

Minturn Planning Department
Minturn Town Center
301 Boulder Street
Minturn, Colorado 81645



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Michael Boyd
Amanda Mire
Sage Pierson
Tom Priest

Minturn Town Council Public Hearing

Minturn North Planned Unit Development Final Development Plan for PUD and Final Subdivision Plats Staff Report

Hearing Date: November 1, 2023
File Name/Process: Minturn North PUD - Final Development Plan/Plat Review
Owner/Applicant: Minturn Crossing, LLC
Representative: Rick Hermes, Resort Concepts
Legal Description: A parcel of land located in the NW ¼ of the NW ¼ of Section 26, Township 5 South, Range 81 West of the 6th Principal Meridian.
Existing Zoning: Game Creek Character Area – Holding Zone
Approved Zoning: Planned Unit Development (PUD) Overlay
Staff Members: Scot Hunn, Planning Director
Jeff Spanel, Town Engineer
Michael Sawyer, Town Attorney

Recommendation(s): **Approval, with Conditions**

I. Executive Summary:

The following report has been prepared for the benefit of the Minturn Town Council, the Applicant, and the public as the Town of Minturn continues its review of the Minturn North Planned Unit Development (PUD).

Summary of Request

Following the approval of the Minturn North Preliminary Development Plan for Planned Unit Development (PUD), Preliminary Subdivision Plats, and corresponding PUD Overlay Zoning by the Town of Minturn Town Council, (Resolution No. 19, Series 2023 and Ordinance No. 9, Series 2023, respectively) in July, 2023, and in accordance with Section 16-15-200 – *Final Plan for PUD*, of the Minturn Municipal Code (MMC), the Applicant, Minturn Crossing, LLC, requests review of the following Final Plan for PUD applications received by the Town in August 2023:

- The Minturn North Final Development Plan for PUD (Ordinance No. 15, Series 2023 - Attached for Council's consideration on First Reading)
- The Union Pacific Railroad (UPRR) Subdivision Final Plat (Ordinance No. 16, Series 2023 - Attached for Council's consideration on First Reading)
- The Minturn North PUD Subdivision Final Plat (Ordinance No. 17, Series 2023 - Attached for Council's consideration on First Reading)

The Final Development Plan, inclusive of the Minturn North PUD Guide and 100% construction level civil engineering drawing package, along with final subdivision plat documents, covenants, cost estimates, and corresponding Subdivision Improvements Agreement (SIA), will complete the PUD review and approval process to create thirty-nine (39) single-family residential lots on approximately 13.4 acres located within the Game Creek Character Area.

All final details, plans (inclusive of construction phasing plans), and construction cost estimates will be presented as part of a resolution to approve the SIA during Council's second reading of the attached ordinances.

Summary of Minturn North PUD Proposal and Preliminary Plan Approval

The Minturn North PUD has been planned and designed as a strictly residential neighborhood with lots, streets, sidewalks, trails, pathways, and various open spaces designed to closely complement and respect the scale and development pattern of the existing Taylor Avenue neighborhood as well as other established neighborhoods in Minturn.

The approved Preliminary Development Plan also provides amenities and off-site improvements to serve the project and the Town. The following narrative from the application's PUD Guide document sets forth the vision and intent for development of the PUD:

"The Minturn North PUD transforms an 'infill' dormant property into a thoughtful, diverse and inclusive 39 single-family residential neighborhood. This PUD Guide seeks to acknowledge the rich heritage of the Town of Minturn by providing an appropriately scaled built environment interconnected by open space, play space, and connective circulation patterns. Minturn North resident lifestyle and service needs are provided within walking distance to the Town of Minturn core."

- PUD Narrative by Applicant

The Minturn North PUD is situated on 13.4 acres of vacant lands south of Game Creek and owned by the Union Pacific Railroad (UPRR). These parcels were historically used for railroad activities. There are six mobile units currently in use on the subject property. These structures will be removed from the subject property as part of the initial construction activities associated with the Minturn North PUD.



Figure 1: Minturn North PUD Vicinity Map

The Minturn North PUD property has approximately .4 miles of frontage along Minturn Road and .38 miles of frontage along Taylor Avenue. It is surrounded by the following uses:

North	UPRR Property/Vacant
South	Private Residential/100 Block Downtown
East	Private Residential and Home Business Uses
West	Industrial/Commercial Uses (UPRR & Meadow Mountain Business Park)

The Minturn North PUD project is considered "infill" due, in part, to the historic zoning and use of the subject property and in relation to surrounding development patterns and land uses, available utilities and public services, and zoning.

The approved Preliminary Development Plan includes a total of 39 lots ranging from .099 acres (3,920 sq. ft.) to just over .20 acres (9,104 sq. ft.) in size, all accessed by Minturn Road, Taylor Avenue, or via a series of internal roads (4th Street, Miles End Lane, and Silverstar Trail) designed to Town standards.

The approved Preliminary Development Plan also includes three separate open spaces tracts within Planning Area 3, or "PA-3," that will provide open air, usable landscaped areas. Lots 1-33 will be subject to a transfer fee of one (1%) percent for any sales (initial sale and all subsequent sales) of units to non-resident purchasers, while Lots 34-39 will be subject to a deed restriction requiring local ownership and/or rental to local renters.

The Applicant/Developer, Minturn Crossing, LLC, proposes to develop the project infrastructure in a single phase. Additionally, the Applicant proposes to create a Homeowners Association to manage development and ongoing maintenance of the project. A previously proposed Minturn North Design Review Board was removed from the proposal as a condition of Preliminary Development Plan for PUD approval.

Summary of the PUD Approval Process

Final Plan and Final Subdivision Plat review before the Town of Minturn Town Council is the third and final step in the review and approval process necessary for the creation of a Planned Unit Development within the Town of Minturn. The following outlines the steps involved in the Town of Minturn PUD approval process:

1. Concept Development Plan Review (*Completed in Summer 2020*)
2. PUD Preliminary Development Plan Review (*Completed in Summer 2023*)
3. **Final Plan and Final Subdivision Plat for PUD (inclusive of Subdivision Improvements Agreement - NOW)**

The Final Plan review is a technical and detailed engineering, legal, and survey review of the final details of a proposed development plan, proposed subdivision plats, and associated development agreements. Details related to final plan and phasing documents, which result in cost estimates for all public and sometimes private improvements, establish how and when infrastructure will be constructed and financed.

Following review of the Minturn North Preliminary Development Plan for PUD before the Town of Minturn Planning Commission and Town Council in summer 2023, the Applicant submitted a largely complete and thorough Final Plan and Final Plat applications in August 2023. Since that time, the Applicant and Town staff have worked together to address outstanding issues and Preliminary Development Plan conditions of approval; and to ensure that all final documents are ready for adoption and approval by the Town.

The Minturn Municipal Code (MMC) requires review of the Final Plan, Final Subdivision Plat, and Subdivision Improvements Agreement (SIA) by the Town Council, while the Minturn Planning Commission is also charged with reviewing the Final Subdivision Plat document(s).

From a procedural standpoint, the Town Council is being asked to consider three ordinances on first reading - one for the Minturn North Final Development Plan for PUD; one for the "UPRR Final Subdivision Plat;" and another for the "Minturn North PUD Subdivision Final Plat" - while the SIA will be presented for consideration along with a resolution during the *second* reading of the three ordinances.

In accordance with the requirements of the Minturn Municipal Code (MMC), the Minturn Planning Commission reviewed the Final Subdivision Plat on October 11, 2023, and **forwarded a recommendation for approval of that document, with conditions**. A summary of the Planning Commission's review and recommendation is provided in Section II below.

Summary of Preliminary Plan Conditions of Approval – Applicant Responses

The Applicant has worked diligently with Town staff and Town consultants to address the conditions of approval that were attached to both the Preliminary Development Plan and the Preliminary Subdivision Plat. Below are the conditions and a response stating how the Applicant has addressed and resolved the conditions; or whether a condition is still outstanding.

Preliminary Plan Conditions of Approval:

- (1) The Applicant shall work with the Town Engineer prior to or concurrent with any Final Plan/Plat application to address referral comments related to further

evaluation of hazards that may impact final design of all civil engineering and/or subdivision design(s).

Staff Response:

Not completed/Outstanding. (See suggested Condition No. 1 page 23 of this report).

- (2) The Applicant shall work with the Town Engineer prior to or concurrent with any Final Plan/Plat application to adequately address all remaining technical plat and/or civil engineering details and suggested revisions outlined in letters from Intermountain Engineering dated May 22, 2023, and June 20, 2023.

Staff Response:

Complete or In Progress; to be completed prior to second reading of ordinance(s) and/or per timelines established by the Minturn North PUD Subdivision Improvements Agreement (SIA).

- (3) The Applicant shall work with the Town to finalize any/all outstanding issues related to the draft Subdivision Improvements Agreement and associated 100% construction level plans prior to or concurrent with Final Plan/Plat application submittal.

Staff Response:

Complete or In Progress; to be presented with the SIA and associated resolution during the second reading of ordinance(s).

- (4) The Applicant shall continue dialogue with the Town Engineer about potential improvements to Taylor Avenue in line with potential capital improvements as determined and approved by the Minturn Town Council as part of the Town of Minturn Capital Improvements Plan, as amended from time to time.

Staff Response:

Complete/Ongoing.

- (5) The Minturn North PUD shall use no more than 54 SFEs. Any unused SFEs shall be relinquished to the Town.

Staff Response:

Complete.

- (6) All Town of Minturn Waterwise Landscaping guidelines and requirements, as amended from time to time, shall be followed for individual lot landscaped design, irrigation and maintenance and all common area revegetation shall be limited to native, drought tolerant seed mixes.

Staff Response:

Complete. Addressed in PUD Guide and final plans and/or SIA.

- (7) All residential lots are to be limited to a maximum of 2,000 square feet of outdoor irrigation.

Staff Response:

Complete. Addressed in PUD Guide and final plans and/or SIA.

- (8) Any temporary irrigation necessary to reestablish and revegetate all disturbed areas and/or common areas shall be limited on an annual basis to no more than 50,000 square feet.

Staff Response:

Complete. Addressed in PUD Guide and final plans and/or SIA.

- (9) Lot and impervious coverage limits prescribed within the Minturn North PUD Guide shall be reduced as follows:
- (a) Lots 1-33: Lot Coverage reduced from 60% to 50%; Impervious Coverage reduced from 65% to 60%.
 - (b) Lots 34-39: Lot Coverage reduced from 70% to 50%; Impervious Coverage from 75% to 65%.

Staff Response:

Complete. Addressed in PUD Guide and final plans.

- (10) The Applicant shall work with the Town prior to any Final Plan/Plat application to update plans to add three (3) walkway connections and to provide details for materials and construction. Any plan details for additional trail connections added within the PUD shall be accompanied by engineer estimates of probable costs (to be included in Final Plan Subdivision Improvement Agreement documents) and shall include the following:
- (a) One (1) at the end of Miles End Lane access driveway serving Lots 6 and 7, connecting to Taylor Avenue.
 - (b) One (1) at the cul-de-sac of Miles End Lane connecting to the ECO Trail along Minturn Road.
 - (c) One (1) at the southern end of Miles End Lane connecting to Taylor Avenue.

Staff Response:

Complete. Addressed in PUD Guide and final plans and/or SIA.

- (11) The Applicant shall eliminate the Minturn North Design Review Board (DRB) from the PUD.

Staff Response:

Complete.

- (12) Current parking conditions along the West side of Taylor Avenue and within the Taylor Avenue Right-of-Way shall be maintained.

Staff Response:

Complete. The Applicant has worked with the Town to address and redesign additional parking along Taylor Avenue in areas that are within the Town's Taylor Avenue Right-of-Way and/or areas within the PUD where the Applicant will provide parking easements.

- (13) The Applicant shall revise and update the Minturn North PUD Guide and/or project covenants and declarations to allow for outdoor play equipment such as trampolines.

Staff Response:

Complete.

- (14) The Applicant shall work with the Town prior to or concurrent with any Final Plan for PUD submission to refine fencing guidelines and/or restrictions within the Minturn North PUD Guide and/or project covenants prior to or concurrent with any Final Plan for PUD submission.

Staff Response:

Complete.

- (15) The Applicant shall work with the Town prior to or concurrent with any Final Plan for PUD submission to determine locations where on street parking may be accommodated on or along Minturn Road.

Staff Response:

Complete.

- (16) The Applicant shall facilitate additional review of any Final Plan/Plat documents with the Eagle River Fire Protection District prior to or concurrent with any Final Plan for PUD submission, to specifically confirm maneuverability, turn-arounds, and fire hydrant location.

Staff Response:

Complete.

- (17) The Applicant shall revise and update the Minturn North PUD Guide and/or project covenants prior to or concurrent with any Final Plan for PUD submission to limit construction hours to Mon-Sat 7am to 6pm, with indoor work permitted on Sundays.

Staff Response:
Complete.

- (18) The Applicant shall work with the Town prior to or concurrent with any Final Plan for PUD submission to address Short Term Rentals (STRs) within the PUD.

Staff Response:
Complete.

- (19) The Applicant shall revise the Final Plat document as well as the Minturn North PUD Guide and/or project covenants to remove the "Dedication Parcel" from the PUD boundaries.

Staff Response:
Complete.

- (20) The Applicant shall revise the PUD Final Plan documents to include a Wildlife Mitigation Plan pursuant to Appendix "O" of the PUD Preliminary Plan application, to be reviewed and approved by Colorado Parks and Wildlife (CPW) prior to or concurrent with any Final Plan/Plat application submission.

Staff Response:
Complete.

Preliminary Plat Conditions of Approval:

- (1) The Applicant shall work with Town staff to update the Updated Preliminary Plat prior to or concurrent with any Final Plan/Plat application to address any/all outstanding technical and/or legal requirements as noted in previous staff and consultant referral comments.

Staff Response:
Complete or Ongoing; few minor issues to be addressed and corrected prior to second reading of ordinances.

- (2) The Applicant revise the Updated Preliminary Plat to add language specific to Tracts B and E, "Open Space," as well as Tract C, "Dedication Parcel," to reference and provide for snow storage uses.

Staff Response:
Complete.

- (3) The Applicant revise the Updated Preliminary Plat to add language and/or easements permitting public access on, over and through Tract D "R-O-W" for

Miles End Lane, as well as Tract G "Right of Way," and associated "Access, Utility and Drainage" easement for Silver Star Trail.

Staff Response: Complete.

Summary of Outstanding Issues and Recommended Conditions of Approval

Geotechnical Recommendations:

As part of the Preliminary Development Plan for PUD approval, the Town required that the Applicant work with the Town Engineer to address previously identified areas of concern related to potential mud and debris flow hazards associated with the Game Creek Drainage.

This issue – the possibility of a mud and/or debris flow event originating within the Game Creek Drainage and potentially impacting existing homes located within the Taylor Addition as well as the northernmost portion of the Minturn North PUD – had been raised by three consultants/firms hired by the Applicant (CTL Thompson, Kumar & Associates, and Wright Water Engineers) as part of the Preliminary Plan application. Various soils & foundation investigations, geotechnical hazards/mudflow evaluations, and drainage reports prepared by these firms identified the potential for mud and debris flows within the Game Creek Drainage and specifically recommended additional evaluation of mudflow and debris flow hazard as a means to assess the efficacy of the mud/debris flow deflection berm and drainage structures proposed within the PUD civil engineering plans.

The Colorado Geological Survey (CGS) reviewed the Preliminary Plan and associated reports and evaluations as part of the Preliminary Plan referral process, and, ultimately, the Town approved the Preliminary Development Plan for PUD with the following condition to allow the Applicant an opportunity to perform additional evaluation:

"The Applicant shall work with the Town Engineer prior to or concurrent with any Final Plan/Plat application to address referral comments related to further evaluation of hazards that may impact final design of all civil engineering and/or subdivision design(s)."

In response to this condition, the Applicant re-engaged Wright Water Engineers and also asked Boundaries Unlimited – the project civil engineering consultant – to provide further commentary and analysis of the potential mudflow/debris flow hazard and the proposed mitigation. Both consulting firms provided additional letters regarding their independent opinions of the issue. Both letters were re-referred to CGS as part of the Final Development Plan for PUD referral process. CGS provided a response in a letter

addressed to Scot Hunn dated October 23, 2023 (attached) which recommends and reiterates that additional flood/mudflow/debris flow & inundation hazards and risk analyses be performed and that such studies and analyses include or address "10-, 25-, and 100- year storm events" to justify the proposed mitigation (berm and drainage ditches) and to ensure that the design of any mitigation is such that a flood, mudflow, or debris flow event does not exacerbate potential hazards to other properties or roads.

Based on CGS referral responses, staff are of the opinion that the Applicant has not adequately addressed previously identified issues and specific recommendations related to the potential for mud and/or debris flow hazards that may affect the subject property.

Therefore, staff is unable to make a positive finding related to Final Development Plan for PUD Standard Number

That being said, staff are not aware of any other hazards or environmental issues or concerns that have not been addressed, or which could not be addressed during the construction process (e.g., requiring site specific geotechnical investigations for each building site as part of the building design and permitting process as is typical in Eagle County). Additionally, the Applicant has provided language to be included in closing documents provided to buyers of future lots which discloses potential hazards.

Therefore, while staff believes that the issues identified by the Applicant's own consultants as well as CGS are of major concern – to be addressed prior to any final action is taken on the Final Development Plan application or any subdivision plat that creates developable lots - should the Town Council wish to approve the Minturn North Final Development Plan for PUD (including final subdivision plats) and, specifically, to be able to make a positive finding for approval criteria "k" and "m," staff recommends the following condition of approval:

Condition	The Applicant shall provide, and the Town of Minturn shall review and approve additional flood, mudflow, and/or debris flow hazards evaluation(s), report(s) and/or studies prepared by a professional geotechnical engineer licensed in the State of Colorado and specifically related to the Game Creek Drainage and associated alluvial fan areas occurring within the Minturn North PUD boundaries. Such evaluation(s), report(s) and/or studies shall specifically evaluate and assess the risk of potential flood, mudflow, and/or debris flow events, as well as the efficacy of proposed mitigation design and construction. Such evaluation(s), report(s), and/or studies shall be reviewed and approved; and any revisions to proposed mitigations shall be designed and submitted for review and approval by the Town and/or it's consultants prior to the recording of the UPRR Subdivision Final Plat and/or the Minturn North PUD Subdivision Final Plat.
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Town Engineer Outstanding Issues:

A crucial element of any Final Plan for PUD and Final Subdivision Plat approval process focuses on the review and approval of final, 100% construction level civil engineering drawings which should reflect and respond to conditions of Preliminary Plan/Plat approval (i.e., conditions requiring technical engineering, legal, and/or surveying revisions to PUD documents) and which then form the basis for final cost estimates (which will be collateralized) for public improvements necessary to support the PUD.

The Applicant has worked closely with Jeff Spanel and Intermountain Engineering, the Town Engineer, to various rounds of comments related to civil engineering drawings and proposed subdivision plat documents. The Town Engineer provided final comments on October 24, 2023, (attached). The Applicant met with Town staff on Thursday, October 26, 2023, to discuss and resolve a majority of the issues listed on the Town Engineer's comment letter as well as a response letter submitted by the Applicant on October 25, 2023 (attached). Following that meeting, the following list represents those issues that still need to be fully addressed.

- Final design and cost estimates for paving of County Road 14 north of the Minturn North PUD boundary.
- EcoTrails Game Creek bridge crossing (still in the design phase).
- Hwy. 24 Turn Lanes (need updated cost estimates).
- Hazards Analysis (see Final Development Plan for PUD Condition No. _).
- Grading and drainage on UPRR property (Applicant working with Town Attorney to draft language in CC&Rs/agreements to allow the Town emergency access on UPRR properties outside the PUD boundaries if needed).
- CDOT: notice to proceed from CDOT with improvements authorized with access permitting still outstanding.
- EcoTrail: need final plans for Game Creek bridge crossing as well as evidence of Army Corps of Engineers approval/permitting.
- Eagle River Water and Sanitation District Final Approval and Ability to Serve: need to provide evidence of final approval by ERWSD.

Staff believes several or most of these issues and details/corrections are minor in nature and/or can be addressed prior to second reading of the ordinances, while one (hazard evaluations) should be completed as a condition of approval prior to recording of any final plats. Based on the above outstanding issues and corrections needing to be made, staff recommends the following conditions:

Condition	The Applicant shall work with the Town Engineer and Town Attorney to revise and update PUD documents (CC&Rs) and/or agreements to permit the Town of Minturn, as an authorized contractor, to access to repair critical offsite drainage facilities in emergency situations.
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Condition	The Applicant shall provide 100% construction level plans and cost estimates for County Road 14/the extension of Minturn Road within one year and constructed within three years of final plat approval.
Condition	The Applicant shall provide CDOT Notice to Proceed and construct offsite improvements within 3 years of final plat approval.
Condition	Provide final designs and cost estimates for the Eco Trails Game Creek Bridge.
Condition	Provide all necessary Army Corps of Engineers wetland permitting prior to commencement of construction of the EcoTrail Game Creek Bridge.
	The Applicant shall provide evidence of final approval and ability to serve from the Eagle River Water and Sanitation District prior to recordation of the Minturn North PUD Final Subdivision Plat.

Summary of Staff Recommendation(s)

Based upon the review of the Final Plan for PUD and Final Subdivision Plat application(s), staff is **recommending**:

1. **Approval** of the Minturn North Final Development Plan, with conditions.
2. **Approval** of the "UPRR Final Subdivision Plat," with conditions.
3. **Approval** of the "Minturn North PUD Final Subdivision Plat," with conditions.

Report Organization

The remainder of this report briefly summarizes and addresses:

Section II	A summary of the Planning Commission's recommendations
Section III	Summary of PUD Process, Final Plan Review, and Code Requirements
Section IV	Zoning Analysis
Section V	Summary of Staff Findings - Final Plan and Final Plat Conformance
Section VI	Outstanding Issues
Section VII	Summary of Recommendations and Suggested Motions
Section VIII	Attachments

II. Summary of Planning Commission Review and Recommendation:

As outlined above in this report, the Minturn Municipal Code requires review of Final Subdivision Plats by the Minturn Planning Commission, while the Minturn Town Council is responsible for review of all Final Development Plan for PUD, Final Subdivision Plat, and Subdivision Improvements Agreement applications.

The Planning Commission reviewed the "UPRR Final Subdivision Plat" (to create two salable parcels) and the "Minturn North PUD Final Subdivision Plat" (to create the proposed 39-lot residential neighborhood) on October 11, 2023. Following a public hearing where the Commission **forwarded a recommendation for approval for both documents, with no conditions** based on a determination that the plat(s) conformed to the Preliminary Plat documents that were reviewed and ultimately approved by the Town in July 2023, as well as the Town's subdivision standards.

III. PUD Process and Code Requirements:

Planned Unit Development (PUD) Approval Process

As noted above, the Applicant is requesting review of a Final Development Plan for PUD and Final Subdivision Plat for a new PUD pursuant to Section 16-15-200 – *Final plan for PUD*. This is the third and final step in the review of the proposed PUD and is characterized as a highly technical review of final construction documents, detailed construction cost estimates, legal documents (plat, HOA documents, and SIA), and financial guarantees.

It is worth noting that Preliminary Plan for PUD review which occurred in the summer of 2023 was the stage of review when the Town reviewed detailed plans and reports, confirmed conformance with the Town's development standards and master plan policies, and, ultimately, approved the PUD zoning with a list of conditions that the Applicant has worked with the Town to address during the final plan process.

Final Plan for PUD - Review Purpose and Criteria

Section 16-15-200 provides the following description of the Final Development Plan review purpose and process:

*A final development plan for the PUD shall be reviewed pursuant to the **same standards applicable to a preliminary development plan for the PUD. The final development plan for the PUD shall be reviewed by the Town Council at a public hearing and shall be approved by ordinance.** Submission of the final development plan application should occur no more than two (2) years after the approval of the preliminary plan. An extension can be granted requiring a clear statement explaining the reason for an extension. Failure to do so will result in the plan proceeding through the preliminary plan process again for explanation and*

approval. Approval of the final development plan PUD zone shall be considered as satisfying the final development plan requirements of the Town PUD regulations and subdivision regulations."

Section 16-15-140 – Preliminary development plan submittal requirements.

As noted above, final plans are reviewed utilizing the same criteria and standards applicable to a Preliminary Plan for PUD review which are elaborated on in Section V - Staff Analysis and Findings, of this staff report.

IV. Zoning Analysis:

The Minturn North Planned Unit Development (PUD) property is located within the "Game Creek Character Area." The property was previously zoned within the "PUD Holding Zone District;" however, upon approval of the PUD Preliminary Plan, the Minturn North property is now officially zoned as the "Minturn North PUD Overlay Zone District."

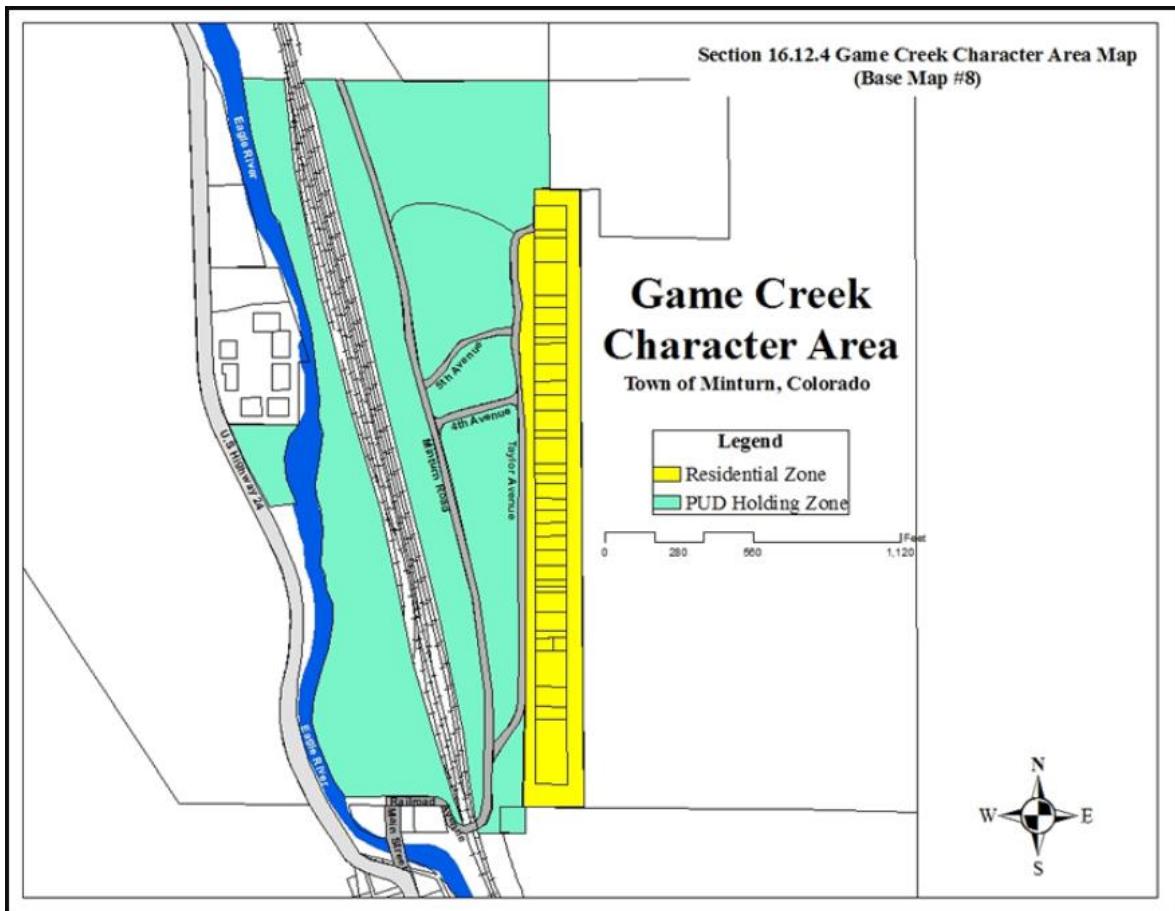


Figure 2: Game Creek Character Area Zoning Map

The following excerpts from the Minturn Municipal Code (MMC) provide background information regarding the Game Creek Character Area as well as the purpose of the Planned Unit Development (PUD) overlay zone district. Section 16-12-10 – *Character Area Characteristics* of the Minturn Municipal Code (MMC) describes the railroad property located on the north side of Town as follows:

*"The Game Creek Character Area is visually prominent from the north entryway into the Town. The area is predominantly devoted to railroad use and will require a comprehensive planning effort prior to redevelopment. In addition to the rail yard, the area contains the Taylor Avenue neighborhood, some commercial uses and a community parking lot. The area is bisected by the railroad right-of-way, which is intended to remain as a continuous transportation corridor. Most of the area lacks adequate street rights-of-way and utilities. **The Community Plan has identified this area as an appropriate area for extension of the Old Town commercial core, mixed-use and residential development; however, high impact industrial uses are discouraged.** Enhancement of the Eagle River corridor is a community priority."*

Section 16-12-30 - *Game Creek PUD Holding Zone* of Minturn's Town Code provides the following general description of the site:

*"This area is currently owned by the Union Pacific Railroad; however, trains are no longer utilizing the corridor or the rail yard. **The historic industrial zoning is no longer appropriate due to the probable abandonment of the rail line and potential conflict with future commercial and residential development. Redevelopment of this area will have a significant impact on the future character and size of the Town.**"*

The MMC provides further direction as to the Town's stated goals for redevelopment and future use of the railroad properties:

*"**It is an objective of the Town to plan and redevelop the rail yard as a master planned development that is compatible with the existing Town character.** Future development and land use decisions for this area need to incorporate community input and involve an open public process. **The PUD Holding Zone and the PUD review process will provide for the flexibility, innovation and public input necessary to achieve the goals and objectives of the Community Plan and this Chapter.** This area has been identified in the Community Plan as an area suitable for expansion of Old Town and as a "potential Town Center" site. **Development in this area needs to incorporate appropriate residential and low-impact land uses along Taylor Avenue to minimize impacts to the existing neighborhood.** The rail corridor should be maintained and improved access to and across the Eagle River should be incorporated into proposed development plans."*

V. Summary of Staff Findings - Final Plan and Final Plat Conformance:

The following section outlines the evaluation criteria that the Town Council must consider in any action to approve, approve with conditions, deny, or table/continue the Minturn North Final Development Plan for PUD and associated Final Subdivision Plat(s).

Note: Pursuant to the Minturn Municipal Code, Final Development Plans for PUDs are to be reviewed in accordance with Preliminary Plan for PUD criteria and standards.

Final (Preliminary) Development Plan for PUD Evaluation Criteria:

1. Final (Preliminary) development plan evaluation criteria:

- a. The resulting development will be consistent with the Community Plan and the proposed PUD reflects the character of the Town.*

Staff Response/Finding:

The Final Plan addresses and responds to a majority of the Community Plan goals. Further, the plans have not changed in any substantive way since the Town found the PUD in conformance with Preliminary Plan for PUD criteria and standards - specifically consistency with the Community Plan - in July 2023.

- b. The area around the development can be planned to be in substantial harmony with the proposed PUD.*

Staff Response/Finding:

The PUD has been planned and laid out to be harmonious with the surrounding neighborhood and the applicant has worked with the Town and service providers to address needed improvements to public infrastructure. The surrounding area is developed, and the project is considered "infill." The plans have not changed in any substantive way since the Town found the PUD in conformance with this standard in July 2023, other than to work through final (100%) construction details to address Preliminary Plan conditions of approval.

- c. The adjacent and nearby neighborhoods will not be detrimentally affected by the proposed PUD.*

Staff Response/Finding:

The Final Plan is an infill development that meshes well with the adjacent Taylor Avenue and Minturn Towne Homes neighborhoods

and was deemed to not be detrimental to the surrounding area during the approval of the Minturn North Preliminary Development Plan for PUD. The plans have not changed in any substantive way since the Town found the PUD in conformance with this standard in July 2023.

- d. *The mass and scale of individual buildings and the overall density of the PUD shall be consistent in scale and character to avoid abrupt and/or severe differences with the surrounding area.*

Staff Response/Finding:

The Final Plan proposes lot standards and height restrictions exceedingly similar to the Town's existing requirements, with the biggest difference or variation being proposed lot and impervious coverage maximums. As ultimately determined by the Planning Commission and Town Council during their respective reviews of the Minturn North Preliminary Development Plan for PUD in June and July 2023, the proposed variations are warranted. The plans and proposed development standards for the PUD have not changed in any substantive manner since the Preliminary Development Plan was approved in July 2023.

- e. *The PUD can be completed within a reasonable period of time, which shall be determined prior to final approval of the PUD.*

Staff Response/Finding:

Staff believes the PUD can be completed within a reasonable time frame and the timing of infrastructure is planned to be completed in one phase. Final details - including review comments and recommendations from the Town Attorney - regarding phasing of infrastructure and the financial guarantees necessary to complete the project are being presented with the Final Plan, Final Subdivision Plat, and SIA with cost estimates and financial guarantees.

- f. *The PUD provides for the appropriate treatment of the Eagle River corridor as a community recreational amenity and focal point.*

Staff Response/Finding:

The Minturn North PUD does not border the Eagle River, however the approved PUD zoning and development standards include setbacks and restrictions on use/development within the Game Creek riparian areas and 30-foot live stream setback areas, as well as vastly improved drainage and stormwater management improvements within and outside of the PUD boundaries.

- g. The residents of the PUD have easy access to recreational amenities.*

Staff Response/Finding:

The PUD is situated at the base of Game Creek and the Game Creek trailhead; is within walking, biking, or driving distance to several thousand acres of public lands and trails; and provides internal open spaces that can be used for open air active or passive recreation. Additionally, the Applicant intends to deed a 1-acre parcel (the "Dedication Parcel") to the Town of Minturn for its use and discretion. Discussions with the Council and the public have centered on the potential use of the Dedication Parcel for open space/park uses as well as potential employee housing.

- h. Any increase in density proposed above what is permitted in the underlying zone shall be mitigated by increasing the land dedications to open space, recreational amenities or other public facilities and services.*

Staff Response/Finding:

The approved Preliminary Development Plan for PUD proposed densities in line with the surrounding Game Creek Character Area Residential Zone District. Importantly, the underlying zone district prior to the establishment of the Minturn North PUD Overlay Zone District was "PUD Holding Zone" which had no underlying density or development standards.

- i. Any proposed commercial or industrial development can be justified.*

Staff Response/Finding:

No commercial or industrial development is proposed in this PUD.

- j. The streets are adequate to support the anticipated traffic, and the development will not overload the streets outside the planned area.*

Staff Response/Finding:

The PUD is proposing streets that are adequate to support the anticipated traffic, and CDOT has issued access permits and corresponding notices to proceed for the project.

- k. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.*

Staff Response/Finding:

The Final Development Plans and Final Subdivision Plat documents have been thoroughly reviewed to ensure that utility and drainage plans and facilities are properly planned, scaled, and engineered for

the proposed type and number of buildings and people who will occupy the PUD. The plans have not changed in any substantive way since the Town found the PUD in conformance with this standard in July 2023.

However, the Preliminary Plan was approved with a condition requiring additional evaluation of mudflow/debris flow hazards and the adequacy of proposed mitigation (berm and drainage facilities). This item is outstanding, and staff are unable to make a positive finding for this criteria.

- l. Residential density and intensity of other uses shall be limited as required by the Town Council, upon consideration of the Community Plan, the Official Zone District Map and the specific characteristics of the subject land.*

Staff Response/Finding:

Staff believes that the proposed density and intensity of use conforms to the Community Plan; is similar to the surrounding uses as shown on the Official Zone District Map; and is appropriate for this location as an infill project served by existing infrastructure and transit. The plans have not changed in any substantive way since the Town found the PUD in conformance with this standard in July 2023.

- m. A favorable finding is made on the environmental assessment or environmental impact report.*

Staff Response/Finding:

An environmental assessment was provided and reviewed with the Minturn North Preliminary Development Plan for PUD application. The assessment – which includes geotechnical, soils, and hazard analyses – was reviewed by the Town staff and consultant team during the Preliminary Plan review and was found to be in general conformance with the Town's standards. The plans have not changed in any substantive way since the Town found the PUD in conformance with this standard in July 2023.

However, the Preliminary Plan was approved with a condition requiring additional evaluation of mudflow/debris flow hazards and the adequacy of proposed mitigation (berm and drainage facilities). This item is outstanding, and staff are unable to make a positive finding for this criteria.

- n. *The preliminary plan for PUD shall comply with the following open space and recreation standards:*
- i. *A minimum of twenty-five percent (25%) of the gross land area shall be reserved for common recreation and usable open space. Parking areas, street rights-of-way and minimum yard setbacks shall not be counted when determining usable open space. Water bodies, lands within critical wildlife habitat, riparian ecosystems and one-hundred-year floodplains that are preserved as open space shall count towards this minimum standard, even when they are not usable by or accessible to the residents of the PUD.*
 - ii. *All common open space and recreational facilities shall be shown on the preliminary plan for PUD and shall be constructed and fully improved according to the development schedule established for each development phase.*
 - iii. *All privately owned common open space shall continue to conform to its intended use, as approved in the preliminary plan. To ensure that all the common open space identified in the preliminary plan will be used as common open space, restrictions and/or covenants shall be placed in each deed to ensure their maintenance and to prohibit the division of any common open space.*

Staff Response/Finding:

The Final Plan indicates that areas within the PUD will be provided with internal sidewalks, open spaces and usable park areas as well as . individual yard spaces surrounding each unit. The open space exceeds the minimum percentage recommended in the Minturn Municipal Code. The plans have not changed in any substantive way since the Town found the PUD in conformance with this standard in July 2023.

Final Plat:

Section 17-6-30 - *Final Subdivision Plat; Town Council review*, of the Minturn Municipal Code outlines the following standards or criteria for the Town Council's review of the Final Plat:

“Subsequent to the Planning Commission’s determination that the final subdivision plat meets the requirements for approval, the proper signatures shall be affixed to the plat. At a public hearing, the Town Council shall review the plat and proposed subdivision agreement, which shall include any legal, financial or other agreements between the subdivider and the Town. Public notice shall be given at least ten (10) days in advance of such hearing. Upon approval of such plat and agreement, the Town Council shall enact an ordinance authorizing Town Council certification of the plat accepting any dedications shown thereon. The Town Council shall also authorize the staff to draft a subdivision agreement, which shall include any legal, financial or other agreements between the subdivider and the Town and which shall

include such conditions as the Town Council finds necessary to ensure that the proposed subdivision complies with the Town's regulations, goals, policies and plans. The plat and subdivision agreement shall be recorded with the County Clerk and Recorder within thirty (30) days of Town Council certification. If the proposal is denied, the Town Council shall state the specific reasons for denial based on standards found herein."

Staff Response:

Staff suggests that the Final Plats (UPRR and Minturn North PUD Subdivision Plats) conform to the purpose and intent of Chapter 17, Subdivisions, as well as the specific, technical plat requirements and that the plat meets the Town's requirements for approval. Review of the plats has gone hand in hand with review of the Final Development Plan for PUD wherein the Town, its consultants, and external referral agencies have provided comments and recommendations that have been incorporated into the final plans for the development.

However, staff is recommending a condition of Final Plat approval – for both subdivision plats - requiring additional evaluation of mud/debris flow hazards and the adequacy of design for deflection berms proposed along Game Creek.

VII. Staff Recommendations and Suggested Conditions:

Final Analysis and Staff Recommendation:

Staff believes the Minturn North Final Development Plan for PUD **conforms** with a preponderance of Town goals and policies and complies with applicable standards for approval of a Final Plan for PUD. Likewise, the subdivision plats submitted to create UPRR parcels and then to subdivide "Parcel 1" of the UPRR subdivision to create the Minturn North PUD Subdivision, also **comply** or, with conditions, can be made to fully comply, with the Town's subdivision regulations and legal requirements.

However, one significant issue related to additional hazards analysis prevents staff from making positive findings for all required approval criteria.

Therefore, staff strongly recommends that any approval of the Minturn North Final Development Plan for PUD and/or associated Final Subdivision Plats be conditioned to require further evaluation of geotechnical hazards.

Staff is recommending approval of the Minturn North Final Development Plan for PUD, the UPRR Subdivision Final Plat, and the Minturn North PUD Subdivision Final Plat, with conditions.

The following suggested conditions for each of the three ordinances needed for final approval are provided in the event the Town Council takes action to approve the Final Development Plan and/or associated Final Subdivision Plats for the PUD.

Please note: the ordinances are presented in numerical order based to ensure that the plat ordinances are approved in the correct sequence (to create UPRR parcels prior to approving Minturn North PUD subdivision lots).

Suggested Motions - Alternatives:

The Town Council is being asked to consider three ordinances - Ordinance No. 15, Series 2023; Ordinance No. 16, Series 2023; and Ordinance No. 17, Series 2023 on first reading.

Staff recommends conditions of approval for each ordinance. Staff suggests that, with the exception of a suggested condition requiring additional hazards analyses, these suggested conditions reflect minor issues that can either be addressed prior to any second reading of the ordinances or prior to construction and securitization of certain public improvements such as the EcoTrails bridge, paving of County Road 14, or turn lanes on Hwy. 24.

The following suggested motion language is offered to assist the Town Council:

Ordinance 15 - Series 2023: Minturn North Final Plan Development Plan for PUD:

Approval:

"I move the Minturn Town Council approve Ordinance 15 - Series 2023: Minturn North Final Development Plan for PUD, on first reading because the Final Development Plan conforms to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan."

Approval with Conditions:

"I move the Minturn Town Council approve, with conditions, Ordinance 15 - Series 2023: Minturn North Final Development Plan for PUD on first reading, because the Final Plan conforms, as conditioned, to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan."

1. The Applicant shall provide, and the Town of Minturn shall review and approve additional flood, mudflow, and/or debris flow hazards evaluation(s), report(s) and/or studies prepared by a professional geotechnical engineer licensed in the State of Colorado and specifically related to the Game Creek Drainage and associated alluvial fan areas occurring within the Minturn North PUD boundaries. Such evaluation(s), report(s) and/or studies shall specifically evaluate and assess the risk of potential flood, mudflow, and/or debris flow events, as well as the efficacy of proposed mitigation design and construction. Such evaluation(s), report(s), and/or studies shall be reviewed by Colorado Geological Survey and approved by the Town Engineer; and any revisions to proposed mitigations shall be designed and submitted for review and approval by the Town and/or it's

- consultants prior to the recording of the UPRR Subdivision Final Plat and/or the Minturn North PUD Subdivision Final Plat.
2. The Applicant shall work with the Town Engineer and Town Attorney to revise and update PUD documents (CC&Rs) and/or agreements to permit the Town of Minturn, as an authorized contractor, to access to repair critical offsite drainage facilities in emergency situations.
 3. The Applicant shall provide 100% construction level plans and cost estimates for County Road 14/the extension of Minturn Road within one year and constructed within three years of final plat approval.
 4. The Applicant shall provide CDOT Notice to Proceed and complete construction offsite improvements within 3 years of final plat approval.
 5. Provide final designs and cost estimates for the Eco Trails Game Creek bridge within one year and constructed within three years of final plat approval.
 6. Provide all necessary Army Corps of Engineers wetland permitting prior to commencement of construction of the EcoTrail Game Creek Bridge.
 7. The Applicant shall provide evidence of final approval and ability to serve from the Eagle River Water and Sanitation District prior to recordation of the Minturn North PUD Final Subdivision Plat.

Denial:

"I move the Minturn Town Council to Deny Ordinance 15 - Series 2023: Minturn North Final Development Plan for PUD, because the Final Plan does not conform to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan."

Continuance:

"I move the Minturn Town Council to continue Ordinance 15 - Series 2023: Minturn North Final Development Plan for PUD to [a date certain]."

Ordinance 16 - Series 2023, Minturn North PUD Subdivision Final Plat:

Approval:

"I move the Minturn Town Council Approve Ordinance 16 - Series 2023, Minturn North PUD Subdivision Final Plat on first reading because the Final Subdivision Plat conforms to the Preliminary Plat, as well as applicable criteria and standards of the Minturn Municipal Code."

Approval

with

Conditions:

"I move the Minturn Town Council Approve, with conditions, Ordinance 16 - Series 2023, Minturn North PUD Subdivision Final Plat, on first reading, because the Final Subdivision Plat conforms to the Preliminary Plat, as conditioned, and to the applicable criteria and standards of the Minturn Municipal Code:

1. The Applicant shall provide, and the Town of Minturn shall review and approve additional flood, mudflow, and/or debris flow hazards evaluation(s), report(s) and/or studies prepared by a professional geotechnical engineer licensed in the State of Colorado and specifically related to the Game Creek Drainage and associated alluvial fan areas occurring within the Minturn North PUD boundaries. Such evaluation(s), report(s) and/or studies shall specifically evaluate and assess the risk of potential flood, mudflow, and/or debris flow events, as well as the efficacy of proposed mitigation design and construction. Such evaluation(s), report(s), and/or studies shall be reviewed and approved by the Town Engineer and the Colorado Geological Survey; and any revisions to proposed mitigations shall be designed and submitted for review and approval by the Town and/or its consultants prior to the recording of the UPRR Subdivision Final Plat and/or the Minturn North PUD Subdivision Final Plat.
2. The Applicant shall work with the Town Engineer and Town Attorney to address and resolve all outstanding technical comments related to plat language and/or survey data prior to second reading of Ordinance No. 16, Series 2023.

Denial:

"I move the Minturn Town Council to deny Ordinance 16 - Series 2023, Minturn North PUD Final Subdivision Plat, because the Final Subdivision Plat does not conform to the Preliminary Plat and/or applicable criteria and standards of the Minturn Municipal Code."

Continuance:

"I move the Minturn Town Council to continue Ordinance 16 - Series 2023, Minturn North PUD Final Subdivision Plat to [a date certain]."

Ordinance 17 - Series 2023, UPRR Subdivision Final Plat:

Approval:

"I move the Minturn Town Council Approve Ordinance 17 - Series 2023, UPRR Subdivision Final Plat, on first reading because the Final Subdivision Plat conforms to the Preliminary Plat, as well as applicable criteria and standards of the Minturn Municipal Code."

Approval

with

Conditions:

"I move the Minturn Town Council Approve, with conditions, Ordinance 17 - Series 2023, UPRR Subdivision Final Plat, on first reading, because the Final Subdivision Plat conforms to the Preliminary Plat, as conditioned, and to the applicable criteria and standards of the Minturn Municipal Code:

1. The Applicant shall provide, and the Town of Minturn shall review and approve additional flood, mudflow, and/or debris flow hazards evaluation(s), report(s) and/or studies prepared by a professional geotechnical engineer licensed in the

State of Colorado and specifically related to the Game Creek Drainage and associated alluvial fan areas occurring within the Minturn North PUD boundaries. Such evaluation(s), report(s) and/or studies shall specifically evaluate and assess the risk of potential flood, mudflow, and/or debris flow events, as well as the efficacy of proposed mitigation design and construction. Such evaluation(s), report(s), and/or studies shall be reviewed and approved by the Town Engineer and the Colorado Geological Survey; and any revisions to proposed mitigations shall be designed and submitted for review and approval by the Town and/or its consultants prior to the recording of the UPRR Subdivision Final Plat and/or the Minturn North PUD Subdivision Final Plat.

2. The Applicant shall work with the Town Engineer and Town Attorney to address and resolve all outstanding technical comments related to plat language and/or survey data prior to second reading of Ordinance No. 16, Series 2023.

Denial:

"I move the Minturn Town Council to deny Ordinance 17 - Series 2023, UPRR Subdivision Final Plat, because the Final Subdivision Plat does not conform to the Preliminary Plat and/or applicable criteria and standards of the Minturn Municipal Code."

Continuance:

"I move the Minturn Town Council to continue Ordinance 17 - Series 2023, UPRR Subdivision Final Plat to [a date certain]."

VIII. Attachments:

- A. Review Letter by Town Engineer Dated October 24, 2023
- B. Review Letter by Colorado Geological Survey Dated October 23, 2023
- C. Final Minturn North Application (PUD Guide, CC&Rs, Reports & Final Plats)
- D. Ordinance No. 15, Series 2023
- E. Ordinance No. 16, Series 2023
- F. Ordinance No. 17, Series 2023