



**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
Tuesday, March 14, 2023 8:00 AM
Immediately Following Planning Commission**

A G E N D A

- I. **Call to Order**
- II. **Roll Call of BOA Members**
- III. **Minutes:** February 14, 2023
- IV. **General Business:**
 - A. Consideration of Resolution 1, Series 2023 A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE AND ADOPTING FINDINGS OF FACT RELATED TO APPROVAL OF A VARIANCE TO REDUCE THE SIDE CORNER YARD SETBACK FOR 36 LAKE TRAIL
 - B. PUBLIC HEARING – Setback Variance Request – 365 Lions Gate Drive – Tract 3, Miller Subdivision (PLN23-010)
 - C. PUBLIC HEARING – Landscape Bufferyard Variance Request – 365 Lions Gate Drive – Tract 3, Miller Subdivision (PLN23-011)
 - D. PUBLIC HEARING – Tandem Parking Variance Request – 365 Lions Gate Drive – Tract 3, Miller Subdivision (PLN23-012)

Online Meeting Login Instructions – See next page

Computer Login Instructions

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/81725744995?pwd=RnVOb2hpVmN1SXBydzFBZEc3NGhGZz09>

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Phone Login Instructions

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US: +1 719 359 4580 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 669 444 9171 or +1 669 900 6833 or +1 564 217 2000 or +1 646 931 3860 or +1 689 278 1000 or +1 929 436 2866 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847

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

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.

MINUTES

DATE: Tuesday, February 14, 2023

MEETING: Winter Park Board of Adjustment

PLACE: Town Hall Council Chambers and Zoom Meeting Call

PRESENT: Chair David Barker, Vice-Chair Brad Holzwarth, Members Angela Sandstrom, Roger Kish, and Doug Robbins. Community Development Director James Shockey, Planner Hugh Bell, and Assistant Town Attorney Austin Flanagan via Zoom.

OTHERS PRESENT: N/A

I. Call to Order

Chair Holzwarth called the meeting to order at 9:36 a.m.

II. Roll Call of BOA Members

All members are present.

III. Approval of Minutes

November 8, 2022. Member Robbins moved and Member Barker seconded the motion approving the minutes. Motion carried: 5-0.

IV. General Business

A. Yearly Election of Chair and Vice Chair

Member Robbins moved and Member Sandstrom seconded the motion approving David Barker as Chair. Motion carried: 5-0.

Member Robbins moved and Member Sandstrom seconded the motion approving Brad Holzwarth as Vice Chair. Motion carried: 5-0.

B. PUBLIC HEARING: Setback Variance Request – 36 Lake Trail – Metes and Bounds (PLN22-102)

Planner Bell presents the staff report. Chair Barker invites the applicant, Mark Jarman, to the dais. Mr. Jarman gives a brief presentation to the BOA. George Stevens, the architect working for Mr. Jarman, comes forward and also gives a brief presentation. The BOA asks him several questions. Chair Barker opens the public hearing. Christopher Tagseth, in the audience, gives a comment. Hearing no other comments, Chair Barker closes the public hearing. Chair Barker opens the BOA discussion and the members discuss. Vice Chair Holzwarth moved and Member Robbins seconded the motion approving the variance request for 36 Lake Trail with staff's recommended condition that prior to the Town issuing a Building Permit and during the Site Plan process, the homeowner shall find a solution to eliminate the existing parking area lying within the Lake Trail ROW. The solution shall have Public Works' approval. Motion carried 4-1 with Member Kish voting "nay".

There being no further business to discuss, upon a motion regularly adopted, the meeting was adjourned at 10:18 a.m.

The next scheduled meeting of the Board of Adjustment will be Tuesday, March 14, 2023, immediately following the Planning Commission meeting at 8:00 a.m.

Hugh Bell, Planner

**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
RESOLUTION NO. 1
SERIES OF 2023**

**A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF
WINTER PARK APPROVING A VARIANCE AND ADOPTING FINDINGS OF
FACT RELATED TO APPROVAL OF A VARIANCE TO REDUCE THE SIDE
CORNER YARD SETBACK FOR 36 LAKE TRAIL**

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-3 of the UDC states that side corner yard setbacks in the Multiple-Family Residential (R-2) zone district shall be at least 15 feet;

WHEREAS, on January 10, 2023, Mark Jarman (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 encroach into the side corner yard setback by 15 feet (the "Application");

WHEREAS, on February 14, 2023, 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 the Applicant would be forced to remove a large amount of mature vegetation, and to utilize their existing access off of Lake Trail, would likely need to construct a bridge to access the carport, which would be costly;
 - 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 vehicles using the Property will park outside of the Lake Trail public right-of-way instead of within it;
 - 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

house was built prior to the establishment of the Town's parking regulations and the Property has steep topography; and

d. That the granting of the variance will not alter the essential character of the locality because the structure is proposed to match the existing house and there are other structures in the vicinity that are situated close to the Lake Trail public right-of-way.

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. Prior to the Town issuing a Building Permit and during the Site Plan process, the homeowner shall find a solution to eliminate the existing parking area lying within the Lake Trail right-of-way. The solution shall have Public Works' approval.

b. A building permit for construction of the structure described in the Application shall be issued on or before March 14, 2024. If a building permit is not issued within such time, the variance granted herein shall automatically terminate without further action by the Town.

c. Neither this Resolution nor the variance granted herein creates any vested rights under statute or common law.

d. This Resolution shall be recorded in the records of the Grand County Clerk and Recorder within 30 days of approval.

PASSED, ADOPTED, AND APPROVED this 14th day of March, 2023.

BOARD OF ADJUSTMENT

David Barker, Chair

ATTEST:

Danielle Jardee, Town Clerk

Exhibit A
Legal Description of Property

That portion of the Northwest one quarter of the Southwest one quarter (NW1/4SW1/4) of Section 33, Township 1 South, Range 75 West of the Sixth Principal Meridian, Town of Winter Park, County of Grand, State of Colorado, described as follows:

The Basis of Bearings is the west line of the Northwest one quarter of the Southwest one quarter, Section 33, Township 1 South, Range 75 West, of the Sixth Principal Meridian, as monumented with aluminum caps PLS 25971 at each end, and is assumed to bear S 1°23'20" E.

BEGINNING at a pin and cap PLS 22097 from which the northwest corner of the northwest one quarter of the southwest one quarter of said Section 33 bears N 17°59'12" W a distance of 978.80 feet;

Thence S 17°15'43" W a distance of 210.87 feet to a pin and cap PLS 22097;

Thence N 78' 49'30" W a distance of 4.60 feet to a brass cap stamped CO RDS;

Thence S 84°21'32" W a distance of 9.27 feet to a pin and cap PLS 22097 and a point of non-tangent curvature;

Thence along a curve to the left a distance of 122.93 feet, said curve having a radius of 249.70 feet, a delta angle of 28' 12'31" ", and a chord which bears N 19°44'14" W a distance of 121.70 feet to a pin and cap PLS 22097, a point of non-tangency, and a point on the easterly line extended of that 30.00 foot wide strip described in Quit Claim Deed recorded April 11, 2001 at Reception No. 2001 - 003278;

Thence N 17° 17'54" E, along the easterly line extended and the easterly line of said 30.00-foot-wide strip, a distance of 59.92 feet to a pin and cap PLS 22097;

Thence N 73°25'41" E a distance of 103.93 feet to the POINT OF BEGINNING.

Containing 0.272 acres, more or less.

Subject to a SNOW STORAGE AND UTILITY EASEMENT dedicated to the Town of Winter Park as described and depicted on Exhibit A to the AGREEMENT REGARDING BOUNDARY LINE ADJUSTMENT recorded May 23, 2003 at Reception No. 2003-006385, June 11, 2003 at Reception No. 2003-007245 and June 19, 2003 at Reception No. 2003-007642.



MEMO

TO Board of Adjustment
FROM Hugh Bell, Planner
THRU James Shockey, Community Development Director
DATE March 14, 2023
RE Setback Variance Request – 365 Lions Gate Drive – Tract 3, Miller Subdivision (PLN23-010)

Applicant: William MacDonald

Owner: William MacDonald

Description of Property:

The property is zoned D-C, Destination Center, with the following entitlements:

Setbacks – 0' front / 0' rear / 5' side / 0' side corner

Building Coverage – None

Building Height – 55'

Variance Request:

Request to encroach into side yard setback by 4'-3" for a structure.

Owner's Reasons Why the Variance Should Be Granted:

See application for details.

Applicable Provision(s) of the Unified Development Code:

§ 3-A-3, RESIDENTIAL DISTRICTS AND USES

Minimum side yard setback in Destination Center (D-C) zone district for Apartment dwelling unit: 5'

§ 5-F-3, VARIANCE

- A. Generally. Variances are authorizations to depart from the strict application of the standards of this UDC. In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this UDC as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance. It is not the intent of this Section to allow variances in the classification of uses of property. They are granted by the Board of Adjustment (BOA) by C.R.S., § 31-23-307 et seq., as amended.

Criteria to Grant Variance:

§ 5-F-3(F), Approval Criteria The variance request shall meet all four (4) of the following criteria for approval:

1. Hardship. 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;

2. Health, Safety, and Welfare. 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;
3. Unusual Circumstances. 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; and
4. Character. That the granting of the variance will not alter the essential character of the locality.

§ 5-B-8 Public Notice Requirements:

This variance request has had proper public notification pursuant to § 5-B-8 of the UDC. A Newspaper Publication (PUB) was published in the Middle Park Times on February 16, 2023, providing notification of the meeting and requesting comments. A Surrounding Property Owners Mailing (ML) was sent to property owners within 300' of the property on February 26, 2023. A Property Posting (PO) was posted on February 22, 2023.

After the ML was sent, staff received a complaint from a property owner within Braidwood Condominiums, which is within the 300' radius, that no ML was received. Staff checked the list utilized to create the address labels and saw that indeed the owner was not on the list. Staff discovered the issue stems from the Grand County Assessor, as ownership information doesn't exist within their database for many condominium units in Braidwood Condominiums and Lions Gate Pines Lodge Condominiums, both of which are within the radius. Staff has reached out to the Assessor notifying them of this error but given staff has utilized the same tool to create address labels in the past without issue, staff believes they made a best faith effort to identify the most current owners of property within 300', as stipulated in the UDC, § 5-B-8(D)(3)(a).

Six (6) comments have been received as of March 10, 2023 and are attached in the packet. All comments oppose the request.

Staff Comments:

Applicant proposes constructing a new multifamily building that will coexist with the existing single-family dwelling unit (DU) and requests to encroach into the 5' side yard setbacks by up to 4'-3"; the south side encroachment is proposed to be a 4'-3" encroachment and the north side a 3'-6" encroachment.

Applicant cites their hardship being that they submitted a Preliminary Plat Application (PLN21-091) on July 13, 2021 prior to the Unified Development Code (UDC) being adopted on June 7, 2022 via Ordinance 575 and coming into effect on June 12, 2022. For properties zoned D-C, the previous land use code, Title 7, Zoning Regulations, allowed for 0' yard setbacks for the front, side, and rear; the UDC amended this to require a 5' side yard setback. PLN21-091 depicted the building with a similar configuration to the site plan submitted with this application, reflecting the then-applicable 0' side yard setback requirement as the building was within 5' of the north and south lot lines.

Although it is true that PLN21-091 was governed by the previous setback requirements, it was an incomplete application and staff does not schedule hearings for incomplete applications. As required by the UDC, § 1-B-1(C), *Pending Applications*, only development applications deemed complete by the Director prior to the UDC's adoption shall be reviewed under the previous regulations, i.e., the previous land use code, Title 7, and the previous subdivision code, Title 8. § 8-2-3(C)(3) from the previous land use code dictated that preliminary plat applications shall be complete to be distributed for agency review. PLN21-091 was considered incomplete because the landscaping plan was not submitted as was required by § 8-2-3(B)(28) and the plat did not include the basic elements as was required by § 8-2-3(B).

On July 8, 2022, the applicant submitted a Major Site Plan Application (PLN22-078) and because this occurred after the UDC's adoption, the applicant is being held to the UDC and not the previous land use code.

Staff does not find a hardship in this matter because PLN21-091 was an incomplete application and therefore was not distributed for agency review. § 8-2-3(C)(3) from the previous land use code dictated that preliminary plat applications shall be complete to be distributed. When PLN22-078 was submitted and deemed complete on July 15, 2022, the UDC was in effect. The 5' side yard setback was established in the UDC to allow space for Type A landscaped bufferyards between D-C-zoned property side lot lines. Staff believes there is adequate space to the west of the proposed building, towards the rear lot line, for which no yard setback is required, in which the applicant could build.

An alternative site configuration is likely to reveal that the property can be developed without setback encroachments. Given that the Major Site Plan Application hasn't received approval yet, nor yet been scheduled for a Planning Commission hearing, staff believes this is an ideal time to modify the design to conform with the setback requirement.

Staff Recommendation:

Staff does not find a proven hardship with the property and does not support approval of this variance request for the following reasons. The applicant has not provided evidence showing the property cannot yield a reasonable return in use or service if required to adhere to the setback requirement. Code, § 5-F-3(F)(1). The applicant has essentially attributed the need for a setback variance to their delay in submitting a complete application while the previous land use code was still in place.

Staff believes an alternative design could meet the setback requirements. It is not clear that the particular physical surroundings, shape or topographical condition of the property preclude other building layouts that would preserve the required side setback while still meeting the applicant's goals. Rather, the alleged difficulty or hardship seems to come about because the applicant is unwilling to modify the architectural drawings, which, per Code § 5-F-3(F)(1) does not justify approval of this variance.

However, this is a decision for the Board to make, and the Board may choose to approve or deny based on the testimony and evidence it hears. Two sample motions are included below for convenience only.

Sample Motion for Denial:

I move to deny the request for the reasons discussed today, finding the applicant fails to meet all four criteria required by the UDC, § 5-F-3(F) in that:

1. The strict or literal interpretation and enforcement of the specified regulation would not 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 ***[insert explanation supported by evidence here];***
2. That the granting of the variance will be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity because ***[insert explanation supported by evidence here];***
3. The plight of the owner is not due to unusual circumstances at the property of the variance that do not generally apply to other properties in the same zone district because ***[insert explanation supported by evidence here]; and***
4. That the granting of the variance will alter the essential character of the locality because ***[insert explanation supported by evidence here].***

Sample Motion for Approval:

I move to approve the request for the reasons discussed today, finding the applicant meets all four criteria required by the UDC, § 5-F-3(F) in that:

1. 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 ***[insert explanation supported by evidence here];***
2. 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 ***[insert explanation supported by evidence here];***
3. 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 ***[insert explanation supported by evidence here]; and***
4. That the granting of the variance will not alter the essential character of the locality because ***[insert explanation supported by evidence here].***

Date: 02 / 16 / 2023

Applicant Name: William MacDonald

Mailing Address: PO Box 216 Fraser CO 80442

Phone: (303)506-4914

Email: will.c.macdonald@gmail.co

Applicant is the: Property Owner Other: Owner/ Developer

Street address of property: 365 Lion's Gate Drive Winter Park, CO 80482

Legal description of property: Tract 3, Miller Subdivision, County of Grand, State of Colorado

Brief description of the variance requested:

The applicant for the project at 365 Lion's Gate Way is requesting a variance from the building setback requirements for the project.

(Section 3-A-3 , Table 3-A-3). When the project began the design approval process with the town, the setbacks were acceptable and the town was in agreement that the project would be "grandfathered" under the previous code.

Indicate which conditions listed below relate to the property for which variance is requested. The variance request shall meet all four (4) following criteria for approval:

- Hardship.** 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;
- Health, Safety, and Welfare.** 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;
- Unusual Circumstances.** 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; and
- Character.** That the granting of the variance will not alter the essential character of the locality.

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

Applicant Signature: _____



February 16, 2023

Hugh Bell – Town Planner
James Shockey – Community Development Director
TOWP BOA
50 Vasquez Road
P.O. Box 3327
Winter Park CO. 80482

Re: Variance Request

365 Lions gate Drive
Winter Park CO
Tract 3, Miller Subdivision
William MacDonald

Dear Hugh, James, and Town of Winter Park Board of Adjustment,

The proposed project at 365/359 Lion's Gate Drive looks to implement the intent of the Town of Winter Park as encouraged by the creation of the DC zoning update. The Project proposes construction of a 13-unit condominium building behind the existing residence which will remain. The project will increase the housing stock in downtown Winter Park providing new opportunities for residents to live near where they work and socialize, creating a more vibrant and sustainable community.

The initial project planning began in November of 2021 (see attached correspondence). The design adhered to the codes at the time, specifically the lack of any side setbacks, and design has continued in close coordination with the town planners.

In the most recent code update side yard setbacks have been added to the code. (Section 3-A-3, Table 3-A-3) Our project is asking that we be granted a variance and be "grandfathered" under the old code(not requiring side setbacks). Please review the attached supporting materials which show the project embracing the intent of increasing housing within the heart of Winter Park.

Thank you,

A handwritten signature in black ink that reads "Will Mac Donald". The signature is written in a cursive, flowing style.

William Mac Donald,

Owner, Winter Park Resident

1.Hardship. 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;

When the project began the design approval process with the town, the setbacks were acceptable, and the town was in agreement that the project would be “grandfathered” under the previous code. The project Appraisal (attached) shows that the code at the time of discussions with the Town did not require setback in the DC Zone. The building as designed encroaches on the 5’ setbacks on the north and the south (required by the Code update on 6/21/2022) but only encroaches on the north at the ground/garage level and steps back in the remaining floors. (See Elevation).

The building is 1.5’ From PL at North and .7’ from PL at South. 9 (See Attached Sit and Illustrative Plans)

The denial of this variance would require an entire redesign of the project which would come at considerable cost to the owner as well as delaying the project’s start which would increase construction and financing costs.

2.Health, Safety, and Welfare. 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;

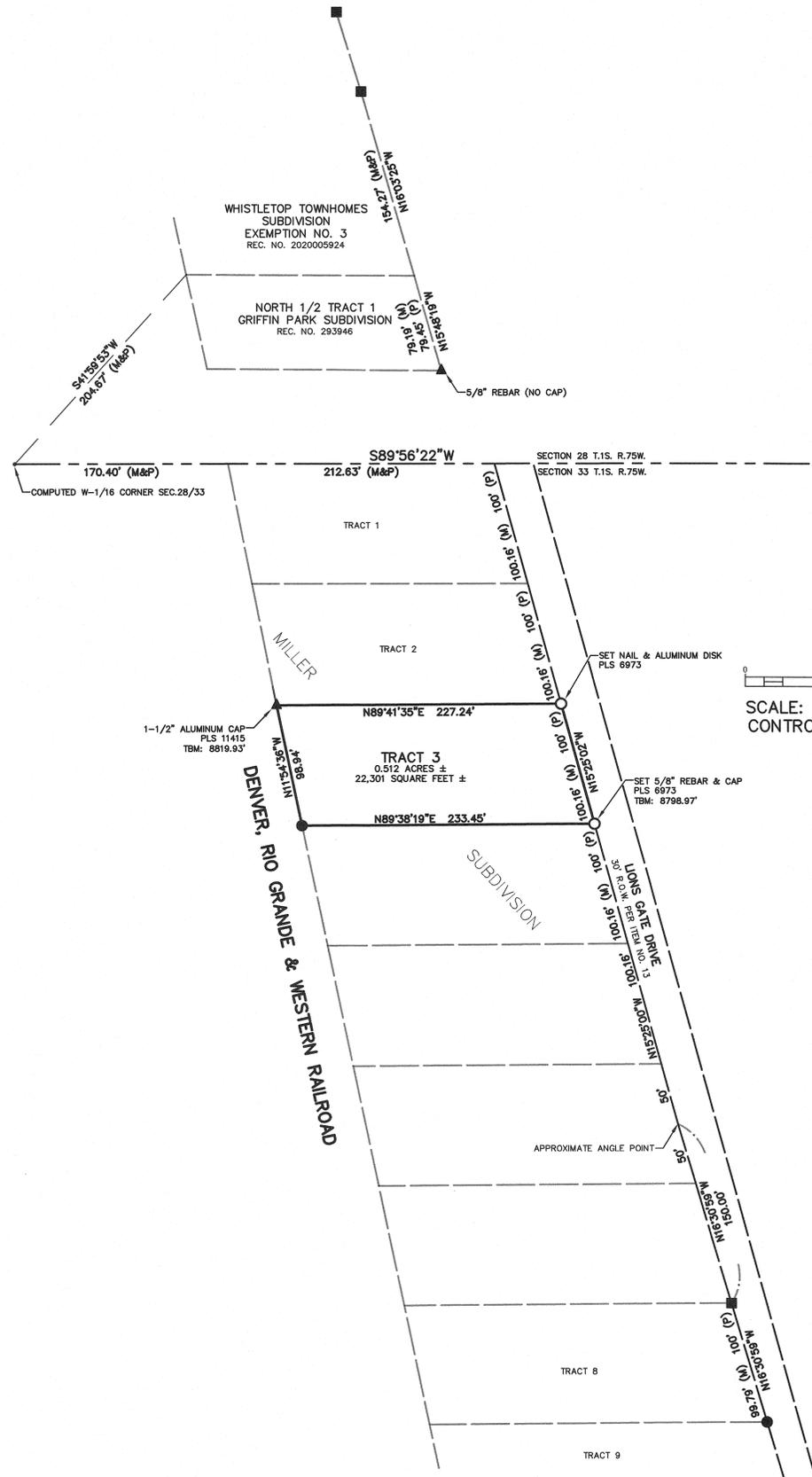
No, the granting of the variance would be in line with the regulations when the project was first submitted, and discussions began with Town officials. The removal of the setback requirement would have no effect on anyone in the vicinity.

3. Unusual Circumstances. The plight of the owner is due to unusual circumstances at the property of the variance hat do not generally apply to other properties in the same zone district; and character. That the granting of the variance will not alter the essential character of the locality.

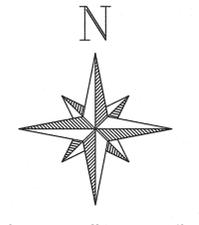
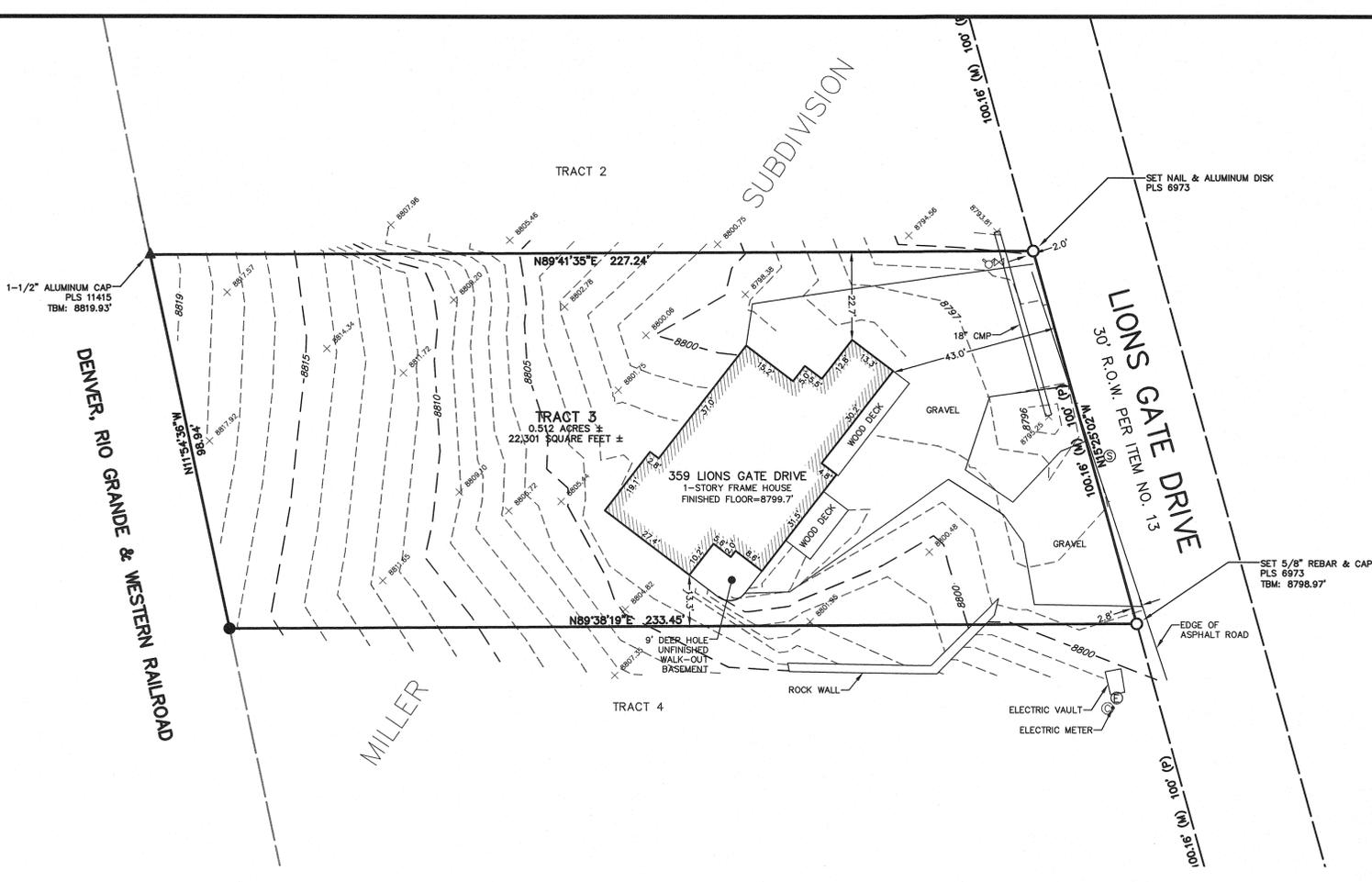
This circumstance is particular to this project because this is a timing issue. The design continued in coordination with the Town under the implied assumption that this project would be granted a variance for the new setback requirements. The exception from the new code is because the design and approval effort has overlapped the code changes. This variance would only apply to this application. The code requirements going forward are clear to future applicants.

4.Character. That the granting of the variance will not alter the essential character of the locality.

Because many of the parcels are already developed under the previous code, the application of that code will not alter the character of the locality. Furthermore, because the building is more than 130’ from the street, the variance will not be noticeable from the public realm. Lastly, there is significant landscape screening on the south side (see illustrative plan) where the building is nearest the property line. The north side which has a clearer view to the street, steps back by more than 9 feet above the ground level (see elevation) providing significant separation from the neighboring building to the north. Due to all of these factors, the variance will have no effect on the character of the corridor and will help to achieve the large scale goals of the DC zone.



SCALE: 1" = 60'
CONTROL DETAIL



SCALE: 1" = 20'

LEGEND

- EXISTING 1/2" REBAR (NO CAP)
- EXISTING ALUMINUM CAP - PLS 31942
- ▲ EXISTING MONUMENT AS DESCRIBED
- ▲ SET MONUMENT AS DESCRIBED
- ⊕ FIRE HYDRANT
- ⊙ CTV ENCLOSURE
- ⊙ SANITARY SEWER MANHOLE
- CONCRETE
- (M) DIMENSION AS MEASURED
- (P) DIMENSION AS PLATTED

LEGAL DESCRIPTION: (FROM THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM)

TRACT 3, MILLER SUBDIVISION, COUNTY OF GRAND, STATE OF COLORADO.

BASIS FOR BEARINGS:

THE WEST LINE OF THE ABOVE DESCRIBED PROPERTY, BEING MONUMENTED AS SHOWN HEREON, IS ASSUMED TO BEAR N11°54'36"W. ALL OTHER BEARINGS ARE RELATIVE THERETO.

NOTICE:

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

THE LINEAL UNIT USED AND SHOWN HEREON IS U. S. SURVEY FOOT.

EXCEPT AS SHOWN OR SPECIFICALLY STATED IN THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS, ANY OTHER FACTS.

TABLE A NOTES:

THERE MAY BE BURIED UTILITIES ON OR ADJACENT TO THIS PROPERTY THAT ARE NOT SHOWN DUE TO INSUFFICIENT SURFACE EVIDENCE. NO STATEMENT IS MADE CONCERNING SUBSURFACE CONDITIONS OR THE EXISTENCE OF OVERHEAD OR UNDERGROUND CONTAINERS OR FACILITIES WHICH MAY AFFECT THE DEVELOPMENT OF THIS TRACT.

THIS LOT LIES WITHIN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS DELINEATED IN THE FEMA FLOOD INSURANCE RATE MAP, MAP NO. 08049C0991C EFFECTIVE JANUARY 2, 2008.

AT THE TIME OF SURVEY THERE WAS NO OBSERVED EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION, BUILDING ADDITIONS, RECENT STREET OR SIDEWALK CONSTRUCTION/REPAIRS.

AT THE TIME OF THE SURVEY THERE WAS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.

ELEVATIONS ARE SHOWN IN APPROXIMATE NGS NAVD88 DATUM. NO BENCHMARK.

TEMPORARY BENCHMARK (TBM): THE TOP OF THE SET 5/8" REBAR & CAP - PLS 6973 - LOCATED AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED PROPERTY. ELEVATION: 8798.97'

FOR OWNERSHIP OF THIS TRACT OF LAND, EASEMENTS AND/OR ENCUMBRANCES AFFECTING THIS TRACT OF LAND, R.W. BAYER & ASSOCIATES RELIED UPON THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM:

THIS PARCEL SUBJECT TO THE EXCEPTIONS CONTAINED UNDER SCHEDULE B - II; ITEM# DESCRIPTION (COMMENT BY BAYER & ASSOCIATES, INC. IN PARENTHESIS)

ITEMS 1 THROUGH 8 ARE STANDARD EXCEPTIONS
9. RESERVATIONS, EXCEPTIONS AND RIGHTS OF WAY, AS RESERVED IN THE UNITED STATES PATENT RECORDED IN BOOK 17, PAGE 196.

10. EASEMENT AND RIGHT OF WAY GRANTED TO MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY RECORDED IN BOOK 87, PAGE 522. (EASEMENT DESCRIPTION INSUFFICIENT FOR PLOTTING PURPOSES.)

11. EASEMENT AND RIGHT OF WAY GRANTED TO GRAND COUNTY LIGHT, HEAT AND POWER COMPANY RECORDED IN BOOK 87, PAGE 537. (DOES NOT AFFECT THE SUBJECT PROPERTY.)

12. EASEMENT AND RIGHT OF WAY GRANTED MOUNTAIN PARKS ELECTRIC, INC. BY INSTRUMENT RECORDED IN BOOK 100, PAGE 457. (DOES NOT AFFECT THE SUBJECT PROPERTY.)

13. DEDICATIONS, EASEMENTS AND RIGHTS OF WAY, AS SET FORTH ON PLAT FOR MILLER SUBDIVISION RECORDED SEPTEMBER 17, 1953, AT RECEPTION NO. 76470. (AFFECTS THE SUBJECT PROPERTY. LIONS GATE DRIVE RIGHT OF WAY SHOWN.)

14. TERMS, CONDITIONS, STIPULATIONS AND OBLIGATIONS AS CONTAINED IN EASEMENT DEED, RECORDED JUNE 5, 2013 AT RECEPTION NO. 2013004967. (AFFECTS THE SUBJECT PROPERTY, NOT SHOWN.)

CERTIFICATE OF SURVEY:

TO WILLIAM McDONALD, ASCENDANT TITLE INC.; TIMOTHY JOHNSON; CARL BANTA; BRIAN D. HOGlund; AND SUSAN M. NEUMANN:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 7(A), AND 15 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON MAY 30, 2021.



RAYMOND W. BAYER, REGISTRATION NO. 6973, WITHIN THE STATE OF COLORADO

COUNTY SURVEYOR'S CERTIFICATE:

DEPOSITED THIS _____ DAY OF _____ 20____ AT _____ M. IN BOOK _____ OF THE COUNTY SURVEYOR'S LAND SURVEY PLATS / RIGHTS OF WAY SURVEYS AT PAGE _____ RECEPTION NO. _____ THIS LAND SURVEY PLAT COMPLIES WITH SECTION 38-51-106, COLORADO REVISED STATUTES.

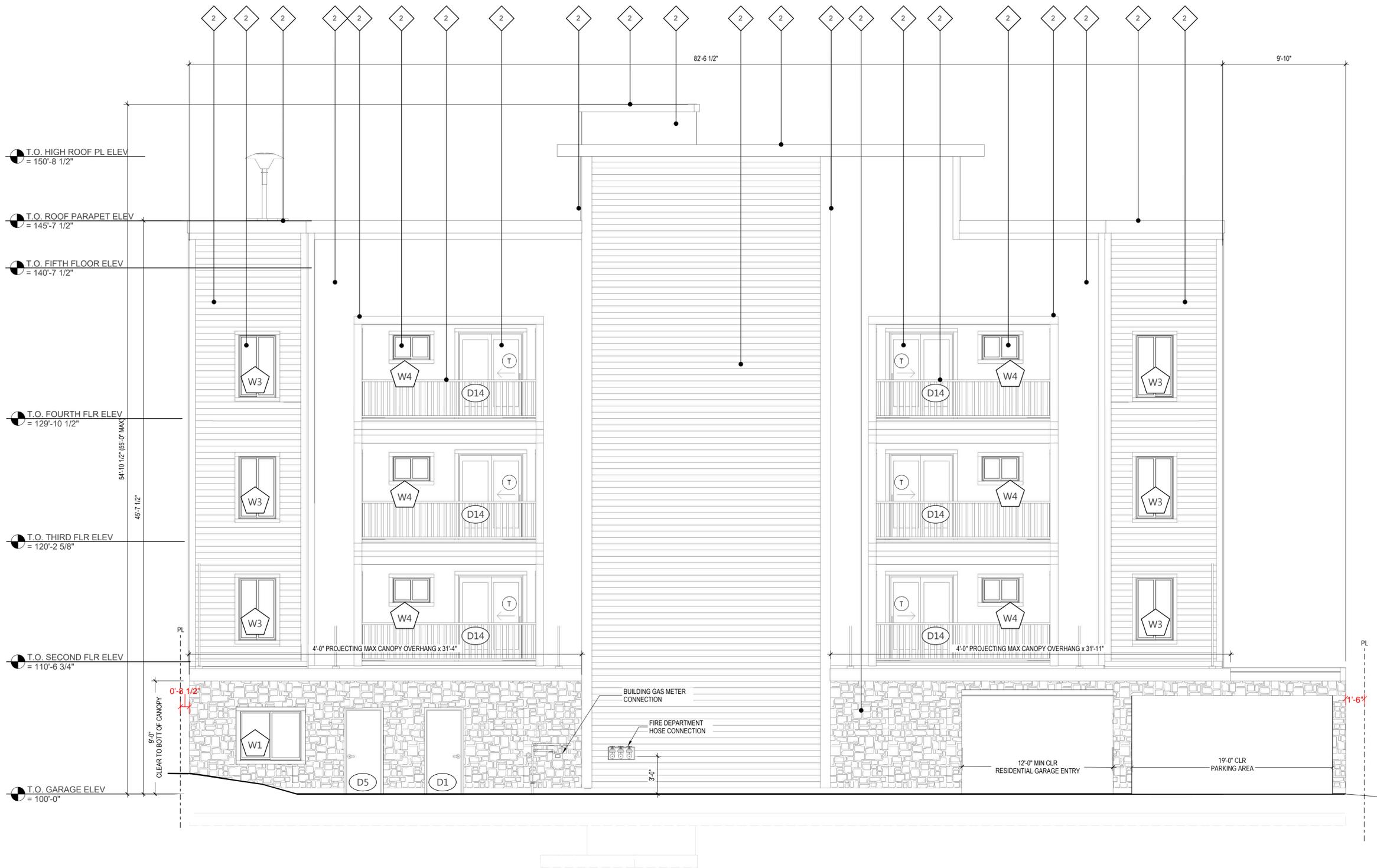
COUNTY SURVEYOR

R.W. BAYER & ASSOCIATES, INC.
12170 TEJON ST., NO. 700
WESTMINSTER, COLORADO 80234
(303) 452-4433 RWBSURVEYING@HOTMAIL.COM

CAD FILE: 21052/21052.DWG REVISIONS:

ALTA/NSPS LAND TITLE SURVEY
TRACT 3, MILLER SUBDIVISION, BEING A PART OF THE NE 1/4 OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 75 WEST OF THE 6TH PM, COUNTY OF GRAND, STATE OF COLORADO

SCALE: 1" = 10'	DATE: JUNE 1, 2021	DRW BY: J.A.B.	CKD BY: R.W.B.	PROJ. NO: 2021-052
BOOK: 719	PAGE: 41	FILE NO: 33-1S.75-1L	SHEET: 1 OF 1	



1 | EAST ELEVATION

1/4" = 1'-0"



PROJECT NAME
LIONS GATE CONDOMINIUMS

PROJECT ADDRESS
359 LIONS GATE DRIVE
WINTER PARK, CO. 80482

NORTH BUILDING ELEVATION

ISSUED 04.15.22

PROJECT NO. 21.051

REVIEWED BY MAS

DRAWN BY NTH

DWG. SCALE AS NOTED

G3.2

PERMIT SUBMITTAL

Hugh Bell

From: Barbara Lawler <haightlawler@gmail.com>
Sent: Tuesday, March 7, 2023 6:06 PM
To: Hugh Bell
Subject: Variances for 365 Lions Gate Drive

Caution! This message was sent from outside your organization.

March 7, 2023

To: Mr. Hugh Bell, Planner, Town of Winter Park, O.O. Box 3327, Winter Park, CO 80482
From: Barbara Lawler, Braidwood, 377 Lions Gate Dr., Winter Park, CO, Unit 101
Re: Variance Requests, Case Numbers - PLN23-010, PLN23-011, PLN23-012

Dear Mr. Bell;

I am responding to the Variance Requests for 365 Lions Gate Drive. The applicant states that all 4 criteria have been met. Please consider the following perspectives and comments:

Hardship:

“unnecessary physical hardship that would deprive the Applicant of privileges enjoyed by the owners of other properties in the same zone district;” What about the consequences and hardships for Braidwood? If these variances are granted, the enjoyment of our units will absolutely be negatively impacted. All of our decks face this property as well as our main living areas.

Health, Safety, and Welfare:

I believe that the granting of these variances is potentially unsafe. It appears that the proposed new building, with these variances, will be **extremely** close to Braidwood. This does not feel safe and as you know, we have first-hand experience with fire devastation and we are all aware of the catastrophic Marshall fire as well. I also believe that the tandem parking in front of the house/residence will be hazardous for those driving on Lions Gate Dr. It appears that if cars need to be moved, folks will have to back out onto the main thoroughfare and potentially need to sit and wait for another car to vacate the space(s). At best, this seems extremely awkward.

On a side note, why does a house/residence need 6 tandem parking spaces?

Unusual Circumstances:

It is unclear to me what “the plight” actually is. Codes were changed for various reasons to benefit property owners and for the welfare of all properties.

Character:

These variances will absolutely affect the character of the locality. Views will be lost and the ambiance of mountain living will be detrimentally affected. I understand that this property is zoned for multi-family structures but the proximity of the new building combined with so much asphalt does not work well with our building or the natural surroundings.

Last but not least, snow storage and drainage are **very big** concerns as well. It is unclear to me if these issues are being addressed.

Thank you for your time and consideration.

Regards,

Barbara Haight Lawler

Hugh Bell

From: jillcallahan49@gmail.com
Sent: Tuesday, March 7, 2023 1:55 PM
To: Hugh Bell
Cc: Greg Zerban; Kim
Subject: RE: PLN23-010 PLN23-011 PLN23-012As

Caution! This message was sent from outside your organization.

Hugh,

As property owners in Braidwood, Unit 303 since 2006 we strongly concur with the arguments presented by Greg Zerban and Kim Konkell.

We also are extremely concerned about the water remediation from that lot. The water should not be allowed to flow from the new development to adjacent lots as this could result in future structural issues.

We also would like to know why we had no previous knowledge of this development. Is there a hidden agenda there? As tax payers and long term owners we feel we should have been made aware of this development as it has significant ramifications to our property. As long term tax payers and owners we feel it would have been common courtesy to advise us of this development.

Bill and Jill Callahan

From: [Kim](#)
Sent: Tuesday, March 7, 2023 1:42 PM
To: hbelle@wpgov.com
Cc: [Greg Zerban](#)
Subject: PLN23-010 PLN23-011 PLN23-012

Hugh

As property owners in Braidwood Unit 103 we would like to state our opposition to three variance requests to be discussed Tuesday March 14 2023.

1. PLN23-010 Variance request to RESIDENTIAL DISTRICTS AND USES, minimum side yard setback. The Town of Winter Park created minimum setback requirements for both safety and aesthetics. Allowing a large structure to be built 9 inches from the property line places two very large structures very close together. The 2021 Marshall fire in Denver is an example of rapid fire spread from structure to structure in a catastrophic event. The 2020 Braidwood fire caused minimal damage to the neighboring property because of the separation of the buildings. Building this structure 9 inches from the property line defeats the purpose of safety and allowing a variance establishes a negative precedent.
2. PLN23-010 Variance request to Bufferyards. The Town of Winter Park established Bufferyards in their zoning requirements to maintain a pleasing aesthetic for the town and ensure the mountain community remains as such. Many trees will be eliminated in the development of this lot and not requiring the minimum bufferyard to be replaced defeats this purpose and allowing a variance establishes a negative precedent.
3. PLN23-012 Variance request to Parking Design Standards. The Town of Winter Park established parking design standards for safety and to ensure adequate parking is available for the proposed number of units. Allowing tandem

parking causes concern for exit in case of emergency and also raises the question of adequate snow storage for the property and runoff/drainage of the same without impacting neighboring properties. Allowing a variance to this standard establishes a negative precedent.

The developer claims "financial hardship" in having to revisit plans that have already been created. We feel that granting variances and allowing these inadequate plans to move forward is shortsighted and bending to a developer without keeping the long term goals of the town as well as the safety of its residents in mind.

Thank you
Greg Zerban
Kim Konkel

Hugh Bell

From: Doug Moore <dsmoore@q.com>
Sent: Tuesday, March 7, 2023 3:58 PM
To: Hugh Bell
Subject: Variance Requests for Case PLN23-012, 365 Lions Gate Dr., Tract 3 Miller Subdivision

Caution! This message was sent from outside your organization.

Hugh,

The Braidwood HOA and each owner would like to voice our disagreement with the three variance requests that have been submitted to the Board of Variances for the Development of the property at 365 Lions Gate Drive. The proposed development is next door to our building at 377 Lion Gate and will most impact our property.

We do agree that the owner of the property has the right to develop the property, However, in our opinion, it should be developed within the standards and requirements of the town of Winter Park without variances that would infringe on our property and the enjoyment of our property which would be in close proximity to the proposed building.

With regards to the tandem parking, it is our opinion that we do not really care how the cars are parked, only that it does not affect our property or congest Lions Gate. Yet, in our view of the site plan, there is little room for adequate snow storage on the developed property, so where does the snow go? Given that the driveway to access the condo building is on the north side next to our building it would seem logical that snow would be plowed onto our property and not on to the existing house for obvious reasons. This, presents problems for our foundation, back patios and the Xcel Energy box if there is a lot of snow to fall and be pushed toward our building and melt. This is not a workable situation for us and most likely not for Xcel either. Furthermore, the tandem parking plan does not seem practical or desirable from whomever uses these spots. It only seems practical from the developer's perspective to put more development on less ground and would only lead to future conflicts among residents of the property.

Our other major issue with the proposed variances is the maximizing of the proposed building's proximity to the property lines and encroachments on the sides. This design is unacceptable to us as we feel their building would be too close to ours, thus creating a fire/life safety issues if a fire event were to occur. Additionally, potential diminishment of the value and enjoyment of our property with a large block building in close proximity blocking all sunlight to the units close to the new structure. The Town of Winter Park established property line setbacks for multiple reasons to include safety and aesthetics, please enforce them. If the new building cannot fit within the land use and open space parameters of the town regulations, then it should not be built as shown on the plans and a redesign should be required to more effectively use the space for the future residents and neighboring properties. This might require removing the house to make room for the larger building.

Hugh, as a group we do not support the variance requests that are being submitted to the town and all of them will have the most impact on us, the Braidwood owners. We ask that the Board of Variances deny these requests as submitted.

Sincerely,

Doug Moore

Braidwood HOA President

Owner of Unit 104

Hugh Bell

From: Kim <konkelator@gmail.com>
Sent: Tuesday, March 7, 2023 12:42 PM
To: Hugh Bell
Cc: Greg Zerban
Subject: PLN23-010 PLN23-011 PLN23-012

Caution! This message was sent from outside your organization.

Hugh

As property owners in Braidwood Unit 103 we would like to state our opposition to three variance requests to be discussed Tuesday March 14 2023.

1. PLN23-010 Variance request to RESIDENTIAL DISTRICTS AND USES, minimum side yard setback. The Town of Winter Park created minimum setback requirements for both safety and aesthetics. Allowing a large structure to be built 9 inches from the property line places two very large structures very close together. The 2021 Marshall fire in Denver is an example of rapid fire spread from structure to structure in a catastrophic event. The 2020 Braidwood fire caused minimal damage to the neighboring property because of the separation of the buildings. Building this structure 9 inches from the property line defeats the purpose of safety and allowing a variance establishes a negative precedent.
2. PLN23-010 Variance request to Bufferyards. The Town of Winter Park established Bufferyards in their zoning requirements to maintain a pleasing aesthetic for the town and ensure the mountain community remains as such. Many trees will be eliminated in the development of this lot and not requiring the minimum bufferyard to be replaced defeats this purpose and allowing a variance establishes a negative precedent.
3. PLN23-012 Variance request to Parking Design Standards. The Town of Winter Park established parking design standards for safety and to ensure adequate parking is available for the proposed number of units. Allowing tandem parking causes concern for exit in case of emergency and also raises the question of adequate snow storage for the property and runoff/drainage of the same without impacting neighboring properties. Allowing a variance to this standard establishes a negative precedent.

The developer claims "financial hardship" in having to revisit plans that have already been created. We feel that granting variances and allowing these inadequate plans to move forward is shortsighted and bending to a developer without keeping the long term goals of the town as well as the safety of its residents in mind.

Thank you
Greg Zerban
Kim Konkel

Hugh Bell

From: Holly/Bob Asmuth <hbasmath@gmail.com>
Sent: Tuesday, February 28, 2023 10:41 AM
To: Hugh Bell; hbasmath@gmail.com
Subject: Variance Request Case #PLN23-012

Caution! This message was sent from outside your organization.

To The Town of Winter Park Board of Adjustment,

This letter is in regards to William MacDonald property at 365 Lions Gate Case #PLN23-012.

We are direct neighbors at 345 Lions Gate, and sharing a property line with the proposed 13 unit project that you are reviewing.

We feel that the proposed structure is way to large, especially since there already is an existing home on the property. It is hard to imagine putting 13 units plus all the necessary parking in such a small area. Also concern for fire safety access. At this time we have no intention of utilizing our extra building site. However if we did or a future owner wanted to build would you allow us to build to our property line??? How would that work? We are opposed to any variance.

When we bought our home in July 2021, we were aware of the extra building possibility, but never could imagine a project of this magnitude.

We totally understand that he has the right to build, but the scale of this project seems extremely excessive.

Respectfully,

Bob & Holly Asmuth

345 Lions Gate

PS - Please confirm that this email was received

Hugh Bell

From: Scott Chapman <schapman@ksu.edu>
Sent: Tuesday, March 7, 2023 4:49 PM
To: Hugh Bell
Subject: Ref: Case PLN23-010 Variance at 365 Lions Gate Drive

Caution! This message was sent from outside your organization.

Hugh Bell, Planner
Town of Winter Park

As owner of Unit 204 In Braidwood adjacent to this property, I would like to express my concern related to the proposed variance,

1. This variance allows two relatively tall buildings to be in very close proximity. Important considerations are fire safety and potential effects on our adjoining property. If either property were to catch fire there would be little chance of it not spreading to the other.
2. A potential negative effect on Braidwood is runoff. Our association successfully installed tile drains to keep our own runoff from entering the building but would not handle additional runoff from the adjacent property. Are measures in place to keep roof, pavement, and snow storage runoff from entering our property.
3. Snow removal and storage. This is a concern due to the proximity of the drive and buildings to the property line. Does snow from the roof and the drive remain on the property?
4. Will snow storage be adequate with a drainage path not detrimental to adjoining property.

Thank you for considering our concerns on this variance.

Sincerely Scott & Mary Jane Chapman
Braidwood 204

5.

Scott Chapman,
District Extension Agent, emeritus
K-State Research and Extension
785-738-0399



MEMO

TO Board of Adjustment
FROM Hugh Bell, Planner
THRU James Shockey, Community Development Director
DATE March 14, 2023
RE Landscape Bufferyard Variance Request – 365 Lions Gate Drive – Tract 3, Miller Subdivision (PLN23-011)

Applicant: William MacDonald

Owner: William MacDonald

Description of Property:

The property is zoned D-C, Destination Center, with the following entitlements:

Setbacks – 0’ front / 0’ rear / 5’ side / 0’ side corner

Building Coverage – None

Building Height – 55’

Variance Request:

Request to deviate from landscape bufferyard requirements of “Type A” for the north lot line, “Type B” for the south and east lot lines, and “Type C” for the west lot line.

Owner’s Reasons Why the Variance Should Be Granted:

See application for details.

Applicable Provision(s) of the Unified Development Code (UDC):

TABLE 3-I-5-2, DISTRICT BUFFERYARD STANDARDS

Minimum bufferyard required for a property in the D-C zone district adjacent to properties with the same zoning: Type A, i.e., per 100 linear feet, at least two (2) deciduous trees, two (2) evergreen trees, and a width of 5’ shall be provided on a lot line.

Minimum bufferyard required for a property in the D-C zone district on a collector street with a non-residential land use across the street: Type B, i.e., per 100 linear feet, at least four (4) deciduous trees, four (4) evergreen trees, twenty (20) shrubs, and a width of 10’ shall be provided on a lot line.

Minimum bufferyard required for a property in the D-C zone district adjacent to railroad rights-of-way: Type C, i.e., per 100 linear feet, at least eight (8) deciduous trees, eight (8) evergreen trees, thirty (30) shrubs, a berm height of three feet (3’), and a width of 10’ shall be provided on a lot line.

§ 3-I-5(F), BUFFERING EXISTING RESIDENTIAL DEVELOPMENT

New residential development is required to provide an increase in the level of screening of a bufferyard (e.g., from Type A to Type B) when adjacent to an existing single-family detached, duplex, multiplex, or single-family attached residential property or development, if:

1. The existing development does not have a required bufferyard in conformance with the requirements of the UDC;
2. The lot widths of the new development are less than eighty percent (80%) of the lot widths of the nearest lots of the existing development;
3. The building height(s) of the new development is (are) more than eight feet (8') taller than the building height(s) of the existing property or development; or
4. The housing type that is located on the lots that are adjacent to the existing development is more dense than the housing type of the existing development (e.g., new townhouse lots adjacent to existing single-family detached lots).

§ 5-F-3, VARIANCE

- A. Generally. Variances are authorizations to depart from the strict application of the standards of this UDC. In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this UDC as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance. It is not the intent of this Section to allow variances in the classification of uses of property. They are granted by the Board of Adjustment (BOA) by C.R.S., § 31-23-307 et seq., as amended.

Criteria to Grant Variance:

- § 5-F-3(F), Approval Criteria The variance request shall meet all four (4) of the following criteria for approval:
1. Hardship. 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;
 2. Health, Safety, and Welfare. 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;
 3. Unusual Circumstances. 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; and
 4. Character. That the granting of the variance will not alter the essential character of the locality.

§ 5-B-8 Public Notice Requirements:

This variance request has had proper public notification pursuant to § 5-B-8 of the UDC. A Newspaper Publication (PUB) was published in the Middle Park Times on February 16, 2023, providing notification of the meeting and requesting comments. A Surrounding Property Owners Mailing (ML) was sent to property owners within 300' of the property on February 26, 2023. A Property Posting (PO) was posted on February 22, 2023.

After the ML was sent, staff received a complaint from a property owner within Braidwood Condominiums, which is within the 300' radius, that no ML was received. Staff checked the list utilized to create the address labels and saw that indeed the owner was not on the list. Staff discovered the issue stems from the Grand County Assessor, as ownership information doesn't exist within their database for many condominium units in Braidwood Condominiums and Lions Gate Pines Lodge Condominiums, both of which are within the radius. Staff has reached out to the Assessor notifying them of this error but given staff has utilized the same tool to create address labels in the past without issue, staff believes they made a best faith effort to identify the most current owners of property within 300', as stipulated in the UDC, § 5-B-8(D)(3)(a).

Six (6) comments have been received as of March 10, 2023 and are attached in the packet. All comments oppose the request.

Staff Comments:

Applicant proposes constructing a new multifamily building that will coexist with the existing single-family dwelling unit (DU) and requests deviations from the landscaping bufferyard requirements for all four (4) lot lines.

Proposed structures, including the building and access drive, encroach into the required bufferyard widths for the north lot line (5' required, 5' encroachment), the south lot line (10' required, 9'-4" encroachment), and the west lot line (10' required, 4' encroachment). There is no bufferyard encroachment for the east lot line.

Bufferyard Requirements										
	Evergreens Required	Evergreens Provided	Deciduous Required	Deciduous Provided	Shrubs Required	Shrubs Provided	Berm Height	Width Required	Width Provided	Deficiency*
N Boundary – Adj. D-C lot Type A – 227 linear ft	4.5	1	4.5	0	-	-	-	5'	0'	4 Evergreen Trees 5 Deciduous Trees 5' Width
S Boundary – Adj. D-C lot Type B – 233 linear ft	9.3	6	9.3	7	46.6	38	-	10'	0'-8"	3 Evergreen Trees 2 Deciduous Trees 9 Shrubs 9'-4" Width
E Boundary – Lions Gate Drive, "Nonresidential Collector" road classification Type B – 100 linear ft	4	1	4	6	20	13	-	10'	10'	3 Evergreen Trees 7 Shrubs
W Boundary – Railroad Type C – 98 linear ft	7.8	4	7.8	4	29.4	0	3'	10'	6'	4 Evergreen Trees 4 Deciduous Trees 29 Shrubs 4' Width

*Deficiencies reflect counts being rounded up if greater than or equal to the 0.5 value and rounded down if less than the 0.5 value.

The south lot line is classified as Type B due to the stipulation in § 3-1-5(F), *Buffering Existing Residential Development*, that requires the bufferyard level increase by one level, in this case from Type A to Type B, as the following criterion is met:

- The housing type that is located on the lots that are adjacent to the existing development is denser than the housing type of the existing development. 345 Lions Gate Drive (south of the subject property) has a density of 1.88 (1 DU/0.53 acre lot) and this development's density is 29.3 (15 DU/0.512 acre lot).

Applicant cites the following hardships: that the property's width is narrow, that the property contains an existing structure, that East Grand Fire District requires the access drive on the north side of the property meet minimum widths, and that stormwater conveyance necessitates a water quality and detention pond be constructed on-site.

North Bufferyard

Staff does not support the variance request for the north lot line given the north side of the property is proposed to be devoid of landscaping. The applicant has not proposed any alternative designs. The lack of landscaping will alter the character of the locality, which per § 5-F-3(F)(4), *Character*, disqualifies this variance request. Most of the existing large multifamily developments in the vicinity, i.e., Whistlestop Townhomes and Arrow Townhomes, as well as the forthcoming Lion's Rock Townhomes, all offer landscaping at each lot line. Surrounding businesses contain bufferyards as well. The proposed development will be tall (approximately 55') and will contain many uncovered parking spaces; permitting a variance will mean that surrounding properties, especially Braidwood Condominiums, will be subject to visual impacts which do not conform to the locality's character due to the proposed height.

South Bufferyard

Staff supports the variance request for the south lot line. Staff agrees that the water quality and detention pond necessitate landscaping to shift inwards and given the extra space created by the pond, allows for fewer trees to be planted. Even though the use to the south, 345 Lions Gate Drive, is a single-family DU, it is located in the eastern portion of the lot and given the variance for the south bufferyard would mostly impact the western portion of the lot, staff believes the existing landscaping at 345 Lions Gate will provide sufficient landscaping in lieu of 365 Lions Gate Drive doing so.

East Bufferyard

Staff does not support the variance for the east lot line. The tandem parking spaces widen the curb cut for the vehicular access. Separately, staff does not support these tandem parking spaces adjacent to Lions Gate Drive (numbering six (6) spaces) for that variance request (PLN23-012). While the proposed plantings will screen the water quality and detention pond, the eastern-most tandem parking spaces, and the trash enclosure, given the north lot line contemplates no landscaping, the variance for this east lot line will create a large triangle of surface-level hardscaping, which is out of character in the D-C zone district. The east lot line is the most visible from the public right-of-way (ROW), i.e., Lions Gate Drive, and staff believes it is crucial to lessen visual impacts here.

West Bufferyard

Staff supports the variance for the west lot line given this lot line abuts the approximately 190'-wide railroad ROW, which is heavily vegetated. On the other side of the railroad ROW is Wolf Park, so staff is unconcerned with the west lot line containing less vegetation on-site given Wolf Park contains no residences and given the ROW's heavy vegetation.

Therefore, staff supports the variance request only for the south and west lot lines and opposes it for the north and east lot lines.

Staff cannot support a deviation for the north bufferyard given that no landscaping is proposed on the north lot line whatsoever and that the 5' side yard setback required for the north lot line was established in the UDC to allow space for Type A bufferyards between D-C-zoned side lot lines. Staff can't support a deviation for the east lot line either, as the excessively wide curb cut is due to the site configuration. The tandem parking spaces located that close to the lot line preclude landscaping, but no alternative designs were submitted showing less intensive development and therefore fewer required parking spaces, and therefore a narrower curb cut that allows for more plantings. Staff doesn't find that the criteria for a variance have been met; without a hardship, the applicant cannot receive a variance.

Staff Recommendation:

Staff recommends the BOA approve the variance request for the south and west lot lines and deny the request for the north and east lot lines.

Reasoning for supporting the south and west lot lines is as follows: For the south lot line, the applicant is required to construct the water quality and detention pond, which requires a significant amount of space, and which requires landscaping to shift inwards. Staff believes this is a hardship. Additionally, given the lot to the south, i.e., 345 Lions Gate Drive, has its structure located to the east, and given the variance for the south bufferyard would mostly impact the western portion of the lot, which is heavily vegetated, staff believes the existing landscaping at 345 Lions Gate will provide sufficient landscaping in lieu of 365 Lions Gate Drive doing so. For the west lot line, the lack of adjacent residences and the dense existing vegetation within the 180'-wide railroad ROW will provide adequate screening. Additionally, the west lot line does not abut any public ROW.

Reasoning for opposing the north and east lot lines is as follows: Staff cannot identify a hardship; the site configuration arises due to the applicant's proposed layout, which severely constrains the site's configuration with the high number of DU proposed. Reducing the number of DU, which would require a smaller building and fewer parking spaces, could then facilitate meeting the requirements of § 3-1-5, *Bufferyards*. The visual impacts to the adjacent property owners at Braidwood and to passersby on Lions Gate Drive are adverse and would negatively alter the surrounding character. UDC, § 5-F-3(F)(4). The applicant has not provided evidence showing the property cannot yield a reasonable return in use or service if required to adhere to the bufferyard requirement for these lot lines, either. UDC, § 5-F-3(F)(1). Staff believes an alternative design could meet the bufferyard requirements. It is not clear that the particular physical surroundings, shape or topographical condition of the property preclude other building layouts that would preserve the required bufferyards for the north and east lot lines while still meeting the applicant's goals. Rather, the alleged difficulty or hardship seems to come about because the applicant is unwilling to modify the architectural drawings, which, per UDC § 5-F-3(F)(1) does not justify approval of this variance.

However, this is a decision for the Board to make, and the Board may choose to approve or deny based on the testimony and evidence it hears. Two sample motions are included below for convenience only.

Sample Motion for Approval:

I move to approve the request for the reasons discussed today, finding the applicant meets all four criteria required by the UDC, § 5-F-3(F) in that:

1. 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 ***[insert explanation supported by evidence here];***
2. 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 ***[insert explanation supported by evidence here];***
3. 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 ***[insert explanation supported by evidence here]; and***
4. That the granting of the variance will not alter the essential character of the locality because ***[insert explanation supported by evidence here].***

Sample Motion for Denial:

I move to deny the request for the reasons discussed today, finding the applicant fails to meet all four criteria required by the UDC, § 5-F-3(F) in that:

1. The strict or literal interpretation and enforcement of the specified regulation would not 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 ***[insert explanation supported by evidence here];***
2. That the granting of the variance will be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity because ***[insert explanation supported by evidence here];***
3. The plight of the owner is not due to unusual circumstances at the property of the variance that do not generally apply to other properties in the same zone district because ***[insert explanation supported by evidence here]; and***
4. That the granting of the variance will alter the essential character of the locality because ***[insert explanation supported by evidence here].***

Date: 02 / 16 / 2023

Applicant Name: William MacDonald

Mailing Address: PO Box 216 Fraser, CO 80442

Phone: (303)506-4914

Email: will.c.macdonald@gmail.co

Applicant is the: Property Owner Other: Owner/ Developer

Street address of property: 365 Lion's Gate Drive Winter Park, CO 80482

Legal description of property: Tract 3, Miller Subdivision, County of Grand, State of Colorado

Brief description of the variance requested:

The applicant for the project at 365 Lion's Gate Way is requesting a variance from the landscape buffer requirements for the project. The design is not able to meet the prescribed design requirements but utilizes all available space for tree and landscape planting.

Because of the width of the site, the existing structure and the competing requirements of the Fire Marshall for access on the North and stormwater conveyance and ponding on the South we are not able to meet the letter of the code for buffering.

Indicate which conditions listed below relate to the property for which variance is requested. The variance request shall meet all four (4) following criteria for approval:

- Hardship.** 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;
- Health, Safety, and Welfare.** 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;
- Unusual Circumstances.** 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; and
- Character.** That the granting of the variance will not alter the essential character of the locality.

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

Applicant Signature: 

February 16, 2023

Hugh Bell – Town Planner
James Shockey – Community Development Director
TOWP BOA
50 Vasquez Road
P.O. Box 3327
Winter Park CO. 80482

Re: Variance Request

365 Lions gate Drive
Winter Park CO
Tract 3, Miller Subdivision
William MacDonald

Dear Hugh, James, Town of Winter Park Board of Adjustment,

The applicant for the project at 365 Lion's Gate Way is requesting a variance from the 5' width landscape buffer requirements along the edges of the project. (Section 3-I-5) The design is not able to meet the prescribed design requirements but utilizes all available space for tree and landscape planting, including exceeding the "a" type requirement at the front of the property.

Because of the width of the site, the existing structure, and the competing requirements of the Fire Marshall for access on the North, and stormwater conveyance and ponding on the South we are not able to meet the letter of the code for buffering. The site will be planted and landscaped to the maximum extent possible per the attached Landscape Site Plan and Illustrative Plan.

We hope that the Town and the BOA will see the attached exhibits and understand that our request for variance will meet the intent of the code and enable this project to go forward, meeting the goals of the DC Zone and providing valuable housing in the heart of Winter Park.

Thank you,

A handwritten signature in black ink that reads "William Mac Donald". The signature is written in a cursive, flowing style.

William Mac Donald,
Owner, Winter Park Resident

1.Hardship. 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 of the width of the lot and the location of the existing structure, and the required widths of the access to the rear of the property, it would be impossible to accommodate a 5' buffer along the north of the site. By not allowing a variance to the buffer yard, the owner would effectively be unable to develop the site without removing the existing structure. This constitutes a clear hardship for the owner who has completed a design that satisfies the myriad of project requirements (fire, parking, traffic, utilities etc.) but cannot accommodate the landscaping requirements recently enacted in the code update.

2.Health, Safety, and Welfare. 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;

The removal of the buffer yard requirement would not affect any of the criteria above. The landscape areas of the lot, while not being in the prescribed locations, will be planted with trees per the town guidelines in a manner consistent with the character of Winter Park and the surrounding properties. The mature landscape treatment will not be noticeable to future buyers of this or adjacent properties. Please see the attached Illustrative Plan to see how the development will fit in with its neighbors.

3. Unusual Circumstances. 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; and character. That the granting of the variance will not alter the essential character of the locality.

As shown in the attached site plan, the location of the existing building and project requirements, particularly fire access, stormwater and parking requirements make meeting the letter of the landscape buffer yard requirements (Section 3-I-5) impossible on the north side. Other sites will not have these challenges as they begin design and construction as most of them will not have viable existing residences on the property. The project team has done its best to provide a design that meets the many competing requirements for site development while still maintaining landscape areas that when mature will blend in with the surrounding developments.

4.Character. That the granting of the variance will not alter the essential character of the locality.

This area, per the zoning intent, is an area in transition. This project is part of that transition and the landscape plan (attached) will meet the intent of the new regulations that are part of that change. As density increases so will the associated infrastructure to service that density. In certain situations the landscape requirements will need to be adjusted to meet the competing requirements of storm water management, infrastructure and access. In this case, the access has taken precedence to the landscape, but that will not fundamentally change the character of this emerging neighborhood. The plan uses every remaining area to plant the site which will provide scale and screening to a majority of the elements on the site. The planting will provide a setting for the new density providing rhythm and context between the larger scale housing that has been encouraged in the DC zone.

PROJECT TITLE

**LION'S GATE
 CONDOMINIUMS**
 365 LION'S GATE DRIVE
 WINTER PARK CO, 80482

NO.	REVISION DESCRIPTION	DATE
1	BOA REVIEW	01/30/2023

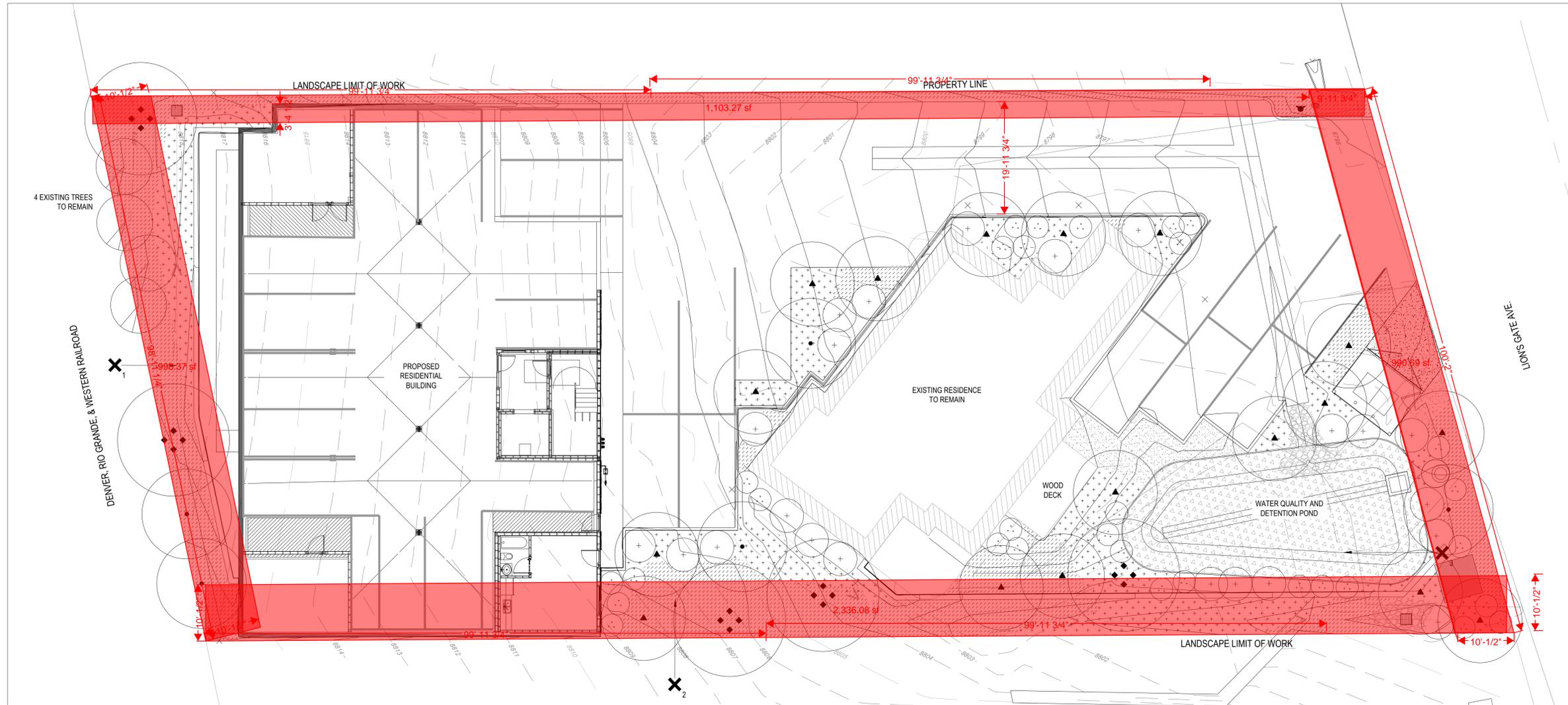
STAMP



DATE 01.30.2023
 SHEET NO.

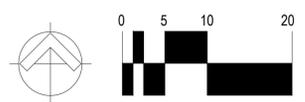
PLANTING PLAN

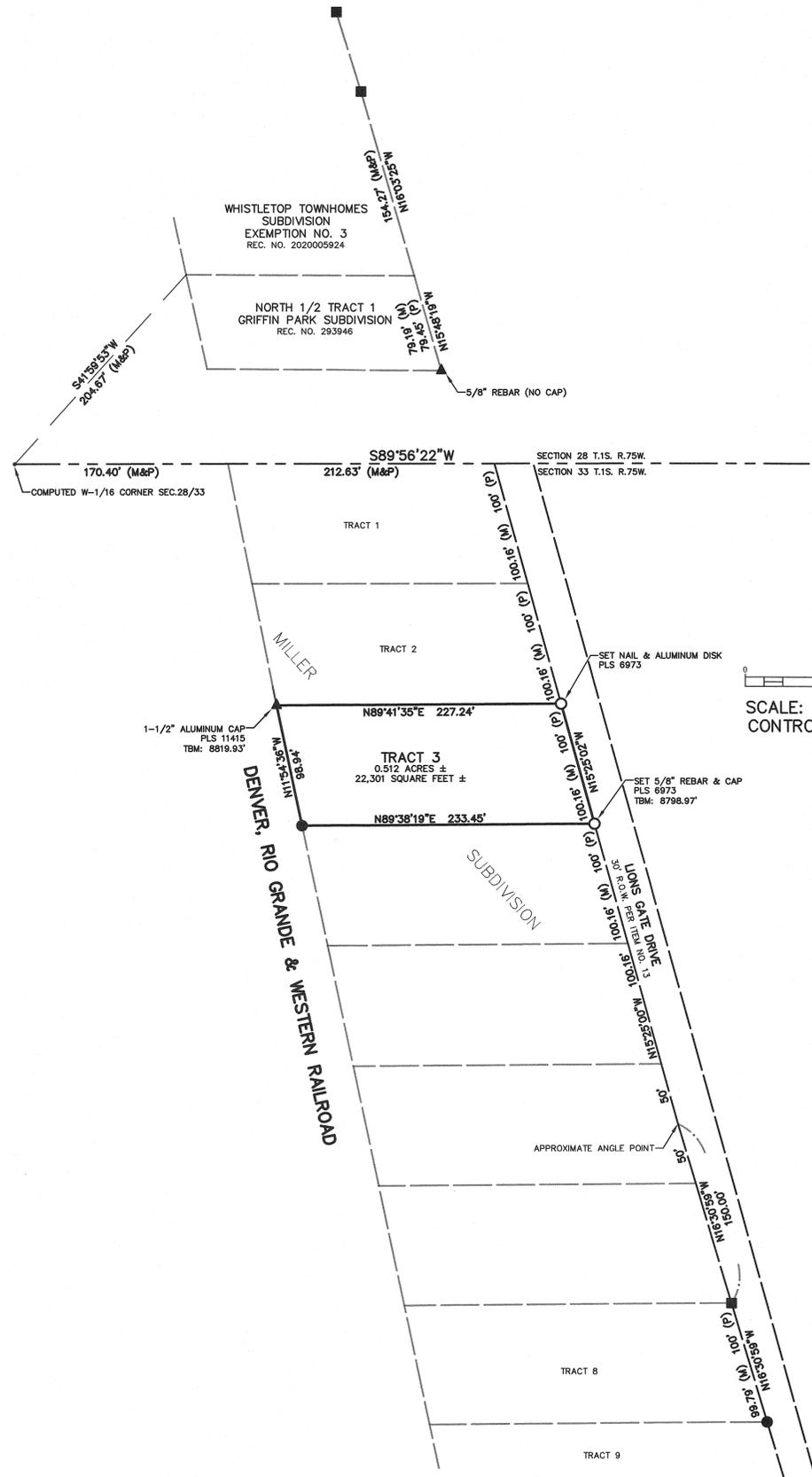
L2.1



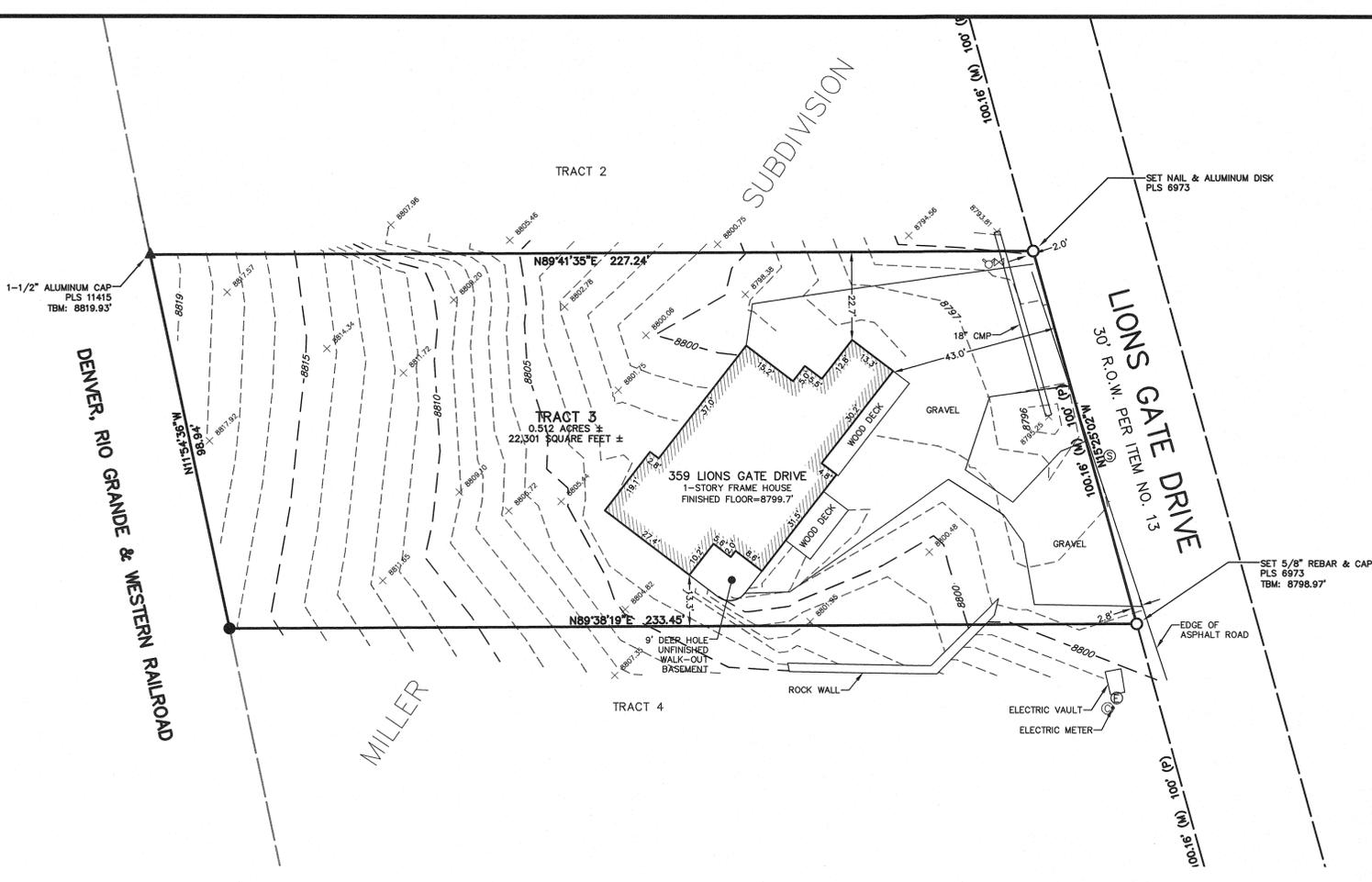
PLANT LEGEND

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	FORM	QTY./ % OF TOTAL	MATURE SIZE H X W	SEED MIXES	OTHER
TREES SUCH AS:								
	PICEA PUNGENS	COLORADO SPRUCE	6' HEIGHT MIN.	NATURAL	2	50' X 20'	25 % BROMUS MARGINATUS (MT BROME) 24 % BROMUS CILIATUS (FRINGED BROME) 24 % ELYMUS TRACHYCAULUS (SLENDER WHEATGRASS) 20 % ELYMUS GLAUCUS (BLUE WILD RYE) 5 % FESTUCA THURBERI (THURBER FESCUE) 2 % KOELERIA MACRANTHA (JUNEGRASS)	NO SYMBOL ORGANIC MULCH AT ALL LANDSCAPE AREAS X SOIL & PERCOLATION TEST LOCATION LOCATION PER PLAN
	PINUS CONTORTA LATIFOLIA	LOGDPOLE PINE	6' HEIGHT MIN.	NATURAL		40' X 20'	ASPEN GROVE WILDFLOWERS (WESTERN NATIVE SEED) RATE: 8OZ PER 1000SF 15 % GAILLARDIA ARISTATA (MERIWETHER GAILLARDIA) 15 % PENSTEMON STRICTUS (ROCKY MT PENSTEMON) 14 % LUPINUS CAUDATUS (TAILCUP LUPINE) 12 % LINUM PERENNE LEWISII (BLUE FLAX) 10 % ERIGERON SPECIOSUS (ASPEN DAISY) 10 % WYETHIA AMPLEXICAULIS (MULES EARS) 5 % AQUILEGIA COERULEA (BLUE COLUMBINE) 5 % ERIOGONUM UMBELLATUM (SULFURFLOWER) 4 % ACHILLEA MILLEFOLIUM (WESTERN YARROW) 3 % PENSTEMON VIRGATUS (WAND PENSTEMON) 2 % AGASTACHE URTICIFOLIA (NETTLELEAF HYSSOP) 2 % FRASERA SPECIOSA (MONUMENT PLANT) 2 % HYEMNOXYS HOOPESII (ORANGE MT DAISY) 1 % HELIANTHELLA QUINQUENRIS (ASPEN SUNFLOWER)	COLLECT AND SUBMIT SAMPLES TO LAB UPON COMPLETION OF ROUGH GRADING AND 2 WEEKS PRIOR TO SOIL PREP WORK AND PLANTING
	POPULUS TREMULOIDES	QUAKING ASPEN	2" CALIPER MIN.	NATURAL	3	40' X 15'	ASPEN GROVE WILDFLOWERS (WESTERN NATIVE SEED) RATE: 8OZ PER 1000SF 15 % GAILLARDIA ARISTATA (MERIWETHER GAILLARDIA) 15 % PENSTEMON STRICTUS (ROCKY MT PENSTEMON) 14 % LUPINUS CAUDATUS (TAILCUP LUPINE) 12 % LINUM PERENNE LEWISII (BLUE FLAX) 10 % ERIGERON SPECIOSUS (ASPEN DAISY) 10 % WYETHIA AMPLEXICAULIS (MULES EARS) 5 % AQUILEGIA COERULEA (BLUE COLUMBINE) 5 % ERIOGONUM UMBELLATUM (SULFURFLOWER) 4 % ACHILLEA MILLEFOLIUM (WESTERN YARROW) 3 % PENSTEMON VIRGATUS (WAND PENSTEMON) 2 % AGASTACHE URTICIFOLIA (NETTLELEAF HYSSOP) 2 % FRASERA SPECIOSA (MONUMENT PLANT) 2 % HYEMNOXYS HOOPESII (ORANGE MT DAISY) 1 % HELIANTHELLA QUINQUENRIS (ASPEN SUNFLOWER)	SEEDING AND SOIL NOTES 1. ALL AREAS TO BE SEEDED SHALL BE AMENDED AND TILLED TO A MINIMUM DEPTH OF 6" PRIOR TO SEEDING 2. SOIL AMENDMENT TYPES, QUANTITIES AND RATES SHALL BE DETERMINED BASED ON THE SOIL ANALYSIS REQUIREMENTS FOR SOIL PREPARATION AND SHALL INCLUDE 2 CUBIC YARDS OF ORGANIC MATERIAL FOR 1000 SQUARE FEET OF EXISTING SOIL MINIMUM. 3. SEEDING TECHNIQUES SHALL BE DETERMINED BASED ON THE RECOMMENDATIONS OF THE SEEDING SUPPLIER AND THE TIME OF YEAR THAT THE SEEDING TAKES PLACE.
SRHUBS								
	CORNUS SERICEA	REDTWIG DOGWOOD	5 GAL		22	4' X 6'	45 % DESCHAMPSIA CESPITOSA (TUFTED HAIRGRASS) 18 % BROMUS CILIATUS (FRINGED BROME) 15 % BECKMANNIA SYZIGACHNE (SLOUGHGRASS) 10 % POA PALUSTRIS (FOWL BLUEGRASS) 4 % AGROSTIS SCABRA (TICKLEGRASS) 4 % CALAMAGROSTIS CANADENSIS (BLUEJOINT REEDGRASS) 2 % JUNCUS ENSIFOLIUS (DAGGER LEAF RUSH) 2 % JUNCUS LONGISTYLIS (MEADOW RUSH)	IRRIGATION NOTES 1. ALL SEEDED AREAS TO RECEIVE TEMPORARY OVERHEAD IRRIGATION FOR THE ESTABLISHMENT PERIOD. ONCE AREAS ARE ESTABLISHED, THE IRRIGATION SHALL BE REMOVED AND SUPPLEMENTAL IRRIGATION SHALL NOT BE REQUIRED. 2. TREES TO RECEIVE SUPPLEMENTAL WATER DURING ESTABLISHMENT. TREES TO BE MANUALLY WATERED BY THE OWNER.
	SYMPHORICARPOS OREOPHILUS	SNOWBERRY	5 GAL		31	3' X 5'		
NATIVE GRASS SEED								
	ASPEN GROVE GRASS MIX FROM WESTERN NATIVE SEED OR APPROVED EQUAL (SPECIES LIST THIS SHEET)	LOW MAINTENANCE NATIVE GRASSES -SEE MIX THIS PAGE	SEED		2 LBS. PER 1000SF		PREPARATION AND SEEDING PER MANUFACTURERS RECOMMENDATIONS	HIGH ALTITUDE RIPARIAN SEED MIX
	ASPEN GROVE WILDFLOWER MIX FROM WESTERN NATIVE SEED OR APPROVED EQUAL (SPECIES LIST THIS SHEET)	LOW MAINTENANCE NATIVE WILDFLOWERS -SEE MIX THIS PAGE	SEED		8 OZ. PER 1000SF		PREPARATION AND SEEDING PER MANUFACTURERS RECOMMENDATIONS	
	HIGH ALTITUDE RIPARIAN SEED MIX FROM WESTERN NATIVE SEED OR APPROVED EQUAL (SPECIES LIST THIS SHEET)	RIPARIAN GRASSES AND RUSHES -SEE MIX THIS PAGE	SEED		8 OZ. PER 1000SF		PREPARATION AND SEEDING PER MANUFACTURERS RECOMMENDATIONS	





SCALE: 1" = 60'
CONTROL DETAIL



SCALE: 1" = 20'

LEGEND

- EXISTING 1/2" REBAR (NO CAP)
- EXISTING ALUMINUM CAP - PLS 31942
- ▲ EXISTING MONUMENT AS DESCRIBED
- ▲ SET MONUMENT AS DESCRIBED
- ⊕ FIRE HYDRANT
- ⊙ CTV ENCLOSURE
- ⊙ SANITARY SEWER MANHOLE
- CONCRETE
- (M) DIMENSION AS MEASURED
- (P) DIMENSION AS PLATTED

LEGAL DESCRIPTION: (FROM THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM)

TRACT 3, MILLER SUBDIVISION, COUNTY OF GRAND, STATE OF COLORADO.

BASIS FOR BEARINGS:

THE WEST LINE OF THE ABOVE DESCRIBED PROPERTY, BEING MONUMENTED AS SHOWN HEREON, IS ASSUMED TO BEAR N11°54'36"W. ALL OTHER BEARINGS ARE RELATIVE THERETO.

NOTICE:

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

THE LINEAL UNIT USED AND SHOWN HEREON IS U. S. SURVEY FOOT.

EXCEPT AS SHOWN OR SPECIFICALLY STATED IN THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS, ANY OTHER FACTS.

TABLE A NOTES:

THERE MAY BE BURIED UTILITIES ON OR ADJACENT TO THIS PROPERTY THAT ARE NOT SHOWN DUE TO INSUFFICIENT SURFACE EVIDENCE. NO STATEMENT IS MADE CONCERNING SUBSURFACE CONDITIONS OR THE EXISTENCE OF OVERHEAD OR UNDERGROUND CONTAINERS OR FACILITIES WHICH MAY AFFECT THE DEVELOPMENT OF THIS TRACT.

THIS LOT LIES WITHIN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS DELINEATED IN THE FEMA FLOOD INSURANCE RATE MAP, MAP NO. 08049C0991C EFFECTIVE JANUARY 2, 2008.

AT THE TIME OF SURVEY THERE WAS NO OBSERVED EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION, BUILDING ADDITIONS, RECENT STREET OR SIDEWALK CONSTRUCTION/REPAIRS.

AT THE TIME OF THE SURVEY THERE WAS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.

ELEVATIONS ARE SHOWN IN APPROXIMATE NGS NAVD88 DATUM. NO BENCHMARK.

TEMPORARY BENCHMARK (TBM): THE TOP OF THE SET 5/8" REBAR & CAP - PLS 6973 - LOCATED AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED PROPERTY. ELEVATION: 8798.97'

FOR OWNERSHIP OF THIS TRACT OF LAND, EASEMENTS AND/OR ENCUMBRANCES AFFECTING THIS TRACT OF LAND, R.W. BAYER & ASSOCIATES RELIED UPON THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM:

THIS PARCEL SUBJECT TO THE EXCEPTIONS CONTAINED UNDER SCHEDULE B - II: ITEM# DESCRIPTION (COMMENT BY BAYER & ASSOCIATES, INC. IN PARENTHESIS)

ITEMS 1 THROUGH 8 ARE STANDARD EXCEPTIONS
9. RESERVATIONS, EXCEPTIONS AND RIGHTS OF WAY, AS RESERVED IN THE UNITED STATES PATENT RECORDED IN BOOK 17, PAGE 196.

10. EASEMENT AND RIGHT OF WAY GRANTED TO MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY RECORDED IN BOOK 87, PAGE 522. (EASEMENT DESCRIPTION INSUFFICIENT FOR PLOTTING PURPOSES.)

11. EASEMENT AND RIGHT OF WAY GRANTED TO GRAND COUNTY LIGHT, HEAT AND POWER COMPANY RECORDED IN BOOK 87, PAGE 537. (DOES NOT AFFECT THE SUBJECT PROPERTY.)

12. EASEMENT AND RIGHT OF WAY GRANTED MOUNTAIN PARKS ELECTRIC, INC. BY INSTRUMENT RECORDED IN BOOK 100, PAGE 457. (DOES NOT AFFECT THE SUBJECT PROPERTY.)

13. DEDICATIONS, EASEMENTS AND RIGHTS OF WAY, AS SET FORTH ON PLAT FOR MILLER SUBDIVISION RECORDED SEPTEMBER 17, 1953, AT RECEPTION NO. 76470. (AFFECTS THE SUBJECT PROPERTY. LIONS GATE DRIVE RIGHT OF WAY SHOWN.)

14. TERMS, CONDITIONS, STIPULATIONS AND OBLIGATIONS AS CONTAINED IN EASEMENT DEED, RECORDED JUNE 5, 2013 AT RECEPTION NO. 2013004967. (AFFECTS THE SUBJECT PROPERTY, NOT SHOWN.)

CERTIFICATE OF SURVEY:

TO WILLIAM MCDONALD, ASCENDANT TITLE INC.; TIMOTHY JOHNSON; CARL BANTA; BRIAN D. HOGUND; AND SUSAN M. NEUMANN:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 7(A), AND 15 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON MAY 30, 2021.



RAYMOND W. BAYER, REGISTRATION NO. 6973, WITHIN THE STATE OF COLORADO

COUNTY SURVEYOR'S CERTIFICATE:

DEPOSITED THIS _____ DAY OF _____ 20____ AT _____ M. IN BOOK _____ OF THE COUNTY SURVEYOR'S LAND SURVEY PLATS / RIGHTS OF WAY SURVEYS AT PAGE _____ RECEPTION NO. _____ THIS LAND SURVEY PLAT COMPLIES WITH SECTION 38-51-106, COLORADO REVISED STATUTES.

COUNTY SURVEYOR

R.W. BAYER & ASSOCIATES, INC.
12170 TEJON ST., NO. 700
WESTMINSTER, COLORADO 80234
(303) 452-4433 RWBSURVEYING@HOTMAIL.COM

CAD FILE: 21052/21052.DWG REVISIONS:

ALTA/NSPS LAND TITLE SURVEY
TRACT 3, MILLER SUBDIVISION, BEING A PART OF THE NE 1/4 OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 75 WEST OF THE 6TH PM, COUNTY OF GRAND, STATE OF COLORADO

SCALE: 1" = 10'	DATE: JUNE 1, 2021	DRW BY: J.A.B.	CKD BY: R.W.B.	PROJ. NO: 2021-052
BOOK: 719	PAGE: 41	FILE NO: 33-1S.75-1L	SHEET: 1 OF 1	

Hugh Bell

From: Barbara Lawler <haightlawler@gmail.com>
Sent: Tuesday, March 7, 2023 6:06 PM
To: Hugh Bell
Subject: Variances for 365 Lions Gate Drive

Caution! This message was sent from outside your organization.

March 7, 2023

To: Mr. Hugh Bell, Planner, Town of Winter Park, O.O. Box 3327, Winter Park, CO 80482
From: Barbara Lawler, Braidwood, 377 Lions Gate Dr., Winter Park, CO, Unit 101
Re: Variance Requests, Case Numbers - PLN23-010, PLN23-011, PLN23-012

Dear Mr. Bell;

I am responding to the Variance Requests for 365 Lions Gate Drive. The applicant states that all 4 criteria have been met. Please consider the following perspectives and comments:

Hardship:

“unnecessary physical hardship that would deprive the Applicant of privileges enjoyed by the owners of other properties in the same zone district;” What about the consequences and hardships for Braidwood? If these variances are granted, the enjoyment of our units will absolutely be negatively impacted. All of our decks face this property as well as our main living areas.

Health, Safety, and Welfare:

I believe that the granting of these variances is potentially unsafe. It appears that the proposed new building, with these variances, will be **extremely** close to Braidwood. This does not feel safe and as you know, we have first-hand experience with fire devastation and we are all aware of the catastrophic Marshall fire as well. I also believe that the tandem parking in front of the house/residence will be hazardous for those driving on Lions Gate Dr. It appears that if cars need to be moved, folks will have to back out onto the main thoroughfare and potentially need to sit and wait for another car to vacate the space(s). At best, this seems extremely awkward.

On a side note, why does a house/residence need 6 tandem parking spaces?

Unusual Circumstances:

It is unclear to me what “the plight” actually is. Codes were changed for various reasons to benefit property owners and for the welfare of all properties.

Character:

These variances will absolutely affect the character of the locality. Views will be lost and the ambiance of mountain living will be detrimentally affected. I understand that this property is zoned for multi-family structures but the proximity of the new building combined with so much asphalt does not work well with our building or the natural surroundings.

Last but not least, snow storage and drainage are **very big** concerns as well. It is unclear to me if these issues are being addressed.

Thank you for your time and consideration.

Regards,

Barbara Haight Lawler

Hugh Bell

From: jillcallahan49@gmail.com
Sent: Tuesday, March 7, 2023 1:55 PM
To: Hugh Bell
Cc: Greg Zerban; Kim
Subject: RE: PLN23-010 PLN23-011 PLN23-012As

Caution! This message was sent from outside your organization.

Hugh,

As property owners in Braidwood, Unit 303 since 2006 we strongly concur with the arguments presented by Greg Zerban and Kim Konkell.

We also are extremely concerned about the water remediation from that lot. The water should not be allowed to flow from the new development to adjacent lots as this could result in future structural issues.

We also would like to know why we had no previous knowledge of this development. Is there a hidden agenda there? As tax payers and long term owners we feel we should have been made aware of this development as it has significant ramifications to our property. As long term tax payers and owners we feel it would have been common courtesy to advise us of this development.

Bill and Jill Callahan

From: [Kim](#)
Sent: Tuesday, March 7, 2023 1:42 PM
To: hbelle@wpgov.com
Cc: [Greg Zerban](#)
Subject: PLN23-010 PLN23-011 PLN23-012

Hugh

As property owners in Braidwood Unit 103 we would like to state our opposition to three variance requests to be discussed Tuesday March 14 2023.

1. PLN23-010 Variance request to RESIDENTIAL DISTRICTS AND USES, minimum side yard setback. The Town of Winter Park created minimum setback requirements for both safety and aesthetics. Allowing a large structure to be built 9 inches from the property line places two very large structures very close together. The 2021 Marshall fire in Denver is an example of rapid fire spread from structure to structure in a catastrophic event. The 2020 Braidwood fire caused minimal damage to the neighboring property because of the separation of the buildings. Building this structure 9 inches from the property line defeats the purpose of safety and allowing a variance establishes a negative precedent.
2. PLN23-010 Variance request to Bufferyards. The Town of Winter Park established Bufferyards in their zoning requirements to maintain a pleasing aesthetic for the town and ensure the mountain community remains as such. Many trees will be eliminated in the development of this lot and not requiring the minimum bufferyard to be replaced defeats this purpose and allowing a variance establishes a negative precedent.
3. PLN23-012 Variance request to Parking Design Standards. The Town of Winter Park established parking design standards for safety and to ensure adequate parking is available for the proposed number of units. Allowing tandem

parking causes concern for exit in case of emergency and also raises the question of adequate snow storage for the property and runoff/drainage of the same without impacting neighboring properties. Allowing a variance to this standard establishes a negative precedent.

The developer claims "financial hardship" in having to revisit plans that have already been created. We feel that granting variances and allowing these inadequate plans to move forward is shortsighted and bending to a developer without keeping the long term goals of the town as well as the safety of its residents in mind.

Thank you
Greg Zerban
Kim Konkel

Hugh Bell

From: Doug Moore <dsmoore@q.com>
Sent: Tuesday, March 7, 2023 3:58 PM
To: Hugh Bell
Subject: Variance Requests for Case PLN23-012, 365 Lions Gate Dr., Tract 3 Miller Subdivision

Caution! This message was sent from outside your organization.

Hugh,

The Braidwood HOA and each owner would like to voice our disagreement with the three variance requests that have been submitted to the Board of Variances for the Development of the property at 365 Lions Gate Drive. The proposed development is next door to our building at 377 Lion Gate and will most impact our property.

We do agree that the owner of the property has the right to develop the property, However, in our opinion, it should be developed within the standards and requirements of the town of Winter Park without variances that would infringe on our property and the enjoyment of our property which would be in close proximity to the proposed building.

With regards to the tandem parking, it is our opinion that we do not really care how the cars are parked, only that it does not affect our property or congest Lions Gate. Yet, in our view of the site plan, there is little room for adequate snow storage on the developed property, so where does the snow go? Given that the driveway to access the condo building is on the north side next to our building it would seem logical that snow would be plowed onto our property and not on to the existing house for obvious reasons. This, presents problems for our foundation, back patios and the Xcel Energy box if there is a lot of snow to fall and be pushed toward our building and melt. This is not a workable situation for us and most likely not for Xcel either. Furthermore, the tandem parking plan does not seem practical or desirable from whomever uses these spots. It only seems practical from the developer's perspective to put more development on less ground and would only lead to future conflicts among residents of the property.

Our other major issue with the proposed variances is the maximizing of the proposed building's proximity to the property lines and encroachments on the sides. This design is unacceptable to us as we feel their building would be too close to ours, thus creating a fire/life safety issues if a fire event were to occur. Additionally, potential diminishment of the value and enjoyment of our property with a large block building in close proximity blocking all sunlight to the units close to the new structure. The Town of Winter Park established property line setbacks for multiple reasons to include safety and aesthetics, please enforce them. If the new building cannot fit within the land use and open space parameters of the town regulations, then it should not be built as shown on the plans and a redesign should be required to more effectively use the space for the future residents and neighboring properties. This might require removing the house to make room for the larger building.

Hugh, as a group we do not support the variance requests that are being submitted to the town and all of them will have the most impact on us, the Braidwood owners. We ask that the Board of Variances deny these requests as submitted.

Sincerely,

Doug Moore

Braidwood HOA President

Owner of Unit 104

Hugh Bell

From: Kim <konkelator@gmail.com>
Sent: Tuesday, March 7, 2023 12:42 PM
To: Hugh Bell
Cc: Greg Zerban
Subject: PLN23-010 PLN23-011 PLN23-012

Caution! This message was sent from outside your organization.

Hugh

As property owners in Braidwood Unit 103 we would like to state our opposition to three variance requests to be discussed Tuesday March 14 2023.

1. PLN23-010 Variance request to RESIDENTIAL DISTRICTS AND USES, minimum side yard setback. The Town of Winter Park created minimum setback requirements for both safety and aesthetics. Allowing a large structure to be built 9 inches from the property line places two very large structures very close together. The 2021 Marshall fire in Denver is an example of rapid fire spread from structure to structure in a catastrophic event. The 2020 Braidwood fire caused minimal damage to the neighboring property because of the separation of the buildings. Building this structure 9 inches from the property line defeats the purpose of safety and allowing a variance establishes a negative precedent.
2. PLN23-010 Variance request to Bufferyards. The Town of Winter Park established Bufferyards in their zoning requirements to maintain a pleasing aesthetic for the town and ensure the mountain community remains as such. Many trees will be eliminated in the development of this lot and not requiring the minimum bufferyard to be replaced defeats this purpose and allowing a variance establishes a negative precedent.
3. PLN23-012 Variance request to Parking Design Standards. The Town of Winter Park established parking design standards for safety and to ensure adequate parking is available for the proposed number of units. Allowing tandem parking causes concern for exit in case of emergency and also raises the question of adequate snow storage for the property and runoff/drainage of the same without impacting neighboring properties. Allowing a variance to this standard establishes a negative precedent.

The developer claims "financial hardship" in having to revisit plans that have already been created. We feel that granting variances and allowing these inadequate plans to move forward is shortsighted and bending to a developer without keeping the long term goals of the town as well as the safety of its residents in mind.

Thank you
Greg Zerban
Kim Konkel

Hugh Bell

From: Holly/Bob Asmuth <hbasmath@gmail.com>
Sent: Tuesday, February 28, 2023 10:41 AM
To: Hugh Bell; hbasmath@gmail.com
Subject: Variance Request Case #PLN23-012

Caution! This message was sent from outside your organization.

To The Town of Winter Park Board of Adjustment,

This letter is in regards to William MacDonald property at 365 Lions Gate Case #PLN23-012.

We are direct neighbors at 345 Lions Gate, and sharing a property line with the proposed 13 unit project that you are reviewing.

We feel that the proposed structure is way to large, especially since there already is an existing home on the property. It is hard to imagine putting 13 units plus all the necessary parking in such a small area. Also concern for fire safety access. At this time we have no intention of utilizing our extra building site. However if we did or a future owner wanted to build would you allow us to build to our property line??? How would that work? We are opposed to any variance.

When we bought our home in July 2021, we were aware of the extra building possibility, but never could imagine a project of this magnitude.

We totally understand that he has the right to build, but the scale of this project seems extremely excessive.

Respectfully,

Bob & Holly Asmuth

345 Lions Gate

PS - Please confirm that this email was received

Hugh Bell

From: Scott Chapman <schapman@ksu.edu>
Sent: Tuesday, March 7, 2023 4:49 PM
To: Hugh Bell
Subject: Ref: Case PLN23-010 Variance at 365 Lions Gate Drive

Caution! This message was sent from outside your organization.

Hugh Bell, Planner
Town of Winter Park

As owner of Unit 204 In Braidwood adjacent to this property, I would like to express my concern related to the proposed variance,

1. This variance allows two relatively tall buildings to be in very close proximity. Important considerations are fire safety and potential effects on our adjoining property. If either property were to catch fire there would be little chance of it not spreading to the other.
2. A potential negative effect on Braidwood is runoff. Our association successfully installed tile drains to keep our own runoff from entering the building but would not handle additional runoff from the adjacent property. Are measures in place to keep roof, pavement, and snow storage runoff from entering our property.
3. Snow removal and storage. This is a concern due to the proximity of the drive and buildings to the property line. Does snow from the roof and the drive remain on the property?
4. Will snow storage be adequate with a drainage path not detrimental to adjoining property.

Thank you for considering our concerns on this variance.

Sincerely Scott & Mary Jane Chapman
Braidwood 204

5.

Scott Chapman,
District Extension Agent, emeritus
K-State Research and Extension
785-738-0399



MEMO

TO Board of Adjustment
FROM Hugh Bell, Planner
THRU James Shockey, Community Development Director
DATE March 14, 2023
RE Tandem Parking Variance Request – 365 Lions Gate Drive – Tract 3, Miller Subdivision
(PLN23-012)

Applicant: William MacDonald

Owner: William MacDonald

Description of Property:

The property is zoned D-C, Destination Center, with the following entitlements:

Setbacks – 0' front / 0' rear / 5' side / 0' side corner

Building Coverage – None

Building Height – 55'

Variance Request:

Request to construct five (5) sets of tandem parking spaces for a total of ten (10) parking spaces.

Owner's Reasons Why the Variance Should Be Granted:

See application for details.

Applicable Provision(s) of the Unified Development Code:

§ 3-H-5, PARKING DESIGN STANDARDS

Tandem parking spaces are not listed as a type of permitted parking configuration.

§ 3-H-5(D), LOCATION OF REQUIRED OFF-STREET PARKING SPACES

1. All parking areas shall be separated from adjacent property by the use of open space areas of a minimum dimension of seven feet (7) and setback fifteen feet (15) from all rights-of-way.

§ 5-F-3, VARIANCE

- A. Generally. Variances are authorizations to depart from the strict application of the standards of this UDC. In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this UDC as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or traffic conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance. It is not the intent of this Section to allow variances in the classification of uses of property. They are granted by the Board of Adjustment (BOA) by C.R.S., § 31-23-307 et seq., as amended.

Criteria to Grant Variance:

§ 5-F-3(F), Approval Criteria The variance request shall meet all four (4) of the following criteria for approval:

1. Hardship. 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;
2. Health, Safety, and Welfare. 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;
3. Unusual Circumstances. 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; and
4. Character. That the granting of the variance will not alter the essential character of the locality.

§ 5-B-8 Public Notice Requirements:

This variance request has had proper public notification pursuant to § 5-B-8 of the UDC. A Newspaper Publication (PUB) was published in the Middle Park Times on February 16, 2023, providing notification of the meeting and requesting comments. A Surrounding Property Owners Mailing (ML) was sent to property owners within 300' of the property on February 26, 2023. A Property Posting (PO) was posted on February 22, 2023.

After the ML was sent, staff received a complaint from a property owner within Braidwood Condominiums, which is within the 300' radius, that no ML was received. Staff checked the list utilized to create the address labels and saw that indeed the owner was not on the list. Staff discovered the issue stems from the Grand County Assessor, as ownership information doesn't exist within their database for many condominium units in Braidwood Condominiums and Lions Gate Pines Lodge Condominiums, both of which are within the radius. Staff has reached out to the Assessor notifying them of this error but given staff has utilized the same tool to create address labels in the past without issue, staff believes they made a best faith effort to identify the most current owners of property within 300', as stipulated in the UDC, § 5-B-8(D)(3)(a).

Six (6) comments have been received as of March 10, 2023 and are attached in the packet. All comments oppose the request.

Staff Comments:

Applicant proposes constructing a new multifamily building that will coexist with the existing single-family dwelling unit (DU). Two (2) Code provisions are associated with this variance request to construct five (5) sets of tandem parking spaces for a total of ten (10) parking spaces. First, tandem parking spaces are not a permitted parking configuration in § 3-H-5, *Parking Design Standards*. Second, three (3) sets of tandem parking spaces, all which are east of the existing DU, are proposed to encroach into the required 15' separation between parking spaces and ROW, which in this case is Lions Gate Drive. The spaces encroach by 10'-4".

Applicant does not cite a clear hardship but states that should the tandem configuration be denied, it will require a reduction in the number of DU, which they state will "[deprive] the owner their rights to develop the property to its highest and best use" and will prioritize vehicles over residences. While it is true that the site is limited on space, this is due to the applicant's decision to keep the existing single-family DU, along with proposing a high development intensity. The existing single-family DU precludes a more efficient site layout, but if the applicant desires to keep it, the scale of development could be reduced so that the site can accommodate parking spaces that conform with § 3-H-5, *Parking Design Standards*. The tandem parking spaces as depicted on the site plan will require vehicles to back up onto Lions Gate Drive, a public ROW classified as a "major collector" roadway in the Standards and Specifications for Design and Construction (the "Standards"). § 4.3.3

of the Standards prohibits vehicles from backing onto collector roadways from driveways; technically, the access into the property will serve more than 20 ADT (average daily traffic), so it is classified as a roadway rather than a driveway and therefore must meet the requirements set out in Chapter 3 of the Standards (Standards, 4.1, *Basic Design Policy and Permitting*).

The roadway classification above driveway is a “low-volume road system”, which supports between 20 ADT and 450 ADT (Standards, Table 3.3, *Roadway Classification and Minimum Design Criteria*). Given low-volume roadways handle more vehicles than driveways and given the low-volume roadway intersects with a major collector roadway, i.e., Lions Gate Drive, staff cannot support the three (3) sets of tandem parking spaces located east of the existing single-family DU, as the vehicles would need to back onto Lions Gate Drive, posing a safety threat to vehicles entering and exiting the property and to vehicles travelling on the road. The Town Engineer and Public Works Department both provided letters recommending denial of this variance request for that reason (attached and dated March 7, 2023 and March 8, 2023 respectively) as well.

Staff believes an alternative design could meet the parking requirements. Proposing fewer DU would result in fewer required parking spaces, which would allow for a site reconfiguration that could more comfortably support non-tandem parking spaces. The hardship arises from the applicant’s decision to develop a constrained lot to a high density, which is not an unusual circumstance. Code, § 5-F-3(F)(3).

Given that the Major Site Plan Application hasn’t received approval yet, nor yet been scheduled for a Planning Commission hearing, staff believes this is an ideal time to modify the design to conform with the parking design requirements.

Staff Recommendation:

Staff finds the parking configuration poses a threat to public safety and does not support approval of this variance request for the following reasons. The parking configuration for the three (3) sets of tandem parking spaces east of the existing DU will increase the likelihood of accidents, as vehicles will need to back out onto a major collector roadway. Code, § 5-F-3(F)(2). Additionally, the parking area’s 4’-8” distance from Lions Gate Drive may create difficulty for snow plowing operations in winter if vehicles are not parked completely within the confines of the parking stripes, which seems likely given that the parking striping will likely be covered by snow and ice in the winter like other uncovered and unheated parking areas around Town. Code, § 5-F-3(F)(2).

However, this is a decision for the Board to make, and the Board may choose to approve or deny based on the testimony and evidence it hears. Two sample motions are included below for convenience only.

Sample Motion for Denial:

I move to deny the request for the reasons discussed today, finding the applicant fails to meet all four criteria required by the UDC, § 5-F-3(F) in that:

1. The strict or literal interpretation and enforcement of the specified regulation would not 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 ***[insert explanation supported by evidence here];***
2. That the granting of the variance will be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity because ***[insert explanation supported by evidence here];***

3. The plight of the owner is not due to unusual circumstances at the property of the variance that do not generally apply to other properties in the same zone district because ***[insert explanation supported by evidence here]; and***
4. That the granting of the variance will alter the essential character of the locality because ***[insert explanation supported by evidence here]***.

Sample Motion for Approval:

I move to approve the request for the reasons discussed today, finding the applicant meets all four criteria required by the UDC, § 5-F-3(F) in that:

1. 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 ***[insert explanation supported by evidence here]***;
2. 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 ***[insert explanation supported by evidence here]***;
3. 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 ***[insert explanation supported by evidence here]; and***
4. That the granting of the variance will not alter the essential character of the locality because ***[insert explanation supported by evidence here]***.

Date: 02 / 16 / 2023

Applicant Name: William MacDonald

Mailing Address: PO Box 216 Fraser, CO 80442

Phone: (303)506-4914

Email: will.c.macdonald@gmail.co

Applicant is the: Property Owner Other: Owner/ Developer

Street address of property: 365 Lion's Gate Drive Winter Park, CO 80482

Legal description of property: Tract 3, Miller Subdivision, County of Grand, State of Colorado

Brief description of the variance requested:

The applicant for the project at 365 Lion's Gate Way is requesting a variance from the parking regulations by using "tandem" parking to meet the parking count on the site. the project will meet the full number of stalls required by the code.

Tandem stalls will be assigned to a single unit so there wil not be overlap between usage in units. the proposed tandem stalls will be 40' x 10' .

Indicate which conditions listed below relate to the property for which variance is requested. The variance request shall meet all four (4) following criteria for approval:

- Hardship.** 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;
- Health, Safety, and Welfare.** 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;
- Unusual Circumstances.** 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; and
- Character.** That the granting of the variance will not alter the essential character of the locality.

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

Applicant Signature: _____



February 16, 2023

Hugh Bell – Town Planner
James Shockey – Community Development Director
TOWP BOA
50 Vasquez Road
P.O. Box 3327
Winter Park CO. 80482

Re: Variance Request

365 Lions gate Drive
Winter Park CO
Tract 3, Miller Subdivision
William MacDonald

Dear Hugh, James, and Town of Winter Park Board of Adjustment,

The applicant for the project at 359/365 Lion's Gate Way is requesting a variance/alternative (under Chap. 3. 3-H-4) in allowing tandem parking on the project site. In order to meet the full number of parking stalls required by the code (per Chap 3. Table 3-H-3-1), the project proposes 5 sets of tandem stalls (40' x 10') per the attached site plan. The tandem stalls will be assigned to specific units so that the front cars will not be blocked in by a neighbor, one set would serve the existing residence.

Tandem stalls are becoming an increasingly common way to provide the required vehicle spaces while maximizing residential density on the site. The project team believes that this layout fulfills the intent of the parking requirements by providing the required vehicle spaces, while meeting the higher goal of providing more housing near the center of Winter Park.

It is our hope that the Town and the BOA will review the attached exhibits and understand that our request for variance meets the intent of the code, and provides a simple workable solution that still provides the full amount or required spaces and allowing the maximum housing possible on the site, honoring the intent of the DC Zone.

Thank you,

A handwritten signature in black ink that reads "Will Mac Donald". The signature is written in a cursive, flowing style.

William Mac Donald,
Owner, Winter Park Resident

1.Hardship. 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;

If the Town and the BOA deem that the tandem spaces are not meet the intent of the parking regulations, it will likely require a reduction in dwelling units, depriving the owner their rights to develop the property to its highest and best use, as well as continuing prioritizing vehicular uses over residential, to the detriment of the community. The desire of the DC Zone to create density in the town center and the reality of the relatively small lots in the area, requires creativity in design and application code requirements. Tandem parking is a widely accepted solution to balancing the competing factor of residential and vehicular requirements.

2.Health, Safety, and Welfare. 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;

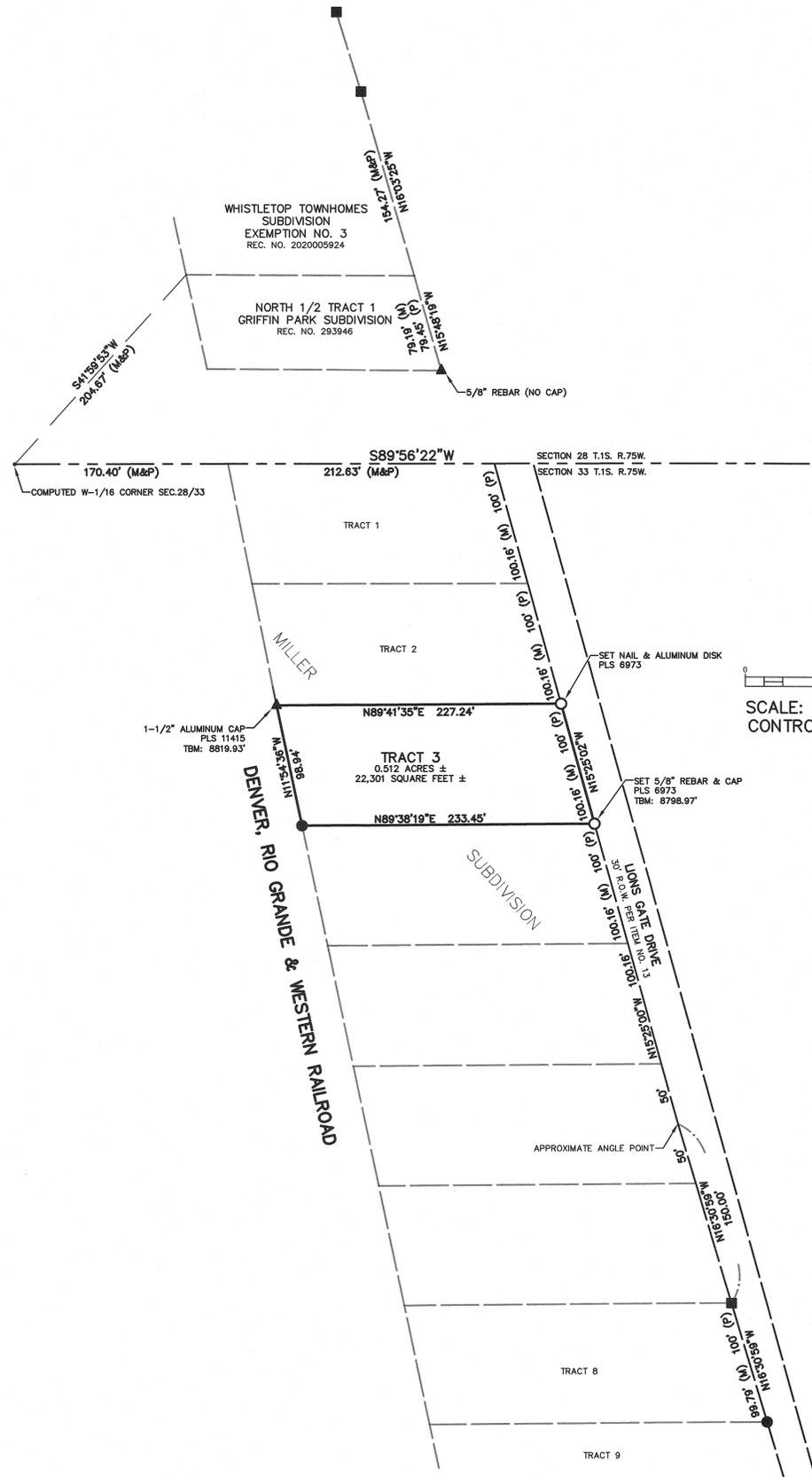
Approval of the parking layout will have no effect on health, safety, and welfare of the public or on other properties in the vicinity. The layout will slightly deviate from the norm, but this will only minimally affect residents, and is similar to the very familiar situation of having a parked driveway in front of a garage. Prospective tenants will be made aware of the parking situation prior to making any commitments and the layout should have no effect on the quality of life.

3. Unusual Circumstances. 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; and character. That the granting of the variance will not alter the essential character of the locality.

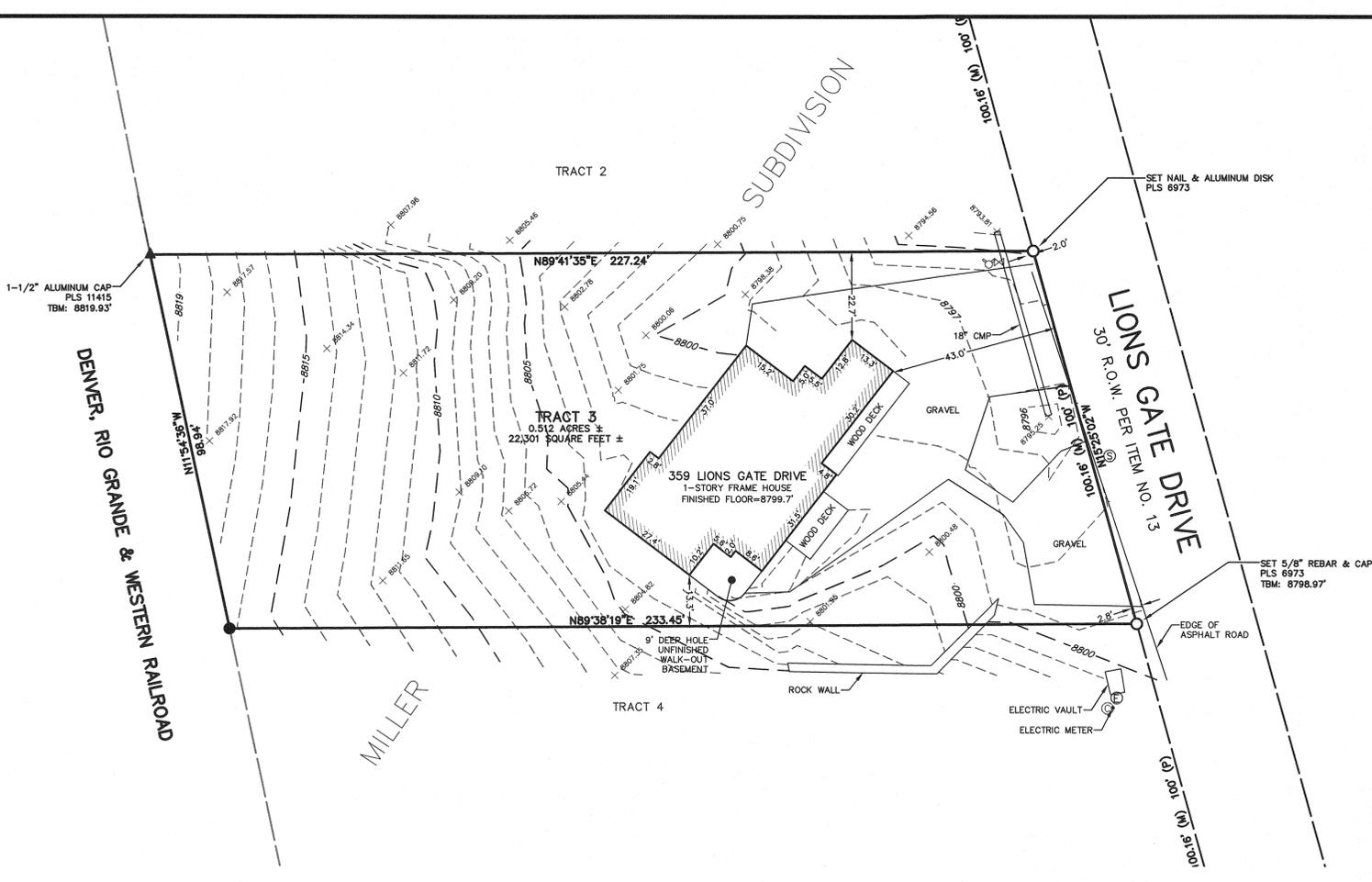
As noted above the layout is necessary to maximize housing in the DC Zone which is the intent of the Town. The layout will not affect the character or quality of the zone as it moves toward higher density and looks to minimize the amount of space devoted to vehicles. The request is in line with the code language for parking alternatives in that “ *The end product shall be a more efficient use of surface [area](#) with less land area devoted to parking (Chap.3-3-A-1)* ” Based on discussions with the Town tandem parking is being looked at as an addition to the town code in order to meet the exact situation on our site.

4.Character. That the granting of the variance will not alter the essential character of the locality.

As the Lion’s Gate corridor increases in density, creativity in handling parking will be an essential component of preserving landscape spaces. Tandem parking is a good tool to use to preserve these spaces while maintaining resident flexibility. The allowance of tandem spaces is consistent with the current character which is has may head in parking stalls along the street. In this case the plan includes as much screening as possible to provide separation between parking and the street corridor.



SCALE: 1" = 60'
CONTROL DETAIL



SCALE: 1" = 20'

LEGEND

- EXISTING 1/2" REBAR (NO CAP)
- EXISTING ALUMINUM CAP - PLS 31942
- ▲ EXISTING MONUMENT AS DESCRIBED
- ▲ SET MONUMENT AS DESCRIBED
- ⊕ FIRE HYDRANT
- ⊙ CTV ENCLOSURE
- ⊙ SANITARY SEWER MANHOLE
- CONCRETE
- (M) DIMENSION AS MEASURED
- (P) DIMENSION AS PLATTED

LEGAL DESCRIPTION: (FROM THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM)
TRACT 3, MILLER SUBDIVISION, COUNTY OF GRAND, STATE OF COLORADO.
BASIS FOR BEARINGS:
THE WEST LINE OF THE ABOVE DESCRIBED PROPERTY, BEING MONUMENTED AS SHOWN HEREON, IS ASSUMED TO BEAR N11°54'36"W. ALL OTHER BEARINGS ARE RELATIVE THERETO.
NOTICE:
ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
THE LINEAL UNIT USED AND SHOWN HEREON IS U. S. SURVEY FOOT.
EXCEPT AS SHOWN OR SPECIFICALLY STATED IN THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS WHICH WERE VISIBLE AT THE TIME OF MAKING THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS, ANY OTHER FACTS.
TABLE A NOTES:
THERE MAY BE BURIED UTILITIES ON OR ADJACENT TO THIS PROPERTY THAT ARE NOT SHOWN DUE TO INSUFFICIENT SURFACE EVIDENCE. NO STATEMENT IS MADE CONCERNING SUBSURFACE CONDITIONS OR THE EXISTENCE OF OVERHEAD OR UNDERGROUND CONTAINERS OR FACILITIES WHICH MAY AFFECT THE DEVELOPMENT OF THIS TRACT.
THIS LOT LIES WITHIN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS DELINEATED IN THE FEMA FLOOD INSURANCE RATE MAP, MAP NO. 08049C0991C EFFECTIVE JANUARY 2, 2008.
AT THE TIME OF SURVEY THERE WAS NO OBSERVED EVIDENCE OF EARTH MOVING WORK, BUILDING CONSTRUCTION, BUILDING ADDITIONS, RECENT STREET OR SIDEWALK CONSTRUCTION/REPAIRS.
AT THE TIME OF THE SURVEY THERE WAS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.
ELEVATIONS ARE SHOWN IN APPROXIMATE NGS NAVD88 DATUM. NO BENCHMARK.
TEMPORARY BENCHMARK (TBM): THE TOP OF THE SET 5/8" REBAR & CAP - PLS 6973 - LOCATED AT THE SOUTHEAST CORNER OF THE ABOVE DESCRIBED PROPERTY. ELEVATION: 8798.97'

FOR OWNERSHIP OF THIS TRACT OF LAND, EASEMENTS AND/OR ENCUMBRANCES AFFECTING THIS TRACT OF LAND, R.W. BAYER & ASSOCIATES RELIED UPON THE ASCENDANT TITLE INC. COMMITMENT NO. CO-18-12797 EFFECTIVE AUGUST 10, 2018 AT 12:00 AM:
THIS PARCEL SUBJECT TO THE EXCEPTIONS CONTAINED UNDER SCHEDULE B - II; ITEM# DESCRIPTION (COMMENT BY BAYER & ASSOCIATES, INC. IN PARENTHESIS)
ITEMS 1 THROUGH 8 ARE STANDARD EXCEPTIONS
9. RESERVATIONS, EXCEPTIONS AND RIGHTS OF WAY, AS RESERVED IN THE UNITED STATES PATENT RECORDED IN BOOK 17, PAGE 196.
10. EASEMENT AND RIGHT OF WAY GRANTED TO MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY RECORDED IN BOOK 87, PAGE 522. (EASEMENT DESCRIPTION INSUFFICIENT FOR PLOTTING PURPOSES.)
11. EASEMENT AND RIGHT OF WAY GRANTED TO GRAND COUNTY LIGHT, HEAT AND POWER COMPANY RECORDED IN BOOK 87, PAGE 537. (DOES NOT AFFECT THE SUBJECT PROPERTY.)
12. EASEMENT AND RIGHT OF WAY GRANTED MOUNTAIN PARKS ELECTRIC, INC. BY INSTRUMENT RECORDED IN BOOK 100, PAGE 457. (DOES NOT AFFECT THE SUBJECT PROPERTY.)
13. DEDICATIONS, EASEMENTS AND RIGHTS OF WAY, AS SET FORTH ON PLAT FOR MILLER SUBDIVISION RECORDED SEPTEMBER 17, 1953, AT RECEPTION NO. 76470. (AFFECTS THE SUBJECT PROPERTY. LIONS GATE DRIVE RIGHT OF WAY SHOWN.)
14. TERMS, CONDITIONS, STIPULATIONS AND OBLIGATIONS AS CONTAINED IN EASEMENT DEED, RECORDED JUNE 5, 2013 AT RECEPTION NO. 2013004967. (AFFECTS THE SUBJECT PROPERTY, NOT SHOWN.)
CERTIFICATE OF SURVEY:
TO WILLIAM McDONALD, ASCENDANT TITLE INC.; TIMOTHY JOHNSON; CARL BANTA; BRIAN D. HOGUND; AND SUSAN M. NEUMANN:
THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH 2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 7(A), AND 15 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON MAY 30, 2021.



RAYMOND W. BAYER, REGISTRATION NO. 6973, WITHIN THE STATE OF COLORADO
COUNTY SURVEYOR'S CERTIFICATE:
DEPOSITED THIS _____ DAY OF _____ 20____ AT _____ M. IN BOOK _____ OF THE COUNTY SURVEYOR'S LAND SURVEY PLATS / RIGHTS OF WAY SURVEYS AT PAGE _____ RECEPTION NO. _____ THIS LAND SURVEY PLAT COMPLIES WITH SECTION 38-51-106, COLORADO REVISED STATUTES.
COUNTY SURVEYOR _____

R.W. BAYER & ASSOCIATES, INC.
12170 TEJON ST., NO. 700
WESTMINSTER, COLORADO 80234
(303) 452-4433 RWBSURVEYING@HOTMAIL.COM

CAD FILE: 21052/21052.DWG REVISIONS:

ALTA/NSPS LAND TITLE SURVEY
TRACT 3, MILLER SUBDIVISION, BEING A PART OF THE NE 1/4 OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 75 WEST OF THE 6TH PM, COUNTY OF GRAND, STATE OF COLORADO

SCALE: 1" = 10'	DATE: JUNE 1, 2021	DRW BY: J.A.B.	CKD BY: R.W.B.	PROJ. NO: 2021-052
BOOK: 719	PAGE: 41	FILE NO: 33-1S.75-1L	SHEET: 1 OF 1	



JVA, Incorporated
P.O. Box 1860
47 Cooper Creek Way
Suite 328
Winter Park, CO 80482
970.722.7677
info@jvajva.com

March 7, 2023

Mr. James Shockey, AICP
Community Development Director
Town of Winter Park
50 Vasquez Road
Winter Park, Colorado 80482
Via email: jshockey@wpgov.com

www.jvajva.com

RE: 359 Lions Gate Drive – Tandem Parking Variance Request Review
JVA Job# 1566.140c

Dear James:

JVA Inc. has received a Variance Request, dated January 30, 2023 for the proposed 365 Lions Gate Drive development. This Request is for the allowance of tandem parking stalls, per a provided site plan, also dated January 30, 2023.

While we agree that tandem parking stalls could effectively serve this development, we do *not* recommend approval of this variance, as the Site Plan indicates that backing movements from the proposed stalls would enter onto Lion's Gate Drive. This would be in violation of Town Standards. If the variance was only related to the inclusion of tandem stalls that were controlled by individual residential units, we could potentially be in support of approval, but would need to review a revised request.

Please feel free to reach out with any questions. We can also make ourselves available to discuss this matter with the Town and Applicant, if desired.

Sincerely,
JVA, INCORPORATED

By:



Cooper Karsh, P.E., CFM
Senior Engineer

Hugh Bell

From: Gerry Vernon
Sent: Wednesday, March 8, 2023 9:40 AM
To: Hugh Bell; James Shockey
Subject: RE: Agency Review Comment Request: 365 Lions Gate Drive - Tandem Parking Configuration

Dear Hugh,

I have received and reviewed the variance request for the 365 Lions Gate Drive development. This request is for the allowance of tandem parking stalls, per the provided site plan.

I do not recommend approval of this variance, as the vehicle backing from the proposed stall would enter onto Lions Gate Drive. This would be in violation of Section 4.3.3 of the Standards and Specifications for Design and Construction that states the following:

“Backing onto Town roads for access shall not be permitted on arterials or collector roads and is discouraged on other road classification base on site restriction.”

In my opinion, the proposed tandem configuration would often cause a “double backing” scenario when Car 1 wants to leave the premises and Car 2 is parked behind and blocking access. Car 2 will have to back out, stop and wait for Car 1 to back out before returning to the parking stall. In this scenario, Car 2, waiting for Car 1 will be blocking regular traffic and causing congestion for plow trucks and other winter operation vehicles.

Please feel free to contact me with any questions. Thank you.



Gerry Vernon
Public Works Director | Town of Winter Park, CO
50 Vasquez Rd. | P.O. Box 3327
Winter Park, CO 80482
970.726.8081 x212



From: Hugh Bell <hbell@wpgov.com>
Sent: Tuesday, March 7, 2023 4:12 PM
To: Gerry Vernon <gvernon@wpgov.com>
Cc: James Shockey <jshockey@wpgov.com>
Subject: FW: Agency Review Comment Request: 365 Lions Gate Drive - Tandem Parking Configuration