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November 1, 2024

Scot Hunn
Planning Director
Town of Minturn
301 Boulder St.
P.O. Box #309
Minturn, CO 81645
scot@hunnplanning.com

Re: Town Attorney Recommended Conditions of Approval for Midtown Village

Dear Scot:

After several referral iterations of the Midtown Village Planned Unit Development Preliminary Plan, we are satisfied that this application is ready for review by the Town of Minturn Planning Commission and Town Council. If approved, we recommend including the conditions of approval at the end of the letter to ensure that the applicant diligently works toward full compliance with the Minturn Municipal Code and other legal requirements.

Outstanding Issues

Below is a summary of issues that remain to be addressed for this application to receive final plat approval

Water Matters

The development has adequate water to develop phases 1 and 2 but due to the existing water moratorium will not be able to develop the remaining phases 3, 4, and 5. The applicant has agreed that the development will be subject to the Town's existing water moratorium as noted on a plat note and will be noted in a Subdivision Improvements Agreement (SIA).

There has been discussion regarding changing the definition of "Single Family Equivalent" (SFE) in Town Code Section 13-1-10. The Town remains steadfast that this definition will not change and that no variance can be requested for site-specific variations. The Town's water rights cases place certain legal constraints on how SFE is defined that cannot be altered at this time.

Plat and Civil Drawings

The plat and civil drawings are missing some necessary easement dedications to ensure that adequate legal access exists for all contemplated uses and utilities. The Certificate of Dedication and Ownership also needs to address these matters and to whom easements are dedicated. This can be addressed prior to final plat as the applicant's engineering progresses towards a final product.

A phasing plan needs to be depicted and noted on the plat so that these subdivided tracts are tied to the land uses envisioned in the PUD Guide. The phasing will also be discussed in the PUD Narrative and SIA.

PUD Guide and Narrative

There has been some confusion around what is included in the PUD Guide and Narrative. As a general matter, the PUD Guide is the zoning approval and should include, but is not limited to discussion of uses, dimensional standards, housing plan, sustainability, and requests for variations from underlying zoning. On the other hand, the PUD Narrative should discuss the prosecution of the development, construction planning, phasing, and other more immediate matters. The PUD Narrative will feed into some of the contents of the SIA. One way to determine whether something should be in the PUD Guide or Narrative is to ask "will anyone care about this statement in 15 years when the development is completed?" If yes, then that should go into the PUD Guide, if not then it should be in the PUD Narrative.

One topic of discussion unique to this PUD that has arisen in the context of the PUD Guide is the interplay of zero-setback patio home concept and surrounding public dedicated open space. This will result in some single-family tiny homes having no yards, and the areas directly outside the walls being common open space. While this can be familiar concept with townhouses, it does not exist in the freestanding single-family context. The applicant has been receptive to the feedback and requests for changes to ensure that structures are not encroaching beyond property boundaries and that open space calculations are accurate.

Subdivision Improvements Agreement

The applicant and the Town Attorney have agreed to work on completing the Town's form SIA at a later date. The form contains standard provisions that all other major subdivisions and PUDs in the Town have agreed to. Additionally, the SIA will include discussion of water allocation, phasing and future subdivisions within the PUD, vested rights being conditioned on water availability, and will include a cost estimate of any public improvements that will be secured with cash or a letter of credit drawable by the Town.

Recommended Conditions of Approval

1. Work with the Town Attorney on language included on the plat (note 16) and the Subdivision Improvement Agreement (SIA) restricting development of future phases

unless and until the Water Moratorium enacted by Ordinance No. 2, Series 2023 has been lifted.

2. Work with the Town Attorney and Town Engineer on the Certificate of Dedication and Ownership on the plat to accurately reflect all existing easements and those being dedicated to whom and for what purposes.
3. Work with the Town Attorney and Town Engineer to ensure that all sheets, easements, and other matters on plat and civil plan drawings are accurately and clearly labeled.
4. Work with the Town Attorney and Planning Director to ensure that the PUD Guide contains only matters relating to land use and zoning, and the PUD Narrative contains other matters relating to the prosecution of the development, including phasing, future subdivisions, allocation of water, and temporary uses. Many of these matters will also be reflected in the SIA.
5. Work with the Town Attorney and Town Engineer on SIA to include final Engineer's Estimate of Probable Costs (EEOPC) for public improvements, security, matters relating to the water moratorium, phasing of development, landscaping, additional permits, and other construction related matters.
6. Work with the Town Attorney on any recommended revisions to the Master Declaration of Covenants, Conditions, and Restrictions for the Midtown Village Homeowners Association.
7. Work with the Town Attorney on inclusionary housing policy, transfer covenants, and deed restrictions to ensure that these covenants have appropriate priority and enforcement mechanisms.
8. Work with the Town Attorney and Planning Director to resolve any of the outstanding matters from the most recent July 3, 2024 rereferral letter and applicant response.

Very truly yours,

KARP NEU HANLON, P.C.



Richard Peterson-Cremer