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

Town Council Values

- *Preserve our high quality of Life*
- *Resource Efficiency/ Environmental Stewardship*
- *Support a sustainable and healthy business climate*
- *Maintain a "real" community*
- *Fiscally Responsible*
- *Historic Core*

AGENDA
Town of Crested Butte
Regular Town Council Meeting
Monday, February 5, 2018
Council Chambers, Crested Butte Town Hall

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

5:30 WORK SESSION
Review of Legal Services with Town Attorney, Sullivan Green Seavy.

6:30 BREAK FOR DINNER

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

7:02 APPROVAL OF AGENDA

7:04 CONSENT AGENDA
1) January 22, 2018 Special Town Council Meeting Minutes.
2) Amendment and Extension for Open Space Funding Agreement for the Trampe Ranch Conservation Easement Project.
The listing under Consent Agenda is a group of items to be acted on with a single motion. The Consent Agenda is designed to expedite Council business. The Mayor will ask if any citizen or council member wishes to have any specific item discussed. You may request that an item be removed from Consent Agenda at that time, prior to the Council's vote. Items removed from the Consent Agenda will be considered under New Business.

7:06 PUBLIC COMMENT
Citizens may make comments on item not scheduled on the agenda. Those commenting should state their name and physical address for the record. Comments may be limited to five minutes.

7:15 STAFF UPDATES

7:25 NEW BUSINESS
1) Presentation by John Norton from the Tourism Association on Upcoming Plans.
7:35 2) Presentation by Finance Director Rob Zillioux on the 2017 Financial Summary.
7:50 3) Ordinance No. 2, Series 2018 - An Ordinance of the Crested Butte Town Council Authorizing the Release of Land Use Conditions and Restrictive Covenants.
8:00 4) Review of Red Lady/135 SH Intersection.
8:20 5) Discussion of the Contract to Buy, Sell and Develop Real Estate for Essential Housing, Between Gunnison County and APT Brush Creek Road, LLC.
8:40 6) Letter to Gunnison County Planning Commission for the Sketch Plan Public Hearing for the Corner at Brush Creek Application.

9:00 LEGAL MATTERS

9:05 COUNCIL REPORTS AND COMMITTEE UPDATES

9:20 OTHER BUSINESS TO COME BEFORE THE COUNCIL

9:30 DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Tuesday, February 20, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, March 5, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, March 19, 2018 - 6:00PM Work Session - 7:00PM Regular Council

9:35 EXECUTIVE SESSION

For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding a potential land acquisition.

10:00 **ADJOURNMENT**

MINUTES
Town of Crested Butte
Special Town Council Meeting
Monday, January 22, 2018
Council Chambers, Crested Butte Town Hall

Mayor Schmidt called the meeting to order at 7:21PM.

Council Members Present: Will Dujardin, Kent Cowherd, Chris Haver, Jackson Petito, Laura Mitchell, and Paul Merck

Staff Present: Town Manager Dara MacDonald, Town Attorney John Sullivan, and Community Development Director Michael Yerman

Finance Director Rob Zillioux, Town Clerk Lynelle Stanford, Chief Marshal Mike Reily, and Public Works Director Rodney Due (for part of the meeting)

APPROVAL OF AGENDA

MacDonald stated that item #3 needed to be removed from New Business.

Merck moved and Petito seconded a motion to approve the agenda with the removal of item #3 from New Business. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

CONSENT AGENDA

1) January 8, 2018 Special Town Council Meeting Minutes.

2) USFS GMUG Forest Plan Comment Letter on Draft Species of Conservation Concern and Air Quality Assessments.

3) Professional Services Agreement with Living Design Group Architects for Architectural Services for Duplex Build Located in the Paradise Park Subdivision.

4) Special Event Application and Special Event Liquor Permit for the Alley Loop Nordic Marathon and Pub Ski on February 2 and 3, 2018.

At the request of Dujardin, item #2 was moved to the end of New Business.

Merck moved and Petito seconded a motion to approve the Consent Agenda with the change of item #2 to the last item under New Business. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

PUBLIC COMMENT

Monica Ariowitsch - 37 Villa Court

- Was present to comment on the proposed Brush Creek development.
- The project was not compatible with the adjacent land use.
- Water was a huge question and an issue not sufficiently answered.
- Questioned the influence the Town had over the County Commissioners.
- Encouraged the Town to make its position known.
- The Council suggested that she read the letter regarding Brush Creek in the packet.

STAFF UPDATES

Lynelle Stanford

- Asked the Council to discuss topics for the agenda for the joint meeting with Mt. Crested Butte under Other Business.
- The final decision on which course would be used for the Alley Loop would be made by Monday the 29th.
- Reminded the Council that the meeting on February 20th would be on a Tuesday, and the school was out on break that week.

Mike Reily

- The Women's March occurred safely.

Rob Zillioux

- December revenues were up 6%. Revenue for the entire year was up 5% over the prior year.
- He would provide an in-depth review and look forward at the next meeting.
- There would be a second round of community grants in the spring, and he reviewed the timing of the application process.

Michael Yerman

- The agreement with Living Design Group Architects for the duplex build was approved on the Consent Agenda. They would be kicking off tomorrow.

Rodney Due

- Crews would be out doing clean-up and pulling the remaining snow banks on Elk.

Dara MacDonald

- There would be heavier loads on the upcoming agendas.
- She heard from Dale, who heard from the Sheriff, that they were interested in leasing the old jail starting in about six months from now.

PUBLIC HEARING

1) Ordinance No. 1, Series 2018 - An Ordinance of the Crested Butte Town Council Authorizing the Lease of Various Town Residential Properties (Unit 1, Town Ranch

Apartments, 808 9th Street And 906 Butte Ave. Crested Butte, Colorado) to Various Town Employees.

Schmidt read the title of the ordinance. MacDonald did not have additional changes. The public hearing was opened. There was no one present to comment. The public hearing was closed, and it was moved to Council discussion. There was no further discussion amongst the Council.

Merck moved and Mitchell seconded a motion to pass Ordinance No. 1, Series 2018. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Transfer of the Tavern Liquor License Located at 230 Elk Avenue From Barmuda LTD DBA Talk of the Town to Ladybug LTD DBA Talk of the Town.

Schmidt confirmed proper public notice had been given. Stanford affirmed that the application was complete. Mary Boddington, the owner, introduced herself. There were no questions from the Council. Jim Starr thought it was a great idea, and John Hess concurred. The public hearing was closed. There was no further Council discussion.

Merck moved and Dujardin seconded a motion to transfer the Tavern Liquor License located at 230 Elk Avenue to Ladybug LTD DBA Talk of the Town. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

NEW BUSINESS

1) Torie Jarvis Presenting on the NWCCOG QQ Committee.

Torie Jarvis introduced herself and referenced a fact sheet that had been included in the packet. She named staff members, and she described their roles. Jarvis reviewed the list of members, the inception, and roles of QQ. Jarvis briefly explained their projects, organized according to their policies. She explained that they worked on behalf of their members by having influence on water policy. They were interested in linking land use and water. Schmidt questioned if she had information on the aquifers in the area. Jarvis stated they had contract support and could possibly spend time researching.

2) Chris Larsen with the Annual Update on Mountain Express.

Chris Larsen introduced himself and explained he was at the meeting to provide the 2017 annual report. He provided numbers for ridership in 2017, and he outlined the routes, including the route to Gothic. The number of bicycles carried was down for 2017. Larsen reviewed the financial status, the incoming busses, and upcoming improvements to their storage.

3) Revocable Easement and Parking Agreement Between the Town and Oh Be Joyful Church Located at 625 Maroon Avenue.

Removed from the agenda.

4) Slate River Annexation Concept Review.

Cameron Aderhold from Cypress introduced himself and the Project Manager, David Shute.

Yerman began with a slide outlining the annexation and major subdivision review procedures. Tonight would be the concept review portion of the process. He reviewed the history of the agenda item, including the existence of the pre-annexation agreement. Next, Yerman described subsequent steps in the process and drew the Council's attention to potential dates for public hearings.

Yerman showed a slide depicting the western portion of the site, and he pointed out details from the map, including the lots being conveyed to the Town as part of the pre-annexation agreement. He explained details, including zoning and uses, related to the parcels. There was a discussion on the clean-up of the landfill, particularly related to the area that could be used for affordable housing.

Yerman continued to present on the plan for transportation, and he described the two points of access to the development. Yerman explained the plans for 8th Street and the river trail. Next, the discussion turned to access to the river trail. Schmidt questioned snow plowing and the areas for which Town was responsible. Cowherd wanted to know the size of the boat landing. Yerman clarified it was not a launch point for a large raft. Schmidt elaborated that it was meant for kayakers and paddle boarders, and he confirmed that people would have access to float the river through the property.

Yerman updated the Council on the water rights the Town received from the developer and the water and sewer rates residents of the annexation would pay. Schmidt asked how Public Works would access the snow storage. Mitchell questioned the gate to the Public Works yard, explaining that the discussion had come up at Mountain Express.

Schmidt opened the meeting to public comment.

Jim Starr - 323 Gothic Ave

- He wanted to know how much had already been set and how much flexibility the Town had to reconfigure.
- Sullivan explained that if there were a conflict between the Code and pre-annexation agreement, the pre-annexation agreement would control.
- The public process was a charade because of the pre-annexation agreement.
- He wanted to know the prognosis of the VCUP. Yerman pointed out the agreement was null and void if they didn't receive No Action Determination from the State.
- He asked if the Town received study information to determine the cost of clean-up to provide for affordable housing.
- Thanked the previous Council for their efforts in preventing a gated community.

- He encouraged the developer to include interspersed affordable housing.

Sue Navy

- She wondered if there was unknown toxicity under the landfill area that would be capped. She wanted to be sure there wasn't a health hazard. Yerman reviewed the standards for clean-up for various uses. Aderhold said they would have measures to control the dust during clean-up. Yerman pointed out JVA was on site on behalf of the Town. He then outlined costs that were budgeted for this year.

John Hess

- He noticed the 8th Street extension ran into wetlands. He questioned why it didn't go around the wetlands. Yerman said the intent was to make the area an attractive habitat and a high quality wetland. Hess thought a property line would help protect the wetland.

Jim Starr

- He asked about open space required as part of the annexation. Yerman told him it wasn't a part of the deal.

Mitchell asked for communication related to Mountain Express to facilitate their ability to apply for grants.

Dujardin moved and Cowherd seconded a motion to approve the Slate River Annexation concept review. A roll call vote was taken with all voting, "Yes," except for Petito, who voted, "No." **Motion passed.**

5) Letter to Gunnison County Planning Commission for the Sketch Plan Public Hearing for the Corner at Brush Creek Application.

Schmidt recognized the people who had been working on the letter, to include Haver and Cowherd. He had not heard support from anyone to do the project as proposed. MacDonald acknowledged the letter was a work in progress. They were looking for feedback in general. She anticipated bringing back a more refined draft to the next meeting. Haver identified the bottom line of 240 units as the make or break. To him it was the break. Cowherd was disappointed the proponent made changes but not to the number of units. He was disappointed by the size of the buildings, and two of them actually became larger. The broad impacts did not outweigh the narrow offer of affordable housing. Schmidt heard repeatedly about density. He was concerned about the parks, athletic fields, and the school. He mentioned the safety issue of the approach of Brush Creek Road to 135. Petito pointed out questions he had with various figures in the letter. He called attention to the section describing density. Mitchell agreed with everyone on the 240 units, but her bottom line was water. Merck liked the idea of building housing; however, they were missing out on the reason the land was set aside. The parking, driving, and intersection were red flags to him. Haver didn't believe this development was a new way of solving the issue; it was sprawl.

Monica Ariowitsch

- She thanked the Council for the letter.

Jim Starr - 323 Gothic

- He recognized that this project was not located in the community. He wondered how to provide the needed affordable housing in the communities.
- The Town needed to look at increased density for affordable housing.
- It was incumbent on the communities.
- Beyond saying no, the communities needed to step up.

John Hess

- The Town had done a whole lot already for affordable housing.
- They had to be careful about alienating people about affordable housing.
- He thought it was a great letter.
- The County was not paying attention to their own comprehensive plan if they went through with it.

MacDonald said they would bring the letter back for additional discussion on February 5th.

6) USFS GMUG Forest Plan Comment Letter on Draft Species of Conservation Concern and Air Quality Assessments.

Matt Reed of HCCA approached Dujardin and pointed out issues with the section of the letter on wilderness inventory. Dujardin suggested they could scratch the section. Yerman concurred from the Staff perspective.

Petito moved and Mitchell seconded a motion to direct the Mayor to sign the letter to GMUG with the deletion of references to wilderness. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

There was a discussion on the timing of the Executive Session in the meeting, and the Executive Session was moved to the end.

LEGAL MATTERS

None

COUNCIL REPORTS AND COMMITTEE UPDATES

Will Dujardin

- Attended Mountain Express meeting.
- Mitchell elaborated on the situation with the building as it related to Cypress.
- Mt. Crested Butte was aware of Mountain Express's desire for space for the busses.

Laura Mitchell

- Went to the Scenic Byways meeting. They talked about the Corner at Brush Creek and writing a letter on behalf of Scenic Byways.

Kent Cowherd

- Attended RTA meeting. They were struggling with the compressed natural gas bus. They approved a new graphic wrap for the bus.

Chris Haver

- Expounded on Cowherd's report on RTA. He showed a graphic of the wrap for Western. Reservations were down, and he reported on numbers. They talked about the grade of the road at Brush Creek.
- He also attended a Chamber meeting. They were bringing back the Oh Be Joyful kayak race. The Chamber was financially sound. 12th Night was a big success. The fat tire bike race was coming up.

Paul Merck

- Went to a Center for the Arts meeting. Building construction was on schedule. End of year donations had been steady. The weather had been helpful. They adopted a new literary arts program and were creating a long-term plan for operations.
- Had a STOR meeting. They discussed downplaying the element that CBMR was the only activity to do in the winter. There was a $1.2M grant to help create grant proposals that the group felt they could get behind.

Jackson Petito

- Attended Housing Foundation meeting. The meeting consisted of internal housekeeping. Yerman thanked the Foundation for contributing to the duplex build.

Jim Schmidt

- Attended Housing Authority meeting. Town was way ahead in projects online. The Brush Creek committee was set up. There was still talk of a ballot issue for a permanent funding solution for housing. A bill was being introduced to authorize and expand the use of lodging tax money to fund housing projects.
- Went to the Silent Tracks annual meeting. They were talking of doing more for the summer.
- Went to Mayors/Managers meeting. Jim Gelwicks, Mayor of Gunnison, offered that the members of the Gunnison Council could come to Crested Butte for a joint meeting. There was a presentation from the Upper Gunnison. No one would be trying for a trans mountain diversion in Gunnison County.
- The hospital was interested in finding a building.
- Pitkin was putting together their short-term rental ordinance.
- Wednesday at 6PM there would be a film at the Museum on the Jokerville Mine.

- They were asking for donations for monuments in the cemetery. He asked if it was okay for the Cemetery Committee to seek out sponsorships. No one voiced disagreement.
- They met with the Film Commission. They wanted to do Snowbeast 2.
- Went to CAST meeting. Town had done almost everything that was recommended regarding the STR ordinance. There was a CDOT presentation on computerization, smart roads, and self-driving cars.
- Met with Ian Billick. RMBL and CBMR were discussing a housing project.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Schmidt brought up the attorney review. He asked if they wanted to include the full Council, or they could form a sub-committee. MacDonald said the six-month review was focused on the billing rate. The Council decided they would do the review as a whole.

Schmidt wanted to talk about Brush Creek and the Sheriff's situation in the joint meeting with Mt. Crested Butte. Haver also mentioned the parking program. They discussed the logistics of the meeting.

Schmidt identified the golf carts used for shuttling at CBMR. He would like to see them used on Elk Avenue in the summer. MacDonald asked for direction on the implementation. Mitchell agreed to bring it up with Jim Beck and Mountain Express.

MacDonald said there were parcels for public use in the annexation. She listed entities that had needs for new facilities. They were starting the conversation. She suggested the Council could appoint members to attend the meetings to be a part of the conversation. Schmidt and Mitchell agreed to participate.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, February 5, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Tuesday, February 20, 2018 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, March 5, 2018 - 6:00PM Work Session - 7:00PM Regular Council

The next work session was reserved to discuss the Slate River Annexation, which was not needed. The Council decided to conduct the review of the attorney at 5:30PM, eat at 6:30PM, and the regular meeting would start at 7PM.

EXECUTIVE SESSION

Petito moved and Merck seconded a motion to go into Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations,

developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) regarding the ADU case. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 10:33PM. The Council returned to open meeting at 11:22PM. Mayor Schmidt made the required announcement before returning to open meeting.

ADJOURNMENT

Mayor Schmidt adjourned the meeting at 11:24PM.

_____
James A. Schmidt, Mayor

_____
Lynelle Stanford, Town Clerk (SEAL)

Staff Report

February 5, 2018

To: Town Council

From: Hilary Henry, Open Space/Creative District Coordinator

Thru: Michael Yerman, Community Development Director

Subject: Amend/Extend for the Trampe Open Space Funding Agreement

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Background:

In 2015, the Town Council approved Resolution 29, Series 2015, allocating $1 million to support the conservation of 6,000 acres of open space through a conservation easement on the Trampe Ranch. Resolution 29, Series 2015 required a funding agreement between the Town and the Trust for Public Lands, who is negotiating the easement and the closing. The Town Council approved this funding agreement in June, 2017.

As the closing has been delayed to 2018 on the Trampe project, Council must reauthorize the use of the funds. Town Staff have worked with the Town Attorney to draft an amend/extend agreement allowing the Town to provide the $1 million commitment to the Trampe Project in 2018.

The Trust for Public Lands expects the Trampe Project will close during the month of March. The Town has sufficient funds in the Open Space Budget to pay for this project.

Recommendation:
Staff recommends the Town Council makes a motion to authorize the mayor to sign the "Agreement to Amend/Extend Funding Agreement".

AGREEMENT TO AMEND/EXTEND FUNDING AGREEMENT

THIS AGREEMENT amends the Open Space Funding Agreement dated June 27, 2017, between the Town of Crested Butte, Colorado, a Colorado home rule municipal corporation ("Town"), whose legal address is 507 Maroon Avenue, P.O. Box 39, Crested Butte, Colorado 81224, and the Trust for Public Land, a Colorado nonprofit corporation ("TPL" or "Grantee"), whose legal address is 1410 Grant Street, Suite D210, Denver, Colorado 80203.

RECITALS

A. The Town and TPL entered into an Open Space Funding Agreement dated June 27, 2017, under which the Town agreed to contribute a $1,000,000.00 grant towards purchase of a Conservation Easement pursuant to the terms and conditions of the Open Space Funding Agreement.

B. Paragraph 2.B. of the Open Space Funding Agreement states that if the Closing for the Conservation Easement does not occur on or before December 31, 2017, the Open Space Funding Agreement and the Town's grant of $1,000,000.00 Town's grant towards the purchase of the Conservation Easement shall terminate and be void, unless the Town agrees to continue the Open Space Funding Agreement based upon a Closing after December 31, 2017.

In consideration of the forgoing recitals and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the Town and TPL agree as follows:

1. Amendment of Paragraph 2.B. of Open Space Funding Agreement. Paragraph 2.B. is hereby replaced and amended to state:

B. The Grant Funds shall be paid in one lump sum to Grantee (or deposited into escrow with closing company Alpine Title) at or prior to closing for the benefit of Grantee (the "Closing") on the Conservation Easement; provided that, Closing shall occur on or before December 31, 2018. If Closing does not occur on or before December 31, 2018, this Open Space Funding Agreement and the Town's grant made herein shall terminate and be void *ab initio*, unless the Town agrees to continue this Agreement based upon a Closing after December 31, 2018.

2. Other Provisions of Open Space Funding Agreement Continue. Except as amended herein, the other terms and conditions of the Open Space Funding Agreement between the Town and TPL shall continue in full force and effect and be binding upon the parties.

EXECUTED this ___ day of _____, 2018.

The Trust for Public Land

By: _____
Justin Spring, Colorado Director
for Land Protection

Town of Crested Butte, a Colorado
Home Rule Municipal Corporation

By: _____
James A. Schmidt, Mayor

Attest: _____
Lynelle Stanford, Clerk

Tourism Association

Reconstituted in January, 2015

New goal:

- Building lodging revenues, primarily through rising occupancies

New strategies:

- Summer, our trail systems, particularly mtb trails
- Winter, our skiing

Results:

- Summer, excellent
- Winter, so-so
- Overall, pretty good
- Budget growth from $1million to $2million

Destimetrics

- Measuring a 19-mountain valley set from Jackson to Telluride, and Summit County to Squaw

Secondary goal: air program success

- Working closely with RTA and Air Command

Successes:

- Electronic trails mapping, summer and winter
- Growth in mtb
- FBW, Growler, CBBW, Outerbike
- Growth in Alley Loop and Nordic generally
- Second winter fight, UA from Denver

Biggest challenge:

- Winter
- Blue Mesa

Reconstituted again! January, 2018!

Additional goals:

- STOR
    - Governor's Keynote at Outdoor Retailer
- Business recruitment to the valley
    - Outdoor Retailer visit
    - Western
    - Internships?

New business practice:

- Marketing grant cycle

Staff Report

February 5, 2018

To: Mayor and Town Council

Thru: Dara MacDonald**,** Town Manager

From: Rob Zillioux, Finance and HR Director

Subject: 2017 Sales Tax Update

Date: February 5, 2017

Summary:

- 2017 Total - Local sales tax increased 6% versus 2016, and roughly 3% over budget.
- Winter - A banner snow season (Jan-Apr) drove growth of 10% versus prior period.
- Summer - The summer season (Jun–Sept) grew 5%.
- Fall – the shoulder season (Oct-Nov) grew 9%,
- Late November and December, largely due to lack of snow, brought down YTD tax growth. Through October, revenue YTD was 7.5% over 2016.

Trends:

- The summer season (June – September) accounts for roughly half of annual revenues. This trend has steadily continued for 10 years. September revenues have seen the highest growth over this ten year period.
- The traditional ski season (Jan-April) has seen a steady, albeit slow, decline in terms of total tax revenue. By way of comparison with summer season, these four months account for 27%-28% of annual revenue.
- April, November and May (in that order) are consistently the lowest revenue months.

December:

- Revenues were effectively flat versus 2016. Bars, restaurants and retail were mostly down, with some of the most popular establishments being down high single digits to low double digits. Construction, and related materials, were up double digits, due to mild weather

allowing for a longer construction cycle. It is highly probable that this trend, adversely impacting bars, restaurants and retail will continue January into February.

Segments:

- Bars and Restaurants consistently account for 30%+ of our revenue base. Retail (26%) and grocery (12%) are the 2nd and 3rd largest components of our overall revenue base.

- Retail is the one segment that has declined as a percentage of total. Out of State (i.e.) mail-order companies are cutting into revenue of our local shops. Some mail-order companies, such as Apple and Zappos, have been paying local taxes. Others, notably Amazon, have not been paying local taxes. Out of state mail-order is a grey area in the tax code. I will continue to monitor and work with retailers in an effort to have them register and pay local tax. Mail-order can have two negative impacts on our local economy (1) hurt local retailers, our "shopping district" and their employees (2) reduce the Town's tax receipts. Conversely, mail-order provides our citizens a wider selection and lower prices.

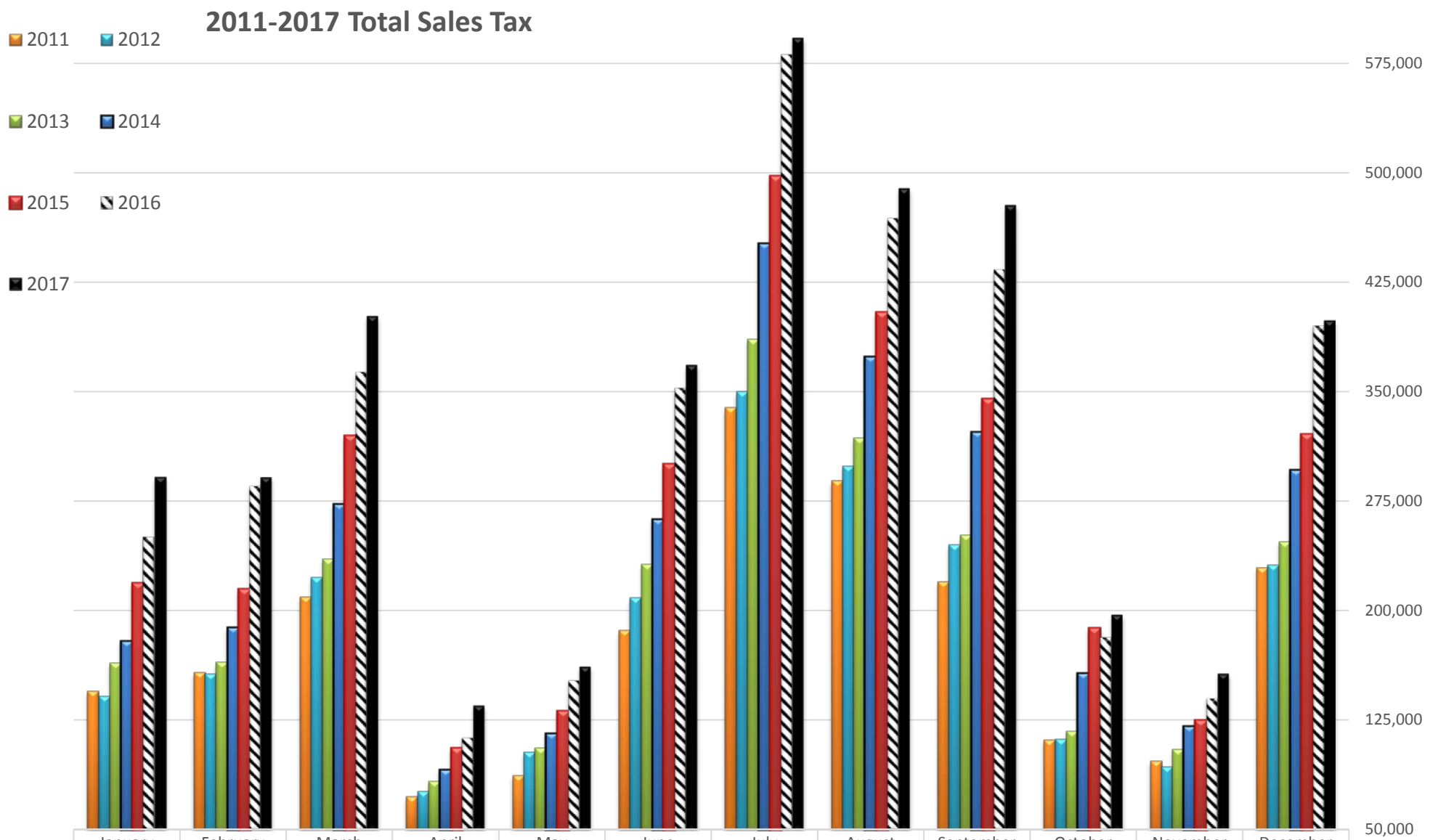
Looking Forward:

- Should the dry winter persist, we can reasonably expect 1Q18 revenue to be lower than 1Q17 and below budget. Prudence, discipline and choices may be necessary so as to not overly eat into fund reserves.

- Macroeconomic Environment – A Cautionary Tale. Since the Great Depression, the US has experienced recessions, on average, every ten years. Low unemployment and an inflated stock market have led to robust tax revenue growth over the last 5 years. Prior to that, it took CB five years to get back to pre "great recession" revenues. That is, it was not until 2012 that we got back to 2007 revenue levels. Point being, caution is encouraged, as we evaluate large (discretionary) capital expenditures over the next few years.

Sales Tax Totals
month/year

	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008
January	291,315	251,413	218,747	178,551	164,184	140,874	144,719	140,101	160,880	176,523
February	291,617	286,113	214,516	188,357	164,402	156,639	157,612	144,899	154,777	176,016
March	401,896	364,051	319,359	272,671	235,215	222,821	209,508	192,397	190,312	204,826
April	135,341	114,240	105,814	90,956	82,841	75,955	72,536	69,893	70,535	92,042
May	162,024	153,340	130,937	115,762	105,719	102,728	86,876	82,799	86,761	93,502
June	368,496	353,106	300,276	262,233	231,505	208,541	186,343	168,318	173,948	186,660
July	592,399	580,786	497,527	451,420	385,817	349,992	339,212	313,088	280,628	289,756
August	489,440	468,946	404,099	373,804	318,141	298,802	288,719	253,153	247,169	274,770
September	477,912	433,965	345,216	321,857	251,738	245,166	219,774	199,118	186,503	195,685
October	197,479	182,931	187,594	157,098	117,220	111,921	111,103	107,695	98,120	127,093
November	157,225	141,191	124,545	120,386	104,983	92,783	96,695	93,314	89,737	94,189
December	398,913	395,656	320,667	296,298	247,107	231,055	229,511	211,084	197,395	213,908
Total	**3,964,058**	**3,725,739**	3,169,296	**2,829,392**	**2,408,871**	**2,237,278**	**2,142,608**	**1,975,860**	**1,936,765**	**2,124,971**
Annual Growth	*6%*	*18%*	*12%*	*17%*	*8%*	*4%*	*8%*	*2%*	-9%	-2%



	January	February	March	April	May	June	July	August	September	October	November	December
2011	144,719	157,612	209,508	72,536	86,876	186,343	339,212	288,719	219,774	111,103	96,695	229,511
2012	140,874	156,639	222,821	75,955	102,728	208,541	349,992	298,802	245,166	111,921	92,783	231,055
2013	164,184	164,402	235,215	82,841	105,719	231,505	385,817	318,141	251,738	117,220	104,983	247,107
2014	178,551	188,357	272,671	90,956	115,762	262,233	451,420	373,804	321,857	157,098	120,386	296,298
2015	218,747	214,516	319,359	105,814	130,937	300,276	497,527	404,099	345,216	187,594	124,545	320,667
2016	251,413	286,113	364,051	114,240	153,340	353,106	580,786	468,946	433,965	182,931	141,191	395,656
2017	291,315	291,617	401,896	135,341	162,024	368,496	592,399	489,440	477,912	197,479	157,225	398,913

Sales Tax Totals
December 2017

December

	% of Total	2017	Δ %	2016	2015	2014	2013	2012	2011	2010	2009	2008
		4.5%		4.5%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Bars & Restaurants	25%	101,705	-4%	106,117	80,898	75,553	66,672	59,502	62,570	52,756	52,104	50,918
Grocery Sales	11%	45,789	13%	40,527	36,710	33,496	32,017	29,522	27,946	28,464	26,513	31,305
Retail	29%	114,971	0%	114,414	93,921	98,584	75,998	70,385	74,423	68,592	63,318	67,532
Marijuana	2%	6,750	-45%	12,351	10,357							
Lodging	12%	48,786	25%	39,126	31,023	29,135	22,281	20,639	18,786	18,686	15,333	12,161
Construction, Auto & Hardware	8%	31,688	13%	27,935	30,554	20,489	17,045	17,075	15,822	18,183	15,339	22,675
Services (telephone, car leases, etc…)	7%	28,853	-21%	36,742	24,199	24,791	19,071	21,002	14,840	10,075	10,645	12,206
Other (Gas, Electric, etc…)	5%	20,370	10%	18,444	13,005	14,250	14,023	12,931	15,123	14,327	14,142	17,111
Total	100%	398,913	1%	395,656	320,667	296,298	247,107	231,055	229,511	211,084	197,395	213,908
Growth		*1%*		*23%*	*8%*	*20%*	*7%*	*1%*	*9%*	*7%*	*-8%*	*-8%*

Year to date

	% of Total	2017	Δ %	2016	2015	2014	2013	2012	2011	2010	2009	2008
		4.5%		4.5%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Bars & Restaurants	31%	1,222,010	3%	1,182,685	971,027	872,824	746,676	685,002	643,368	572,332	556,077	588,882
Grocery Sales	12%	458,907	8%	424,514	361,513	335,590	300,795	275,812	270,583	256,937	264,864	310,166
Retail	26%	1,021,765	9%	940,580	811,605	830,695	687,007	641,028	611,731	571,520	536,033	586,676
Marijuana	3%	122,085	-5%	128,664	142,137							
Lodging	10%	407,622	7%	380,157	299,063	254,784	211,548	184,491	177,632	153,588	136,013	131,039
Construction, Auto & Hardware	9%	350,758	12%	312,487	289,665	239,818	207,618	201,233	204,291	204,484	207,651	257,401
Services (telephone, car leases, etc…)	5%	191,043	-3%	196,895	159,303	155,198	125,971	125,530	102,735	89,483	101,690	110,219
Other (Gas, Electric, etc…)	5%	189,868	19%	159,758	134,983	140,483	129,257	124,182	132,269	127,515	134,437	140,588
Total	100%	3,964,058	6%	3,725,739	3,169,295	2,829,393	2,408,871	2,237,278	2,142,608	1,975,860	1,936,765	2,124,971
Growth		*6%*		*18%*	*12%*	*17%*	*8%*	*4%*	*8%*	*2%*	*-9%*	*-2%*

Staff Report

February 5, 2018

To: Town Council

Thru: Michael Yerman, Community Development Director

From: Jessie Earley, Assistant Design Review & Historic Preservation Coordinator

Subject: Ordinance 2, Series 2018, Release of Agreements for Land Use Conditions and Restrictive Covenants for 405 Fourth Street, Block 27, Lots 1-4

BACKGROUND:

A release of two restrictive covenant agreements (RCA) are being requested by the property owner Elk Avenue Partners, LLC at 405 Fourth Street. The RCA's were filed in the Gunnison County real property records as Reception #613673 in 2012 and Reception #614085 in 2015 for businesses (Third Bowl and Heartsong's Caribbean Crunchies) that no longer exist on the property.

DISCUSSION:

At the January 31, 2017 meeting, the BOZAR approved a conditional use permit for a limited restaurant operation associated with Mountain Earth Whole Foods located at 405 Fourth Street. A new RCA will be recorded on the property associated with this approval once the other RCAs are released.

The original RCAs for the two former businesses are highly restrictive and the property owner wishes to release the covenants from the property before recording a new RCA for Mountain Earth Whole Foods.

The Town of Crested Butte issues the RCA to the property owner. The release of an RCA must be authorize by the Council through an ordinance. The Release of the RCA together with the Ordinance No. 2, Series 2018 was prepared by the Town Attorney for the Council's review and consideration.

RECOMMENDATION:

A Town Council member make a motion followed by a second to set Ordinance 2, Series 2018, Release of Agreements with Elk Avenue Partners, LLC to release the agreements for land use covenants for Lot 1-4, Block 27 for a public hearing on the February 20th agenda.

ORDINANCE NO. 2

SERIES 2018

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL AUTHORIZING THE RELEASE OF LAND USE CONDITIONS AND RESTRICTIVE COVENANTS

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by the Constitution and the laws of the State of Colorado;

WHEREAS, the Town Council is authorized pursuant to § 14.4 of the Town Charter to sell and convey Town-owned property;

WHEREAS, the Town owns an interest in certain Land Use Conditions and Restrictive Covenants as part of Agreements recorded June 21, 2012 at Reception No. 613673, July 12, 2012 at Reception No. 614085, and October 16, 2015 at Reception No. 636065 ("Restrictive Covenants");

WHEREAS, the Town required these Restrictive Covenants encumber real property and improvements located at 405 Fourth Street, Crested Butte, Colorado 81224, and some of the uses of that property have changed since the Restrictive Covenants were recorded;

WHEREAS, the Restrictive Covenants will be replaced with different land use conditions and covenants that apply to the current uses on the property; and

WHEREAS, the Town Council hereby finds that it is necessary and suitable, and in the best interest of the Town and the health, safety and welfare of the residents and visitors of Crested Butte, that the Restrictive Covenants should be discontinued and released, as set forth hereinbelow.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Authorization to Release Town-owned Restrictive Covenant. The Town Council, pursuant to the Crested Butte Town Charter and the laws of the State of Colorado, hereby authorizes the Town to release the following described property from the Restrictive Covenants recorded at Reception No. 613673, at Reception No. 614085, and at Reception No. 636065, to wit:

Block 27,
Lots 1-4,
Town of Crested Butte,
State of Colorado.

commonly known as 405 Fourth Street, Crested Butte, Colorado 81224 (the "Property").

The Town Council further authorizes and directs the Town Manager and Town Clerk to appropriately execute any additional documents necessary and appropriate to consummate the release of the Restrictive Covenants and the replacement of such Restrictive Covenants with land use conditions and covenants that apply to the current uses on the Property, following approval thereof by the Town Attorney.

Section 2. **Severability**. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 3. **Savings Clause**. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which conflicts with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS __ DAY OF _____, 2018.

ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS ___ DAY OF _____, 2018.

TOWN OF CRESTED BUTTE, COLORADO

By: _____
James A. Schmidt, Mayor

ATTEST:

_____ **[SEAL]**
Lynelle Stanford, Town Clerk

RELEASE OF AGREEMENTS FOR LAND USE CONDITIONS AND RESTRICTIVE COVENANTS

WHEREAS, the Town of Crested Butte, a Colorado home rule municipality, is the owner and beneficiary of certain Agreements for Land Use Conditions and Restrictive Covenants encumbering the real property legally described as:

Block 27,
Lots 1-4,
Town of Crested Butte,
State of Colorado.

commonly known as 405 Fourth Street, Crested Butte, Colorado 81224 (the "Property");

WHEREAS, the Agreements for Land Use Conditions and Restrictive Covenants were recorded June 21, 2012 at Reception No. 613673, July 12, 2012 at Reception No. 614085, and October 16, 2015 at Reception No. 636065;

WHEREAS, the Town desires to release the foregoing Agreements for Land Use Conditions and Restrictive Covenants applicable to the Property and replace them with updated Land Use Conditions and Restrictive Covenants.

In consideration of the foregoing Recitals, the Town hereby releases the Notices of Agreements for Land Use Conditions and Restrictive Covenants recorded June 21, 2012 at Reception No. 613673, July 12, 2012 at Reception No. 614085, and October 16, 2015 at Reception No. 636065, and forever discharges the Property from these Conditions and Covenants.

Executed this ____ day of _____, 2017.

TOWN:

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

By: _____
_____, Mayor

ATTEST:

_____ (SEAL)
Lynelle Stanford, Town Clerk

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The foregoing Release of Agreements for Land Use Conditions and Restrictive Covenants was acknowledged before me this ___ day of _____, 2017, by _____, _____, Town of Crested Butte, Colorado, a Colorado home rule municipal corporation on behalf of said entity.

Witness my hand and official seal.
My commission expires _____.
_____

RECORDING REQUESTED BY:
WHEN RECORDED RETURN TO:
Town of Crested Butte
Attn: Town Building and Zoning Director
P.O. Box 39
Crested Butte, CO 81224

RESTRICTIVE COVENANT AGREEMENT

THIS RESTRICTIVE COVENANT AGREEMENT (this "**Agreement**") is made effective this ___ day of _____, 20__ by and between the TOWN OF CRESTED BUTTE, COLORADO (the "**Town**"), Colorado home rule municipal corporation with an address of 507 Maroon Avenue, P.O. Box 39, Crested Butte, CO 81224 and ELK AVENUE PARTNERS LLC ("**Owner**"), a Colorado limited liability company with an address of PO Box 836, Crested Butte, CO 81224.

WITNESSETH:

WHEREAS, Owner is the record owner of certain real property located within Crested Butte and legally described as follows:

Block 27,
Lots 1-4,
Town of Crested Butte,
State of Colorado,

commonly known as 405 Fourth Street, Crested Butte, Colorado 81224 (the "**Subject Property**");

WHEREAS, Owner applied to the Town on December 28, 2016 (the "**Application**") for siting a restaurant use ancillary to the retail commercial establishment of the Subject Property pursuant to Section(s) 16-5-110 to 16-5-160 et seq. of the Crested Butte Municipal Code (the "**Code**");

WHEREAS, on January 31, 2017 the Board of Zoning and Architectural Review (the "**Board**") conducted public hearings on Owner's Application;

WHEREAS, at such public hearings, the Board granted approval of Owner's Application pursuant to Sections 16-9-70 of the Code (collectively, the "**Approvals**");

WHEREAS, at such public hearings, the Board placed certain conditions on the Approvals as further described herein; and

WHEREAS, Owner has agreed to satisfy such conditions and heretofore agreed to place the following covenants against the Subject Property.

NOW, THEREFORE, in consideration of the agreements, covenant and conditions set forth herein, the Town and Owner agree as follows:

AGREEMENT:

1. **Grant of Approvals**. The Town, through the Approvals, hereby grants to Owner with respect to the Subject Property the following rights appurtenant:

(a) (___) variance;
(b) (_X_) conditional use;
(c) (___) conditional waiver;
(d) (___) special development permit;
(e) (___) planned unit development;
(f) (___) conditional rezoning; and/or
(g) (_X_) architectural approval.

The following matters apply to such rights: A conditional use permit to site a restaurant operation in the B1 zone was granted.

2. **Conditions to Approvals**. In consideration of the Approvals, Owner hereby agrees to the following conditions and restrictions on the use and occupancy of the Subject Property:

a) The restaurant use will remain ancillary to the retail commercial establishment;
b) The improvements will be constructed as per the approved plan on file at Town offices;
c) Snow must be stored on site or removed from the site. Snow may not be placed on the Town rights of way; and
d) All approved parking will be maintained and accessible on a year-round basis.

The Approvals are subject to all the requirements, rights and obligations set forth in the Code, including, without limitation, those set forth in Sections 4-8-10, 16-24-30, 16-9-70, 16-24-20 and 18-13-10 (a) (regarding entry for enforcement and inspection), as amended, as if such requirements, rights and obligations were included verbatim herein. Regarding entry and inspection, Owner consents to such entry and inspection in consideration of the rights granted in this Agreement, upon reasonable notice to Owner and at reasonable times. Upon written inquiry by the Town respecting Owner's compliance with the terms hereof, Owner shall reasonably promptly and truthfully, and under penalty of perjury, respond to the Town's inquiry in the time frame given to Owner in such inquiry. Absent the Town giving Owner a specific time for such response, such time frame for Owner's response shall be 30 days from Owner's receipt of such inquiry.

3. **Duration; Obligations**. The rights, obligations and restrictions contained in this Agreement shall run with the land and title to the Subject Property and shall forever bind all persons and entities having any right, title or interest in and to the Subject Property, along with their tenants, licensees, employees and other persons authorized to use the Property.

4. **Warranty of Priority**. Owner represents and warrants that the lien or encumbrance created by the obligations contained in this Agreement pursuant to the Code shall be superior to any deed of trust or other lien on the Property.

5. **Indemnification**. Owner, for itself, its successors and assigns hereby undertakes to indemnify, defend, hold harmless and pay the Town, its elected officials, appointed boards, officers, employees, managers, attorneys, contractors, agents, insurers and insurance pools, from any and all loss, cost, expense, claim or damage of any kind, including, without limitation, reasonable attorneys' fees, costs and expenses, arising from or relating to Owner's obligations under this Agreement and the breach thereof, and its and their exercise of the rights and privileges granted by this Agreement.

6. **Default; Remedies**.

6.1 The following conditions, occurrences or actions shall constitute a default by Owner under this Agreement:

(a) Owner's failure to pay to the Town upon demand any amounts due and owing the Town in connection with the Subject Property and the Approvals; or

(b) Owner's violation of any provision of this Agreement, the Approvals or the Code.

6.2 Upon the occurrence of a default of Owner, the Town shall have one or more of the following remedies: (i) recover any and all amounts due and owning the Town on account of such default including, without limitation, any fines, fees, costs and any reasonable attorneys' fees, costs and expenses; (ii) terminate this Agreement and with it the Approvals and the rights granted by the Board pursuant thereto; and (iii) pursue all remedies available at law and in equity, including, without limitation, abatement, the institution of collection procedures pursuant to Section 4-8-10 of the Code and/or any other rights or remedied available under the Code and applicable law.

6.3 All remedies may be applied concurrently and not to the exclusion of any other remedy. In the event of any legal action or advice necessary to pursue such remedies or interpret this Agreement, Owner shall pay to the Town all reasonable costs and expenses in connection therewith, including, without limitation, reasonable attorneys' fees and associated costs.

6.4 Any amounts due and owing the Town pursuant to this Agreement shall accrue interest at a rate of 12% per annum until such amounts are paid.

7. **Representations and Warranties**. Owner represents and warrants that:

(a) it is duly qualified to do business and is in good standing in the State of Colorado;

(b) it, and the persons executing this Agreement, have full power and authority to execute, deliver and perform its obligations under this Agreement;

(c) that it will comply with all applicable laws, ordinances, rules, regulations or orders issued by any public or governmental agency, body or authority, whether federal, State, local or otherwise, and has obtained all applicable permits and licenses required of Owner in connection with its obligations under this Agreement; and

(d) it shall be subject to all laws, ordinances and regulations that become effective after the effective date hereof to the extent permitted by applicable law.

8. **Miscellaneous**.

8.1 **Defined Terms**. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Code.

8.2 **Recitals**. The Recitals set forth hereinabove are deemed to be material terms of this Agreement.

8.3 **Construction**. None of the provisions of this Agreement shall be construed against or interpreted to the disadvantage of either party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provisions.

8.4 **No Third-Party Beneficiaries**. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of any third party against either the Town or Owner.

8.5 **Enforcement**. Every violation of this Agreement shall be deemed to be a nuisance and shall be subject to all the remedies provided for the abatement of nuisances. A failure to comply with this Agreement shall be grounds for an action to recover damages, for injunctive relief, for specific performance and/or any other remedy available at law and in equity.

8.6 **Notices**. All notices required pursuant to this Agreement shall be deemed served upon depositing a certified letter, return receipt requested, in the United States mail, addressed to the party being served with such notice at the addresses set forth above, unless a request to mail to a different address is provided in writing to the other party.

8.7 **Severability**. If any provision of this Agreement is determined to be invalid, unenforceable of prohibited by any court, the same shall not affect any other provision or section hereof and all other provisions and sections shall remain in full force and effect.

8.8 **Entire Agreement**. This Agreement represents the entire agreement of the parties respecting the subject matters addressed herein. Any other agreements, written or oral,

are hereby merged herein. This Agreement may be amended only in writing by properly executed agreement.

8.9 **Governing Law; Venue**. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. Venue is any action in connection with this Agreement shall be the District Court of Gunnison County, Colorado.

8.10 **Waiver**. No breach by Owner, or his heirs, successors, and assigns, of any term or covenant of this Agreement, shall create a waiver by, or estoppel against the Town, as to future or continuing breaches it being the express understanding of the parties that breaches of this Agreement may be waived only by written consent of the Town.

8.11 **Amendment**. No term or provision of this Agreement may be amended, except in writing signed and duly acknowledged by the parties, and in the Town's case, duly adopted by the Board or Town Council, as applicable. No such amendment shall be effective until recorded in the official real property records of the Clerk and Recorder of Gunnison County, Colorado.

8.12 **Counterparts; Telecopy**. This Agreement may be executed in multiple counterparts, each of when, when taken together, shall constitute one and the same instrument. For purposes of enforcement, facsimile, E-mail and telecopy reproductions of this Agreement shall be deemed to be originals.

[Remainder of Page Intentionally Left Blank;
Signature Page(s) to Follow]

IN WITNESS WHEREOF, Owner and the Town have caused this Agreement to be executed effective as of the date first written above.

TOWN:

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

By: _____
_____, Mayor

Attest: _____ [SEAL]
_____, Town Clerk

OWNER:

Elk Avenue Partners, LLC,
a Colorado limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Restrictive Covenant Agreement was acknowledged before me this _____ day of _____, 20__ by _____, Mayor of the Town of Crested Butte, a Colorado home rule municipality on behalf of said entity.

Witness my hand and official seal.
My commission expires:

_____
Notary Public

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing Restrictive Covenant Agreement was acknowledged before me this _____ day of _____, 20__ by _____, _____ of Elk Avenue Partners, LLC, a Colorado limited liability company, on behalf of said entity.

Witness my hand and official seal.
My commission expires:

_____
Notary Public

To: Mayor Michel and Town Council

From: Michael Yerman, Community Development Director
Rodney Due, Public Works Director

Thru: Dara MacDonald, Town Manager

Subject: **SH 135/Red Lady Avenue Intersection**

Date: February 5, 2018

Background:
On February 1, 2016 the Town Council was presented with two design upgrade options to the Red Lady/SH 135 intersection. Both designs are attached to this staff report. Prior to this meeting, the Town staff in conjunction with JVA Engineers, McDowell Engineering, and CDOT staff engaged in a 6 month peer review of possible upgrade solutions for the failing intersection. Since this intersection is located in the CDOT right-of-way, CDOT must approve the design. Both designs also included a new entrance into the Community School parking lot. At that meeting, the Town Council instructed the Town staff to pursue funding from CDOT for the creation of a roundabout at this intersection as the preferred design.

At the January 22, 2018 Town Council work session, the Council as well as several members of the public expressed reservations about moving forward with the design of the Red Lady Roundabout intersection improvements. The budget 2017 includes $250,000 for the design of the Roundabout as well as a separate entrance into the school. The reason for the inflated cost of design is that this intersection improvement would fall under CDOT's Local Agency Review permit because the Town would be seeking additional funding from CDOT's State Transportation Improvement Fund ("STIP") in the future to assist with this project.

If the Council elects to not pursue the Roundabout design at this time, the school entrance can still be designed this year. This project would be a CDOT Access Permit application and would not require the extensive engineering and additional studies that are required under the Local Agency Review permit. The result would be a cost savings of between $150,000-$200,000. However, the school entrance design and engineering as well as the construction costs would not count as matching funds for STIP funding from CDOT in the future.

Direction needed at this time:
Staff needs direction from the Town Council to move forward with the design of the school entrance or any intersection improvements in 2018. The staff hopes the construction of the entrance to the school in 2019 improves intersection movements and delays the need for the intersection improvements at the Red Lady Avenue/SH 135 intersection into the future. Cost savings on the project could be used for other qualifying street and alley projects in future budget years.

Staff Recommendation:
After listening to Council and public comments, the Staff recommends proceeding with just the design and construction of the school entrance and delaying any planning for the intersection into the future until a comprehensive planning process is completed in 2019.

Computer File Information			
Creation Date: 11\13\15		Initials: CEC	
Last Modification Date: 11\13\15		Initials: CEC	
Full Path: \\2387.2c\DWG			
Drawing File Name: Option1.dwg			
Acad Ver. R16	Scale: 1:40	Units: FEET	

	Index of Revisions		
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Colorado Department of Transportation

COLORADO DEPARTMENT OF TRANSPORTATION
222 SOUTH 6TH STREET, #317
GRAND JUNCTION, CO 81501
Phone: 970-683-6284 FAX: 970-683-6290

Region Number 3

As Constructed			
No Revisions: .			
Revised: .	Designer: .		
	Detailer: .		
Void: .	Sheet Subset: .	Subset Sheet:: .	

FULL MOVEMENT

Project No./Code
Number
Code
Sheet Number .

Computer File Information			
Creation Date: 11\16\15		Initials: CEC	
Last Modification Date: 11\16\15		Initials: CEC	
Full Path: \\2387.2c\DWG			
Drawing File Name: Option1.dwg			
Acad Ver. R16	Scale: 1:40	Units: FEET	

	Index of Revisions		
R-X	.	.	.
R-X	.	.	.
R-X	.	.	.
R-X	.	.	.
R-X	.	.	.

Colorado Department of Transportation

COLORADO DEPARTMENT OF TRANSPORTATION
222 SOUTH 6TH STREET, #317
GRAND JUNCTION, CO 81501
Phone: 970-683-6284 FAX: 970-683-6290

Region Number 3

As Constructed			
No Revisions: .			
Revised: .	Designer: .		
Void: .	Detailer: .		
	Sheet Subset: .	Subset Sheet:: .	

OVAL ROUNDABOUT

Project No./Code
Number
Code
Sheet Number .

Staff Report
February 5, 2018

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Contract to Buy, Sell and Develop Real Estate between Gunnison County and APT Brush Creek Road ("Gatesco")

Summary: The most recent version of the attached agreement was circulated to the MOA Partners on January 17, 2018. Staff raised some additional concerns with the County, most of which the County has declined to incorporate into the document.

At this point CBMR has replied that they are comfortable with this draft. The Town of Mt. Crested Butte will be discussing it at their meeting on February 6th.

Background: The Town has been actively engaged with the MOA Partners in reviewing and commenting on drafts of the purchase agreement since September of 2017. Many of the comments and suggestions that have been made by Town staff or legal counsel have been incorporated into the draft.

Discussion: There are really two outstanding points of disagreement that Town staff and legal counsel would like to bring to the attention of the Council:

1. Locally imposed deed restrictions and financing:

   The Town Attorney, Barbara Green, David Baumgarten and Kendall Burgmeister were able to meet with HUD representatives early in June. Specifically they met with Lesley Meyer, counsel for HUD multi-family programs and Laura Stutzman, Sr. Underwriter of Multifamily FHA Loans w/MAP Certification from HUD. Lesley and Laura report directly to Frances Lively, Associate Regional Counsel-Housing & Finance Programs.

   While it is not assured that Brush Creek will utilize HUD, their proposal indicates that they will pursue HUD multi-family FHA insured financing. Of concern is how this (or any financing) will impact any deed restrictions on the property. We have seen deed restrictions wiped out in this valley due to foreclosure in the past, and having deed restrictions survive closing whenever possible is a high priority for the Town.

   HUD will consider allowing affordability restrictions imposed by a local government to survive closing if they are similar to the restrictions imposed by the HUD HOME program

– at least 20% of the units for tenants earning no more than 50% AMI, or 40% earning no more than 60% of AMI. Even with the new income mix proposed by the applicants on January 5th, they are not meeting these income limitations. They could probably get there without too much adjustment as they are currently at 16.66% at 50% AMI or less, but they are not there yet.

The County staff has reported that Gatesco has not yet decided what financing it will pursue, and considers the imposition of any requirement that deed restrictions survive foreclosure to be an impossible hurdle for the developer to meet.

With the significant donation of public assets (land) to this project, ensuring the deed restriction on the use of the property for affordable housing and transit survives foreclosure is paramount. For this reason **Crested Butte requested that the property not be transferred until HUD (or any other lender) has agreed that the deed restriction may be recorded in first position.**

On a related point, under #7. WARRANTIES b.5, the contract says it is the "objective" to pursue financing that maintains the proposed deed restriction in a position senior to any lien associated with the finding. However, aside from noticing the County if they can't maintain that objective, there is no remedy for the County. **The Town requested that if the County proceeds with the contract and closing prior to working out the financing, that there be an opportunity to exercise the option if Gatesco is unable to secure financing without maintaining the deed restriction in first position.**

2. Ability for the Town (or other MOA Partners) to exercise the repurchase option should the County decline:

   The Town would like the ability to exercise the option if the County finds that a trigger under Section 10.a of the contract has been met, but they decline to exercise for some reason. **We would like the contract make the right to exercise the option assignable to the town or other MOA partners so that the County could assign that right if it is not inclined to exercise the option**.

Gunnison County has declined to make the changes that the Town's representatives suggested. Under the terms of the MOA, if the majority of the partners agree, the sale can proceed.

The Council should discuss the latest draft of the purchase agreement and determine if they have any additional suggested changes or comments.

Recommendation:

Staff recommends the Town Council

1) Vote to disapprove proceeding with the contract *as drafted* because it:
Does not take adequate steps to protect the intended use of the property for affordable housing in perpetuity; and does not allow for the other partners in the original acquisition of the property to exercise the option should Gunnison County choose not to.

2) Vote to request that the County rezone the Brush Creek Parcel so that the property cannot be used for purposes other than affordable housing and transit (as defined by the MOA) that would not be affected by foreclosure.

Proposed Motions:

A Council member may make a motion to disapprove proceeding with the contract as drafted because it: does not take adequate steps to protect the intended use of the property for affordable housing in perpetuity; and does not allow for the other partners in the original acquisition of the property to exercise the option should Gunnison County choose not to**.**

A Council member may make a motion to request that the County rezone the Brush Creek Parcel so that the property cannot be used for purposes other than affordable housing and transit (as defined by the MOA) that would not be affected by foreclosure.

CONTRACT TO BUY, SELL AND DEVELOP REAL ESTATE FOR ESSENTIAL HOUSING

This Contract to Buy, Sell and Develop Real Estate for Workforce Housing (the "Contract") is entered into as of the date signed by all Parties, between the Board of County Commissioners of the County of Gunnison, Colorado ("Board" or "Gunnison County" or "Seller"), and APT Brush Creek Road, LLC, a Colorado limited liability company ("Buyer"). The Board and the Buyer may be referred to herein as a "Party" or collectively as the "Parties."

1. RECITALS.

a. The Board owns the real property in Gunnison County, Colorado, more particularly described on Exhibit A (the "Brush Creek Parcel" or the "Property").

b. The Buyer is an affiliate of Gatesco, Inc., a Texas corporation (Gatesco), formed for the purpose of acquiring and holding title to the Brush Creek Parcel.

c. The Board desires to have the Brush Creek Parcel developed consistent with the Gunnison County Land Use Resolution and in a manner that provides essential workforce housing for the north Gunnison Valley and a transportation center that provides a public transportation stop and intercept parking lot.

d. In the interest of furthering public policy, the Colorado General Assembly has declared at Colorado Revised Statues 29-26-101. Legislative Declaration: "(1) The general assembly hereby finds and declares that

1. It is in the public interest to maintain a diverse housing stock in order to preserve some diversity of housing opportunities for [Colorado's] residents and people of low—and moderate—income.

2. A housing shortage for persons of low—and moderate—income is detrimental to the public health, safety and welfare. In particular, the inability of such persons to reside near where they work negatively affects the balance between jobs and housing in many regions of the state and has serious detrimental transportation and environmental consequences."

e. The Colorado General Assembly has defined affordable housing to include rentals as follows: C.R.S. 29-26-102, Definitions, "(1) Affordable housing dwelling unit" means a residential structure that is purchased or rented by and is occupied as a primary residence by one or more income eligible households, or a comparable definition as established by a local government."

f. The Board has the legal authority to convey real property as follows: C.R.S. 30-11-101, Powers of counties. (1) Each organized county within the state…shall be empowered… (c) To sell, convey, or exchange any real…property owned by the county and make such order respecting the same as may be deemed conducive to the interests of the inhabitants…" (d) To make all contracts and do all other acts in relation to the property and concerns necessary to the exercise of its corporate or administrative powers. Any such contract may by its terms exceed one year and shall be binding upon the parties thereto as to all of its rights, duties and obligations.

g. Gatesco, Inc is a real estate developer and residential builder with extensive experience in producing multiple family dwelling units for low—and moderate—income occupants.

h. The Board, Crested Butte Mountain Resort, Inc., the Town of Crested Butte, and the Town of Mt. Crested Butte (the "MOA Participating Parties") together executed a Memorandum of Agreement, dated June 16, 1998 to accomplish the Board's acquisition of the Brush Creek Parcel. Crested Butte, LLC ("CBMR") is the successor in interest to Crested Butte Mountain Resort, Inc. The Property has since been held by the Board for the benefit of the MOA Participating Parties as required by the Memorandum of Agreement.

i. Through a two-step Request for Qualifications and Request for Proposals process, the Board's duly authorized representative, together with all of the other MOA Participating Parties, unanimously selected Gatesco to develop the Brush Creek Parcel in a manner substantially similar to that generally identified in the document titled "The Corner at Brush Creek", dated June 23, 2017, which includes a project description for housing, common amenities, recreation and open space, transit center, architectural approach, efficiency and sustainability, stewardship and infrastructure, and phasing, attached hereto and incorporated herein (the "Project").

j. Buyer has submitted to Gunnison County an application pursuant to the Gunnison County Land Use Resolution for review of the Project (the "Application"). The description of the project in the Application is substantially consistent with the Project except that the number of units income-restricted for workforce housing has increased. That Application is being reviewed and the Board has not made any decision on the Application. CBMR, the Town of Crested Butte and the Town of Mt. Crested Butte may participate in such review as referral agencies.

k. To provide the Board with assurance that the Brush Creek Parcel will be used for the desired Project and not any other purpose, the Buyer desires to grant to the Board, and the Board desires to receive from the Buyer, an option to buy the Brush Creek Parcel that includes the terms and conditions set forth in § 10, below and Exhibit C attached hereto.

l. Development of the Project will require Buyer to make large investments in infrastructure and facilities, including, without limitation, residential buildings, roads and parking areas, recreation facilities, water lines and wastewater lines. The Board and Buyer have established a purchase price for the Brush Creek Parcel that includes consideration of current restrictions on use of the Brush Creek Parcel, deed restrictions that will be placed on the Brush Creek Parcel, the costs of development of the Brush Creek Parcel, costs of utilities to serve the Brush Creek Parcel, and the public benefit of use of the Brush Creek Parcel to provide safe, decent, essential housing for low—and moderate—income persons and other members of the local workforce.

m. As part of the land use change approval process, Buyer will complete, at Buyer's expense, numerous studies regarding the Property (hydrological, wetlands, wildlife, traffic, etc.) that will provide value to Gunnison County even if the Application is not approved.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

2. DATES AND DEADLINES; CONTRACT SUMMARY.

Reference	Term / Event	Definition / Deadline
	Buyer	APT Brush Creek Road, LLC c/o Law of the Rockies Attn: Kendall Burgemeister 525 N. Main St. Gunnison, CO 81230 kburgemeister@lawoftherockies.com
	Board	Board of County Commissioners of the County of Gunnison, Colorado c/o Matthew Birnie, County Manager 200 E. Virginia Avenue Gunnison, CO 81230 Copy to: David Baumgarten, County Attorney 200 E. Virginia Avenue Gunnison, CO 81230 dbaumgarten@gunnisoncounty.org
	Closing Company	Land Title Guarantee Company 411 Third Street Crested Butte, CO 81224 ccesario@ltgc.com
	Purchase Price	$100,000.00
	Due Diligence Delivery Deadline	MEC + 14 days
	Due Diligence Objection Deadline	MEC + 21 days
	Due Diligence Resolution Deadline	MEC + 28 days
	Closing Date	MEC + 28 days

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

3. PROPERTY TO BE CONVEYED AT CLOSING. At Closing, the Board shall convey to the Buyer the Brush Creek Parcel, as described on Exhibit A, together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded.

4. PURCHASE PRICE AND TERMS. In consideration for the transfer of the Property, Buyer shall pay to the Board the Purchase Price. All amounts payable under this Contract shall be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check ("Good Funds").

5. TITLE INSURANCE. Buyer shall order from Closing Company a commitment to issue an owner's title insurance policy upon Closing at Buyer's expense.

6. DUE DILIGENCE.

a. As soon as possible, but in any event, no later than the Due Diligence Delivery Deadline, the Board shall provide to Buyer all of the documents and other information referenced below, to the extent such information is in the Board's custody or control:

1. All existing surveys pertaining to the Property;

2. All easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal, options, and leases) not shown by public records;

3. Soils reports or data pertaining to the Property;

4. Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories, and similar documents;

5. All permits, licenses and other use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any.

b. In the event the Buyer submits written requests for additional specific documents, which the Board is required to provide if they are in the Board's custody, possession or control ("Document Request"), the Board shall provide such documents as soon as reasonably possible, but in any event, within 7 calendar days of the date the Board receives a Document Request from Buyer.

c. Buyer shall have until 11:59 pm on the Due Diligence Objection Deadline to conduct all due diligence related to this transaction, including but not limited to inspection of documents, record and off-record title matters, insurance matters, survey matters, environmental matters, the physical condition of the Property, and any other matter reasonably desired by Buyer to be reviewed in connection with this transaction. If for any reason Buyer desires not to close, Buyer shall notify the Board of such fact in writing before the expiration of the Due Diligence Objection Deadline, and this Contract shall terminate.

d. On or before expiration of the Due Diligence Objection Deadline, Buyer also shall have the right to provide written notice to the Board of any objections. If the Board receives such written notice of objection from Buyer, the Board shall notify Buyer whether the Board is willing to use reasonable efforts to cure or correct such objection(s). If the Board is willing to use reasonable efforts to cure or correct such objection(s), the Board shall keep Buyer apprised of the status of his efforts to cure such objection(s).

e. On or before the Due Diligence Resolution Deadline, Buyer may, by written notice to the Board waive any objections not cured or corrected by the Board and proceed to close. If Buyer does not so waive any such objections, this Contract shall terminate.

f. If Buyer does not terminate this Contract or provide the Board with written notice of any objections on or before the Due Diligence Delivery Deadline, or if Buyer waives previously stated objections, or if previously stated objections are cured by the Board, then this Contract shall continue in full force and effect.

g. The Board shall cooperate with Buyer in good faith to obtain the resolution of any objections raised during the Due Diligence Period, but shall have no obligation to correct or cure any objections raised by Buyer. Notwithstanding anything in this § 5 to the contrary, the Due Diligence Period also may be extended by mutual written agreement of the Parties to allow additional time to resolve any objections arising from the due diligence.

h. Buyer has the Right to Terminate under this §5, on or before the applicable deadline, based on any unsatisfactory due diligence matter, in Buyer's sole subjective discretion.

i. Before the Due Diligence Objection Deadline, Buyer (acting through its employees and contractors) shall have the right to enter the Board Property to complete a survey and inspect the physical condition of the property at Buyer's expense. All such inspections and evaluations shall be conducted at such times as are mutually agreeable to minimize the interruption of the Board's uses of the Property, if any. Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request ("Work") and shall pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer shall not permit claims or liens of any kind against the Property for Work performed on the Property at Buyer's request. Buyer agrees to indemnify, protect and hold the Board harmless from and against any liability, damage, cost or expense incurred by the Board associated with or related to any such Work, claim, or lien. This indemnity includes the Board's right to recover all costs and expenses incurred by the Board to defend against any such liability, damage, cost or expense, or to enforce this section, including the Board's reasonable attorneys' fees, costs and expenses. The provisions of this section shall survive the termination of this Contract.

7. WARRANTIES.

a. The Board makes the following warranties and representations to Buyer:

1. There are no actions, suits, litigation, condemnation, or other proceedings (whether civil, administrative, or otherwise) or investigations pending, against or affecting the Property.

2. It is neither a party to, nor subject to or bound by, any agreement of any kind that would conflict with its performance under this Contract.

3. The Board has received the requisite consent of the MOA Participating Parties. The execution, delivery, and performance on this Contract by the Board has been duly authorized and no consent of any other person or entity to such execution, delivery, and performance is required to render this document a valid binding instrument enforceable against the Board in accordance with its terms.

b. Buyer makes the following warranties and representations to the Board concerning this Agreement, which warranties and representations shall not be merged by any instruments of conveyance:

1. Buyer acknowledges that except as set forth in this Agreement, Seller has made no warranty or representation as to the condition of the Property and, subject to the foregoing provisions, the Property shall be conveyed to Buyer "AS IS" and "WITH ALL FAULTS".

2. Buyer acknowledges that the Board has made no representations as to the investment potential of the Property.

3. Buyer warrants and represents that it has the financial ability and experience to develop and operate the Property consistent with other first-class residential housing developments in the state of Colorado. The Board, in its sole discretion, shall determine if Buyer meets this representation, and may examine Buyer's financial records and tax returns for the previous 5 years, previous development projects, and lot sales contracts or reservation agreements in making its determination of satisfaction of this warranty and representation.

4. Buyer warrants and represents that, as a condition of the purchase of the Property, upon Final Approval of the Application (as defined in § 8 of this Contract), should that approval occur, Buyer will immediately initiate, or cause to be initiated, construction of the necessary infrastructure for the Property such that the Property can be marketed and operated. This warranty requires that:

a) Such infrastructure shall be completed no later than 4 years from the date of Final Approval of the Application.

b) An appropriate and necessary requirement of the Final Approval shall be that Buyer shall immediately execute a development improvement agreement ("Development Improvements Agreement") substantially in the same form and content to Exhibit D and provide to the Board financial security in an amount and form approved by the Board in its reasonable discretion, before Buyer initiates any work pursuant to the Final Approval. Failure of Buyer to so execute the Development Improvements Agreement and to provide the final security shall be cause for the Board to exercise its Option pursuant to §10 herein.

5. If Buyer is utilizing private or public financing to acquire and develop the Property, it shall use its best efforts to include as a term and condition of any loan agreement or financing the right of the Board, at its option, to cure any default by Buyer under such financing documents. Buyer shall pursue underwriting approval for any financing concurrently with the County's review of the Application pursuant to the Gunnison County Land Use Resolution, with the objective of maintaining the proposed deed restriction in a position senior to any lien associated with such financing, and shall immediately notify the County if it is unable to obtain financing without changing the terms of the deed restriction or subordinating the deed restriction to the lien.

6. Buyer shall not convey or encumber the Property, or any portion of it, prior to Final Approval.

7. It is neither a party to, nor subject to or bound by, any agreement of any kind that would conflict with its performance under this Contract.

8. Prior to Final Approval, Buyer will not allow any mechanic's liens to be recorded against the Property, and will indemnify and defend Seller from any mechanic's liens claimed against the Property. If any mechanic's lien is recorded against the Property, Buyer agrees to initiate and prosecute an action in Gunnison District Court to provide a bond or other adequate security to have any and all mechanic's liens recorded against the Property released.

9. The execution, delivery, and performance on this Contract by Buyer has been duly authorized and no consent of any other person or entity to such execution, delivery, and performance is required to render this document a valid binding instrument enforceable against Buyer in accordance with its terms.

c. These representations and warranties shall survive closing under the Agreement and the execution and delivery of any closing documents by Seller and shall not be merged in the Deed.

8. LAND USE CHANGE FOR PROJECT. The Buyer shall pursue with reasonable diligence all necessary approvals, including Board approval of the Application, for the Project. The Application includes, in particular, elements substantially similar to the Project, including:

a. 240 apartment units, 65% of which shall be expressly dedicated to workforce housing for qualifying households earning less than 180% of AMI (including 50% of the units being reserved for qualifying households earning less than 140% of AMI).

b. A transit center including a public transit stop and a parking lot with approximately 69 parking spots.

c. A soft surface recreational path around the perimeter of the Property connecting to the Riverbend Trail.

Notwithstanding the foregoing, the parties acknowledge that the details of the Project may change as a result of input received during review of the Application. Development of the Project shall be consistent with any Board approval of the Application.

Throughout this Agreement, unless the context otherwise requires, "Final Approval" of the Application shall mean approval of the Application by the Board in accordance with the LUR and (1) the expiration of the time limit to challenge such approval under Colorado Rule of Civil Procedure 106 without any such challenge being commenced; or (2) entry of a final non-appealable court order upholding such approval, as the case may be.

9. WORKFORCE ESSENTIAL HOUSING RESTRICTIONS IN DEED. At closing, the Board shall deliver to Buyer a Warranty Deed, attached hereto as Exhibit B, that requires Buyer to provide workforce essential housing units for certain income levels and other improvements substantially similar to those set forth in the Application. If the Board ultimately approves the Application through the Gunnison County Land Use Resolution review process, and that approval is agreed to by Buyer, the parties agree that the Warranty Deed shall be amended to reflect the particulars of such approval. The Warranty Deed shall include provisions requiring the Property to be used exclusively as required by the Board approval of the Application and shall expressly provide that the Board is authorized to enforce the provisions of the Warranty Deed by all legal and equitable means including but not limited to specific performance.

10. OPTION. At Closing, Buyer shall grant to the Board an option to purchase the Property (or any portion of the Property which has not been developed pursuant to the Final Approval) in the form attached hereto as Exhibit C (the "Option"). The price shall be $125,000.

a. The Board shall have the absolute right to exercise the Option upon the occurrence of any of the following events:

1. The Buyer withdraws the Application; or

2. the denial by the Board of the Land Use Change Application for the Project; or

3. the Buyer's failure to provide written acceptance of the Board's Final Approval of the Application, which written acceptance must be provided by the Buyer no later than forty-five (45) days after the date of Final Approval; or

4. failure of the Buyer to timely execute all of the deed restrictions, protective covenants or other instruments required by the Board's Final Approval of the Application; or

5. the failure of the Buyer to timely execute the Development Improvements Agreement and provide all financial security required by the Board's Final Approval of the Application; or

6. the passage of three years from the date of Closing without Final Approval of the Application by the Board; or

7. there is a final, non-appealable Court decision invalidating the approval in whole or substantial part, and the reason for such decision cannot be remedied on remand or, if the reason for such decision can be remedied on remand, the Buyer does not immediately initiate, prosecute and complete the remedy; or

8. if the Buyer fails to timely provide to the Board documentation of the Buyer's financial bona fides (to include without limitation, HUD underwriting of the project, Buyer's performance on existing HUD financing, HUD inspection reports and responses regarding other developments of Buyer), or the Board determines in good faith that such bona fides are not sufficient; or

9. if the Board in its discretion determines that the financing information provided by Buyer would require modification or elimination of a requirement or condition of Final Approval; or

10. the Buyer defaults pursuant to § 16 of this Contract.

b. The Option shall expire upon:

1. Final Approval of the Application ; and

2. Buyer's provision of written acceptance of the Final Approval to Board; and

3. Execution by Buyer of all deed restrictions, protective covenants, and other instruments required by the Board's Final Approval of the Application; and

4. Buyer's execution of the Development Improvements Agreement and provision of all financial security required by the Board's Final Approval of the Application.

11. CLOSING DOCUMENTS, INSTRUCTIONS, AND CLOSING.

a. Closing Documents and Closing Information. The Board and Buyer shall cooperate with the Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and the Board and their designees. Buyer and the Board will furnish any additional information and documents required by

Closing Company that will be necessary to complete this transaction. Buyer and the Board shall sign and complete all customary or reasonably required documents at or before Closing.

b. Closing. Closing shall be on the date specified as the Closing Date or by mutual agreement at an earlier date. The hour and place of Closing shall be as designated by the Closing Company.

c. Closing Costs. Buyer shall pay any escrow fee and closing services fee charged by the Closing Company, and any recording fees.

d. Transfer of Title. Subject to tender of payment at Closing as required herein and compliance by Buyer with the other terms and provisions hereof, the Board shall execute and deliver a good and sufficient warranty deed to Buyer, at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of Closing. Title shall be conveyed free and clear of all liens, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Title shall be conveyed subject to:

1. Those specific Exceptions described by reference to recorded documents as reflected in the Title Commitment ordered by Buyer in accordance with § 5 of this Contract;

2. Distribution utility easements (including cable TV);

3. Those specifically described rights of third parties not shown by the public records of which Buyer has actual knowledge and which are accepted by Buyer in accordance with § 6 of this Contract; and

4. Inclusion of the Property within any special taxing district.

5. The Option.

6. Deed restrictions or other instruments required to effectuate this Contract.

e. Any encumbrance required to be paid shall be paid at or before Closing from the proceeds of this transaction or from any other source.

f. Brokerage Disclosure. The Board has not engaged a broker in this transaction. The Buyer has engaged Doug Kroft, Red Lady Realty ("Buyer's Agent"), and shall be responsible for payment of any commission owed to Buyer's Agent at Closing.

12. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.

a. Day. As used in this Contract, the term "day" shall mean the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings as applicable).

b. Computation of Period of Days, Deadline. In computing a period of days, when the ending date is not specified, the first day is excluded and the last day is included, e.g., three days after MEC. If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday ("Holiday"), such deadline shall be extended to the next day that is not a Saturday, Sunday or Holiday.

13. PROPERTY CONDITION AND WALK-THROUGH.

a. The Parties to this Contract expressly agree that the Property shall be maintained in its present condition by the Board until Closing, unless otherwise agreed upon in writing.

b. Walk-Through and Verification of Condition. Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property complies with this Contract.

14. RECOMMENDATION OF COUNSEL. By signing this Contract, Buyer and the Board acknowledge that this Contract has important legal consequences and have been advised to consult with legal, tax, and/or other counsel before signing this Contract.

15. TIME OF ESSENCE. Time is of the essence hereof.

16. DEFAULT AND REMEDIES

a. Board and Buyer hereby covenant and agree that the following items shall be considered a default under this Agreement by Buyer:

1. The filing of a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy law by Buyer, or the admission by Buyer that it is unable to pay its debts as they become due.

2. The consent to an involuntary petition in bankruptcy or the failure to vacate, within thirty (30) days from the date of entry thereof, any order approving an involuntary petition against Buyer.

3. The entering of an order, judgment or decree by any court of competent jurisdiction, on the application of a creditor, adjudicating Buyer as bankrupt or insolvent or approving a petition seeking reorganization or appointing a receiver, trustee, or liquidator of all or a substantial part of Buyer's assets or the Property.

4. Any attachment or execution levied upon Buyer's assets and the Property which causes Buyer to be unable to perform its obligations hereunder.

5. Any commencement of foreclosure proceedings for any lien against the Property related to actions of Buyer with respect to the Property prior to the Closing, which proceedings are not dismissed or the lien is bonded over and released within 30 days of the filing of the foreclosure proceedings.

6. Any lien or encumbrance place on the Property in violation of §27.i of this contract.

7. The failure of Buyer to construct the percentage, as identified in the Final Approval for the first phase of the Application, of the approved density for the Application as deed restricted units as well as the transit center with approximately 69 parking spaces within four years of the Final Approval. The Board's remedies for the default identified in this §16.a.7 shall be equitable remedies to include but not be limited to specific performance to require such construction and deed restrictions and also shall include all remedies available pursuant to the Development Improvements Agreement.

8. The failure of the Buyer to comply with any term of this Contract, unless the failure to perform is expressly excused in writing by the Board or unless such

failure to perform is otherwise waived or cured as expressly set forth in this agreement.

b. If any obligation hereunder is not performed or waived as herein provided, the non-defaulting party has the following remedies:

1. If Buyer is in Default:

a) If Buyer fails to Close, or otherwise is in breach or Default prior to Closing, the Board has the right to terminate the Contract or exercise the Option in the Board's sole discretion.

b) If Buyer fails to diligently pursue a land use change approval with Gunnison County for the Project, the Board may bring an action for rescission of this Contract or may exercise the Option pursuant to § 10 of this Contract. If Buyer spends $100,000.00 or more on the land use approval process (after June 28, 2017), including payments for all professional services and studies necessary to gain approval for the Application, Buyer shall be presumed to have pursued the approval with diligence.

c) If Buyer pursues the land use change approval for the Project with diligence, but nevertheless fails to obtain such approval within two years from the date of Closing, the Board's remedies shall include the exercise of the Option pursuant to § 10 of this Contract.

2. If the Board is in Default, Buyer has the right to terminate the contract, or the right to specific performance. Buyer waives the remedy of additional damages.

17. LEGAL FEES, COST AND EXPENSES. Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation between the parties relating to this Contract, prior to or after Closing Date, each party shall be responsible to pay its own respective costs and expenses, including attorney fees, legal fees and expenses.

18. TERMINATION. If a party has a right to terminate as provided in this Contract ("Right to Terminate"), the termination shall be effective upon the other party's receipt of a written notice to terminate ("Notice to Terminate"), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate shall have accepted the specified matter, document or condition as satisfactory and waived the Right to Terminate under such provision.

19. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL. This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing shall survive the same. Except for this Contract and the Exhibits, there are no other warranties, representations, covenants, promises, undertakings or

understandings by or among the Parties to this Contract related in any way to the parties' respective rights and obligations under this Contract.

20. CONSTRUCTION. The terms, provisions, and conditions of this Contract shall be interpreted and construed in accordance with their usual and customary meanings. Each of the Parties expressly, knowingly, and voluntarily waives the application, in connection with the interpretation and construction of this Contract, of any rule of law or procedure to the effect that ambiguous or conflicting terms, conditions, or provisions shall be interpreted or construed against the Party whose legal counsel prepared the executed version or any prior drafts of this Contract.

21. NOTICES, DELIVERY. All notices required by this Contract shall be in writing and shall be either:

(1) personally delivered to the required Party;

(2) sent by certified mail, return receipt requested, or

(3) sent by email or facsimile transmission, to the required Party, at the addresses or number set forth in § 2.

22. CHOICE OF LAW. This Contract and all disputes arising hereunder shall be governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for property located in Colorado. The District Court for Gunnison County, Colorado shall be the exclusive venue for any dispute arising out of or related to this Contract.

23. ASSIGNABILITY AND INUREMENT. This Contract shall not be assignable by Buyer without the Board's prior written consent. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

24. EXECUTION. A copy of this Contract may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties. The Parties agree to accept electronic and facsimile signatures as original signatures.

25. FURTHER ASSURANCES. Each Party agrees to execute and deliver such other and additional documents and instruments and to do all other acts necessary to more fully effectuate the purpose and intent of this Contract.

26. ATTACHMENTS. The following attachments are a part of this Contract:

a. Exhibit A: Description of Property

b. Exhibit B: Form of Warranty Deed

c. Exhibit C: Form of Option

d. Exhibit D: Form of Development Improvement Agreement

27. ADDITIONAL PROVISIONS

a. COVENANTS, DEED RESTRICTIONS. The Parties agree to execute all covenants, deed restrictions and other legal instruments necessary to accomplish the intent of this Contract and any requirements of any Final Approval of the Application

including but not limited to mechanisms identified in such approval to ensure qualifications of tenants, and funding and financial security for accomplishment of the Final Approval of the Application. Such mechanisms shall survive closing on this Contract.

b. CONTRACT TO BE AMENDED TO CONFORM TO RESULTS OF LITIGATION. Should any third party legal or equitable challenge to this Contract or the approval of the land use change application be successful, the parties shall make good faith efforts to amend the Contract to address any legal deficiency, or terminate this Agreement without liability or penalty to Buyer or the Board in which even this Agreement shall be of no further force or effect.

c. THIRD PARTY ACTION. If any legal or equitable action or other proceeding is commenced by a third party challenging the validity of any provision of this Agreement or any approval of the land use change application required herein, Buyer and the Board agree to cooperate in defending such action or proceeding and to bear their own expenses in connection therewith. Unless the Buyer and Board otherwise agree, each Party shall select and pay its own legal counsel to represent it in connection with such action or proceeding.

d. FORCE MAJEURE. In the event of any occurrence beyond the control of Buyer, including but not limited to acts of God, war, acts of terrorism, litigation challenging this transaction or the approval of the Application, Buyer shall not be considered to be in breach of this Agreement to the extent that Buyer's performance is prevented by such occurrence, and any deadline for Buyer's performance of any obligation under this Agreement shall be extended by an equitable amount of time.

e. NO CONVEYANCE OF PROPERTY OR APPROVED APPLICATION WITHOUT PRIOR BOARD APPROVAL. Neither the Project nor any portion of the Property or the Application as approved by Final Approval shall be conveyed without prior written approval of the Board, which approval shall consider any reasonable impact to fulfillment of Buyer obligations hereunder, and which approval shall not be unreasonably withheld.

f. NO WAIVER OF REQUIREMENTS. Nothing in this Contract is, or shall be construed to be, a waiver by the Board of any applicable legal or regulatory requirement of Gunnison County.

g. NO PREDETERMINATION OF REGULATORY PROCESS. Nothing in the Contract is, or shall by construed to be, a predetermination by Gunnison County or any applicable Gunnison County legal, regulatory or adjudicatory process.

h. PHASING. In all events, phasing of the development of the Application as approved by Final Approval shall require full construction of the infrastructure consistent with the Development Improvements Agreement. The Board shall cooperate with Buyer to explore opportunities for funding (i.e. grants) to offset Buyer costs of infrastructure.

i. NO LIENS OR ENCUMBRANCES. No Liens or encumbrances shall be placed on the Property until after Final Approval.

j. The Board has authorized Matthew Birnie, Gunnison County Manager, to execute this Contract and all documents necessary to effectuate this Contract.

SIGNATURES

APT Brush Creek Road, LLC, a Colorado limited liability company

By:_____ _____
Name: _____ Date
Title:_____

The Board of County Commissioners of the County of Gunnison, Colorado

By:_____ _____
Name: _____ Date

Exhibit A

It is the intention of the Parties to convey all of the land in Section 12, Township 14 South, Range 86 West, 6th PM, lying south and east of Brush Creek Road, and west of Larkspur Subdivision and Red Feather Ranch subdivision, excepting any portion that may lie south and west of the southwest boundary of Colorado State Highway 135.

On information and belief, this includes that property conveyed to the Board of County Commissioners of Gunnison County, Colorado by Quitclaim Deed recorded December 16, 1996 under Reception No. 472661, and that property conveyed to the Board of County Commissioners of Gunnison County, Colorado by General Warranty Deed recorded September 11, 1998, at Reception No. 486887.

On information and belief, this also includes the property quitclaimed to the Board of County Commissioners of Gunnison County, Colorado, by Quitclaim Deeds recorded at Reception Nos. 568255 and 568256.

The parties shall work with the Closing Company to develop a legal description that is satisfactory to all parties prior to Closing.

COUNTY OF GUNNISON, STATE OF COLORADO.

Staff Report
February 5, 2018

To: Mayor and Town Council

From: Dara MacDonald, Town Manager

Subject: Comment letter for the Sketch Plan public hearing on the Corner at Brush Creek Project

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Summary: Staff has been working with Council members Haver and Cowherd and Town Attorney Barbara Green for the past several weeks to draft a letter to be submitted in advance of the February 16th public hearing on the sketch plan application for the Corner at Brush Creek. Staff

Background: The Town Council has had growing concerns about the project since before the sketch plan process began. Primarily, the Council is concerned with the mass and density of the project which is dramatically larger than the adjacent neighborhoods and will impact services within the municipality and the overall character of the community.

As such the Town Council has hosted a community meeting and has invited the developer to a work session discussion. The Town submitted initial written comments in advance of the first County Planning Commission work session on October 10, 2017 and a letter directly to the developer on December 19, 2017. No response was received from the developer.

In addition, Council members and staff have attended each of the County's work sessions on the application.

Discussion: The subcommittee that has been working on the comment letter feels that this draft should be close to final and ready for submission. The most recent portion to be drafted is the summary at the end of the memo. The Council should review the memo once more and offer any suggestions for discussion.

Verbal Comments:
Council members Haver and Cowherd has also been working on preparing to make verbal comments during the public hearing on February 6th. The thought is that one member of Council could speak more specifically to how the application fails to satisfy the LUR and another could speak to why this is so important to the community of Crested Butte.

The Council should discuss how they want to approach the verbal comments that may be made on February 16th on behalf of the Town of Crested Butte.

Following are some bullet point thoughts on topics that should be touched on during the verbal comments:

Comment points regarding the Land Use Resolution:

- Density is almost 17x greater than surrounding neighborhoods
- Maximum Building Area is 23x the maximum allowed by the LUR
- Because of its size and density, it will be Visually Obtrusive. Nothing around it comes close to comparing to its size and it can be seen from over a mile away as you come over the hill leaving Crested Butte
- The six buildings on Brush Creek Road do not meet the LUR standards of 40 feet from the right away or 80 feet from the center line even if affordable housing incentives are applied
- Of the possible incentives that affordable a housing projects is required to receive one or more of, it is unclear which incentives are being requested by the developer:
- Expedited Review Process for Essential Housing Project - Which it is being currently granted even though it does not automatically qualify for this since to qualify as an “Essential Housing Project" by definition 100% of the units would have to qualify as essential housing.
- Increase in Allowable Residential Living Area - Maximum allowed by LUR is 12,500 sqft on a single lot of this size. This is over 23x that
- Increase in Building Height - which allows for 25% higher and with the requested flat roofs this will be perceived as being even higher in comparison to the gabled roofs of the community surrounding it.
- Reduced Setback Requirements - which, though allowed by the LUR, are not allowed along county roads such as Brush Creek Road and where the right of way is not clearly defined needs to be 80 feet off the center line which would put 6 buildings in the development out of compliance
- Deferred Fees - which have not been discussed
- Modified Development Standards - which allows for flexibility for density but 17x the density of the surrounding communities can only be seen as unarguably uncompatible
- And a possible additional incentive includes Reduced Parking Space Requirements - of which the development is 20% short of the county requirement
- Even if granted every one of these incentives, the density being 17x greater than the surrounding neighborhoods, the building area being more than 23x the maximum allowed and the visual obtrusiveness of the apartment complex makes this development incompatible with the surrounding community thus failing as a Major Impact Project standards in the LUR

Comment points regarding why this project is so important to the Town:

- Town of CB leads the Valley in creating rental and ownership affordable housing

Ownership vs. rental

- Ownership is the way to cultivate community. Rental is considered temporary housing option in preference of ownership according to the Gunny Housing needs assessment.

Live in town

- Living in the the town creates community and preserves the culture of walking and riding bikes. Vs. requiring vehicle use.

Context

- The Brush Creek project has been compared to other projects that are not built in the same rural context, but instead are built in the town limits of Gunnison and Mt. Crested Butte. The Brush Creek Project will set a new standard or precedent and therefore is not "blending in" with the adjacent properties. Setting a new standard is by definition not compatible as defined in the LUR.

One owner, one piece of land, one meter, one use(all rental), one location, one landlord.

- This is not working together county wide. This is pushing all of the impacts to one location or area and not sharing the impacts County wide.

Character and charm

- Crested Butte will be forever negativity changed by the Brush Creek project as proposed.

The Town of CB respects the Gunnison County LUR, the process and review.

- We are concerned that vital parts of the criteria are being glossed over or glossed over.

Recommendation: Staff recommends the Council approve the draft memo (with modifications that have been discussed during the meeting) and direct the Town Manager to submit the comments on behalf of the Town Council.

Proposed Motion: I move to approve the draft memo (with modifications that have been discussed during the meeting) and direct the Town Manager to submit the comments on behalf of the Town Council.

To: Gunnison County Commissioners and Planning Commission

Thru: Cathie Pagano, Community Development Director

From: Crested Butte Mayor and Town Council

Thru: Dara MacDonald, Town Manager

Subject: Application No. LUC 17-00034 Major Land Use Change
Corner at Brush Creek Sketch Plan Referral Comments

Date: January 31, 2018-Draft 5

The Town of Crested Butte is recommending denial of the Corner at Brush Creek Sketch Plan, submitted by APT Brush Creek Road, LLC, based on the fact that broadly and conceptually, the application does not comply with the standards of approval for a Major Impact project as set forth in Section 7-102 of the Gunnison County Land Use Resolution ("Resolution" or "LUR").

Summary of the Town of Crested Butte Findings and Recommendation:
This project is located within the Town of Crested Butte's Municipal Three Mile Plan area making it of significant interest and concern to the Town. The Town has carefully reviewed the application, met with the applicant and closely followed the work sessions on this project. Based on that review, the Town finds the application fails to satisfy many requirements of the Gunnison County Land Use Resolution and does not comply with the adopted advisory plans of the County and the Town.

The Town of Crested Butte is a strong proponent and experienced partner in developing affordable workforce housing. Over the past 25 years, the Town has been actively promoting the implementation of a robust workforce housing program that has grown to include 258 deed restricted units within the municipality. This equates to 21.7% of the Town's entire housing stock being deed restricted for local working residents. In addition, the Town has plans for construction of an additional 75 deed-restricted units in the next few years. The Town has implemented the workforce housing program to ensure that for-sale and rental housing is available to the local workforce, and are designed for livability, affordability, and neighborhood compatibility with the Town's historic character and scale.

Town of Crested Butte would like to submit our comments, concerns and reasons for requesting denial of this Major Impact Project to the County Planning Commission and Board of County Commissioners for consideration in their review, recommendation and decision regarding the Corner at Brush Creek Sketch Plan.

Summary of Findings

Town Discussion:

APT Brush Creek Road, LLC, applicant, is proposing to develop 240 rental apartments on a 14.29 acre parcel near the intersection of State Highway (SH) 135 and Brush Creek Road in unincorporated Gunnison County, approximately two miles south of the Town of Crested Butte. The proposed development is being classified and reviewed as a Major Impact Project in accordance with Section 7-101 A. More than four units; and Section 7-101 H. Precedent for future land use that is different than existing use.

Key Findings:

- The project will include 240 units of which 54% meet the County's definition of Essential Housing;
- The project proposes a density ranging from 9 to 19 times greater than that of the surrounding neighborhoods;
- The project requests a building size up to approximately 30,000 sq. ft., an increase of 3 times the LUR allowance for buildings;
- The project requests an aggregate building size up to 23 times greater than the LUR allows;
- The project requests a height increase of up to 25% greater than the LUR allows; and
- The project request a 17% decrease in required parking for residences – a reduction of 80 spaces.

LUR Section 7-102: Standards for Approval for Major Impact Projects. An application for a Land Use Change Permit for a Major Impact Project shall comply with the standards of this section. Compliance of the proposed land use change with these standards shall be determined broadly and conceptually during Sketch plan review...

Town of Crested Butte Finding regarding LUR Section 7-102:
The Town in its findings determines that the proposed land use change does not broadly or conceptually comply with the applicable standards of the County Land Use Regulation (LUR).

Section 7-102 A. Compliance with all Applicable Standards. The proposed land use change shall comply broadly with, and the burden shall be on the applicant to demonstrate through competent evidence, that the proposed land use change complies with all applicable requirements of this Resolution.

Town of Crested Butte Finding regarding LUR Section 7-102 A:
The Town finds that the applicant, APT Brush Creek Road, LLC, has not provided sufficient information and detail on how the Sketch Plan application complies with all applicable LUR requirements and why certain modifications are being requested. As set forth in more detail to follow, the applicant has not demonstrated that the land use change complies with the following provisions of the LUR:

Section 7-102: Standards of Approval for Major Impact Projects
Section 9-601: Essential Housing, Purposes
Section 9-604: Incentives to Provide Essential housing;
Section 10-103: Residential Density;

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Section 13-103: General Site Plan Standards and Lot Measurements;
Section 13-104: Setbacks from Property Lines and Road Rights-of-Way;
Section 13-105: Residential Building Sizes and Lot Coverages; and
Section 13-108: Open Space and Recreation Areas
Section 13-110: Off-Road Parking and Loading.

Section 7-102 B. Compatibility with Community Character. The proposed land use change shall be compatible with, or an enhancement of, the character of existing land uses in the development area, and shall not adversely impact the future development of the development area.

Town of Crested Butte Finding regarding LUR Section 7-102 B:
The Town finds that proposed 240 unit apartment complex is not compatible nor an enhancement of the existing land uses and character of the development area based on the following facts:

1) The proposed apartment project is a more intensive use that is not compatible with the existing, low-density single-family and townhouse residential use in the adjacent Larkspur, Skyland and Buckhorn Ranch neighborhoods;

2) The project density is more than 9.2 times greater than Larkspur, 19.3 times greater than Skyland and 12.9 greater than Buckhorn Ranch;

3) The aggregate building size will exceed the 12,500 sq. ft. allowance of the LUR by up to 23 times;

4) The proposed "contemporary high altitude vernacular" architecture with its flat and shed roofs is more suitable for commercial buildings and urban areas and it is not compatible nor an enhancement of the existing, smaller-scale, more traditional mountain-style residential architecture with gable roofs of the adjacent Skyland, Larkspur and Buckhorn neighborhoods;

5) The proposed commercial uses, office space and a retail general store with restaurant/coffee space, are not similar to the existing land uses nor compatible with this otherwise low-density residential area outside the Town-limits;

6) The proposed site plan, building layout and landscaping do not preserve or enhance the existing semi-rural character of the area and the visual impacts from SH 135 and Brush Creek Road are not mitigated or minimized; and

7) The project will adversely impact future land use and development of the area due to more intensive land uses, increased traffic, safety concerns, lack of adequate public transit service, need for goods and services, change in neighborhood character and visual impacts; if approved, this project will adversely impact future development by setting the precedent that allows for continued high-density sprawl within the SH 135 Corridor between Gunnison and Crested Butte.

Additionally, the project does not conform to the following plans or Housing Needs Assessment:

- Gunnison County Comprehensive Plan Crested Butte/Gunnison Corridor, adopted by Gunnison County Planning Commission, October 7, 2005

- Crested Butte Area Plan, July 5, 2011
- Gunnison Valley Housing Needs Assessment, November 2016

The following discussion provides a detailed review of the project as it relates to the LUR, Housing Needs Assessment and relevant adopted plans for both the Town of Crested Butte and Gunnison County. This review provides the basis for our recommendation of denial of the project at this Sketch Plan stage because it fails to satisfy the requirements of the LUR and does not meet the shared vison and goals of the community in the Upper Gunnison Valley.

The Town's comments are organized according to the relevant standards in the Gunnison County Land Use Resolution. For ease of reference, the relevant LUR standard is set forth in italics followed by the Town's comments. The Town has used the most updated application information presented by the applicant on January 5, 2018.

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I. LUR Division 9-600: Essential Housing

Town Discussion:

The terms affordable housing, essential housing, workforce housing and qualified household are used interchangeably both within the application and during public work sessions. However, each term has a specific meaning with certain parameters. The following are the definitions according to LUR Section 2-100 Definitions:

Affordable Housing *means housing that is affordable to very low-income, low-income, or moderate-income as defined by the U.S. Department of Housing and Urban Development, and is legally restricted to occupancy solely by those very low-income, low-income or moderate-income person(s) through the use of a covenant, deed restriction, a Development Improvement Agreement, or by transfer of an appropriate interest to a state, county or municipal housing authority or nonprofit housing organization.*

Essential Housing *means housing for qualified households as determined by the Gunnison Valley Housing Authority.*

Essential Housing Projects *means housing developments in which all residences are deed restricted Essential Housing.*

Qualified Household *is defined as a household that earns less than 120% of AMI as qualified by the Gunnison County Housing Authority.*

Workforce *means persons who are employees in Gunnison County whose household incomes are categorized as low income (i.e. a household whose annual income does not exceed 80% of the area median income (AMI) as published annually by the U.S. Department of Housing and Urban Development) or moderate-income (i.e. a household whose income is between 81% and 120% of the AMI as published annually by the U.S. Department of Housing and Urban Development).*

Town of Crested Butte Finding regarding LUR Section 2-100:
The Town finds that the Corner at Brush Creek proposal is not an Essential Housing Project due to the fact that all 240 units, 100% of the project, are not deed-restricted as "essential housing." While the proposal is eligible for consideration of Essential Housing Incentives since over 40% of the units qualify as affordable, workforce housing units, the Town recommends that if the project proceeds, that only certain incentives be provided as detailed in the following discussion.

LUR Section 9-601: Purposes.

B. To Achieve and Maintain Varied Housing Supply. To achieve and maintain a housing stock which meets County-defined targets for income groups and owner/renter ratios.

E. To Mitigate Impacts by Promoting Balance of Jobs and Housing. To mitigate impacts that accompany new residential and non-residential development by protecting diversity of the County's housing stock, promoting a balance between jobs and housing, and reducing the demands placed on transportation infrastructure.

G. To Ensure Development that Enhances the Existing Sense of "Community" in Gunnison County. To ensure that development of Essential Housing Projects and residences

integrates new and current residents and does not isolate Essential Housing Residences from free-market residential development.

Town of Crested Butte Findings regarding LUR Section 9-601:
The Town finds that the Sketch Plan application fails to fully satisfy several of the key stated Purposes in LUR Section 9-601:

B. **Achieve and Maintain Varied Housing Supply:** This project does not comply with the targets for income groups and owner/renter ratios identified in the Housing Needs Assessment. The project exceeds the total identified housing need of 171 units in the Upper Valley by 69 units or 140%; and the development is comprised entirely of rental units (100%) with no for-sale units.

E. **Mitigating Impacts by Promoting a Balance of Jobs and Housing:** This project increases rather than reduces the demands placed on transportation infrastructure. The project is two miles from Town and not readily within walking or biking distance on a year-round basis and therefore requires additional transit-oriented infrastructure: full-service, year-round transportation, a transit facility with restrooms and adequate park-n-ride parking. While the development proposal includes a transit stop, restrooms and parking area, there is no direct public transportation service at this site and the applicant has not provided or offered any funding towards the costs of providing the necessary level of service. Without public transportation service and funding source(s), this is an automobile-oriented development that will have adverse community impacts related to traffic, congestion, air quality, safety and parking.

G. **Ensure Development that Enhances the Existing Sense of "Community" in Gunnison County:** This proposal does not meet the goal of ensuring that Essential Housing Projects and residences are integrated with the current residents and not isolated from free-market residential development. The proposed development is not compatible or harmonious with the existing "sense of community" because it is more intense; dense, massive and isolated from its natural and man-made surroundings.

LUR Section 9-604 A. Required Incentives. Notwithstanding any other requirements of this Resolution, the decision-making body shall provide one or more of the following incentives for an Essential Housing Project or a residential or mixed-use development in which a minimum of 40 percent of the residences are Essential Housing, and, because of deed restriction, will remain Essential Housing:

Town Discussion:
This project does not qualify as an Essential Housing Project because by definition, in an Essential Housing Project, all units must be deed restricted for Essential Housing. However, 54% of the residences do qualify as Essential Housing, i.e. housing for residences earning less than 120% AMI. County LUR Section 9-604 A. requires the decision-making body to provide **one or more** incentives for an Essential Housing Project or a residential mixed-use development in which a minimum of 40% of the residences are Essential Housing and because of deed-restriction, will remain Essential Housing. The list of potential incentives, if granted by the decision-making body include:

1. Expedited review process for Essential Housing Projects. *Already granted*
2. Increase in allowable residential living area. *Not applicable*
3. Increase in building height. *Requested increase from 30' to up to 37.5'*
4. Reduced setback requirements. *Requested decreased setback along Brush Creek Rd to 45' from edge of pavement*
5. Deferred fees. *Not yet requested*
6. Modified development standards.
    a. Increased density – *Requested increase from approx. 1 unit per acre to 16.8 units per acre*
    b. Increased building size – *Requested increase from 10,000 sq. ft. or aggregate of 12,500 sq. ft. to up to 286,200 sq. ft. not including the wastewater plant or transit center*

County LUR Section 9-604 B. Possible additional incentives <u>may</u> include:

1. Reduced parking requirements - *Requested decrease from 480 parking spaces for residential use to 400 spaces*
2. Reduction in amount of open space. *No reduction requested*

Section 9-604 allows for incentives to be offered for Essential Housing projects (100% deed restricted) or projects containing over 40% Essential Housing. However, it does not provide any guidance on how this incentive should be applied to two these disparate types of projects. Therefore it is left to the approving body to determine which and how many incentives should be applied to a project that provides between 40% and 100% deed restricted units.

Town of Crested Butte Findings regarding LUR Section 9-604:
The Town finds that the applicant has failed to clearly articulate: 1) why those standards need to be modified; 2) how the proposed variation meets the modification requirements; and 3) how this development proposal furthers the purposes of Essential Housing and meets the housing need as contained in County LUR Section 9-601.

Therefore, the Town recommends that the decision-making body should carefully consider which incentives it is willing to provide to the applicant; why the incentives are warranted; and whether this proposal comports with the County and municipalities broader values, policies, goals and objectives.

The Town finds that the following Incentives as contained in LUR Section 9-604 should <u>not</u> be provided to this major land use change as they have been requested:

- Incentive 3 - Increase in building height;
- Incentive 4 - Reduced setback requirements;
- Incentive 6 - Modified development standards; and
- The additional incentive in LUR Section 9-604 B.1. Reduced parking requirements.

Gunnison Valley Housing Needs Assessment
<u>Town Discussion</u>:
In 2016, the Gunnison Valley Housing Needs Assessment ("Housing Needs Assessment") was prepared by Rees Consulting, Inc., WSW Consulting and Williford, LLC. This study identified the need for housing valley-wide and within specific sub areas including the north end of the valley.

The Housing Needs Assessment estimated that 171 rental units are needed in the North Valley in the next few years:

- 93 units as low-income (<80% AMI);
- 46 units as moderate income (81-120% AMI);
- 25 units targeted towards incomes between 121-200% AMI; and
- 7 units targeted towards incomes exceeding 200% AMI.

The Corner at Brush Creek is proposing to develop 240 rental apartments with a unit mix ranging from efficiency studios to 3-bedroom units. The Revised AMI Mix (1-5-18) includes:

- 100 units (or 108% of need) targeted to low-income households less than 80% AMI;
- 30 units (65% of need) targeted to moderate income households between 81-120% AMI; and
- 20 units (80% of need) targeted to households earning 121-180% AMI;
- 90 units which do not have a deed restriction limiting the household's AMI. These units comprise 37.5% of the total project.

After the Corner at Brush Creek Sketch Plan was submitted in 2017, the Town of Crested Butte commissioned Rees Consulting, Inc. to prepare an objective analysis of the proposed development to determine whether or not this proposal addresses the housing needs identified in the Needs Assessment for the north end of the Valley. Rees determined that the project does not address the housing needs identified in the study. The Rees analysis is attached to this letter.

Town of Crested Butte Finding regarding the Housing Needs Assessment:
The Town finds that the proposal to construct 240 rental apartments at one location and under one ownership within the Upper Valley is inconsistent with the Housing Needs Assessment because:

1. The proposal is contrary to the agreed upon regional housing strategy of developing a series of for-sale and rental workforce housing projects that are to be integrated into the communities of Crested Butte South, Crested Butte and Mt. Crested Butte;

2. The Corner at Brush Creek application proposes too many units relative to the identified need in the North Valley - 69 units or 140% greater than the need for 171 units, which will enable one owner to control almost 25% of the rental market in the North Valley (240 units of 928 total units upon completion of the project) and it will create more units than demand and result in slow lease-up, possibly high vacancy rates and potentially project failure; and

3. Town is concerned that the applicant has not identified how the various income categories will be distributed among the various building and unit types; for example, are there any low-income 2-bedroom or 3-bedroom family-type units, how many are there and in which buildings are they located?

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II. LUR Section 10-103: Residential Density

LUR Section 10-103 C. Residential lot sizes and density of a land use change shall initially be reviewed relative to existing development.

Town Discussion:
The base density in Gunnison County is generally 1 unit per 35 acres; and that density may be increased to approximately 1 unit per acre if the development is served by a central wastewater treatment system. The applicant is proposing to develop 240 rental apartments on 14.29 acres that

result in a residential density of 16.8 units per acre. While the applicant has reduced the total number of bedrooms within the project, the overall project density has remained unchanged. The number of total bedrooms is not relevant to determining density or compatibility.

The site is bounded on the south by two single-family homes on individual 3.4 acre parcels (0.29 units/acre); to the west and north is the Skyland development that has 509 units on 586 acres (0.87 units/acre); and to the east is the Larkspur development with 65 units on 35.6 acres (1.82 units/acre). Other developments in the immediate neighborhood include Buckhorn Ranch with 338 units on 259 acres (1.3 units/acre); and Whetstone Vista having 9 units on 36.6 acres (0.25 units/acre).

Town of Crested Butte Findings regarding LUR Section 10-103 C:
The Town finds that the proposed residential density of 16.8 units/acre is not compatible with the existing adjacent, residential development and is not characteristic of the semi-rural setting. The Town strongly recommends that the proposal for 240 rental units with a density of 16.8 units/acre be denied based on the following findings of fact:

The Corner at Brush Creek proposal is <u>not</u> compatible with the densities and/or land use intensities of the existing adjacent residential developments; the proposed Brush Creek density is: 9.2 times greater than Larkspur on less than half (40%) of the land area; 19.3 times denser than Skyland on about 2.4% of the land area; and 12.9 times greater than the density at Buckhorn Ranch on 5.5% of the land area.

LUR Section 10-103.C.1. Compliance with Municipal Three Mile area. When the proposal is for development located within a municipal three-mile plan area, the development proposal shall address how it comports with the objectives and policies of the applicable municipal three-mile plan. The County shall consider how the proposed development has addressed those objectives and policies, and any further intergovernmental agreement between the County and the municipal government regarding the three-mile plan area. Where there is a conflict between the objectives or policies of a three-mile plan or the intergovernmental agreement, and County standards, County standards shall apply.

<u>Town Discussion</u>:
The <u>Crested Butte Area Plan</u> identifies this area, SH 135 to Buckhorn Ranch Subdivision on the south side of Brush Creek Road, as having a recommended density of 0.50 units/acre, similar to Skyland densities (Table P-2, page 16). The Plan, as an incentive to create more local housing, does have a provision that allows for twice the recommended density, or 1.0 unit/acre at this location.

The <u>Gunnison County Comprehensive Corridor Plan</u> includes the Crested Butte Three Mile Planning Area. For the area between SH 135 and Whetstone Vista Subdivision (where this site is located), the recommendations are:

1) *Unless this land is added to the East River Water and Sanitation District, the appropriate density is one (1) unit per 35 acres. The transfer of development rights program should target this property as a receiving area; and*

2) *The density may be increased from one (1) unit for each 35 acres of land if development rights are transferred into this area. In general, the number of units per acre where density is transferred to, should be similar to the density of development in the vicinity of the proposed development.*

The Corner at Brush Creek development is 16.8 times more dense and contains 226 more units than the recommended densities (1.0/acre) envisioned for this location by both, the Crested Butte Area Plan and Gunnison Valley Comprehensive Plan-Crested Butte/Gunnison Corridor. While the LUR has a provision that when there is a conflict between the objectives or policies of a Three Mile Plan and County standards, the County standards shall apply which in this case means, "*residential lot sizes and density of a land use change shall initially be reviewed relative to existing development.*"

Town of Crested Butte Findings regarding LUR Section 10-103.C.1:
The Town finds that the project does not comport with the three mile plans as required by this Section for the following reasons:

1. The proposed density of 16.8 units/acre does not comply with the recommendations of the adopted Crested Butte Area Plan and Gunnison County Comprehensive Corridor Plan.
2. The project density is not compatible with existing development. The proposed density is not similar or compatible to the densities of the existing, adjacent developments of Larkspur, Skyland and Buckhorn Ranch; existing densities which range from 0.25 units/acre at Whetstone Vista to 1.82 units/acre at Larkspur.

LUR Section 10-103.C.3.Lot size and density considerations. Unless exempted pursuant to Section 10-103:B.1: Exemption for Parcels on Agricultural Operation, lot size and lot density shall be substantially similar to neighborhood parcels unless the standards of either (a) or (b) are met.

Town Discussion:
The project includes 240 units on a 14.29 acre parcel with a density of 16.8 units/acre. The existing nearby neighborhoods have densities ranging from 0.87 units/acre (Skyland) to 1.82 units/acre (Larkspur). Since the project includes 130 qualifying deed-restricted rental units, the applicant is requesting increased density as an incentive to provide Essential Housing.

The project includes eight buildings that would exceed 10,000 sq. ft. in size; including two buildings approximately 30,000 sq. ft. each. The site is bounded on the south by two single-family homes that contain 1,968 and 2,368 square feet including garages on individual 3.4 acre parcels.

Town of Crested Butte Findings regarding LUR Section 10-103.C.3:
Conditions are not appropriate for greater density because the project is not substantially similar to the neighborhood existing when the Land Use Change Permit application was submitted. In particular the following findings apply to particular subsections of the LUR:

(a) LUR Section 10-103.C.3.a.Conditions are Appropriate for Smaller Lots or Greater Density is not satisfied because all four of the subsequent requirements are not met;
- LUR Section 10-103.C.3.a.3.a Permanent Covenants to Ensure Continued Compatibility With Neighborhood Uses and Densities is not satisfied because the proposed project will not be compatible with neighborhood uses and densities that exist at the date of approval of the Land Use Change Permit;

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- LUR Section 10-103.C.3.a.3.a.4 Compatibility of Uses requirement is not satisfied because the project does not meet LUR Section 13-119.B.8 ensuring reasonable compatibility of structure sizes;
- LUR Section 10-103.C.3.a.3.a.5 Building Size is not satisfied because the proposed buildings are many times larger than those in the surrounding neighborhood;
- LUR Section 10-103.C.3.a.3.a.4 Impact of Increased Density is Mitigated is not satisfied because the residences are not clustered to minimize visual impact and there is no existing public transportation system serving the development.

(b) LUR Section 10-103.C.3.a.3.b. Conditions are Appropriate for Larger Lot Size or Lesser Density is not applicable as that standard concerns subdivision applications.

III. LUR Section 13: Project Design Standards

LUR Section 13-103 General Site Plan Standards and Lot Measurements.

LUR Section 13-103 H. Allowed Structure Heights. Height of structures shall be as follows:

1. *Residential structures.*
   a. *Flat Roofs. Structures with flat roofs shall not exceed 30 feet in height.*

Town Discussion:
The applicant is requesting modifications to Standard H.1. Allowed structure heights of 30-feet for residential structures, by proposing a maximum building height of 37'6" for the larger multi-plex buildings. One of the incentives provided for Essential Housing is that a potential increase of 25% in the maximum structure height may be provided when the County determines the increase to be in the public benefit in its allowance for additional or larger residences that are deed-restricted.

Town of Crested Butte Findings regarding LUR Section 13-103 H.
The Town finds that the proposed height increase should not be granted and that a 30-foot height standard is appropriate and compatible with the existing adjacent developments and natural setting. Additionally, the applicant has not demonstrated that there is a hardship or unique circumstances and that adherence to the 30-foot height limit would result in fewer and/or smaller residential units.

LUR Section 9-604 A.3. Increase in Building Height. An increase of 25% in the maximum structure height allowed pursuant to Section 13-103: G: Allowed Structure Heights, when such increase is found to not interfere with solar access or potential solar access of existing adjacent structures, and the County determines the increase to be in the public benefit in its allowance for additional and/or larger residences and that are deed restricted pursuant to this Division.

Town Discussion:
LUR Section 9-604 A.3 is one of the incentives to provide essential housing that the approving body may allow. They are required to provide only one of the multiple incentives offered and have already provided for an expedited review process and possibly other incentives.

Based upon the application, it cannot be determined that the larger residences are those that will include deed restricted units within the project. Further, the location is visually prominent from SH 135 southbound and the massive proposed buildings will already dominate the view from this perspective even without an allowance for increased height.

Town of Crested Butte Findings regarding LUR Section 9-604 A.3.
The Town has found that the increased height over 30' is not in the public benefit due to the negative visual impacts of increased building height in this elevated and visually prominent location.

LUR Section 13-104 Setbacks from Property Lines and Road Rights-of-Way.

LUR Section 13-104 A. Applicability. Unless otherwise exempted by this Resolution, the following shall apply, all land use changes and approved Building Permit site plans shall meet property line setback requirements indicated in Table 7: Setbacks from Property Lines and Road Rights-of-Way.

Town Discussion:
The applicant is proposing the following setbacks:

- 45 feet: Brush Creek Road setback from the pavement edge;
- Less than 40 feet: Wright Ranch Road setback; and
- 15 feet: South and East side yard setbacks.

The County setback requirements for multifamily buildings are:

- 25 feet: Front yard;
- 15 feet: Side/rear yards;
- 40 feet: County/highways and other public roads (if the width of right-of-way is known, measure shall be from the edge of the right-of-way; when unknown, measurement shall be from the road center line, and an additional 40 feet added to the requirements for setbacks from roads; and
- 25 feet: Platted subdivision roads.

The proposed 45-feet setback from the edge of Brush Creek Road does not comply with the County requirement of 40-feet from right-of-way or 80-feet from the roadway centerline.

Town of Crested Butte Findings regarding LUR Section 13-104 A.
The Town finds that the proposal does not meet the setback requirements from Brush Creek Road and should therefore be denied based on the following findings of fact:

1. Compliance with the required setback from Brush Creek Road will not result in an inability to build;
2. The project does not comply with all of the standards required for approval of a variance: 1) there are no special circumstances; 2) the situation is the result of the applicant; 3) strict application of the standard does not cause practical difficulties; 4) no relief is needed; and 5) there would be adverse impacts to the neighborhood; and

LUR Section 9-604 A.4 Reduced Setback Requirements. An exception pursuant to Section 13-104: Setbacks from Property Lines and Rights of Way shall be allowed by reducing front setbacks to 15 feet, and side/rear setbacks to 10 feet, subject to approval by the applicable fire protection district.

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Town Discussion:
LUR Section 9-604 A.4 is one of the incentives to provide essential housing that the approving body may allow. They are required to provide only one of the multiple incentives offered and have already provided for an expedited review process and possibly other incentives.

Town of Crested Butte Findings regarding LUR Section 9-604 A.4
The reduced setback from Brush Creek Road should be denied because reduced setback requirements can only be applied to front, side and rear setbacks as Incentives for Essential Housing; the provision does not allow setbacks from County roads and/or platted subdivision roads to be modified.

LUR Section 13-105 Residential Building Sizes and Lot Coverages.

LUR Section 13-105 B.1. Residential and Residential/Mixed Uses. The requirements of this Section shall apply to all residential and residential/mixed land uses, including multiple-family housing developments.

LUR Section 13-105 D.2. Maximum Building Size and Maximum Aggregate of All Structures. No building on a parcel equal to or larger than 6,500 sq. ft. shall exceed 10,000 sq. ft. and the aggregate of all structures shall not exceed 12,500 sq. ft. unless:

a. *Land Use Change Permit Approves Greater Size. Approved pursuant to Section 13-105: G: Impact Classification and Required Findings for Coverage Exceeding Standard.*

Town Discussion:
The proposed development includes a unit mix of: (6) duplexes; (6) 4-plexes; (1) 8-plex; (1) 16-plex; (5) 24-plexes and (2) 30-plexes that total 240 units. The residential structures range in size from 4,000 sq. ft. (duplex) to approximately 30,000 sq. ft. (30-plex). The original submittal included size ranges for each building type. When added together the project had an aggregate of all structures of 271,800 – 318,000 sq. ft. The updated proposal presented on January 5th did not provide updated size ranges but did assert that the overall building area was reduced by 10%. The new aggregate of all structures would then be 244,620 – 286,200 sq. ft. The requested aggregate floor area is up to 23 times greater than the LUR allows.

The applicant has requested a modification to the design standard which may either be granted through LUR Section 13-105 G or LUR Section 9-604A 6.

LUR Section 13-105 G. Impact Classification and Required Findings for Coverage Exceeding Standard.

1. *Finding of No Obtrusive Visibility Required for Approval. The structure(s) is found not to be obtrusively visible.*
2. *Obtrusive Visibility Shall Cause Denial. If, after such siting and screening, any portion of a structure is obtrusively visible from the outside of the parcel on which it is to be built, that portion of the Project shall be denied. In order to meet this standard, the entire structure need not be invisible from outside of the parcel on which it is to be built.*

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OBTRUSIVELY VISIBLE STRUCTURE means a structure or part of a structure that stands out in the context of its surroundings or that draws attention to itself.

Town Discussion:
The project includes multiple buildings that will exceed 10,000 sq. ft. The project is located largely on top of a hill as viewed from SH 135 southbound and will be highly visible from that view corridor. The two most massive buildings each containing 30 units are estimated to be approximately 30,000 sq. ft. The aggregate building size ranges from 244,620 – 286,200 sq. ft., not including the wastewater plant or transit center. For reference the entire Crested Butte Community School is 115,000 sq. ft. There are no buildings near this site that approach the size requested for this project. The applicant has also requested to exceed the height limitation of 30' for the largest structures.

Town of Crested Butte Findings regarding LUR 13-105 G.
The Town finds that the buildings on the site will be obtrusively visible and therefore the request to exceed 10,000 sq. ft. should be denied.

LUR Section 9-604 A.6. Modified Development Standards. The decision-making body shall approve modifications to the design requirements of Article 10: Locational Standards, Article 11: Resource Protection Standards, Article 12: Development Infrastructure Standards, and Article 13: Project Design Standards for Essential Housing, provided that the requested modification will result in residences that will be more energy-efficient, will provide more amenities, or improved design, and will not jeopardize public health, safety or welfare.

Town Discussion:
LUR Section 9-604 A.6 is one of the incentives to provide essential housing that the approving body may allow. They are required to provide only one of the multiple incentives offered and have already provided for an expedited review process and possibly other incentives.

This incentive requires that some development standards may be modified provided that the requested modification will result in residences that will be more energy-efficient, will provide more amenities, or improved design, and will not jeopardize public health, safety or welfare. The applicant has not demonstrated how these larger buildings will be more energy efficient than the adopted building codes already provide. Nor have they provided evidence about how allowing for buildings three times the size otherwise allowed in the unincorporated area improves amenities or design.

Town of Crested Butte Findings regarding LUR Section 9-604 A.6.
The applicant has not demonstrated how the allowance of additional building area will be more energy efficient, provide more amenities or improved design. At 10,000 sq. ft. the buildings will already meet the standard of obtrusively visible structure in this location. Allowing buildings up to 30,000 sq. ft. or an aggregate building size of 286,200 sq. ft. as requested would have a detrimental impact on the view corridor that far exceeds the value of 54% Essential Housing units.

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LUR Section 13-119: Standards to Ensure Compatible Uses.
LUR Section 13-119 B. Additional Compatibility Requirements. As a condition of approval for Land Use Change Permits and in addition to any other requirements of this Resolution, the applicable review body may recommend and the decision-making body shall be authorized to impose conditions that are necessary to minimize any potentially adverse impacts. Such conditions may include the following:

8. *HEIGHT AND SIZE RESTRICTIONS. The imposition of height and size restrictions to preserve light, privacy, views of significant features from public property and rights-of-way, and to ensure reasonable compatibility of structure sizes;*

Town Discussion:
Gunnison County has this additional provision in addition to LUR Sections 13-103:H and 13-105 which limit height and building size. This emphasizes the importance of these two standards to the community. The additional building height and additional building size requested by the applicants do not comply with LUR Section 13-119 Standards to Ensure Compatible Uses. The proposed use, size and height of the development adversely affects the character and tranquility of the adjacent residential area; and there needs to be height and size restrictions to preserve light, privacy, views of significant features from public rights-of-way, and to ensure reasonable compatibility of structure sizes.

IV. LUR Section 13-110 E. Parking

LUR Section 13-110 E. Standards for Off-Road Parking. Unless otherwise required by this Resolution, off-road parking facilities shall meet the minimum distances listed in Appendix Table 3: Off-Road Parking Requirements. Staff shall determine the appropriate classification for any use or facility not listed based on the impacts and traffic generation characteristics of the proposed use or facility.

Appendix Table 3 of the LUR requires for multiple family units two parking spaces per residence for up to a three bedroom residence.

Town Discussion:
Appendix Table 3, with no approved modifications, requires a minimum of 480 parking spaces for the development's 240 units. There is no specific parking standard listed for transit facilities. The updated plan for the Corner at Brush Creek proposes a total of 475 parking spaces; 380 residential parking spaces (1.67 spaces/unit), 20 guest spaces and 75 park n ride/transit spaces. There is no on-street parking provided within the development or allowed along Brush Creek Road.

Staff and the applicant speculate that if transit is provided to the site there may be some impact on the number of vehicles. However, neither RTA nor Mt Express has yet agreed to provide service to the site. If they do, substantial new funding would need to be provided. In addition, the service would have to be regularly scheduled and high frequency (at least every 20 minutes) in order to have a meaningful impact on residents' decision to forego a personal vehicle.

In addition, County staff and the applicant refer to the Deli Trail as an option that will also reduce residents' decision to maintain a personal vehicle. The easements for the Deli Trail through private property "discourage winter use" and the trail is not maintained for winter use. The Town of

Crested Butte has concerns about the safety of the trail for winter use given the steep slopes adjacent to portions of the trail that have a propensity to slide under certain snow conditions. In addition, if the Deli Trail usage is dramatically increased how will maintenance also be increased?

The property is called the "Parking Lot Parcel" in the agreement between the contributing agencies who cooperated on the purchase of the property in 1998. The intended use was, in part, as an intercept parking lot to alleviate parking pressure for the ski resort and communities of Crested Butte and Mt. Crested Butte. The pressures of parking demand have not decreased and Crested Butte is currently investigating comprehensive parking solutions including paid public parking and permitted parking for residents and employees. As regulated parking progresses this will put increased demand on the existing transit system and any new transit stops that are integrated in the future.

Town of Crested Butte Findings regarding LUR Section 13-110 E and Appendix Table 3.
The Town finds that the development proposal does not satisfy the requirements of Section 13-110 E or provide sufficient parking for residents of the apartments or transit users for the following reasons:

1. Including the visitor spaces, the development will have a shortfall of 80 parking spaces under the County's standard for this type of housing - only 1.67 spaces per unit with 240 units. This is a significant shortfall at a time when our community outside of the municipality remains largely auto-dependent;
2. The existing parking shortfall in Crested Butte will continue to put pressure on transit services and no supporting evidence has been presented that 75 spaces will be sufficient to serve this transit location. Crested Butte believes this number should be significantly higher;
3. There is no plan or agreement from either RTA or Mt. Express to add regularly scheduled service to this location sufficient to off-set the need for residents to maintain personal vehicles;
4. The Deli Trail is not a viable alternative for transportation as it is not available for winter use and the design may not sustain the additional trips generated by this project during the summer months; and
5. Because the project is only supplying 54% of the units as Essential Housing, and due to the significant shortfall in spaces for the residences, the additional allowance of relaxed parking standards should not be applied for this project.

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V. Adverse Community Impacts

Open Space and Recreation Areas

LUR Section 13-108 A. General. This Section intends to insure that new development provides for or contributes to park and recreation facilities for the community and residents of new developments, to provide passive and active recreation opportunities, and to preserve open space for the purpose to protect sensitive natural areas, agricultural forage areas and view corridors.

Town Discussion:
The Town of Crested Butte has seen substantial growth in recreation participants over the past 10 years. Programmable park space for field sports such as soccer, softball, flag football, and baseball

are at capacity as identified by the Town of Crested Butte 2010 Parks and Recreation Master Plan prepared by Pros Consulting and Greenways Incorporated. The Town hopes that new workforce housing would create additional participants in Town programs, however, there is insufficient space for the creation of additional athletic fields in Town to support program growth. The proposed project does not include any programmable field space to offset the increasing needs of the community and those caused by this development.

The open space or park space that is provided by the development is internally focused and will not be easily accessible for the community at-large. The proposed perimeter trail is a nice amenity for the residents but is unlikely to be utilized by the general public.

Town of Crested Butte Findings regarding LUR Section 13-108 A.
The project does not satisfy the intentions of the LUR that "…new development provides for or contribute to park and recreation facilities for **the community** and residents…". In addition, the space that is provided does not serve to protect view corridors.

Traffic and Transportation
Town Discussion:
The Colorado Department of Transportation stated that a traffic study, including a signal warrant analysis, must be conducted for the project. They speculated that this project could trigger the need for a traffic signal at the intersection of Brush Creek Rd/SH 135 and that the development may have significant traffic issues. The Gunnison County Public Works Department has commented that intersection improvements may be required by CDOT and that those would not be the sole responsibility of the applicant, however, they do not say who will share in this cost with the applicant.

In 2014-15, an Update to the 1998 Transportation Plan for the Town of Crested Butte was prepared by the consulting firm of Kimley-Horn (K-H). While previous transportation plans focused primarily on the area within the Town limits, the K-H plan examined impacts from the surrounding region and the Town's connections to the County. A large part of the 2014-15 Plan was formulated in response to the growth patterns that had already occurred, existing transportation conditions and the built environment; but more importantly, this Plan is intended to be pro-active and to be a guide for future development.

The Corner at Brush Creek proposal utilizes a majority of the site for workforce/essential housing and only a limited area is dedicated to transit-related use and parking. According to the 2014-15 Kimley-Horn Transportation Study, the Town of Crested Butte downtown business district currently has a parking supply deficit of 232 parking spaces on weekdays and up to 450 spaces on weekends, depending upon shared parking reductions. In addition, the Town is now considering implementing a Parking Management Program to ease congestion and more effectively manage the parking supply in town. With limited land availability in town and the high cost of structured parking garages ($35,000-50,000/space), the Brush Creek parcel provides an excellent opportunity at which to develop a transportation hub with potential bus storage and an adequate supply of park-n-ride and intercept parking. To accommodate the existing parking shortfall in Town, approximately 2 to 4 acres would be needed (120 cars/acre) at the Brush Creek site and the remaining 10 to 12 acres could be utilized for workforce/ essential housing and open space. This parcel needs to be maximized in terms of its use as a transportation hub and intercept/park-n-ride area: it is

strategically located adjacent to SH 135; it is two miles from Town; it is publicly-owned and with funding, it can provide local and regional transit.

Town of Crested Butte Finding:
The Town finds that this project does not satisfy the requirements to adequately address the impacts of traffic due to the following facts:

1. The installation of a traffic signal in this end of the valley is a significant negative impact to the community which highly values its rural character;
2. The applicant has stated that they will not pay for improvements to the intersection of SH 135/Brush Creek Rd which all agree will be necessary; and
3. The project will contribute to increasing pressures on parking in Crested Butte without providing parking for transit to off-set this impact.

Transit
Town Discussion:
At this time, RTA and Mt Express do not provide direct service to the Larkspur, Skyland and Buckhorn Ranch developments. Proposed public transportation to service this project would require additional funding to offset the expense of expanded, year-round service.

Mt. Express operates through an agreement with the Towns of Crested Butte and Mt. Crested Butte who provide funding and support for the operation. The Town of Crested Butte currently houses all of the Mt. Express offices and busses within the Town's public works yard. There is no space for additional bus storage or expansion at this location. If new routes are added to Mt. Express' service area additional vehicles may be needed and they cannot be accommodated at the current location.

VI. The Proposed Project Does Not Comply with Relevant Adopted Plans:

Crested Butte Area Plan. On November 1, 1993, the Crested Butte Three-Mile Area Plan was adopted by Town Council acting as the Municipal Planning Commission; in 1996 the Three Mile Area Plan was included in the Crested Butte Land Use Plan. The Three Mile Plan was updated in 2004 and renamed the Crested Butte Area Plan. The most recent update of the Area Plan occurred in 2011 and it includes the vicinity of the Corner at Brush Creek project. The purpose of the Area Plan is:

1) "To comply with C.R.S Sections 31-12-101 et. seq. which require that there be a plan for a three mile area from any point of a municipal boundary prior to annexation; and

2) To provide a basis for addressing and evaluating proposed development in unincorporated Gunnison County in the vicinity of Crested Butte."

The Crested Butte Area Plan Goal is to "*provide a livable man-made environment and respect the character of the Valley.*" The Area Plan's relevant Land Use (LU) Policies and Objectives, pages 16-18, include:

LU Policy 9. "*As an incentive to create more local housing, if more than 40% of the dwelling units in a residential subdivision that will not be annexed to Town, or if more than 60% of the dwelling units proposed in a residential subdivision that will be annexed to Town, meet the definition of local housing units, then the density of the residential portion of a residential subdivision may be twice the density allowed in Policies LU 7* or LU 8 if:*

a. *The local housing is permanently deed-restricted;*
b. ***The buildings are similar in mass and scale to the adjacent neighborhoods**; and*
c. *All other applicable policies of this Plan have been met or satisfied.*

Table P2-Recommended maximum densities for residential portions of developments in Receiving Areas* (page 16) ***Location b. between SH 135 and Buckhorn Ranch on the south side of Brush Creek Road: recommended density is 0.50 units/acre; basis for recommended density: similar to Skyland densities*.

LU Policy 12. "*Priority Preservation Areas are mapped on the Preservation Priorities maps (Part 1, Policies,* pages 20-21*). These priority lands for preservation are Resource Areas which include:*

a. *Priority Views that should be preserved;*
b. *The Slate River Wetlands Preserve;*
c. *Elk production areas;*
d. *Irrigated agricultural land;*
e. *Private land in the Town's watershed (the Coal Creek watershed); and*
f. ***A ¼ mile visual buffer along SH 135 from Crested Butte to mile marker 19.75.**"*

LU Objective 14. "*The intent of the Plan is to encourage development to take place in an orderly fashion by encouraging new development to expand upon existing urban services and to avoid patterns of leapfrog, noncontiguous, scattered development within the Middle Slate River Valley (MSRV).*

LU Objective 15. "*Avoid development which would be inconsistent with the scale and character of the Town of Crested Butte or with adjacent developed areas.*

LU Objective 16. "*Major entryways into the Middle Slate River Valley (MSRV) should be identified, protected and enhanced in order to emphasize and preserve the natural setting and appearance of this community. Within three miles of Crested Butte, on parcels of land that extend more than a ¼ mile from SH 135, the Town encourages residential and commercial development (particularly buildings) to be located at least ¼ mile from the State Highway to help preserve the view.*"

Town of Crested Butte Findings regarding the Crested Butte Area Plan:
The Town finds that the Corner at Brush Creek does not comply with the Crested Butte Area Plan Purpose and Goal as it fails to meet certain key Land Use Policies and Objectives:

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1. The proposed density of 16.8 units/acre (240 units) exceeds the maximum recommended density of 0.50 to 1.0 units/acre (7-14 units) as set forth in Policy 9 and Table P2;

2. The proposed apartment buildings contain up to 30,000 square feet/building with a maximum height of 37'-6" which is not similar to the mass and scale of the adjacent Skyland, Larkspur and Buckhorn Ranch neighborhoods that is required by Policy 9 as an incentive to create more local housing;

3. The proposed development does not expand upon existing urban services such as domestic water supply, wastewater treatment and public transit service as encouraged by LU Objective 14;

4. The proposed project is not compact or infill development within the Town; rather it is a pattern of sprawl or leapfrog,* noncontiguous development contrary LU Objective 14; *the County LUR defines **sprawl** as "*failure to use existing infrastructure in favor of new facilities, or location outside existing service areas, disrupting continuity and heightening demand and associated costs for services, and heavy dependence on automobiles as opposed to mass transit or other non-auto related transportation modes;*" and **strip (leapfrog) development** as "*irregular development of land in the County, including intensive development adjacent to roadways or other geographical features, as well as sprawl or leapfrog development.*"

5. The proposed development is not compatible and not harmonious with the size, scale and character of the Town of Crested Butte, a National Historic District and the adjacent developed low-density residential areas of Skyland, Larkspur and Buckhorn Ranch in direct opposition of LU Objective 15; and

6. The site plan lay-out and the bulk, mass and scale of the proposed multi-family structures do not preserve or enhance the existing natural setting; the project with its density, size of buildings and contemporary-style architecture are not compatible and create a negative impact to the visual appearance of the major entrance into the community; and since the development is within a ¼ mile of SH 135, it is unable to meet the desired corridor setback and does not preserve the views or minimize the visual impacts from the highway as envisioned in LU Objective 16.

Gunnison County Comprehensive Plan-Crested Butte/Gunnison Corridor. In 2005, the Gunnison County Planning Commission adopted a comprehensive plan for the Gunnison/Crested Butte corridor. While the plan is generally held to be advisory only, as a master or comprehensive plan it serves as a guide or compass to direct land use and future refinement of zoning or the existing land use regulations. The County Comprehensive Corridor Plan contains sections with Three Mile Plans addressing issues that should be considered when development is proposed within three miles of the largest municipalities in the County: Gunnison, Crested Butte and Mt. Crested Butte. The major policies for these Three Mile Plans include the following:

- The County and municipalities should work together to preserve the characteristics of the County that are important to community members.

- The County and the municipalities should work together to create a process of intergovernmental cooperation for development review within three miles of municipalities.

- The County should insure that impacts to the municipalities from growth outside municipal limits are adequately addressed and mitigated.

- The County should encourage compact and infill development.

- The County should create a program that preserves open space in remote and significant areas, and allows density to be transferred from preserved areas to locations near existing development.

The following recommendations apply to all of these Three Mile Plans:

- ***Transportation Hubs***
  1. *The County and municipalities should work together to identify appropriate sites for public transportation hubs, which will help link transportation systems connecting the north and south ends of the Valley. Transportation hubs should:*
     a. *Include adequate parking;*
     b. *Include restroom facilities; and*
     c. *Be in convenient locations.*

- ***Public Transportation***
  1. *Affordable housing should be served with public transportation.*

- ***Commercial Area Parking***
  1. *The municipalities should all acquire additional land for downtown commercial area parking.*

- ***Housing***
  1. *Any new development within the Three Mile Planning Areas should include essential housing, both for-sale and long-term rentals.*

Town of Crested Butte Findings regarding the Gunnison County Comprehensive Plan-Crested Butte/Gunnison Corridor:

The Town finds that the Corner at Brush Creek proposal does not fully comply with recommendations that are established for all three of the Three Mile Planning Areas in the adopted Gunnison County Comprehensive Plan-Crested Butte/Gunnison Corridor because of the following facts:

1. **Not a Transit Hub**: The proposed 75 transit parking spaces are not adequate to meet the parking needs of a transit hub at this location. This is the appropriate location to develop a public transportation hub that provides public transit service, park-n-ride spaces for the residential areas adjacent to Brush Creek Road and intercept parking for residents, employees and visitors traveling from the South Valley. As proposed, the transit parking area may be used primarily for resident and guest parking because the applicant is proposing fewer than 2 parking spaces/unit and on-street parking within the development and along Brush Creek Road is not permitted.

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2. **No Public Transportation Service:** The applicant is proposing a transit stop and 75 parking spaces with public access to the restrooms and bike racks at the community center. However, the applicant is not providing any funding toward the costs of operating full-service public transit at this location. Without actually having full-service public transportation, this is not suitable site for 240 units of affordable and market-rate housing.

3. **Not a Commercial Parking Area:** This 14.29 acre parcel was purchased by Gunnison County, Town of Crested Butte, Town of Mt. Crested Butte and Crested Butte Mountain Resort primary purpose of providing intercept parking for patrons, guests, employees, residents and visitors. The Corner Brush Creek proposal provides a total 75 transit parking spaces that does not allow any future expansion. Currently, the Town of Crested Butte downtown business district has a parking supply deficit of between 232 parking spaces on weekdays and up to 450 spaces on weekends, depending upon shared parking reductions according to the 2014-15 Kimley-Horn Transportation Study. The current "commercial area" parking shortage requires approximately 2 to 4 acres of land (120 spaces/acre) and it can be accommodated on this parcel with additional area set aside for a public transit center, future parking expansion and workforce housing. This parcel needs to be utilized and maximized for the principal purpose it was purchased: intercept parking.

4. **No For Sale Units.** The applicant is proposing a 100 % rental apartment project that contains a total of 240 units. There will be 130 deed-restricted affordable/workforce housing rental units and 110 deed-restricted and free-market rental units that are not "qualified households" earning less than 120% AMI. Since this is a major new development within the Town Three Mile Planning Area, the development should contain both rental and for-sale units and the mix of rental/for-sale units can be negotiated during the public review process.

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VII. CONCLUSION/SUMMARY:

Key Findings:

- The project will include 240 units of which 54% meet the County's definition of Essential Housing;
- The project proposes a density ranging from 9 to 19 times greater than that of the surrounding neighborhoods;
- The project requests a building size up to approximately 30,000 sq. ft., an increase of 3 times the LUR allowance for buildings;
- The project requests an aggregate building size up to 23 times greater than the LUR allows;
- The project requests a height increase of up to 25% greater than the LUR allows; and
- The project request a 17% decrease in required parking for residences – a reduction of 80 spaces.

Simply stated, this proposed rental apartment use is: too intense; too dense; too "visually obtrusive"; and not similar or compatible with the existing, adjacent residential neighborhoods and landscape character.

The Town of Crested Butte strongly recommends that Gunnison County deny the Corner at Brush Creek Land Use Change/Sketch Plan based on the findings that the application does not comply, broadly or conceptually with the LUR requirements, far exceeds the essential housing incentives, and adversely affects not only the future development of the area, but the entire SH 135 Corridor from Gunnison to Crested Butte. We do not believe that approval of the current application is defensible because it fails to satisfy so many provisions of the Gunnison County Land Use Resolution. Specifically, the project should be denied for failure to satisfy the following sections of the LUR:

Section 7-102: Standards of Approval for Major Impact Projects
Section 9-601: Essential Housing, Purposes
Section 9-604: Incentives to Provide Essential Housing;
Section 10-103: Residential Density;
Section 13-103: General Site Plan Standards and Lot Measurements;
Section 13-104: Setbacks from Property Lines and Road Rights-of-Way;
Section 13-105: Residential Building Sizes and Lot Coverages; and
Section 13-108: Open Space and Recreation Areas
Section 13-110: Off-Road Parking and Loading.

The Town agrees that allowances should be made in exchange for the provision of essential housing, but this project goes too far. The incentives requested are not reasonable. Density 16.8 times greater than that recommended in the Crested Butte Area Plan and the County Comprehensive Corridor Plan and 9 to 19 times greater than that of the existing neighborhoods is not a reasonable request. Building sizes that are triple those allowed in the LUR and an aggregate building area of 23 times greater than the LUR allows are not reasonable requests for incentives.

The developer has been adamant that 240 units are necessary to make the project work financially and that he will not reduce the density. It is simply not possible to fit that many units on this site and meet the LUR so the project should be denied at this time. This action will allow the opportunity for the MOA Partners and the public to discuss what type of development is feasible on the site and to create a plan for moving forward cooperatively.

Our valley-wide affordable, workforce housing needs cannot be solved by one developer, by one project or at one particular point in time, rather it takes a comprehensive, steady, sustained approach by one valley with one vision and one strategic plan. A plan that: 1) maintains and strengthens our small authentic towns with clear, distinct boundaries and in-fill development having a mix of for-sale and rental affordable, workforce housing; 2) retains and preserves our agricultural/ranch lands and natural landscapes with open vistas; and 3) develops and funds an integrated public transportation system with park-n-ride and intercept parking areas.

The Town of Crested Butte is ready and willing to be an active participant along with our other partners, including local governments, employers and the Housing Authority to effectively address our affordable, workforce housing and transportation needs in a way that realizes our shared vision, our shared goals and enhances our natural and man-made environment. The Corner at Brush Creek is not the Town of Crested Butte's solution.

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Key Metrics Comparison

The Corner at Brush Creek and

2016 Gunnison Valley Housing Needs Assessment

October 31, 2017

Prepared for:

Town of Crested Butte

Melanie Rees
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Introduction

This brief report compares The Corner at Brush Creek apartment project proposed by Gatesco to key metrics from the *2016 Gunnison Valley Housing Needs Assessment*. Specifically, it compares the number of units proposed by income range to the:

- Total inventory of rental housing in the North Valley;
- Deed-restricted rental inventory;
- Rents; and
- Need for rental units in the North Valley through 2020.

The proposed Brush Creek project would provide 240 units in a mix ranging from studios to three-bedroom units. As planned, 58 of the units would target low-income renters (<80% of the Area Median Income (AMI)), another 98 units would be affordable for middle- to upper-income households (>80% - 180% AMI), and the remaining 84 units would be market.

Project Description – The Corner at Brush Creek

AMI	Cumulative # of Reserved Units*	Units by AMI Category *Consultant calculation*	Percent of Total Units
< 50%	16	16	6.7%%
< 80%	58	42	17.5%
< 120%	120	62	25.8%
< 180%	156	36	15.0%
Total Reserved	156	156	65.0%
Total Market	84	(no rent or AMI specified)	35.0%
Total Proposed Units	240	N/A	100.0%

*As presented in Brush Creek Sketch Plan Application

This comparison focuses on the North Valley since: 1) the Gunnison Valley has long been recognized to have distinct market areas; and 2) the North Valley estimate of need includes renters living in the Mid- and South-Valley areas who want to live in the North Valley.

Disclaimer: This report does not draw conclusions about the proposed project's marketability, feasibility, location, design (site plan, building type, bedroom mix, unit size and plans, amenities, parking), or risk as is typically covered in market studies required by developers, partners, and lenders.

Comparison to Total Rental Inventory

The 240 rental units proposed would increase the inventory of rental housing in the North Valley by approximately 35%, from 688 units estimated in 2016 to a total of 928 units upon completion. The development would concentrate just over one-fourth of the rental units in the North Valley on a single site. This estimate assumes no other builders (private or public) develop rental units at the same time as Brush Creek, a reasonable assumption given other developers would likely have their concerns about competition.

Housing Units by Use, 2016

	North Valley
Housing Units	3,684
Occupied Units	1,708
Owner Occupied	1,020
Renter Occupied	688

Source: Derived from State Demographer estimates.

Comparison to Deed Restricted Inventory

If built as planned, Brush Creek will more than double the number of deed-restricted rental units in the North Valley, from 223 currently to 379 upon completion, an increase of 70%. Again, this estimate assumes no other deed-restricted rental units are developed simultaneously with Brush Creek.

Deed Restricted Rentals, North Valley

	Renter	Either*	Total	Brush Creek	Total w/ Brush Creek
Crested Butte	129	57	186		186
Mt. Crested Butte	29	7	36		36
Unincorporated County	1	0	1	156	157
Total	159	64	223	156	379

*Most are commercial buildings and likely renter occupied.
Source: GVRHA and planner interviews

Rent Comparison

The Corner at Brush Creek Sketch Plan Application did not specify rents but rather described the method that would be used to calculate rents. The approach calls for setting rents at 30% of gross income. The application only provided the top end of the income range; however. It did not provide the income targets on which rents will be based for the whole range. For example, it is unclear if rents for the <80% AMI category would be affordable for renters with incomes at

60% AMI. It appears rents could be calculated based on the incomes of individual households and that different rates could be charged for each of the 156 reserved units, which is unusual.

A comparison of rents paid in 2016 to the proposed income targets for Brush Creek indicates rents as planned will be significantly higher than existing rates. While 22% of rental units were affordable for household with incomes at or below 50% AMI, only 6.7% of the Brush Creek units would target this range. (Again, note that only the upper end of the income range is specified for Brush Creek; the extent to which units will be affordable for renters below 50% AMI is unknown.)

The most notable difference between 2016 rent levels and rates proposed for Brush Creek is in the upper-income ranges. Approximately 8% of rents charged in 2016 were equivalent to rates affordable for 120% AMI or higher households. At Brush Creek, 50% of the proposed units will require incomes of 120% AMI or higher to be affordable.

Rent Paid by AMI, North Valley

Income (AMI)	2016 Rent Distribution by AMI	Brush Creek AMI Targets
≤50% AMI	22%	6.7%
50.1% - 80%	38%	17.5%
80.1% - 120%	33%	25.6%
120.1% - 200%	8%	50.0%*
> 200%	0%	
n/a	100%	100%

*Combined 84 market units with 36 units reserved at <180% AMI.
Sources: 2016 Resident Survey and Brush Creek Sketch Plan Application

Rent comparisons are typically based on unit type (number of bedrooms). While the bedroom mix for the total project is provided in the Sketch Plan Application, it is not broken-down by AMI. It is unknown if the AMI targets will be distributed proportionately among all types of units, from studios through three-bedroom units.[1]

The following low- and high-end rents for Brush Creek are compared to 2016 median rents by number of bedrooms. The 50% AMI rents at Brush Creek would be lower than 2016 median rents but the 180% AMI rents could be much higher. For two-bedroom units, Brush Creek could charge $2,871 for units reserved at 180% AMI (or higher if occupied by four or more persons), which would be more than twice as high as the median in 2016 of $1,200.

[1] Fair Housing may be a concern. For example, the Colorado Housing and Finance Authority in its administration of Low Income Housing Tax Credits for rental housing requires that AMI targets be similar across all unit types to avoid discrimination or preferential treatment based on familial status and income.

Median Rents, North Valley

# Bedrooms	Household Size Assumption	2016 Median Rent	Brush Creek Low End (50% AMI)	Brush Creek High End* (180% AMI)
1 BR	2	$850	$709	$2,552
2 BR	3	$1,200	$798	$2,871
3 BR	4	$1,350	$885	$3,186

*Assumes market units will rent for no more than affordable at 180% AMI.
Sources: 2016 Survey for median rents; Sketch Plan Application for 2017 income limits and rent calculation methodology

Note: The Sketch Plan Application does not indicate the rents will be charged for the 84 market units. An operating proforma and detailed AMI break down by unit type are needed to better understand the rents that will be charged and more definitively analyze how they compare to existing rents in the North Valley.

Comparison to Projected Rental Needs in 2020

Overall, the Corner at Brush Creek proposes too many rental units relative to need. The 240 units proposed for Brush Creek exceed the total catch-up and keep-up needs for rental units in the North Valley through 2020 by 69 units (240 units proposed; 171 rental units needed).

The *2016 Gunnison Valley Housing Needs Assessment* estimated that 171 rental units would be needed in the North Valley to:

- Eliminate overcrowding;
- Create a functional rental market; and
- Provide housing for employees to fill existing unfilled jobs, new jobs and jobs vacated by retiring employees.

Of the 171-unit total, the report concluded the market should provide about 78 units leaving a gap of 93 rental units that would likely need to be subsidized. Overall the proposed units would need to capture 140% of total need for additional units to reach full occupancy (141 units needed ÷ 240 units proposed). Capture rates over 100% mean that projects create more units than demand, which leads to slow lease up, high vacancy rates and potentially project failure.

Furthermore, the project's proposed income targeting is not aligned with housing needs. While the project could address 35% of the need in the lowest income range, the capture rate (units proposed compared to units needed) would exceed 100% starting at 80% AMI. In the category above 120%, the capture rate is 375%. This indicates the proposed project would provide nearly four times the number of rental units needed for middle- to upper-income households. The *Housing Needs Assessment* recommended focusing on renter households with incomes at or below 80% AMI with rents up to $1,200 per month.

Units Needed Compared to Proposed, by AMI

AMI	Max. Affordable Rent, 2016	Rental Units Needed	Brush Creek	Capture Rate
≤50%	$689	46	16	35%
50.1 – 80%	$1,102	47	42	89%
80.1 – 120%	$1,653	46	62	135%
120.1 – 200%+*	$2,755+	32	120	375%
Total/Overall		**171**	**240**	**140%**

*Combines market units with <180% reserved category.

Note: The *2016 Gunnison Valley Housing Needs Assessment* estimate for rental needs in the North Valley includes the needs of renters who now live in the Mid-Valley and South-Valley market areas who want to live in the North Valley. The market for the units proposed by Gatesco to target incomes above 80% AMI is unclear since it exceeds the needs generated in the North Valley, including those of in-commuters who want to move.

Silent tracks

Our Mission: "To protect and promote human-powered recreation in the backcountry of the Gunnison Valley"

January 17, 2018

Town of Crested Butte
PO Box 39
Crested Butte, CO 81224

Dear CB Town Council

Silent Tracks has received your check for $2,500.00 Thank you very much for your support of the Data Collection Initiative (DCI) being conducted by WSCU Master in Environmental Management (MEM) students. The entire amount of the grant award has been designated for the DCI.

As noted in your letter dated November 21, 2017, Silent Tracks will request that WSCU MEM provide both the raw and summarized data for your review. We will also provide a final accounting of the actual use of the funds by December 31, 2018.

Silent Tracks is a 501(c)(3) local non-profit. Our federal tax identification number is 47-3648224.

Please give us a call if you have questions or need additional information.

Silent Tracks

2018 Board of Directors
Maureen Hall, President
John Ellis, Vice-President
Cathy Frank, Treasurer
Bill Oliver, Secretary
Michele Kearns

February 20, 2018 – Tuesday Meeting
Work Session
Affordable Housing Discussion
Consent Agenda
Amendment to the Woods Walk Easement
Creative District Commissioner Appointment
Lots 4 and 5 Trappers Easement
Colorado State Forest Service Contract
New Business
Year End Report from the Chamber Executive Director, Ashley Upchurch
Presentation from BOZAR on the Project of the Year
CB to Carbondale Plan Comments
Miller Subdivision
Ordinance – Transfer of lots to GVRHA for duplex build
Agreement with GVRHA for funding and oversight on the duplex build
Parking Ordinance – T Zone
Revocable Easement and Parking Agreement between the Town and Oh Be Joyful Church
Located at 625 Maroon Avenue

March 5, 2018
Work Session
Mike Reily on Town's Emergency Preparedness Plans
New Business
Heights Open Space Plat Note Modification
Heights Open Space Conservation Covenant

March 19, 2018
Work Session
Matt McCombs, District Ranger, Gunnison Ranger District GMUG

April 2, 2018
Work Session
Hold for Council to convene as Planning Commission to review Slate River sketch plan subdivision/zoning

Future Items
- Update to current version of Model Traffic Code
- Update Section 8-2-50 - winter parking signs
- Charter Franchise Agreement
- Ordinance Adopting Standard Sales Tax Definitions
- Disposition of Land at Avalanche Park