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DATE: November 10, 2023
TO: Minturn Mayor and Town Council
FROM: Karp Neu Hanlon, P.C. / Nick Poppe, Esq.
RE: Settlement for Belden Place Lawsuit

In Spring 2022, the Town Council held public hearings associated with the Belden Place PUD. On March 16, 2022, the Town Council approved the PUD Plan, Final Plat, Subdivision Improvements Agreement, and a cost sharing agreement related to drainage improvements. The Council was unaware that a few days prior to these public hearings the developer filed a lawsuit against the Town. The litigation has been pending for 18 months. The Town did receive a positive ruling on a motion to dismiss. However, that Court order did leave some claims pending. In the interim, the parties have discussed a settlement structure.

The settlement agreement attached has been reviewed by Belden Place who has agreed to the provisions. The settlement agreement has also been reviewed by Nick Poppe the Town's CIRSA attorney. Here is a brief explanation as to how the proposed settlement works.

Similar to the Battle Mountain settlement, the Belden Place settlement is contingent to various approvals to be obtained after the agreement is signed. Specifically, the settlement allows for Belden Place to seek the following approvals from Council after the settlement is executed:

1. An application to have the 16 SFEs of water service not needed by Minturn North allocated to Belden Place. The original water moratorium, which still applies to Belden Place, allows for such a hearing and decision by Council. As you will see in the agreement, Belden Place will still be a few SFEs short for full buildout.
2. An application to amend the PUD plan and final plat for Belden Place to eliminate the Triplex on Lot 12/13/14 and replace it with a single-family unit plus an ADU. This will help lower the total number of SFEs required for full build out of the project.
3. An application to amend the Subdivision Improvements Agreement to modify provisions related to the number of SFEs required to serve Belden Place together with other minor changes.

During the period that these applications are being considered, the litigation will be stayed to prevent further expenditure of work on the matter. If any of these applications are denied, Belden Place may withdraw from the settlement agreement and proceed with the litigation. If the applications are approved, the litigation will be dismissed.

Further, if the settlement is approved, Belden Place agrees that the Town contribution for drainage improvements will be void. Also, the Town would agree to a stipulation in a pending code enforcement case that would allow Belden Place not to fill in the excavation on the property (because presumably construction would commence shortly thereafter).

Staff believes that the proposed settlement is a workable framework for resolving the Belden Place issues. The matters described above would be handled in public hearings where members of the public can participate. Only after that public process had played out would the Town dismiss the litigation. Staff recommends approval of the settlement agreement.