



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, November 8, 2022 8:00 AM  
Immediately Following Planning Commission**

**A G E N D A**

- I. **Meeting Call to Order**
- II. **Roll Call of BOA Members**
- III. **Minutes:** October 25, 2022
- IV. **Conflicts of Interest**
- V. **Action Items:**
  - A. Consideration of Resolution 9, Series 2022 A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE AND ADOPTING FINDINGS OF FACT RELATED TO AN INCREASE IN THE MAXIMUM STRUCTURE HEIGHT FOR 78581 HIGHWAY 40 (PLN22-086)

**If members of the public wish to attend the meeting digitally the link is below. The meeting will continue in person regardless of technical difficulties with Zoom.**

### **Computer Log-In Instructions**

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81725744995?pwd=RnVOOb2hpVmN1SXBydzFBZEc3NGhGZz09>

Passcode: 113389

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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  
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Webinar ID: 817 2574 4995

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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**

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**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, October 25, 2022 8:00 AM  
Immediately Following Planning Commission**

**MINUTE**

I. **Meeting Call to Order.** The meeting starts at 9:20 am. Roll Call indicated present Chairman Brad Holzwarth, BOA Members Doug Robbins, Jonathan Larson (alternate) , Roger Kish and Dave Barker. Community Development Director James Shockey and Town Planner Hugh Bell are also present. BOA Member Angela Sandstrom is absent today.

II. **Minutes:** October 11<sup>th</sup>, 2022. BOA Member Barker makes a motion to approve the minutes. BOA Member Robbins seconds. The minutes are approved 5, 0.

III. **Conflicts of Interest.** No one comes forward.

V. **Action Items:**

- A. Continuation of the hearing for Building Height Variance Request – 78581 Highway 40 – Meets and Bounds Parcel (PLN22-086)

Town Planner Hugh Bell begins his presentation. He starts by giving a summary of what was discussed during the last meeting. Then, Planner Bell shows some images on the screen that contain the updates made. Director Shockey informs the BOA that Mr. Flanagan, Town legal counsel is on Zoom in case there is need to consult him about the language.

The BOA and the Staff begin by talking about the different heights for different sections of the building(s) and how these heights are being measured. There is an image on the screen that illustrate the different heights (Exhibit C). The BOA has a conversation about the stepped design that is being proposed and its relation with the height variance request. The heights discussed are 57', 65' and 69'. The BOA Members are bringing up the comments from the public about the height.

Some members of the BOA do not feel comfortable approving 69'. Director Shockey shows where the 69' height would be applied, if granted. The BOA has a conversation about the grounds they would be basing their decision on.

Then, the BOA Members talk about how this is a mountain project and the terrain is not flat. The BOA Members talk about the visual impact. Planner Bell shows the North Elevation on the screen to the BOA to complement what the BOA is discussing.

The BOA asks to see the criteria on the screen so they can make a motion. Planner Bell shows on the screen Staff Recommendations and the Findings. The BOA asks to see Exhibit C one more time. Mr. Flanagan says that if there is any issue in terms of interpretation, the Planning Director would intervene.

BOA Member Kish makes a motion to approve in the reasons that were discussed today:

- a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship that would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone district because similarly situated properties that abut Highway 40 in the Downtown Core district have building heights similar to those proposed on the Property and the Property is the deepest in the district and contains unique grading restraints;
- b. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity because the development scale is similar to what could be developed on other properties in the same zone district.
- c. The plight of the owner is due to unusual circumstances at the property of the variance that do not generally apply to other properties in the same zone district because the Property's depth and the resulting location from which building height is measured restricts development on the lot, as the eastern-most area proposed for a structure is approximately fourteen feet (14') lower than the area around the west property line; and
- d. That the granting of the variance will not alter the essential character of the locality because when viewed from street level, the structure's perceived height will be similar to what is allowed in the zone district.

BOA Member Barker seconds. The Building Height Variance Request is approved 4, 1. A resolution will be presented to the BOA at their next meeting.

Upon a previously approved motion, the BOA meeting is adjourned at 9:55 am.

**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
RESOLUTION NO. 9  
SERIES OF 2022**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF  
WINTER PARK APPROVING A VARIANCE AND ADOPTING FINDINGS OF  
FACT RELATED TO AN INCREASE IN THE MAXIMUM STRUCTURE  
HEIGHT FOR 78581 HIGHWAY 40**

WHEREAS, pursuant to the Unified Development Code (the "UDC") § 5-A-4, the Board of Adjustment is authorized to grant variances from the requirements of Title 7 of the UDC;

WHEREAS, § 3-A-5 of the UDC states that maximum height in the Destination Center (D-C) zone district shall not exceed 55 feet in height;

WHEREAS, on September 8, 2022, Winter Park FBIT, LLC and Sudha Tokala (the "Applicant"), as the owner of the real property more particularly described in **Exhibit A** (the "Property"), filed an application for a variance to allow a new structure to exceed the 55 feet maximum height limit by 14 feet for a total height of 69 feet (the "Application");

WHEREAS, on October 11, 2022, the Board of Adjustment held a properly noticed public hearing on the Application; and

WHEREAS, after considering the Application, presentations by Town staff and the Applicant, and public comment, the Board of Adjustment approved the Application and hereby adopts the following findings of fact in support of such approval.

NOW THEREFORE BE IT RESOLVED by the Board of Adjustment as follows:

1. Findings. The Board of Adjustment hereby finds and determines that the Application meets the applicable criteria set forth in § 5-F-3(F) of the UDC, more particularly:
  - a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship that would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone district because similarly situated properties that abut Highway 40 in the Downtown Core district have building heights similar to those proposed on the Property and the Property is the deepest in the district and contains unique grading restraints;
  - b. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity because the development scale is similar to what could be developed on other properties in the same zone district;
  - c. The plight of the owner is due to unusual circumstances at the property of the variance that do not generally apply to other properties in the same zone district because the Property's depth and the resulting location from which building height is measured

restricts development on the lot, as the eastern-most area proposed for a structure is approximately fourteen feet (14') lower than the area around the west property line; and

- d. That the granting of the variance will not alter the essential character of the locality because when viewed from street level, the structure's perceived height will be similar to what is allowed in the zone district.

2. Decision. Based on the foregoing findings, the Board of Adjustment hereby **approves** the variance, as requested in the Application, subject to the following conditions:

- a. A building permit for construction of the structure described in the Application shall be issued on or before November 8, 2023. If a building permit is not issued within such time, the variance granted herein shall automatically terminate without further action by the Town.
- b. Neither this Resolution nor the variance granted herein creates any vested rights under statute or common law.
- c. This Resolution shall be recorded in the records of the Grand County Clerk and Recorder within 30 days of approval.
- d. The structure's maximum building height, as defined in the UDC, shall be tiered based off the site's elevations to allow 69 feet for a portion; 65 feet for a portion; and 57 feet for a portion as delineated in **Exhibits B and C**. In the case of an issue of interpretation, the Planning Director, in their sole discretion, shall have the authority to determine the maximum height applicable to any portion of the Property.

PASSED, ADOPTED, AND APPROVED this 8<sup>th</sup> day of November, 2022.

BOARD OF ADJUSTMENT

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Brad Holzwarth, Chair

ATTEST:

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Danielle Jardee, Town Clerk

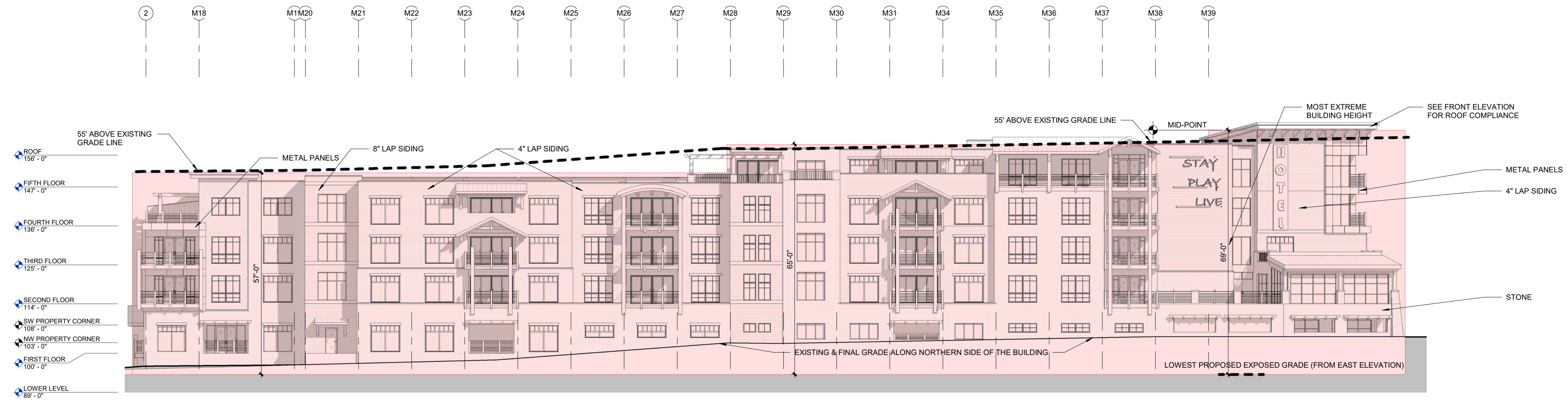
**Exhibit A**

Legal Description of Property

A tract of land located in the NE1/4 NW1/4 and the NW1/4 NE1/4 of Section 33, Township 1 South, Range 75 West of the 6<sup>th</sup> P.M., more particularly described as follows:

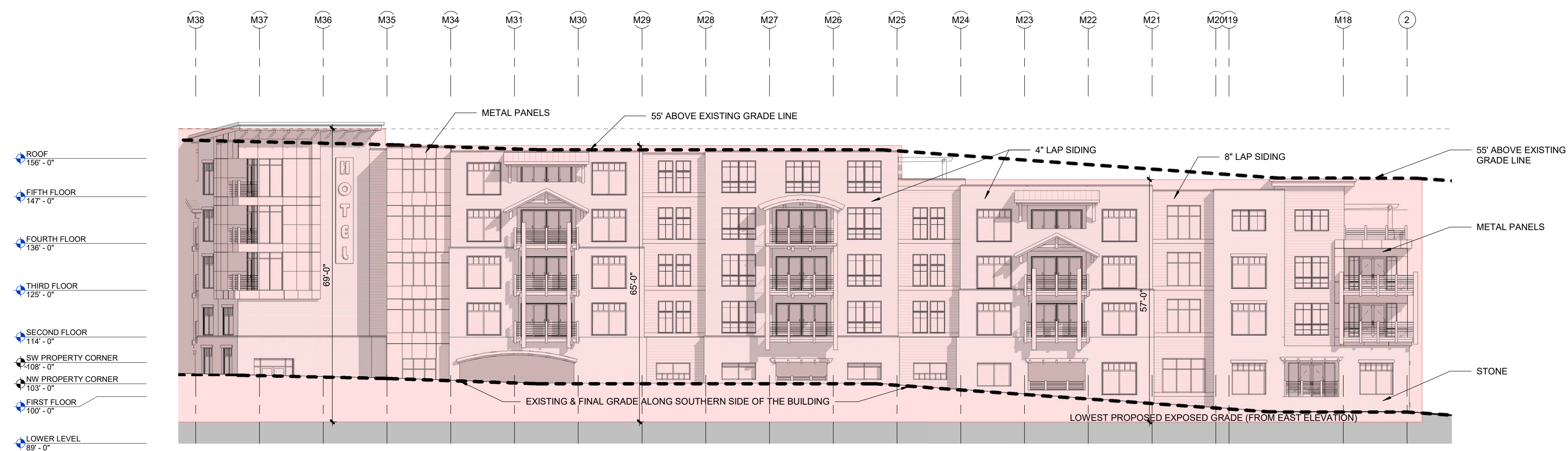
Beginning at the Northeast corner of the tract, said corner being identical with the N1/4 corner of said Section 33, Township 1 South, Range 75 West of the 6<sup>th</sup> P.M., thence along the North line of said Section 33, S 89° 48' W for a distance of 502.3 feet, more or less, to the intersection with the East right-of-way line of U.S. Highway No. 40; thence S 71° 31' E for a distance of 300 feet; thence N 89° 48' E for a distance of 436.0 feet; thence N 04° 44' W for a distance of 287.45 feet more or less to the point of beginning. County of Grand, State of Colorado.

# Exhibit B



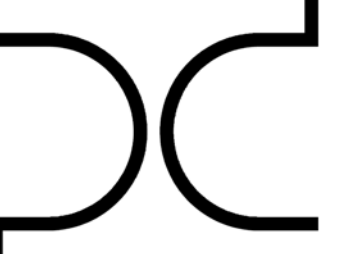
2 NORTH ELEVATION

A201 SCALE: 1/16" = 1'-0"



1 SOUTH ELEVATION

A201 SCALE: 1/16" = 1'-0"



PROGRESS DOCUMENTS NOT FOR CONSTRUCTION

10/20/2022 4:37:46 PM

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Winter Park Hotel and Condos  
78581 US Highway 40  
Winter Park, CO

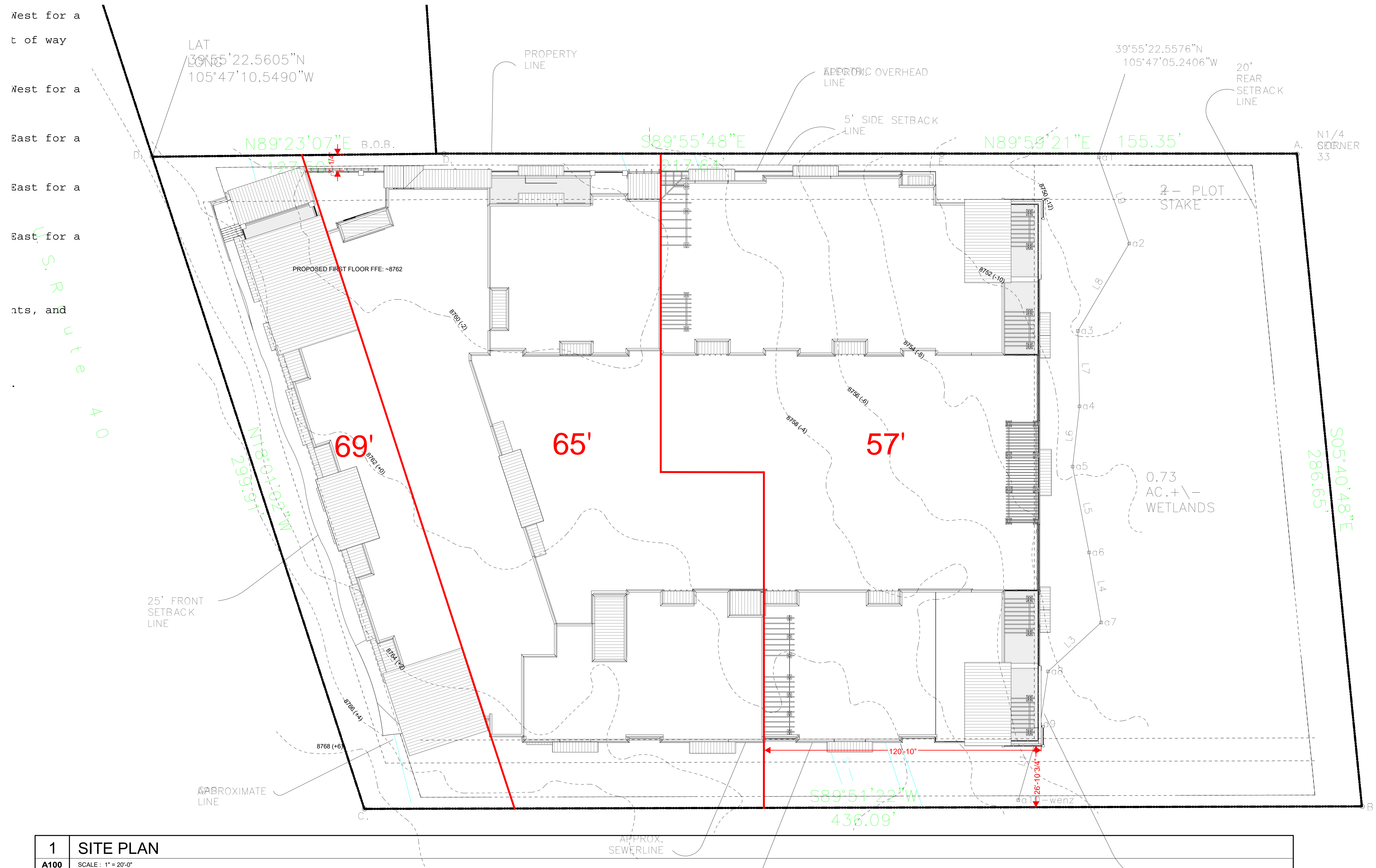
JOB NO: 22-002  
DATE: 09.07.2022  
ISSUE RECORD: PRESENTATION  
REVISIONS:

EXTERIOR ELEVATIONS

A201



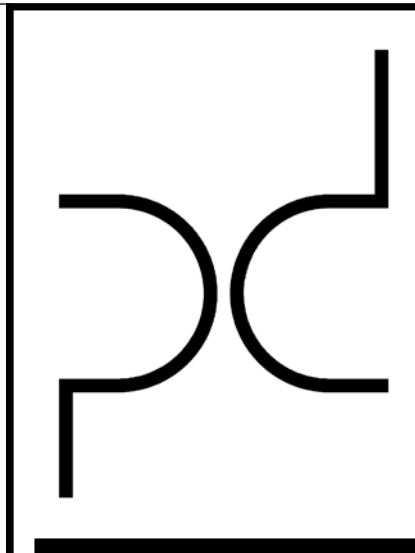
# Exhibit C



**1 SITE PLAN**  
**A100** SCALE: 1" = 20'-0"

**SITE INFORMATION**

ADDRESS  
 78581 HIGHWAY 40  
 WINTER PARK, COLORADO  
 ZONING: D-C  
 TOTAL ACREAGE: 3.07 ACRES  
 DENSITY:



PREPARED FOR  
 DOCUMENTS  
 NOT FOR  
 CONSTRUCTION

9/8/2022 10:47:00 AM

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COMPLY WITH ALL LAWS, CODES, ORDINANCES AND REGULATIONS WITH THE AUTHORITY HAVING JURISDICTION AND WITH THE REQUIREMENTS OF ANY APPLICABLE ORDINANCES OR REGULATIONS. THE ARCHITECT'S LIABILITY IS LIMITED TO THE ARCHITECT'S PROFESSIONAL SERVICES AND DOES NOT INCLUDE THE DESIGN OF STRUCTURAL, MECHANICAL, ELECTRICAL, OR OTHER SPECIALTY SYSTEMS.

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**Winter Park Hotel and Condos**  
 78581 US Highway 40  
 Winter Park, CO

JOB NO: 22-002  
 DATE: 09.07.2022  
 ISSUE RECORD: PRESENTATION

REVISIONS:

ARCHITECTURAL SITE PLAN

**A100**