

Community Values

Authentic

Connected

Accountable

Bold

Town Council

5-year Goals:

- 👤 *Approach community challenges through active collaboration and public engagement.*
- 👤 *Accommodate growth in a way that maintains our rural feel.*
- 👤 *Enable people who live and work here to thrive.*
- 👤 *Retain the unique character and traditions of Crested Butte.*
- 👤 *De-emphasize cars and focus on walking, biking, and transit.*
- 👤 *Continue to passionately care for our natural surroundings and forever protect Red Lady.*
- 👤 *Act on the urgency of climate change and prepare for the changes we expect from it.*

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

AGENDA

Town of Crested Butte Planning Commission Town Council Chambers 507 Maroon Ave; Crested Butte, CO Monday, January 23, 2023

Meeting Information to Connect Remotely:

<https://us02web.zoom.us/j/82580461022>

Or Telephone: Dial: US: +1 719 359 4580 or +1 669 444 9171 or +1 669 900 6833 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 564 217 2000 or +1 646 931 3860 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

Webinar ID: 825 8046 1022

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

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

6:00 PLANNING COMMISSION MEETING CALLED TO ORDER BY CHAIRPERSON

6:01 CONSENT AGENDA

1) December 19, 2022 Planning Commission Meeting Minutes.

6:02 OLD BUSINESS

1) *Continued from December 19, 2022* 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

6:30 NEW BUSINESS

1) Referral from the Board of Zoning and Architectural Review (BOZAR) for Two Waivers Requested in Conjunction with Consideration of Application of Town of Crested Butte in Conjunction with TWG Acquisitions Limited Liability Company to Propose a Minor Subdivision for the Property Located at 601-701 Butte Avenue, Lot TP3 and TP5 Slate River Subdivision in the R4 Zone. Approval of a Minor Subdivision in the R4 Zone is Requested.

Staff Contact: Community Development Director Troy Russ

7:00 PLANNING COMMISSION MEETING ADJOURNMENT

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

Billick recused himself and left the room. In Billick's absence, MacMillan was the Planning Commission Chair.

MacMillan called the Planning Commission meeting to order at 6:01PM.

Planning Commission Members Present: Jason MacMillan (via Zoom), Beth Goldstone, Chris Haver, Anna Fenerty, Mallika Magner, and Gabi Prochaska

Staff Present: Town Manager Dara MacDonald (via Zoom), Town Attorney Karl Hanlon, Community Development Director Troy Russ, and Town Clerk Lynelle Stanford

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

Russ summarized that the applicant requested the hearing be continued to January 23, 2023, which was supported by Staff.

Magner moved and Prochaska seconded a motion to approve the continuation of the public hearing to January 23, 2023. A roll call vote was taken with all voting, "Yes."
Motion passed unanimously.

ADJOURNMENT

Planning Commission Chair MacMillan adjourned the meeting at 6:03PM.

Jason MacMillan, Planning Commission Chair

Lynelle Stanford, Town Clerk (SEAL)



Staff Report

January 23, 2023

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

Municipal Code outlines the Town’s appeal process for decisions made by the 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. Because of the holiday season, the applicant requested the Planning Commission hearing be continued to January 23, 2023, which was approved at the December 19th, 2022 Planning Commission meeting.

Subject Property



PUBLIC NOTICE

This item was properly noticed per Section 16-22-110 (c) of the Town Code. The affidavit of posting is on file in the Community Development Department.

ATTACHMENTS (Use this link: <https://www.dropbox.com/sh/crxbhrijdlu8q2do/AABvvW7TcHoEsLecl6b-AF65a?dl=0>).

1. November 22, 2022 – BOZAR Staff report
2. Plans showing proposed subdivision
3. Narrative
4. Draft plat
5. Rock bolt retaining wall concept
6. Geotech report and supplemental letter
7. CBFPD support letter
8. Maximum building elevation drawing
9. Draft SIA
10. Hillside Preservation Covenant
11. GIS Map
12. Code section(s) 17-4-30 – 17-4-50

BACKGROUND:

This minor subdivision application for 15 Elk Avenue was referred from the Building Official to the Board under Section 17-4-20(a)(5) of the Town Code because the proposed subdivision would create more than 2 lots, which requires BOZAR approval.

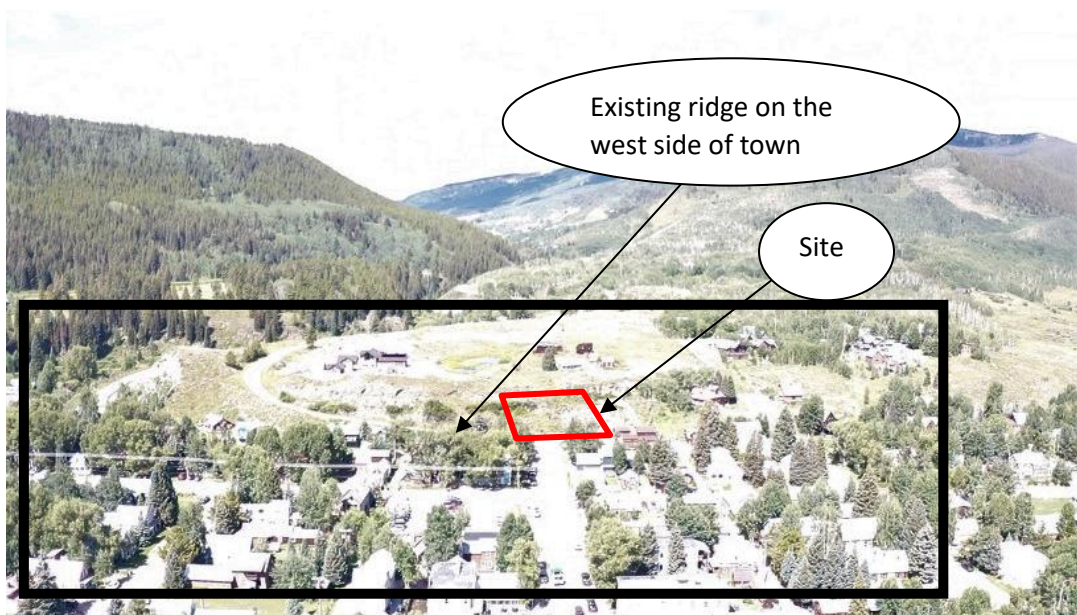
The subdivision application requested three waivers to the criteria outlined in Section 17-4-50(a). Section 17-4-50(b) of the Code limited BOZAR to one of two decisions: 1) deny the project because it did not meet the criteria for the subdivision, or 2) refer the project to the Planning Commission, recommending the subdivision be approved with the requested waivers because the Board found the applicant *“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.”*

BOZAR choose to deny the project because they felt the proposed amenities did not warrant the requested waivers. The Applicant is appealing the BOZAR decision as allowed by Section 17-14-10 of the Code. Minor Subdivision applications are governed by Chapter 17, Article 4 of the municipal code. The Planning Commission shall review this minor subdivision request based on the criteria outlined in Section 17-4-50.

PROJECT DESCRIPTION

The Applicant is requesting to subdivide the existing six lot parcel located at 15 Elk Avenue (Lots 19-24, Block 19, Crested Butte Subdivision). The request subdivides the existing six lot parcel to three lots (two parcels and a track). The proposed minor subdivision includes two (2) residential lots: Parcels A (6,250 sf) and B (7,812.5 sf) and one (1) undeveloped lot: Parcel C (4,687.5 sf), which would be subject to the attached Hillside Preservation Covenant.

Ground surface elevation on the upper, middle and lower benches of the property is roughly 8,977', 8,952' and 8,929' respectively. Slopes adjacent to the benches are covered with grass and low vegetation. Historically, this site was used as a quarry. Currently, the site is used for machinery, vehicle, trailer and container storage. The proposal requires removal of the unstable soils (see geotechnical report) from the site.



View of the ridge to the west of town with the proposed site noted



Aerial view of the site from the south showing existing historic buildings to the east

The project is located within the Town's excessive slope area and requires retaining walls be installed to ensure the project creates functional development sites. A full analysis of the project's compliance to the Town excessive slope requirements are provided in a geotechnical analysis from a licensed engineer. Staff's interpretation of the engineering analysis is included in the BOZAR Staff Report. Links to both documents are included on the cover page of this Staff Report.

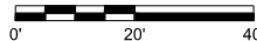
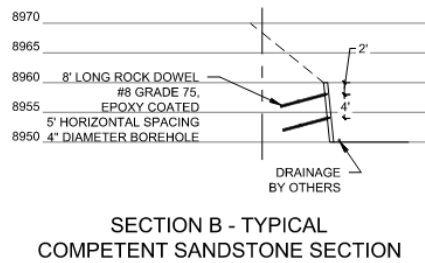
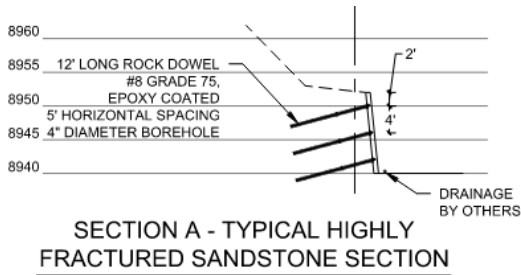
There are two details for the proposed retaining walls, shown in diagrams below. Section A is specific to the west portion of the lot wrapping to the east, parallel to the alley on the North, with a 9' setback from the wall. This wall is proposed to be 12'1" in height with 12' dowels (bolts). The retaining wall labeled Section B would be specific to the southern portion of the lots wrapping to the east, parallel to Elk Avenue on the South, and would have a wall 10'1" height. The adjacent property to the west would not be impacted and the public property to the south would not be impacted.

The proposed Hillside Preservation Covenant addresses the specifics of the rock bolt and any construction needing to happen on Parcel 3. The dowels from the wall for Section A, parallel to the alley, appear to encroach into the alley by 3', confirmation is needed if encroachment is required, if so the applicant will need a revocable license agreement executed with the Town.

The Applicant's narrative describes their preferred aesthetic for these walls is the exposed natural rock face with exposed bolts. The Applicant has noted, if the final engineering doesn't allow a natural rock face, the backup plan for the wall would be a shot-crete faced wall made to look like natural rock. The final determination of the wall would occur once excavation commences. The above describes an engineered rock bolt wall proposed to be located on the southwest and north portions of Parcel B. There would be a second type of wall located interior to Parcel B, called "boulder walls". Boulder walls

are described as a horizontal cut stacked rock wall with geogrid tie backs for taller walls and standard horizontal cut stacked walls for the lower walls. Stone would be quarried at the location for these interior walls. The proposed boulder walls would need to be reviewed during the development review application for the proposed building placed upon Parcel B. Specific engineering reports for type and height of each interior wall would be include in the future development application.

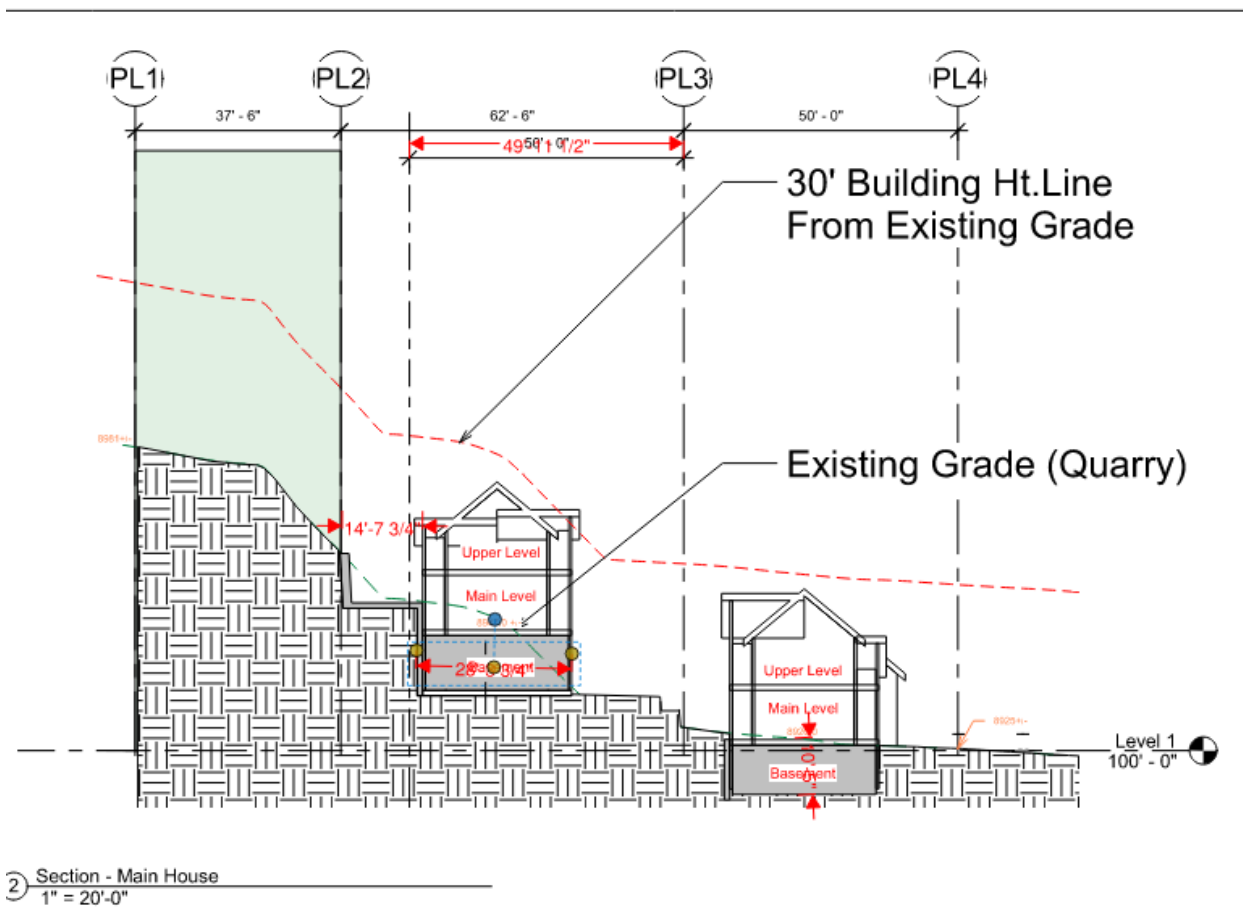




Parcel C

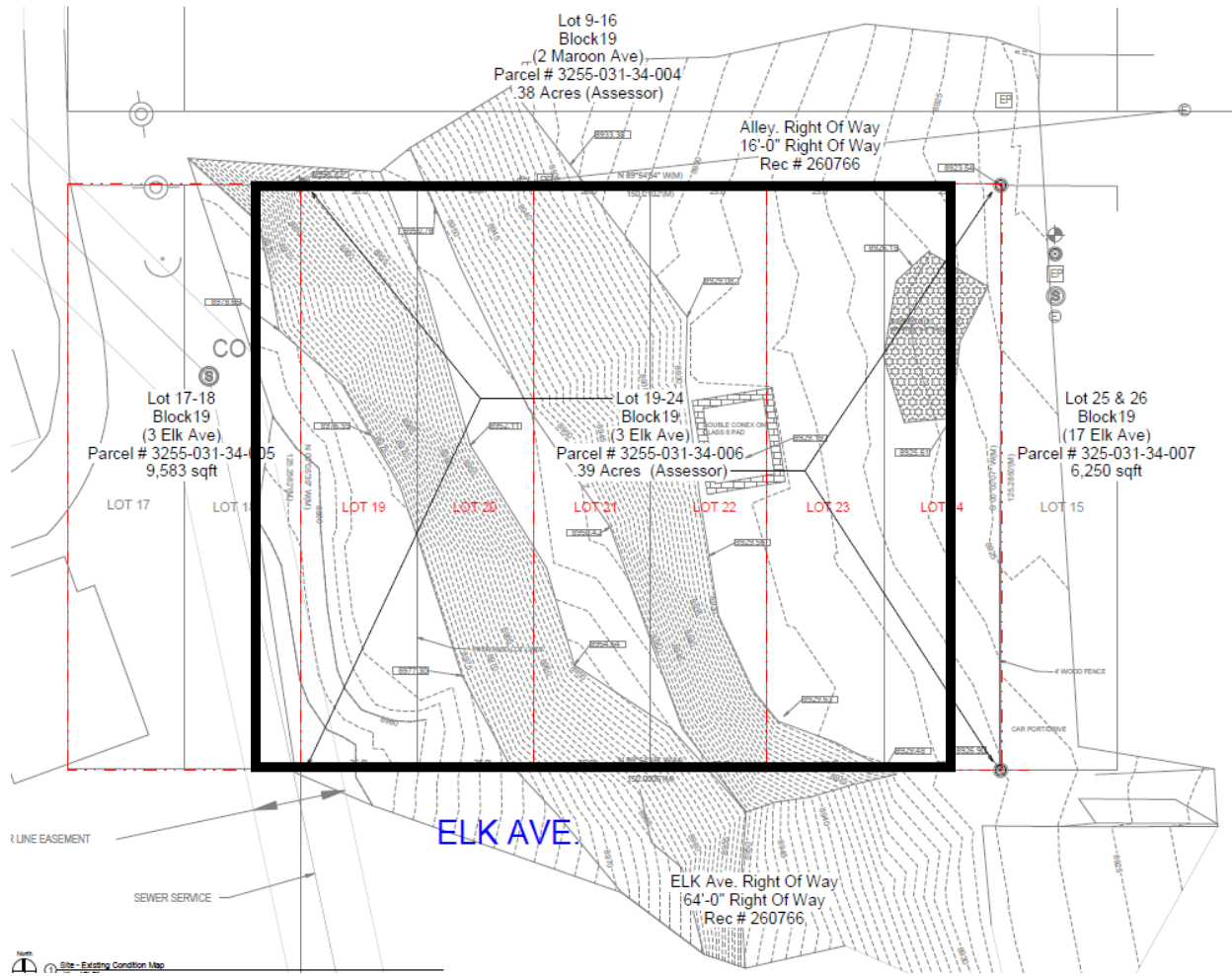
Parcel B

Parcel A



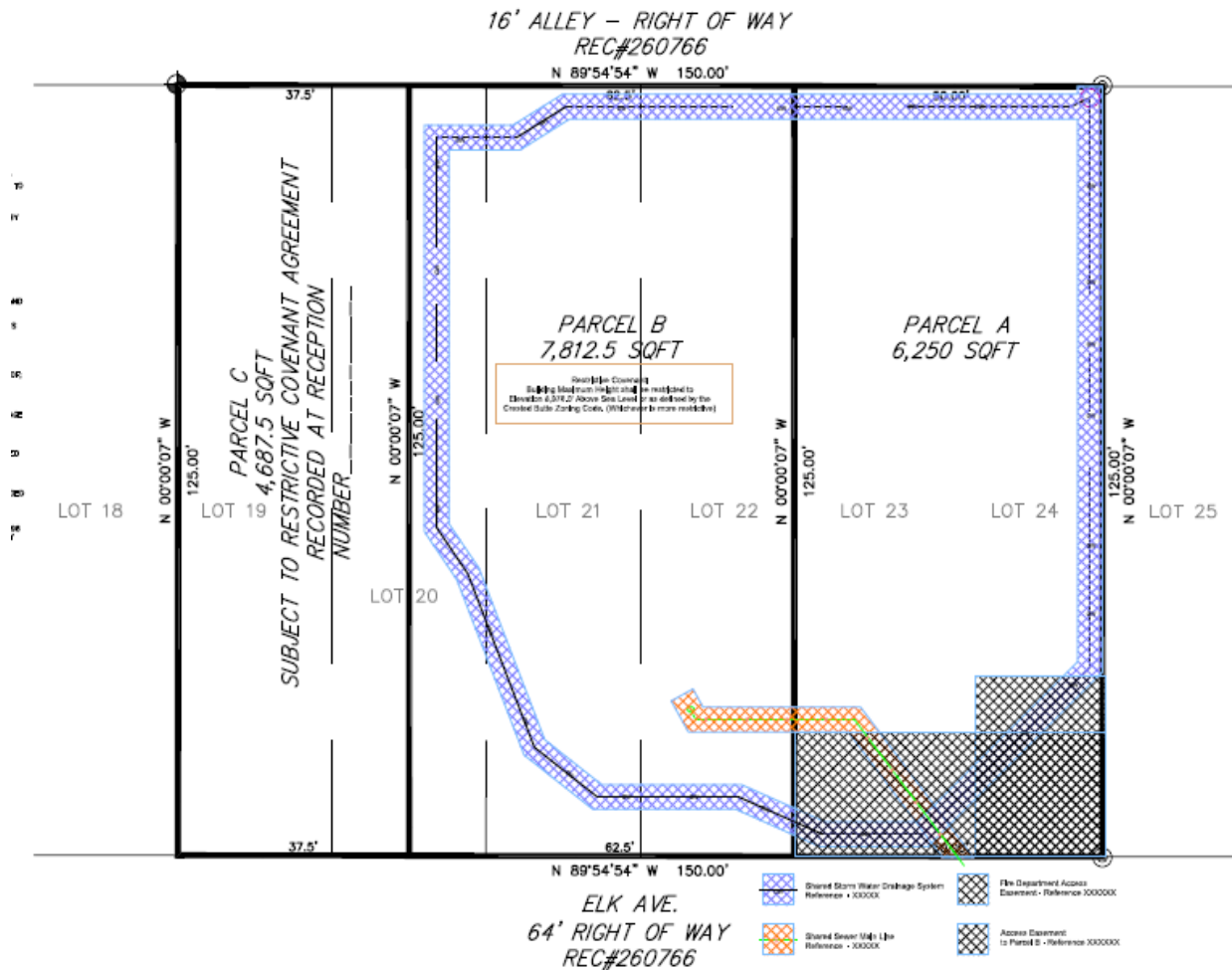
2) Section - Main House
1" = 20'-0"

Parcels B proposes to cut into the hillside laterally a rough total of 43' to the west.



Elk Avenue right-of-way

FINAL PLAT OF ELK AVENUE QUARRY SUBDIVISION
 OF
 LOTS 19 THROUGH 24, BLOCK 19
 TOWN OF CRESTED BUTTE, ALSO BEING LOCATED WITHIN THE NW¹/₄, NE¹/₄ OF
 SECTION 3, T14S, R86W, 6TH P.M.
 COUNTY OF GUNNISON, STATE OF COLORADO



STAFF EVALUATION:

Sections 17-4-50 has two subsections, (a) and (b), which guide the Planning Commission review of the Application. Staff's assessment of the Application's compliance with each subsection are noted below. The full explanation of staff's analysis is included in the BOZAR staff report. A link to the BOZAR staff report is provided on the cover page of this Staff Report.

Section 17-4-50(a) outlines the following 13 criteria that must all be met to gain a Planning Commission approval.

1. Comply with all applicable zoning requirements of the zone district in which the subdivision is in the Business/Residential Historic Zone District (B4)

Staff Assessment – The application meets all the applicable requirements of the B4 Zone District except for the following:

Maximum lot size – Parcel B is proposed to be 7,812.5 sf in size, exceeding maximum allowed lot size of 6,250 sf. Note the proposed Floor Area Ratio (FAR) would not exceed the maximum allowable size. All that said, a waiver would need to be approved by the Planning Commission where the applicant provides a public benefit more than Town requirements.

Alternation of Natural Grade (Staff is authorized to determine natural grade if the site has been historically altered. Staff made the determination that the current grade created by the quarry is natural grade.) Parcel B is proposed to have a finished grade up to six feet different from the natural grade, where three feet is the maximum allowed difference between finished grade and natural grade. All that said, a waiver would need to be approved by the Planning Commission where the applicant provides a public benefit more than Town requirements.

2. Have a front parcel line on a street with the following characteristics:
 - a. Front parcel line must be at least twenty-five (25) feet long or the minimum lot width for the applicable zone district, whichever is shorter;
 - b. The vehicular access and parking to any primary structure on a parcel shall be from a street with no extraordinary measures;
 - c. Access must be from a street must be a minimum of twenty-five (25) feet wide and must be owned in fee simple by the owner of the parcel being accessed. The only exception to this requirement for access from a street is on Elk Avenue, where Section 16-16-30 of this Chapter states that no vehicular access shall be allowed from Elk Avenue directly to any off-street parking;
 - d. Notwithstanding the foregoing, the Board may permit such vehicular access to structures existing on January 1, 1992 to be not less than sixteen (16) feet wide when serving one-family dwelling units. If the Board determines that the twenty-five (25) foot minimum access requirement would be unreasonable based upon the structure and lot configuration;
 - e. Vehicular access to a primary structure from an alley, including the access required pursuant to this Paragraph (2), may be approved by the Board only if either one (1) of the following conditions exists:
 - i. The primary vehicular access existed from an alley prior to January 1, 1992; or
 - ii. The division between parcels is a stream or similar physical barrier preventing vehicular access from the street. In such case, the applicant shall provide additional land to create an alley at least twenty (20) feet wide from the subject parcel to the nearest Town street and upgrade the alley to Town standards or, in the absence thereof, to the approval of the Public Works Director;

Staff Assessment – All of the above criteria are met except:

In such case, the applicant shall provide additional land to create an alley at least twenty (20) feet wide from the subject parcel to the nearest Town street and upgrade the alley to Town standards or, in the absence thereof, to the approval of the Public Works Director. The Applicant is proposing to widen the portion of the alley adjacent to their property to 20'. However, the Applicant does not control the property between the proposed subdivision and the nearest street and cannot widen the alley. The width of alley is 16-feet and narrows to 13-feet between two historic walls. The alley is considered unimproved and currently provides vehicle access to four properties.

Staff believes that criteria could be interpreted as met because the applicant is providing fire district approved fire access from Elk Avenue, not the alley. The 20' requirement is associated with the fire code's 20' minimum width for a fire access lane. Elk Avenue is more than 20' wide. All alleys in Crested Butte are only 16-feet wide. Town Streets, not alleys, function as fire access lanes for the fire district. Staff believes this criteria is outdated and needs to be updated to allow applicants the opportunity to provide a fire access separate from the alley.

All that said, a waiver would need to be approved by the Planning Commission where the applicant provides a public benefit more than Town requirements.

3. Provide for underground utilities to each building site.
Staff Assessment – Criteria met
4. Provide for adequate fire and flood protection and emergency access.
Staff Assessment – Criteria met
5. Not increase the potential for breach of the public safety, or damage to public or private property by fire, flood, erosion or snow slides.
Staff Assessment – Criteria met
6. Not create congestion, automotive or pedestrian safety problems or other traffic hazards.
Staff Assessment – Criteria met
7. Not use easements across another lot, tract or parcel for private primary vehicular access.
Staff Assessment – Criteria met
8. Be designed in a manner that directs the placement of roads, utilities and structures away from any unstable soils, or mitigates the effect of unstable soils, geologic hazards and other site conditions so as to minimize the potential for breach of the public safety or damage to public or private property.
Staff Assessment – Criteria met
9. Not create significant adverse effects to public facilities, rights-of-way or utilities.
Staff Assessment – Criteria met
10. Not create significant adverse impacts on the use of adjacent property.
Staff Assessment – Criteria met
11. Provide vehicular access easements onto Town streets for use by those lots, tracts or parcels which do not abut an avenue if within the B2 Business District.
Staff Assessment – Criteria met
12. Otherwise, be consistent and comply with the requirements of these subdivision regulations and Chapter 16 of this Code.
Staff Assessment – Criteria met
13. Execute a subdivision improvements agreement memorializing the subdivider's or owner's obligation and agreement to construct, at the subdivider's or owner's cost and expense, all public and private utility and street improvements in accordance with the Town's utility and street standards.

Staff Assessment – Criteria met

Section 17-4-50(b) allows any requirements of the Town’s subdivision regulations be varied or waived if the Planning Commission finds that the application provides amenities to the Town over and above those already required by the Town’s regulations and that such amenities benefit the Town.

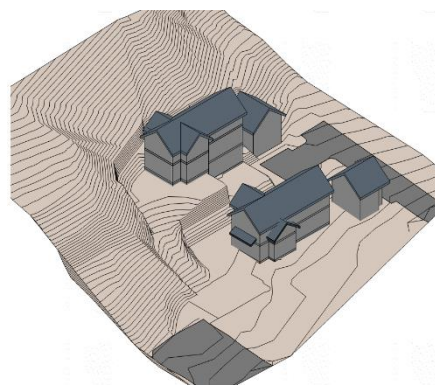
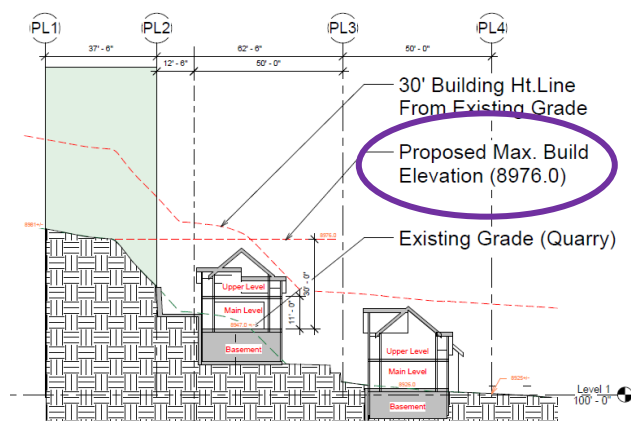
The applicant is requesting waivers to 17-4-50 (a)(1) and 17-4-50 (a)(2)(f) described above. Staff interprets the application provides the following benefits over and above Town requirements and that such amenities benefit the Town. Because of this, Staff recommends the Planning Commission grant waivers to the three unmet criteria.

- 1) Permanent Hillside Preservation Covenant on Parcel C. The applicant is proposing a covenant be placed on Parcel C restricting development of the parcel to only limited necessary foundational support for the retaining wall located on Parcel B. This covenant has been reviewed by the Town Attorney and would preserve the natural hillside and ridgetop in perpetuity, continuing the hillside’s natural aesthetic separating the traditional town from development located above the Town. Other approved subdivision in Town have provided similar contributions and have created a unique aesthetic which preserves the historic character of the town.

- 2) Limitation of Building height on Parcel B: The applicant is also having the plat restrict the height of the building located on Parcel B below the zone districts allowed 30’ height. This restriction, along with the hillside preservation covenant, would prevent any structure in the subdivision from peaking above the natural ridgeline.



Map showing the open space buffer the south and west sides of the Town of Crested Butte



- 3) Water line: The Applicant is proposing to upgrade the water line serving the homes along the alley. Staff agrees this is a benefit to the Town and is not a requirement of the development. The waterline upgrade is identified in the enterprise fund master plan and would reduce the fiscal impacts on the community.
- 4) Manhole/sewer: The Applicant is proposing sewer line improvements with a new manhole. Staff agrees this is a public benefit and the new manhole would aid in accessing the line. The proposed sewer improvement is not a requirement of the proposed development and would improve the accessibility of the line, reducing future maintenance costs of the Town.

RECOMMENDATION:

Staff recommends a Planning Commissioner make a motion, followed by a second, making the following findings:

1. The application does not meet the requirements of Code Sec. 17-4-50 (a) (1) because it does not comply with the applicable zoning requirements of the B4 Zone District, namely:
 - 1.1. Because the proposed size of Parcel B 7,812.5 sf in size, exceeding maximum allowed lot size of 6,250 sf, which is not allowed under the code Section Sec. 16-5-440 (2)
 - 1.2. Because the finished grade on Parcels B will deviate more than three feet from the natural grade, which is not allowed under the code Sec. 16-14-170.
2. The application does not meet the requirements of Code Sec. 17-4-50(a)(2) f.2, because the proposed alley for vehicular access is not 20 feet wide.

Following a motion of findings, Staff recommends a Planning Commissioner make a motion, followed by a second, approving the minor subdivision of 15 Elk Avenue, Block 19, Lots 19-24 per Municipal Code Section 17-4-50 (b) with conditions listed below specific to the waivers requested for the following criteria: 17-4-50 (a) (1) and (2 f 2) because the Planning Commission finds the proposed project amenities are over and above Town requirements and that such amenities benefit the Town.

Conditions of Approval:

- Town Attorney approval will be required of the Hillside Preservation Covenant for Parcel C
- Town Attorney approval will be required of the final subdivision agreement before recordation of the plat.
 - Sanitary sewer, alley upgrades, water main and storm water work will be contingent upon this agreement's execution.
 - An engineer will be required to provide the documents needed for cost estimates.
- A shared maintenance agreement be developed prior to recordation of the plat for the following:
 - Retaining wall
 - Sidewalk
 - Shared sewer line
 - Dry well
- Plat must be finalized with the following covenants easements, and restrictions below:

- Hillside Preservation Covenant on Parcel C
- Fire access easement
- Utilities easement
- Public access easement (sidewalks)
- Structure height restriction on Parcel B
- Plat must also be finalized with notes documenting all shared private maintenance agreements between the Parcels be developed prior to recordation of the plat for the following:
 - Retaining wall
 - Sidewalk
 - Shared sewer line
 - Dry well
- The development application for these parcels must be rock bolted sandstone excavation face. If, through evidence provided by the applicant, it is determined the use of the sandstone excavation face is not feasible, the applicant shall utilize a shotcrete wall, approved by the board chair, with a simulated sandstone finish and colored with oxides and pigments to match the surrounding hillside.

If the Planning Commission concludes the proposed project amenities are not over and above Town requirements, or such amenities do no benefit the Town, staff recommends a Planning Commissioner make a motion, followed by a second denying the minor subdivision of 15 Elk Avenue, Block 19, Lots 19-24 per Municipal Code Section 17-4-50 (a) because the criteria listed in 17-4-50 (a) (1) and (2 f 2) are not met.



Staff Report

January 23, 2023

To: Chairman Billick and Planning Commission Members

From: Jessica Earley, Planner III

Thru: Troy Russ, Community Development Director

Subject: Public Hearing: Referral from the Board of Zoning and Architectural Review (“BOZAR”) for Minor Subdivision with Two Waivers for the Property Located at 601-701 Butte Avenue (Lot TP3 and TP5 Slate River Subdivision).

OVERVIEW:

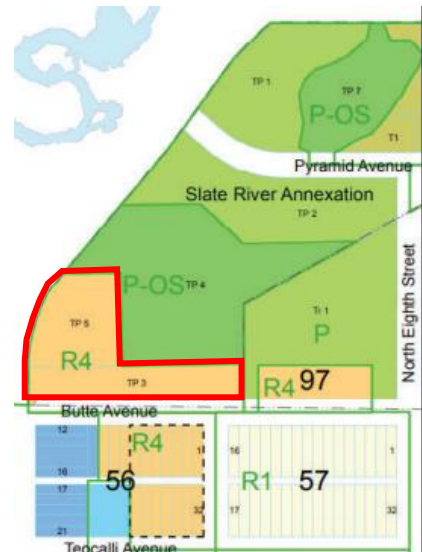
Town of Crested Butte in conjunction with TWG Acquisitions Limited Liability Company (Applicant), represented by Erin Ganser, Housing Director of the Town of Crested Butte and J.R. Spung and Dylan Dunn, JVA and Chris Russell, Studio Architecture, received a referral for the minor subdivision for 601-701 Butte Avenue (Lot TP3 and TP5 Slate River Subdivision) in the R4 Zone by the Town’s Board of Zoning Architecture Review (BOZAR) at the December 20, 2022 meeting.

Section 17-4-50 (b) of the Town Code outlines, Planning Commission’s reviews of the waiver requests.

PUBLIC NOTICE

This item was properly noticed per Section 16-22-110 (c) of the Town Code. The affidavit of posting is on file in the Community Development Department.

ATTACHMENTS (Use this [link](#)).



<https://www.dropbox.com/sh/0f4at6spkljj7ye/AADEbVlf1hKrgGyZHBtNAkMVa?dl=0>.

ATTACHMENTS

1. December 30, 2022 – BOZAR Staff report
2. Plans showing proposed subdivision
3. Narrative
4. Draft plat
5. Draft SIA
6. CBFPD letter

7. Code section(s) 17-4-30 – 17-4-50

BACKGROUND

This minor subdivision application for 601-701 Butte Avenue (Lot TP3 and TP5 Slate River Subdivision) was referred to the Planning Commission under Section 17-4-50(b) of the Town Code because the proposed subdivision contains two waivers to the minor subdivision criteria listed in Section 17-4-50(a) of the Town Code.

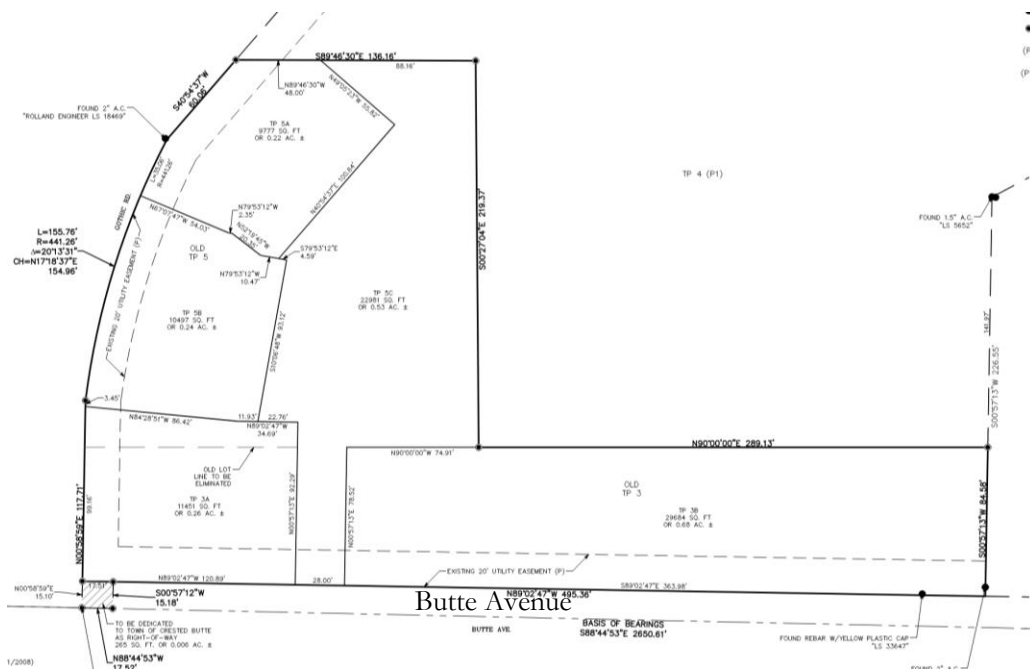
Section 17-4-50(b) of the Code limited BOZAR to one of two decisions: 1) deny the project because it did not meet the criteria for the subdivision, or 2) refer the project to the Planning Commission, recommending the subdivision be approved with the requested waivers because the Board found the applicant “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.”

BOZAR recommended the subdivision be approved with two waivers to the criteria of approval because they felt the proposed amenities of the project, namely 34 affordable housing units, warranted the requested waivers. The Planning Commission shall review this minor subdivision request based on the criteria outlined in Section 17-4-50(a) and the waiver requirements of Section 17-4-50(b).

PROJECT DESCRIPTION

The Applicant is requesting to subdivide two lots (TP3 and TP5) in the Slate River Subdivision into the five lots for the development of the Sixth and Butte Workforce Housing project. The proposed minor subdivision includes three (3) multi-family residential lots: TP 3A (11,451 sf), TP 5B (10,497 sf) and TP 5A (9,777 sf) and one (1) TP 5C (22,981 sf) which will be utilized for parking. The final lot TP 3B will be for Phase 2 of the Sixth and Butte project and would be further subdivided on a future date.

Historically, this site was used as the town dump. Both lots have gone through an extensive Voluntary Clean-Up Plan (VCUP) with the Colorado Department of Public Health and the Environment (CDPHE). The site is currently vacant.



Proposed Subdivision

STAFF EVALUATION:

Section 17-4-50 has two subsections, (a) and (b), which guide the Planning Commission review of the Application. Staff's assessment of the Application's compliance with each subsection are noted below. The full explanation of staff's analysis is included in the BOZAR staff report. A link to the BOZAR staff report is provided on the cover page of this Staff Report.

Section 17-4-50(a) outlines the following 13 criteria that must all be met to gain a Planning Commission approval.

1. Comply with all applicable zoning requirements of the zone district in which the subdivision is in the Residential 4 Zone District (R4):

Staff Assessment – The application meets all the applicable requirements of the R4 Zone District except for the following:

Maximum lot size – All five of the proposed Lots exceed the maximum allowed lot size of 6,250 sf (TP 3A 11,451 sf, TP 5B 10,497 sf and TP 5A 9,777 sf and TP 5C 22,981 sf). Note, the proposed Floor Area Ratio (FAR) of each Lot would not exceed the maximum allowable size.

Three (3) of the lots are proposed to be developed with multi-family residential units (TP 3A, TP 5B, and TP 5A). TP 5C (22,981 sf) is proposed to be restricted to shared parking for the multi-family lots. The final lot, TP 3B, is slated for Phase 2 of the Sixth and Butte Project and would be further subdivided on a future date.

Alternation of permitted front yard setback for TP5A of 0' (northeast corner) where a minimum setback of 20' is required and alteration of permitted side setback for TP5A northwest (0'-11-6') where a minimum of 7'6" is required.

Staff supports the two waiver requests, as we believe the applicant's proposed public improvements (34 work force housing units) appropriately compensates the community/public. Additionally, the subdivision language in the code was written for rectilinear lots of the traditional town street grid and applies poorly to parcels that were annexed within the Slate River Subdivision. The full reasoning for staff's position is detailed below in reference to Section 17-4-50 (b) Waiver Requests.



2. Have a front parcel line on a street with the following characteristics:
 - a. Front parcel line must be at least twenty-five (25) feet long or the minimum lot width for the applicable zone district, whichever is shorter; *Staff Assessment – Criteria met*
 - b. The vehicular access and parking to any primary structure on a parcel shall be from a street with no extraordinary measures; *Staff Assessment – Criteria met*
 - c. Access must be from a street must be a minimum of twenty-five (25) feet wide and must be owned in fee simple by the owner of the parcel being accessed. The only exception to this

requirement for access from a street is on Elk Avenue, where Section 16-16-30 of this Chapter states that no vehicular access shall be allowed from Elk Avenue directly to any off-street parking; *Staff Assessment – Criteria met*

- d. Notwithstanding the foregoing, the Board may permit such vehicular access to structures existing on January 1, 1992 to be not less than sixteen (16) feet wide when serving one-family dwelling units. If the Board determines that the twenty-five (25) foot minimum access requirement would be unreasonable based upon the structure and lot configuration; *Staff Assessment – N/A*
 - e. Vehicular access to a primary structure from an alley, including the access required pursuant to this Paragraph (2), may be approved by the Board only if either one (1) of the following conditions exists:
 - i. The primary vehicular access existed from an alley prior to January 1, 1992; or *Staff Assessment – N/A*
 - ii. The division between parcels is a stream or similar physical barrier preventing vehicular access from the street. In such case, the applicant shall provide additional land to create an alley at least twenty (20) feet wide from the subject parcel to the nearest Town street and upgrade the alley to Town standards or, in the absence thereof, to the approval of the Public Works Director; *Staff Assessment – N/A*
3. Provide for underground utilities to each building site.
Staff Assessment – Criteria met
 4. Provide for adequate fire and flood protection and emergency access.
Staff Assessment – Criteria met
 5. Not increase the potential for breach of the public safety, or damage to public or private property by fire, flood, erosion or snow slides.
Staff Assessment – Criteria met
 6. Not create congestion, automotive or pedestrian safety problems or other traffic hazards.
Staff Assessment – Criteria met
 7. Not use easements across another lot, tract or parcel for private primary vehicular access.
Staff Assessment – The project will only add 38 trips to the PM Peak our (26-in and 13-out) and 34 to the AM peak hour (6-in and 28-out). The table below shows the Institute of Transportation Engineers (ITS) Trip Generation calculations – Criteria met.

Land Use	ITE Code	Intensity	Daily Trip Ends	PM Peak-Hour Trip Ends				AM Peak-Hour Trip Ends					
				Total	In		Out		Total	In		Out	
					%	Trips	%	Trips		%	Trips	%	Trips
Low Rise Apartments	220	34.0 DU	244	25	67%	17	33%	8	22	17%	4	83%	18
Townhouse/Condo - 7th	230	16.0 DU	135	13	67%	9	33%	4	12	17%	2	83%	10
Total			379	38		26		13	34		6		28
Internal Capture	0.00%	0.00%	0	0		0		0	0		0		0
Pass-By	0.00%	0.00%	0	0		0		0	0		0		0
Net External			379	38		26		13	34		6		28

8. Be designed in a manner that directs the placement of roads, utilities and structures away from any unstable soils, or mitigates the effect of unstable soils, geologic hazards and other site conditions so as to minimize the potential for breach of the public safety or damage to public or private property.
Staff Assessment – Criteria met
9. Not create significant adverse effects to public facilities, rights-of-way or utilities.
Staff Assessment – Criteria met
10. Not create significant adverse impacts on the use of adjacent property.
Staff Assessment – Criteria met
11. Provide vehicular access easements onto Town streets for use by those lots, tracts or parcels which do not abut an avenue if within the B2 Business District.
Staff Assessment – Criteria met
12. Otherwise, be consistent and comply with the requirements of these subdivision regulations and Chapter 16 of this Code.
Staff Assessment – Criteria met
13. Execute a subdivision improvements agreement memorializing the subdivider's or owner's obligation and agreement to construct, at the subdivider's or owner's cost and expense, all public and private utility and street improvements in accordance with the Town's utility and street standards.
Staff Assessment – Criteria met

Section 17-4-50(b) allows any requirements of the Town's subdivision regulations be varied or waived if the Planning Commission finds that the application provides amenities to the Town over and above those already required by the Town's regulations and that such amenities benefit the Town.

The applicant is requesting waivers to 17-4-50 (a)(1) described above. Staff interprets the application provides the following benefits over and above Town requirements and that such amenities benefit the Town. Because of this, Staff recommends the Planning Commission grant waivers to the three unmet criteria.

- 1) 34 Affordable Workforce Housing Units. Staff finds that waiver requests for lot size and setbacks can be supported with the proposed public benefit because the site will provide 34 affordable housing units, with units as identified in the Housing Needs Assessment;

Staff finds that the existing parcel is non-conforming in size and this proposal will make it more compliant. The parcel(s) will each also be held to the maximum lot size with regard to Floor Area Ratio calculations.

Staff finds that the proposal for the reduced setbacks on Parcel TP 5A can be supported due to the following: 1) the irregular shape of the front lot line complicated the building orientation to Gothic Road. The buildings are setback 20 feet from the Gothic Road Right of way. 2) Town owns the adjacent lot (TP4), which is being used for snow storage; 3) TP4 has an environmental covenant prohibiting construction of structures on the parcel. 4) TP 5C will function solely as parking for the

buildable lots; 5) TP 3B will be further subdivided and is expected to meet zoning requirements when developed.

RECOMMENDATION:

Staff recommends a Planning Commissioner make a motion, followed by a second, making the following findings:

1. The application does not meet the requirements of Code Sec. 17-4-50 (a) (1) because it does not comply with the applicable zoning requirements of the R4 Zone District, namely:
 - 1.1. The proposed sizes of all five of the proposed Lots exceed the maximum allowed lot size of 6,250 sf (TP 3A 11,451 sf, TP 5B 10,497 sf, TP 5A 9,777 sf and TP 5C 22,981 sf) which is not allowed under the Code Sec. 16-5-440 (2)
 - 1.2. The proposed TP5A lot will not meet the minimum setbacks for side yard (7'6"-11'6") or front yard (20') in the northwest corner, which is not allowed under Code Sections 16-4-910 (4) and (5).

Following a motion of findings, Staff recommends a Planning Commissioner make a motion, followed by a second, approving the minor subdivision of the Property located at 601-701 Butte Avenue (Lot TP3 and TP5 Slate River Subdivision) per Municipal Code Section 17-4-50 (b) with conditions listed below specific to the waivers requested for the following criteria: 17-4-50 (a)(1) and 16-4-910 (4) and (5) because the Planning Commission finds the proposed project amenities of 34 permanently affordable workforce housing units are over and above Town requirements and that such amenities benefit the Town.

Conditions of Approval:

- Town Attorney approval will be required of the final subdivision agreement and plat before recordation of the plat.
 - Public access via the sidewalk will be contingent upon this agreement's execution.
 - An engineer will be required to provide the documents needed for cost estimates.
- Plat must be finalized with the following:
 - Legal descriptions noted for each parcel
 - Removal of irrigation easement language
 - Removal of ownership language for water and sewer service
 - Include dedication language
 - Revise mayor signature block?
 - Easements shown:
 - Fire access
 - Utilities
 - Public access (sidewalks)