



**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, November 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:** September 12, 2023
- IV. **General Business:**
  - A. **PUBLIC HEARING:** Lot Depth and Lot Area Variance Requests – 137 Fir Drive – Lot 3, Block 11, Winter Park Village Subdivision (PLN23-099 and PLN23-100)

**Online Meeting Login Instructions – See next page**

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

Passcode: 113389

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- +1 719 359 4580 US
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- +1 669 900 6833 US (San Jose)
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- +1 689 278 1000 US
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Passcode: 113389

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### **Public Hearing Process**

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**TOWN OF WINTER PARK  
BOARD OF ADJUSTMENT  
Tuesday, September 12, 2023 8:00 AM**

**MINUTES**

**DATE:** Tuesday, September 12, 2023

**MEETING:** Winter Park Board of Adjustment

**PLACE:** Town Hall Council Chambers and Zoom Meeting Call

**PRESENT:** Chair Dave Barker, Members Doug Robbins and Angela Sandstrom, and Alternate Members Chris Tagseth and Thomas McDonald are present. Community Development Director James Shockey, Town Planner Hugh Bell, and Assistant Town Attorney Austin Flanagan (on Zoom) are present as well.

**OTHERS  
PRESENT:** Irene Kilburn, Building and Planning Technician II

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**I. Call to Order:**

Chair Dave Barker called the meeting to order at 9:55 a.m.

**II. Roll Call of BOA Members:**

Vice Chair Brad Holzwarth and Member Roger Kish are absent today.

**III. Minutes:**

Member Robbins moves and Member Tagseth seconds the motion approving the Minutes from August 8, 2023. Motion carries 3,0 with Chair Barker and Member Sandstrom abstaining given they did not attend this meeting.

**IV. General Business:**

- A. Consideration of Resolution 7, Series 2023, A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE TO EXCEED THE MAXIMUM SIGN AREA PERMITTED FOR A BUSINESS FOR 78911 HIGHWAY 40 AND ADOPTING FINDINGS OF FACT THERETO

Town Planner Hugh Bell presents this resolution by summarizing the contents from the Staff Report as well as the outcome including four (4) conditions. Member Sandstrom moves and Alternate Member Tagseth seconds the motion approving Resolution 7, Series 2023, A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE TOWN OF WINTER PARK APPROVING A VARIANCE TO EXCEED THE MAXIMUM SIGN AREA PERMITTED FOR A BUSINESS FOR 78911 HIGHWAY 40 AND ADOPTING FINDINGS OF FACT THERETO. Motion carries 4,0 with Chair Barker abstaining.

There being no further business to discuss, upon a motion regularly adopted, the meeting was adjourned at 09:59 a.m.

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The next scheduled meeting of the Board of Adjustment will be Tuesday, October 10, 2023, after the Planning Commission meeting.

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Irene Kilburn, Building and Planning Technician II



## MEMO

**TO** Board of Adjustment  
**FROM** Hugh Bell, Planner  
**THRU** James Shockey, AICP, Community Development Director  
**DATE** November 14, 2023  
**RE** PUBLIC HEARING: Lot Depth and Lot Area Variance Requests – 137 Fir Drive – Lot 3, Block 11, Winter Park Village Subdivision (PLN23-099 and PLN23-100)

**Property Owner:** Firhaus, LLC

**Applicant:** Jamie Smith

**Location:** 137 Fir Drive (the "Property")

**Zoning:**  
R-2-O (Multiple Family Residential within Old Town)

**Variance Requests:**

1. To plat a new lot, proposed "Lot A", that doesn't meet the 65' minimum lot depth required in R-2-O for Twin Home dwellings; and
2. To plat a new lot, proposed "Lot A", that doesn't meet the 2,178sqft minimum lot area required in R-2-O for Twin Home dwellings.

**Owner's Reasons Why the Variances Should Be Granted:**

See application for details.

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

Table 3-A-3, Residential Lot and Building Standards

Minimum lot depth for Twin Home dwellings in R-2-O zone district: 65'

Minimum lot area for Twin Home dwellings in R-2-O zone district: 2,178 sqft

§ 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 Variances:**

§ 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:**

These variance requests have had proper public notification pursuant to § 5-B-8 of the UDC. A Newspaper Publication (PUB) was published in the Middle Park Times on November 2, 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 October 31, 2023. A Property Posting (PO) was posted on October 29, 2023.

No comments have been received as of November 9, 2023.

**Staff Comments:**

Applicant seeks two (2) variances for two (2) newly constructed dwelling units (DU) on one (1) lot that is proposed to be subdivided via a Minor Plat into two (2) lots, and the proposed south lot, "Lot A", has inadequate lot depth and lot area. The R-2-O district requires at least 65' of lot depth and 2,178 sqft of lot area for all development types and Lot A has only 51' depth and 1,829 sqft area. Because of this inadequate lot area, the maximum density limit of 20 DU/acre cannot be met either – density for the unsubdivided lot is 20.5 DU/acre. The site plan submitted with the Design Review Application (PLN22-014) showed both inadequate lot depth and lot area. Nevertheless, the site plan was conditionally approved by the Planning Commission on May 10, 2022. Lot B has adequate lot depth (70'-5") and adequate lot area (2,411 sqft).

Staff advised the applicants to hold off on proceeding with their Minor Plat Application (PLN22-026) until the UDC's adoption so they could meet, among other revised provisions, the new minimum front lot line width requirement, which was decreased from 50' per DU to 25' per DU. Minimum lot area for Twin Homes also decreased from 3,000 sqft per DU to 2,178 sqft per DU. That said, the minimum lot depth requirement of 65' remained the same and thus the lot depth was noncompliant. Even though minimum lot area decreased, this was also noncompliant. The UDC introduced a method for measuring lot depth, which entails measuring along an imaginary straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line. As previously stated, Lot A's lot depth is only 51'. There was no method for measuring lot depth in the previous Code.

The Winter Park Village Subdivision was platted in 1959 (Reception No. 90263), well before the Town's incorporation. There are unusual circumstances with this lot as well as other lots in the subdivision as they are unusually small and the lot dimensional standards limit the amount of buildable space enjoyed by owners in similar subdivisions, especially those platted historically like this one.

Applicant cites several hardships: they've invested over \$1.5 million into the project; they've relied on guidance from the Planning Division; and they were informed about this issue after both DUs were already constructed.

Staff finds that a hardship exists and supports approval of this variance request because the previous applications relied on this variance being approved, despite it coming later in the approval process, and the lot's historical plat makes the strict application of the UDC's dimensional standards practicably difficult.

**Staff Recommendation:**

Staff finds several proven hardships with the property and supports approval of both variance requests for the following reasons. The applicant has provided evidence showing the property cannot yield a reasonable return in use or service if required to adhere to the minimum lot depth and lot area requirements. Code, § 5-F-3(F)(1). If adhering to the lot depth and lot area requirements, the applicant cannot subdivide the lot nor even condominiumize airspace. This is because the unsubdivided lot's depth is only 61'-7" and the area is only 4,240 sqft. Therefore it cannot be subdivided so *both* lots have adequate area ( $4,240/2 = 2,120$  sqft) and depth. As previously stated, Lot B has adequate lot area (2,411 sqft) and lot depth (70'-5") in its proposed plat layout.

The applicant wants to sell each DU separately, and not allowing them to subdivide is an unreasonable burden upon the applicant, especially given the applicant submitted lot dimensions far in advance of proceeding with subdivision. Had the issue been caught then, only one (1) DU would have been allowed to be built.

Staff acknowledges that our identification of this issue occurred at an inconvenient time for the applicant.

The public health, safety, and welfare will not be negatively impacted, given the structure complies with setbacks, the shallower lot depth and smaller lot area will be imperceptible to passersby. The plight of the owner is due to unusual circumstances because of the historic nature of the plat and the new dimensional standards imposed by the UDC. Lastly, granting the variance will not alter the essential character of the neighborhood as other lots in the subdivision are unusually small and their dimensions limit the amount of buildable space enjoyed by owners in similar subdivisions.

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 per variance request are included below for convenience only.

**Sample Motions for Lot Depth Request:**

**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].***

**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 Motions for Lot Area Request:**

**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].***

**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: 10 / 23 / 23

Applicant Name (i.e., the Representative, i.e., the point of contact):

Lisanne Smith, Manager, Firhaus LLC

Street address of property: 137 Fir Drive Winter Park

Legal description of property: Winter Park Village Lot 3, B1K 11

Brief description of the variance requested:

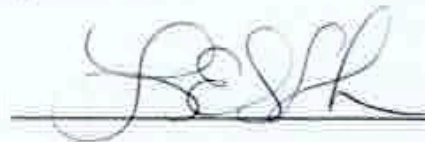
Variance to plat a lot that doesn't meet the  
minimum lot depth.

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: \_\_\_\_\_



Date: 10 / 23 / 23

Applicant Name (i.e., the Representative, i.e., the point of contact):

Lisanne Smith, Manager, Firhaus LLC

Street address of property: 137 Fir Drive, Winter Park

Legal description of property: Winter Park Village Lot 3, Blk 11

Brief description of the variance requested:

Variance to plat a lot that doesn't meet the  
minimum lot area.

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: \_\_\_\_\_



Firhaus LLC  
P.O. Box 1653  
Granby, CO 80446

October 23, 2023

TOWP BOA  
P.O. Box 3327  
Winter Park, CO 80482

Re: Variance Requests  
Lot 3, Block 11, Winter Park Village  
137 Fir Drive  
PLN23-090  
Firhaus LLC

Dear TOWP BOA,

The Alpenbeck Townhome project at our property in Old Town Winter Park is complete. Planning department approved and building permits were issued in May of 2022. Based on the issuance of the permits, we proceeded with the project in which we have invested over \$1.5 million and more than a year of construction work. We relied on the guidance of Planning and Development throughout the process and all inspections were completed.

Last week (October 19, 2023), we were informed by Hugh Bell and James Shockey that we are obligated to request variances for the lot depth and area.

Due to the obvious unusual circumstances and hardship involved, Firhaus LLC respectfully requests these variances be granted from the BOA.

Thank you,

Jamie and Lisanne Smith and Kristen Richards, Managers, Firhaus LLC

## Supporting Property Conditions:

### 1. Hardship

The project is complete and cannot be changed at this point to comply with the lot depth and area requirements. Extensive costs and time have been incurred.

### 2. Health, Safety, and Welfare

The granting of the variances will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

The project is complete and has fulfilled this criteria.

### 3. Unusual Circumstances

The project was approved by Planning and building permits were issued. The project is already complete.

### 4. Character

The variation does not alter the essential character of the locality.

The property is zoned R-2-O within Old Town Zone District, which is defined as “Lot and building standards that are flexible and unique to the Old Town neighborhood where development preceded incorporation into the Town and hence the types and patterns of lots and buildings do not conform to a uniform set of requirements.”

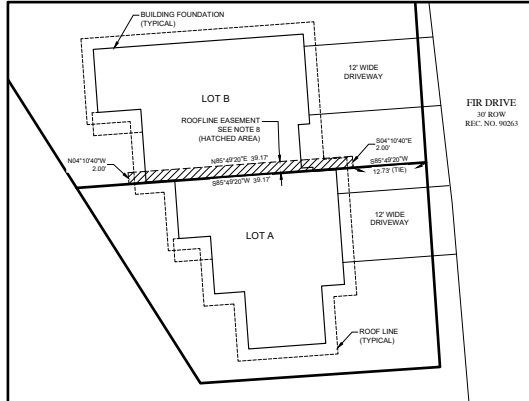
The property is similar to others and similar variances have been granted, thus setting precedent. The townhomes do not diminish the character or property values within the neighborhood, but rather enhance them due to their high quality and aesthetic appeal.



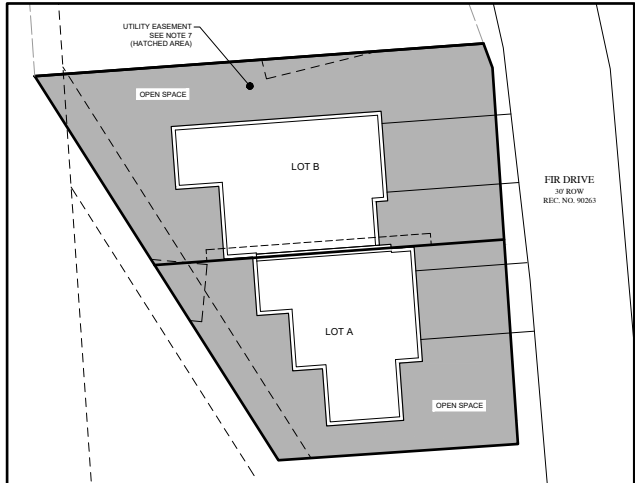


# MINOR SUBDIVISION ALPENBECK TOWNHOMES

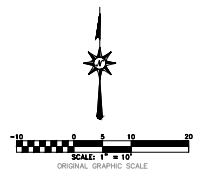
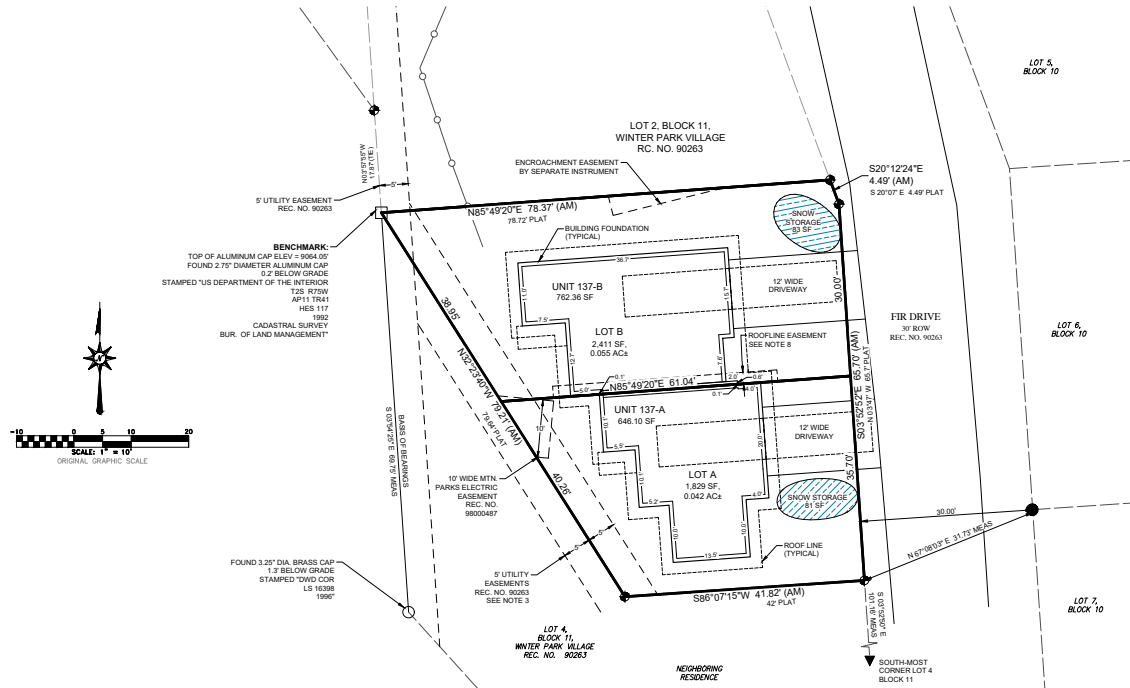
BEING A REPLAT OF LOT 3, BLOCK 11, WINTER PARK VILLAGE, RECEPTION NO. 90263  
PART OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 75 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
TOWN OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO  
OWNERSHIP VESTED BY WARRANTY DEED, RECEPTION NO. 2022000412  
#125 FIR DRIVE



ROOF LINE EASEMENT DETAIL-1  
SCALE 1" = 10'



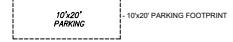
BLANKET EASEMENT DETAIL-2  
SCALE 1" = 10'



**BENCHMARK**  
TOP OF ALUMINUM CAP ELEV = 9064.05'  
FOUND 2.75" DIAMETER ALUMINUM CAP  
0.2' BELOW GRADE  
STAMPED 'US DEPARTMENT OF THE INTERIOR  
725 RITSH  
AP11 TR41  
HES 117  
1992  
CADASTRAL SURVEY  
BUR. OF LAND MANAGEMENT'

LAND USE TABLE	AREA (SQ. FT.)	%	AREA (ACRES)
<b>TOTAL LAND AREA</b>	1,829 +/-	43.14%	(0.042 ACRES)
LOT B	2,411 +/-	56.86%	(0.055 ACRES)
TOTAL	4,240 +/-	100.00%	(0.097 ACRES)
<b>HARD SURFACE COVERAGE</b>			
LOT A	188.09 +/-	81 +/-	43.1%
LOT B	237.71 +/-	83 +/-	34.9%
<b>LOTS</b>			
<b>RESIDENTIAL TOWNHOMES</b>	2 TOTAL		
<b>LAND USE</b>			
LOT A			
TOWNHOME	646.10 +/-	35.33%	(0.015 ACRES)
HARD SURFACE	188.09 +/-	10.28%	(0.004 ACRES)
OPEN SPACE	994.81 +/-	54.39%	(0.023 ACRES)
LOT B			
TOWNHOME	762.36 +/-	31.62%	(0.018 ACRES)
HARD SURFACE	237.71 +/-	9.86%	(0.005 ACRES)
OPEN SPACE	1,410.93 +/-	58.52%	(0.032 ACRES)
<b>DENSITY</b>			
UNITS PER ACRE:	2 UNITS/ 4,240 SF = 20.5 UNITS PER ACRE		
<b>PARKING</b>			
2 BEDROOMS PER UNIT:			
REQUIRED:	2 SINGLE FAMILY UNITS @ 1.5 PARKING SPACES: 3 TOTAL		
PROVIDED:	2 INTERIOR (10'X20')		
	2 EXTERIOR (10'X20')		
<b>ZONING</b>	4 TOTAL		
TOWN OF WINTER PARK, MULTI-FAMILY RESIDENTIAL-OLD TOWNR-2-0			

- LEGEND**
- FOUND NO. 5 REBAR W/ 1.5" DIA. ALUMINUM CAP PLS 31842 AT GRADE
  - FOUND REBAR W/ 1.5" DIA. ALUMINUM CAP PLS 25971 AT GRADE
  - ▼ FOUND IRON T POST 0.6' BELOW GRADE
  - FOUND BRASS CAP AS NOTED
  - FOUND ALUMINUM CAP AS NOTED



**TIM SHENK**  
LAND SURVEYING, INC.  
P.O. BOX 1670  
GRANBY, CO 80446  
(970) 887-1046

MINOR SUBDIVISION  
ALPENBECK TOWNHOMES  
BEING A REPLAT OF LOT 3, BLOCK 11, WINTER PARK VILLAGE  
SECTION 10 TOWNSHIP 2 SOUTH, RANGE 75 WEST  
OF THE 6TH PRINCIPAL MERIDIAN,  
TOWN OF WINTER PARK, GRAND COUNTY, COLORADO  
#125 FIR DRIVE

JOB: 18197	SCALE: 1" = 10'	DATE: 03/14/2022	DRAWN BY: JAN
DWG: 18197_V_MNR	CRD: N/A	CHECKED: TRS	SHEET: 2 OF 2

I:\Projects\18197\18197\_V\_MNR\18197\_V\_MNR.dwg 13/01/2022 2:58 PM