

**SLATE RIVER ANNEXATION and MAJOR SUBDIVISION**  
**FINAL PLAN APPLICATION**

**MARCH 6, 2020**

Submitted to:

CRESTED BUTTE TOWN COUNCIL  
and  
TOWN PLANNING COMMISSION

Prepared for:

**Cypress Foothills, LP**  
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# **SLATE RIVER ANNEXATION and MAJOR SUBDIVISION FINAL PLAN APPLICATION**

## **Application Submittal.**

Cypress Foothills, LP, owner/applicant, is submitting the Slate River Annexation and Major Subdivision application in accordance with the criteria established in Municipal Code (“Code”) Sec. 15-1-80(b) Criteria for annexation decision and Sec.17-5-70 Final plan submittals. The application also contains the R1F Residential District text and map amendments pursuant to Sec. 16-23-30 Amendments application.

The Slate River Annexation and Major Subdivision Final Plan and Final Plat application includes these Sections:

- 1.0 Introduction
- 2.0 Pre-Annexation Agreements
- 3.0 Sketch Plan and Preliminary Plan Review Summary
- 4.0 Annexation Criteria, Sec. 15-1-80(b)
- 5.0 Final Subdivision Plan Submittal Requirements, Sec.17-5-70
- 6.0 Text and Map Amendment Submittal Requirements, Sec. 16-23-30
- 7.0 Standards for Zoning and Rezoning, Sec. 16-23-90
- 8.0 Summary

**Acknowledgement.** Cypress Foothills, LP, property owner, has not yet performed a legal review on all of the documents and that there may be revisions before the final drafts are sent out to Town Council.

## **1.0 Introduction.**

Cypress Foothills, LP, owner/applicant, is seeking to annex, zone and subdivide a 14.16 acre parcel along the Town’s northeastern boundary originally platted as the West Remainder Parcel of the Aperture Subdivision and now referred to as the Slate River Subdivision. The final subdivision plan includes nine (9) Town Parcels and one (1) Tract of Applicant Retained Lands; the primary public roadways, Pyramid Avenue and Eighth Street extension, and underground public utility mainlines have been installed as part of the County-approved Aperture Subdivision to the east. Proposed zoning for the subdivision allows the following land uses: government, public service and recreational facilities, deed-restricted affordable housing, six (6) free-market single-family lots, open space and preserved wetland/riparian areas.

The property owner and developer is Cypress Foothills, LP (Developer) at 8343 Douglas Avenue, Suite 200, Dallas, Texas 75225. The proposed Annexation Map (**Attachment 1**) and Zoning Map (**Attachment 2**) are attached.

## **2.0 Annexation Agreement.**

The property to be annexed is subject to three pre-annexation agreements that include: Pre-annexation Agreement recorded on March 14, 2016 as Reception No. 638399; Amendment to Pre-Annexation Agreement recorded on December 13, 2016 as Reception No. 643828; and Second Amendment to Pre-Annexation Agreement recorded on October 10, 2018 as Reception

No. 656557. These Agreements reflect two important factors: First, the Town agreed to extend water and sewer service outside the Town limits to that portion of the development (Aperture Subdivision) that will remain in the County in exchange for, among other benefits, land that the developer will dedicate for public uses in the area that will be annexed to the Town (Slate River Subdivision); and second, portions of the land to be annexed required environmental clean-up because they contained the former town landfill site.

The clean-up was accomplished through a process approved by the Colorado Department of Public Health and the Environment called a Voluntary Clean-up Plan (VCUP). The VCUP requires that clean-up levels be based on intended future land uses; the clean-up requirements were based on higher intensity uses ranging from schools to housing as proposed on Town Parcels (TP) 2 and 3 and more passive public uses such as open space, parks or snow storage as proposed on TP 4. For housing to be developed on TP5, the Town will need to perform additional clean-up. The majority of the land within the proposed Slate River Subdivision, however, is environmentally “clean” and not subject to the VCUP. The land uses agreed upon by the Town and Developer are identified in the Annexation Agreement and shown graphically on the Vicinity Map/Illustrative Master Plan (**Attachment 3**).

The Final Annexation Agreement will be included in the staff report as part of the public review process.

### **3.0 Sketch Plan and Preliminary Plan Review Summary.**

The Slate River Annexation Impact Report was filed with the Gunnison County Board of County Commissioners (BOCC) on March 21, 2019 in accordance with Colorado Revised Statutes (CRS) §31-12-108.5. The Slate River Major Subdivision Sketch Plan application was reviewed by the Board of Zoning and Architectural Review (BOZAR or “Board”) on March 26, 2019 and the Board’s recommendation was forwarded to Town Council for consideration. At a duly noticed public hearing on April 8, 2019, Town Council, acting as the Planning Commission reviewed the Sketch Plan and approved it with conditions. The Slate River Major Subdivision Preliminary Plan application was reviewed by the Planning Commission and approved with conditions at a duly noticed public hearing on January 14, 2020. The Sketch Plan and Preliminary Plan conditions of approval are outlined below.

#### **A. Sketch Plan Conditions:**

1. That a future waterline easement be provided to the north through the Applicant Retained Land.
2. That all fencing within the subdivision be a maximum of forty-two (42) inches in height to allow for wildlife migration through the property, excluding any off-site fencing around the Public Works facility and multi-use trail.
3. That a boater access and floating agreement for TP6 be finalized.
4. That the north-south private street within the Applicant Retained Land be named after a local mountain or natural feature.
5. That the R4-Residential maximum lot size requirement be waived for TP3 and TP 5.
6. That a deed restriction for the TP6 open space/wetland area be finalized.

7. That a recommendation be forwarded to Town Council for the granting of an exemption for all of the capital expansion recovery system fees pursuant to Sec. 17-5-100(c) Exemption from fee.

**B. Preliminary Plan Conditions:**

1. That the Pre-Annexation Agreement be revised to reflect the updated Subdivision Plat that contains nine (9) Town Parcels (TP) and (1) Applicant Retained Land Tract (T).
2. That the Slate River Major Subdivision Plat including the title page with the Attorney's Opinion be finalized.
3. That the platting of the Applicant Retained Land Tract into six (6) single-family lots be finalized and that a complete set of construction drawings be submitted which meet the requirements of the Public Works Director and Crested Butte Fire Protection District.
4. That the deed restriction for TP7 which contains the wetland area between TP1 and the Applicant Retained Land be finalized.

**4.0 Annexation, Sec. 15-1-80.**

**(b) Criteria for annexation decision.** The following criteria shall be considered before the Town Council may act favorably on any annexation request; the Code requirements are shown in *italics*, followed by the applicant response:

(1) *"The final master plan for the use of the lands to be annexed is acceptable."*

**Response:** The Vicinity Map identifies the property location/context and the Illustrative Master Plan graphically depicts the various parcels and potential uses of those lands proposed to be annexed (**Attachment 3**). The final subdivision plan divides the 14.16 acre property into nine (9) Town Parcels and one (1) Applicant Retained Tract with six (6) single-family lots. No actual buildings or structures are proposed at this time. All future site-specific development applications will be reviewed and approved by the Board of Zoning and Architectural Review (BOZAR).

(2) *"The final subdivision plan for the use of the lands to be annexed complies with Chapter 17 of this Code."*

**Response:** The Slate River Major Subdivision Final Plat and Final Plan comply with both, the annexation requirements in Chapter 15 and subdivision standards as set forth in Chapter 17 of the Code.

(3) *"The proposed open spaces have a workable program established for maintenance and upkeep and are coordinated with the Town's open space program where possible."*

**Response:** The proposed open space and wetland areas contained within Town Parcels TP4, TP6A-B, TP7, TP8 and TP9 will be owned, maintained and preserved by the Town of Crested Butte as part of the Town's open space and recreation programs.

(4) *“The proposed annexation is necessary or desirable and will contribute to the general well-being of the community.”*

**Response:** The proposed annexation of the Slate River Major Subdivision is desirable and contributes to the health and welfare of the community. The development plan provides a logical extension of public utilities and roadways for future residential development and public facilities. The plan integrates a variety of public and private land uses; creates a compact development adjacent to existing public utilities and services; offers a range of affordable and free-market housing opportunities and choices; creates a walkable neighborhood; fosters a distinctive neighborhood that fits within the existing character and scale of Crested Butte; preserves open space and protects natural features and environmentally sensitive areas; and provides a variety of transportation options.

(5) *“The proposed annexation will in no way be detrimental to the health, safety or general welfare of the persons residing within the corporate boundaries of the Town or injurious to property or improvements in the vicinity of the lands proposed to be annexed.”*

**Response:** Community residents and neighborhood properties and/or improvements have been given ample consideration in the annexation and development of the Slate River Major Subdivision to ensure the health, safety or general welfare of the residents are maintained and possibly enhanced.

(6) *“The proposal is in harmony with the intent of Town zoning ordinances and policies adopted by the Town.”*

**Response:** The development proposed within the Slate River Major Subdivision comports with the purpose and intent of Article I General Provisions in Chapter 16 of the Code. The proposed public and private uses are compatible with the existing land uses in both, the Town and County, in terms of their locations, intensities, densities, massing, scale and character. All site-specific development and buildings will be reviewed and approved by the Board of Zoning and Architectural Review (BOZAR) in accordance with the Town Code and Design Guidelines.

(7) *“Unless otherwise agreed to by the Town, the extension of services will be financed totally by the applicant.”*

**Response:** Cypress Foothills, LP, developer/applicant, has solely financed and installed the extension of public roadways and utilities to service the proposed development. The Town of Crested Butte and Cypress Foothills, LP have entered in the following agreements: a water and sewer easement recorded on August 31, 2017 at Reception No. 648729; a Development Improvements Agreement recorded on August 31, 2017 at Reception No. 648730; a Water and Sewer Service Agreement recorded at Reception No. 649234; and an Easement Agreement for Cemetery Water Line recorded on November 9, 2018 at Reception No. 657207.

(8) *“Revenue and/or public benefit to be gained from the Town's portion of increased tax base and other revenue on account of the proposed annexation is equal to or greater than the cost to the Town of the services required.”*

**Response:** A majority of the Slate River Subdivision is proposed as natural open space/wetlands (TP4, TP6A-B, TP7, TP8 and TP9) and public uses (TP1 and TP2) that do not generate property tax revenues. Six (6) free-market lots (T1-T6) will generate property taxes, real estate transfer taxes, and water/sewer fees; and future deed-restricted, for-sale units (TP3) and rental apartments (TP5) will create property tax revenues and water/sewer fees. The estimated seventy-three (73) full-term and twenty-three (23) part-time residents will purchase goods in Town that will generate sales tax revenues.

Since the Slate River Major Subdivision adjoins the Town’s street grid and water/sewer system and development will occur incrementally over a period of years, additional expenditures for fire, police, emergency services, general government services, parks/recreation and public works maintenance should be commensurate with other existing neighborhoods in Town. A majority of the proposed development will be public facilities, deed-restricted housing, parkland and natural open space that will be beneficial to the Town.

(9) *“The advantages to the Town materially outweigh the disadvantages.”*

**Response:** There are no apparent disadvantages to annexing and subdividing the 14.16 acre parcel for the land uses and purposes proposed. As part of the Annexation Agreement the Town will receive dedicated public rights-of-way and deeded title to land that totals approximately 12.7 acres for use as public roadways, public buildings and facilities, deed-restricted affordable housing, open space, recreation, protected wetland/riparian areas and snow storage.

(10) *“The annexed lands have a logical extension of road systems and of public transportation systems, consistent with the Town's Land Use Plan.”*

**Response:** The public roadways included within the Slate River Major Subdivision have been constructed as part of the Aperture Subdivision in Gunnison County. The sixty (60) feet wide public right-of-ways are logical extensions of the Town’s street grid-system; Pyramid Avenue has an east-west alignment and Eighth Street has a north-south orientation. All of the proposed development is within walking and biking distance of jobs, goods and services and cultural/social/recreational activities. The development is currently served by public transportation and no expansion of service is anticipated or required at this time.

(11) *“The extension of water and sewer lines are feasible in the area.”*

**Response:** Public Town sewer and water service has been extended to serve the proposed annexation of the Slate River Major Subdivision and the Aperture Subdivision that will remain within unincorporated Gunnison County. The necessary agreements and easements between the Town of Crested Butte and Cypress Foothills, LP have been or will be recorded in the real property records of Gunnison County, Colorado. See (7) Response, above, that identifies Reception Nos. for the various water and sewer agreements and easements.

(12) *“The applicant has agreed to update any geological hazard, floodplain and other applicable mapping for the lands to be annexed. The update work shall be performed by a qualified person of the Town's choosing and shall be paid for by the applicant.”*

**Response:** The applicant hired a team of professional consultants to evaluate the natural hazards affecting the lands to be annexed. The proposed Slate River Major Subdivision has been designed so that geologic or other natural hazards and floodplain constraints have been avoided and that environmentally-sensitive wetland and riparian areas; therefore, it is not necessary for the existing natural hazard mapping to be updated or modified.

(13) *“The proposal is consistent with the Land Use Plan.”*

**Response:** The Slate River Major Subdivision is consistent with the Town’s Land Use Plan. The Crested Butte Area Plan identifies this area as being appropriate for future development of multi-family and single-family neighborhoods. The final subdivision plan contains residential parcels that may be developed as deed-restricted, affordable duplexes, tri-plexes and multifamily units (TP3 and TP5) and free-market single-family homes (T1-6). Public parcels are provided for future uses that may include a fire station, search and rescue facility, hospital/medical clinic, recreation facility and/or library (TP1 and TP3); other public open space (TP4, TP8 and TP9) and environmentally-sensitive areas (TP6A-B and TP7) are also contained within the subdivision. These proposed land uses are compatible with the existing land uses in both, the Town and County; and the potential in terms of their locations, uses, intensities, densities, massing, scale and character.

(14) *“To the extent the proposal is not consistent with Chapters 16 and 17 of this Code and the Land Use Plan, such inconsistency is addressed and/or adequately mitigated, to the Town Council's satisfaction, in the final annexation agreement.”*

**Response:** The Slate River Subdivision has been planned, designed and constructed in general conformance with standards of Chapter 16 Zoning and Chapter 17 Subdivisions, specifically: Article 6-Major Subdivision Design Standards; Article 7-Tract and Block Design Standards; Article 8-Compatibility with Natural Features; Article 9-Open Land; Article 10-Street and Sidewalk Standards; Article 11-Utility Standards; and Article 12-Affordable Housing and Local Housing.

## **5.0 Final Subdivision Plan Submittal Requirements, Sec.17-5-70**

The following information shall be submitted before Town Council may act to approve any final subdivision plan application; the Code requirements are shown in *italics*, followed by the applicant response:

(1) *“Final plan fee and publication fee. The final plan fee and publication fee as required in Section 17-2-30 of this Chapter.”*

**Response:** Cypress Foothills, LP has no outstanding balances as per the subdivision cost and expense reimbursement agreement.

(2) *“Title report. A title report prepared by a licensed title or abstract company containing the legal description of the proposed subdivision and identifying, listing and certifying the following:*

- a. A list of all owners of record of the proposed subdivision;*
- b. A list of all liens and encumbrances against the proposed Property, together with the book and page and reception number of each encumbrance as recorded in the office of the County Clerk and Recorder; and*
- c. All owners of any surface, subsurface or above-surface estates, rights or interests in the proposed subdivision, the nature of and description of such estate, right or interests, and the addresses of all such owners.*

*If the above information is contained in the submittal required in Paragraph 17-5-50(3) above, an endorsement or certificate that no changes in ownership, encumbrances or liens has occurred may be submitted.”*

**Response:** There have been no changes in ownership, encumbrances or liens during this annexation and subdivision review process. The property owner and developer is Cypress Foothills, LP (Developer) at 8343 Douglas Avenue, Suite 200, Dallas, Texas 75225; a certified Attorney’s Opinion prepared by Marcus Lock, Law of the Rockies, is included on the Slate River Major Subdivision Final Plat.

(3) *“Final plat. The final plat shall include requirements a. through d.”*

**Response:** The Slate River Major Subdivision Final Plat generally meets these Code requirements. Final Plat is included as **Attachment 4**. A list of agreements between the Town of Crested Butte and Cypress Foothills, LP is contained in **Attachment 5** [SGS1].

(4) *“The final plat shall contain the following information and conform to the following specifications a. through y.”*

**Response:** The Slate River Major Subdivision Final Plat generally contains the required information and conforms to these Code specifications; the Final Plat is included as **Attachment 4**.

(5) *“Preliminary and proposed engineering designs and estimated costs for all improvements to be installed in the subdivision, including but not limited to water, sewer and all other utilities, streets and related improvements, trails, bridges, excavations, landscaping and storm drainage.”*

**Response:** On behalf of the applicant/owner, Cypress Foothills, LP, Schmueser Gordon Meyer (SGM) Engineers prepared plans and construction drawings for the subdivision improvements. The primary public streets and utilities have been installed as part of the Aperture Subdivision immediately to the east. The plans and construction drawings for the private access road and alley, utilities and other improvements within the Applicant Retained Land are included as **Attachment 6**. A Subdivision Improvements Agreement will be included in the staff report as part of the public review.

(6) *“A landscape plan showing location, size and type of proposed landscape features, where such features are located on common or dedicated areas.”*

**Response:** The landscape plan for the common areas and multi-use trail alignment is included as **Attachment 7**. A landscape maintenance, license and easement agreement was recorded on November 9, 2018 at Reception No. 657206.

(7) *“A final plan to address any existing or potential hazardous conditions, including but not limited to soils, mine tailings, mine drainages, petroleum residue, landfills, underground tanks, etc. which has been approved by all applicable state and federal agencies as adequate for the proposed uses.”*

**Response:** The VCUP has been completed and approved by Colorado Department of Public Health and Environment (CDPHE) for the southwestern portion of the property that contained the former Town landfill. The No Action Determination issued by CDPHE allows a range of uses ranging from higher intensity uses (schools to housing on (TP) 2 and 3 to more passive public uses such as open space, parks or snow storage as proposed on TP 4. The Town Parcels TP2, TP3 and TP4 are subject to environmental covenants held by the CDPHE. The TP2 and TP4 boundaries have been reconfigured to incorporate those areas.

The owner/developer has installed a cap on top of landfill materials within TP5 as part of its VCUP. Prior to the development of any housing on TP5, the Agreements with Cypress give the Town the option of filing a VCUP application with CDPHE to obtain a No Action Determination which would confirm that the Town has achieved the cleanup levels necessary for the development of affordable housing. The Town will be responsible for the costs of the VCUP application and any required additional cleanup. TP5 also will be subject to an environmental covenant.

It is reasonably expected that development of the proposed public and residential uses on this property will not produce hazardous substances or hazardous waste materials.

(8) *“Copies of any monument records required of the land surveyor in accordance with state statutes.”*

**Response:** The existing and newly established monuments are identified on the Slate River Major Subdivision Final Plat; refer to **Attachment 4**.

(9) *“A certified statement by the subdivider stating that all supplemental information furnished with the preliminary plan is embodied in the final plan and final plat; or, if this is not the case, revised supplemental data of the same scope and format as required for the preliminary plan shall be furnished with the final plan and final plat.”*

**Response:** All required and/or requested information and the Sketch/Preliminary Plan conditions of approval have been incorporated into the Slate River Major Subdivision Final Plat and Final Plan.

(10) *“Three (3) copies of all draft protective covenants or restrictions placed on the proposed subdivision, one (1) of which shall be properly executed, acknowledged and filed with the final plat, following consultation with the Town and insertion of any amendments reasonably required. Such covenants shall not conflict with the existing or proposed zone district minimum or maximum dimensional or use standards, or the Crested Butte Design Guidelines.”*

**Response:** The protective covenants, conditions and restrictions (CCRs) for the six (6) single-family lots (T1-6) contained within the Applicant Retained Land are provided as **Attachment 8**.

(11) *“Two (2) copies of the draft conservation easements or other documents acceptable to the Town, permanently preserving open land for the proposed number of units as set forth in Article 9 of this Chapter.”*

**Response:** Conservation and environmental covenants for Town Parcels TP6A and TP7 are contained in **Attachment 9**; and the TP6-B **Boater Access Easement Agreement that includes a right-to-float provision** is included as **Attachment 10**.

Town Parcels TP2, TP3 and TP4 are subject to Environmental Covenants held by the Colorado Department of Public Health and Environment **These Environmental Covenant will be recorded as part of the Annexation process.**

(12) *“Upon request of the Town, the final plan application shall include an unexecuted warranty deed conveying to the Town all lands dedicated to the Town, other than streets, alleys and rights-of-way as shown on the final plat.”*

**Response:** Upon recordation of the Slate River Major Subdivision Final Plat and associated documents, Cypress Foothills, LP will execute and convey to the Town of Crested Butte warranty deeds for Town Parcels: TP1, TP2, TP3, TP4, TP5, TP6A, TP6B, TP7, TP8 and TP9. The sixty (60) feet wide public rights-of-way for Pyramid Avenue and Eighth Street extension will be dedicated to the Town as identified on the Final Plat. The private road and alley within the Applicant Retained Land Tract will be private and maintained by the 6-lot Slate River Homeowners' Association.

(13) *“A subdivision improvements agreement in the form substantially as set forth in Appendix J attached to this Code.”*

**Response:** The Town of Crested Butte and Cypress Foothills, LP entered into a Development Improvements Agreement for the Aperture Subdivision that includes the West Remainder Parcel which is now being annexed and subdivided as the Slate River Major Subdivision. The Improvements Agreement was recorded on August 31, 2017 at Reception No. 648730. The Subdivision Improvements Agreement (SIA) for the 6-lot Applicant Retained Land Tract will be included in the staff report as part of the public review.

(14) *“Financial security for public improvements to be built by the subdivider as required in Subsection 17-5-80(c) below.”*

**Response:** Refer to the Aperture Subdivision Improvements Agreement (SIA). Any financial security that may be required for the Applicant Retained Land development would be specified in an agreement that would be included as part of the staff report for public review.

(15) *“A statement that the subdivider covenants that all information presented for the final plan is accurate and acknowledging that the Town is being asked to make a decision to approve or disapprove the proposed subdivision based on the information presented to it by the subdivider.”*

**Response:** Cypress Foothills, LP, owner/applicant, acknowledges and attests to the best of its knowledge, the information, documents, agreements, covenants and plats are complete and accurate.

(16) *“Any other documents, certificates or information reasonably deemed necessary by the Planning Commission.”*

**Response:** Applicant has provided the necessary information in general accordance with the applicable Code requirements. No other documents, certificates or necessary information has been requested by the Planning Commission at this time.

## **6.0 Text and Map Amendment Submittal Requirements, Sec. 16-23-30**

In accordance with Code Section 16-23-30 Application (a), *“Any application for an amendment of this Chapter shall contain the following information;”* the Code requirements are shown in *italics*, followed by the applicant response:

(1) *“A legal description of any land to be rezoned, together with a diagram drawn to scale showing the boundaries of the area requested to be rezoned.”*

**Response:** This application includes a text amendment to Chapter 16, Article 4 Residential Districts of the Code. The request is to adopt a new Division 12, R1F Residential District with the zoning standards as set forth in **Attachment 11**. A legal description of the land to be zoned is shown on the Final Subdivision Plat included as **Attachment 4**; and the proposed map amendment to the Town Zoning Map is provided as **Attachment 2**.

(2) *“A statement of the present zoning and the requested new zoning.”*

**Response:** The Applicant Retained Land, a 1.46 acre parcel, is proposed to be annexed to the Town of Crested Butte as part of the Slate River Subdivision. The land is currently located within unincorporated Gunnison County with no specific zoning designation.

(3) *“A statement of justification for such action, including facts concerning any change of conditions, an error in the original zoning or the unusual or peculiar suitability of a lot to a certain use.”*

**Response:** Annexation requires Town Council to adopt an ordinance that zones the property. Unlike the typical Blocks and Lots within the historic Town-grid, the Applicant Retained Land within the proposed Slate River Subdivision is an irregularly-shaped parcel that lies between two environmentally sensitive areas, the Slate River riparian area to the east and non-jurisdictional wetland to west. The lot design keeps building envelopes on the same north/south and east/west axis as the rest of the Town grid. This text amendment to the Code is directed at addressing the certain site-specific considerations and allowing residential development to conform within this specific neighborhood context but keeps with the building alignment of the Town grid.

(4) *“A description of the land and uses thereof within two hundred (200) feet of the boundary lines of the proposed area of change in all directions; and*

**Response:** The lands to the north and to the east of the Applicant Retained Land are to remain within unincorporated Gunnison County. The adjoining lands to the north are undeveloped and being used as natural open space; and the parcel on the east side of the Slate River has been subdivided into single-family lots for residential use. To the south are “remnant” lands (TP8 and TP9) that will be annexed and zoned P-Public for use as open space adjacent to Pyramid Avenue. The Public Works facility is located further to the south and east of Eighth Street within Town limits; a potential public and/or community facility (TP2) south of Pyramid Avenue west of Eighth Street is to be annexed and zoned P-Public. There are two parcels located west of the Applicant Retained Land to be annexed and zoned P-Public. The adjoining parcel (TP7) to the west will be maintained as a wetland area and open space; and the parcel (TP1) further to the west is proposed as a potential site on which to relocate the fire station and emergency services facility.

(5) *“A statement as to the effect that the new zoning or changes would have on adjacent areas or uses.”*

**Response:** The proposed R1F Residential zoning is consistent with terms of the Pre-Annexation Agreements. The subdivision and zoning allows for the development of six (6) single-family homes that would be compatible with the existing and/or future land uses on the adjacent parcels.

(b) *“Any application to create or amend the zoning of a parcel of land containing more than fifty thousand (50,000) square feet of land shall be subject to the requirements set forth in Chapter 17 of this Code and reviewed for approval as a subdivision under said regulations.”*

**Response:** This text amendment to the Code is a component of the Annexation and Slate River Major Subdivision application that includes a total of 14.1 acres. The proposed Code amendment specifically pertains to the Applicant Retained Land which contains 1.46 acres (63,597.6 square feet) and proposed to be zoned R1F. The Slate River Subdivision application complies with the Chapter 17 Subdivision and it is being reviewed in accordance those regulations.

## 7.0 Standards for Zoning and Rezoning, Sec. 16-23-90

(a) *“No application for initial zoning or rezoning shall be approved unless it is demonstrated to the Town Council that it complies with the following standards.”* The Code standards are shown in *italics*, followed by the application response:

(1) *“The proposed zoning classification promotes the health, safety and welfare of the inhabitants of the Town and promotes the purposes of this Code.”*

**Response:** The 14.16 acre parcel is to be annexed, subdivided and zoned: Public (P), R4 Residential (R4) and R1F Residential (R1F). The zoning of the property promotes the health, safety and welfare of Town by providing lands for public facilities such as a fire station, emergency services and/or medical clinic, public open space, wetland/riparian preservation and affordable, deed-restricted housing. The zoning classifications promote the purpose and intent of providing benefits to the citizens of Town as set forth in Sec. 16-1-10 of the Code.

(2) *“At least one (1) of the following factors exists:*

*a. The proposed zoning classification is consistent with the goals and policies of the Town's Land Use Plan;*

*b. There has been a substantial and material change in the character of the neighborhood or in the Town generally such that the proposed rezoning would be in the public interest and would be consistent with the change in character; or*

*c. The property to be rezoned was previously zoned in error.”*

**Response:** The zoning districts and land uses proposed within the Slate River Major Subdivision, as per factor (2)b. above, are in accordance with the goals and policies of the Town Land Use Plan.

(3) *“Each of the following criteria is satisfied:*

*a. The proposed use of the rezoned or zoned property is compatible with the surrounding uses; or*

*b. In the case of proposed redevelopment of property, the proposal for the use of the rezoned or zoned property is an improvement to the neighborhood and to the Town.”*

**Response:** The property is to be annexed, subdivided and zoned in accordance with criterion (3)a. Proposed public, residential and open space land uses are compatible with the existing surrounding land uses: low density residential across Gothic Road to the west, undeveloped land to the north and single-family residential on the east side of the Slate River in unincorporated Gunnison County; and the Town Public Works facility, single and multi-family residential and mixed-use commercial to the south within the existing Town-limits.

(b) *“The requirements of Subparagraph (a)(2)b. above shall not apply to any initial zoning of property that is either within or annexed to the Town.”*

**Response:** The 14.16 acre property, Slate River Major Subdivision, is to be annexed to the Town of Crested Butte; therefore Subparagraph (a)(2)b. is not applicable.

(c) *“The Town Council may impose reasonable conditions upon the future use of the rezoned or zoned property to ensure conformance with the standards of this Article.”*

**Response:** Town Council and Cypress Foothills, LP have entered into a series of Annexation and other agreements that contain reasonable conditions concerning zoning and proposed use of the property. All proposed buildings and structures will be reviewed by BOZAR.

## **8.0 Summary.**

The Slate River Annexation and Major Subdivision Final Plan application addresses all of the applicable Code requirements: Chapter 15, Article 1 Annexation; Chapter 16, Article 5 Major Subdivisions; and Chapter 16, Article 23 Amendments.

### **Attachments:**

- 1-Annexation Map
- 2-Proposed Zoning Map
- 3-Vicinity Map/Illustrative Master Plan
- 4-Slate River Major Subdivision Final Plat
- 5-Agreements Between Town of Crested Butte and Cypress Foothills, LP
- 6-Applicant Retained Land Plans and Construction Drawings
- 7-Landscape Plan
- 8-Protective Covenants-Applicant Retained Land
- 9-Conservation/Environmental Covenants-TP6A and TP7
- 10-Boater Access Easement Agreement-TP6B
- 11-Residential R1F Zoning Requirements

# **Attachment 1**

## **1-Annexation Map**

# ANNEXATION MAP

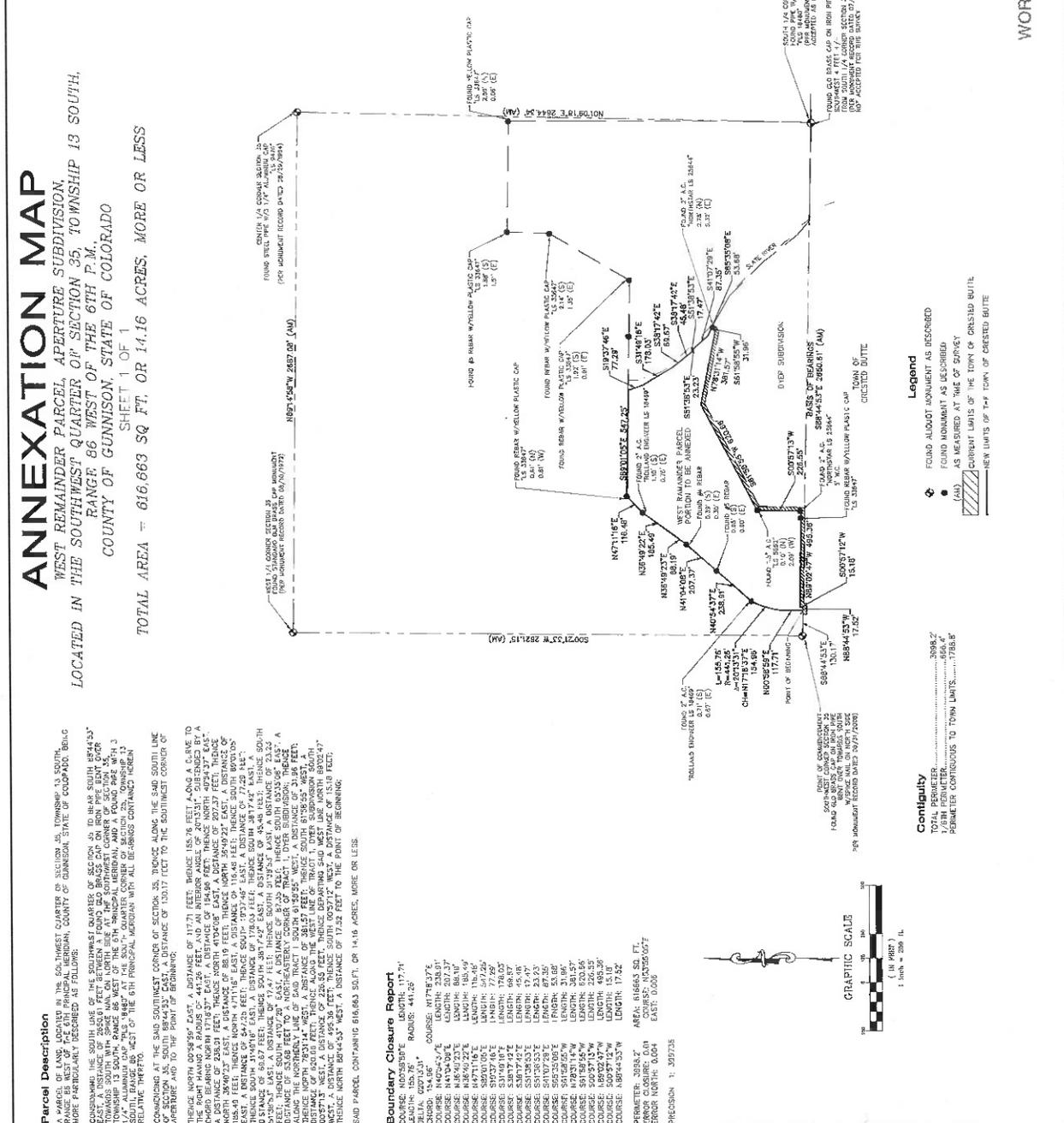
## WEST REMAINDER PARCEL, APERTURE SUBDIVISION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 13 SOUTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF GUNNSON, STATE OF COLORADO

SHEET 1 OF 1

TOTAL AREA = 616.663 SQ FT. OR 14.16 ACRES, MORE OR LESS

**Notes**

1. THIS SURVEY WAS MADE FROM THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., AND WAS NOT CONDUCTED BY A FIELD SURVEY. THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., ARE ON FILE AT THE OFFICE OF THE SURVEYOR, JOHN B. CLAYTON, INC., 505 SOUTH AVENUE, LONGMONT, CO 80501. THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., ARE ON FILE AT THE OFFICE OF THE SURVEYOR, JOHN B. CLAYTON, INC., 505 SOUTH AVENUE, LONGMONT, CO 80501. THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., ARE ON FILE AT THE OFFICE OF THE SURVEYOR, JOHN B. CLAYTON, INC., 505 SOUTH AVENUE, LONGMONT, CO 80501.
2. ACCORDING TO THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., ARE ON FILE AT THE OFFICE OF THE SURVEYOR, JOHN B. CLAYTON, INC., 505 SOUTH AVENUE, LONGMONT, CO 80501.
3. THE SURVEYOR'S ANALYSIS OF THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., IS BASED ON THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., AND NOT ON A FIELD SURVEY.
4. THIS SURVEY IS VALID ONLY IF FIRST MADE ORIGINAL AND SOMETIMES OF SERVICE.
5. THIS SURVEY IS VALID ONLY IF FIRST MADE ORIGINAL AND SOMETIMES OF SERVICE.
6. THIS SURVEY IS VALID ONLY IF FIRST MADE ORIGINAL AND SOMETIMES OF SERVICE.
7. THE DISTANCE MEASUREMENTS WERE MADE BY THE SURVEYOR, JOHN B. CLAYTON, INC., AND NOT BY A FIELD SURVEY.
8. THE SURVEYOR'S ANALYSIS OF THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., IS BASED ON THE ORIGINAL RECORDS OF THE SURVEYOR, JOHN B. CLAYTON, INC., AND NOT ON A FIELD SURVEY.
9. THIS IS NOT A "COURT REPORT" AND DOES NOT CONSTITUTE A "COURT REPORT".
10. THIS IS NOT A "COURT REPORT" AND DOES NOT CONSTITUTE A "COURT REPORT".



## **Attachment 2**

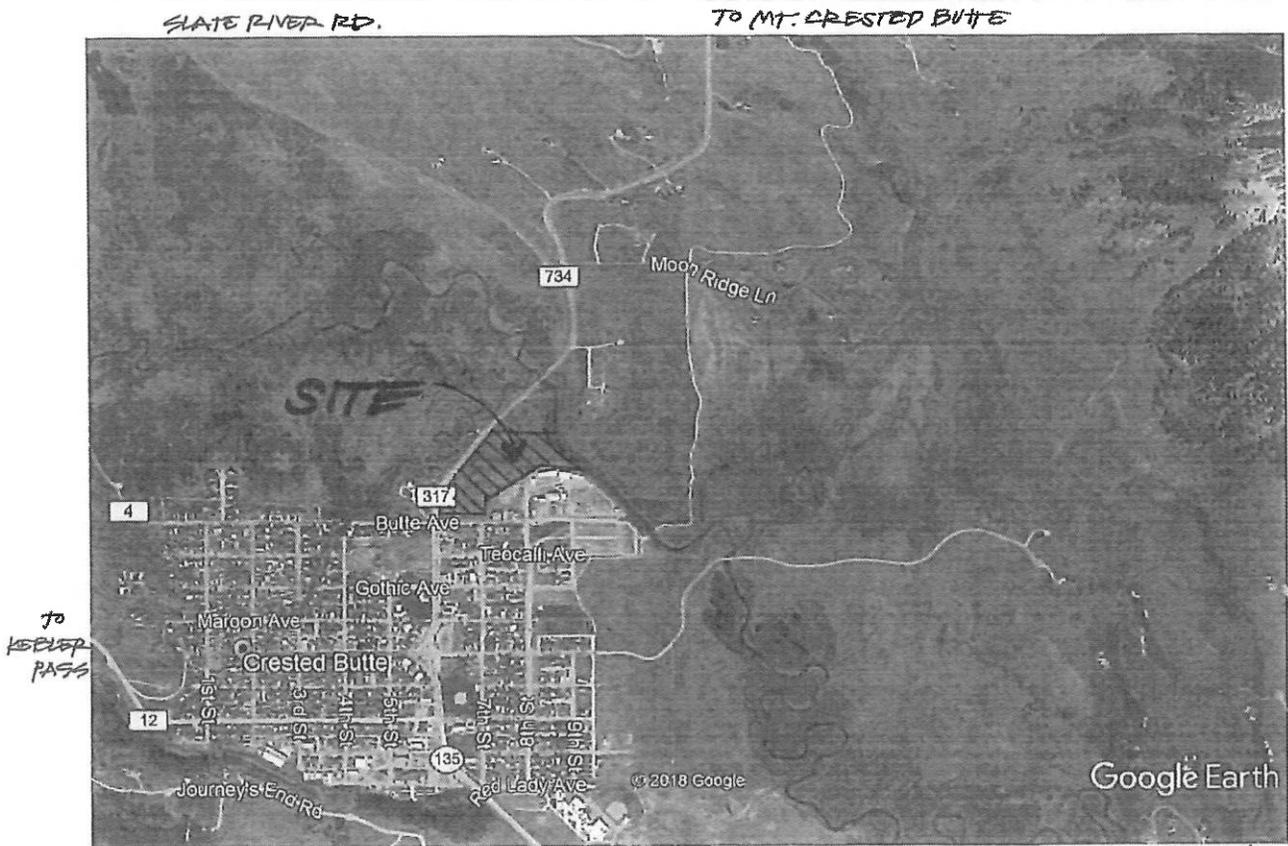
### **2-Proposed Zoning Map**



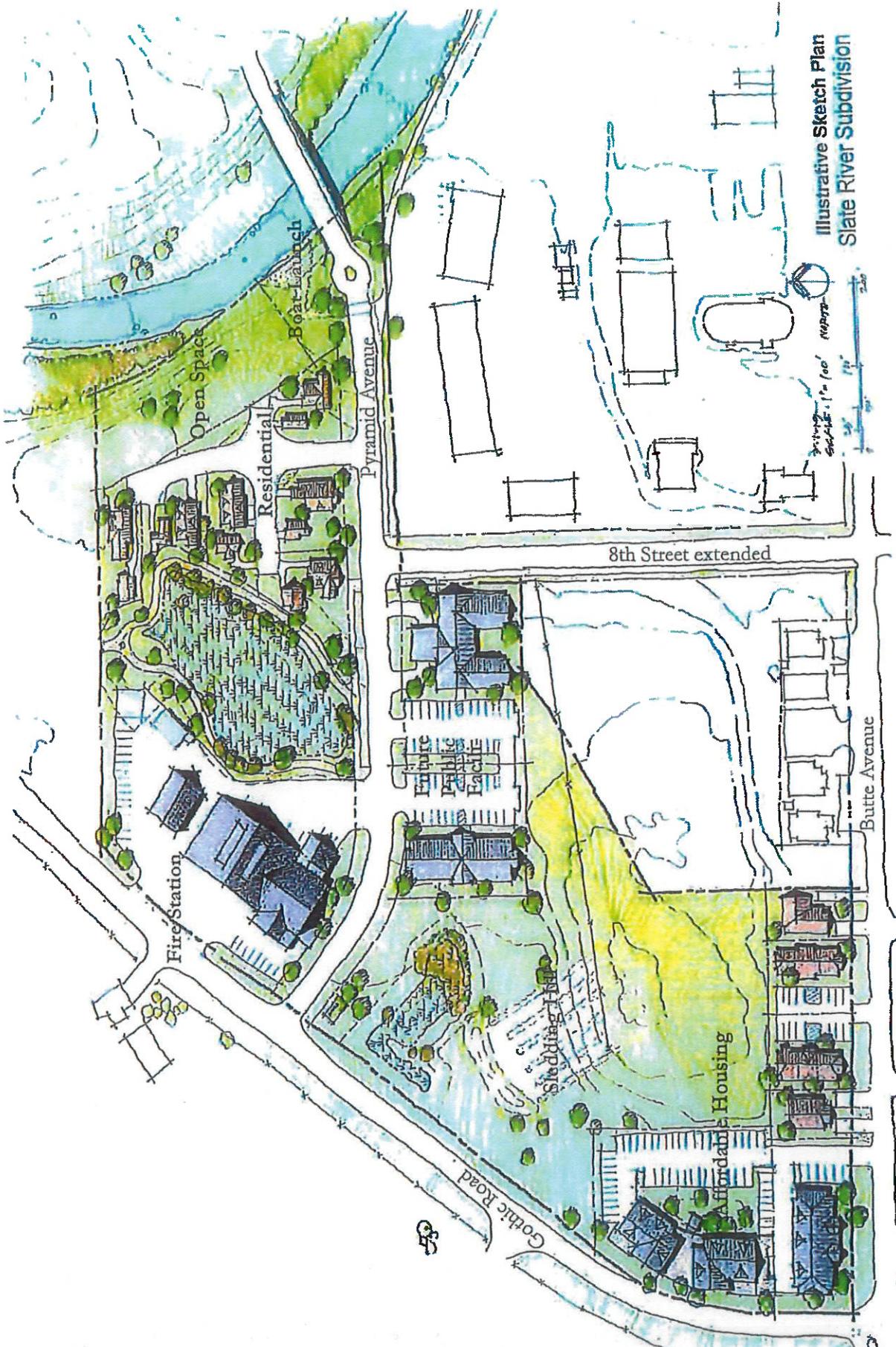
## **Attachment 3**

### **3-Vicinity Map/Illustrative Master Plan**

TRUCKEE COMMUNITY CENTER



Vicinity/Context Map



Illustrative Sketch Plan  
Slate River Subdivision

3-Illustrative Master Plan

**Attachment 4**

4-Final Major Subdivision Plat







## **Attachment 5**

### **5-List of Agreements**

Between Town of Crested Butte and Cypress Foothills, LP

## EXHIBIT A

### Existing Agreements Between the Town of Crested Butte and Cypress Foothills, LP

1. Pre-annexation agreement recorded March 14, 2016 in the real property records of Gunnison County, Colorado at reception number 638399, amendment to pre-annexation agreement recorded December 13, 2016 at reception number 643828 in the real property records of Gunnison County, Colorado, and second amendment to pre-annexation agreement, recorded October 10, 2018 at reception number 656557.
2. Water and Sewer Easement between Cypress Foothills, LP and the Town of Crested Butte, Colorado, as recorded on August 31, 2017, at reception number 648729.
3. Development Improvements Agreement between Cypress Foothills, LP and the Town of Crested Butte, Colorado, as recorded on August 31, 2017, at reception number 648730.
4. Declaration of Covenant recorded in the real property records of Gunnison County, Colorado at reception number 649112.
5. Water and Sewer Service Agreement recorded in the real property records of Gunnison County, Colorado at reception number 649234.
6. Landscape Maintenance, License, and Easement Agreement recorded November 9, 2018 at reception number 657206.
7. Easement Agreement for Cemetery Water Line, recorded November 9, 2018 at reception number 657207.
8. Aperture Plat, recorded August 1, 2017 at reception number 648057.
9. Environmental Covenants for TP2, TP3, and TP4 (To Be Recorded)
10. No Action Determination (Forthcoming).
11. License Agreement, dated May 1, 2107 (Unrecorded) (No longer relevant)
12. Boater Access Easement Agreement (Forthcoming)
13. Declaration of Protective Covenants, Aperture (dated July 26, 2017), recorded August 1, 2017 at reception number 648055.

## **Attachment 6**

### **6-Applicant Retained Land Plans & Construction Drawings**

*(To be included in the staff report for public comment)*



## **Attachment 7**

### **7-Landscape Plan**





Client:



CRESTED BUTTE RESIDENTIAL



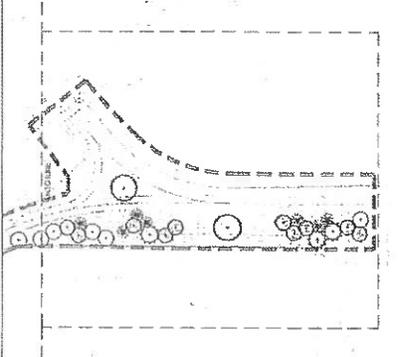
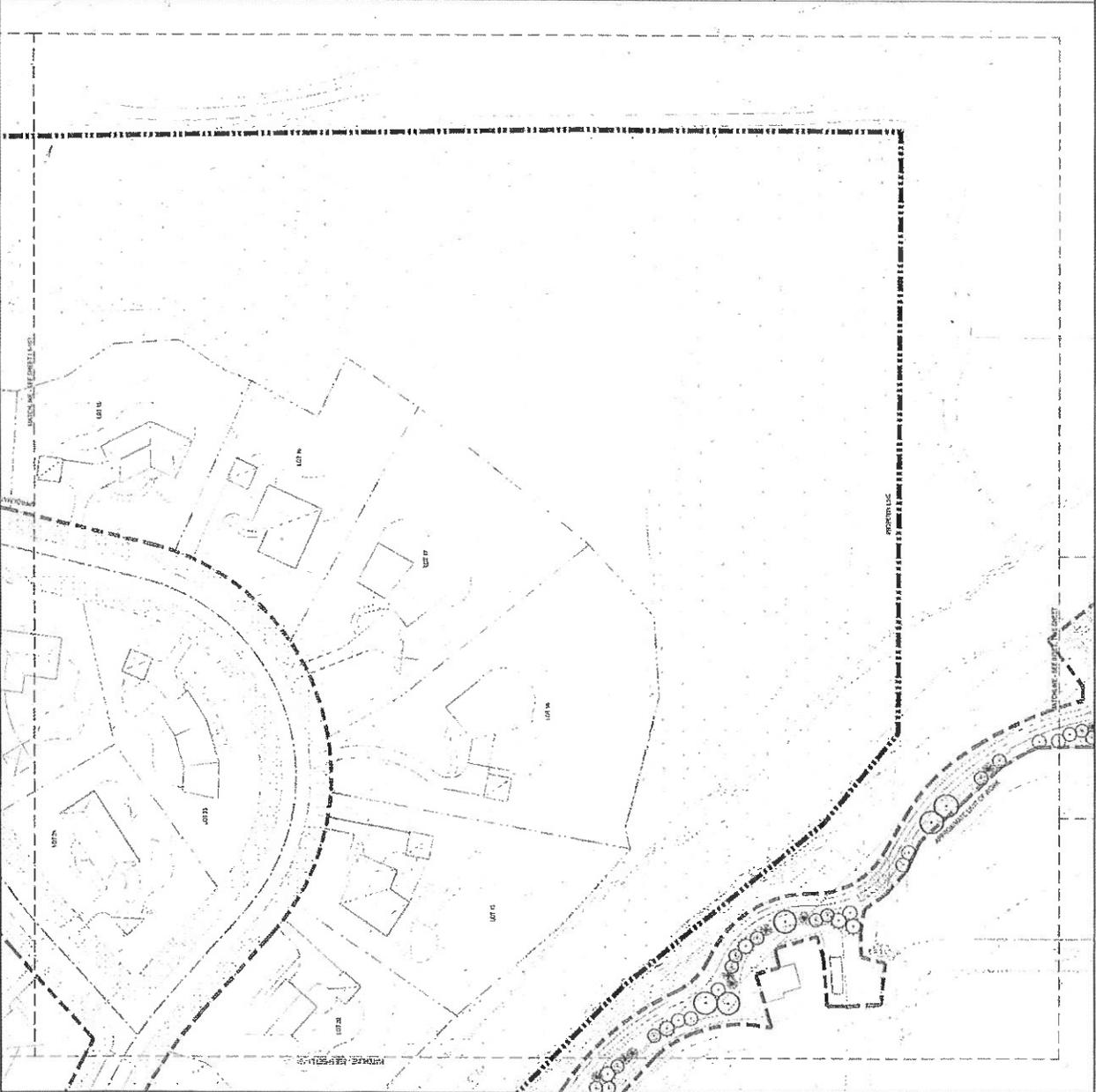
Contractor:



Date:	02/20/20
Project No.:	183
Client:	EDSA
Project Name:	CRESTED BUTTE RESIDENTIAL
Project No.:	183
Scale:	1" = 100'
Sheet:	1 of 1

Project Name: SCHEMATIC DESIGN  
 Sheet No: TREE PLAN  
 Sheet Location: L1-102

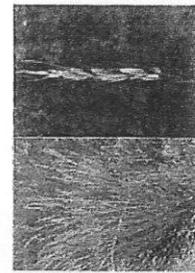
TREE SCHEDULE		Symbol	Notes
1	Small Tree	(Symbol)	Plant: Small Tree
2	Medium Tree	(Symbol)	Plant: Medium Tree
3	Large Tree	(Symbol)	Plant: Large Tree
4	Shrub	(Symbol)	Plant: Shrub
5	Palmetto	(Symbol)	Plant: Palmetto
6	Planting Area	(Symbol)	Plant: Planting Area
7	Planting Area	(Symbol)	Plant: Planting Area
8	Planting Area	(Symbol)	Plant: Planting Area
9	Planting Area	(Symbol)	Plant: Planting Area
10	Planting Area	(Symbol)	Plant: Planting Area
11	Planting Area	(Symbol)	Plant: Planting Area
12	Planting Area	(Symbol)	Plant: Planting Area
13	Planting Area	(Symbol)	Plant: Planting Area
14	Planting Area	(Symbol)	Plant: Planting Area
15	Planting Area	(Symbol)	Plant: Planting Area
16	Planting Area	(Symbol)	Plant: Planting Area
17	Planting Area	(Symbol)	Plant: Planting Area
18	Planting Area	(Symbol)	Plant: Planting Area
19	Planting Area	(Symbol)	Plant: Planting Area
20	Planting Area	(Symbol)	Plant: Planting Area







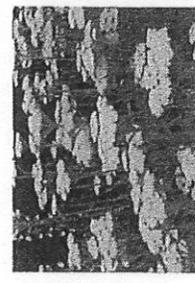
**GROUND COVERS**



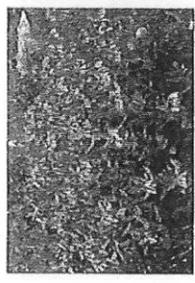
*Elymus torreyana*  
Crested Butte



*Pinus jeffreyi*  
Alpine Slopes



*Achillea M. Chaparral Gold*  
Hybrid Grass



*A. Menziesii*  
Mountain Slopes

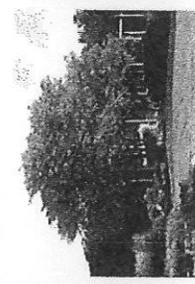
**DECIDUOUS TREES**



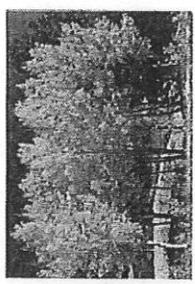
*Alnus incana*  
Thicket Slope



*Picea engelmannii*  
Mountain Slopes



*Pinus strobus*  
"Mountain Slopes"

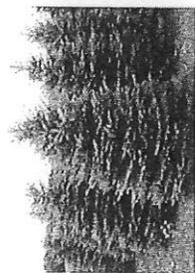


*Populus tremuloides*  
Mountain Slopes



*Betula occidentalis*  
Wet Slope

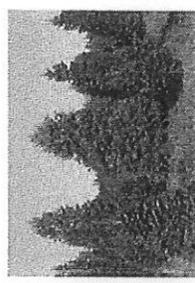
**EVERGREEN TREES**



*Picea canadensis*  
Crested Butte

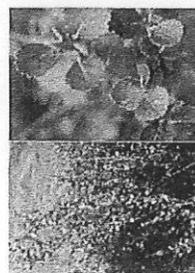


*Pinus strobus*  
"Mountain Slopes"

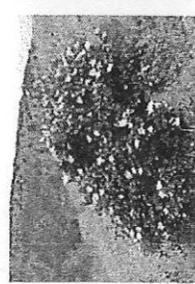


*Pinus jeffreyi*  
Alpine Slopes

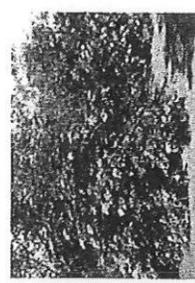
**SHRUBS**



*Rubus odoratus*  
Wet Slope



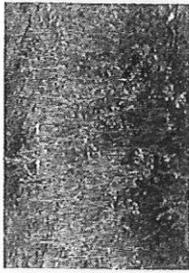
*Rubus odoratus*  
Wet Slope



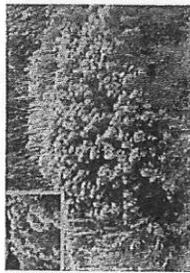
*Rubus odoratus*  
Wet Slope

SEED MIX TYPE 1

SHRUBS

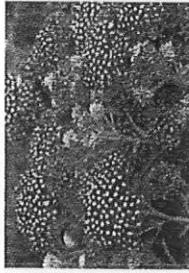


*Artemisia tridentata*  
Fourwing Saltbush



*Chrysothamnus nauseosus*  
Yellow Rabbitbrush

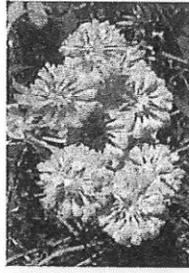
FORBS AND PERENNIALS



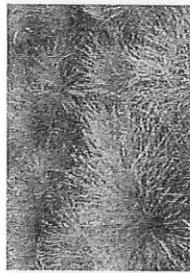
*Achillea millefolium*  
Wormwood



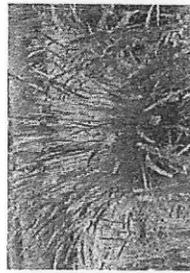
*Elymus elymagrus*  
Sawtooth Wheatgrass



*Eriogonum subsp.*  
Sagebrush



*Festuca saxatilis*  
Rough Bluestem



*Koeleria macrantha*  
Jungo



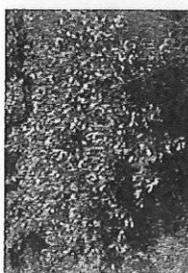
*Poa alata*  
Avena

SEED MIX TYPE 2

SHRUBS



*Pteris aquilina*  
Woods Spider



*Silene maritima*  
Noodle Root

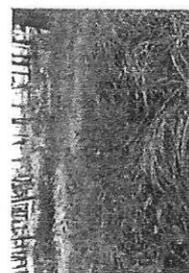
FORBS AND PERENNIALS



*Calligonum strictum*  
Stems



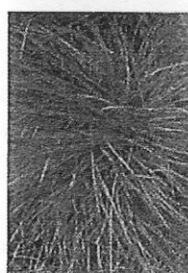
*Carex praealpina*  
Red Sage



*Carex arifolia*  
Baked Sage



*Chrysothamnus occidentalis*  
Lemon Sage



*Chrysothamnus occidentalis*  
Tule



*Juniperus monosperma*  
Juniper



CRESTED BUTTE RESIDENTIAL

EDSA  
Environmental Design Services, Inc.  
1000 North 10th Street, Suite 100  
Flagstaff, AZ 86001  
908/779-1000  
www.edsa.com

Project Name: CRESTED BUTTE RESIDENTIAL  
Date: 12/20/11  
Designed By: [Redacted]  
Drawn By: [Redacted]  
Approved By: [Redacted]  
Project No: [Redacted]  
Title: [Redacted]

Sheet No. L4-102

Project Phase: SCHEMATIC DESIGN  
Sheet Title: PLANT PALETTE

Sheet Number: L4-102

## **Attachment 8**

**8-Protective Covenants Applicant Retained Land, Tracts 1-6**

**DECLARATION OF PROTECTIVE COVENANTS**

**SLATE RIVER SUBDIVISION**

\_\_\_\_\_, 2020

## **ARTICLE 1: Dedication**

**Section 1. Property Dedicated.** Cypress Foothills, LP, a Texas limited partnership (“Declarant”) hereby makes, declares, and establishes the following covenants, restrictions and easements which shall be binding upon and affect the real property more particularly described as:

Slate River Subdivision according to the Plat thereof filed for record the \_\_\_\_ day of \_\_\_\_\_, 2019 and bearing Reception No. \_\_\_\_\_ of the Records of Gunnison County, Colorado.

(the “Property”)

**Section 2. Dedication.** This Declaration of Protective Covenants (the “Covenants”) shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in and to the Property or any Lots, tracts, or parts thereof, their heirs, successors and assigns and their tenants, employees, guests, agents and invitees and shall inure to and be for the benefit of each Owner of the Lot within the Property. These Covenants are imposed for the benefit of all Owners and all future owners of Lots, parcels and areas located within the Property and to provide for the preservations of values of the Property and to provide and preserve the covenants, easements, restrictions, assessments, liens and all other matters set forth in the Covenants, all of which are for the benefit of the Property.

## **ARTICLE 2: Additional Definitions**

**Section 1. “Association”** Shall mean the Slate River Subdivision Homeowners Association, Inc., a Colorado nonprofit corporation.

**Section 2. “Association Documents”** shall mean these Covenants, the Articles of Incorporation and Bylaws for the Association, any amendments to these Covenants and such articles and bylaws, and the Regulations.

**Section 3. “Assessments”** shall mean such regular, annual, periodic, special, default, or delinquent assessments as levied pursuant to these Covenants by the Association.

**Section 4. “Common Area”** shall mean all portions of the Property that are not a Lot, including \_\_\_\_\_, and \_\_\_\_\_.

**Section 5. “Lot”** shall mean a tract or lot as shown on the Plat and any subsequent plat.

**Section 6. “Member”** shall mean any person holding membership in the Association.

**Section 7. “Owner”** shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot.

**Section 8. "Plat"** shall mean the Plat of Slate River Subdivision filed for record the \_\_\_\_\_ day of \_\_\_\_\_, 2019 and bearing Reception No. \_\_\_\_\_ of the Records of Gunnison County, Colorado, and as the same may be amended or revised.

### **ARTICLE 3: Association Matters**

**Section 1. Governance of Association.** The Association and the subdivision are not subject to the Colorado Common interest Ownership Act ("CCIOA") as this is a planned community with less than ten units and it is not subject to any development rights. The Association does not elect treatment under CCIOA. Any provision in these Covenants that would result in electing treatment under CCIOA shall be construed in such a manner as to not require treatment under CCIOA, and if such a construction is not possible, shall be void. The Association shall have all powers and rights that may be afforded to a homeowners' association under the Colorado law, including the Colorado Nonprofit Corporation Act, as amended, without electing treatment under CCIOA, and these Covenants, including without limitation the power, authority and right to raise and impose assessments, foreclose liens for assessments, and any other right or power that may be exercised by an Association.

**Section 2. Members.** Each Owner shall be a Member; provided, however, that each Lot shall only have one membership, vote and share of common expenses, but all persons and entities that are Owners shall have the same rights to the use and enjoyment of the Common Areas.

**Section 3. Grant of Utility Easements.** The Lots and Common Area are subject to certain easements shown on the Plat. In addition, the Association shall have the authority to give, grant, and convey a utility easement for the installation, construction and maintenance of underground utilities, water lines or infrastructure, and/or wastewater lines or infrastructure over and across any road or street easement or roadway or street designated on the Plat. The Owner of each Lot hereby authorizes and empowers the Association, as its attorney in fact, to give and grant:

- A. A utility line, water line, wastewater line, other utility infrastructure, and/or ditch easement up to 10 feet in width adjacent to the exterior boundary line of each Lot for the installation, construction and maintenance of underground utilities, water lines, wastewater lines or infrastructure, and ditches.

### **ARTICLE 4: Assessments**

**Section 1. Creation of Lien.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any deed, is deemed to covenant and agree to pay to the Association: (1) all regular assessments or charges; (2) special assessments and charges; (3) default assessments or charges; (4) late fees, returned check charges, default interest; (5) attorney's fees and costs; (6) default assessments; and (7) fines imposed against such Owner. All

of such amounts shall be fixed, established and collected as determined by the Association. All of such amounts and any other amounts that the Association is entitled to recover against an Owner under Colorado law shall be a charge and continuing lien upon the Lot against which such assessment is made or that such Owner may own, whichever may be applicable. The Association shall have a lien against each Lot to the fullest extent permitted and provided for by Colorado law. The recordation of these Covenants shall perfect the Association's lien on each Lot. The Association's lien shall be prior and superior to all other liens and encumbrances on a Lot except:

- (I) Liens and encumbrances recorded before the recordation of the declaration;
- (II) A security interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the assessment sought to be enforced became delinquent, but such security interest shall still be junior in priority to the Association's lien for an amount not to exceed 6 months of regular assessments of the Association; and
- (III) Liens for real estate taxes and other governmental assessments or charges against the Lot.

**Section 2. Purpose of Assessments.** All assessments shall be levied for purposes permitted under Colorado law, including without limitation: maintenance of Common Areas, repair of Common Areas, snow removal from Common Areas, costs and expenses pertaining to the operation of the Association in the performance of its duties, legal fees, accounting fees, manager fees, and any other expense, fee, cost, obligation, debt or liability incurred by the Association upon the majority vote of the Board. Specifically, but without limitation, common expense assessments are anticipated for road maintenance, snowplowing, and the maintenance and operation of certain water and/or wastewater infrastructure.

**Section 3. Regular Assessments.** Regular Assessments shall be imposed based upon an annual budget adopted by the Association no less frequently than annually.

**Section 4. Special Assessments.** Special Assessments shall be imposed for unbudgeted or unforeseen expenses or for those matters not adequately budgeted for.

**Section 5. Default Assessments.** All fines imposed against an Owner by the Association shall be a default assessment. Any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner shall be a default assessment.

**Section 6. Nonpayment of Assessments.** Any assessment, whether regular, special or default, which is not paid within thirty days of its due date shall be deemed delinquent. All delinquent assessments shall bear interest at 18% per annum. A late charge of 10% of the delinquent amount shall be charged on all delinquent assessments. The Association shall have all powers of collection and enforcement provided and permitted by law, including without limitation the power to collect delinquent assessments through judicial foreclosure of the lien created by these Covenants, through personal judgment against such delinquent Owner, through referring an account to a collections agency, through the filing of a statement of lien against a delinquent

Owners' Lot in the Gunnison County, Colorado Clerk and Recorder's Office, and through such further actions as an association is entitled to take..

**Section 7. Liability for Assessments.** In addition to the personal obligation of each Owner of a Lot to pay all assessments and the Association's lien on a Lot for such assessments, all successors to the ownership of a Lot shall be jointly and severally liable together with the prior Owner or Owners for any and all unpaid assessments, penalties, interest, costs, charges, expenses, attorneys' fees and other amounts secured by such lien.

## **ARTICLE 5: Enforcement of Covenants**

**Section 1. Violations Deemed a Nuisance.** Every violation of these Covenants, shall be deemed to be a nuisance and is subject to all the remedies provided by law for the same, including without limitation abatement thereof.

**Section 2. Who May Enforce.** Any action for the enforcement or interpretation of these Covenants may be brought by the Association in the name of the Association and on behalf of the Owners, and by the Owner of any Lot.

**Section 2. No Waiver.** The failure of the Board, the Association, or any Owner to enforce or obtain compliance as to any violation shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

## **ARTICLE 6: Provisions Required By The Town of Crested Butte**

**Section 1. Compliance With Town Code.** All building, development and other use of a Lot shall comply with the Plat, and the Town Code for the Town of Crested Butte, Colorado, as applicable.

**Section 2. Fencing.** The height of any fence shall not exceed forty-two inches.

**Section 3. Amendment.** No amendment to Article 6 of these Covenants shall be effective until approved by the Town of Crested Butte, Colorado, which approval shall not be unreasonably withheld.

## **ARTICLE 7: Provisions Pertaining To Common Interest**

**Section 1. Common Interest Community.** Slate River Subdivision is a common interest community that is a planned community governed by Slate River Subdivision Homeowners Association, Inc., a Colorado nonprofit corporation. The common interest community is located in Gunnison County. A legally sufficient description of the real estate included in the common interest community is attached hereto as **Exhibit A**. The boundaries of each unit created by the

Covenants is set forth on the Plat, including the unit's identifying number and its size. There are no limited common elements.

**Section 2. Allocation of Interests.** There are 6 Lots. Each Lot has one voting interest as set forth above and one share of common expense liability. Each Lot is allocated 1/6<sup>th</sup> of the vote in the Association and 1/6<sup>th</sup> of the common expenses of the Association.

**Section 3. Notice.** Notice of matters affecting the common interest community may be given to Owners by the Association or other Owners by posting the same on the Owner's door, by U.S. Mail, or by email. Notice by posting shall be effective upon posting. Notice by mail or email shall be effective upon receipt.

## **ARTICLE 9: Duration of Covenants; Miscellaneous**

**Section 1. Term.** These Covenants shall remain in effect perpetually from the date of recordation.

**Section 2. Amendment.** These Covenants may not be waived, abandoned, terminated or amended, in whole or in part, except by an instrument setting forth the written consent of the owners of at least four of the Lots or containing the certification by the Secretary of the Association that the owners of four or more of the Lots voted in favor of such amendment at a duly called and properly noticed meeting of the membership. No mortgage or lienholder approval is required.

**Section 3. Severability.** These Covenants shall, to the fullest extent possible, be construed so as to give validity to all of the provisions hereof. If any provision or portion of provision in these Covenants is determined to be invalid, unenforceable or prohibited by any court, the same shall not affect any other provision or portion thereof or section hereof and all other provisions, portions of provisions and sections shall remain in full force and effect.

**Section 4. Construction.** In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular and the use of any gender shall include all genders.

**Section 5. Headings.** The headings on any section or article are included only for the purposes of convenient reference and shall not affect the meaning or interpretation of these covenants.

**Section 6. Limitation of Liability.** Neither the Association nor any officer, director or other representative of the Association shall be liable to any party for any action or for any failure to take any action with respect to any matter arising by, through, or under these Covenants if the action or failure to act was made in good faith. The Association shall indemnify all officers, directors or other representatives of the Association with respect to any action taken in their official capacity as provided in the Articles of Incorporation and Bylaws of the Association.

Such indemnification shall include repayment of all costs and expenses incurred, including reasonable attorneys' fees.

**Section 7. Attorneys' Fees.** The prevailing party in any legal action in any Court of law to enforce or interpret any provisions of these Covenants shall be entitled to recover from the non-prevailing parties reasonable attorney's fees and costs incurred in such legal action, including without limitation all costs and fees incurred in collection, on appeal, and in bankruptcy proceedings.

**Section 8. Applicable Law.** Gunnison County, Colorado district court or county court shall be the exclusive venue for any action arising out of or relating to the Association or the Covenants or any other dispute between the Association and any Owner provided, however, that the Association may establish exclusive venue, means and procedures for the enforcement of fines, which may include binding arbitration.

**IN WITNESS WHEREOF**, the Declarant has executed these Covenants as of the day and year first above written.

CYPRESS FOOTHILLS, LP,  
a Texas limited partnership

By: CYPRESS FOOTHILLS, GP, LLC,  
a Delaware limited liability company, its  
General Partner

By: \_\_\_\_\_  
Lauren Maguire, its Vice President

STATE OF COLORADO    )  
                                  )ss.  
COUNTY OF GUNNISON )

The foregoing letter was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, as Vice President of Cypress Foothills GP, LLC, which is the General Partner of Cypress Foothills, LP.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## **Attachment 9**

**9-Conservation/Environmental Covenants, TP6A-TP7**

*(To be included in the staff report for public comment)*

## **Attachment 10**

### **10-Right-to-Float Agreement**

*(To be included in the staff report for public comment)*

## **Attachment 11**

### **11-R1F Residential Zoning Requirements**

## Chapter 16

### Article 4, Division 12 "R1F" Residential District

- **Sec. 16-4-1000. - Intent of district.**

The purpose for which this District is created is to provide areas for low-density residential development along with customary accessory uses. The lots in this District provide a transition between the Town and the still larger residential lots outside of Town. Accessory uses naturally and normally incidental to, and exclusively devoted to such primary residential uses are included as conditional uses. It is intended that no more than two (2) units, designed or used for dwelling by a family, shall be allowed on a site.

(Ord. \_\_ §1, 2020)

- **Sec. 16-4-1010. - Permitted uses.**

The following uses shall be permitted in the "R1F" District:

- (1) One-family dwelling units.
- (2) Accessory buildings, incidental nonresidential uses, not heated or plumbed.
- (3) Home occupations.
- (4) Attached garages.
- (5) Detached garages as accessory buildings to the principal permitted uses.

(Ord. \_\_ §1, 2020)

- **Sec. 16-4-1020. - Conditional uses.**

The following uses shall be permitted as conditional uses in the "R1F" District:

- (1) Accessory dwellings in conjunction with a one-family dwelling unit.
- (2) Two-family dwelling units.
- (3) Parking areas.
- (4) Accessory buildings, incidental nonresidential uses, heated and/or plumbed.

(Ord. \_\_ §1, 2020)

- **Sec. 16-4-1030. - Lot measurements.**

The following shall be lot measurements for property located in the "R1F" District:

- (1) Minimum lot area: five thousand (5,000) square feet.
- (2) Maximum lot area: eleven thousand four hundred (11,400) square feet.
- (3) Minimum frontage: fifty (50) feet.
- (4) Minimum front yard:
  - a. Public street: twenty (20) feet.
  - b. Private access road: ten (10) feet.
- (5) Minimum side yard: At least seven and one-half (7½) feet, and up to eleven and one-half (11½) feet, dependent upon snow storage and snow shed guidelines.
- (6) Minimum rear yard:
  - a. Principal building: ten (10) feet.
  - b. Accessory building: five (5) feet.

c. Wetland setback: seven and one-half (7'-6") feet.  
(Ord. \_\_ §1, 2020)

- **Sec. 16-4-1040. - Floor areas.**

The following shall regulate measurements for floor areas located in the "R1F" District:

- (1) Minimum floor area: four hundred (400) square feet for each residential unit.
- (2) Maximum floor area:
  - a. Accessory building, including an accessory dwelling, if any: one thousand (1,000) square feet or two-thirds (2/3) of the floor area of the principal building, whichever is smaller.
  - b. Accessory dwelling: one thousand (1,000) square feet of floor area or two-thirds (2/3) of the floor area of the principal building, whichever is smaller.
- (3) Maximum floor area ratio:
  - a. The principal building shall not exceed two thousand eight hundred (2,800) square feet.
  - b. All buildings shall not be larger than three thousand eight hundred (3,800) square feet in the aggregate.  
(Ord. \_\_ §1, 2020)

- **Sec. 16-4-1050. - Building measurements.**

The following shall regulate measurements for buildings located in the "R1F" District:

- (1) Maximum building height:
  - a. Principal building: thirty (30) feet.
  - b. Accessory building: twenty (20) feet or the height of the principal building, whichever is less.
  - c. Accessory dwelling: twenty-four (24) feet or the height of the principal building, whichever is less.
- (2) Maximum building width: thirty-five (35) feet.  
(Ord. \_\_ §1, 2020)

- **Sec. 16-4-1060. - Additional provisions.**

- (a) Primary and accessory residential buildings shall be oriented on a north-south or east-west axis.
- (b) Open space required: fifty percent (50%) of the lot area shall be open, unencumbered and free of any building or structure.
- (c) Minimum exterior wall height shall be seven (7) feet.
- (d) Minimum vertical distance from eave line of roof to the finished grade level shall be six (6) feet.
- (e) Slope of roof shall be a minimum of 4:12.  
(Ord. \_\_ §1, 2020)