



Crested Butte is a small mountain town with a big community that strives toward a balanced and sustainable lifestyle while enjoying and protecting the soul of the Valley.

Town Council Values

- Support Crested Butte's quality of life
- Promote resource efficiency and environmental stewardship
- Encourage a sustainable and healthy business climate
- Actively support an authentic and unique community
- Remain fiscally responsible
- Continue thoughtful management of our historic character
- Seek collaborative solutions to regional and local issues

Critical to our success is an engaged community and knowledgeable and experienced staff.

AGENDA

Town of Crested Butte Planning Commission and Regular Town Council Meeting Town Council Chambers 507 Maroon Ave; Crested Butte, CO Monday, December 19, 2022

Meeting Information to Connect Remotely:

<https://us02web.zoom.us/j/88326789938>

Or Telephone: Dial: US: +1 719 359 4580 or +1 346 248 7799 or +1 669 444 9171 or +1 669 900 6833 or +1 253 205 0468 or +1 253 215 8782 or +1 689 278 1000 or +1 929 205 6099 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 931 3860

Webinar ID: 883 2678 9938

Public comments may be submitted at any time to the entire Council via email at towncouncil@crestedbutte-co.gov.

The times are approximate. The meetings may move faster or slower than expected.

6:00 PLANNING COMMISSION MEETING CALLED TO ORDER BY CHAIRPERSON

6:03 NEW BUSINESS

1) Appeal of the Decision of the Town of Crested Butte Board of Zoning and Architectural Review (BOZAR) Regarding the Proposed Elk Avenue Quarry Subdivision Located at 15 Elk Avenue.

Staff Contact: Community Development Director Troy Russ

6:05 PLANNING COMMISSION MEETING ADJOURNMENT

6:06 WORK SESSSION

1) Options to Address Empty Buildings.

Staff Contact: Community Development Director Troy Russ

6:36 2) USPS Matter Next Steps.

Staff Contact: Town Attorney Karl Hanlon and Town Manager Dara MacDonald

7:00 REGULAR TOWN COUNCIL MEETING CALLED TO ORDER BY MAYOR OR MAYOR PRO-TEM

7:02 APPROVAL OF AGENDA

7:04 CONSENT AGENDA

1) December 5, 2022 Regular Town Council Meeting Minutes.

Staff Contact: Town Clerk Lynelle Stanford

2) Resolution No. 32, Series 2022 - A Resolution of the Crested Butte Town Council Authorizing the Town of Crested Butte to Opt Out of the Colorado Paid Family and Medical Leave Insurance Program (FAMLI).

Staff Contact: Human Resources Manager LaDonna Garcia

3) Town Manager Contract.

Staff Contact: Town Attorney Karl Hanlon

4) Rec Path Bridge Maintenance Agreement Between the Town of Crested Butte and the Town of Mt. Crested Butte.

Staff Contact: Parks, Recreation, Open Space, and Trails Director Janna Hansen

5) Resolution No. 34, Series 2022 - A Resolution of the Crested Butte Town Council Approving the Second Amendment to the Intergovernmental Agreement Establishing the Gunnison Valley Regional Housing Authority.

Staff Contact: Housing Director Erin Ganser

6) Fall Community Grant Recommendations.

Staff Contact: Finance Director Kathy Ridgeway

7) Memorandum of Agreement with the Gunnison Valley Regional Housing Authority for the Crested Butte GreenDeed Program.

Staff Contact: Community Development Director Troy Russ

8) Adoption of Update to Town of Crested Butte Employee Handbook.

Staff Contact: Town Manager Dara MacDonald

9) Approval of the 2023 Town Council Regular Meeting Schedule.

Staff Contact: Town Clerk Lynelle Stanford

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The listing under Consent Agenda is a group of items to be acted on with a single motion.

The Consent Agenda is designed to expedite Council business. The Mayor will ask if any citizen or council member wishes to have any specific item discussed. You may request that an item be removed from Consent Agenda at that time, prior to the Council's vote. Items removed from the Consent Agenda will be considered under New Business.

7:06 PUBLIC COMMENT

Citizens may make comments on item not scheduled on the agenda. Those commenting should state their name and physical address for the record. Comments may be limited to five minutes.

7:12 STAFF UPDATES

7:18 LEGAL MATTERS

7:24 PRESENTATION

1) Audited 2021 Financial Statements.

Staff Contact: Finance Director Kathy Ridgeway and Michael Jenkins from McMahn and Associates

7:35 PUBLIC HEARING

1) (Second Reading) Ordinance No. 24, Series 2022 - An Ordinance of the Crested Butte Town Council Amending Chapter 13, Article 1, of the Crested Butte Municipal Code Regarding Water Rates.

Staff Contact: Finance Director Kathy Ridgeway and Public Works Director Shea Earley

7:45 2) (Second Reading) Ordinance No. 25, Series 2022 - An Ordinance of the Crested Butte Town Council Amending Chapter 18 of the Municipal Code to Correct References to the Department of Energy Zero Energy Ready Home Program as it May be Amended from Time to Time.

Staff Contact: Staff Contact Troy Russ

7:50 NEW BUSINESS

1) (First Reading) Ordinance No. 26, Series 2022 - An Ordinance of the Crested Butte Town Council Authorizing the Transfer of a Portion of Lots 31 and 32, Block 16, Town of Crested Butte, Colorado.

Staff Contact: Community Development Director Troy Russ and Parks, Recreation, Open Space, and Trails Director Janna Hansen

7:55 2) (First Reading) Ordinance No. 27, Series 2022 - An Ordinance of the Crested Butte Town Council Authorizing the Rezoning of a Portion of Lots 31 and 32, Block 16, Town of Crested Butte, Colorado from Public "P" to Residential "R-1C"; and the Rezoning of a Portion of Part of Lots 28-30, Block 16 Town of Crested Butte, Colorado from Residential "R-1C" to Public "P".

Staff Contact: Community Development Director Troy Russ and Parks, Recreation, Open Space, and Trails Director Janna Hansen

8:00 3) Crested Butte/Mt. Crested Butte Chamber of Commerce 2023 Funding Requests.

Staff Contact: Town Manager Dara MacDonald

8:20 COUNCIL REPORTS AND COMMITTEE UPDATES

8:35 OTHER BUSINESS TO COME BEFORE THE COUNCIL

8:40 DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Tuesday, January 3, 2023 - 6:00PM Work Session - 7:00PM Regular Council
- Tuesday, January 17, 2023 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, February 6, 2023 - 6:00PM Work Session - 7:00PM Regular Council

8:45 ADJOURNMENT



Staff Report

December 19, 2022

To: Chairman Billick and Planning Commission Members

From: Jessica Earley, Planner III

Thru: Troy Russ, Community Development Director

Subject: Public Hearing: Appeal of the Decision of the Town of Crested Butte Board of Zoning and Architectural Review (“BOZAR”) Regarding the Proposed Elk Avenue Quarry Minor Subdivision Located At 15 Elk Avenue (LOTS 19-24, BLOCK 19, CRESTED BUTTE)

Overview: JLDJN Partners, LP, a Texas Limited Partnership (Applicant), represented by Gary Hartman of Sunlit Architecture and Attorney, Marcus J. Lock, has filed an appeal to the November 22, 2022, denial of a minor subdivision for 15 Elk Avenue (Lots 19-24, Block 19, Crested Butte Subdivision) by the Town’s Board of Zoning Architecture Review (BOZAR).

Section 17-14-10 of the Crested Butte Town Code outlines the Town’s appeal process for decisions made by the Town’s Building Official, Planning Director, or Board regarding subdivisions. The Applicant has a right to have the appeal heard by the Planning Commission within twenty days of the receipt of the appeal by the Town Clerk. The applicant filed their appeal on December 5, 2022. The application for appeal is included as an attachment to this staff report.

Subject Property



Continuance Request: Because of the holiday season, the applicant has requested the Planning Commission hearing be continued to January 23, 2023. Staff supports this request as the minutes of the previous BOZAR will not be approved until December 20, 2022 and the impacts the holiday season has on staff capacity to evaluate the application.

Recommendation: Town Staff recommends that a council member make a motion, followed by a second, to approve the continuation of the public hearing to January 23, 2023.

Attachments:

1. Appeal Request
2. Continuation Request



LAW OF THE ROCKIES

525 N. Main Street, Gunnison, CO 81230 | 970.641.1903
lawoftherockies.com | Email: mlock@lawoftherockies.com

Members
Marcus J. Lock
Jacob A. With
Kendall K. Burgemeister

Special Counsel
Daniel P. Spivey

December 5, 2022

VIA ELECTRONIC MAIL

Town of Crested Butte Planning Commission
c/o Town Clerk, Lynelle Stanford
lstanford@crestedbutte-co.gov

Re: *Appeal of the Decision of the Town of Crested Butte Board of Zoning and Architectural Review (“BOZAR”) Regarding the Proposed Elk Avenue Quarry Subdivision Located At 15 Elk Avenue*

Dear Town of Crested Butte Planning Commission,

I am writing on behalf of JLDJN Partners, LP, a Texas Limited Partnership (“JLDJN” or “Applicant”) for the purpose of appealing BOZAR’s November 22, 2022 decision denying JLDJN’s application to convert six town lots into one open space parcel and two residential lots, to be known as the Elk Avenue Quarry Subdivision (the “Application”). The two lots and the open space parcel are shown on the draft plat attached hereto as **Exhibit A**. The open space parcel, which is designated as Parcel C on the draft plat, would be subject to the Hillside Preservation Covenant attached hereto as **Exhibit B**.

Currently, the property that is the subject of the application is known as Lots 19, 20, 21, 22, 23, and 24, Block 19, Town of Crested Butte (the “Property”). The Property is located at 15 Elk Avenue at the west end of the street within the Town of Crested Butte (the “Town”). JLDJN has a contract to purchase the Property, which is currently owned by the Estate of Robert J. Rozman. Mr. Rozman’s estate has authorized JLDJN to pursue the Application on its behalf. Historically, the Property was used as a quarry. It is currently used for the storage of machinery, vehicles, trailers, and various containers.

This appeal is timely submitted pursuant to Section 17-14-10 of the Town Code, which provides that the applicant may appeal BOZAR’s decision within fourteen days by submitting a written and signed request for such an appeal to the Town Clerk.

BOZAR denied the application on a 3-3 vote. BOZAR’s denial “was based on its interpretation that the application did not meet the criteria outlined in . . . section 17-4-50(a)(1) and (2 f 2) and that the waivers of these code sections could not be supported based upon the public benefits that were proposed.” See **Exhibit C** (November 22, 2022 email from Ms. Earley

to Applicant).¹ For the reasons set forth herein, Applicant respectfully requests that the Planning Commission reverse BOZAR's decision and approve the Application, subject to the conditions of approval set forth in the November 22, 2022 Staff Report.

Staff recommended approval of the Application. *See* Staff Report available at:

 [20221122 JLDJN 15 Elk - BOZAR Staff Report.pdf](#)

Staff determined that Applicant had satisfied each of the submittal requirements for a minor subdivision application. *See* Staff report at page 8. With respect to the criteria for review and approval of a minor subdivision set forth in section 17-4-50 of the Town Code, Staff determined that the Applicant had either met each of these requirements or that a waiver was appropriate. *See* Staff Report at pages 9-15. Importantly, the decision to grant a waiver is ultimately up to the Planning Commission. *See* Town Code, § 17-4-50(b) (providing that any of the requirements of the subdivision regulations may be varied or waived upon “a finding by the Planning Commission that the subdivider will be providing amenities to the Town over and above those already required by these regulations, that are of such benefit to the Town that requirements of these regulations may be varied or waived in return for the receipt of such amenities”).

Regarding the waivers:

- 1.) First, Applicant requested a waiver from the Typical (B4 Zone) lot size of 50' x 125' for parcel B in order to facilitate the required retaining walls and to provide space between the retaining walls and the residence for snow and maintenance mitigation. Relatedly, Applicant requested a waiver to allow alteration of grade by more than 3' across the lot. Applicant requested this waiver given that this steep site was previously used as a quarry, any type of project on this Property would require the alteration of the existing grade by more than the 3' limit. Applicant agreed as a condition of this waiver request to limit the size of any residence for parcel B based on the traditional 50' x 125' lot size allowed by the Town Code, which is an additional benefit to the public. “Staff supports the waiver request, as we believe the applicant's proposed public improvements now appropriately compensate the community/public for the development's impacts on the hillside.” *See* Staff Report at page 9; *see also* Staff Report at pages 14-15 (setting forth the detailed rationale for the Staff's support of the waiver requests).
- 2.) Second, Applicant requested a waiver of the requirement that access to the Property be from Elk Avenue. The existing hillside on Elk Avenue within the town Right of Way basically rendered access from Elk Avenue impossible. Accordingly, Applicant requested access from the alley. However, to accommodate the Crested Butte Fire Protection District (the “Fire District”) a 20' access in the alley is required if access from Elk Avenue cannot be accommodated. Staff agreed that this too was impossible to accomplish given that the platted alley is only 16' wide. In order to resolve the Fire

¹ BOZAR also reviewed the application under the excessive slope review criteria set forth in section 16-10-20(b). Staff determined that each of these criterion had either been met or was not applicable to the proposal. *See* Staff Report, at pages 16-17. BOZAR did not raise any concerns regarding the staff's recommendation in this regard, and BOZAR did not base its denial on this provision.

District's concerns, Applicant agreed to provide a staging access easement off of Elk Avenue 20' in width that would serve both residential parcels. The Fire Department supported this proposal, and Staff support for this waiver was based primarily on the approval of the Fire Department. Specifically, "Staff finds support for the waiver for the following reasons: 1) vehicle access from Elk Avenue requires extraordinary measures; 2) 20' fire access is proposed from Elk Avenue; and 3) vehicle access from the alley access is critical to preserving and strengthening walkability of the Town." Staff also acknowledged that all other existing alleys in Town west of 8th Street are also only 16' in width.

Staff agreed that the following public benefits supported the requested waivers. *See* Staff Report at pages 14-15.

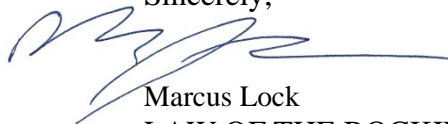
- 1.) Preservation of the hillside located on Parcel C as open space.
- 2.) Installation of a new water line adequate in size to serve all of the alley lots to enhance fire suppression systems and bring the line in compliance with current public works standards. Staff noted that this project has already been identified in the enterprise fund master plan and would reduce the fiscal impacts on the community.
- 3.) Installation of a new sewer manhole to improve Public Works access to the line for maintenance and operation.
- 4.) Limitation of the building height on Parcel B to below the crest of the hillside.

Overall, Staff acknowledged that this proposal "better preserves the existing historic character of the neighborhood and natural landscape" and that it "provides a similar public benefit to the Town in preserving the hillside parcels as other subdivisions, such as Treasury Hill and The Heights." Ultimately, the Staff concluded that "the public benefits . . . support the proposal in its current form because of the preservation of the hillside, which acts as a natural buffer and in turn protect[s] the historic character of the community." *See* Staff Report at page 14.

Applicant respectfully requests that the Planning Commission reverse BOZAR's 3-3 decision, and adopt the Staff's recommendation of approval, subject to the conditions of approval set forth on pages 21-22 of the Staff Report.

Thank you in advance for your time and attention. Applicant looks forward to discussing this matter with you further.

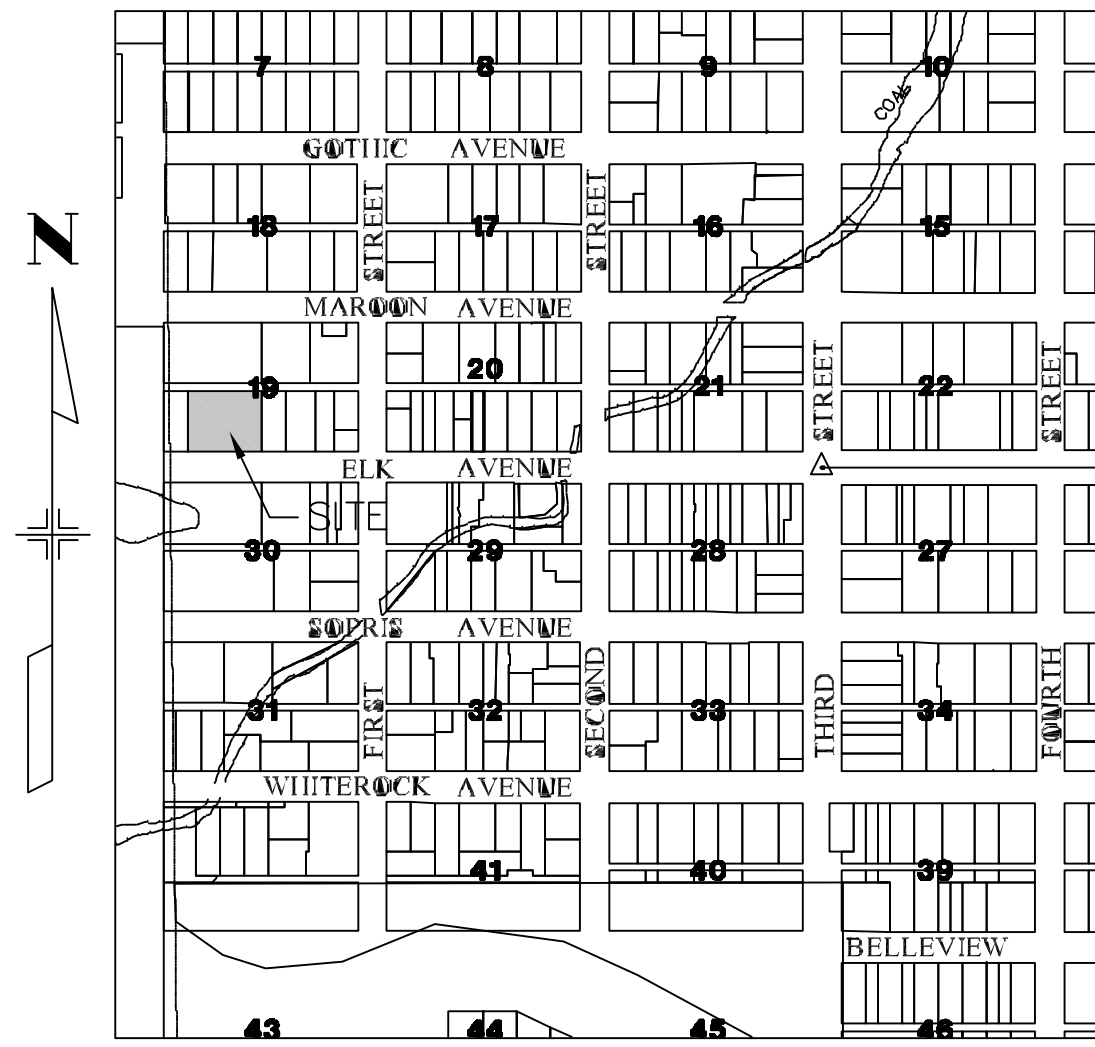
Sincerely,



Marcus Lock

LAW OF THE ROCKIES

FINAL PLAT OF ELK AVENUE QUARRY SUBDIVISION OF LOTS 19 THROUGH 24, BLOCK 19 TOWN OF CRESTED BUTTE, ALSO BEING LOCATED WITHIN THE NW 1/4, NE 1/4 OF SECTION 3, T14S, R86W, 6TH P.M. COUNTY OF GUNNISON, STATE OF COLORADO



DEDICATION KNOW ALL PEOPLE BY THESE PRESENTS: THAT DENNIS R. ROZMAN, PERSONAL REPRESENTATIVE OF THE ESTATE OF ROBERT J. ROZMAN, BEING THE OWNER OF THE LAND DESCRIBED AS FOLLOWS: LOTS 19, 20, 21, 22, 23 AND 24 BLOCK 19, CONSISTING OF 0.43 ACRES IN THE TOWN OF CRESTED BUTTE, COLORADO, UNDER THE NAME AND STYLE OF ELK AVENUE QUARRY SUBDIVISION, HAS LAID OUT, PLATTED AND SUBDIVIDED SAME AS SHOWN ON THE PLAT

IN WITNESS WHEREOF, THE SAID DENNIS R. ROZMAN AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ROBERT J. ROZMAN HAS CAUSED HIS NAME TO BE HEREUNDER SUBSCRIBED THIS ___ DAY OF ___, 2022

BY: DENNIS R. ROZMAN AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ROBERT J. ROZMAN

STATE OF COLORADO) SS. COUNTY OF GUNNISON)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ___ DAY OF ___, 2022, BY DENNIS R. ROZMAN AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ROBERT J. ROZMAN WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES _____

TOWN OF CRESTED BUTTE

BY: CHAIRMAN _____

ATTEST: _____

TOWN CLERK _____

PARCEL C BEGINNING AT THE NORTHWEST CORNER OF LOT 19, BLOCK 19, THE OFFICIAL TOWN PLAT OF CRESTED BUTTE RECORDED JUNE 06, 1881 UNDER RECEPTION NO. 14191 AND ON THE PLAT OF THE TOWN OF CRESTED BUTTE RECORDED SEPTEMBER 25, 1964 UNDER RECEPTION NO. 260766, THENCE SOUTH 89°54'54" EAST A DISTANCE OF 37.50 FEET TO THE MID POINT OF LOT 20 OF SAID SUBDIVISION; THENCE SOUTH 00°00'07" EAST A DISTANCE OF 125.00 FEET TO THE MID POINT OF SAID LOT 20 ALSO BEING ON THE NORTHERLY RIGHT OF WAY OF ELK AVE.; THENCE NORTH 89°54'54" WEST A DISTANCE OF 37.50 FEET ALONG SAID RIGHT OF WAY OF ELK AVE. TO THE WESTERN LOT LINE OF SAID LOT 19; THENCE LEAVING SAID RIGHT OF WAY OF ELK AVE. ALONG THE WESTERN LOT LINE OF SAID LOT 19 NORTH 00°00'07" WEST A DISTANCE OF 125.00 FEET TO THE POINT OF BEGINNING; CONTAINING 0.11 ACRES OR 4,687.5 SQUARE FEET MORE OR LESS.

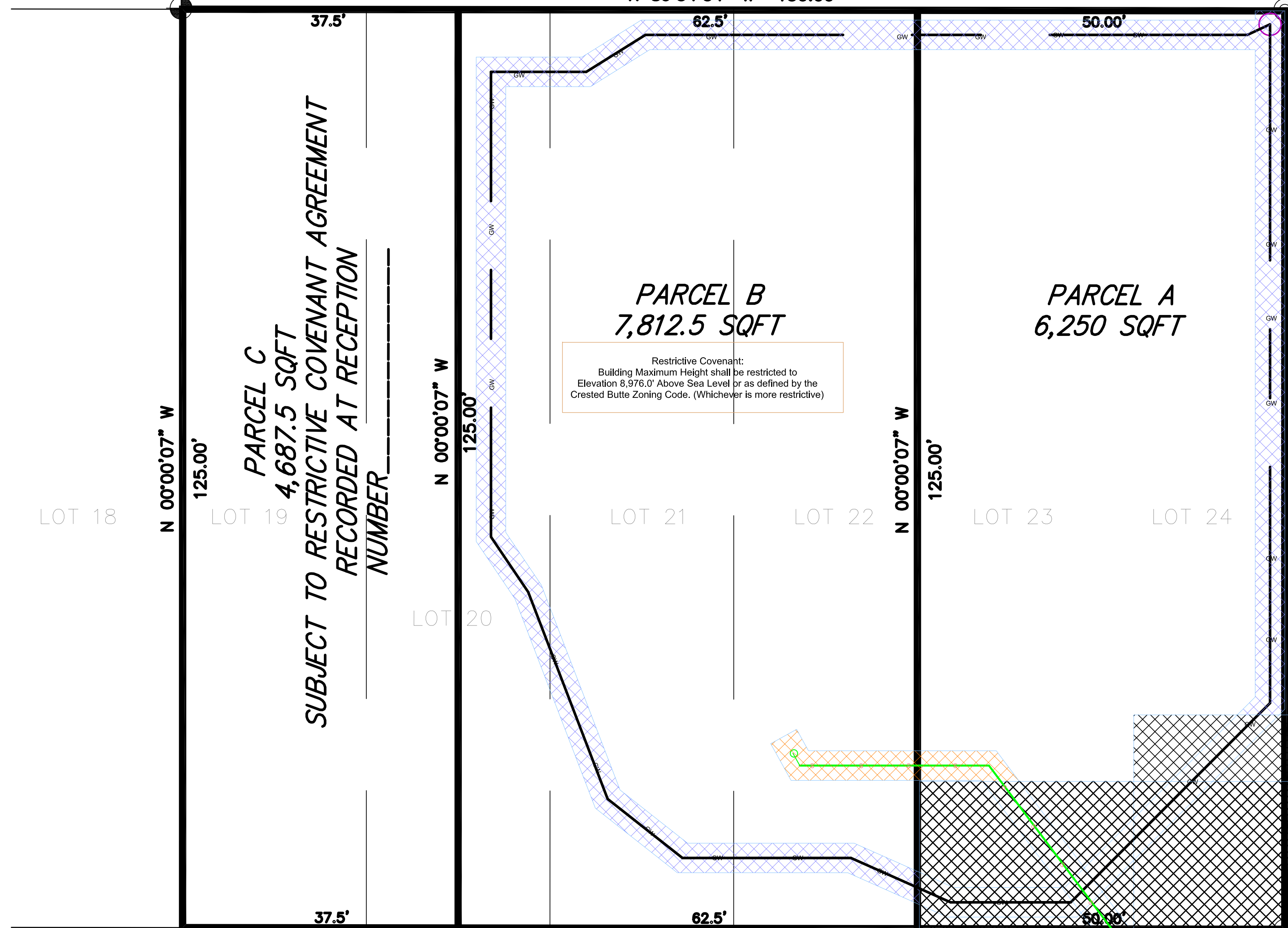
PARCEL B BEGINNING AT THE NORTHEAST CORNER OF LOT 22, BLOCK 19, THE OFFICIAL TOWN PLAT OF CRESTED BUTTE RECORDED JUNE 06, 1881 UNDER RECEPTION NO. 14191 AND ON THE PLAT OF THE TOWN OF CRESTED BUTTE RECORDED SEPTEMBER 25, 1964 UNDER RECEPTION NO. 260766, THENCE SOUTH 00°00'07" EAST ALONG THE EASTERN LOT LINE OF SAID LOT 22 A DISTANCE OF 125.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 22 ALSO BEING ON THE NORTHERLY RIGHT OF WAY OF ELK AVE.; THENCE NORTH 89°54'54" WEST A DISTANCE OF 62.50 FEET ALONG SAID RIGHT OF WAY OF ELK AVE. TO THE MID POINT OF LOT 20 OF SAID SUBDIVISION; THENCE LEAVING SAID RIGHT OF WAY OF ELK AVE. NORTH 00°00'07" WEST A DISTANCE OF 125.00 FEET TO THE MID POINT OF THE NORTH LINE OF LOT 20 OF SAID SUBDIVISION; THENCE SOUTH 89°54'54" EAST A DISTANCE OF 50.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 23; THENCE LEAVING SAID RIGHT OF WAY OF ELK AVE. ALONG THE WESTERN LOT LINE OF SAID LOT 23 NORTH 00°00'07" WEST A DISTANCE OF 125.00 FEET TO THE POINT OF BEGINNING; CONTAINING 0.18 ACRES OR 7,812.5 SQUARE FEET MORE OR LESS.

PARCEL A BEGINNING AT THE NORTHWEST CORNER OF LOT 23, BLOCK 19, THE OFFICIAL TOWN PLAT OF CRESTED BUTTE RECORDED JUNE 06, 1881 UNDER RECEPTION NO. 14191 AND ON THE PLAT OF THE TOWN OF CRESTED BUTTE RECORDED SEPTEMBER 25, 1964 UNDER RECEPTION NO. 260766, THENCE SOUTH 89°54'54" EAST A DISTANCE OF 50.00 FEET TO THE NORTHEAST CORNER OF LOT 24 OF SAID SUBDIVISION; THENCE SOUTH 00°00'07" EAST ALONG THE EASTERN LOT LINE OF SAID LOT 24 A DISTANCE OF 125.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 24 ALSO BEING ON THE NORTHERLY RIGHT OF WAY OF ELK AVE.; THENCE NORTH 89°54'54" WEST A DISTANCE OF 50.00 FEET ALONG SAID RIGHT OF WAY OF ELK AVE. TO THE SOUTHWEST CORNER OF SAID LOT 23; THENCE LEAVING SAID RIGHT OF WAY OF ELK AVE. ALONG THE WESTERN LOT LINE OF SAID LOT 23 NORTH 00°00'07" WEST A DISTANCE OF 125.00 FEET TO THE POINT OF BEGINNING; CONTAINING 0.14 ACRES OR 6,250 SQUARE FEET MORE OR LESS.

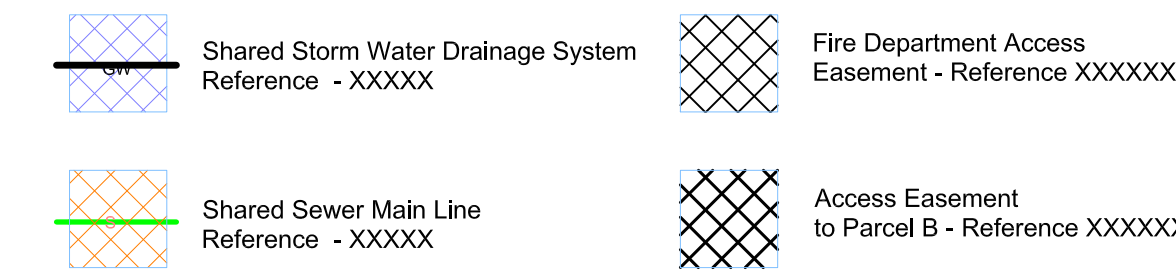
GUNNISON COUNTY CLERK AND RECORDER'S ACCEPTANCE THIS PLAT WAS ACCEPTED FOR FILING IN THE COUNTY OF THE CLERK & RECORDER OF THE GUNNISON COUNTY, COLORADO ON THIS ___ DAY OF ___, 2022, RECEPTION NO. ___ TIME ___

GUNNISON COUNTY CLERK & RECORDER

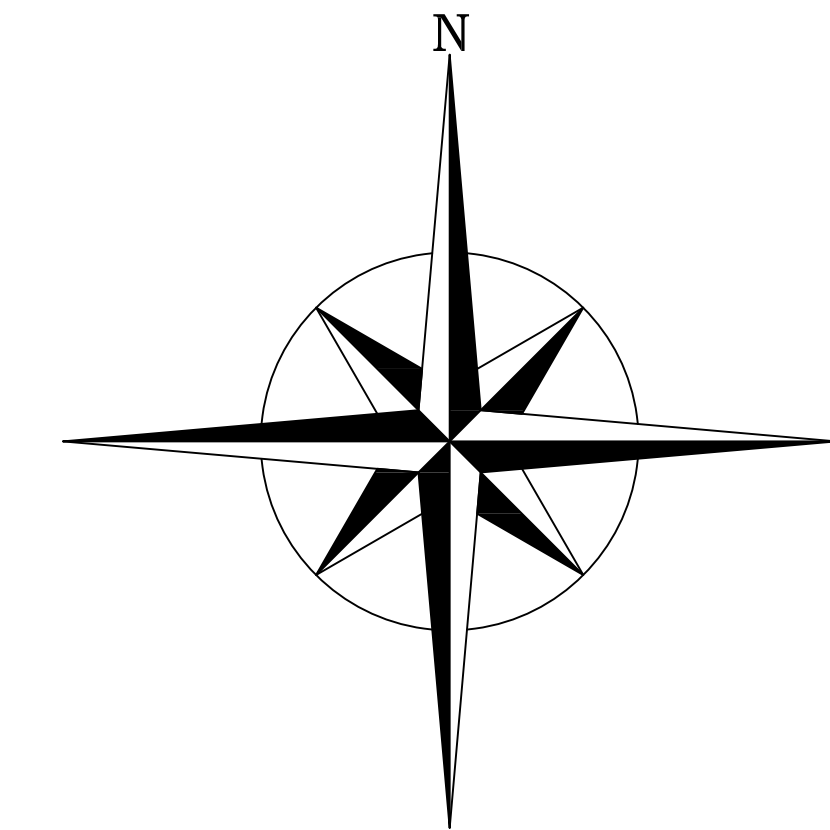
16' ALLEY - RIGHT OF WAY REC#260766 N 89°54'54" W 150.00'



Restrictive Covenant: Building Maximum Height shall be restricted to Elevation 8,376.0' Above Sea Level or as defined by the Crested Butte Zoning Code, (Whichever is more restrictive)



ELK AVE. 64' RIGHT OF WAY REC#260766



ATTORNEY OPINION I, _____, BEING AN ATTORNEY DULY LICENSED TO PRACTICE BEFORE COURTS OF RECORD IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE TITLE TO ALL THE LANDS HEREIN DEDICATED AND SHOWN UPON THIS PLAT AND THAT TITLE TO SUCH LANDS IS IN THE DEDICATOR FREE AND CLEAR OF ALL LIENS, TAXES AND ENCUMBRANCES, EXCEPT AS FOLLOWS:

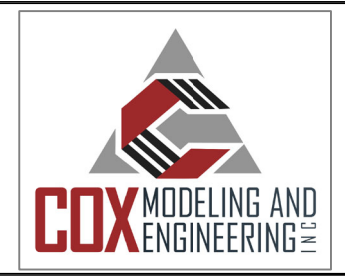
- 1. ANY FACTS, RIGHTS, INTERESTS, OR CLAIMS THEREOF, NOT SHOWN BY THE PUBLIC RECORDS BUT THAT COULD BE ASCERTAINED BY AN INSPECTION OF THE LAND OR THAT MAY BE ASSERTED BY PERSONS IN POSSESSION OF THE LAND.
2. EASEMENTS, LIENS OR ENCUMBRANCES, OR CLAIMS THEREOF, NOT SHOWN BY THE PUBLIC RECORDS.
3. ANY ENCROACHMENT, ENCUMBRANCE, VIOLATION, VARIATION, OR ADVERSE CIRCUMSTANCE AFFECTING THE TITLE THAT WOULD BE DISCLOSED BY AN ACCURATE AND COMPLETE LAND SURVEY OF THE LAND AND NOT SHOWN BY THE PUBLIC RECORDS.
4. ANY LIEN, OR RIGHT TO A LIEN, FOR SERVICES, LABOR OR MATERIAL HERETOFORE OR HEREAFTER FURNISHED, IMPOSED BY LAW AND NOT SHOWN BY THE PUBLIC RECORDS.
5. (A) TAXES OR ASSESSMENTS THAT ARE NOT SHOWN AS EXISTING LIENS BY THE RECORDS OF ANY TAXING AUTHORITY THAT LEVIES TAXES OR ASSESSMENTS ON REAL PROPERTY OR BY THE PUBLIC RECORDS; (B) PROCEEDINGS BY A PUBLIC AGENCY THAT MAY RESULT IN TAXES OR ASSESSMENTS; OR NOTICES OF SUCH PROCEEDINGS, WHETHER OR NOT SHOWN BY THE RECORDS OF SUCH AGENCY OR BY THE PUBLIC RECORDS.
6. (A) UNPATENTED MINING CLAIMS; (B) RESERVATIONS OR EXCEPTIONS IN PATENTS OR IN ACTS AUTHORIZING THE ISSUANCE THEREOF; (C) WATER RIGHTS, CLAIMS OR TITLE TO WATER.
7. RIGHT OF PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AS RESERVED IN UNITED STATES PATENT RECORDED JUNE 23, 1880, IN BOOK 25 AT PAGE 106 AND PATENT RECORDED OCTOBER 30, 1882 IN BOOK 45 AT PAGE 12.
8. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF THE OFFICIAL TOWN PLAT OF CRESTED BUTTE RECORDED JUNE 06, 1881 UNDER RECEPTION NO. 14191 AND ON THE PLAT OF THE TOWN OF CRESTED BUTTE RECORDED SEPTEMBER 25, 1964 UNDER RECEPTION NO. 260766.
9. ANY TAXES, FEES, ASSESSMENTS, CHARGES AND/OR OBLIGATIONS AS IMPOSED BY NOTICE OF ORDINANCES IN THE TOWN OF CRESTED BUTTE, INCLUDING, BUT NOT LIMITED TO INSTRUMENTS RECORDED DECEMBER 1, 1986 IN BOOK 636 AT PAGE 145 RECORDED AUGUST 23, 1995 IN BOOK 769 AT PAGE 94; AND RECORDED MAY 24, 1996 IN BOOK 783 AT PAGE 548.
10. TERMS, CONDITIONS, PROVISIONS, BURDENS, RESTRICTIONS AND OBLIGATIONS SET FORTH IN NOTICE REGARDING TOWN OF CRESTED BUTTE 1996 LAND USE PLAN, FILED IN ACCORDANCE WITH THE PROVISIONS OF C.R.S. SECTION 31-23-208, RECORDED MAY 2, 1996 IN BOOK 782 AT PAGE 222; AND CRESTED BUTTE LAND USE PLAN, ADOPTED BY RESOLUTION NO. 4, SERIES 1996 RECORDED MAY 24, 1996 IN BOOK 783 AT PAGE 548 AND THE RESOLUTION RECORDED DECEMBER 18, 2003 AT RECEPTION NO. 537633.

DATED THIS ___ DAY OF ___, 2022

- NOTES: 1. LOCATION BASED ON TOWN PLAT AND CONTROL MONUMENTS LOCATED ON ELK AVENUE AND ALLEY
2. ACCORDING TO COLORADO LAW YOU MUST COMMENCE LEGAL ACTION BASED UPON DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER FIRST DISCOVERING SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED ON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE SURVEYOR'S CERTIFICATE SHOWN HEREON.
3. OWNERS OF PARCEL A AND PARCEL B WILL SHARE A SEWER LINE AND CERTAIN STORMWATER INFRASTRUCTURE. ALL OF WHICH, TOGETHER WITH THEIR RIGHTS AND RESPONSIBILITIES REGARDING THE SAME, ARE SET FORTH IN THE ELK AVENUE QUARRY SUBDIVISION PROTECTIVE COVENANTS RECORDED AT RECEPTION NUMBER _____

SURVEYOR'S STATEMENT I, KARL E. CHESLEY, A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, DO HEREBY CERTIFY THAT THIS PLAT WAS MADE BY ME AND UNDER MY SUPERVISION AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE. THIS PLAT FULLY AND ACCURATELY DEPICTS THE LAYOUT, MEASUREMENTS AND LOCATION OF THE IMPROVEMENTS ON THE REAL PROPERTY. STEEL PINS WITH PLASTIC CAPS WILL BE SET ON ANY CORNERS MISSING MONUMENTATION ON BOUNDARY CORNERS AS REQUIRED.

Table with columns for Print Date, File Name, Horiz. Scale, Cox Modeling and Engineering, Sheet Revisions, As Constructed, ELK AVENUE QUARRY SUBDIVISION, Project No./Code, PLANNED DEVELOPMENT, SUBDIVISION PLAT, Sheet Number 1.



HILLSIDE PRESERVATION COVENANT

This Hillside Preservation Covenant (this “Covenant”) is entered into this ___ day of _____, 20___ by and between JLDJN Partners, LP, a Texas limited partnership (“Owner”) and the TOWN OF CRESTED BUTTE, COLORADO (the “Town”), a Colorado home rule municipal corporation as follows:

A. Recitals

1. Owner is the owner of Parcel A, Parcel B, and Parcel C of the Elk Avenue Quarry Subdivision as shown by the plat thereof recorded in the real property records of Gunnison County, Colorado at reception number _____ (the “Subdivision”).
2. To the west of subdivision is a substantial hillside.
3. To ensure adequate preservation of the hillside Owner has agreed to restrict Parcel C as set forth herein as part of the approval by the Town for the Subdivision.

B. Agreement

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. *Restrictions.* Parcel C shall only be used as private open space and shall not have any structures or be used for storage; provided, however, that:
 - A. The owners of Parcel A and Parcel B shall have the perpetual right to use Parcel C for all purposes reasonably necessary to support construction and maintenance of the improvements located on Parcels A and B, including but not limited to:
 - (i) Any construction activity required for the construction of the rock bolt retaining walls such as any required access grading, drilling, excavation, rock bolt installation, drainage infrastructure, snow and avalanche mitigation, rock fall mitigation, retaining wall construction and final grading to re-establish existing grades for the up-hill portion of the site and required re-vegetation needed to complete the construction activities as required.
 - (ii) Any improvements required to ensure the structural stability of the retaining wall such as the rock bolt tie rods and anchoring system as well as any required drainage infrastructure.
 - (iii) Any required post-construction access for the purpose of inspecting, maintaining, and repairing the retaining walls and drainage infrastructure to ensure their structural stability.
 - (iv) Any required post-construction access required for snow and avalanche mitigation and rock fall mitigation for the purpose of ensuring the protection of the improvements on Parcel C and Parcels A and B, as well as the

protection of the health, safety and welfare of the owners of Parcels A and B and the general public.

- (v) Subsurface development as necessary for the development of improvements on Parcel A and Parcel B.
 - B. The Owners of Parcel A and Parcel B shall remediate and revegetate any surface disturbance to Parcel C caused by their respective use of Parcel C as permitted by this Covenant.
 - C. The Owner of Parcel C shall:
 - (i) Maintain Parcel C in a clean and attractive condition free of litter and debris.
 - (ii) Maintain any retaining wall or exposed rockface on Parcel C with rock bolts, shotcrete or other appropriate retention (which may include shotcrete that is colored to look similar to the natural rock).
 - (iii) Obtain property insurance for Parcel C with a coverage amount for personal injury and property damage, if reasonably available, in an amount of not less than \$250,000.00. The term “reasonably available” in this subparagraph means that such insurance will only be required to be obtained if available from companies that customarily issue such insurance, such as State Farm Insurance and American Family Insurance, without resort to specialty insurance businesses such as, and without limitation, Lloyd’s of London.
2. *Transfer to Association.* Ownership of Parcel C may be transferred to a homeowners association or other similar nonprofit owned by the owners of Parcel A and Parcel B.
 3. *No Third-Party Beneficiaries.* There are no third party beneficiaries of this Covenant. This Covenant is not enforceable by members of the general public who are not parties to this Covenant.
 4. *Runs with the Land.* This Covenant shall run with the ownership of Parcel A, Parcel B, and Parcel C and shall be binding upon and inure to the benefit of the Town and the owners of Parcel A, Parcel B, and Parcel C.
 5. *Attorney Fees.* In the event of any dispute arising out of or relating to this Covenant or the interpretation or enforcement thereof, the prevailing party shall be entitled to recover his, her or its attorney fees and costs from the non-prevailing party or parties.

IN WITNESS WHEREOF, the parties have executed this Covenant effective as of the date first above written.

TOWN:
TOWN OF CRESTED BUTTE, COLORADO
a Colorado home rule municipal corporation

By: _____

From: [Jessica Earley](#)
To: daniel.dow@sbcglobal.net; billacy@me.com; [Sunlit Architecture](#)
Cc: [Troy Russ](#); kjh@mountainlawfirm.com; [Marcus J. Lock](#); [Nick Catmur](#)
Subject: 15 Elk - Appeal Process
Date: Tuesday, November 22, 2022 10:43:23 PM
Attachments: [image001.jpg](#)

Dear Dan, Bill and Gary

Thank you for presenting the application for 15 Elk Avenue for a minor subdivision. The Town's Board of Zoning and Architectural Review's (the Board's) denial of the minor subdivision was based on its interpretation that the application did not meet the criteria outlined in the Municipal Code Section 17-4-50 (a) (1), and (2 f 2) and that the waivers of these code sections could not be supported based upon the public benefits that were proposed.

This letter outlines your right if you wish to appeal the Board's decision as outlined in [Section 17-14-10](#) of the Town's Municipal Code. You have fourteen days to file a written request to appeal the Board's decision with the Town Clerk, Lynelle Stanford (lstanford@crestedbutte-co.gov). The fourteen days from the Board's decision makes Tuesday, December 6, 2022 the deadline for the written appeal request.

Upon receipt of such an appeal, the Planning Commission (Town Council) shall schedule a public hearing to consider the appeal. The Planning Commission shall hear the appeal or call-up after giving at least five (5) days written notice to the Building Official, Planning Director or Board and subdivider within twenty (20) days of the receipt by the Town Clerk or subdivider, as the case may be, of notice of appeal or call-up..

At the appeal hearing, the Planning Commission will consider the application and render a decision based upon minor subdivision criteria outlined in Section 17-4-50 (a) and excessive slope review criteria 16-10-20 (b) of the Municipal Code. Unless the Town Council adopts a motion to overrule the Board, the Board's decision will stand.

Let me know if you have any questions.

Sincerely,

Jessie Earley
Planner III
Town of Crested Butte
PO BOX 39
Crested Butte, CO 81224
(970) 349-5338 extension 121

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| crestedbuttecompass.com



LAW OF THE ROCKIES

525 N. Main Street, Gunnison, CO 81230 | 970.641.1903
lawoftherockies.com | Email: mlock@lawoftherockies.com

Members
Marcus J. Lock
Jacob A. With
Kendall K. Burgemeister

Special Counsel
Daniel P. Spivey

December 7, 2022

VIA ELECTRONIC MAIL

Town of Crested Butte Town Clerk, Lynelle Stanford
lstanford@crestedbutte-co.gov

Re: *Appeal of the Decision of the Town of Crested Butte Board of Zoning and Architectural Review (“BOZAR”) Regarding the Proposed Elk Avenue Quarry Subdivision Located At 15 Elk Avenue*

Dear Ms. Stanford,

I am writing on behalf of JLDJN Partners, LP, a Texas Limited Partnership (“Applicant”) as a follow up to the appeal Applicant filed with the Town of Crested Butte Planning Commission on December 5, 2022.

As you know, pursuant to Section 17-14-10(b) of the Crested Butte Town Code, Applicant has a right to have the appeal heard by the Planning Commission within twenty days of the receipt of the appeal by the Town Clerk. However, pursuant to this same section, the appeal may be continued for good cause for a reasonable time.

To accommodate the schedules of both the Town and Applicant, and in view of the upcoming holiday season, Applicant respectfully requests a continuance of the appeal to January 23, 2023, and in the event such a continuance is granted, Applicant hereby waives any and all rights it has to have the appeal heard within twenty days of December 5, 2022.

Thank you in advance for your consideration.

Regards,

Marcus Lock
LAW OF THE ROCKIES

cc: Troy Russ, Jessica Earley