



**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
Tuesday, March 23, 2021 8:00AM
following the Planning Commission
Online Meeting (instructions below)**

A G E N D A

- I. Meeting Call to Order.
- II. Roll Call of BOA Members.
- III. Minutes for Review: January 26, 2021
- IV. Conflicts of Interest.
- V. Action Items:
 - A. Lot 1B, Jane Creek Subdivision – Building Height

Online Meeting Log-In Instructions – See next page

Computer Log-In Instructions

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85723122052?pwd=WXd6Z2tlRnpwb1haTDU4SDJxOVhqZz09>

Passcode: 742862

Phone Log-In Instructions

Dial In Numbers

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 929 436 2866 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 857 2312 2052

Passcode: 742862

You can log into the Zoom meeting through the link above to view what is projected on the screen. You can use either your computer audio or the number above. Everyone will be muted upon entry into the meeting to ensure that we have manageable background noise and limited interruptions.

Public Hearing Process

If you would like to participate in the public hearing, please follow these instructions so we can make sure everyone that wants to speak has the opportunity. When you log into Zoom you will be automatically muted to limit background noise. When the public hearing is opened for public comment, please use the “raise your hand” feature and staff will unmute citizens in the order they were received. To enable “raise your hand” feature, click on the “Participants” button the bottom of the screen.

If you are signed in to the Zoom meeting through the computer, there is an option to type comments directly through the “Chat” feature. You can indicate using that feature that you intend to make a comment and if you wish to make that comment by typing, Town Staff can read the comment for you.



**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
Tuesday, January 26, 2021 8:00AM**

MINUTE

- I. The meeting was called to order at 9:17 am.
- II. Roll Call indicated present BOA Vice Chairman Roger Kish, BOA Members Angela Sandstrom, Dave Barker, Doug Robbins and George Stevens. Community Development Director James Shockey and Town Planner Hugh Bell are also present. BOA Chairman Brad Holzwarth is absent today.
- III. Minutes for Review: December 16th, 2020. BOA Member Barker makes a comment about his attendance. He was not present at that BOA Meeting. The minute will be updated. BOA Barker makes a motion to approve the minutes with the update. BOA Member Robbins seconds. The BOA minute is approved 5, 0.
- IV. Conflicts of interest. None comes forward.
- V. Action Items:
 - A. Election of Chairperson and Vice Chairperson (yearly)

BOA Member Robbins recommends Brad Holzwarth as Chairman and Roger Kish as Vice Chairman. BOA Member Stevens seconds. Brad Holzwarth and Roger Kish are elected 5, 0.

- B. 212 Beavers Lodge Road – Rear Yard Setback Encroachment

Planner Bell reads the Staff report for this variance which is included in the electronic packet sent to the BOA Members. The main part of this report is:

“Because the applicant received approval from the Town (i.e., the Commission, Planning staff, and Building staff) as well as from the Roam Design Review Committee and the Roam HOA, the Town’s Building Division issued a Footer and Foundation Building Permit permitting construction of a footer and foundation. The Building Division inspected the footer on November 19 and the foundation walls on November 24 and gave approval. Upon re-examining the plans, Planning staff discovered this error, which requires either a variance or a plan change eliminating the encroachment.”

Director Shockey informs the BOA that they received a public comment.

BOA Member Stevens says that there was not a floorplan when they reviewed this project, based on what he saw a couple of days ago. He asks if the floorplan is usually included in the residential design review. Planner Bell replies no; they do require a floor plan for the exterior features but not for the interior.

Vice Chairman Kish asks the Town Planner to show the submittal plan that was emailed earlier this week. Planner Bell shows the site plan that is featuring the deck. BOA Member Stevens says that, in his mind, it is not very clear what is considered the deck and what is not. The BOA takes a look at the rear elevation that shows the deck piers. BOA Member Stevens can see why the Building and Planning Department as well as the Planning Commission approved the deck since, according to him, the drawing is not very clear.

BOA Robbins asks what the heavy gray line represents on the site plan. That line represents the wetland that cannot be built on. The deck pier is not on the line nor beyond it. BOA Member Robbins asks if this deck is enclosed or covered. Planner Bell replies that it is not.

BOA Member Barker asks about the cantilevers. Vice Chairman Kish says that they vote based on what it is presented or requested to them and not what it is in between because that is part of the public process.

Mr. Tyler Huber, representing the owner is present. He states that during the design process the architect reached out to the Town Planning Department in order to get all the information about the setbacks. From Mr. Huber's understanding, the architect got only the requirements about encroachment information. He adds that, in the plans that were submitted, it shows clearly that the piers are within the setbacks as opposed to what BOA Member Stevens said previously. Mr. Huber says that those documents were approved and a building permit was issued. Subsequently, the foundation was poured. From his point of view, everything was in order since the documents were approved by the respective departments and commission.

BOA Member Robbins wants to have clear that this is approved by ROW. Mr. Huber says that this was approved by ROAM. Vice Chairman Kish interjects and informs Mr. Huber that there is a letter from Mr. Jeffery Vogel which states that it meets their standards. Mr. Huber believes that ROAM was notified about this variance application.

Planner Bell says that they notified Fraser River Development Co. by mail since they own some lots. Director Shockey says that that means that Mr. Vogel and the design review committee are aware that they do not know. out if conformance

BOA Member Barker asks why the BOA needs to grant a variance after this design was reviewed by all the departments and the Planning Commission. He does not think this is a variance request. He considers that this application has many clerical and review errors. Planner Bell thinks it is because it is out of conformance with the ROAM FDP; he agrees that it is kind of later since the foundations have been poured already. Director Shockey adds that the Staff does not have the ability to waive a zoning requirement just because an error was found. So once the error was discovered, they notified the applicant. The applicant had the option to modify the site plan and bring it into conformance or, to seek for a variance and they chose the latter.

BOA Member Barker asks that if the BOA would be involved had the house been finished and occupied already. Director Shockey replies that they have not been in that situation yet and, hopefully, they will not so, he does not have an answer to that.

Vice Chairman Kish says that, in other jurisdictions, once the Certificate of Occupancy has been given, you cannot take it away. The building becomes a non-conformance construction. Up until that point, it is open to take immediate action.

BOA Member Barker does not think it is fair that it has been approved and then, expect the applicant to be in conformance this far long in the process weather the house is occupied or not. The applicant has invested money and time in this project. Approvals have been given and inspection have been performed and passed already. He does not know how to conciliate the criteria to grant the variance with the overall situation.

BOA Member Robbins adds that it seems that the encroachment is against the neighbor setback. He considers that the next step is to walk through those conditions and try to understand what it has been done in the past. Vice Chairman Kish agrees. BOA Member Robbins says that this is not the owners fault since this was supposed to be reviewed by many parties before approval. BOA Member Barker wants to clarify

that the encroachment is not in violation of the municipality (Town of Winter Park) but ROAM. Director Shockey replies that it is in violation of the zoning. The FDP is essentially a zone district. Vice Chairman Kish adds that they have adopted and approved that zoning. They would be the governing agency with the FDP.

There is a discussion about how the variance criteria are met for this variance request. BOA Member Stevens goes back to his point of the drawings not being clear and, at some point, with all the checks that took place. Had the drawings been clearer, somebody would have caught the encroachment. He thinks that is the reason they are discussing this variance request now.

BOA Member Robbins talks about the criteria and he believes they meet the first one. Regarding the second criteria, he believes that the clerical errors could be considered as unusual circumstances. For the last criteria, he thinks that this is valid as well. The Building Department goes to field and checks the foundation.

BOA Member Stevens is concerned this would set a precedent for future developments and property owners would take advantage. BOA Member Robbins thinks that the difference here is that it was not the intent here. He is confident this case will encourage all the parties involved to be more careful in the future. This was an oversight and this is why they are discussing this today.

BOA Member Stevens goes back to his point about the lack of clarity in the documentation. Had the documents been more accurate, they would have discovered the encroachment. He does not agree that the first criterion has been met.

In order to grant the variance, a super majority of 4 votes out of 5 needs to be in place.

There is a five-minute break.

Director Shockey will consult the legal counsel no matter the decision they BOA makes today. He says that the applicant can request the BOA to consider amending the variance request as long as it does not further encroach into what it has been requested.

Vice Chairman Kish asks the applicant if they would like to do so. Mr. Huber says that, unfortunately, adjusting the application does not work on their favor.

BOA Member Stevens asks if the piers are poured or just the footings. Mr. Huber answers that the footers and the piers are already poured and have been inspected.

BOA Member Barker asks if they need the ROAM approval. Director Shockey replies that he does not believe so. This is a zoning issue, not an HOA issue.

BOA Member Sandstrom asks about the possibility to have a similar situation in the future. BOA Member Robbins says that it is unlikely to have a similar situation again. BOA Member wants to make sure that the inspections performed were made in person. Planner Bell replies yes, those were made by the Building Inspector. Director Shockey adds that the Building Department does not enforce zoning regulations; that is the Planning Department task. The issue was discovered upon the review of the ILC. The Building Department just checks that the footers and the piers are in compliance with the adopted Building Code (2015). BOA Member Robbins says that this type of situations is the reason they have moved the ILC requirements earlier in the process before the vertical construction begins. Director Shockey confirms that.

BOA Member Barker talks about the precedent. Director Shockey replies that this decision does not set a

precedent for other variances. It is a case-by-case basis.

BOA Member Barker asks about the height of the deck. Mr. Huber replies that the deck is 12 in. off the ground. BOA Member Barker wants to confirm that the deck is not going to block any views for the neighbors significantly. Mr. Huber confirms this.

BOA Member Robbins makes a motion to approve this variance going to the three required criteria of the property in question. It would cost more to the applicant to roll back to be in compliance due to clerical errors. This resulted in unusual circumstances and granting the variance would not alter the essential character of the locality. BOA Member Barker seconds. The variance is approved 4, 1.

The Resolution 1-21 is approved 5, 0 and Vice Chairman Kish can sign it.

Upon a previously adopted motion, the BOA Meeting is adjourned at 10:13 am.



MEMO

TO Board of Adjustment
FROM Hugh Bell, Planner
THROUGH James Shockey, Community Development Director
DATE March 23, 2021
RE Height Variance Request – 100 Iron Horse Way, Lot 1B, Jane Creek Subdivision

Applicant: Unicume Colorado, LLC

Description of Variance Request:

Request for height variance of 69'-6" on three proposed multifamily residential structures.

Owner's Reasons Why the Variance Should Be Granted:

"We are requesting a variance to the overall height limitation of 55'-0" for the subject project. We would respectfully request that a variance be granted to allow a height limitation of 69'-6" for the site located at 100 Iron Horse Way, Winter Park, CO 80482, Jane Creek Minor Subdivision, Lot 1B at Reception 2004-006812.

The proposed project is planned to be a resort condominium community consisting of three, three and four-story structures situated above one and two-story partially underground parking structures that will be developed on a phased basis beginning with Building 1. This project shall utilize a parking structure to reduce the impact on the surrounding environment and watershed. Considering the topography and other physical constraints of this property, approval of this variance request would allow the majority of the parking area to be constructed under the building thus reducing the non-permeable surfaces surrounding the building and minimizing the impact on the site and the neighborhood.

Reasons For Consideration of the Variance:

1. The subject property cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality due to the site constraints including topography, wetlands, hydrology, geology and site configuration. Specifically the topography slopes trend from 25% across the entire site to as much as 45% in areas within the site. Approx 4,000 SF or 6% of the site is subject to wetland impacts which will be preserved as part of the natural open space. Per the geotechnical report, the site hydrological and geological impacts include encountering ground water at 2' to 12' below the surface depending on location with the soil conditions comprised of cobbles and boulders over granite bedrock which would preclude any significant excavation of the site. The site configuration is irregular with acute angles and is further encumbered by easements for Iron Horse Way and utilities that severely limit the size of the building envelope.
2. The plight of the owner is due to natural and unusual circumstance affecting the site including the previously referenced topography, wetlands, hydrology, geology, the site configuration. Further, the impact of the present conditions limiting the availability of lumber and steel resulting in Lot 1B being required to employ precast concrete twin tee panels for the structure which are thicker than steel girders or frame beams/trusses resulting an overall increase in building height.

3. The variance will not alter the essential character of the locality. The variance to allow a 69'-6" height on the subject property is consistent with height and midrise character of the existing adjacent Iron Horse properties as well as buildings in the WP Resort village which range from 4 to 6 stories in height.

Reasons Why the Variance Should Be Granted:

1. This variance is requested based on the issues of a steep site (topography), further limitations based on existing wetlands (surface and subsurface flows), site hydrology (water table) and site geology (large boulders and bedrock) that adversely impact the size and configuration of the building envelope and that further results in extensive excavation of the site not being viable.
2. Many other sites within the zoning classification do not share the same degree of severity as it relates to topography, wetlands, soil conditions and site configuration that impact the subject site.
3. The purpose of the variance is not based the desire to generate a higher yield or make more money from the subject property. The proposed project is designed to be consistent with the density and site coverage allowed under the zoning code. The variance will not result in increasing the project density, adding more square footage to the project than is allowed under the zoning code, nor based upon the desire to make more money out of the property.
4. The hardships are a result of the natural conditions affecting the site and were not created by the applicant including topography, wetlands, hydrology, geology and building envelope configuration. Further, given the ongoing limited supply of lumber and steel necessitates the use of a precast concrete twin tee structure resulting in greater separation between floors to given the thickness of the concrete twin tee structural components.
5. Granting the variance will not be detrimental to the public welfare nor injurious to other property in the neighborhood since the proposed building height on the subject site will be similar to the surrounding properties, several existing buildings in the neighborhood exceed 55' in height so the proposed buildings will be consistent with the character of the adjacent properties. Further, given the topography of the heavily forested site, the back and sides of the project will be substantially screened by the surrounding pine forest. Notwithstanding approval of the requested variance, the Lot 1B buildings will still have a maximum building elevation that is lower than the existing adjacent Iron Horse Building D.
6. The proposed variance will not impair the supply of light and air to adjacent properties nor will it increase congestion on public streets, increase the fire danger, endanger public health or diminish property values. The variance will allow for the development of the site with the least possible impact on the site and the neighborhood by facilitating the smallest disturbance to the site resulting in retaining maximum open space and minimizing the coverage of the site with non permeable surfaces. The proposed project density is consistent with the allowable density on the site so the project density or congestion of public streets will be not be increased as a result of the variance. The project will be a first class, state of the art condominium community which we believe will drive interest and demand in the neighboring properties which should have a positive effect on the neighborhood resulting in increased values of all property in the neighborhood.

We feel that approval of this variance request would not have a detrimental impact on the neighbors, will not adversely impact the public welfare and will not alter the character of the neighborhood. Further, it is important to note that even with the approval of the variance request, the buildings are designed to be cut into the hillside to the extent possible resulting in some of the building perimeter height being in compliance with the current zoning code height limits if measured from the highest existing grades on

the site. Based on the above considerations we respectfully request that the BOA approve the variance request to allow a 69'-6" maximum building height on the subject site based on the garage entry slab as the reference datum."

See applicant's attached application for further details.

Applicable Town Code:

7-5B-4: BUILDING REQUIREMENTS:

B. Maximum Height For Buildings And Structures: The maximum height for all buildings and structures permitted in the D-C district shall be fifty five feet (55') as defined in chapter 2 of this title. (Ord. 324, Series of 2002).

6-2-9: VARIANCES:

A. Intent Of Variance Provision: Variance from the terms of this chapter shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of this chapter deprives such property privileges enjoyed by other property in the vicinity, and under identical zoning classification and other restrictions.

Criteria to Grant Variance (Town Code §7-8):

7-8-1B: No variance shall be granted unless the board of adjustment finds, based on evidence, that ALL of the following criteria exist:

1. The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality.
2. The plight of the owner is due to unusual circumstances.
3. The variation, if granted, will not alter the essential character of the locality.

7-8-1C: For the purpose of implementing the above rules, the Board shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence:

1. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to the other property within the same zoning classification.
3. The purpose of the variation is not based primarily upon a desire to make more money out of the property.
4. The alleged difficulty or hardship has not been created by any person presently having an interest in the property.
5. The granting of the variation would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

6. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.

Public Notification:

This variance request has had proper public notification pursuant to Section 7-8-3 of the Town Code. A Public Notice was published in the Middle Park Times on March 4, 2021, providing notification of the meeting and requesting comments. Mailings were sent to property owners within 300 feet of the property on March 8, 2021 and the property was posted on March 8, 2021.

Two comments have been received as of March 19, 2021 and are attached.

Staff Comments:

The applicant is requesting a variance for a site slated to contain three multifamily buildings for a building height of 69'-6" from the cap of 55'. Applicant submitted a preliminary plat application on March 12, 2021 and a sketch plan application on February 23, 2021, the latter which is being heard by the Planning Commission concurrently with this application.

Applicant cites steep slopes, wetlands, hydrologic patterns, geology, and easements as reasons supporting their need for the variance, as well as material shortages and higher costs of lumber and steel stemming from COVID-19 market conditions. The site is adjacent to two undeveloped lots and Corridor, a ski run at Winter Park Resort. Corridor is roughly 35' above the site, and a stand of mature coniferous trees measuring ~60' tall buffer Corridor from the site. The site's slopes are as steep as 45%. The applicant proposes locating most of the parking beneath each of the three buildings in parking garages. Applicant proposes a concrete "twin tee" joist structure between floors, which they explain is bulkier than a lumber and steel joist structure. The underground parking garages add ~10' to each building and the "twin tee" joists that will be used between each floor (four joists per building) are one foot (1') taller than lumber and steel joists.

Chill Condominiums, located at 422 Iron Horse Way, was built by the same developer and received a height variance in 2016 (Resolution No. 1, Series 2016) to build to 65' as measured from the parking garage entrance to the highest point of the building. With their 2016 variance application, the applicant measured Building D of the adjacent Iron Horse Condominiums (located at 310 Iron Horse Way) to be 63' tall.

The properties most affected by the potential development are Buildings C and D of Iron Horse Condominiums. These properties are buffered from the site by one vacant lot.

Staff Recommendation:

Staff does not provide a recommendation for variance requests. The Board of Adjustment must prove that a hardship is applicable and must establish findings of fact as related to the particular difficulties of the site. The hardship must be determined using ALL the following criteria:

1. The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality.
2. The plight of the owner is due to unusual circumstances.

3. The variation, if granted, will not alter the essential character of the locality.



**PUBLIC NOTICE
TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
ZONING VARIANCE REQUEST**

Applicant / Owner: Unicum Colorado, LLC
Mailing Address: PO Box 3302, Winter Park, CO 80482

Street Address of Properties for Which the Variance Is Requested: 100 Iron Horse Way

Legal Description of Properties for Which the Variance Is Requested: JANE CREEK LOT 1B, LOCATED IN SECTION 15, TOWNSHIP 2 SOUTH, RANGE 75 WEST OF THE 6TH P.M., TOWN OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO.

Owner's Detailed Description of Request: "We are requesting a variance to the overall height limitation of 55'-0" for the subject project. We would respectfully request that a variance be granted to allow a height limitation of 69'-6" for the site located at 100 Iron Horse Way, Winter Park, CO 80482, Jane Creek Minor Subdivision, Lot 1B at Reception 2004-006812.

The proposed project is planned to be a resort condominium community consisting of three, three and four-story structures situated above one and two-story partially underground parking structures that will be developed on a phased basis beginning with Building 1. This project shall utilize a parking structure to reduce the impact on the surrounding environment and watershed. Considering the topography and other physical constraints of this property, approval of this variance request would allow the majority of the parking area to be constructed under the building thus reducing the non-permeable surfaces surrounding the building and minimizing the impact on the site and the neighborhood."

Applicable Provisions of the Town Code:

§7-5B-4, BUILDING REQUIREMENTS:

B. Maximum Height For Buildings And Structures: The maximum height for all buildings and structures permitted in the D-C district shall be fifty five feet (55') as defined in chapter 2 of this title. (Ord. 324, Series of 2002).

Due to this building height requirement, a maximum building height of 69'6" is not permitted in the Town Code as seen in §7-5B-4 and consequently requires a zoning variance.

The Board of Adjustment will review this case and render a decision under Section 7-8-1 of the Town Code.

Property Posted On: March 8, 2021

Additional information is available at this link: <https://wpgov.com/current-development-projects/>

A Public Meeting at Winter Park Town Hall, 50 Vasquez Road or online via Zoom is scheduled for:

Tuesday, March 23, 2021 at 8:00 A.M. immediately following the Planning Commission meeting. Please see agenda for decision on meeting's location. This will be posted at wpgov.com under "Agendas and Minutes" by Friday, March 19 at 5 P.M.

Members of the public wishing to make comment regarding the variance request may do so at the scheduled meeting, or write to Hugh Bell, Planner, Town of Winter Park, P.O. Box 3327, Winter Park, CO 80482, or hbelle@wpgov.com.



VARIANCE REQUEST GUIDE AND APPLICATION

Background: A variance is a deviation from the set of rules a municipality applies to land use and land development. In the Town of Winter Park, this set of rules is Title 7 (Zoning) of the Winter Park Town Code. The body that hears and decides any application for a variance is the Board of Adjustment as detailed in Title 7, Chapter 8 of the Winter Park Town Code.

Purpose: The Board of Adjustment has the ability to authorize variance from Title 7 of the Winter Park Town Code so as to relieve undue hardships that are caused by reason of unusual narrowness, shallowness or shape of a specific piece of property, or by reason of unusual topographic conditions or other extraordinary and unusual practical difficulties.

VARIANCE REQUIREMENTS:

In order to apply for a variance, the applicant must show that, owing to unusual and extraordinary circumstances, strict enforcement of the provisions of the Town Code will result in undue hardship.

The Board of Adjustment **cannot** grant a variance unless it finds, based on evidence, that **ALL** the following conditions exist:

1. The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality.
2. The plight of the owner is due to unusual circumstances.
3. The variation, if granted, will not alter the essential character of the locality.

The board shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts have been established by the evidence:

1. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
2. The conditions upon which the petition for a variance is based would not be applicable, generally, to the other property within the same zoning classification.
3. The purpose of the variation is not based primarily upon a desire to make more money out of the property.
4. The alleged difficulty or hardship has not been created by any person presently having an interest in the property.
5. The granting of the variation would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood.



VARIANCE PROCEDURE:

1. Staff will post notice at the affected property in not less than two (2) places at least 15 days before the date set for the hearing. Posting shall be located within 300 feet (300') of the exterior boundaries of the affected land in conspicuous places at distances of not less than 200 feet (200') apart.
2. Staff will publish notice at least one time in the official newspaper of the Town- the last publication of the notice shall be at least 15 days before the date set for the hearing.
3. The notice of hearing, which is posted and published, should contain:
 - a. The time and place of hearing.
 - b. A brief description of the land which is the subject of the matter to be heard.
 - c. The purpose of the hearing and the variance request.
 - d. Any other information which the board of adjustment considers necessary or desirable in the public interest.
4. Notification via the U.S. mail to property owners within three hundred feet (300') of the property a minimum of 15 days prior to the hearing.
5. The decision of the Board of Adjustment shall be reported to the applicant after the hearing.

*Board of Adjustment Meetings are scheduled as needed at the Winter Park Town Hall. Hearing dates will be determined at time of application based on the time needed to complete proper notification.

REQUIRED APPLICATION MATERIALS:

(electronically submitted to permits@wpgov.com unless otherwise indicated)

- Completed Town of Winter Park Variance Application Form** (see next page).
- Variance Application Fee - \$250 check mailed or hand delivered**
(cost of mailing and legal publication required after publication).
- Certified list of the names and addresses of the surrounding property owners within 300 feet (300') of the extreme limits of the subject property to be printed on mailing labels. Please physically mail or hand deliver one (1) set of mailing labels.**
Contact the Grand County Assessor's Office to obtain certified list and labels co.grand.co.us
- Electronic copy of a site plan of the subject property, from a registered surveyor. The site plan should include any existing or proposed building footprints.**
- Additional information to support the applicant's variance request. This may include drawings or photographs, letters of support, or other information which may be of benefit.**
- Additional information as required by the Town to clarify the variance request.**



VARIANCE APPLICATION FORM

Date: ____ / ____ / ____

Applicant Name: _____

Mailing Address: _____

Phone Number: _____ E-mail Address: _____

Applicant is the: Property Owner Other: _____

Street address of property for which variance is requested: _____

Legal description of property: _____

Detailed description of the variance requested and an explanation of why the applicant believes the variance should be granted (please attach additional sheets if necessary):

Indicate which conditions listed below relate to the property for which variance is requested.

Please note, the Board of Adjustment cannot grant a variance unless it finds, based on evidence, that ALL the following conditions exist.

- The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality*
- The plight of the owner is due to unusual circumstances*
- The variation, if granted, will not alter the essential character of the locality*

**For each condition checked above, applicant must provide adequate supporting evidence with this application.*

Please indicate which of the following facts favorable to your application apply to this request:

- The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out*
- The conditions upon which the petition for a variance is based would not be applicable, generally, to the other property within the same zoning classification*
- The purpose of the variation is not based primarily upon a desire to make more money out of the property*
- The alleged difficulty or hardship has not been created by any person presently having an interest in the property*
- The granting of the variation would not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located*
- The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion in the public streets or increase the danger of fire or endanger the public safety or substantially diminish or impair property values within the neighborhood*

**For each condition checked above, applicant must provide adequate supporting evidence with this application.*

Applicant Signature: _____

Please submit all materials electronically to permits@wpgov.com

Date Received: _____ \$250 Fee Received: _____ Received By: _____

UNICUME COLORADO, LLC

PO BOX 3302
Winter Park, Colorado 80482
602-903-5774
unicumecolorado@gmail.com

February 25, 2021

James Shockey
Town Planner
PO Box 3327
Winter Park, CO 80482

Re: Town of Winter Park
Variance Request Submittal
Jane Creek, Lot 1B
Mark Unicum

Dear James,

We are requesting a variance to the overall height limitation of 55'-0" for the subject project. We would respectfully request that a variance be granted to allow a height limitation of 69'-6" for the site located at 100 Iron Horse Way, Winter Park, CO 80482, Jane Creek Minor Subdivision, Lot 1B at Reception 2004-006812.

The proposed project is planned to be a resort condominium community consisting of three, three and four-story structures situated above one and two-story partially underground parking structures that will be developed on a phased basis beginning with Building 1. This project shall utilize a parking structure to reduce the impact on the surrounding environment and watershed. Considering the topography and other physical constraints of this property, approval of this variance request would allow the majority of the parking area to be constructed under the building thus reducing the non-permeable surfaces surrounding the building and minimizing the impact on the site and the neighborhood.

Reasons For Consideration of the Variance:

- 1) The subject property can not yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality due to the site constraints including topography, wetlands, hydrology, geology and site configuration. Specifically the topography slopes trend from 25% across the entire site to as much as 45% in areas within the site. Approx 4,000 SF or 6% of the site is subject to wetland impacts which will be preserved as part of the natural open space. Per the geotechnical report, the site hydrological and geological impacts include encountering

ground water at 2' to 12' below the surface depending on location with the soil conditions comprised of cobbles and boulders over granite bedrock which would preclude any significant excavation of the site. The site configuration is irregular with acute angles and is further encumbered by easements for Iron Horse Way and utilities that severely limit the size of the building envelope.

2) The plight of the owner is due to natural and unusual circumstance affecting the site including the previously referenced topography, wetlands, hydrology, geology, the site configuration. Further, the impact of the present conditions limiting the availability of lumber and steel resulting in Lot 1B being required to employ precast concrete twin tee panels for the structure which are thicker than steel girders or frame beams/trusses resulting an overall increase in building height.

3) The variance will not alter the essential character of the locality. The variance to allow a 69'-6" height on the subject property is consistent with height and midrise character of the existing adjacent Iron Horse properties as well as buildings in the WP Resort village which range from 4 to 6 stories in height.

Reasons Why the Variance Should Be Granted:

1) This variance is requested based on the issues of a steep site (topography), further limitations based on existing wetlands (surface and subsurface flows), site hydrology (water table) and site geology (large boulders and bedrock) that adversely impact the size and configuration of the building envelope and that further results in extensive excavation of the site not being viable.

2) Many other sites within the zoning classification do not share the same degree of severity as it relates to topography, wetlands, soil conditions and site configuration that impact the subject site.

3) The purpose of the variance is not based the desire to generate a higher yield or make more money from the subject property. The proposed project is designed to be consistent with the density and site coverage allowed under the zoning code. The variance will not result in increasing the project density, adding more square footage to the project than is allowed under the zoning code, nor based upon the desire to make more money out of the property.

4) The hardships are a result of the natural conditions affecting the site and were not created by the applicant including topography, wetlands, hydrology, geology and building envelope configuration. Further, given the ongoing limited supply of lumber and steel necessitates the use of a precast concrete twin tee structure resulting in greater separation between floors to given the thickness of the concrete twin tee structural components.

5) Granting the variance will not be detrimental to the public welfare nor injurious to other property in the neighborhood since the proposed building height on the subject site

will be similar to the surrounding properties, several existing buildings in the neighborhood exceed 55' in height so the proposed buildings will be consistent with the character of the adjacent properties. Further, given the topography of the heavily forested site, the back and sides of the project will be substantially screened by the surrounding pine forest. Notwithstanding approval of the requested variance, the Lot 1B buildings will still have a maximum building elevation that is lower than the existing adjacent Iron Horse Building D.

6) The proposed variance will not impair the supply of light and air to adjacent properties nor will it increase congestion on public streets, increase the fire danger, endanger public health or diminish property values. The variance will allow for the development of the site with the least possible impact on the site and the neighborhood by facilitating the smallest disturbance to the site resulting in retaining maximum open space and minimizing the coverage of the site with non permeable surfaces. The proposed project density is consistent with the allowable density on the site so the project density or congestion of public streets will be not be increased as a result of the variance. The project will be a first class, state of the art condominium community which we believe will drive interest and demand in the neighboring properties which should have a positive effect on the neighborhood resulting in increased values of all property in the neighborhood.

We feel that approval of this variance request would not have a detrimental impact on the neighbors, will not adversely impact the public welfare and will not alter the character of the neighborhood. Further, it is important to note that even with the approval of the variance request, the buildings are designed to be cut into the hillside to the extent possible resulting in some of the building perimeter height being in compliance with the current zoning code height limits if measured from the highest existing grades on the site. Based on the above considerations we respectfully request that the BOA approve the variance request to allow a 69'-6" maximum building height on the subject site based on a the garage entry slab as the reference datum.

Thank you for your consideration and please call with any questions.

Mark Unicum

Mark Unicum
Unicum Colorado, LLC

This variance request was originally submitted on February 19th and notice was published in the Middle Park Times. Staff denied the rescinded the application on February 22nd because the applicant had not gone through Design Review to have that application denied prior to submitting for a variance (in conformance with Town Code).

The public notice was cancelled prior to publication.

JANE CREEK LOT 1B SKETCH PLAN

LOCATED IN SECTION 15, TOWNSHIP 2 SOUTH, RANGE 75 WEST OF THE 6TH P.M.
CITY OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO

EVstudio
Denver, CO
Evergreen, CO

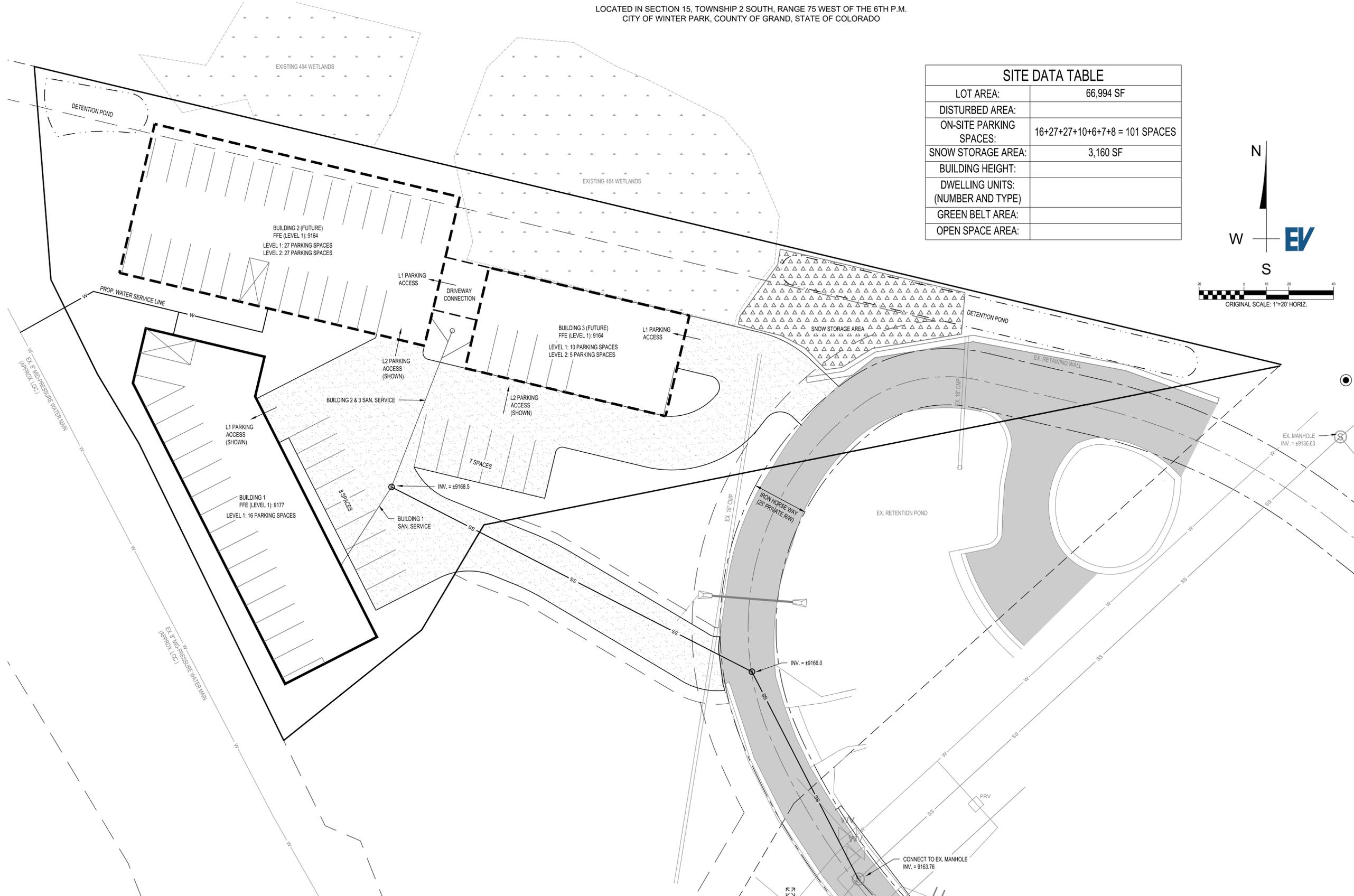
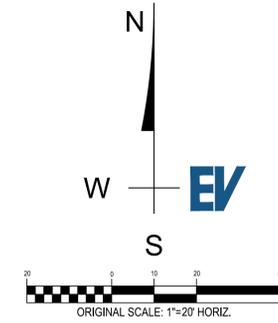
303.670.7242
design@evstudio.com
inspections@evstudio.com
www.evstudio.com

Contact:
Brian Welch, PE
brian.welch@evstudio.com
303.670.7242 x50

UTILITY NOTIFICATION CENTER
The Promise.com

FOR MARKING OF UNDERGROUND MEMBER UTILITIES:
EVSTUDIO ASSUMES NO RESPONSIBILITY FOR UTILITY LOCATIONS. THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN PLOTTED FROM THE BEST AVAILABLE INFORMATION. IT IS, HOWEVER, THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY THE LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION.

SITE DATA TABLE	
LOT AREA:	66,994 SF
DISTURBED AREA:	
ON-SITE PARKING SPACES:	16+27+27+10+6+7+8 = 101 SPACES
SNOW STORAGE AREA:	3,160 SF
BUILDING HEIGHT:	
DWELLING UNITS: (NUMBER AND TYPE)	
GREEN BELT AREA:	
OPEN SPACE AREA:	



JANE CREEK LOT 1B
200 IRON HORSE WAY,
WINTER PARK, CO 80482
21045

PRELIMINARY
DO NOT USE FOR CONSTRUCTION,
SALES, OR RECORDATION.

COPYRIGHT 2021
This document is an instrument of service, and as such remains the property of the Architect. Permission for use of this document is limited and can be extended only by written agreement with EVstudio, LLC.

REVISION:

SKETCH PLAN
DATE: 02/23/2021
DRAWN BY: BLR
CHECKED BY: BMW

SITE PLAN

C301

JANE CREEK LOT 1B SKETCH PLAN

LOCATED IN SECTION 15, TOWNSHIP 2 SOUTH, RANGE 75 WEST OF THE 6TH P.M.
CITY OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO

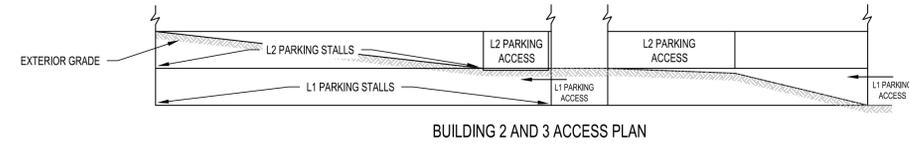
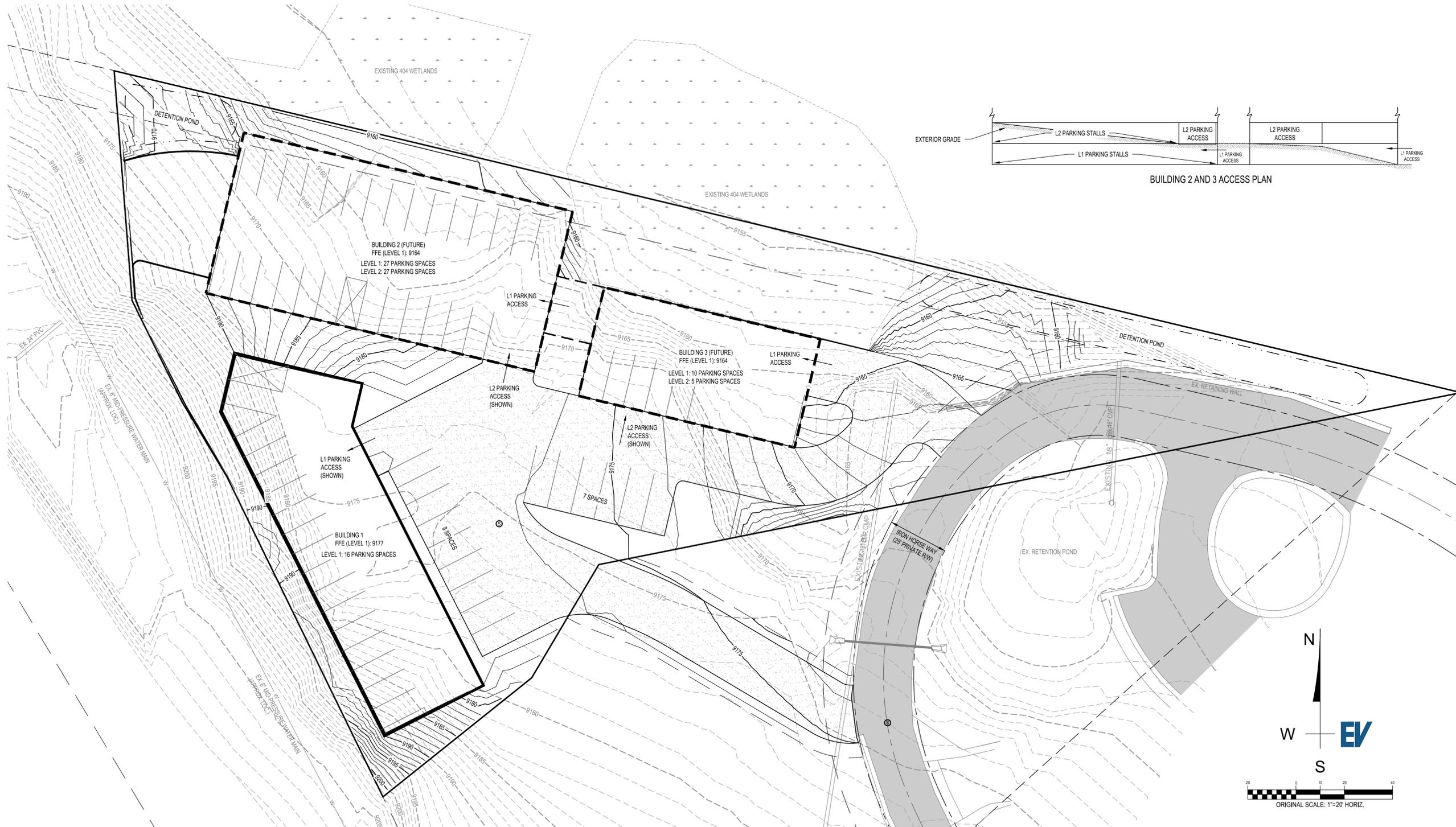
EVstudio
Denver, CO
Evergreen, CO

303.670.7242
design@evstudio.com
inspections@evstudio.com
www.evstudio.com

Contact:
Brian Welch, PE
brian.welch@evstudio.com
303.670.7242 x50

UTILITY NOTIFICATION CENTER
The Promise.com

FOR MARKING OF UNDERGROUND MEMBER UTILITIES:
EVSTUDIO ASSUMES NO RESPONSIBILITY FOR UTILITY LOCATIONS. THE UTILITIES SHOWN ON THIS DRAWING HAVE BEEN PLOTTED FROM THE BEST AVAILABLE INFORMATION. IT IS, HOWEVER, THE CONTRACTOR'S RESPONSIBILITY TO FIELD VERIFY THE LOCATION OF ALL UTILITIES PRIOR TO CONSTRUCTION.



JANE CREEK LOT 1B
200 IRON HORSE WAY,
WINTER PARK, CO 80482

21045

PRELIMINARY
DO NOT USE FOR CONSTRUCTION,
SALES, OR RECORDATION.

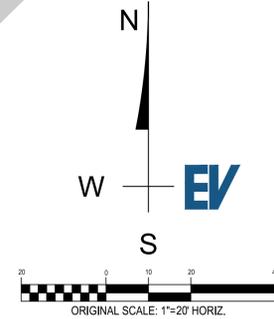
COPYRIGHT 2021
This document is an instrument of service, and as such remains the property of the Architect. Permission for use of this document is limited and can be extended only by written agreement with EVstudio, LLC.

REVISION:

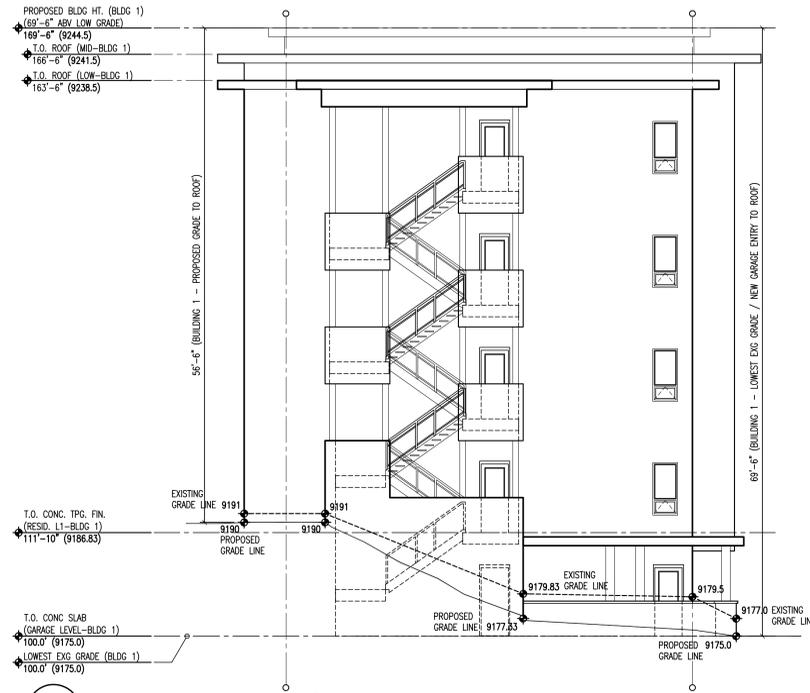
SKETCH PLAN

DATE: 02/23/2021
DRAWN BY: BLR
CHECKED BY: BMW

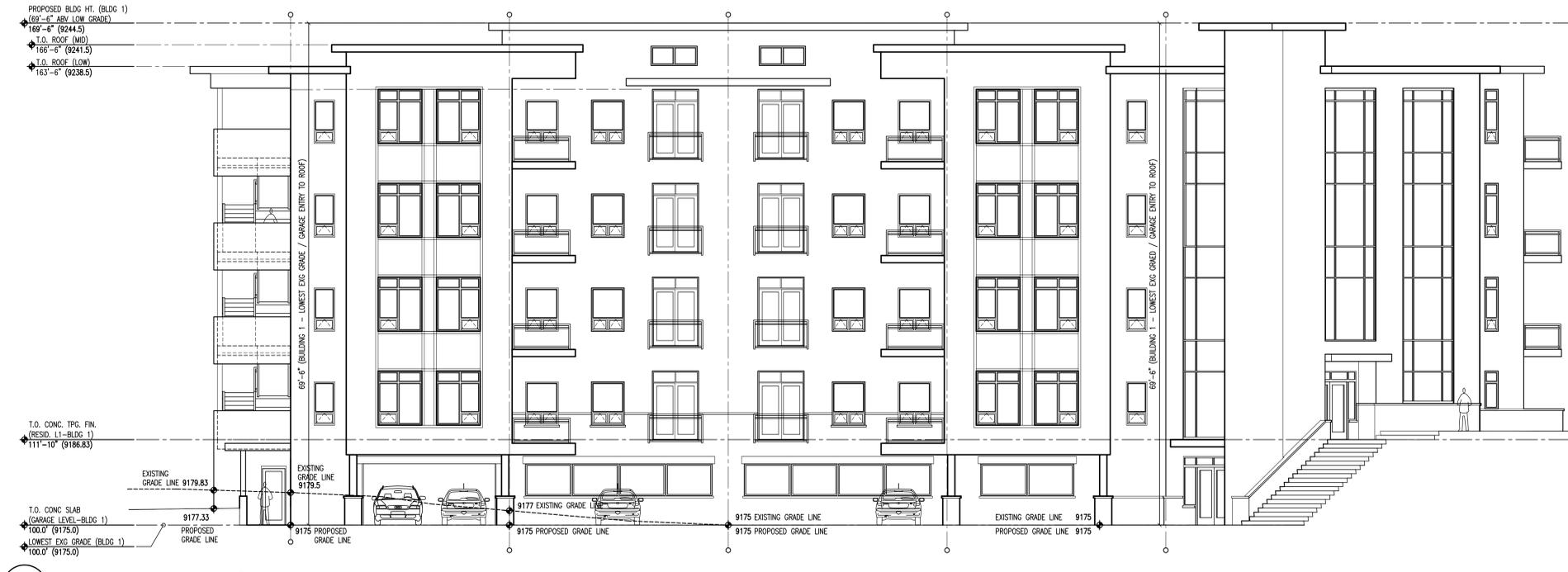
GRADING PLAN



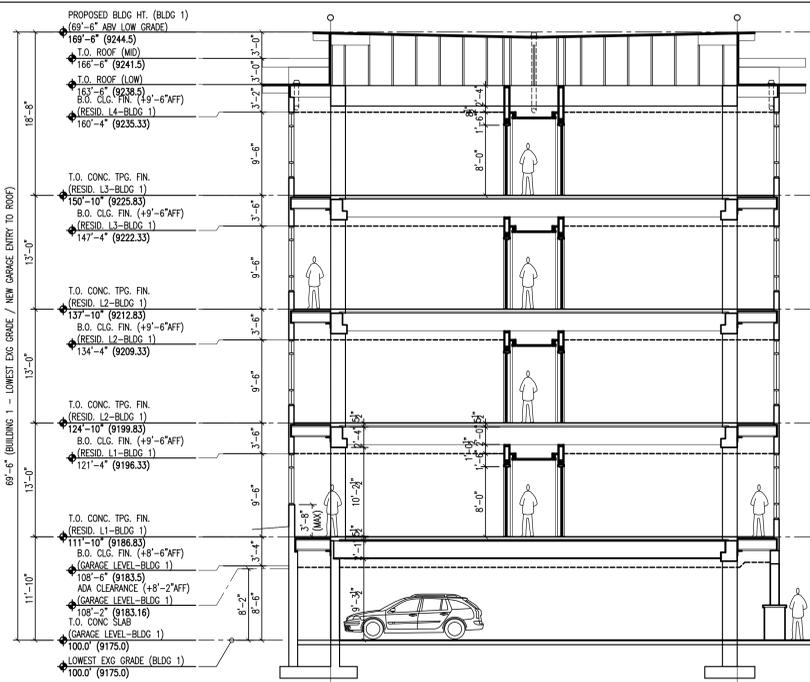
C401



3 SOUTHEAST ELEVATION - BUILDING #1
A1.1 1/8" = 1'-0"



4 NORTHEAST ELEVATION - BUILDING #1
A1.1 1/8" = 1'-0"



1 TYPICAL BUILDING SECTION - BUILDING #1
A1.1 1/8" = 1'-0"



2 SOUTHWEST ELEVATION - BUILDING #1
A1.1 1/8" = 1'-0"

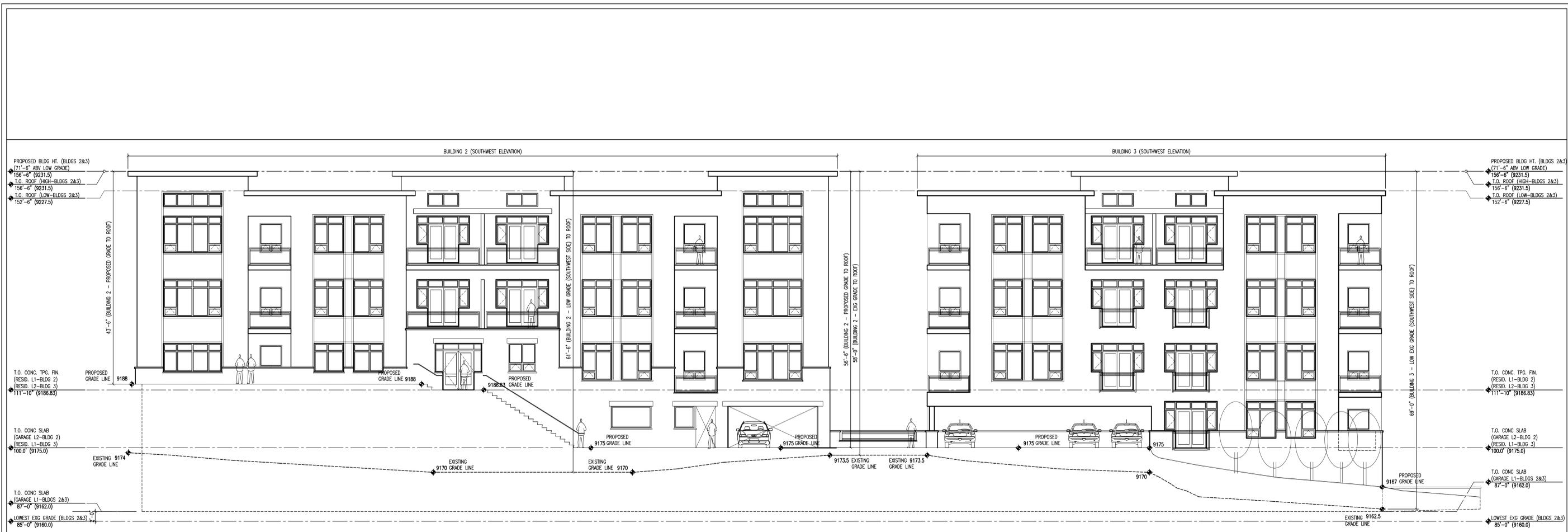
Lucy C. Van Dusen - Registered Architect
Peter A. Van Dusen - Project Designer / Mgr
2896 S. Gaylord St. Denver, CO 80210
(PH) 303.246.5530
(e) vanpete@comcast.net

IRON HORSE WAY 100 - LOT 1 B
US Hwy 40 WINTER PARK, CO 80482

DOCUMENT SET:	ISSUE DATE:	DWN BY:
SUBMITTAL #1	03/03/2021	PVD
REVISIONS:		
1. SUBMITTAL REVISION 1:	03/15/2021	

PROPOSED
EXTERIOR ELEVATIONS
& ELEVATION TREE

A1.1



3
A1.2
SOUTHWEST ELEVATION - BUILDING #2
1/8" = 1'-0"

4
A1.2
SOUTHWEST ELEVATION - BUILDING #3
1/8" = 1'-0"



1
A1.2
NORTHEAST ELEVATION - BUILDING #3
1/8" = 1'-0"

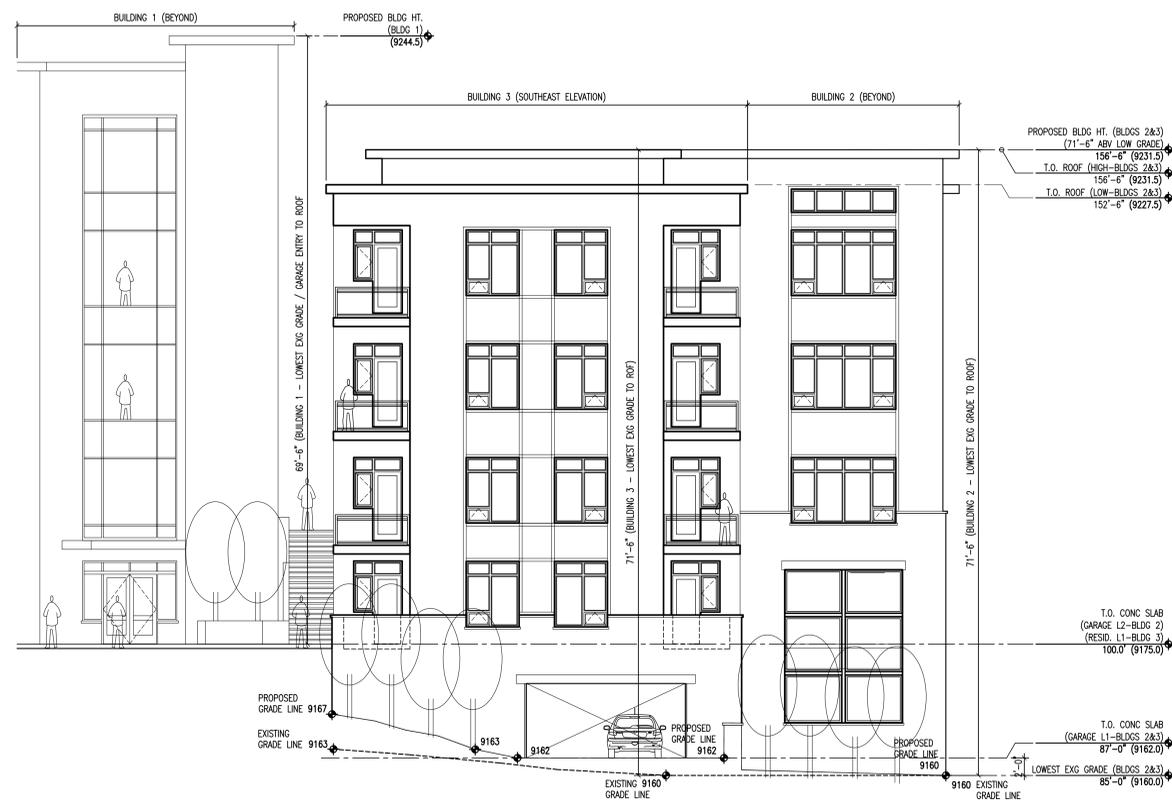
2
A1.2
NORTHEAST ELEVATION - BUILDING #2
1/8" = 1'-0"

Lucy C. Van Dusen - Registered Architect
 Peter A. Van Dusen - Project Designer / Mgr
 2896 S. Gaylord St. Denver, CO 80210
 (PH) 303.246.5530
 (e) vanpete@comcast.net

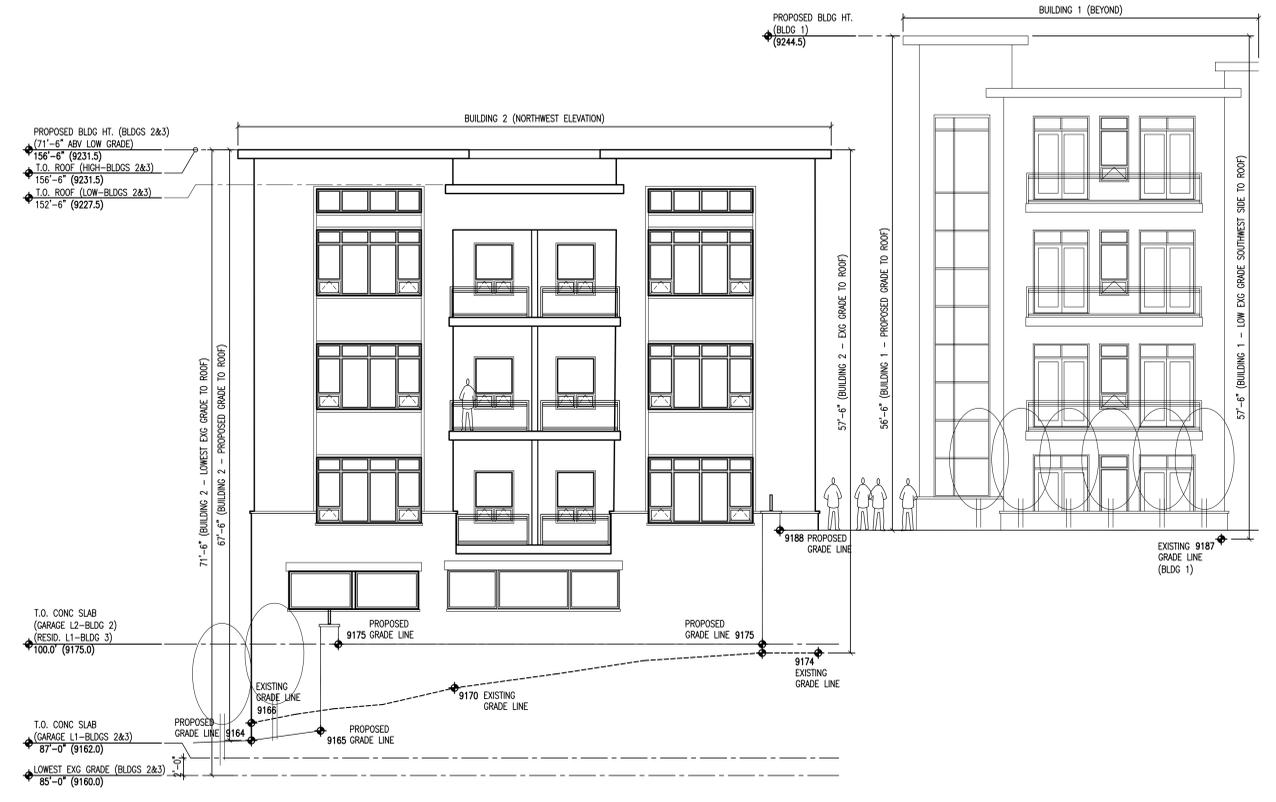
IRON HORSE WAY 100 - LOT 1B
 US Hwy 40 WINTER PARK, CO 80482

DOCUMENT SET:	ISSUE DATE:	DWN BY:
SUBMITTAL # 1	03/03/2021	PVD
REVISIONS:		
1. SUBMITTAL REVISION 1:	03/15/2021	

PROPOSED
 EXTERIOR ELEVATIONS
 & SITE ELEVATIONS
A1.2



1
A1.3
NORTHEAST ELEVATION - BUILDING #3
1/8" = 1'-0"



2
A1.3
NORTHWEST ELEVATION - BUILDING #2
1/8" = 1'-0"

Lucy C. Van Dusen - Registered Architect
 Peter A. Van Dusen - Project Designer / Mgr
 2896 S. Gaylord St. Denver, CO 80210
 (PH) 303.246.5530
 (e) vanpete@comcast.net

IRON HORSE WAY 100 - LOT 1 B
 US Hwy 40 WINTER PARK, CO 80482

DOCUMENT SET:	ISSUE DATE:	DWN BY:
SUBMITTAL # 1	03/03/2021	PVD
REVISIONS:		
1. SUBMITTAL REVISION 1: 03/15/2021		

PROPOSED
 EXTERIOR ELEVATIONS
 & SITE ELEVATIONS

A1.3

DALE GAAR

**P.O. Box 3555
Boulder, Colorado 80307-3555**

Facsimile: 866-861-1470

dale@gaar.law

Telephone: (303) 446-9300

March 17, 2021

Hugh Bell
Town of Winter Park Planner
P.O. Box 3327
Winter Park, CO 80482

Via email: hbell@wpgov.com

RE: zoning variance request by Unicum Colorado, LLC
100 Iron Horse Way

Dear Mr. Bell:

I am writing to object to the request for a building height variance for the above project.

I am an owner of an adjacent property. I reviewed the Unicum Colorado, LLC variance request as posted on the Town of Winter Park web site. I believe that the request fails to meet the requirements established by the variance procedures stated in the Winter Park Code of Ordinances §7-8-1.

The code provides at §7-8-1 that:

B. [N]o variance shall be granted unless the board of adjustment finds, based on evidence, that:

1. The property in question cannot yield a reasonable return in use or service if permitted to be used only under the conditions allowed by the regulations for the municipality.
2. The plight of the owner is due to unusual circumstances.
3. The variation, if granted, will not alter the essential character of the locality.

C. For the purpose of implementing the above rules, the board shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence: ...

2. The conditions upon which the petition for a variance is based would not be applicable, generally, to the other property within the same zoning classification.

3. The purpose of the variation is not based primarily upon a desire to make more money out of the property.

I believe that the applicant has failed to show that construction at the site cannot yield a reasonable return unless the building height variance is granted. The applicant describes construction challenges at the site and makes a conclusory statement that the property cannot yield a reasonable return without the variance. There is no evidence of the probable rate of return on the property if the variance is granted. There is no evidence of the rate of return if the variance is denied and the structure is erected in compliance with zoning requirements. Compliance would probably require omitting the top story from the proposed buildings. Without any evidence of rates of return, the applicant has failed to satisfy the mandatory requirements of §7-8-1(B)(1) and the variance may not be granted.

Although not dispositive, consideration of the two factors in §7-8-1(C) quoted above also suggests that the variance request should be denied. Again, the applicant has the burden of presenting evidence and has failed to support his conclusory statements with any evidence. Applicant describes topography, wetland, hydrology, geology and site configuration issues that complicate the proposed project. The same issues appear to be applicable to many of the Destination Center (D-C) areas in Winter Park. These areas are typically in the mountains, near the Fraser River, and may have site configurations affected by national forest, railroad rights of way or Highway 40. Applicant has presented no evidence to prove that the construction constraints he faces are not generally applicable to other D-C zoned areas in Winter Park.

Applicant also argues that in addition to physical characteristics of the site, “present conditions [limit] the availability of lumber and steel resulting in Lot 1B being required to employ precast concrete twin tee panels for the structure...resulting in an overall increase in building height.” Again, applicant has provided no evidence to support this claim. Prediction of the availability of construction materials at an unspecified future date is quite speculative. Certainly, if there is a shortage of structural steel, anyone building in the D-C zoned areas of Winter Park would face the same challenge and this factor would “be applicable, generally, to the other property within the same zoning classification.”

Applicant also fails to provide any support for his assertion that “the purpose of the variation is not based primarily upon a desire to make more money out of the property.” Applicant previously developed and sold condominium units at the nearby Base Camp and Chill properties. The purpose for the current three building multi-unit project appears to be the same. Obtaining the requested variance would allow construction of an additional floor on each of the three buildings. This would provide applicant with additional condominium units to sell, thus fulfilling a desire to make more money out of the property. Applicant has offered evidence of no other motivation for requesting the variance.

Thank you for considering these objections to the variance request.

Sincerely,



DALE A. GAAR, P.C.

1600 Stout Street, Suite 1400

Denver, Colorado 80202

March 18, 2021

Mr. James Shockey
Mr. Hugh Bell
Town of Winter Park
PO Box 3327
Winter Park, CO 80482

jshockey@wpgov.com,
hbell@wpgov.com,

Re: Town of Winter Park
Variance Request Submittal
100 Iron Horse Way, Winter Park, CO 80482
Applicant: Lot 1B, Inc. / Unicume Colorado, LLC

Dear Mr. Shockey and Mr. Bell,

We are the owners of Winter Park Chill unit 402 located at 422 Iron Horse Way, Winter Park, CO 80482 . We have received notice of the height variance request for the proposed Jane Creek, Lot 1B, A Condominium Community development on the Jane Creek, Lot 1B property located at 100 Iron Horse Way.

We support the approval of the above variance by the Town of Winter Park Board of Adjustment and Town Council.

This building will still be lower than the highest elevation of the Iron Horse building and we think that the project should be approved.

Thank you.

Sincerely,

Will Murray

Ad #: 0000666108-01

Customer: TOWN OF WINTER PARK,

Your account number is: 1095749

**PROOF OF PUBLICATION
MIDDLE PARK TIMES
STATE OF COLORADO
COUNTY OF GRAND**

I, Meg Boyer, do solemnly swear that I am Publisher of the MIDDLE PARK TIMES, that the same weekly newspaper printed, in whole or in part and published in the County of Grand, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Grand for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as a periodical under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of 1 insertion; and that the first publication of said notice was in the issue of said newspaper dated 3/4/2021 and that the last publication of said notice was dated 3/4/2021 in the issue of said newspaper.

In witness whereof, I have here unto set my hand this day, 3/9/2021.



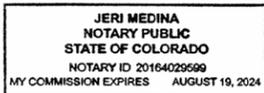
Meg Boyer, Publisher

Subscribed and sworn to before me, a notary public in and for the County of Grand, State of Colorado this day 3/9/2021.



Jeri Medina, Notary Public

My Commission Expires: August 19, 2024



**PUBLIC NOTICE
TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
ZONING VARIANCE REQUEST**

Applicant / Owner: Unicum Colorado, LLC

Mailing Address: PO Box 3302, Winter Park, CO 80482

Street Address of Properties for Which the Variance Is Requested: 100 Iron Horse Way

Legal Description of Properties for Which the Variance Is Requested: JANE CREEK LOT 1B, LOCATED IN SECTION 15, TOWNSHIP 2 SOUTH, RANGE 75 WEST OF THE 6TH P.M., TOWN OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO.

Owner's Detailed Description of Request: "We are requesting a variance to the overall height limitation of 55'-0" for the subject project. We would respectfully request that a variance be granted to allow a height limitation of 69'-6" for the site located at 100 Iron Horse Way, Winter Park, CO 80482, Jane Creek Minor Subdivision, Lot 1B at Reception 2004-006812.

The proposed project is planned to be a resort condominium community consisting of three, three and four-story structures situated above one and two-story partially underground parking structures that will be developed on a phased basis beginning with Building 1. This project shall utilize a parking structure to reduce the impact on the surrounding environment and watershed. Considering the topography and other physical constraints of this property, approval of this variance request would allow the majority of the parking area to be constructed under the building thus reducing the non-permeable surfaces surrounding the building and minimizing the impact on the site and the neighborhood.

Applicable Provisions of the Town Code: §7-5B-4, BUILDING REQUIREMENTS: B, Maximum Height For Buildings And Structures: The maximum height for all buildings and structures permitted in the D-C district shall be fifty five feet (55') as defined in chapter 2 of this title. (Ord. 324, Series of 2002).

Due to this building height requirement, a maximum building height of 69'6" is not permitted in the Town Code as seen in §7-5B-4 and consequently requires a zoning variance.

The Board of Adjustment will review this case and render a decision under Section 7-8-1 of the Town Code.

Property Posted On: March 8, 2021

Additional information is available at this link: <https://wpgov.com/current-development-projects/>

A Public Meeting at Winter Park Town Hall, 50 Vasquez Road or online via Zoom is scheduled for:

Tuesday, March 23, 2021 at 8:00 A.M. immediately following the Planning Commission meeting.

Please see agenda for decision on meeting's location. This will be posted at wpgov.com under "Agendas and Minutes" by Friday, March 19 at 5 P.M.

Members of the public wishing to make comment regarding the variance request may do so at the scheduled meeting, or write to Hugh Bell, Planner, Town of Winter Park, P.O. Box 3327, Winter Park, CO 80482, or hbelle@wpgov.com

Published in the Middle Park Times on March 4, 2021. 0000666108