Block 25, West Gunnison Addition, City and County of Gunnison, Colorado. The applicants’ narrative states:

“Lots are now zoned commercial with conditional residential allowed. There is a mix of residential and commercial in the area, but mostly residential. Proposing to build two story residential. Lower level will be a two car garage with an office space and bathroom. Upper level kitchen, 2 bedrooms, bathrooms, and living room. See attached plans.

Do not want to sacrifice future commercial usage as long as commercial requirements are met.”

SITE ASSESSMENT

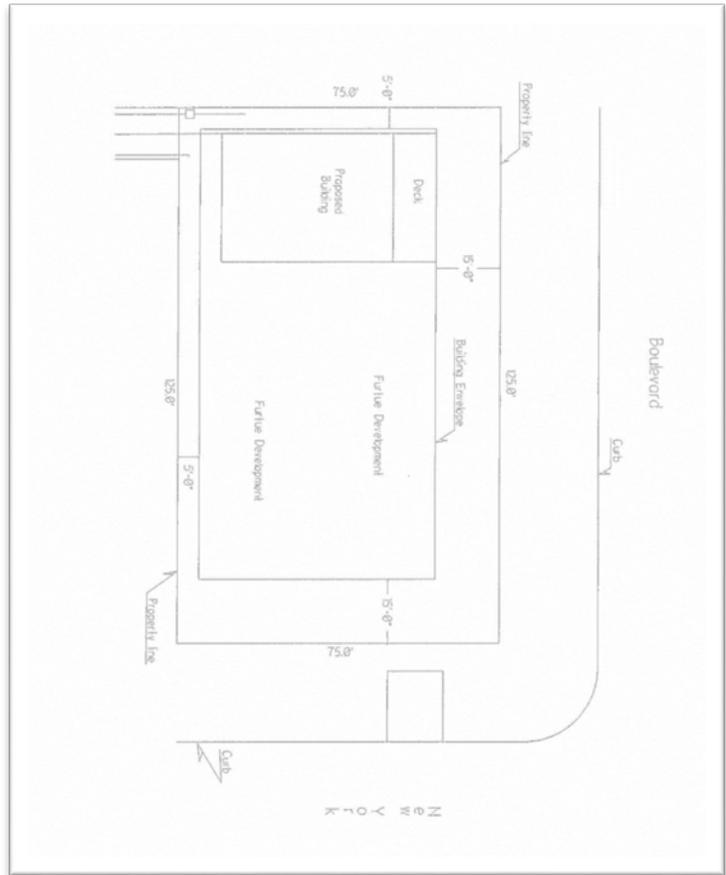
The property is located on the northeast corner of Boulevard and New York Avenue within the Commercial zone district. The R3 residential district zone is located to the south and surrounding uses are residential with commercial retail in the close vicinity along Tomichi Avenue. The vacant property is three lots (9,375 square feet). The applicant is proposing a two story single family dwelling to the north of the property. The applicant anticipates future development of the southern portion of the lot but, specific details of potential future uses have not been identified. The site provides ample room to comply with all dimensional standards for a single family dwelling unit.



The *LDC* states that no more than one single family dwelling shall be permitted on any legal lot unless the single family dwelling units are part of a Common Interest Community and the development plan is found to be in compliance with the dimensional standards of the *LDC*. If the applicant desires additional residential units in the future a Conditional Use will be required. Along with the Conditional Use any additional units that are proposed as single family dwellings will require a common interest community plat (Subdivision Exemption).

Any future commercial development is subject to compliance with Table 2-3, Principal Use Table within the *LDC*.

There is a three-year expiration on this application as one of the conditions. The other condition was that any additional units would require a Conditional Use application.



Commission Discussion.

Commissioner Niemeyer indicated the use of this application fits this area.

Commissioner Beda asked how many units could be placed on this parcel. Planner Ruggera responded 3 units total. Commissioner Beda asked about taking commercial property and changing it to residential. Director Westbay responded that this area is off the main corridor. It does not generate a great amount of sales tax. We are reaching our capacity of commercial property at 85% full. That does exclude Gunnison Rising. Hopefully we can promote infill development.

Commissioner Tocke asked about the 85%, is it occupied. Director Westbay responded that 85% is currently built out.

Commissioner Beda indicated that this is a commercial zone. Owners need to be reminded that they are residing in a commercial zone. Commissioner Beda indicated it is a good use for this area.

Commissioner Larson indicated that office space would work well here.

Close Public Hearing. Chair Larson closed the public hearing at 7:10 pm

ACTION

During the Planning and Zoning Commission meeting of May 11, 2016, Commissioner Tocke moved, Commissioner Niemeyer seconded and the Planning and Zoning Commission voted to APPROVE Conditional Use application, CU 16-2, submitted by Mike Cole, Gunnison Valley Development, for a single family dwelling on Lots 15-17, Block 25, West Gunnison Addition, with the following findings of fact and conditions:

Findings of Fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.
2. The Planning and Zoning Commission finds that this application is for a Conditional Use to allow the applicant to construct a single family dwelling in the Commercial zone district.
3. The Planning and Zoning Commission finds that a single family dwelling at this location is compatible with the surrounding neighborhood.
4. The Planning and Zoning Commission finds that the site provides ample room to comply with the standards of the *LDC* and final review of the site will be conducted during the building permit process.
5. The Planning and Zoning Commission finds that the proposed single family dwelling use will not have a significant effect on future City sales tax revenues.
6. The Planning and Zoning Commission finds any additional dwellings would require Conditional Use approval and additional single family dwellings require a Common Interest Community Plat.
7. The Planning and Zoning Commission finds that future commercial uses shall be subject to Table 2-3, Principal Use Table of the *LDC*.
8. The Planning and Zoning Commission finds that the single family dwelling use will not affect the health, safety or welfare of the community.
9. The Planning and Zoning Commission finds that the review standards for Conditional Uses have been or will be met based on the following condition:

Conditions:

1. The applicant shall apply for a building permit for a single family dwelling prior to Conditional Use expiration of May 11, 2019.
2. Any additional dwelling units on this site shall require Conditional Use approval and additional single family dwellings shall also require a Common Interest Community Plat.

Roll Call Yes: Beda, Larson, Schwartz, Niemeyer, Tocke

Roll Call No:

Abstain:

Absent: Cave, Ferchau
Motion: Passed by Majority

V. Minutes of the April 27, 2016 Meeting

Councilman Schwartz moved, and Commissioner Beda seconded, and the Commission voted to approve the minutes of the April 27, 2016 meeting as presented.

Roll Call Yes: Larson, Niemeyer, Beda, Schwartz

Roll Call No:

Abstain: Tocke

Absent: Cave, Ferchau

Motion: Passed by Majority

VI. COUNCIL UPDATE

Councilman Schwartz commenced his review.

- May 3rd work session Bid Bond Requirement. Our charter states that we need 100% bond on bids. This will be changed to a 5% bid bond for jobs under \$500,000.00 and 10% bid bond on jobs over \$500,000.00.
- Renewals on pet licenses will be changed to January annually.
- Discussed a letter to CDOT on support of Complete Streets. Region 3 will be our partner on this project.
- Discussed the draft of The Downtown Sidewalk Ordinance on 1st read.
- Chamber of Commerce visitor center will be funded on certain conditions. Councilman Schwartz met with Eric and Brian on a business plan to be due in July. Release of funds has been requested. Also Council required that part of the funds for an impact study be set aside. A request from Council was made for research of other community's programs for their visitor centers. Commissioner Larson responded that in years past records were kept on how many people contacted the Chamber. How do you get these numbers? What really needs to be measured? They amended the contract and funds were released.
- May 10th meeting on the Sidewalk Ordinance changes. It was well attended. TL Livermore indicated that the language was confusing on the clear access area. Requirements of merchandise to be displayed adjacent to the building. Café Seating was not required to be adjacent to the building. Both should be allowed but not in the 3' curb buffer for doors, or the 6' clear access. Planner Ruggera reviewed her visuals of the streets that she prepared. Director Westbay indicated that there will be two types of license. One is a Council license for a permanent structural change in the right of way. The other is an Administrative license for the placement of their products in the right of ways on a regular basis. Both licenses will have requirements for insurance, indemnifications, and annual renewals. Discussion on the agreements ensued. Commissioner Larson indicated the space was tight. Alcohol has other regulations to be followed.
- Bike racks were reviewed. Using off street parking for corrals was looked at. Director Westbay indicated that the Virginia area was an excellent spot for additional bike racks. Many variables were discussed. Commissioner Tocke indicated that it looks like the City is promoting more bike usage. So looking at

areas to park bikes is important. Commissioner Beda asked about the bikers that use posts to lock bikes on. Who will enforce this? All agreed that education was important. Bike corrals were discussed and how the bikers would use them. Councilman Schwartz indicated that council would be working with the various business owners to assist in the transition. Nothing is permanent. It is an experiment right now. Commissioner Niemeyer recommended the possible use of a Jersey Barrier. These could supply security for the bikes, easy to move by City crews and supply enough ingress and egress. Councilman Schwartz indicated that the meeting was well received.

- Passed the Sidewalk Ordinance and the Pet License renewal all on 1st Readings.
- Passed the Purchasing Policy on 2nd Reading.
- Attorney Kathleen Fogo brought up the need for a backup attorney for this municipality. She asked that Marcus Locke be appointed to this position. Council approved.
- A letter was authorized to be sent to Governor Hickenlooper to veto a bill that states municipalities will appoint an attorney for any individual that is in custody for their first hearing. Basically that does not happen here but Denver and surrounding areas will deal with this situation. Concerns are, the right to council is already set under federal law. It is also an unfunded mandate from the State.

VII. COMMISSIONER COMMENTS

Councilman Schwartz indicated that he will need to be excused in the near future for medical reasons.

Director Westbay indicated one person had applied for the Planning and Zoning board and the approval process will be in the next two weeks.

Commissioner Niemeyer moved, and Councilman Tocke seconded, and the Commission voted to excuse Commissioner Ferchau from this meeting.

Roll Call Yes: Beda, Larson, Schwartz, Tocke, Niemeyer

Roll Call No:

Abstain: Tocke

Absent: Cave, Ferchau

Motion: Passed by Majority

Councilman Schwartz reviewed the Executive Session meeting regarding the applications for the City Manager position. There were 51 total applicants. Commissioner Niemeyer asked about what percent were the applicants from this area as opposed to out of our County. Councilman Schwartz was unsure. Councilman Schwartz responded that they were given a total of 20 to review. They were divided into two tiers. Council reduced the number and they will be looking at the finalists and have direct interviews June 12, 13, and 14. The public will be invited in the final process.

VIII. PLANNING STAFF UPDATE

Director Westbay commenced his review.

- Currently working on Main Street sidewalks and the Complete Streets Project.

- Colorado Pedals Grant application is being applied for. On the 26th of May we will be having a meeting on this. There will be a press release on this next week. This is basically the Tomichi street area. CDOT Region 3 is our partner on this grant request. Rifle has also applied and they have been give positive feedback on their request. Rifle’s request is more of a regional trails concept.
- Video plans were then reviewed. Lane geometry and 11th Street has a very unique design. The project does include a parking protected bike lane. Pedestrian signage at Spruce and Pine was reviewed. The bus stop at Safeway may be relocated. Main Street with bulb outs and protected bike lanes were looked at. This will change to a 60’ crossing area, great for pedestrians. Tractor trailer turn radius was discussed. East bound Highway 50 was reviewed and stacking problems discussed. Commissioner Niemeyer asked about designating Colorado as a large truck route. Discussion ensued about this being a residential area. The next section was the park area to be discussed. Pedestrian access from one park to the next crossing Tomichi showed a “Z” intersection. There will be a “rapid flashing activated signal” installed. There will be center islands to assist pedestrians with safer crossing. Numerous designs were looked at. Drainage on the center of mediums for Highway 50 was reviewed. There is a section that will want to drain north and curb design will be reviewed. The colors on the concrete were discussed. Some of these concepts will be posted in next week’s paper. 10th street access from the high school was looked at. This will need to be modified for safety. Bus routes will change and the school has been notified. The new design will slow traffic entering into the city. Round a bouts and their locations were discussed. This will be phased. The 3 intersections will be the first areas. All other enhancements will be implemented as funds become available.
- Lazy K property will have an open house on May 25th, from 5-7pm. The University of Colorado Denver (UCD) staff will be presenting their findings.

IX. ADJOURN 8:20 p.m.

Attest:

Greg Larson, Chair

Michelle Spain, Secretary