



To: Mayor and Council
From: Scot Hunn, Planning Director
Date: November 9, 2023
Agenda Item: Minturn North Final Plan for PUD - Final Review by Town Council

REQUEST:

Final review of the Minturn North Final Development Plan for PUD, Final Plat(s), and Development Agreement.

INTRODUCTION:

At their last regular meeting of November 1, 2023, the Town Council reviewed the Minturn North Final Development Plan for PUD, along with two Final Plat documents - one for the UPRR Property, and another for the Minturn North PUD Subdivision - as part of the first reading of three separate ordinance Nos. 15, 16, and 17.

During the hearing on November 1st, the Council considered the application(s), the staff report and recommended conditions of approval, testimony of staff and consultants, as well as testimony of the Applicant and of the public. The following topics were discussed and/or provided as part of public testimony at the hearing on November 1:

- Property Owner Association and covenants
- Mud and debris flow hazards analyses and proposed mitigation
- Waterwise landscaping
- Connectivity (trail and sidewalk networks)
- Drainage and stormwater improvements
- Subdivision Improvements Agreement (SIA) and vesting periods

During the hearing on November 1st, staff confirmed with the Council that while final plans, plats, and agreements were nearing final form (meaning no or few outstanding, substantive issues), there were still several minor or technical issues needing to be resolved with regard to covenants, plats/easements, and the SIA/development agreement - all of which staff believed could reasonably be resolved prior to second reading of Ordinance Nos. 15, 16, & 17.

Staff also outlined several suggested conditions of approval that would require the Applicant to continue working with the Town prior to second reading of the ordinances and/or following any final approvals to provide construction details and final (or in some cases, updated) cost estimates for off-site improvements such as paving of County Road 14, construction of the ECO Trails bridge crossing over Game Creek, and the construction of turn lanes at Hwy. 24.

The following are the conditions of approval for each ordinance that were approved by the Council on first reading on November 1, 2023:

Ordinance No. 15 - Minturn North Final Development Plan for PUD (Conditions on First Reading):

1. Prior to sale of Lots 1-4 or issuance of a building permit for any of Lots 1-4, Applicant shall provide the Town with additional documentation based on the Wright Water Engineering "Game Creek Existing Mudflow Analysis" specifically related to the Game Creek Drainage confirming that the currently designed berm or other means of mudflow protection which may be provided to be located within the Game Creek setback is sufficient to reasonably mitigate against a 100-year mudflow event. Such additional documentation shall be provided by a professional engineer licensed in the State of Colorado. Such evaluation(s), report(s), and/or studies shall be reviewed by Colorado Geological Survey and approved by the Town Engineer. - Ongoing: the staff expects additional information to be provided by the Applicant on or before the meeting on November 15th which will then be referred to CGS while also being reviewed and approved by the Town Engineer. (This item does not come back to the Minturn Town Council but an update on outcomes will be provided).
2. The Applicant shall work with the Town Engineer and Town Attorney to revise and update PUD documents (CC&Rs) and/or agreements to permit the Town of Minturn, as an authorized contractor, to access to repair critical offsite drainage facilities in emergency situations. - Complete
3. The Applicant shall provide 100% construction level plans and cost estimates for County Road 14/the extension of Minturn Road within one year and constructed within three years of final plat approval. - Ongoing
4. The Applicant shall provide CDOT Notice to Proceed and complete construction offsite improvements within 3 years of final plat approval. - Ongoing
5. Provide final designs and cost estimates for the Eco Trails Game Creek bridge within one year and constructed within three years of final plat approval. - Ongoing
6. Provide all necessary Army Corps of Engineers wetland permitting prior to commencement of construction of the EcoTrail Game Creek Bridge. - Ongoing
7. The Applicant shall provide evidence of final approval and ability to serve from the Eagle River Water and Sanitation District prior to recordation of the Minturn North PUD Final Subdivision Plat. - Ongoing
8. The Applicant shall work with the Town Attorney to update and revise the Declaration of Covenants, Conditions, Restrictions and Easements for Minturn North (CC&Rs) to ensure proper limitations on the scope and powers of any Home Owner's Association (HOA) created as part of the PUD. Specific focus on revisions to the CC&Rs should be aimed at reducing controls on design review and/or architectural control by the HOA Executive Board; use of individual properties for the keeping and storage of recreational equipment, recreational vehicles (RV's, trailers, vehicles), and personal items in keeping with the rest of the Town. Specific sections of the CC&Rs to be addressed and revised include Section 15 – Use Restrictions, and Section 16 – Miscellaneous Matters and Owner Acknowledgements. - Complete

Ordinance No. 16 - Union Pacific Railroad (UPRR) Subdivision Final Plat (Conditions on First Reading):

1. Prior to sale of Lots 1-4 or issuance of a building permit for any of Lots 1-4, Applicant shall provide the Town with additional documentation based on the Wright Water Engineering "Game Creek Existing Mudflow Analysis" specifically related to the Game Creek Drainage confirming that the currently designed berm or other means of mudflow protection which may be provided to be located within the Game Creek setback is sufficient to reasonably mitigate against a 100-year mudflow event. Such additional documentation shall be provided by a professional engineer licensed in the State of Colorado. Such evaluation(s), report(s), and/or studies shall be reviewed by Colorado Geological Survey and approved by the Town Engineer. - Ongoing: the staff expects additional information to be provided by the Applicant on or before the meeting on November 15th which will then be referred to CGS while also being reviewed and approved by the Town Engineer. (This item does not come back to the Minturn Town Council but an update on outcomes will be provided).
2. The Applicant shall work with the Town Engineer and Town Attorney to address and resolve all outstanding technical comments related to plat language and/or survey data prior to second reading of Ordinance No. 16, Series 2023. - Ongoing: Most issues and/or technical comments have been addressed as of the date of this memo; staff anticipates that any/all remaining issues related to the final plat documents as identified in a letter from the Town Engineer dated November 9, 2023 will or can be resolved and corrected before 2nd reading.

Ordinance No. 17 - Minturn North PUD Subdivision Final Plat (Conditions on First Reading):

1. Prior to sale of Lots 1-4 or issuance of a building permit for any of Lots 1-4, Applicant shall provide the Town with additional documentation based on the Wright Water Engineering "Game Creek Existing Mudflow Analysis" specifically related to the Game Creek Drainage confirming that the currently designed berm or other means of mudflow protection which may be provided to be located within the Game Creek setback is sufficient to reasonably mitigate against a 100-year mudflow event. Such additional documentation shall be provided by a professional engineer licensed in the State of Colorado. Such evaluation(s), report(s), and/or studies shall be reviewed by Colorado Geological Survey and approved by the Town Engineer. - Ongoing: the staff expects additional information to be provided by the Applicant on or before the meeting on November 15th which will then be referred to CGS while also being reviewed and approved by the Town Engineer. (This item does not come back to the Minturn Town Council but an update on outcomes will be provided).
2. The Applicant shall work with the Town Engineer and Town Attorney to address and resolve all outstanding technical comments related to plat language and/or survey

data prior to second reading of Ordinance No. 16, Series 2023. - Ongoing: Most issues and/or technical comments have been addressed as of the date of this memo; staff anticipates that any/all remaining issues related to the final plat documents as identified in a letter from the Town Engineer dated November 9, 2023 will or can be resolved and corrected before 2nd reading.

Update: 11.09.23:

The Town Attorney and Town Engineer have worked diligently with the Applicant since November 1st to resolve most outstanding issues related to covenants, easements, plats and civil engineering drawings. That being said, the Town Engineer has reviewed the most recent, updated civil engineering plans (received by the Town on November 7th) and has provided an updated letter dated November 9, 2023, outlining any remaining details or comments. While most outstanding issues and/or technical comments have been satisfactorily addressed, there remain additional minor issues and details needing to be addressed either on the civil drawings or on the plat documents.

Staff believes that each of these minor issues can be resolved prior to second reading of Ordinance Nos. 15, 16, and 17 and, importantly, prior to consideration by the Council on November 15th of the Development Agreement (Resolution No. 31) which is reliant on final, 100% construction drawings and cost estimates. Additionally, there remain issues and outstanding construction related details (County Road, Hwy. 24, ECO Bridge designs and cost estimates) which should remain as conditions of Final Plan approval.

Therefore, staff is still recommending approval with conditions of the Final Development Plan for PUD, Final Plat documents for the UPRR Property and for the Minturn North PUD Subdivision.

Staff commentary and recommendations related to the Minturn North PUD Development Agreement is being provided under cover of a separate memo from the Town Attorney.

ANALYSIS:

The ongoing review of the Minturn North Planned Unit Development is being facilitated in accordance with the Town of Minturn Municipal Code and land use regulations. The attached staff report from the Planning Department dated November 1, 2023, provides in depth background, analyses, and details related to the review of the proposal including recommendations regarding the proposal's conformance with Final Plan and Final Plat standards and criteria, as well as recommended conditions of approval.

As mentioned, the Applicant has addressed a majority of outstanding issues and technical comments and the Town Attorney has worked diligently with the Applicant's legal counsel to finalize covenant language as well as terms and conditions of the development agreement.

However, the following list reflects the remaining conditions of approval (as well as those that have been or will be resolved prior to 2nd reading – shown in strikethrough font) recommended

by Town staff that should be considered as part of any Final Development Plan for PUD and/or Final Plat approvals:

Ordinance No. 15 - Minturn North Final Development Plan for PUD:

1. Prior to sale of Lots 1-4 or issuance of a building permit for any of Lots 1-4, Applicant shall provide the Town with additional documentation based on the Wright Water Engineering "Game Creek Existing Mudflow Analysis" specifically related to the Game Creek Drainage confirming that the currently designed berm or other means of mudflow protection which may be provided to be located within the Game Creek setback is sufficient to reasonably mitigate against a 100-year mudflow event. Such additional documentation shall be provided by a professional engineer licensed in the State of Colorado. Such evaluation(s), report(s), and/or studies shall be reviewed by Colorado Geological Survey and approved by the Town Engineer.
- ~~2. The Applicant shall work with the Town Engineer and Town Attorney to revise and update PUD documents (CC&Rs) and/or agreements to permit the Town of Minturn, as an authorized contractor, to access to repair critical offsite drainage facilities in emergency situations.~~
3. The Applicant shall provide 100% construction level plans and cost estimates for County Road 14/the extension of Minturn Road within one year and constructed within three years of final plat approval.
4. The Applicant shall provide CDOT Notice to Proceed and complete construction offsite improvements within 3 years of final plat approval.
5. Provide final designs and cost estimates for the Eco Trails Game Creek bridge within one year and constructed within three years of final plat approval.
6. Provide all necessary Army Corps of Engineers wetland permitting prior to commencement of construction of the EcoTrail Game Creek Bridge.
7. The Applicant shall provide evidence of final approval and ability to serve from the Eagle River Water and Sanitation District prior to recordation of the Minturn North PUD Final Subdivision Plat. **Any revisions to 100 percent construction drawings and associated cost estimates as a result of any changes requested by ERWSD shall be added to the 100 percent construction drawings and cost estimates to be reviewed and approved by the Town Engineer.**
- ~~8. The Applicant shall work with the Town Attorney to update and revise the Declaration of Covenants, Conditions, Restrictions and Easements for Minturn North (CC&Rs) to ensure proper limitations on the scope and powers of any Home Owner's Association (HOA) created as part of the PUD. Specific focus on revisions to the CC&Rs should be aimed at reducing controls on design review and/or architectural control by the HOA Executive Board; use of individual properties for the keeping and storage of recreational equipment, recreational vehicles (RV's, trailers, vehicles), and personal items in keeping with the rest of the Town. Specific sections of the CC&Rs to be addressed and revised include Section 15 Use Restrictions, and Section 16 Miscellaneous Matters and Owner Acknowledgements.~~

Ordinance No. 16 - Union Pacific Railroad (UPRR) Subdivision Final Plat:

1. Prior to sale of Lots 1-4 or issuance of a building permit for any of Lots 1-4, Applicant shall provide the Town with additional documentation based on the Wright Water Engineering "Game Creek Existing Mudflow Analysis" specifically related to the Game Creek Drainage confirming that the currently designed berm or other means of mudflow protection which may be provided to be located within the Game Creek setback is sufficient to reasonably mitigate against a 100-year mudflow event. Such additional documentation shall be provided by a professional engineer licensed in the State of Colorado. Such evaluation(s), report(s), and/or studies shall be reviewed by Colorado Geological Survey and approved by the Town Engineer.
- ~~2. The Applicant shall work with the Town Engineer and Town Attorney to address and resolve all outstanding technical comments related to plat language and/or survey data prior to second reading of Ordinance No. 16, Series 2023.~~

Ordinance No. 17 - Minturn North PUD Subdivision Final Plat:

1. Prior to sale of Lots 1-4 or issuance of a building permit for any of Lots 1-4, Applicant shall provide the Town with additional documentation based on the Wright Water Engineering "Game Creek Existing Mudflow Analysis" specifically related to the Game Creek Drainage confirming that the currently designed berm or other means of mudflow protection which may be provided to be located within the Game Creek setback is sufficient to reasonably mitigate against a 100-year mudflow event. Such additional documentation shall be provided by a professional engineer licensed in the State of Colorado. Such evaluation(s), report(s), and/or studies shall be reviewed by Colorado Geological Survey and approved by the Town Engineer.
- ~~2. The Applicant shall work with the Town Engineer and Town Attorney to address and resolve all outstanding technical comments related to plat language and/or survey data prior to second reading of Ordinance No. 16, Series 2023.~~

COMMUNITY INPUT:

Public notice was provided in accordance with the Minturn Municipal Code as a matter of posting of the official agenda and packet materials for public review prior to the hearing, and following Section 16-21-610 Public notice.

BUDGET / STAFF IMPACT:

N/A.

STRATEGIC PLAN ALIGNMENT:

PRACTICE FAIR, TRANSPARENT AND COMMUNICATIVE LOCAL GOVERNMENT

THE TOWN WILL SEEK TO MAKE **INFORMED, DATA-BASED DECISIONS** WITH A **STANDARD OF “DOING IT RIGHT.”** WITH AN **HONEST** APPROACH TO ALL ASPECTS OF LOCAL GOVERNMENT AND A FOCUS ON THE **PUBLIC PROCESS**, THE TOWN COUNCIL AND STAFF ARE COMMITTED TO SERVING MINTURN WITH THE HONESTY AND INTEGRITY EXPECTED OF A SMALL-TOWN GOVERNMENT.

ADVANCE DECISIONS/PROJECTS/INITIATIVES THAT EXPAND FUTURE OPPORTUNITY AND VIABILITY FOR MINTURN

The ability for Minturn to approach development as **resilient, sustainable, creative and diverse** will allow the town to continue embracing what has **“made Minturn, Minturn.”** The town can further leverage its crossroads location as a valley-wide benefit and **competitive advantage.**

RECOMMENDED ACTION OR PROPOSED MOTION:

1. Approve Ordinance No. 15 - Series 2023 on second reading.
2. Approve Ordinance No. 16 - Series 2023 on second reading.
3. Approve Ordinance No. 17 - Series 2023 on second reading.

ATTACHMENTS:

- Full Minturn North Final Plan and Final Plat Staff Report dated November 1, 2023
- Final Review Letter from Jeff Spanel, Town Engineer, Dated November 9, 2023
- Referral Comments from Colorado Geologic Survey, Dated October 23, 2023
- Written Public Comments
- Minturn North Final Development Plan for PUD - Updated Application Package
- Ordinance No. 15 - Series 2023 (Approval of Final Development Plan)
- Ordinance No. 16 - Series 2023 (Approval of UPRR Property Subdivision Final Plat)
- Ordinance No. 17 - Series 2023 (Approval of Minturn North PUD Subdivision Final Plat)