

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



Minturn Planning Commission
Chair – Lynn Teach
Jeff Armistead
Michael Boyd
Amanda Mire
Eric Rippeth
Darell Wegert

Town of Minturn Planning Commission Public Hearing

Midtown Village Planned Unit Development

Preliminary Development Plan for PUD Preliminary Subdivision Plat Zone District Amendment

Meeting Date:	November 13, 2024
File Name/Process:	Midtown Village Planned Unit Development (PUD) - Preliminary Plan
Owner/Applicant:	Midtown Lofts, LLC
Representative:	Jeff Armistead
Legal Description:	Section: 35 Township: 5 Range: 81 PCLIN SE1/4 NE1/4 Subdivision: South Minturn Estates PT of PT of Parcel B Section: 35 Township: 5 Range: 81 PCLIN SE1/4NE1/4 Subdivision: South Minturn Addition Lot: 12 Subdivision: South Minturn Addition Lot: 11 Subdivision: South Minturn Addition Lot: 13
Existing Zoning:	South Town Character Area – Commercial Zone District
Proposed Zoning:	Midtown Village PUD Overlay Zone District
Staff Member:	Scot Hunn, Planning Director Madison Harris, Planner I Jeffery Spanel, Town Engineer Mike Sawyer, Town Attorney Richard Peterson-Cremer, Assistant Town Attorney
Staff Recommendation:	Approval, with Conditions

I. Executive Summary:

The following report has been prepared for the benefit of the Minturn Planning Commission, the Applicant, and the general public as the Town of Minturn conducts its public review of the **Midtown Village Preliminary Plan for Planned Unit Development (PUD)**.

Summary of Request

The Applicant, Midtown Lofts, LLC, requests review by the Commission of the Midtown Village Preliminary Plan for PUD as well as companion applications for a Preliminary Subdivision Plat (To legally subdivide and create underlying tracts associated with the proposed PUD), and an application for Amendment to the Official Zone District Map (to change the underlying/existing zoning from South Town Character Area “Commercial Zone” to the “Midtown Village PUD Overlay Zone”) collectively referred to in this report as the *Preliminary Development Plan*.

Process Overview

The Preliminary Development Plan for PUD review before the Town of Minturn Planning Commission and Town Council is the second of a three-stage required public 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 2021*)
2. **NOW – PUD Preliminary Development Plan Review (including companion applications for a Preliminary Subdivision Plat and Amendment to the Zone District Map)**
3. Final Plan and Final Subdivision Plat for PUD (inclusive of Subdivision Improvements Agreement)

The Preliminary Plan for PUD application and review process is detailed in nature and is intended to demonstrate the feasibility of the project from financial, technical/design, regulatory, and community need standpoints. If Conceptual Development Plan for PUD review establishes on a basic level that the proposed concept for development generally conforms to the community plan and the Town’s zoning and subdivision regulations, the Preliminary Plan and Preliminary Subdivision Plat review are substantially more detailed in nature.

The numerous plans, reports, legal documents and other graphic materials required by the Town of Minturn Municipal Code (MMC) are intended to give staff, decision makers, partner referral agencies, and the general public detailed information and understanding of:

- How the proposal aligns with the Town’s Strategic and Community Plan goals, policies and priorities;
- How and over what time period the property will be developed and how will the project be served by public and private improvements such as utilities, sewer and water;
- How development and ongoing maintenance of public and private property within the PUD will be managed;

- What costs, revenues and other benefits are expected over time; what impacts – positive and negative – will there be on the Town of other districts or service providers;
- What areas of non-compliance, if any, there are with regard to Town requirements and what potential solutions or mitigation might look like;
- What issues may need to be addressed as conditions of Preliminary Plan approval prior to any Final Plan/Final Subdivision Plat application being filed with the Town.

As a reminder, the Midtown Village Preliminary Plan for PUD application was originally received by the Town in October of 2022, prior to the adoption of the recently adopted 2023 Minturn Community Plan. Therefore, this proposal is being considered relative to the 2009 Town of Minturn Community Plan and future land use map.

Following review by the Planning Commission of the Preliminary Development Plan, the Planning Commission will send the three applications along with three separate recommendations - for approval, approval with conditions, or denial - to the Town Council for review. The Town Council's review will result in action by the Council to approve, approve with conditions, or deny one or more of the applications.

All public hearings will be advertised and the general public is encouraged to participate in the public review process by reviewing the Midtown Village Preliminary Plan for PUD application and associated materials at the Town's website (<https://www.minturn.org/planning-zoning/pages/active-planning-applications>), by submitting any written comments to the Town by emailing "Planner I" (planner1@minturn.org), or by attending the public hearings and giving public comment.

Staff Observations and Findings

Staff finds that the Preliminary Development Plan is compliant with the purposes and intents of the "PUD Overlay District" (Chapter 16, Article 15 of the Minturn Municipal Code) as well as several guiding policies and strategies outlined in the 2009 Minturn Community Plan.

Staff further suggests that while some outstanding issues must be discussed during the Planning Commission's review of the Preliminary Development Plan, most items are of a technical nature and are expected to be resolved following Preliminary Plan review and prior to any Final Plan/Final Plat and Subdivision Improvement Agreement (SIA) submission by the Applicant.

Staff believes that these issues also can be addressed by the Applicant prior to any Final Plan/Plat applications and that, ultimately, the project can be designed to meet all town requirements and standards. **Outstanding Issues and discussion topics are outlined in Section VIII (starting on pg. 29 of this report).**

Overall, staff and the Town's consultant team have determined that the proposal, if properly conditioned, meets or can meet a preponderance of 1) the Town of Minturn Preliminary Development Plan for PUD standards and findings, and 2) the goals and policies of the 2009 Minturn Community Plan.

Recommendation

Based on overall findings of conformance with the applicable standards and approval criteria of the Minturn Municipal Code (MMC) as well as with the 2009 Minturn Community Plan, staff is recommending:

1. Approval of the Preliminary Development Plan, with conditions.
2. Approval of the Preliminary Subdivision Plat, with conditions.
3. Approval of the Amendment to the Zone District Map, without conditions.

Report Organization

The remainder of this report briefly summarizes and addresses:

Section II:	Property and Project Description
Section III:	History of Property and Overview of Public Review Process
Section IV:	Summary of Process and Code Requirements
Section V:	Zoning and Compatibility Analysis
Section VI:	Community Plan Conformance
Section VII:	Staff Analysis and Findings
Section VIII:	Outstanding Issues
Section IX:	Staff Recommendations and Suggested Conditions

This report contains “Staff Response” or “Staff Comment” sections throughout the document responding to PUD standards and recommending specific aspects of the project that the Applicant will be required or, in certain instances, *encouraged* to address prior to, or concurrent with, any Final Plan and Final Plat application (the next stage of review). **These recommendations and requirements correlate to suggested “conditions of approval” found at the end of this document under Section IX (starting on pg. 32)**

II. Property and Project Description:

Property History

The Midtown Village PUD is situated on five separate parcels – 947, 961, 981, 987, and 989 Main Street (U.S. Highway 24). These parcels were historically used for mostly residential purposes, except for 987 Main Street which holds the old Alpine Glass building which has recently been renovated and is currently being utilized by SteamMaster as a storage facility. The parcels have been previously developed with residential structures such as single-family and mobile home residences. Most historic residential structures and mobile units have been removed from the subject property.

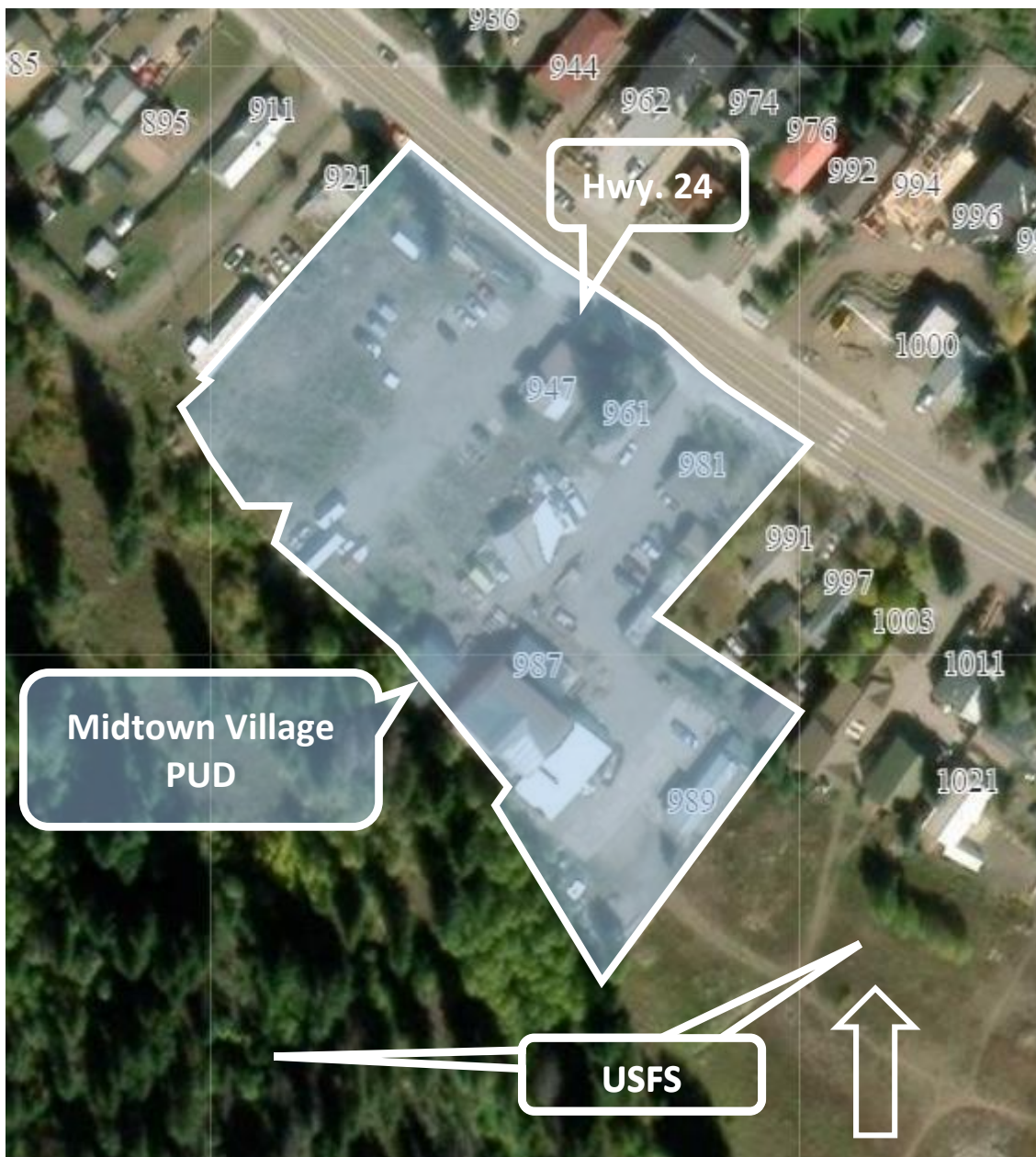


Figure 1: Midtown Village PUD Vicinity Map

Property and Project Overview

Midtown Village PUD is a mixed-use infill project proposing the development of 42 single-family, multi-family (townhome, apartments), and commercial units on 2.53 acres in the 900 Block of the South Town Character Area Commercial Zone District.

The Midtown Village PUD property has approximately 330' of frontage along U.S. Highway 24 right-of-way and is surrounded by the following uses:

North	Private Residential and Home Business Uses
South	U.S Forest Service/Vacant Land
East	Private Residential and Home Business Uses; Public Open Space
West	U.S. Forest Service/Vacant

The project is considered “infill” due, in part, to the historic zoning and use of the properties that make up the 2.53 acres of the PUD and in relation to surrounding development patterns and land uses, available utilities and public services, and zoning.

According to the application, the Midtown Village PUD is envisioned as a mixed-use neighborhood geared toward the provision of “attainable,” local’s housing. The project consists of a mix of forty-two (42) single-family, “micro-homes,” cottage units, townhomes, apartments, and a commercial/civic space (commercial or fire station depending on market conditions), along with vehicular access and sidewalks, parking areas, utilities and common, usable open spaces.

The PUD is accompanied by a Preliminary Plat for Subdivision which would create five (5) tracts of varying sizes to be developed in three (3) phases dependent on water availability.

The Applicant/Developer, Midtown Lofts, LLC, proposes to develop the project infrastructure in the first phase, allowing for development of residential structures (a 16-unit apartment building along with two cottages) in the first phase, while micro-homes, townhomes and future commercial/civic development will occur based on market demand and absorption as well as the availability of water. The developer intends to be involved in the project - from entitlement (the PUD approval process resulting in vested property and development rights), through all stages of construction.

The Applicant proposes to create a Homeowners Association to manage development and ongoing maintenance of the project.

The Midtown Village Preliminary Development Plan for PUD application has been deemed complete by Town staff, meaning the Applicant has provided the required information, materials, plans, and analyses necessary for the proper review of the Preliminary Development Plan.

However, as with most large and complex land use applications, staff has identified several outstanding issues or discussion topics that should be addressed prior to any Preliminary Plan approval. Issues and discussion topics are outlined in Section VIII (pg. 29).

Purpose and Intent of Preliminary Plan for PUD Review

The Preliminary Plan application is the second in a three stage PUD approval process, starting with Conceptual Development Plan review - a high level “schematic” review meant to present concepts and ensure that proposed developments generally meet the Town’s PUD standards and Community Plan goals and policies - and ending in the Final Plan and Final (subdivision) Plat stage - a very technical and detailed review of the final details of a proposed subdivision and associated development agreements setting forth how and when public infrastructure will be constructed and financed.

Following review of the Midtown Village Conceptual Development Plan for PUD before the Town of Minturn Planning Commission in September 2021, the Applicant submitted a Preliminary Plan application in October 2022. Since that time, the Applicant has addressed worked to address comments and issues raised by Town staff, consultants, and public referral agencies who have reviewed the application, and to revise and refine the application prior to review by the Commission.

The purpose and intent of the Preliminary Plan stage of review is to present detailed plans and technical design solutions, intended architectural character, as well as analyses to demonstrate financial feasibility and fiscal impacts of the proposal on the Town.

The following report is intended as a summary of how the proposal conforms to Town standards and policies, as a guide to the Planning Commission’s review of the application, and as an introduction to the PUD review and approval process.

Report Organization

The remainder of this report briefly summarizes and addresses:

1. The history of the property and overview of public review process;
2. A brief discussion and analysis of the PUD approval process and standards;
3. A detailed analysis of the appropriateness and conformance of the Preliminary Plan, Preliminary Plat, and Amendment to the Zone District Map relative to Town master plan documents and PUD Standards; and,
4. Analyses of outstanding issues and recommendations for revisions prior to any Final Plan for PUD application.

Recommendation and Next Steps

As this is a Preliminary Development Plan for PUD Review, the Commission is charged with taking formal action to recommend approval, approval with conditions, or denial of the proposal to the Town of Minturn Town Council.

Staff is recommending **approval of the Midtown Village Preliminary Plan for PUD, with conditions.**

This report contains “Staff Response” sections throughout the document responding to PUD Preliminary Development Plan, Preliminary Subdivision Plat, and Zone District Amendment standards, and recommending specific aspects of the project that the Applicant will be required or, in certain instances, *encouraged* to address prior to or concurrent with any Final Plan application (the next stage of review). These recommendations and requirements correlate to suggested “conditions of approval” found at the end of this document under Section IX (pg. 32).

Overall, staff’s assessment of the Midtown Village PUD indicates that the proposal supports, and is supported by, the goals and strategies of the 2009 Town of Minturn Community Plan, and that the project appears to meet or exceed most standards as well as the intents of the Town of Minturn Municipal Code.

III. History of Property and Overview of Public Review Process:

Property History

The project is proposed on five lots located in the 900 block of the South Town Character Area. Historically, these properties have been used for residential and commercial purposes, with both stick-built and manufactured (mobile) homes serving the local population. The properties were acquired by the Applicant, Midtown Lofts, LLC, with the goal to assemble enough contiguous parcels to properly plan and design a mixed-use neighborhood serving locals.

Overview of Public Review Process

The Preliminary Development Plan submittal is detailed in nature and is intended to demonstrate the feasibility of the project from financial, design and community need standpoints. The numerous plans, reports, legal documents and other graphic materials required by the Town of Minturn Municipal Code and provided by the Applicant give staff knowledge of how the property will be developed and what issues may need to be addressed prior to any Final Plan for PUD application.

IV. Summary of Process and Code Requirements:

Planned Unit Development (PUD) Approval Process

As noted above, the Applicant is requesting review of a “Preliminary Development Plan” for a new Planned Unit Development (PUD) pursuant to Section 16-15-130 – *PUD preliminary development plan application* and Section 16-15-140 - *Preliminary development plan submittal requirements* of the Town Code.

Additionally, the Applicant is proposing to rezone the subject property from South Town Character Area “Commercial Zone District” to the “Midtown Village PUD Overlay Zone District”, requiring an amendment to the Town’s official zoning map pursuant to Section 16-21-410 – *Amendments to Text of Land Use Regulations or Character Area or Zone District Maps*, MMC, which is being evaluated during the Preliminary Plan for PUD stage of review.

Preliminary Development Plan Review Purpose and Criteria

The Preliminary Development Plan review is the second step in the review of the proposed PUD. The Town Code, Section 16-15-130 – PUD preliminary development plan application, provides the following description of the Preliminary Development Plan review purpose and process:

- “(a) The purpose of the preliminary plan review is for the applicant to specifically respond to the issues and concerns identified during concept plan review and to propose detailed, properly engineered solutions to those problems that conform in all respects to the approved concept plan. The burden at the preliminary plan stage is on the applicant to provide detailed information and mitigation proposals to be evaluated by the Town. The preliminary plan shall include a Community Plan and Development Guidelines to the development of the PUD (hereinafter the "PUD Community Plan and Development Guidelines"), specifying the standards and limitations that will guide the future development of the property.”*

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

The Preliminary Plan submission is intended for the applicant to respond to the issues and concerns identified during concept plan review and to formulate detailed, properly engineered solutions to those issues and concerns that conform to the approved sketch plan. The Preliminary Plan stage is when the applicant is to provide more detailed information and mitigation proposals to be evaluated by the Town. Preliminary Plan submittal requirements are listed below along with staff commentary regarding whether the Applicant's submittal meets the Town's requirements.

Item:	Requirement:	Provided?
(1)	<p><i>PUD Guide specifying the limitations that will guide the future development of the property.</i></p> <p>Staff comment: A PUD Guide was provided. Staff have worked with the applicant for several months to address and refine various elements, text, and formatting of this document which will regulate development and use within the PUD. Most comments provided by the Town staff or consultant team have been addressed by the Applicant. Conditions found in Section IX pertain to the PUD Guide. Staff will continue to work with the applicant to resolve these outstanding issues.</p>	Yes
(2)	<p><i>A Community Plan and Development Guidelines that illustrates the proposed land uses, building locations, and housing unit densities.</i></p> <p>Staff comment: Design Guidelines are included within the PUD Guide document. The design guidelines are general in nature and development within the PUD will largely need to adhere to the Town's design standards and guidelines.</p>	Yes
(3)	<p><i>An open space, park and recreation plan that identifies the areas of common open space, parks and recreation lands and describes any agreement proposed to preserve the open space, parks and recreation lands and how this will be implemented by deed or other agreement. This plan shall also describe the source of funds for long-term maintenance.</i></p> <p>Staff comment: An open space, park and recreation plan that identifies the areas and proposed ownership of open space, park and/or recreation lands has been submitted. Final level details concerning common open space, open space related improvements, and associated ownership and/or maintenance</p>	Yes

	responsibilities will be finalized as part of the Subdivision Improvements Agreement process during any Final Plan review.	
(4)	<p><i>A traffic study.</i></p> <p>Staff comment: A traffic study has been submitted and found sufficient for review by the Town Engineer. The application also includes an approved access permit.</p>	Yes
(5)	<p><i>Proposed trails, sidewalks and traffic circulation patterns, including snow removal patterns and snow storage areas, and the proposed status of street ownership.</i></p> <p>Staff comment: The plans detail traffic circulation and internal pedestrian circulation (sidewalks). Likewise, the plans show snow storage areas throughout the development along with details regarding snow removal and management. Streets are proposed to be privately owned and maintained.</p>	Yes
(6)	<p><i>Proposed grading and drainage plans.</i></p> <p>Staff comment: Grading and Drainage plans have been submitted and have been deemed sufficient for this level of preliminary plan review. Comments from the Town Engineer regarding this topic have been received and included as an addendum to this staff report.</p>	Yes
(7)	<p><i>Detailed descriptions and commitments for the proposed source of legal and physical water supply and engineering plans for the proposed storage and distribution system for water supply (domestic and irrigation) and sewage disposal.</i></p> <p>Staff comment: The Applicant holds 18 existing water taps, will have the ability to purchase an additional 3 through Ord. 02 - Series 2023 allowing for projects that have received PUD Concept Development Plan approval to receive up to three new taps, and will require a minimum of 21 additional taps to serve all proposed units in the project. ERWSD has issued an Ability to Serve Letter and are currently finalizing infrastructure design details.</p>	Yes

(8)	<p><i>Economic data and supporting market analysis to justify any proposed commercial and industrial elements.</i></p> <p>Staff comment: Fiscal impact reports were submitted, one for just Phase 1 consisting of the 21 units within that phase, and one for the whole project.</p>	Yes
(9)	<p><i>Proposed development covenants, deed restrictions or other applicable codes.</i></p> <p>Staff comment: HOA covenants and a deed restriction document have been submitted and reviewed by the Town Attorney. The Town, the Eagle County Housing and Development Authority and the Applicant are working to finalize the community housing deed restriction documents that will govern the terms and eligibility of locals housing with the PUD.</p>	Yes
(10)	<p><i>An environment assessment or environmental impact report, unless waived by the Town Planner.</i></p> <p>Staff comment: An environmental impact report was provided in the application and reviewed by the Town Engineer.</p>	Yes
(11)	<p><i>An impact analysis that describes the impact of the proposed PUD upon the school district.</i></p> <p>Staff comment: The applicant submitted an Ability to Serve letter from Eagle County School District which detailed the impacts of the proposed project on the District. Comments from the School District including confirmation of school land dedication ‘fee-in-lieu’ amounts that the District requests that the Applicant pay prior to or concurrent with any Final Plan and Final Plat application. The Town does not have school land dedication requirements or fee amounts set for ‘in-lieu’ payments at this time; any fees paid will be voluntary and/or negotiated.</p>	Yes
(12)	<p><i>A fiscal impact analysis of the estimated demands for Town services and a statement of projected Town tax revenue based upon the historic Town tax levy and a schedule of projected revenue.</i></p> <p>Staff comment: A Fiscal Impact Analysis and a statement of projected Town tax revenue has been provided.</p>	Yes

(13)	<p><i>Final site plans and architectural forms planned for the first phase of the proposed development.</i></p> <p>Staff comment: Site plans have been submitted and have generally been deemed sufficient for review and in compliance with applicable design standards. Architectural renderings have also been provided for Phase 1 and architectural design standards (outlined in the Midtown Village PUD Guide document) have been provided for review.</p>	Yes
(14)	<p><i>Detailed plans for fire protection and emergency medical services.</i></p> <p>Staff comment: Ability to serve letters from Eagle County Paramedic Services and Eagle River Fire Protection District were submitted with the application.</p>	Yes
(15)	<p><i>The PUD shall include a phasing plan that demonstrates that the PUD can be completed within a reasonable period of time, which shall be determined prior to final approval of the PUD.</i></p> <p>Staff comment: The application states that the infrastructure is proposed to occur in one phase. Yet, based on the current availability of water needed to serve all units in the development, the total buildout of all 42 units will likely occur over time given market conditions as well as availability of water. A phasing plan has been provided and Subdivision Improvement Agreement reviewed and approved with any Final Plat application will specify guarantees on the construction of all infrastructure necessary to serve the development and staff suggests that any vested rights conferred to the developer be conditioned on the availability of water.</p>	Yes
(16)	<p><i>If development is proposed to occur in phases, then financial guarantees shall be proposed to ensure that project improvements and amenities are constructed as presented and approved.</i></p> <p>Staff comment: This has not been provided at this time. Detailed infrastructure plans, cost estimates, details on the timing of improvements and corresponding financial guarantees will be reviewed and approved at the time of Final Plan/Plat.</p>	No
(17)	<p><i>The preliminary plan application shall be accompanied by an application for an amendment to the Character Area zoning map.</i></p>	Yes

	Staff comment: This was provided. Zoning is proposed to change from South Town Commercial Zone District to Midtown Village PUD Overlay District.	
(18)	<p><i>The PUD shall consider the recommendations made by the applicable analysis documents, as well as the recommendations of referral agencies.</i></p> <p>Staff comment: The Applicant revised the PUD - the design, layout and governing documents - based on their own technical reports as well as the recommendations of staff and referral agencies. However, several issues raised by staff and/or referral agencies remain outstanding and/or up for discussion during the Planning Commission hearings.</p>	Yes

As noted above, most required elements of the Preliminary Development Plan for PUD application were provided in enough detail to allow staff and the Planning Commission to determine conformance with the overall intents and purposes of the PUD Overlay district; with applicable Minturn Municipal Code standards; and, the goals and policies of the 2009 Town of Minturn Community Plan.

Formal action is required by the Planning Commission to give the Applicant and the Planning Director feedback on whether the proposal meets the applicable criteria and standards of the Minturn Municipal Code *and* to make a recommendation to the Town Council of approval, approval with conditions, or denial of the application.

PUD Overlay Zone District Purpose and Intent

PUDs have been used extensively in Eagle County to create master planned communities and to allow communities to evaluate and to encourage proposals that achieve better design and/or phasing of development to avoid hazards, to respond to market conditions, to increase open space and environmental protection through clustering and avoidance of hazards, and to otherwise avoid rigid standards prescribed by typical zoning, development and subdivision controls.

Section 16-15-10 - *Purpose and General Provisions*, from the Minturn Municipal Code sets forth the purpose and intent of the PUD Overlay Zone District:

“The purpose of the Planned Unit Development (PUD) Overlay Zone District is to allow flexibility for landowners to creatively plan for the overall development of their land and to achieve the purpose and objectives of this Code and the Community Plan. An applicant for a PUD must demonstrate that departure from existing ordinances is warranted and that the proposed PUD significantly contributes to the following:

- “The proposed PUD is consistent with the Community Plan and the character of the Town and:*
- *Provides for new technology and promotes innovative and efficient land use patterns;*
 - *Permits the integration of land uses and contributes to trails and pedestrian circulation;*
 - *Preserves valued environments and natural resources and achieves a more desirable environment;*

- *Maintains or improves air and water quality;*
- *Provides for a wide range of housing opportunities;*
- *Improves the overall design character and quality of new development;*
- *Permits the integration rather than separation of uses, so that necessary facilities are conveniently located in relation to each other;*
- *Establishes land use patterns that promote and expand opportunities for public transportation and trails and for safe, efficient, compact street and utility networks that lower development and maintenance costs and conserve energy;*
- *Preserves valued environmental, historic or mineral resource lands and avoids development in natural hazard areas;*
- *Maintains and enhances surface and ground water quality and quantity;*
- *Provides applicants the opportunity to contribute to the Town's multi-use trail system; to provide and maintain access to public lands and rivers;*
- *Establishes incentives for applicants to encourage the provision of long-term affordable housing; and*
- *Is consistent with the purposes and goals of the Community Plan and these Land Use Regulations.”*

During the Applicant’s Conceptual Development Plan for PUD review in fall 2021, general conformance with the above purposes and intents of the Town’s PUD overlay zone district was determined and the Applicant was given direction by the Planning Commission to submit a Preliminary Plan application. The Planning Commission provided the following recommendations for the Applicant’s consideration when preparing the Preliminary Plan for PUD application:

1. *Given the requested increase in density over historic densities on the subject property and the surrounding area, the Applicant is strongly encouraged to review the overall layout and design of the project to ensure that adequate open space is provided for residents of the PUD. Specifically, Planning Commission comments focused on increasing the amount of open areas within the PUD and decreasing where possible the amount of proposed building and/or impervious coverage.*

Staff Comment: The proposal has been updated to address the amount of open space and impervious surface coverage. The plans are not in conformance with the recommended 25% and are instead requesting a variance to allow for 18%. The Planning Commission and the Applicant should anticipate discussion regarding this issue during the hearings.

2. *Overall, conceptual aspects of bulk, massing and architectural style were received positively. Comments were provided with regard to the overall layout of building locations, internal circulation, parking and potential conflict points between parking and drive lanes. The Applicant is strongly encouraged to critically evaluate the internal circulation design as it relates to parking areas, maneuverability, backing motions and safety for pedestrians.*

Staff Comment: The Applicant has provided additional site plans and analyses (turning radii diagrams for large vehicles) in order to demonstrate maneuverability throughout the site. The site plans have been reviewed by the Town Engineer as well as the Eagle River Fire Protection District to specifically evaluate access, maneuverability, and circulation patterns.

3. *It appears that the affordable or community-oriented housing conceptually proposed for the PUD supports and potentially exceeds the goals and policies of the Town of Minturn and is in-line with the recently adopted Community Housing Guidelines and Administrative Procedures of the Town of Minturn. The Planning Commission members discussed the relationship between the requested project density and the attainable housing component of the PUD. The Planning Commission strongly recommended that project density is commensurate with the delivery of community housing at price points established in the Guidelines and reserved for eligible local residents.*

Staff Comment: The Applicant has provided an updated Housing Plan as an addendum to the PUD Guide document; the Housing Plan meets and in certain aspects (resident occupied or “locals only” deed restrictions) exceeds the requirements of the Town of Minturn Housing Ordinance.

4. *Snow storage and management (plowing, removal and snowmelt) were discussed with the Planning Commission encouraging the Applicant to develop concepts for snow melt systems, design and management and to provide a detailed snow management plan (snow plowing routes, snow storage areas, HOA covenants and bylaws specific to snow removal) with the Preliminary Plan for PUD application to ensure that internal circulation, parking and open space plans are compatible with proposed snow storage and management plans.*

Staff Comment: Additional information and details have been provided on Preliminary Plan drawings and regulating documents (PUD Guide and HOA covenants/bylaws) addressing snow storage and management. Sheet 08 has been added to the civil engineering drawing package detailing snow storage areas, snow plowing routes, and “hand shoveling” areas. Staff provides further commentary on these updated plans and details later in the report. Importantly, the Applicant proposes to snow melt areas of the PUD.

5. *Address any outstanding comments and submittal requirements outlined in a letter from Jeff Spanel, Town Engineer, dated August 27, 2021 (attached for reference) prior to or concurrent with the Preliminary Plan for PUD application submission.*

Staff Comment: The Applicant did, as a function of the increased level of detail and analysis required for Preliminary Plan, address several engineering related issues following Mr. Spanel’s review of the Conceptual Development Plan for PUD in fall 2021. That said, there are additional comments, recommendations and outstanding issues related to the Preliminary Plan that will be addressed during the Planning Commission’s hearings and/or made into suggested conditions of approval - to be addressed prior to or concurrent with any Final Plan/Plat application.

V. Zoning and Compatibility Analysis:

Existing Zoning

The Midtown Village Planned Unit Development (PUD) property is located within the South Town Character Area Commercial Zone District.

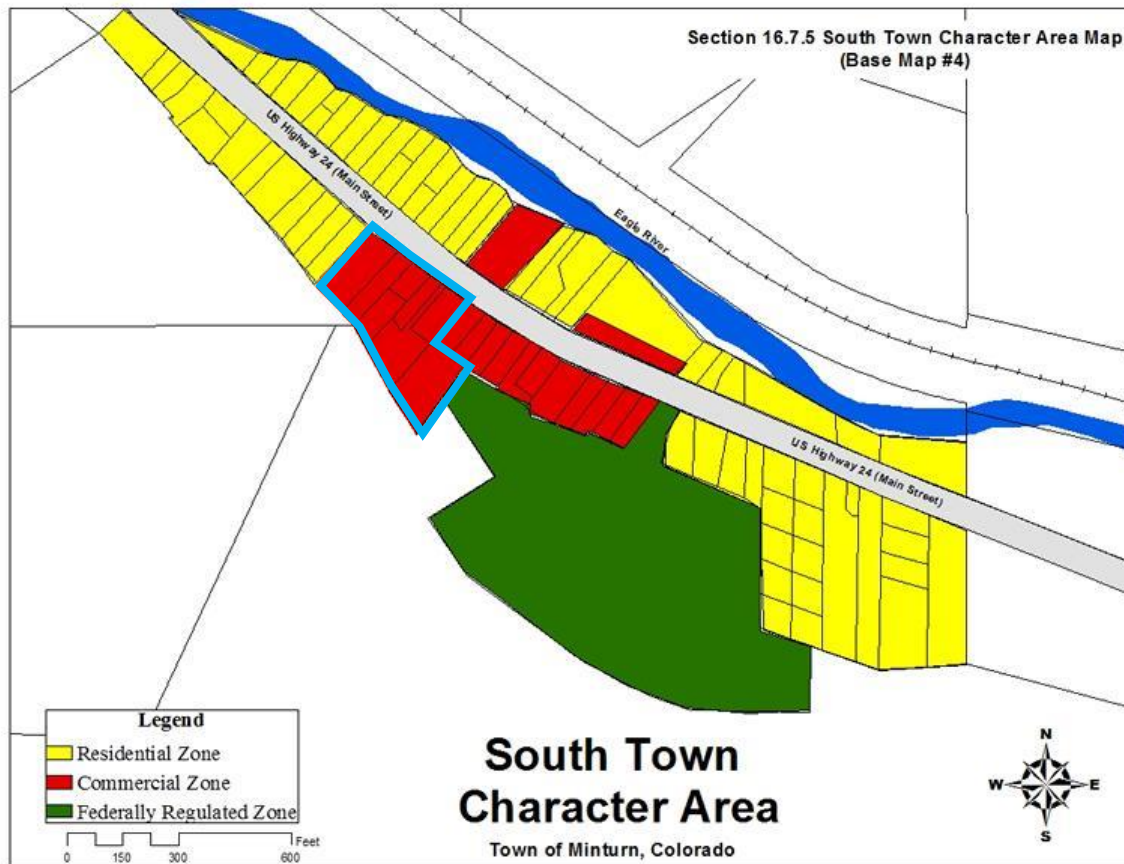


Figure 2: South Town Character Area Zoning Map

Section 16-7-10 – *Character Area Characteristics*, Minturn Municipal Code (MMC), provides the following general description of the South Town area:

“South Town is characterized by larger and deeper lots than other urban areas found in the Town. South Town is primarily residential with a few pockets of preexisting commercial. South Town also includes federally regulated areas of the Holy Cross Ranger District. South Town U.S.F.S. property is in close proximity to town services, has good access and all utilities are available. The intent of the Community Plan is that the South Town Character Area maintain the existing pocket of commercial use along Main Street; however, high impact commercial uses are discouraged. The commercial areas should provide for low-impact commercial services and limited retail businesses that complement each other as to character, mass and scale, while minimizing impacts on nearby residential uses.”

- Town of Minturn Town Code Section 16-7-20

Section 16-7-30 – *Commercial Zone District* further describes the existing conditions and character of the area, as well as the intent for future use and development within the neighborhood:

*“(a) The South Town Commercial Zone is bisected by Main Street or Highway 24 and is characterized by a **mix of retail, service businesses and residential areas**. The South Town*

Commercial Zone provides services to both residents and the passing motorist. The commercial development can grow but should not significantly impact the residential areas.

“(b) The purpose of this area is to provide convenient commercial services to residents and motorists while minimizing the impact on nearby residential uses. South Town provides an area for commercial activities that are not easily accommodated in Old Town while maintaining the visual character and scale. An objective is to facilitate small business development and economic vitality with land uses that are compatible and supportive, such as retail, office, services and institutional uses.”

- Town of Minturn Town Code Section 16-7-30

Proposed Zoning and Compatibility

Proposed PUD zoning calls for one zone district to be created, or overlaid upon existing commercial zoning, to allow for residential, commercial/civic, and recreation/open space uses. The PUD zone district is being proposed, in part, to allow for an increase in density on the parcels (from 11.33 units per acre, at full build out, to 16.6 units per acre; a 46.5% increase) and, importantly, to allow for and encourage a certain amount of flexibility and creativity in the layout and design of the neighborhood as a means to achieve several of the Town’s stated Community Plan goals and policies concerning land use, growth management, affordable/locals housing, and sustainability.

Surrounding land uses include primarily single-family residential with similar densities as are being proposed within the Midtown Village PUD. Adjacent and nearby residential development is dominated by one and two-story structures, and similar configurations (lengthwise, from east to west) due to similarly shaped properties and neighborhood layouts.

Staff believes the proposed uses, specifically the types, number and sizes of residential lots and dwelling units, as well as the design of streets, sidewalks and public open space and/or recreational areas within the PUD generally respond to and complement the Town’s goals and policies (outlined below under “Community Plan Conformance”) and are generally designed to be compatible and in-scale with surrounding existing and future land uses.

Discussions regarding compatibility of the proposed PUD with the overall character of the South Town area and the immediate surrounding land uses might include topics such as:

1. Potential impacts on existing conditions and existing residents in the area and, importantly, the effectiveness of proposed mitigation and/or controls (PUD Guide and HOA documents);
2. The general character of the surround area relative to the character (land use patterns, infrastructure design and functionality, massing and architecture) of the proposed PUD;
3. The ability to develop and finance the project properly and the Town’s ability to serve the development without injury or degraded service to existing areas of the Town; and,
4. Whether the proposed development is designed to minimize negative impacts while reinforcing the vision, values and design characteristics that define the Town of Minturn.

From a character standpoint, the PUD proposes fairly standard setbacks between residential structures. Further, the PUD will limit structures to a building height of 28' – in-line with the Town's 28' height limit for other structures in the surrounding zone districts.

VI. Community Plan Conformance:

Community Plan Purpose and Vision

The 2009 Town of Minturn Community Plan is the guiding document setting forth community-generated vision, values and goals for future growth, the character of the town, and fiscal decision-making to ensure the vibrancy of the Town is preserved and enhanced:

“Many of the activities and responsibilities of local government such as development plan approval, capital improvements, infrastructure and facility planning and zoning recommendations require conformance to a community's master plan. The Town of Minturn 2009 Community Plan will serve as a guide for these and other decision-making processes in the future. In short, this Community Plan will help establish the compass bearing for the Town of Minturn, and like any good navigation aid, should be periodically adjusted as changing conditions warrant.”

Town of Minturn Community Plan (p. 6)

The Community Plan provides the following background regarding the Town's vision and values relative to growth and development:

“Throughout the recent past, Minturn has strived to maintain its own identity separate from the other communities in the Eagle Valley. In 2008, residents voted to approve the annexation of approximately 4,300 acres on Battle Mountain to be used as a private ski and golf resort community. The prevailing sentiment of the residents was the desire to guide their own future by controlling the development on Battle Mountain, while maintaining the authentic “small mountain town character” of the original town site. Any potential growth will require effective master planning to serve the newly developed areas, as well as to mitigate any potential impact upon services of the current Town. This in mind, the Town set out in late 2008 to begin a comprehensive update of its Community Plan, the specific name the Town of Minturn has chosen to give to its Master Plan.”

Town of Minturn Community Plan (p. 5)

Last, the Town's vision statement is clearly articulated on page 9 of the 2009 Community Plan:

“The Town of Minturn values:

- *Its natural environment*
- *Its people living in community*
- *Its history*
- *Its funky, eclectic style**

“From our roots as a mining and railroad town, Minturn has evolved into a one-of-a-kind Rocky Mountain town with a vibrant sense of community. We have built and continue to foster a unique environment which is sensitive to its natural setting, with a wide variety of housing opportunities. We possess a diverse economy based on the support of local business and complementary land development.”

Town of Minturn Community Plan (p. 9)

Community Plan Organization – Goals and Strategies

The Community Plan is organized around the following topics or sections:

- Community Character /Urban Design
- Sustainability and Green Building Practices
- Land Use/Transportation
- Affordable Housing
- Public Services and Facilities
- Economic Development
- Natural Resources
- Parks and Recreation

The following is a brief listing of applicable goals, objectives and strategies outlined in the plan for each policy area:

Community Character and Urban Design:

Goal (CCG1): Maintain, Build Upon and Promote the Town’s Image as a Unique, Eclectic Non-Resort Town with a Strong Sense of Community

- (CCS 1.1) *Encourage and promote the use of public venues for a wide range of community events*
- (CCS 1.2) ***Consider size limits for residential structures***
- (CCS 1.3) *Develop town signage including information kiosks, gateway signs and way-finding system*
- (CCS 1.4) *Develop and implement methods to maintain the town’s eclectic architecture, scale and vibrant color palette*
- (CCS 1.5) *Investigate methods to preserve and protect historic structures*
- (CCS 1.6) *Incorporate local public art into new development and public improvements*
- (CCS 1.7) - *Support and enhance the Minturn Market as an integral part of downtown*
- (CCS 1.8) *Enforce ordinances aimed at maintaining the health, safety, welfare and aesthetic of the town – snow, trash, nuisance abatement and zoning/land use*
- (CCS 1.9) *Encourage development to utilize non-intrusive lighting systems*
- (CCS 1.10) *Examine existing hillside development regulations for improvement*
- (CCS 1.11) ***Allow a variety of lot sizes (small and large lot) as appropriate to specific areas***

Staff Response:

The proposed PUD is oriented toward the provision of a range of housing types, sizes, and (presumably) price points – aimed in large part to address local’s housing needs. Architectural

renderings provided for the sixteen-unit apartment building that comprises a majority of Phase 1 show a character and intent designed to complement existing development and architectural character apparent throughout the Town.

The Preliminary Development Plan – the layout, scale, and density, as well as the draft development standards and architectural renderings provided in the application – appears to promote adherence to the Town’s stated goal of maintaining a “unique, eclectic, non-resort town with a strong sense of community.” The PUD Guide, Design Guidelines and HOA covenants and bylaws specifically regulate exterior lighting, signage, snow and trash removal, nuisance abatement/mitigation, as well as zoning (within the project) and allowable land uses.

Sustainability and Green Building Practices

Goal (SGG 1): Encourage Green and Sustainable Practices Throughout the Community

- (SGS 1.1) Develop and incorporate green building guidelines that address energy and resource efficiency, indoor air quality and on-site energy generation*
- (SGS 1.2) Incorporate low impact development (LID) standards for site design into development requirements*
- (SGS 1.3) Promote and encourage increased opportunities for businesses, residents and town government to reduce waste*
- (SGS 1.4) Incorporate “Firewise” guidelines in building and site-planning practices*

Goal (SGG 2): Develop and Practice Green and Sustainable Processes

- (SGS 2.1) Incorporate the concept of green infrastructure into the planning and design of improvements to town systems*
- (SGS 2.2) Develop and ensure the integrity of a comprehensive recycling program for town facilities*
- (SGS 2.3) Ban the use of plastic bags in the town*

Staff Response:

The Preliminary Development Plan application includes a PUD Guide as well as standards that address energy offset (solar) and low water usage.

Other areas where the PUD sustainability plans could be bolstered include:

- More information related to the provision and management of an onsite recycling program;
- Incorporating Firewise guidelines in building and site planning standards;
- Incorporating low impact development standards and best practices in the final civil engineering plans.

Land Use/Transportation

Goal (LUG 1): Enhance the Town’s Status as a Walkable and Bikeable Community

- (LUS 1.1) *Develop and comply with a future land use plan for the entire town (land use element of this Community Plan) **which encourages a compatible mix of land uses promoting mass transit, the use of bicycles and increased walkability/accessibility***
- (LUS 1.2) *Develop comprehensive parking plan for the town which offers alternative parking strategies/standards specific to Minturn - aimed at increasing parking efficiency and ease of development/redevelopment*
- (LUS 1.3) *Promote the development of a cohesive downtown*
- (LUS 1.4) ***Support and promote the expansion of public transit service to outlying communities***
- (LUS 1.5) ***Promote redevelopment areas as mixed-use centers***
- (LUS 1.6) *Partner with owners of large land holdings on mutually beneficial redevelopment projects*

Staff Response:

The Preliminary Development Plan – a mixed-use neighborhood - shows a street and sidewalk network that will benefit the residents of the PUD, which will also add to or support the Town’s overall connectivity and walkability. Importantly, the PUD is proposed in close proximity a regional bus stop. In these ways, the proposal appears to support transportation, mobility and mass transit goals of the Town and of regional transit and multi-modal providers (ECO Transit and ECO Trails).

Affordable Housing

Goal (AHG 1): Promote Affordable Housing

- (AHS 1.1) ***Promote the development of housing opportunities for all income levels throughout all areas of town***
- (AHS 1.2) ***Allow a variety of lot sizes (small and large lot) as appropriate to specific areas***
- (AHS 1.3) *Develop an affordable housing program, to include housing assistance for town employees, qualified town residents and other eligible Eagle County employees*
- (AHS 1.4) *Leverage town-owned property for the development of affordable housing*

Staff Response:

The Town of Minturn Town Council adopted the 2019 Housing Action Plan aimed at achieving the above goals and strategies. More recently in 2020, the Town Council approved Community Housing requirements for all new residential projects proposing five (5) or more dwelling units. As such, Midtown Village Preliminary Plan for PUD is subject to the Town’s Community Housing requirements and guidelines.

Accordingly, the Applicant is proposing a housing plan. The application (p. 7 of the Midtown Village PUD Guide) states:

“The PUD, at full build-out, proposes to provide (31 of 42 Units) 74% of the total Units as Resident Occupied (“RO”) Deed Restricted. (4) of the For Sale units also meet or exceed the required 200% AMI Price Cap Deed Restriction.”

Importantly, the proposed Preliminary Development Plan for PUD includes a range and mix of unit types and sizes, and (presumably) price points that should serve to provide increased opportunities for home buyers (or renters) of different income levels. The Preliminary Plan has been evaluated in context to the Town’s affordable housing goals and policies (2019 Town of Minturn Housing Action Plan and Ordinance No. 7 Series 2020). The Midtown Village Housing Plan exceeds the Town’s requirements for mitigation of housing obligations, yet staff believes that there may be opportunities between preliminary and final plan review to bolster the housing plan – specifically to lower the AMI level for “for-sale” units and, possibly, to work with the Applicant to increase the number of price-capped for sale units.

Public Services and Facilities

Goal (PFG 1): Ensure that Public Facilities are Planned and Implemented to Support New Growth and Existing Population Centers

- (PFS 1.1) Implement streetscape improvements with pedestrian-scale site elements including sidewalks, paving, signage, lighting and site furnishings*
- (PFS 1.2) Develop a Capital Improvement Plan prioritizing upgrades to existing infrastructure including roads, water and storm water drainage and pedestrian/bicycle amenities*
- (PFS 1.3) Ensure that impacts from new development on existing infrastructure are mitigated*
- (PFS 1.4) Incorporate the concept of green infrastructure into the planning and design of improvements to town systems*
- (PFS 1.5) Develop and implement a comprehensive sidewalk and trails plan addressing both accessibility and bicycles*
- (PFS 1.6) Develop and implement a plan to bury utilities throughout the community*
- (PFS 1.7) Support and promote infrastructure which is attractive to small business – snow removal, loading zones, sidewalks*
- (PFS 1.8) Incorporate the future use of alternative energies into planning processes*
- (PFS 1.9) Develop a comprehensive parking plan that addresses the needs of both the business community and residents*

Staff Response:

The proposed PUD will have significant positive and negative benefits, impacts and effects on the Town and its infrastructure, public facilities, and services. Impacts from increased residential development – *on transportation, sewer, water and drainage infrastructure; police and emergency service providers; and the general enjoyment of existing town amenities* – has been evaluated using fiscal and financial impact studies and analyses prepared by Stan Bernstein and Associates, Inc., as part of the Preliminary Plan for PUD application process.

The Applicant has provided preliminary “ability to serve” letters from utility providers and emergency response agencies.

Economic Development

Goal (EDG 1): Diversify the Town’s Economy

- (EDS 1.1) Encourage and provide incentives for business to locate in the downtown area*
- (EDS 1.2) **Encourage the development of flexible space in commercial areas – space which can be easily adjusted as market conditions permit (office to retail to restaurant)***
- (EDS 1.3) Attract essential services necessary to form a “complete” community – grocery, pharmacy, hardware store, movie theatre*
- (EDS 1.4) Develop a comprehensive marketing strategy promoting the town*
- (EDS 1.5) **Utilize redevelopment opportunities to help expand and diversify the town’s economic/employment base***
- (EDS 1.6) Support and promote practices which are attractive to small business infrastructure, taxes, city services*
- (EDS 1.7) Investigate opportunities for future annexations*
- (EDS 1.8) Develop a web-portal which promotes the town*
- (EDS 1.9) Promote the town’s unique history to capitalize on the heritage tourism market*

Staff Response:

The Preliminary Development Plan proposes a mix of residential housing products with two commercial spaces. To the extent that the design of the PUD, as well as the architectural standards that will be developed for the project “promote the town’s unique history”, the project can be seen as complementing the Town’s image. Likewise, the addition of the specific types and sizes of residential lots and structures geared toward housing the local population contemplated within the PUD should serve to “expand and diversify the town’s economic and employment base.”

Natural Resources

Goal (NRG 1): Protect and Promote the Eagle River as a Community Asset

- (NRS 1.1) Support and fund ongoing river restoration efforts*
- (NRS 1.2) Improve and enhance public access to the Eagle River*
- (NRS 1.3) Strengthen development standards supporting habitat restoration and protection of the river*
- (NRS 1.4) Promote the Eagle River as a focal point of the community/gathering space*

Goal (NRG 2): Protect and Promote USFS lands as a Community Asset

- (NRS 2.1) **Maintain and improve access to public lands***
- (NRS 2.2) Promote development of USFS lands where appropriate*

Goal (NRG 3): Preserve, Protect and Enhance Environmentally Sensitive Lands

- (NRS 3.1) Examine existing hillside development regulations for improvement*
- (NRS 3.2) Maintain historic wildlife migration corridors*
- (NRS 3.3) Support efforts to mitigate the impact of the mountain pine beetle infestation*
- (NRS 3.4) Incorporate “Firewise” guidelines in building and site planning practices*

Goal (NRG 4): Preserve, Protect and Enhance Ridgelines and View Corridors

- (NRS 4.1) Develop methods to regulate development on ridgelines and preserve specific view corridors*

Staff Response:

The proposed PUD will have direct and lasting impacts on the achievement of the above goals and strategies aimed at protection and use of community amenities and treasured natural resources such as the Eagle River, as well as the provision access to public lands by directing development away from sensitive and valued natural areas, and hazard areas such as hillsides and ridgelines; and, by directing development towards an area of town that has been highly impacted by existing residential and commercial uses, where public infrastructure and services already exist and where density *should* be directed as a matter of the Town's growth management strategy. Additionally, while the reintroduction of dwelling units on the subject property will likely result in increased access to and use of nearby U.S.F.S. lands, it is plausible that development of the Midtown Village PUD property could influence development of adjacent U.S.F.S. lands as well.

Parks and Recreation

Goal (PRG 1): Enhance Recreational Opportunities for all Town Residents and Visitors

- (PRS 1.1) Support and promote the development of a regional trail system*
(PRS 1.2) Support and promote the development of a centralized gathering space in the downtown area
(PRS 1.3) Investigate opportunities for the development of playgrounds and parks
(PRS 1.4) Promote, maintain and improve access to open space
(PRS 1.5) Promote, maintain and improve access to the Eagle River
(PRS 1.6) Support and promote the development of recreational facilities and programs for multiple user groups
(PRS 1.7) Promote existing recreational opportunities/facilities

Staff Response:

The proposed Preliminary Development Plan generally indicates that areas within the PUD will be provided with internal sidewalks, open spaces and usable park areas.

Development of this site is in close proximity to public lands (U.S. Forest Service lands to the south, west, and east) which will promote access to open space and promote access to the Eagle River.

VII. Staff Analysis and Findings:

The following section outlines the evaluation criteria that the Planning Commission must consider in any action to approve, approve with conditions, deny or continue the Midtown Village Preliminary Development Plan for PUD.

Preliminary Development Plan for PUD:

- 1. 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 Preliminary Plan appears to address the majority of the Community Plan goals. Please refer to Section VI of this staff report.

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

Staff Response/Finding:

The Preliminary Plan appears to be planned 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.

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

Staff Response/Finding:

The Preliminary Plan is an infill development that meshes well with the existing neighborhood, and should not be adversely impactful.

- 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 Preliminary Plan proposes for the most part lot standards and height restriction exceedingly similar to the Town's existing requirements.

- 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:

The Applicant proposes to complete the backbone infrastructure needed to serve the entire PUD in the first phase; staff is of the opinion that the first phase of the development can be completed in a reasonable period following any final plan and final plat approval.

- 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 PUD does not border the Eagle River.

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

Staff Response/Finding:

The PUD is situated adjacent to USFS land and is within 100 feet of a bus stop that is serviced by ECO transit. This is within walking distance (within the typical quarter mile acceptable walking distance used in planning transit) and will be facilitated by new sidewalks along Hwy. 24.

- 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 Applicant is proposing to increase the density in this PUD from 11.33 units per acre to 16.6 units per acre, a 46.5% increase. While there is no increase in the land dedications to open space, the Applicant is proposing attainable local's housing, exceeding the Town's housing requirements while providing useable open space within the PUD for use by the PUD residents.

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

Staff Response/Finding:

There is an existing commercial space in Phase 1 and a future 5,000 square foot commercial space in Phase 3.

- 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 not raised concerns about an increase in traffic detrimentally affecting Hwy. 24 or other local streets.

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

Staff Response/Finding:

The Applicant has provided grading and drainage plans demonstrating that stormwater from within the PUD can be managed (routed, stored, dissipated) on-site.

- 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.

- 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 this Preliminary Plan application; the assessment was reviewed by the Town Engineer and was found to be in conformance with the Town's standards.

- 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 Preliminary Plan generally indicates that areas within the PUD will be provided with internal sidewalks, open spaces and usable park areas.

Preliminary Plat:

Section 17-5-80 - *Preliminary plat review*, of the Minturn Municipal Code outlines the following standards or criteria for the Planning Commission's review of the Preliminary Plat:

"The Town shall consider the following in its review of the preliminary plat:

- 1. Information requested or required by the Town.*
- 2. Whether the proposed subdivision conforms to these and other applicable regulations, policies and guidelines of the Town.*
- 3. Review of reports on file, and others as available, pertaining to geologic, soils, wildfire, flood, pollution and other hazards, mineral resource areas and significant wildlife areas. The review shall consider the guidelines and recommendations, as prepared by the appropriate agency, to mitigate hazards and to protect resources."*

Staff Response:

Staff suggests that, overall, the Preliminary Plat provided for review does conform to the purpose and intent of Chapter 17, Subdivisions, as well as the guidelines and policies of the Town. The Applicant has provided information specific to geologic conditions, soils, wildfire, flood, pollution and other hazards as well as mineral resources and wildlife areas for review by the Town and its consultants. Review of the plat has gone hand in hand with review of the Preliminary Development Plan for PUD wherein the Town, its consultants and external referral agencies have provided comments and recommendations that in many cases have been or will be incorporated into the final plans for the development.

Amendment to the Zone District Map:

Section 16-21-450 - *Standards*, of the Minturn Municipal Code outlines the following standards or criteria for the Planning Commission's review of the Amendment of the Zone District Map:

The wisdom of amending the text of these Land Use Regulations, the Character Area Zoning Map or any other map incorporated in these Land Use Regulations is a matter committed to the legislative discretion of the Town Council and is not controlled by any one (1) factor. In determining whether to adopt, adopt with modifications or disapprove the proposed amendment, the Town Council shall consider the following:

- 1. Consistency with Master Plan. Whether and the extent to which the proposed amendment is consistent with the purposes, goals, policies and Character Area Zoning Map of the Master Plan.*
- 2. Compatible with surrounding uses. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate Character Area and zone district for the land, considering its consistency with the purpose and standards of the proposed zone district.*
- 3. Changed conditions. Whether and the extent to which there are changed conditions that require an amendment to modify the use, density or intensity.*
- 4. Effect on natural environment. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife habitat, vegetation and wetlands*
- 5. Community need. Whether and the extent to which the proposed amendment addresses a demonstrated community need.*
- 6. Development patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning, and whether the resulting development can logically be provided with necessary public facilities and services.*
- 7. Public interest. Whether and the extent to which the area to which the proposed amendment would apply has changed or is changing to such a degree that it is in the public interest to encourage a new use or density in the area.*

Staff Response:

The proposed rezoning from South Town Commercial Zone District to Midtown Village PUD Overlay District for a residential Planned Unit Development conforms with the goals and policies of the 2009 Community Plan; is compatible with surrounding residential and open

space uses; responds to changing market, land cost and community needs conditions; presents a land development pattern in keeping with logical and orderly growth and use of existing infrastructure; and, considers impacts to the environment and the public's interest.

VIII. Outstanding Issues:

As referenced elsewhere in this report, the Applicant has been working through the Preliminary Development Plan review process since late 2022. The review of the Preliminary Plan application - from completeness review to the official "referral" period - has produced numerous iterations of issues identified by the Town and referral agencies, as well as responses and revisions offered by the Applicant.

Although a large number of issues and recommended revisions have been addressed or made, the following section outlines and summarizes the type and extent of issues needing further discussion and resolution, as well as those aspects of the proposal that must be reviewed as variations to applicable standards (a variance) through the review of the Preliminary Plan. Also attached to this staff report are letters from the Town Attorney and Town Engineer with additional issues from a legal or engineering perspective.

As a majority of outstanding issues are minor and/or technical in nature - having to do with suggested language changes within the PUD Guide and/or Covenants documents, or in relation to details shown on plans - staff has chosen not to enumerate each item here. Nevertheless, these issues or details need to be resolved as a function of any Preliminary Plan approval and, at a minimum, prior to any Final Plan/Plat application being received by the Town.

For that reason, suggested conditions of approval listed at the end of this report are intended to require the Applicant to work with the Town to resolve all outstanding issues of a technical and/or substantive nature prior to or as part of any Final Plan and Final Plat application.

Narrative:

- It should be made clear concerning future phases how 100% energy offset will be achieved.
- The rustic trail is referenced throughout the narrative as a safe trail, however it is not designed or located in a manner that demonstrates conformance with sidewalk standards in the Town. It may form an informal rustic trail for the benefit of the residents, but should not be viewed as a public improvement.

PUD Guide:

There remain numerous outstanding issues and/or recommendations identified by the Town Planning Director and Attorney related to the Planned Unit Development (PUD) Guide document which will regulate uses and development within the PUD. The following summarize the majority of comments that remain unresolved and which can be resolved prior to any Final Plan application to ensure that the PUD zoning and dimensional limitations can be effectively, efficiently interpreted and enforced:

- Sustainability: The Application states they are doing solar readiness in each unit, 100% offset for the apartment building in the narrative, however, more information should be provided in the PUD Guide on whether other development in Phases 2 and 3 will be 100% offset. For the

EV charging stations, final details should be provided regarding location and utilities prior to or concurrent with the application for Final Plan.

- Sidewalks and Trail Connections: The Applicant is providing a rustic trail to connect Main Street/Hwy 24 and the bus stop to public lands, however, due to it not being constructed to any sidewalk standard, the Town is not of the opinion that this should be deemed a public amenity.
- Phasing and Development Tracts: The Town is reviewing the entirety of the PUD, but focusing on Phase 1 due to available water. The action requested by the applicant is to approve the entire PUD. This is typical of most multi-phase PUD proposals: the overall development is reviewed in relation to current code and community plan standards; and zoning and vested rights are granted for the entirety of the PUD, while final details (and subdivision final plats) are focused on the first phase. The PUD Guide describes Tracts C, D, and E as Future Development. Staff recommends that this be revised in the PUD Guide to describe the tracts not as future development, but what their use will be (i.e. single-family, multi-family, or commercial/civic uses) to avoid the need for a PUD Amendment in the future. The Applicant will be required to complete a Final Plat for Subdivision for each of the subsequent phases where site specific development plans will be reviewed to ensure conformance with parking, landscape, and other standards.
- Landscape Standards: The PUD Guide states that the plan is to follow the Town of Minturn's landscape requirements in regards to number and size of trees. Based on the current regulations and the lot area, 110 trees are required. Staff questions the ability of the applicant to meet the standard given the limited open space.
- Parking: Design guidelines for each Tract within the PUD Guide state that parking will be provided via the Minturn Municipal Code standards. Additionally, multiple tracts are reliant on the same "overflow" or guest parking shown within Tracts B and E – for residential and commercial uses. Staff questions the feasibility of this and so the Applicant should demonstrate the placement and count of all proposed parking spaces to ensure that, as per the PUD Guide, the parking standards laid out in Chapter 16 can be met.
- Variations: Variations must be shown in the PUD Guide per MMC 16-15-140(d). Need to show baseline requirements of the underlying zoning and proposed variation in the PUD.
- Definitions: The Applicant should work with staff to finalize definitions for allowed uses and associated zoning.

Preliminary Plat:

Town staff (Engineer, Attorney, Planner) reviewed the Preliminary Plat (the preliminary subdivision plat that accompanies the Preliminary Development Plan) and provided technical, legal and practical recommendations and required revisions to the Applicant. The following items highlight those issues and requested revisions needing to be completed prior to any Final Plan application:

- The Final Plat should demonstrate full ability to conform to the ERFDP's conditional ability to serve letter, including demonstration of adequate fire flow and ability to maneuver emergency vehicles
- The Town Attorney has noted that 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.

Civil Engineering Sheets:

This section of comments addresses issues related to the layout, design and labeling of site, grading, drainage and utilities plans for Midtown Village PUD.

- Sheet 07 – Site Plan Phase 1 The Applicant should provide details of fire and emergency services access to all sides of the 16-Unit Apartment Building.
- Sheet 08 – Snow Removal Plan provides technically enough space for snow storage to meet the letter of the code, however staff does not believe that it is feasible or realistic and requests the applicant to work prior to Final Plan to refine and expand the snow storage and removal plan.
- Sheet 10 – Landscape Plan provides minimum detail, and so the applicant should work with Town staff prior to Final Plan approval to refine and provide sufficient detail such as number, size, and type of plantings proposed.
- The Utility Plan provides in some places insufficient detail, and so the applicant should work with Town Staff and Eagle River Water & Sanitation District to resolve all issues with the sewer design.
- The Final Plan should provide a sheet detailing traffic and fire lane signage.
- The Final Plan should include a Construction Management Plan.
- A more detailed grading plan will be required.
- Per the Town Engineer various easements and permits will need to be updated.
- Sewer and Water infrastructure plans should be finalized.

Water:

- As expressed earlier in this staff report, the development does not have enough water to serve the whole project at this time. There is enough water to serve the first phase of the project (sixteen-unit apartment building, commercial SteamMaster building with two apartments, and two cottage units), however anything beyond that is subject to the Town's water moratorium.
- As noted by the Town Attorney 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.

Open Space – Variations

The Applicant is proposing approximately 18% open space rather than the 25% recommended in the Minturn Municipal Code. This constitutes a variation from the Town's standards. Staff is generally in favor of this variation as a tradeoff between open space provision, and the provision of locals' housing as part of a Housing Plan that exceeds the Town's community housing ordinance. The Applicant should be required to provide a list of all variations along with rationale to support the request(s).

Dimensional Limitations – Variations

The PUD is designed on the basis of flexibility in the use of dimensional limitations - setbacks, building coverage, and impervious coverage - in order to achieve a more compact, efficient and cost effective use of land. These principles are identified in the Town's Planned Unit Development Overlay District regulations as benefits of proposing a PUD rather than developing land using standard zoning and dimensional limitations. The Applicant is currently requesting a variation to the rear setback in Phase 1 for the sixteen-unit apartment building from 10 feet in the underlying zone district to 5 feet.

Landscaping Requirements - Variations

The Applicant is not currently proposing a variation to the landscaping requirements, however staff advises him to do so. If the project abided by the Minturn Municipal Code's standards for the number of trees, 110 would need to be provided. Unless the Applicant can adequately demonstrate realistic placement for all required trees and shrubs, staff advises that a variation be requested in the PUD Guide.

External Referral Agency Comments and Concerns:

The Town sent the Preliminary Plan application to 13 external agencies and stakeholder groups and received comments from 4 of them.

1. Eagle County School District

ECSD has estimated that this development will add roughly 7 children to the K-12 school system. The Town has not formally adopted any cash-in-lieu fee, and so cannot make the developer address the request, however, other developers in the past have paid at least a portion of the requested fee.

2. Colorado Parks and Wildlife

CPW submitted comments that encouraged the Town to look at Real Estate Transfer Tax partnership opportunities, but did not anticipate direct impacts from this development.

3. Eagle River Water and Sanitation District

ERWSD submitted comments stating that would continue working with the Applicant to finalize sewer design at construction ready levels.

4. Xcel Energy

Xcel Energy submitted comments concerning easements for the trenches, meter locations, and distribution.

IX. Staff Recommendations and Suggested Conditions:

The following sections outline staff's recommendations for three separate, but related applications required for preliminary plan approval:

- Preliminary Development Plan for PUD Application
- Preliminary Plat Application
- Zone District Amendment Application

Preliminary Development Plan for PUD:

Staff believes the Midtown Village Preliminary Development Plan for PUD application **generally conforms** to a majority of Town goals and policies and is specifically designed to enhance and complement the existing character, development patterns, architecture and density found in the adjacent neighborhood. Staff is **recommending approval with conditions** of the Preliminary Development Plan.

The following suggested conditions of approval are provided as an initial list (to be added to during the hearing process if necessary and appropriate) in the event the Planning Commission takes action to recommend approval of the Preliminary Plan for PUD with conditions.

1. Work with the Town Attorney and Town Engineer to ensure that all sheets, easements, and other matters on the Final Plat and 100% civil engineering drawings are accurately and clearly labeled.
2. Work with the Town Attorney and Planning Director to ensure that the PUD Guide contains only matters relating to land use, development standards, 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.
3. 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.
4. Work with the Town Attorney on any recommended revisions to the Master Declaration of Covenants, Conditions, and Restrictions for the Midtown Village Homeowners Association.
5. Work with the Town Attorney on inclusionary housing policy, transfer covenants, and deed restrictions to ensure that these covenants and deed restrictions have appropriate priority and enforcement mechanisms.
6. Work with the Town Attorney and Planning Director to resolve any of the outstanding matters from previous referral letters and applicant responses.
7. Work with the Town Attorney and Planning Director to review and revise the Midtown Village PUD Housing Plan to identify opportunities to increase the number of price-capped, for-sale units; to lower the initial sales price for deed restricted, price-capped units from 200% AMI to a range between 120-140% AMI; and to include price appreciation caps for any deed restricted, price-capped for-sale unit resales.

Preliminary Plat:

Staff believes the Preliminary Plat application **generally conforms** to the requirements of the Minturn Municipal Code but that several revisions must be completed prior to the Applicant submitting a final plat for consideration by the Town. Staff are **recommending approval of the Preliminary Plat** with one condition designed to require the Applicant to resolve all outstanding issues and technical revisions already identified by the Town staff.

The following suggested condition of approval is provided in the event the Planning Commission takes action to recommend approval of the Preliminary Plat with conditions.

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.

Zone District Amendment:

Staff believes the application for zone district amendment from the South Town Commercial Zone District to the PUD Overlay Zone District **complies** with the applicable standards and criteria of the Minturn Municipal Code. Staff is **recommending approval of the Zone District Amendment** and staff does not believe conditions of approval are necessary in the event the Planning Commission acts to approve the zone district amendment.

Suggested Motions - Alternatives:

The Planning Commission will have the following options available when taking action on each of the applications - Preliminary Development Plan for PUD application, Preliminary Plat, and Zone District Amendment:

1. Approval
2. Approval with conditions
3. Denial
4. Continuance

The following suggested motion language is offered to assist the Planning Commission:

Preliminary Development Plan:**Approval:**

“I move the Minturn Planning Commission Approve the Midtown Village Preliminary Development Plan for PUD because the application conforms to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Approval with Conditions:

“I move the Minturn Planning Commission Approve, with conditions the Midtown Village Preliminary Development Plan for PUD because the application conforms, as conditioned, to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Denial:

“I move the Minturn Planning Commission deny the Midtown Village Preliminary Development Plan for PUD, because the application does not conform to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Continuance:

“I move the Minturn Planning Commission continue the Midtown Village Preliminary Plan to a date certain.”

Preliminary Plat:**Approval:**

“I move the Minturn Planning Commission Approve the Midtown Village Preliminary Plat because the application conforms to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Approval with Conditions:

“I move the Minturn Planning Commission Approve, with conditions, the Midtown Village PUD Preliminary Plat, because the application conforms, as conditioned, to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Denial:

“I move the Minturn Planning Commission deny the Midtown Village PUD Preliminary Plat, because the application does not conform to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Continuance:

“I move the Minturn Planning Commission continue the Midtown Village PUD Preliminary Plat to a date certain.”

Zone District Amendment:**Approval:**

“I move the Minturn Planning Commission Approve the Zone District Amendment from South Commercial Zone District to the PUD Overlay Zone District because the application conforms to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Approval with Conditions:

“I move the Minturn Planning Commission Approve, with conditions, the Zone District Amendment from South Town Commercial Zone District to the PUD Overlay Zone District, because the application conforms, as conditioned, to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Denial:

“I move the Minturn Planning Commission deny the Zone District Amendment from South Town Commercial Zone District to the PUD Overlay Zone District, because the application does not conform to the applicable criteria and standards of the Minturn Municipal Code and the Minturn Community Plan.”

Continuance:

“I move the Minturn Planning Commission continue the Zone District Amendment from South Town Commercial Zone District to the PUD Overlay Zone District to a date certain.”