



**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
Tuesday, June 10, 2025 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:** March 11, 2025
- IV. **General Business:**
 - A. PUBLIC HEARING – Side Setback Variance Request – Lot 2 and Lot 3, Block 1, Roam Filing 1 (PLN25-042)

Online Meeting Login Instructions – See next page

Computer Login Instructions

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/86205559892?pwd=1tD3GScH5WgXpbaxbZXiTpUwLHWlSS.1>

Passcode: 20252026

Phone Login Instructions

Dial In Numbers (for higher quality, dial a number based on your current location):

+1 719 359 4580 US

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 646 931 3860 US

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Webinar ID: 862 0555 9892

Passcode: 20252026

International numbers available: <https://us02web.zoom.us/j/kdr9la1HH0>

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

Public Hearing Process

If you would like to participate in the public hearing, please follow these instructions so we can make sure everyone that wants to speak has the opportunity. When you log into Zoom you will be automatically muted to limit background noise. When the public hearing is opened for public comment, please use the “raise your hand” feature and staff will unmute citizens in the order they were received. To enable “raise your hand” feature, click on the “Participants” button the bottom of the screen. If you are on phone, press *9 to “raise your hand” and *6 to unmute.



**TOWN OF WINTER PARK
BOARD OF ADJUSTMENT
March 11, 2025
MINUTES**

Date: Tuesday, March 11, 2025

Time: 9:45 a.m.

Location: Town Hall Council Chambers and via Zoom

I. Call to Order

Chair Barker called the meeting to order at 9:45 a.m.

II. Roll Call

All Board members were present:

Chair Dave Barker, Vice Chair Doug Robbins, Members Shawn Cullingford, Dale McCaw, and Thomas McDonald.

Staff Present:

James Shockey, Community Development Director

Brian Kelly, Senior Planner

Kunal Parikh, Town Attorney

Irene Kilburn, Planning and Building Technician II

III. Approval of Minutes

Motion: Member McCaw moved to approve the February 11, 2025, meeting minutes.

Second: Member Cullingford

Vote: Motion passed unanimously (5–0)

IV. General Business

A. Resolution 2, Series 2024

Action: Approved variance to reduce off-street parking requirements for Rail-Water Condominiums.

Motion: Member Robbins

Second: Member Cullingford

Vote: Motion passed unanimously (5–0)

B. Resolution 2, Series 2025

Action: Adopted findings of fact related to the denial of a variance for increased building height at 78581 Highway 40.

Motion: Member Robbins

Second: Member Cullingford

Vote: Motion passed unanimously (5–0)

V. Adjournment

Motion: Member Cullingford moved to adjourn.

Second: Member Robbins

Vote: Unanimous “aye”

Meeting adjourned at 9:50 a.m.

Irene Kilburn, Building and Planning Technician II

MEMO

TO Board of Adjustment

FROM James Shockey, Community Development Director

DATE June 10, 2025

RE PUBLIC HEARING: Setback Variance Request – Lot 2 and Lot 3, Block 1, Roam Filing No. 1
Subdivision (PLN25-042)

Property Owner: Fraser River Development Company

Applicant: Jeff Vogel, Vogel and Associates

Location: 133 and 137 Ski Idlewild Road (the "Property")

Zoning:

P-D (Planned Development) with D-C (Destination Center) underlay; Planning Area 3. Governed by Roam Final Development Plan (FDP), Reception No. 2018004495; 1st Amendment at Reception No. 2019007767, 2nd Amendment at Reception No. 2019010345 and 3rd Amendment at Reception No. 2024000453. The Property has the following entitlements related to this case:

Setbacks – 5' side yard setback and a minimum separation of 10' between structures.

Variance Request:

Request to encroach into the side yard setback on Lot 2 by approximately 1'-3" and Lot 3 by approximately 8". The minimum separation between buildings would be reduced from 10' to 7'-9"

Owner's Reasons Why the Variance Should Be Granted:

See application for details.

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

N/A as the FDP governs setbacks.

Applicable Provision(s) of the Roam Final Development Plan (FDP) (Reception No. 2024000453):

DEVELOPMENT STANDARDS

Table - Side setback for single-family detached and attached dwellings in Planning Area 3: 5'

Note 4 – Minimum building separation shall be 10'

§ 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 had proper public notification pursuant to § 5-B-8 of the UDC. A Newspaper Publication (PUB) was published in the Middle Park Times on May 28, 2025, 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 May 23, 2025. A Property Posting (PO) was posted on May 23, 2025.

One comment has been received and is included in the packet.

Staff Comments:

The Applicant is requesting a variance for two existing foundations that encroach into the required 5-foot side yard setback. Specifically, the foundation on Lot 2 encroaches approximately 1'-3", and the foundation on Lot 3 encroaches approximately 8". The site plan submitted with building permits BLD24-327 and BLD24-328—approved by the Planning and Building Division on August 20, 2024—showed compliant setbacks from the lot lines.

According to the Applicant's narrative, the encroachments were discovered during framing and exterior construction. It was determined that the buildings had been incorrectly staked due to the surveyor using the original lot lines established in Roam Filing 1, rather than the amended lot lines approved through Subdivision Exemption No. 1 for Roam Filing 1.

In March 2025, the Planning Division received a Subdivision Exemption application to amend the lot lines for Lots 2 and 3 to resolve additional setback encroachments, including a rear yard setback issue. The revised exemption plat, if approved, would eliminate the rear encroachment. This plat will be presented to the Planning Commission following a decision on the requested side yard setback variance.

The Applicant has cited several hardships in support of the variance request:

- Inability to occupy the homes constitutes a physical hardship.
- Exterior materials are being installed to meet fire code requirements.
- The buildings were improperly staked due to a survey error.

- The encroachments are minimal and consistent with the existing neighborhood development pattern and character.

Staff Recommendation:

Staff can support the Applicant's request for a variance based on the demonstrated hardships and compliance with applicable code standards. The Applicant has provided sufficient evidence that the property cannot yield a reasonable return in use or service if required to comply with the minimum side yard setback, consistent with Code § 5-F-3(F)(1). Compliance would necessitate the removal of portions of the existing structure's walls, which presents an unreasonable burden. This hardship is further supported by the fact that the Applicant submitted setback-compliant construction drawings, and the encroachment resulted from a surveyor error in staking the property.

The variance will not negatively affect public health, safety, or welfare. The Applicant is taking appropriate measures to fireproof the encroaching walls in accordance with Fire Code requirements. The hardship is the result of an unusual circumstance—incorrect staking by the surveyor—and not self-imposed.

Furthermore, the requested variance will not alter the essential character of the neighborhood. The encroachments are minor in nature, and the development remains consistent with the architectural and planning intent of earlier phases of the Row at Roam. The structures will continue to contribute positively to the streetscape along Ski Idlewild Road.

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].***



May 14, 2025

Mr. James Shockey, Town Planner
Town of Winter Park
50 Vasquez Road
P.O. Box 3327
Winter Park, Colorado 80482

**Re: Roam – The ROW at ROAM Phase 3, 133 and 137 Ski Idlewild Road.
Variance Request for Side Yard Setback**

Dear James,

The Roam Subdivision Exemption No. 6 is located in Roam Filing 1 and Planning Area 3. It is comprised of two single family-attached buildings that include a total of four units. These buildings reflect the final phase of The Row project that has been constructed along the west side of Ski Idlewild Road.

The Town of Winter Park approved a plat and site plan for the Row project. Upon receiving approvals, The Row excavated and constructed foundations for the four units in early fall 2024. Vertical construction including framing initiated in winter 2025.

Upon framing and advancing the exterior construction, it was determined that the buildings had been incorrectly staked resulting in units 2 and 3 encroaching into the side yard setback. The approved Roam FDP and specifically planning area 3 includes 5' side yard setbacks resulting in a 10' building separation. Buildings 2 and 3 have been constructed resulting in the west portion having a separation of 7.8 feet and the east an 8.3 feet separation.

Given the above separation, The ROW has coordinated with the Building Department regarding building code and fire requirements. This has included incorporating specific fire-rated materials to ensure that code requirements are achieved.

The variance request process outlines the following criteria. Outlined below is the criteria and how each has been respectively addressed.

1. *Undue 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;
Justification: The variance request is to permit the constructed building separation between units 2 and 3. Building separation between units 2 and 3 varies from 7.8 feet on the west end with 8.3 feet separation on the east. Granting this variance is required to allow the future owner to utilize home as constructed. Not being able to occupy the home will result in a physical hardship.

2. *Health, Safety, and Welfare.* 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;
Justification: Exterior treated materials are being applied to the south side of unit 2 and the north side of unit 3 to address building and fire code requirements. These improvements will ensure there is no adverse impacts on the public health, safety and welfare. The adjusted minimum building separation will not adversely impact the Ski Idlewild streetscape, pedestrian and vehicle circulation.
3. *Unusual Circumstances.* The plight of the owner is due to unusual circumstances at the property that do not generally apply to other properties in the same zone district; and
Justification: The existing lot configuration, existing street improvements and structures that have been constructed to date provide for unusual circumstances. The buildings were improperly staked and constructed resulting in less building separation than what is included in the Roam Final Development Plan. These circumstances do not exist on the other properties in Roam. The variance is required for the owner to occupy property.
4. *Character.* The granting of the variance will not alter the essential character of the locality.
Justification: Given the existing lot configuration, adjacencies and the existing structures, it not viable to relocate the existing buildings.
The adjusted minimum building separation of 7.8 feet and 8.3 feet will still be consistent with the development pattern and character of the neighborhood. The development pattern is consistent with the first phases of the ROW and will still provide an architectural edge along Ski Idlewild Road. A unified streetscape will be provided and integrate with ROW phase I and II.

On behalf of The Row at Roam, we respectfully request a variance to allow for building variation.

We appreciate your assistance and look forward to working with you further on this project.

Sincerely,

Project Representative:

Vogel & Associates, LLC

Jeffrey Vogel, AICP

Principal

From: [Eric Axlund](#)
To: [James Shockey](#)
Subject: PLN25-042 - Setback Variance Public Input
Date: Wednesday, June 4, 2025 3:21:06 PM

Caution! This message was sent from outside your organization.

Hi James,

My name is Eric Axlund and I am writing in response to a public notice I received regarding setback variance requests for development at 133 and 137 Ski Idlewild Road. I am an owner nearby in ROAM and I want to submit feedback representing the public.

I am opposed to allowing these variances because there aren't justifiable reasons that they would be "required", and they do have a public impact. In short, the buildings they are creating are too large for the lots they own. That is not a Hardship, that is a choice they consciously made to make more profit. Other owners of other properties in the area did not need variances to ensure their buildings fit and met the building codes of the town and there is no reason this builder couldn't do the same.

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;

ROAM is defined by its natural beauty, with open spaces around the mountain modern architecture. By allowing these variances, you are simply creating an imbalance with more buildings and less nature, which is not consistent with the character of the locality. Not only that, you are directly impacting the surrounding neighbors' right to enjoy their space, free from encroaching properties that would not have been allowed when they built/purchased.

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

In short, it is not the right of this builder to be granted these variance requests, and I do not believe they should be allowed. Please deny their request.

Best Regards,
Eric Axlund
ROAM Owner - Timber Fox
303-345-3395

IMPROVEMENT LOCATION CERTIFICATE /
TOPOGRAPHIC MAP

BEING ALL OF THAT SUBDIVISION EXEMPTION PLAT NO. 2, BLOCK 1, ROAM FILING NO. 1, RECORDED AT RECEPTION NO. 2020007910, AND INCLUDING A PORTION OF TRACT H, ROAM FILING NO. 1 MINOR PLAT, RECORDED AT RECEPTION NO. 2023008370, A PART OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 1 SOUTH, RANGE 75 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO.

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, T1S, R75W OF THE 6TH P.M., TOWN OF WINTER PARK, COUNTY OF GRAND, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF LOTS 1 THROUGH 4, SUBDIVISION EXEMPTION PLAT NO. 2, BLOCK 1, ROAM FILING NO. 1, A SUBDIVISION PLAT RECORDED SEPTEMBER 8TH, 2020 AT RECEPTION NO. 2020007910, IN THE RECORDS OF THE GRAND COUNTY CLERK AND RECORDERS OFFICE, ALSO BEING ALL OF TRACT H AND AMENDED PARCEL B, ROAM FILING NO. 1 MINOR PLAT, RECORDED DECEMBER 6TH, 2023 AT RECEPTION NO. 2023008370, SAID GRAND COUNTY RECORDS, ALSO BEING ALL OF TRACT C, ROAM FILING NO. 4, A SUBDIVISION PLAT RECORDED JULY 10, 2024 AT RECEPTION NO. 2024004257, SAID GRAND COUNTY RECORDS.

GENERAL NOTES

- 1.) THE BASIS OF BEARINGS SHOWN ON THIS IMPROVEMENT LOCATION CERTIFICATE ARE BASED ON THE ASSUMPTION THAT THE WEST RIGHT-OF-WAY LINE OF SKI IDLEWILD ROAD, BEARS S00°10'41"E, AS MONUMENTED AND SHOWN HEREON.
- 2.) THE BASIS OF ELEVATIONS SHOWN ON THIS MAP ARE BASED ON NGS STATION N 137, A STANDARD NGS BRASS CAP MARKED "N 137 1954", PUBLISHED ELEVATION = 8438.43 U.S. SURVEY FEET. ON-SITE ELEVATIONS TRANSFERRED BY RTK METHODS.
- 3.) THIS IMPROVEMENT LOCATION CERTIFICATE IS NOT A LAND SURVEY PLAT AS SET FORTH IN CRS 38-51-102(12) OR AN IMPROVEMENT SURVEY PLAT AS SET FORTH IN CRS 38-51-102(9), NOR DOES IT ESTABLISH PROPERTY BOUNDARIES OR THE TRUE RELATIONSHIP OF IMPROVEMENTS TO THEM. IMPROVEMENTS ARE GENERALLY SITUATED AS SHOWN AND ONLY APPARENT IMPROVEMENTS AND ENCROACHMENTS ARE NOTED. IT IS PREPARED FOR THE SOLE PURPOSE OF THE PARTIES STATED HEREON. WSB LLC. AND I MICHAEL SEAN KERVIN, WILL NOT BE LIABLE FOR MORE THAN THE COST OF THIS IMPROVEMENT LOCATION CERTIFICATE AND THEN ONLY TO THE CLIENT SPECIFICALLY SHOWN HEREON. THE CERTIFICATION OF THIS SURVEY SHALL NOT AND DOES NOT EXTEND TO THIRD PARTIES. ACCEPTANCE AND/OR USE OF THIS INSTRUMENT FOR ANY PURPOSE CONSTITUTES AGREEMENT BY ALL PARTIES TO ALL TERMS STATED HEREON.
- 4.) THE EXTERIOR BOUNDARY, RECORDED EASEMENTS AND RIGHTS-OF-WAY, IF ANY, ARE SHOWN ON THE ACCOMPANYING IMPROVEMENT LOCATION CERTIFICATE AS DISCLOSED ON THE FINAL PLAT. AT THE REQUEST OF THE OWNER NO ADDITIONAL RESEARCH WAS PERFORMED BY WSB LLC. SEE NOTES ON THE RECORDED PLAT.
- 5.) CERTIFICATION NOT VALID WITHOUT THE ORIGINAL SEAL AND SIGNATURE. THIS SURVEY AND ALL RELATED DOCUMENTS ARE FOR THE SOLE USE OF THE CLIENT AT THE DATE OF CERTIFICATION.
- 6.) FIELDWORK WAS COMPLETED 5/20/2025 BY MICHAEL KERVIN.
- 7.) ALL UNDERGROUND UTILITIES SHOULD BE FIELD VERIFIED BY THE APPROPRIATE AGENCY PRIOR TO ANY CONSTRUCTION.

ADDRESS
(NOT POSTED)

LOT 1 - 141 SKI IDLEWILD ROAD, WINTER PARK, CO. 80482
LOT 2 - 137 SKI IDLEWILD ROAD, WINTER PARK, CO. 80482
LOT 3 - 13 SKI IDLEWILD ROAD, WINTER PARK, CO. 80482
LOT 4 - 129 SKI IDLEWILD ROAD, WINTER PARK, CO. 80482
AMENDED PARCEL B - 121 SKI IDLEWILD ROAD, WINTER PARK, CO. 80482

NOTICE

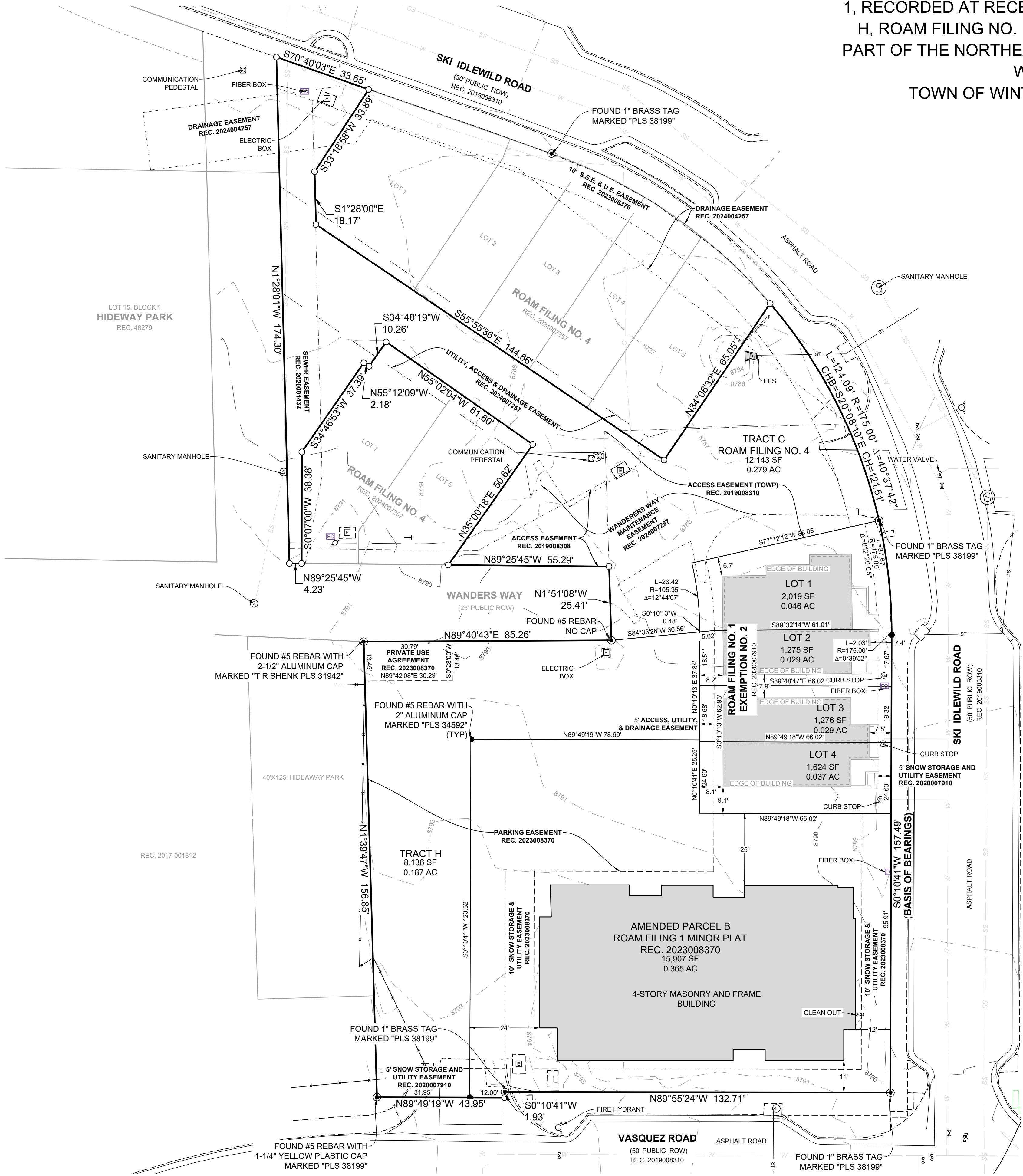
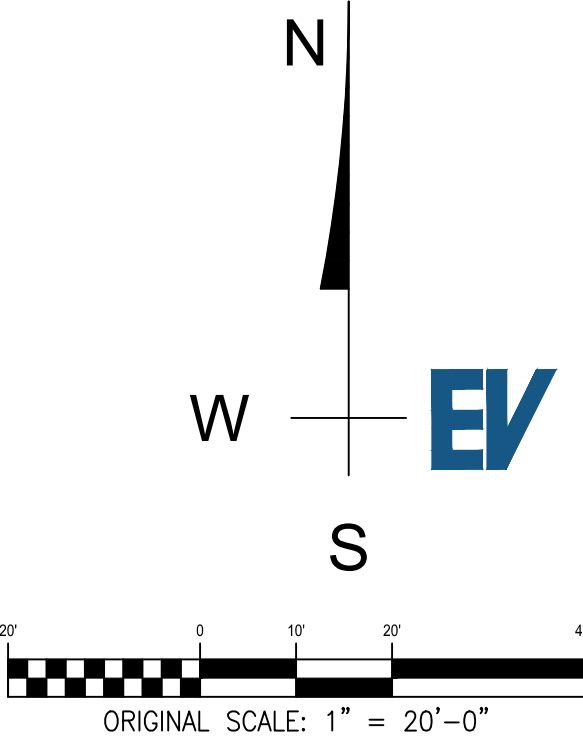
ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR
FRASER RIVER DEVELOPMENT COMPANY (FRDC)

THAT IT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING, OR OTHER FUTURE IMPROVEMENT LINES. THIS CERTIFICATE IS VALID ONLY FOR THE USE OF THE CLIENT AND EVSTUDIO, AND DESCRIBES THE PARCELS APPEARANCES ON MAY 20TH, 2025. I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL, ON THIS DATE, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS NOTED.

COLORADO LICENSED
MAY 21/2025
34592
MICHAEL SEAN KERVIN, CO PLS 34592
FOR AND ON BEHALF OF EVSTUDIO



LEGEND

- FOUND 2" ALUMINUM CAP MARKED "PLS 34592"
- ⊙ FOUND SURVEY MONUMENT DESCRIBED AS SHOWN
- NO MONUMENT FOUND OR SET