

Glenwood Springs – Main Office

201 14th Street, Suite 200
P. O. Drawer 2030
Glenwood Springs, CO 81602

Aspen

0133 Prospector Rd.
Suite 4102J
Aspen, CO 81611

Montrose

1544 Oxbow Drive
Suite 224
Montrose, CO 81402

Office: 970.945.2261

Fax: 970.945.7336

[**Direct Mail to Glenwood Springs*](#)

DATE: March 1, 2024
TO: Planning & Zoning Commission
FROM: Karp Neu Hanlon, P.C.
RE: Belden Place SFE application

As members of Council may recall, in February 2022 representatives of the Belden Place development made a request to Council to have additional SFEs allocated for its development. At that time, the Council took the request under advisement without giving a specific direction. In the interim, Belden Place filed litigation against the Town in part asserting its rights to receive additional SFEs of water service. The Town entered into a settlement agreement with Belden Place in November 2023 (attached). Belden submitted application documents to the Town for additional SFEs in December 2023. Due to health issues of the Town Attorney, final review of the application materials was not completed until February 2024.

The Belden Place development contains single family residences, duplexes, and multifamily residences. As a result of the land use configuration, several of the units do not have yards requiring irrigation. Instead, there are common areas that will be irrigated together with lawn and gardens associated with single family and duplex lots. The result of this is that the total effective water consumptive use associated with the development is less than would be expected if all of the units were single family residences. In effect, the Belden Place development creates more housing with less water consumption than would a strictly single family or duplex community.

Under ordinance No. 5, Series 2020, the Town imposed a moratorium on development that limited new water service to historical use plus three SFEs. The 2020 moratorium ordinance was subsequently updated in 2023 to limit development to historical use plus one SFE. Another amendment to the 2020 moratorium ordinance was removing a provision that allowed developments to seek additional SFE allocations from the Council. Because Belden Place made its request for additional SFEs prior to the adoption of the 2023 revised moratorium, Belden may proceed with its application to seek additional SFEs for its development under the 2020 moratorium provisions.

Under the 2020 moratorium, the Minturn North development was allocated 70 additional SFEs of water service which constituted the bulk of the remaining water service the Town currently has the legal and physical means to provide. The Minturn North development turned out to be less water intensive than was contemplated in 2020. Specifically, Minturn North development only has 39 lots.

The subdivision improvement agreement for Minturn North allows for certain units to be built larger than 3000 square feet and has reserved an additional 15 SFEs of water service for that purpose (for a total of 54 units) The water service for larger lots must be designated within two years of the Minturn North approval, otherwise those taps will go back into the general allocation. The 16 taps which Belden Place is seeking an allocation of represents the reduction in the Minturn North density to its current platted situation without including SFEs for a larger houses on some of the Minturn North lots.

The settlement agreement in the Belden Place litigation contemplates that Belden Place will submit an application for allocation of the SFEs and applications to amend the SIA, the PUD plan, and the final plat. The amendments to the land use documents represent the conversion of a triplex lot into a single family lot (with ADU). The land use applications have been submitted together with the materials for the SFE allocation, but will be heard at a subsequent time by the council after land use notice occurs. While the settlement agreement contemplates the hearing to allocate 16 SFEs to Belden Place, the settlement agreement does not require a specific outcome. Instead, this will be a quasi judicial hearing in which the Council will make an independent evaluation of the request. The decision shall be made by a voice vote of the Council.

Staff recommends approval of the request to allocate the 16 SFEs to Belden Place. As noted, the allocation will result in less water use per SFE than allocation to single family or duplex lots. That helps the Minturn water system which faces major physical and legal limitations on water production. Further, the allocation would advance the goals of the settlement agreement with Belden Place and move toward dismissal of that litigation.