



## PLANNING COMMISSION

Mike Simone, Chairperson  
Bruce Davis  
Bushrod White, Vice-Chairperson  
Dan Parrish  
Lucas Marone  
Lynne Derby

**Planning Commission Agenda  
Regular Meeting  
Tuesday, September 20, 2016  
6:00 P.M.**

*(Order & Contents Subject to Change by Action of the Commission)*

### **Call to Order - Roll Call**

### **Approval of Agenda**

**Consent Agenda** - Consent Agenda items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda items unless a Commission member so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Consent Agenda.

- a. Approval of the Minutes of the August 9, 2016 meeting

### **Discussion Items**

- b. **P2016-006** Mountain Sky PUD Development Plan, Preliminary PUD Plat, and Final PUD Plat - Filing 1
- c. Upcoming land use applications and updates

### **Future Business**

# Minutes

**RECORD OF PROCEEDINGS  
FORT LUPTON PLANNING COMMISSION  
August 9, 2016**

The Planning Commission of the City of Fort Lupton met in session at the City Complex, 130 South McKinley Avenue, the regular meeting place of the Planning Commission, on Tuesday, August 9, 2016. Chairperson Mike Simone called the meeting to order at 6:00 p.m.

**ROLL CALL**

Planning Technician Mari Peña called the roll. Those present were Chairperson Mike Simone, Commission members Bruce Davis, Bush White, Dan Parrish, and Lucas Marone. Also present were Planning Director Todd Hodges, Planner Alyssa Knutson, and Planning Technicians Mari Peña and Jennifer Cupp.

**APPROVAL OF AGENDA**

It was moved by Bruce Davis and seconded by Bush White to approve the Agenda as submitted.

Motion carried unanimously by voice vote.

**CONSENT AGENDA**

It was moved by Dan Parrish and seconded by Bruce Davis to approve the Consent Agenda as submitted. The following item was part of the Consent Agenda:

Approval of the Minutes of the March 8, 2016 meeting.

Motion carried unanimously by a voice vote.

**DISCUSSION ITEMS**

**P2016-004 Special Use Permit for Family Child Care Home at 745 S. Grand Avenue**

The Planning Chair asked for a brief description of the project.

The City Planner, Alyssa Knutson, stated that this project is for India Hargett to operate a family child care home from her residence at 745 S. Grand Avenue. The applicant proposes to care for no more than five (5) children. The property is zoned R-1A Low Density Residential and a Special Use Permit is required to operate a daycare business. The applicant is present to answer any questions that arise and provide a brief presentation.

The applicant, India Hargett, indicated that she is proposing to care for five (5) children from Monday thru Friday, 7 a.m. to 6 p.m. She stated she was a former elementary education teacher and is hoping to implement a preschool curriculum depending on need. She will also be allowed to care for two (2) children before school and two (2) children after school.

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The Planning Chair opened the public hearing at 6:03 p.m. He asked if anyone from the public would like to speak on the project.

James Salzman, a long term resident of Fort Lupton resides at 408 Pacific Ave. He indicated he was in support of the daycare business. He submitted a number of exhibits to the Planning Commission which describe the need for more affordable daycare options due to the loss of working class wealth. He urged the Commission to review the documents prior to making a decision on the daycare proposal.

Mr. Salzman also urged the Commission to support the Safe Routes to School from Aristocrat Ranchettes to 9<sup>th</sup> Street. The use of sidewalks would allow students to bike to school. Mr. Salzman then excused himself from the meeting.

The Planning Chair closed the public hearing at 6:05 p.m.

Commission Member Bruce Davis asked Mrs. Hargett if she will operate within the pervue of the State and who would be caring for the children if she was unable to do so. Mrs. Hargett indicated that she is required to obtain a State license to operate a daycare. If she can't provide daycare, she may notify parents or possibly hire a backup daycare provider to assist. Any employee of the business must pass a background check through the State.

Commission Member Dan Parrish inquired about fencing on the property and noted that the proximity of Hwy 85 on the west. Mrs. Hargett stated that the property is fenced all along the backyard.

Mr. Parrish asked if there were any pets in the house. Mrs. Hargett indicated that there is Pug that is friendly, however she plans to place the pet in the bedroom during daycare hours.

Mrs. Hargett added that the State allows care for two (2) children related to herself before obtaining a State license. Currently, she is providing daycare for two (2) nephews. The State will allow up to one (1) more unrelated child until she receives her State license. The condition of approval indicated that a State license must be obtained prior to operation. She asked if this will be a concern.

The City Planner indicated that as a condition of approval the Fire and State requirements must be met and the licensing is required prior to operation of the business, however she would discuss Mrs. Hargett's question with the Planning Director and the fire department.

It was suggested that the City Attorney be asked if Mrs. Hargett can operate prior to obtaining her State license.

The City Planner indicated that written evidence be submitted from the State and the fire department that Mrs. Hargett can operate prior to obtaining her license.

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It was moved by Bruce Davis to approve Resolution P2016-004 for a Special Use Permit for Hargett's Heroes Daycare. The motion was seconded by Bush White.

Motion carried unanimously by voice vote.

**P2016-005 Zoning Regulations Amendments to Article II of Chapter 16**

The City Planner indicated that due to discrepancies within the Municipal Code, revisions to the code were required. The most affected zoning districts were the Light and Heavy Industrial Districts. The districts do not allow manufacturing, which is the intent of industrial zoning and the new amendments allow manufacturing. Indoor gun ranges would be permitted with a special use permit in C-1 General Commercial, C-2 Heavy Commercial, I-1 Light Industrial and I-2 Heavy Industrial zone districts. Outdoor gun ranges would be permitted with a special use permit in the Agricultural, Light Industrial and Heavy Industrial districts.

Bruce Davis was pleased that these sections of the Code were being updated.

Commission Member Bush White inquired about the differences in the districts. The City Planner indicated that C-1 General Commercial was intended for businesses with less traffic and explained that Denver Ave and Hwy 52 were zoned C-1 as an example. She also indicated that the Safeway shopping center is in the C-2 Heavy Commercial District which allows for the heavier traffic. Ms. Knutson and the Planning Director gave a brief explanation of General and Heavy Commercial Districts as well as the Light and Heavy Industrial Districts.

The City Planner indicated that an open house was held to discuss the changes; however, there were no attendees from the public.

It was moved by Dan Parrish to approve Resolution P2016-005 for Zoning Regulations Amendments to Article II of Chapter 16. The motion was seconded by Bruce Davis.

Motion carried unanimously by voice vote.

**Election Vice-Chairperson**

Bruce Davis made a motion to elect Bush White as Vice-Chairperson and Dan Parrish seconded the motion.

Motions passed on voice vote.

**Upcoming land use applications and updates**

Mr. Paul Weber, who was in attendance from the beginning of the meeting approached the Planning Commission to inquire about the 2005 Parks and Trails Master Plan. He was

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amazed over the plan for trails and indicated that he is an avid runner. He also noted the sidewalks in Fort Lupton are not appealing.

The Planning Chair indicated that he has reviewed the 2005 Plan and the City's goal is to provide sidewalks. With the construction of Wendy's, sidewalk is being added along Hwy 52, which will connect to Pearson Park. Eventually, a trail will be constructed to follow Pearson Park to County Road 14. He expressed his plans for proposing an event to be called the Pebble Pebble since Boulder does the Boulder Boulder. He, as well as the other members, agreed with Mr. Weber that the sidewalks and trail system is not adequate.

The Planning Director, Todd Hodges, explained that funding has been approved for the trail to be constructed from Pearson Park to the Fort on the west side. All easements for the trail have been obtained. There are also negotiations with the gravel pits to extend the trail to County Road 18.

Mr. Hodges also added that the Planning Department is working on updating the master plan, parks plan, transportation plan, and then the design standards as a final update.

Mr. Weber inquired on how to keep updated on trail and other planning news. He was urged to join the Planning Commission as there is an opening and it provides for a great opportunity to get involved. The Commission thanked Mr. Weber for attending the meeting.

The City Planner, Alyssa Knutson, informed the Planning Commission that a consultant, Houseal Lavigne, has been hired to update the Comprehensive Plan and the official kick off meeting has been scheduled. The consultant is based out of Chicago and they are currently working on updating Aurora's Plan. They have recently completed plans for Windsor and Frederick. The design guidelines, transportation plan and parks and trails plan, are all part of the update. This process will take approximately one year. The last change to the plan was in 2007. Both staff and the Commission discussed community involvement as an important aspect to the update.

The City Planner explained that she would like members to fill out a survey for FLURA. The survey is online and hard copies are available at City Hall. The survey is helping note the deficiencies in the City and will help obtain information for the Comprehensive Plan.

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**ADJOURNMENT**

It was moved by Bruce Davis and seconded by Bush White to adjourn the August 9, 2016 Planning Commission meeting at 6:56 p.m.

Motion carried on voice vote.

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Mari Peña, Planning Technician

Approved by Planning Commission

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Mike Simone, Chairperson

**MOUNTAIN SKY SUBDIVISION  
PRELIMINARY PLAT AND  
FINAL PLAT- FILING #1**

# **Resolution P2016-006**

**RESOLUTION NO. P2016-006**

**A RESOLUTION OF THE PLANNING COMMISSION OF FORT LUPTON RECOMMENDING TO CITY COUNCIL APPROVAL OF THE MOUNTAIN SKY PUD DEVELOPMENT PLAN, PRELIMINARY PUD PLAT AND FINAL PUD PLAT – FILING 1 LOCATED IN THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO AND MORE SPECIFICALLY AT THE NORTHWEST CORNER OF WELD COUNTY ROAD 29 ½ AND WELD COUNTY ROAD 12.**

**WHEREAS**, FL Mountain Sky LLC (“Applicant”) has applied for approval of a PUD Development Plan, Preliminary PUD Plat and Final PUD Plat – Filing 1 (collectively, “Application”); and

**WHEREAS**, pursuant to Section 16-45(c)(3) of the Fort Lupton Zoning Regulations, PUD development plan applications shall be processed in the same manner as set forth in the Fort Lupton Subdivision Regulations; and

**WHEREAS**, the Planning Commission held a public meeting on September 20, 2016, for the purpose of reviewing the Mountain Sky PUD Development Plan, Preliminary PUD Plat for 199 single family residential lots and Final PUD Plat – Filing 1 for 44 single family residential lots; and

**WHEREAS**, after review of the application and consideration of staff comments, applicant’s presentation and any public input, Planning Commission finds the request for the Mountain Sky PUD Development Plan, Preliminary PUD Plat and Final PUD Plat – Filing 1 conforms with City codes and requirements and policies therein; and

**WHEREAS**, all legal notification requirements have been met, including publishing the time and place of the public hearings in the Fort Lupton Press, posting notice at least fifteen (15) days before the hearings on the property, mailing notice to property owners within five-hundred (500) feet of the property and to oil and gas lessees on the property; and

**NOW THEREFORE BE IT RESOLVED**, the Planning Commission has considered the application and has taken into consideration staff comments, the applicant presentation, all referral comments and any citizen testimony in response to this application. Based upon the review of applicable policies and goals in the Fort Lupton Comprehensive Plan, review of the Subdivision and Zoning Regulations, and the facts presented on this date, the Planning Commission hereby recommends approval of the Mountain Sky Final PUD Plan, Preliminary PUD Plat and Final PUD Plat – Filing 1 for a planned unit development located in the South Half of the Southwest Quarter of Section 4, Township 1 North, Range 66 West of the 6<sup>th</sup> Principal Meridian, City of Fort Lupton, County of Weld, State of Colorado, with the following conditions:

- I. Prior to recording the Final PUD Plat – Filing 1, applicant shall:
  - A. The following note shall be placed on the Final PUD Plat – Filing 1:
    - 1. Before the 31<sup>st</sup> building permit is released, Morning Sky Avenue shall be extended to Cemetery Road to provide a second access into the development.
  - B. Provide a closure report for the Final PUD Plat – Filing 1.
  - C. Coordinate with City staff to finalize an onsite and offsite subdivision improvements agreement and form of collateral for City Council approval, including, but not limited to:
    - 1. Irrigation and landscaping materials.
    - 2. Providing master list of phasing for all off-site improvements for all filings at build out.
  - D. Update the Declaration of Covenants, Conditions and Restrictions for Mountain Sky and the Residential Improvement Guidelines and Site Restrictions for Mountain Sky Home Owners Association, in coordination with City staff.
  - E. Update the Mountain Sky PUD Development Plan in coordination with City staff.
  - F. The comments from United Power must be adequately addressed.
  - G. Clearly delineate and label all future right-of-way on the Final PUD Plat – Filing 1.
  - H. Submit cash-in-lieu or transfer for approved water shares for 44 lots in Filing 1.
  - I. Work with the Public Works Director to finalize the construction documents.
  - J. Update the Preliminary PUD Plat and Final PUD Plat – Filing 1 with any redlined changes provided by staff or any referral agencies.
  - K. Written evidence shall be provided to show that the comments from Public Service Company of Colorado have been adequately addressed.
  - L. Coordinate with City staff to ensure the development meets the intent of the City of Fort Lupton Residential Design Standards.
- II. Prior to any construction or release of building permits:
  - A. Any required permits must be obtained from the Colorado Division of Water Resources.
  - B. Approval of the use of any ditch or improvements involving any ditch must be provided by the ditch company impacted, if applicable.
  - C. Written evidence shall be provided to show that the comments from the Fort Lupton Fire Protection District have been adequately addressed.
  - D. Written evidence shall be provided to show that the comments or any requirements from the Colorado Department of Transportation have been adequately addressed.
  - E. Written evidence shall be provided to show that the comments from the U.S. Army Corp of Engineers have been adequately addressed, if applicable.

- F. Provide a statement that the comments from Colorado Parks and Wildlife will be taken into consideration prior to and during construction.
- G. Attempt in good faith to negotiate impact fees with Weld County School District Re-8 and submit written evidence.

**DONE THIS 20<sup>th</sup> DAY OF SEPTEMBER, 2016, BY THE PLANNING COMMISSION FOR THE CITY OF FORT LUPTON, COLORADO.**

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**Chairman**

**ATTEST:**

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**Planning Director**

# **Staff Report**



## **MOUNTAIN SKY SUBDIVISION STAFF REPORT PPL2016-001 & FPL2016-001**

### **PROJECT DESCRIPTION**

Project Nos.: PPL2016-001 & FPL2016-001

Project Name: Mountain Sky PUD Development Plan, Preliminary PUD Plat & Final PUD Plat – Filing 1

Owner's Name: FL Mountain Sky LLC (“Applicant”)

Location of Request: South Half of the Southwest Quarter of Section 4, Township 1 North, Range 66 West of the 6<sup>th</sup> Principal Meridian and more specifically at the northwest corner of County Road 29 ½ and County Road 12 (“Property”).

The Mountain Sky Subdivision is located directly southeast from the Appel Farms Estates residential subdivision, and is located one-half mile south of the Coyote Creek Golf Course. The land surrounding the development is comprised of agricultural uses.

#### Nature of Request:

The Applicant has submitted a request for a PUD Development Plan, which includes the submittal of:

- a) Mountain Sky PUD Development Plan for 199 single family residential lots;
- b) Mountain Sky Subdivision Preliminary PUD Plat for 199 single family residential lots; and
- c) Mountain Sky Subdivision Final PUD Plat – Filing 1 to allow 44 single family residential lots.

Site Size: 77 acres, more or less (Filing 1 contains 30.88 acres, more or less). 13.92 acres of the development is reserved for oil and gas facilities in the southwestern corner of the Property.

Zone District: PUD Planned Unit Development.

Proposed Use: Single Family Residential.

Existing Use: Agricultural.

Hearing Dates: Planning Commission – September 20, 2016 at 6:00 PM; and  
City Council – October 3, 2016 at 7:00 PM.

Hearing Location: Fort Lupton City Hall – Council Chambers, 130 S. McKinley Ave., Fort Lupton, Colorado.

Staff Recommendation: Approval with conditions, as shown on the proposed resolution.

### **SUMMARY OF PREVIOUS APPLICATIONS**

On January 20, 2015, the Planning Commission recommended approval of the sketch plat for the Mountain Sky Subdivision to City Council (Resolution No. P2015-001);

On February 2, 2015, City Council approved the Mountain Sky Subdivision Sketch Plat (Resolution No. 2015R006).

### **APPLICATION PROCESS**

The Applicant is requesting approval of:

- 1) Mountain Sky PUD Development Plan for a 199 single family residential lot subdivision on approximately 77 acres, more or less.
  - a. References to the PUD Development Plan establishes the unique regulations and standards for development on the Property. This includes, but is not limited to, any deviations from the City's Standards and Specification for Design and Construction of Public Improvements and Zoning Regulations.
- 2) Mountain Sky Preliminary PUD Plat for 199 single family residential lots on approximately 77 acres, more or less;
  - a. The Preliminary PUD Plat is treated similarly to a preliminary subdivision plat, which is a review of the proposed design and provides comments for revision to a proposed subdivision prior to proceeding with the final plat.
- 3) Mountain Sky Final PUD Plat – Filing 1 to allow 44 single family residential lots.
  - a. The Final PUD Plat is treated similarly to a final subdivision plat, which is intended to provide for the review of the final engineering plans, subdivision improvements agreement and public land dedications. This document is the final subdivision of lots and is recorded with the Weld County Clerk & Recorder.

PUD development plan applications are to be processed in the same manner as set forth in the Code for major subdivisions. The Applicant is applying for concurrent approval of the Preliminary PUD Plat and Final PUD Plat – Filing 1, as permitted under Section 17-22(a)(4) of the Subdivision Regulations.

After required public notice of the preliminary PUD plat and final PUD plat, the Planning Commission shall consider the application, referral comments and any public testimony at a public hearing and make a recommendation to City Council to approve, approve with conditions or deny the preliminary and final plat. The Planning Commission's comments shall be based on the evidence presented, conformance with the Comprehensive Plan and compliance with the City's standards, regulations and policies.

The City Council shall then conduct a public hearing and evaluate the preliminary PUD plat and final PUD plat, referral agency comments, Planning Commission recommendation and any public testimony, and shall approve, conditionally approve, continue for additional information or for further study or deny the application based on the evidence presented and compliance with the City's standards, regulations and policies and other guidelines.

### **NOTIFICATION REQUIREMENTS**

The Subdivision Regulations require published notice of the hearings in a timely manner prior to the hearings. The Planning Commission and City Council hearings were published in the Fort Lupton press on September 7, 2016.

Notice of the public hearings were posted on the Property on September 2, 2016, pursuant to the Subdivision Regulations, which require the Applicant post the Property with notice of the hearings at least fifteen (15) days prior to the hearings.

Notice was mailed to neighbors within five-hundred (500) feet of the Property on September 1, 2016 and on August 24, 2016 notice was sent via certified mail, return-receipt requested to oil and gas lessees on the Property.

### **CONFORMANCE WITH CITY STANDARDS, REGULATIONS AND POLICIES**

The area is zoned PUD Planned Unit Development. The objective of a PUD is to provide for the planning and development of substantial tracts of land, suitable in location and character for the uses proposed, as unified and integrated entities in accordance with detailed development plans.

The Preliminary PUD Plat is for a 199 single family residential subdivision, which would be the full build out of the development. The Final PUD Plat – Filing 1 includes 44 residential lots and is located in the northern portion of the larger Mountain Sky Subdivision development area. Future phases of the project are delineated on the Preliminary PUD Plat. Mountain Sky Drive is the principal and only street included within Filing 1. The street names and layout have been reviewed by the Design Review Team (“DRT”), including representatives from the Fire District, Engineering, Public Works and Planning. The street layout and street names are acceptable to the DRT.

The Applicant has submitted the required documents pursuant to the Code. The Preliminary and Final Drainage Report have been reviewed by the City Engineer and is acceptable. The construction documents have also been reviewed by the City Engineer, which includes a utility plan, erosion control plan and grading plan for Filing 1.

A Declaration of Covenants, Conditions and Restrictions and Residential Improvement Guidelines and Site Restrictions have been submitted and are substantially acceptable, however some updates are required prior to finalization.

Pursuant to the Code, a subdivision improvements agreement shall be reviewed by the attorney and signed by the Applicant prior to consideration of a final plat by the City Council. Staff is recommending that finalization of the subdivision improvements agreement be addressed at a separate meeting of City Council to allow for final comments and updates to the agreement.

The Preliminary PUD Plat and Final PUD Plat – Filing 1 have designated open space, drainage and park tracts within the development, which have identified the ownership and maintenance of the tracts.

In addition to the Preliminary PUD Plat and Final PUD Plat for Filing 1 applications, the Applicant is also applying for approval of the PUD Development Plan. All development within a PUD zone district must be in accordance with a PUD development plan. PUD development plans shall contain unique district regulations that apply to specific parcels of land within a PUD zone district. All provisions of the City’s Code and adopted standards and specifications shall apply within PUD zone districts, unless specifically modified in the PUD plan. The Applicant submitted a PUD Development Plan, project narrative and construction documents that identify where there are deviations from the City’s Code and Standards and Specification for Design and Construction of Public Improvements.

**CONFORMANCE WITH THE COMPREHENSIVE PLAN**

The Fort Lupton Comprehensive Plan designates this area as the Urban Residential land use type. Characteristics of the Urban Residential land use type include higher density neighborhoods that are primarily residential but may include complementary commercial and recreational uses. A mixture of housing types is present including single-family homes, townhouses, and multi-family homes. Urban Residential areas should be located close to major arterials and transit systems, bounded by major streets with direct connection to work, shopping and leisure activities. Neighborhoods should be internally served by a system of collector and local streets, as well as sidewalks and pedestrian/bike paths.

The proposed development will include lots that are smaller than required in the R-1 Low Density Residential zone district, which will ensure a higher density, as intended by the Urban Residential land use type. The Mountain Sky Subdivision is adjacent to County Road 12, County Road 29 ½ and County Road 29 right-of-way, all of which are designated as collectors in the Transportation Plan for the City. Additionally, the Fulton Ditch is located directly south of the Property, which is designated as a future trail in the Transportation Plan and the Fort Lupton Parks and Trails Master Plan. There are attached sidewalks proposed throughout the development, a tot lot located within Tract J, and 17.15 acres of open space/parks designated within the community (31.07 acres including oil and gas development area). There are meandering sidewalks planned along County Road 29 ½ and County Road 12 and additional trails located along the northern portion of the development.

The Property is split between Growth Tier One (priority growth area) and Growth Tier Two (secondary growth boundary), as defined in the Comprehensive Plan. Growth Tiers are based on the proximity of infrastructure.

**REFERRALS**

Referrals were provided to the list below. Any comments received are enclosed with the Planning Commission packet.

City Engineer/Public Works Director	City Attorney	Police Chief
City Clerk	Building Inspector	Recreation Manager
Zoning Compliance	OMI	GIS Specialist
Finance Director	Fort Lupton Fire Protection District	CDOT
Colorado DRMS	Colorado Parks and Wildlife	Army Corps of Engineers
United Power	Comcast	CenturyLink
Xcel Energy	Postmaster	Weld County Department of Planning
Weld County Department of Public Health & Environment	Weld County School District Re-8	Fulton Ditch Company
Buildings & Grounds Department		

***For more information on this development, please refer to the Planning Commission packet provided. Additional documents are available for review at the Fort Lupton City Hall.***

# **Land Use Application**



COME PAINT YOUR FUTURE WITH US

Planning & Building

130 S. McKinley Avenue  
Fort Lupton, CO 80621  
[www.fortlupton.org](http://www.fortlupton.org)

Phone: 303.857.6694  
Greeley: 970.346.0326  
Fax: 303.857.0351

DATE: 2-19-2016	PROJECT NAME: MOUNTAIN SKY SUBDIVISION
ADDRESS / LOCATION OF PROJECT: COUNTY ROAD 12 AND COUNTY ROAD 29 1/2.	
LEGAL DESCRIPTION (LOT, BLK, TOWNSHIP, RANGE.): SW 1/4 OF SEC 4, TWN 1 NORTH, RANGE 66 WEST OF THE 6TH PM. Parcel: 147104300075	

PLEASE CHECK THE APPROPRIATE ITEM(S):

ANNEXATION  
INITIAL ZONING  
CHANGE OF ZONE  
PUD PLAN  
SPECIAL USE  
MINOR SUBDIVISION

SKETCH PLAT  
**PRELIMINARY PLAT**  
FINAL PLAT  
AMENDED PLAT  
BOARD OF ADJUSTMENT

ADMIN SITE PLAN  
SITE PLAN  
PUD SITE PLAN  
COMP PLAN AMENDMENT  
OIL & GAS DEVELOPMENT

PRESENT ZONING: PUD	AREA IN ACRES: Parcel: 76.95 AC. Annexation area: 0 ACRES
PROPOSED ZONING: PUD	PRESENT USE: VACANT LAND
PROPOSED # OF LOTS: 200	PROPOSED # OF DU'S: 200
PROPOSED GROSS FLOOR AREA: NA	MIN LOT SIZE: AVG. LOT SIZE:

PROPERTY / MINERAL OWNER:	PROJECT CONTACT:
NAME: FL MOUNTAIN SKY LLC/GENE OSBORNE	NAME: JON ROKEH / GREGORY PANZA
ADDRESS:	FIRM / COMPANY: ROKEH CONSULTING CALIBRE ENGINEERING
PHONE: 303-907-6982	ADDRESS: 89 KING ROAD, CHICHESTER, NH 03258 9090 S. RIDGELINE BLVD, HIGHLANDS RANCH, CO 80129
SIGNATURE:  GENE OSBORNE	PHONE: JR 603-387-8688 / GP 303-339-5400 FAX: EMAIL: JON@ROKEHCONSULTING.COM GPANZA@CALIBRE-ENGINEERING.COM
TITLE: MANAGER	
DATE: 3/15/16	

FOR OFFICE USE ONLY	DATE RECEIVED: 3/15/16
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# **Project Narrative**

March 10, 2016

**Todd A. Hodges**

City of Fort Lupton  
130 S. McKinley Ave.  
Fort Lupton, CO 80621

Mr. Hodges,  
Please find below the project narrative and PUD information as requested:

**Project Narrative**

**Location**

- The Mountain Sky Development is located within the south half of the southwest quarter of Section 4, Township 1 North, Range 66 West of the 6<sup>th</sup> Principal Meridian and more specifically at the northwest corner of County Road 29 ½ and County Road 12.

**Description**

- The existing site is or was currently used as farmland.
- Existing portions of the land will remain under the control of oil and gas and are noted in the plans.
- The project proposes to develop the remaining area (~77 acres) with approximately 199 single-family residences and associated infrastructure.
- A drainage channel is proposed on the northern and western property lines to convey existing off-site flows around the development.
- The development is expected to develop over the course of 6 separate filings.
- Improvements to both County Road 29 ½ and County Road 12 are proposed throughout the development of the entire project.

**Filing 1 Specifics**

- Layout and construct infrastructure for 44 single-family residences
- Build detention pond
- Build drainage channel
- Build sanitary sewer to tie in point
- Build north half of 29 ½ to the first access location as depicted in plans.

**Variations from standards requested**

- Variations from the standards for this development are stated below. The current development was designed while the regulations were still being developed and these issues have been vetted through the city for concurrence.
- Maximum depth of detention pond is designed at 7.5ft vs. 5 ft maximum stated in recent regulation. A deeper pond section was used as we were instructed to release at the 5 year historic rate vs. the typical requirement to release at the 100 year historic rate. The deeper pond allows us to do this with less impacts to the development.
- The Pond Cross slope is 2% vs. 3% stated in regulations. The 3% was burdensome due to the ground water and the needed size for the pond. 2% corresponds to UDFCD standards.
- A circular shaped cul-d-sac was used in lieu of the proposed teardrop shaped cul-d-sacs in the newest regulation. A standard cul-d-sac shown in prior regulations was used.

- Proposed local road ROW is 50' vs. 60' stated in regulations. Smaller section due to attached walks vs detached walks as shown below.
- Proposed local roads propose attached sidewalks vs. detached.
- Local roads are designed at 25mph vs. regulations requested road to be designed 30mph.
- Setbacks
- Regulations state that cul-de-sacs can only be 500' or serve 15 dwelling units, whichever is greater. However, one of the cul-d-sacs proposes a length of ~600' and serves 21 units. (This is proposed for filing IV).
- Channel side slopes are 3:1 vs. regulations requiring 4:1 which meets UDFCD requirements at the time of design.

**PUD Information**

- The PUD closely resembles the R3 zoning stated in Ft. Lupton's municipal code.
- A landuse chart is shown below and also included in the plans which states the primary uses and associated setbacks along with comparisons to R3 zoning.
- Attached to this document is the zoning requirements in the same format as Ft. Lupton regulations

<b>PUD ZONING REQUIREMENTS</b>		
<b>PARCEL</b>	<b>CODE</b>	<b>R3 CODE</b>
AREA(AC)	76.95	NA
ALLOWABLE LAND USE	SFD	SFD, MFD
PERMITTED DENSITY	4-6	24
MAXIMUM UNITS	199	NA
MINIMUM LOT SIZE (SF)	5500	5000
MINIMUM LOT WIDTH	55	30
MAXIMUM LOT COVERAGE	45%	NA
<b>PRIMARY USES</b>		
MAXIMUM HEIGHT	35	35
MINIMUM SETBACK FOR ALL STRUCURES FROM ARTERIALS	35	NA
MINIMUM SETBACK FOR ALL STRUCURES FROM COLLECTOR	35	NA
MINIMUM FRONT YARD SETBACK FOR PRINCIPLE STRUCURE	25	25
MINIMUM FRONT YARD SETBACK - GARAGE (NON-GARAGE DOOR SIDE)	25	25
MINIMUM FRONT YARD SETBACK - GARAGE (GARAGE DOOR SIDE)	25	25
MINIMUM SIDE YARD SETBACK	5	5
MINIMUM REAR YARD SETBACK	20	20
MINIMUM DWELLING SIZE (SF)	900	900
<b>ACCESSORY USE</b>		
HEIGHT	15	NA
FRONT SETBACK	25	20
SIDE SETBACK	5	NA
REAR SETBACK	5	NA

**Mountain Sky PUD Zoning Regulations**

- a) Intent. The PUD Zone District is intended to provide for the establishment of single-family uses including the necessary appurtenant and accessory facilities and uses associated with such living areas.
- b) No multi-family building will be allowed within this PUD.
- c) Permitted uses. Only single family homes and park areas are permitted within this PUD.
- d) Special uses. No special uses are allowed within this PUD:
- e) Height. No building hereafter erected or structurally altered shall exceed thirty-five (35) feet in height or two (2) stories above the foundation or basement ceiling level.
- f) Rear yard setback. Twenty (20) feet. Patios, covered, enclosed or uncovered, may extend not more than ten (10) feet into the rear yard setback. The rear yard must be on the opposite side of the lot as the front yard.
- g) Side yard setback. Five (5) feet.
- h) Corner setback. A yard of not less than twenty (20) feet shall be maintained between the side lot line abutting the side street and the main building.
- i) Front yard setback. Twenty-five (25) feet. Residential structures located on corner lots shall be designed and constructed so that the front of the structure faces the front yard setback.
- j) Accessory building setback. An accessory building or utility shed may not be located so as to encroach on adjacent public or private property or easements. In no instance shall an accessory building or utility shed be permitted in the front yard. Said buildings shall be set back a minimum of twenty (20) feet from any side street on a corner lot.
- k) Minimum lot area. Five thousand (5,500) square feet per dwelling.
- l) Minimum square feet of floor area:

<i>Dwelling</i>	<i>Square Feet</i>
Ranch style	900
Bi-level	750
Tri-level	800
Two-story	750
Multi-family	500 per dwelling unit

(m) Lot frontage. A minimum of thirty (55) lineal feet measured along the front property line must be maintained.

# Maps



**MOUNTAIN SKY SUBDIVISION**  
 A PORTION OF THE S1/2 OF THE SW1/4 OF SECTION 4,  
 TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH P.M.,  
 WELD COUNTY, COLORADO.  
**FINAL PLAT - FILING 1**  
 30.88 ACRES  
 PAGE 2 OF 2

CURVE TABLE

CURVE	RADIUS	LENGTH	ANGLE	CHORD	BEARING	CHORD LENGTH
C1	52.00'	24.37'	265.055°	S 13°13'45" W	24.14'	24.14'
C2	54.00'	19.88'	210.531°	N 16°06'27" E	19.77'	19.77'
C3	54.00'	47.84'	50°45'23"	N 19°49'00" E	46.29'	46.29'
C4	54.00'	40.28'	42°44'34"	N 66°33'59" W	39.36'	39.36'
C5	54.00'	27.43'	29°06'21"	S 77°30'34" W	27.14'	27.14'
C6	54.00'	24.37'	196°50'55"	N 16°06'27" E	24.14'	24.14'
C7	54.00'	24.37'	196°50'55"	N 16°06'27" E	24.14'	24.14'
C8	54.00'	24.37'	196°50'55"	N 16°06'27" E	24.14'	24.14'
C9	35.00'	54.98'	90°00'00"	N 89°00'00" E	49.50'	49.50'
C10	825.00'	13.66'	0°56'55"	N 89°19'50" W	13.66'	13.66'
C11	825.00'	49.36'	3°25'40"	S 87°08'33" W	49.35'	49.35'
C12	825.00'	49.36'	3°25'40"	S 87°08'33" W	49.35'	49.35'
C13	825.00'	49.36'	3°25'40"	S 87°08'33" W	49.35'	49.35'
C14	825.00'	49.36'	3°25'40"	S 87°08'33" W	49.35'	49.35'
C15	825.00'	49.36'	3°25'40"	S 87°08'33" W	49.35'	49.35'
C16	825.00'	49.36'	3°25'40"	S 87°08'33" W	49.35'	49.35'
C17	825.00'	49.36'	3°25'40"	S 87°08'33" W	49.35'	49.35'
C18	800.00'	348.31'	24°56'46"	S 77°19'55" W	348.37'	348.37'
C19	800.00'	348.31'	24°56'46"	S 77°19'55" W	348.37'	348.37'
C20	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C21	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C22	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C23	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C24	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C25	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C26	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C27	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C28	775.00'	58.33'	4°18'35"	S 69°29'29" W	58.37'	58.37'
C29	200.00'	25.38'	71°16'13"	N 44°19'18" W	25.36'	25.36'
C30	200.00'	25.38'	71°16'13"	N 44°19'18" W	25.36'	25.36'
C31	50.00'	74.85'	85°46'01"	S 22°57'33" E	16.90'	16.90'
C32	50.00'	15.06'	17°15'14"	S 0°72'43" W	15.00'	15.00'
C33	50.00'	25.29'	28°59'02"	S 87°28'35" W	25.02'	25.02'
C34	50.00'	15.31'	4°01'34"	N 44°18'13" E	14.89'	14.89'
C35	50.00'	15.31'	4°01'34"	N 44°18'13" E	14.89'	14.89'
C36	606.00'	204.34'	19°19'11"	S 80°06'17" W	203.37'	203.37'
C37	112.95'	84.20'	42°42'51"	S 88°11'52" E	82.27'	82.27'
C38	156.00'	63.70'	23°33'40"	N 78°32'17" E	63.26'	63.26'
C39	156.00'	63.70'	23°33'40"	N 78°32'17" E	63.26'	63.26'
C40	66.00'	54.99'	47°44'12"	S 70°19'01" W	103.88'	103.88'
C41	44.00'	58.87'	41°37'02"	S 84°00'20" E	57.30'	57.30'
C42	44.00'	58.87'	41°37'02"	S 84°00'20" E	57.30'	57.30'
C43	482.77'±	149.90'	0°10'40"	S 89°27'35" W	149.90'	149.90'
C44	500.00'	28.32'	3°14'43"	S 87°17'00" W	28.32'	28.32'
C45	500.00'	28.32'	3°14'43"	S 87°17'00" W	28.32'	28.32'
C46	67.22'	12.55'	10°41'57"	S 65°47'08" W	12.53'	12.53'
C47	80.00'	158.51'	11°31'16"	S 23°26'27" W	133.62'	133.62'
C48	162.54'	125.48'	44°13'57"	N 10°44'03" W	122.39'	122.39'
C49	162.54'	125.48'	44°13'57"	N 10°44'03" W	122.39'	122.39'
C50	10.16'	13.28'	24°54'48"	N 13°38'56" E	12.35'	12.35'
C51	153.00'	137.28'	51°24'35"	S 25°42'18" W	132.72'	132.72'
C52	3.00'	0.93'	17°47'30"	N 06°53'45" E	0.93'	0.93'
C53	3.00'	0.93'	17°47'30"	N 06°53'45" E	0.93'	0.93'
C54	50.00'	29.84'	34°11'41"	S 86°48'45" E	3.52'	3.52'
C55	50.00'	152.05'	15°22'05"	S 05°38'45" E	15.35'	15.35'
C56	825.00'	362.01'	0°58'28"	N 77°25'46" E	359.11'	359.11'
C57	825.00'	362.01'	0°58'28"	N 77°25'46" E	359.11'	359.11'
C58	50.00'	61.26'	3°24'00"	S 78°18'00" W	60.84'	60.84'
C59	20.00'	19.99'	57°15'47"	S 37°58'07" W	19.17'	19.17'
C60	50.00'	86.83'	99°09'00"	S 89°09'37" E	176.31'	176.31'
C61	50.00'	86.83'	99°09'00"	S 89°09'37" E	176.31'	176.31'
C62	200.00'	92.44'	26°28'55"	N 76°45'39" E	91.62'	91.62'
C63	200.00'	92.44'	26°28'55"	N 76°45'39" E	91.62'	91.62'
C64	200.00'	92.44'	26°28'55"	N 76°45'39" E	91.62'	91.62'
C65	200.00'	92.44'	26°28'55"	N 76°45'39" E	91.62'	91.62'
C66	50.00'	5.88'	6°44'33"	N 74°39'38" W	5.88'	5.88'
C67	50.00'	5.88'	6°44'33"	N 74°39'38" W	5.88'	5.88'
C68	50.00'	66.83'	99°29'56"	S 59°05'11" W	76.32'	76.32'
C69	20.00'	19.99'	57°15'47"	S 37°58'07" W	19.17'	19.17'
C70	20.00'	19.99'	57°15'47"	S 37°58'07" W	19.17'	19.17'
C71	800.00'	351.04'	25°08'28"	S 77°25'46" W	348.23'	348.23'
C72	175.00'	96.96'	32°24'05"	S 73°47'58" W	97.65'	97.65'
C73	175.00'	96.96'	32°24'05"	S 73°47'58" W	97.65'	97.65'

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 89°48'18" W	110.00'
L2	N 45°33'05" W	21.08'
L3	N 00°11'42" W	15.00'
L4	N 00°11'42" W	55.00'
L5	N 00°11'42" W	12.54'
L6	S 89°48'18" W	106.00'
L7	N 00°11'42" W	55.00'
L8	N 00°11'42" W	55.00'
L9	S 89°48'18" W	110.00'
L10	N 00°11'42" W	55.00'
L11	S 89°48'18" W	88.85'
L12	N 00°11'42" W	147.99'
L13	N 00°11'42" W	10.00'
L14	S 89°48'18" W	143.43'
L15	S 89°48'18" W	143.43'
L16	N 00°11'42" W	98.65'
L17	S 89°48'18" W	50.00'
L18	N 00°11'42" W	110.00'
L19	S 89°48'18" W	50.00'
L20	S 89°48'18" W	50.00'
L21	S 89°48'18" W	50.00'
L22	S 89°48'18" W	50.00'
L23	N 00°11'42" W	110.00'
L24	N 00°11'42" W	110.00'
L25	S 89°48'18" W	50.00'
L26	S 89°48'18" W	50.00'
L27	N 00°11'42" W	110.00'
L28	S 89°48'18" W	50.00'
L29	N 00°11'42" W	110.00'
L30	S 89°48'18" W	50.00'
L31	N 00°11'42" W	110.00'
L32	S 89°48'18" W	58.00'
L33	N 00°11'42" W	110.00'
L34	S 89°48'18" W	50.00'
L35	S 89°48'18" W	50.00'
L36	S 89°48'18" W	56.34'
L37	N 00°11'42" W	110.00'
L38	S 89°48'18" W	65.00'
L39	N 00°11'42" W	110.00'
L40	S 89°48'18" W	51.82'
L41	N 01°08'37" W	110.13'
L42	N 04°34'17" W	112.73'
L43	S 89°48'18" W	56.64'
L44	S 89°48'18" W	118.74'
L45	N 07°59'58" W	56.50'
L46	N 81°33'45" E	56.50'
L47	N 1°25'38" E	120.00'
L48	N 76°51'32" E	56.53'
L49	N 73°25'42" E	56.53'
L50	N 23°25'42" E	56.53'
L51	N 18°16'58" W	120.00'
L52	N 70°00'11" E	56.53'
L53	N 21°42'39" W	120.00'
L54	N 66°34'31" E	56.57'
L55	S 25°08'28" W	120.00'
L56	S 25°08'28" W	120.00'
L57	S 25°08'28" W	120.00'
L58	S 25°08'28" W	120.00'
L59	S 25°08'28" W	120.00'
L60	S 64°51'32" W	51.43'
L61	S 64°51'32" W	50.00'
L62	S 89°48'18" W	50.00'
L63	N 25°08'28" W	110.00'
L64	N 25°08'28" W	110.00'
L65	N 25°08'28" W	110.00'

LINE TABLE

LINE	BEARING	DISTANCE
L66	S 64°51'32" W	50.00'
L67	S 64°51'32" W	50.00'
L68	N 89°48'18" E	50.00'
L69	N 00°11'42" W	17.01'
L70	S 64°51'32" W	50.00'
L71	S 64°51'32" W	34.31'
L72	S 64°51'32" W	50.00'
L73	N 00°11'42" W	42.00'
L74	N 25°08'28" W	110.00'
L75	N 64°51'32" E	50.00'
L76	N 25°08'28" W	110.00'
L77	S 89°48'18" W	60.18'
L78	N 25°08'28" W	110.00'
L79	N 25°08'28" W	61.58'
L80	N 25°08'28" W	61.58'
L81	N 64°51'32" W	110.00'
L82	N 25°08'28" W	50.00'
L83	N 64°51'32" W	165.07'
L84	N 25°08'28" W	55.50'
L85	N 64°51'32" W	166.00'
L86	S 64°51'32" E	86.00'
L87	N 67°31'04" E	50.04'
L88	S 20°21'08" E	110.00'
L89	N 71°48'14" E	50.04'
L90	S 16°02'24" E	110.00'
L91	N 70°58'59" E	50.04'
L92	S 80°73'29" E	110.00'
L93	N 25°08'28" W	110.00'
L94	S 20°24'54" E	110.00'
L95	N 84°44'10" E	49.92'
L96	N 03°06'45" W	110.00'
L97	N 88°48'36" E	49.64'
L98	N 00°11'42" E	110.00'
L99	S 89°48'18" W	50.00'
L100	S 89°48'18" W	50.00'
L101	S 89°48'18" W	108.34'
L102	S 00°11'42" E	110.00'
L103	S 89°48'18" W	50.00'
L104	S 89°48'18" W	84.82'
L105	S 89°48'18" W	24.00'
L106	S 89°48'18" W	50.00'
L107	S 89°48'18" W	39.43'
L108	S 89°48'18" W	42.43'
L109	S 89°48'18" W	75.00'
L110	S 89°48'18" W	50.00'
L111	S 89°48'18" W	15.79'
L112	N 89°48'18" E	414.91'
L113	N 00°11'42" E	110.00'
L114	S 00°11'42" E	110.00'
L115	S 00°11'42" E	110.00'
L116	S 00°11'42" E	50.00'
L117	S 00°11'42" E	110.00'
L118	S 89°48'18" W	50.00'
L119	N 00°11'42" E	110.00'
L120	S 89°48'18" W	50.00'
L121	S 00°11'42" E	65.00'
L122	S 00°11'42" E	52.41'
L123	N 00°11'42" W	125.00'
L124	N 00°11'42" W	109.35'
L125	N 00°11'42" W	100.05'
L126	S 89°48'18" W	155.60'
L127	S 89°48'18" W	10.05'
L128	S 89°48'18" W	29.87'
L129	S 89°48'18" W	110.00'
L130	S 89°48'18" W	50.00'
L131	N 00°11'42" W	60.00'

LINE TABLE

LINE	BEARING	DISTANCE
L131	S 89°48'18" W	110.00'
L132	N 00°11'42" W	10.08'
L133	N 89°48'18" E	50.00'
L134	N 00°11'42" W	17.01'
L135	S 89°48'18" W	223.03'
L136	S 89°48'18" W	47.51'
L137	S 89°48'18" W	84.89'
L138	S 00°11'42" W	23.15'
L139	S 89°48'18" W	12.82'
L140	N 63°01'49" W	42.01'
L141	S 06°16'17" W	11.08'
L142	S 89°48'18" W	26.24'
L143	S 89°48'18" W	14.30'
L144	S 89°48'18" W	14.30'
L145	S 67°31'04" E	14.74'
L146	S 64°09'50" W	336.32'
L147	S 75°16'24" W	50.22'
L148	S 80°59'43" W	165.07'
L149</		

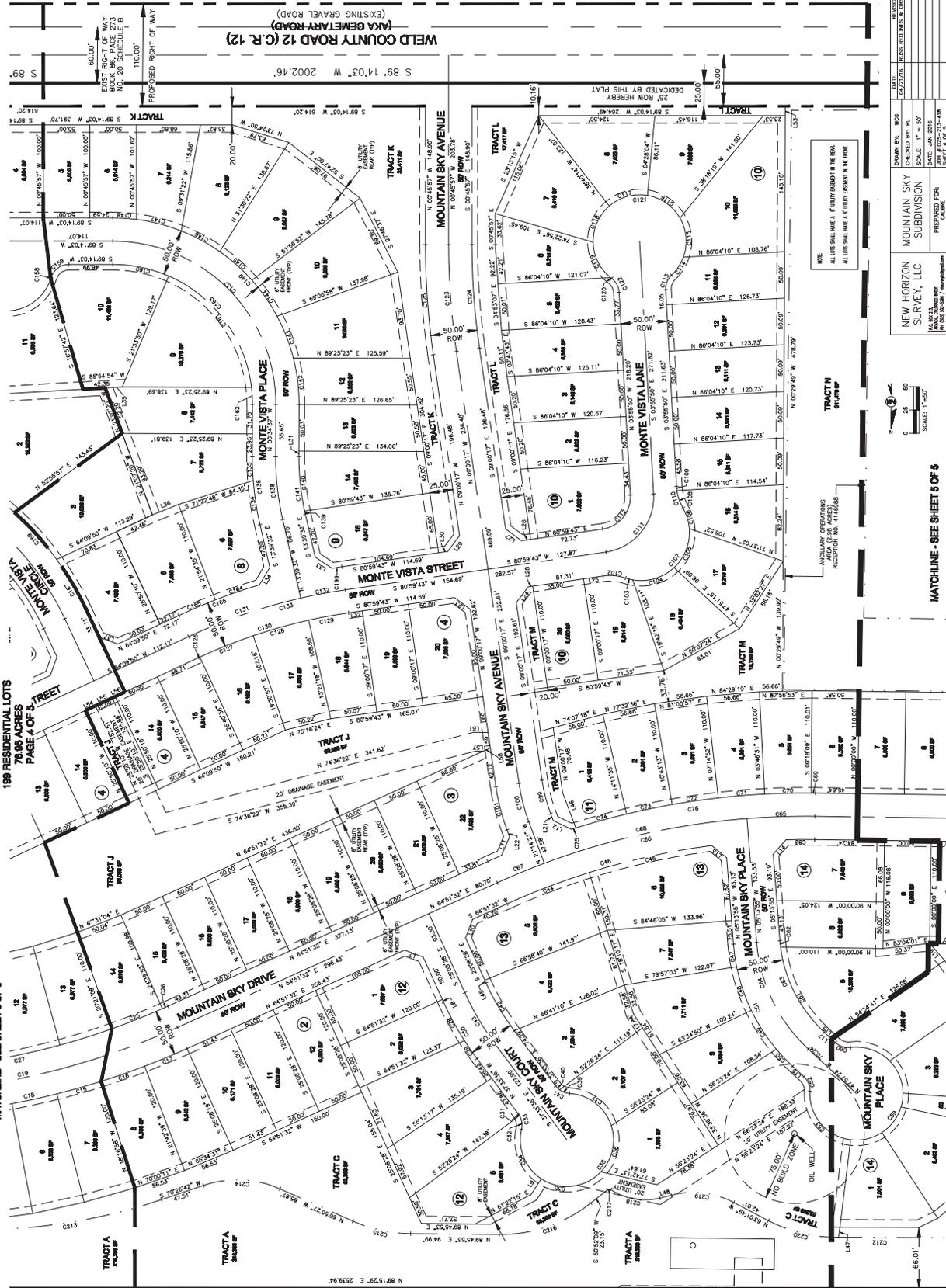






**MOUNTAIN SKY SUBDIVISION**  
 A PORTION OF THE SW/4 OF SECTION 4,  
 TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH P.M.,  
 WELD COUNTY, COLORADO.  
**PRELIMINARY PLAT**  
 198 RESIDENTIAL LOTS  
 76.95 ACRES  
 PAGE 4 OF 6

MATCHLINE - SEE SHEET 3 OF 6



CURVE TABLE

CURVE	INCHES	LENGTH	DELTA	BEARING	LENGTH
C101	22.500	48.04	11.31	N 113°07'00" E	27.728
C102	22.500	48.04	11.31	N 113°07'00" E	27.728
C103	22.500	48.04	11.31	N 113°07'00" E	27.728
C104	22.500	48.04	11.31	N 113°07'00" E	27.728
C105	22.500	48.04	11.31	N 113°07'00" E	27.728
C106	22.500	48.04	11.31	N 113°07'00" E	27.728
C107	22.500	48.04	11.31	N 113°07'00" E	27.728
C108	22.500	48.04	11.31	N 113°07'00" E	27.728
C109	22.500	48.04	11.31	N 113°07'00" E	27.728
C110	22.500	48.04	11.31	N 113°07'00" E	27.728
C111	22.500	48.04	11.31	N 113°07'00" E	27.728
C112	22.500	48.04	11.31	N 113°07'00" E	27.728
C113	22.500	48.04	11.31	N 113°07'00" E	27.728
C114	22.500	48.04	11.31	N 113°07'00" E	27.728
C115	22.500	48.04	11.31	N 113°07'00" E	27.728
C116	22.500	48.04	11.31	N 113°07'00" E	27.728
C117	22.500	48.04	11.31	N 113°07'00" E	27.728
C118	22.500	48.04	11.31	N 113°07'00" E	27.728
C119	22.500	48.04	11.31	N 113°07'00" E	27.728
C120	22.500	48.04	11.31	N 113°07'00" E	27.728
C121	22.500	48.04	11.31	N 113°07'00" E	27.728
C122	22.500	48.04	11.31	N 113°07'00" E	27.728
C123	22.500	48.04	11.31	N 113°07'00" E	27.728
C124	22.500	48.04	11.31	N 113°07'00" E	27.728
C125	22.500	48.04	11.31	N 113°07'00" E	27.728
C126	22.500	48.04	11.31	N 113°07'00" E	27.728
C127	22.500	48.04	11.31	N 113°07'00" E	27.728
C128	22.500	48.04	11.31	N 113°07'00" E	27.728
C129	22.500	48.04	11.31	N 113°07'00" E	27.728
C130	22.500	48.04	11.31	N 113°07'00" E	27.728
C131	22.500	48.04	11.31	N 113°07'00" E	27.728
C132	22.500	48.04	11.31	N 113°07'00" E	27.728
C133	22.500	48.04	11.31	N 113°07'00" E	27.728
C134	22.500	48.04	11.31	N 113°07'00" E	27.728
C135	22.500	48.04	11.31	N 113°07'00" E	27.728
C136	22.500	48.04	11.31	N 113°07'00" E	27.728
C137	22.500	48.04	11.31	N 113°07'00" E	27.728
C138	22.500	48.04	11.31	N 113°07'00" E	27.728
C139	22.500	48.04	11.31	N 113°07'00" E	27.728
C140	22.500	48.04	11.31	N 113°07'00" E	27.728
C141	22.500	48.04	11.31	N 113°07'00" E	27.728
C142	22.500	48.04	11.31	N 113°07'00" E	27.728
C143	22.500	48.04	11.31	N 113°07'00" E	27.728
C144	22.500	48.04	11.31	N 113°07'00" E	27.728
C145	22.500	48.04	11.31	N 113°07'00" E	27.728
C146	22.500	48.04	11.31	N 113°07'00" E	27.728
C147	22.500	48.04	11.31	N 113°07'00" E	27.728
C148	22.500	48.04	11.31	N 113°07'00" E	27.728
C149	22.500	48.04	11.31	N 113°07'00" E	27.728
C150	22.500	48.04	11.31	N 113°07'00" E	27.728
C151	22.500	48.04	11.31	N 113°07'00" E	27.728
C152	22.500	48.04	11.31	N 113°07'00" E	27.728
C153	22.500	48.04	11.31	N 113°07'00" E	27.728
C154	22.500	48.04	11.31	N 113°07'00" E	27.728
C155	22.500	48.04	11.31	N 113°07'00" E	27.728
C156	22.500	48.04	11.31	N 113°07'00" E	27.728
C157	22.500	48.04	11.31	N 113°07'00" E	27.728
C158	22.500	48.04	11.31	N 113°07'00" E	27.728
C159	22.500	48.04	11.31	N 113°07'00" E	27.728
C160	22.500	48.04	11.31	N 113°07'00" E	27.728
C161	22.500	48.04	11.31	N 113°07'00" E	27.728
C162	22.500	48.04	11.31	N 113°07'00" E	27.728
C163	22.500	48.04	11.31	N 113°07'00" E	27.728
C164	22.500	48.04	11.31	N 113°07'00" E	27.728
C165	22.500	48.04	11.31	N 113°07'00" E	27.728
C166	22.500	48.04	11.31	N 113°07'00" E	27.728
C167	22.500	48.04	11.31	N 113°07'00" E	27.728
C168	22.500	48.04	11.31	N 113°07'00" E	27.728
C169	22.500	48.04	11.31	N 113°07'00" E	27.728
C170	22.500	48.04	11.31	N 113°07'00" E	27.728
C171	22.500	48.04	11.31	N 113°07'00" E	27.728
C172	22.500	48.04	11.31	N 113°07'00" E	27.728
C173	22.500	48.04	11.31	N 113°07'00" E	27.728
C174	22.500	48.04	11.31	N 113°07'00" E	27.728
C175	22.500	48.04	11.31	N 113°07'00" E	27.728
C176	22.500	48.04	11.31	N 113°07'00" E	27.728
C177	22.500	48.04	11.31	N 113°07'00" E	27.728
C178	22.500	48.04	11.31	N 113°07'00" E	27.728
C179	22.500	48.04	11.31	N 113°07'00" E	27.728
C180	22.500	48.04	11.31	N 113°07'00" E	27.728
C181	22.500	48.04	11.31	N 113°07'00" E	27.728
C182	22.500	48.04	11.31	N 113°07'00" E	27.728
C183	22.500	48.04	11.31	N 113°07'00" E	27.728
C184	22.500	48.04	11.31	N 113°07'00" E	27.728
C185	22.500	48.04	11.31	N 113°07'00" E	27.728
C186	22.500	48.04	11.31	N 113°07'00" E	27.728
C187	22.500	48.04	11.31	N 113°07'00" E	27.728
C188	22.500	48.04	11.31	N 113°07'00" E	27.728
C189	22.500	48.04	11.31	N 113°07'00" E	27.728
C190	22.500	48.04	11.31	N 113°07'00" E	27.728
C191	22.500	48.04	11.31	N 113°07'00" E	27.728
C192	22.500	48.04	11.31	N 113°07'00" E	27.728
C193	22.500	48.04	11.31	N 113°07'00" E	27.728
C194	22.500	48.04	11.31	N 113°07'00" E	27.728
C195	22.500	48.04	11.31	N 113°07'00" E	27.728
C196	22.500	48.04	11.31	N 113°07'00" E	27.728
C197	22.500	48.04	11.31	N 113°07'00" E	27.728
C198	22.500	48.04	11.31	N 113°07'00" E	27.728
C199	22.500	48.04	11.31	N 113°07'00" E	27.728
C200	22.500	48.04	11.31	N 113°07'00" E	27.728

MURRAY FRANKS  
 REG. NO. 2979982  
 ANIMATION

JOHN AND CYNTHIA FITZSIMMONS  
 ZONING PUD  
 PARCEL #1710900004  
 (EXISTING GRAVEL ROAD)  
**WELD COUNTY ROAD 12 (C.R. 12)**  
 (AKA GEMETARY ROAD)  
 S 89°14'03" W 2002.46'  
 50.00'  
 EAST RIGHT OF WAY  
 NO. 20 SCHEDULE B  
 110.00'  
 PROPOSED RIGHT OF WAY

NEW HORIZON SURVEY, LLC  
 SUBDIVISION  
 MOUNTAIN SKY  
 DRAWN BY: MDS  
 CHECKED BY: R.S.  
 SCALE: 1" = 50'  
 PREPARED FOR: COLLECTOR  
 SHEET 4 OF 5

SCALE: 1"=50'  
 0 25 50  
 FEET

MATCHLINE - SEE SHEET 5 OF 6

NOTE:  
 ALL LOTS SHALL HAVE A 5' FRONT EASEMENT IN THE REAR.  
 ALL LOTS SHALL HAVE A 5' FRONT EASEMENT IN THE FRONT.

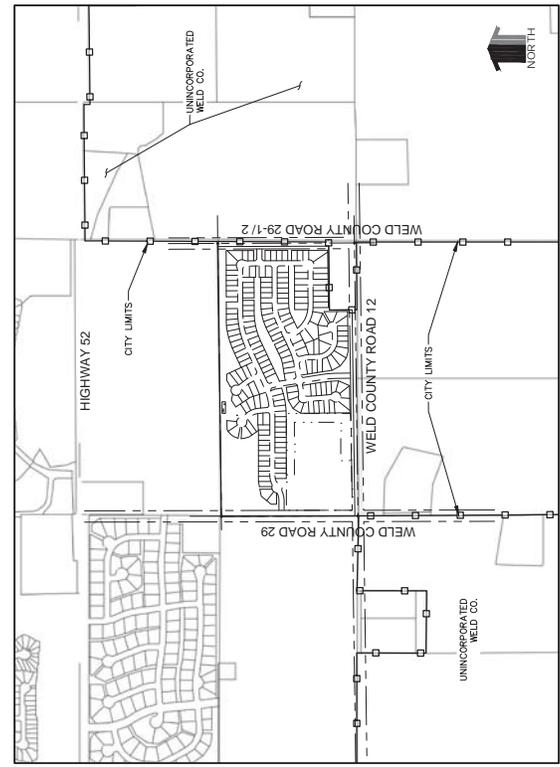
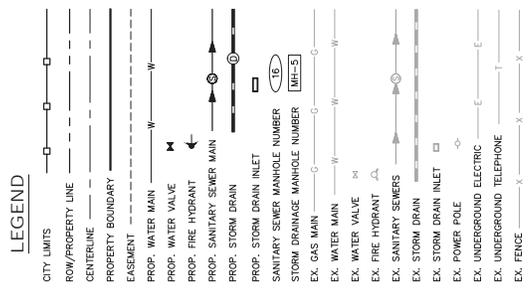
MOUNTAIN SKY SUBDIVISION  
 RECEIPT NO. 412888



# MOUNTAIN SKY SUBDIVISION

## PUD PERMIT / PRELIMINARY DEVELOPMENT PLAN

A PARCEL OF LAND IN THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO



### ENGINEER NOTES:

- LOCATION OF ALL EXISTING UTILITIES (PRIVATE OR PUBLIC) SHALL BE IDENTIFIED OR VERIFIED BY CONTRACTOR PRIOR TO MOBILIZATION. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL INFORMATION LOCAL AGENCY, PRIVATE ENTITY, OR OTHER ASSOCIATED ENTITIES WITHIN THE PROJECT AREA. CONTRACTOR SHALL NOTIFY THE ENGINEER PRIOR TO ANY WORK BEING PERFORMED TO AVOID CONFLICTS WITH EXISTING UTILITIES. WHERE THE CONTRACTOR FINDS CONFLICTS OR DISCREPANCIES THEY SHALL BE REPORTED IMMEDIATELY TO THE ENGINEER.
- THE CONTRACTOR SHALL PERFORM ALL WORK NECESSARY TO COMPLETE THE WORK SHOWN ON THE PLANS OR DESCRIBED IN THE SPECIFICATIONS IN A SATISFACTORY MANNER UNLESS OTHERWISE PROVIDED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL INFORMATION LOCAL AGENCY, PRIVATE ENTITY, OR OTHER ASSOCIATED ENTITIES WITHIN THE PROJECT AREA. CONTRACTOR SHALL NOTIFY THE ENGINEER PRIOR TO ANY WORK BEING PERFORMED TO AVOID CONFLICTS WITH EXISTING UTILITIES. WHERE THE CONTRACTOR FINDS CONFLICTS OR DISCREPANCIES THEY SHALL BE REPORTED IMMEDIATELY TO THE ENGINEER.
- IN SOME CASES THERE ARE AREAS OF THE SITE DEPICTED ON MORE THAN ONE PAGE OF THE PLANS. HOWEVER ALL IMPROVEMENTS ARE NOT DEPICTED ON ALL PAGES. THE CONTRACTOR SHALL REVIEW EACH PAGE OF THE PLANS TO DETERMINE THE WORK TO BE PERFORMED. THE CONTRACTOR SHALL NOTIFY THE ENGINEER PRIOR TO BEGINNING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE TO FAILURE TO REVIEW ALL PLANS, DELAY, AND MOBILIZATION RELATED COSTS.
- THE MANUFACTURER/SUPPLIER SHALL DETERMINE PIPE CLASS BASED ON THE MAXIMUM COVER AND BEDDING SHOWN ON THE PLANS AND SOIL TYPE SHOWN IN THE GEOTECHNICAL REPORT. THE CONTRACTOR SHALL NOTIFY THE ENGINEER PRIOR TO BEGINNING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE TO FAILURE TO REVIEW ALL PLANS, DELAY, AND MOBILIZATION RELATED COSTS.

### BENCHMARK

BENCHMARK: THE SOUTH 1/4 S CORNER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO AS BEARING N 89°43' 03" E.

### BASIS OF BEARINGS

BEARINGS ARE GRID BEARINGS COLORADO COORDINATE SYSTEM (NAD 83) BASED ON THE SOUTH 1/4 S CORNER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO AS BEARING N 89°43' 03" E.

### DEVELOPER:

UNCC  
5000 W. WANDA AVE #265  
CENTRAL, CO 80112  
PHONE: (303) 907-6982  
FAX: (303) 907-6982  
CONTACT: BEN OSBORN

### ENGINEER:

Calibre Engineering, Inc.  
3000 South Highway 103  
Highlands Ranch, CO 80129  
PHONE: (303) 730-0434  
FAX: (303) 730-0434  
CONTACT: GREGORY L PANZA

### SHEET INDEX

- TS1 TITLE SHEET
- 1 INTRODUCTION
- 2 PLANS
- 3 FILING PLAN
- 4 OVERALL UTILITY PLAN
- 5 EROSION CONTROL PLAN
- 6 LANDSCAPE PLAN
- 7 OVERALL LANDSCAPE PLAN
- 07 TOTAL SHEETS

THESE PRELIMINARY DEVELOPMENT PLANS WERE PREPARED BY ME (OR UNDER MY DIRECT SUPERVISION) IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF FORT LUPTON RULES AND REGULATIONS.

UNCC  
5000 W. WANDA AVE #265  
CENTRAL, CO 80112  
PHONE: (303) 907-6982  
FAX: (303) 907-6982  
CONTACT: BEN OSBORN

PARCEL	AREA(AC)	CODE	R3 CODE
ALLOWABLE LAND USE	76.95	NA	NA
PERMITTED DENSITY	4.6	SFD	SFD, MFD
MAXIMUM UNIT	199	NA	NA
MINIMUM LOT SIZE (SF)	5520	5000	5000
MINIMUM LOT WIDTH	35	30	30
MAXIMUM LOT COVERAGE	45%	NA	NA
<b>PRIMARY USES</b>			
MAXIMUM HEIGHT	35	35	35
MINIMUM SETBACK FOR ALL STRUCTURES FROM ARTERIALS	35	NA	NA
MINIMUM SETBACK FOR ALL STRUCTURES FROM COLLECTOR	35	NA	NA
MINIMUM FRONT YARD SETBACK FOR PRINCIPLE STRUCTURE	25	25	25
MINIMUM FRONT YARD SETBACK - GARAGE (NON-GARAGE DOOR SIDE)	25	25	25
MINIMUM FRONT YARD SETBACK - GARAGE (GARAGE DOOR SIDE)	25	25	25
MINIMUM SIDE YARD SETBACK	5	5	5
MINIMUM REAR YARD SETBACK	30	30	30
MINIMUM DWELLING SIZE (SF)	900	900	900
<b>ACCESSORY USE</b>			
HEIGHT	15	15	15
FRONT SETBACK	25	20	20
SIDE SETBACK	5	5	5
REAR SETBACK	5	NA	NA

TRACT	AREA(AC)	USE	OWNERSHIP/MAINTENANCE
A	11.41	DRAINAGE/OPEN SPACE	HOMEOWNER ASSOCIATION
B	1.56	OPEN SPACE	HOMEOWNER ASSOCIATION
C	2.28	FUTURE PARK	HOMEOWNER ASSOCIATION
D	1.02	OPEN SPACE/DRAINAGE	HOMEOWNER ASSOCIATION
E	0.88	OPEN SPACE	HOMEOWNER ASSOCIATION
F	13.92	OL/GAS	ANDARNO
<b>TOTAL</b>	<b>31.07</b>		

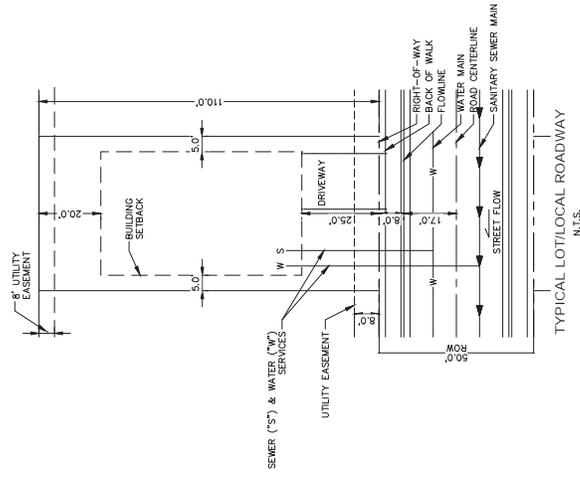
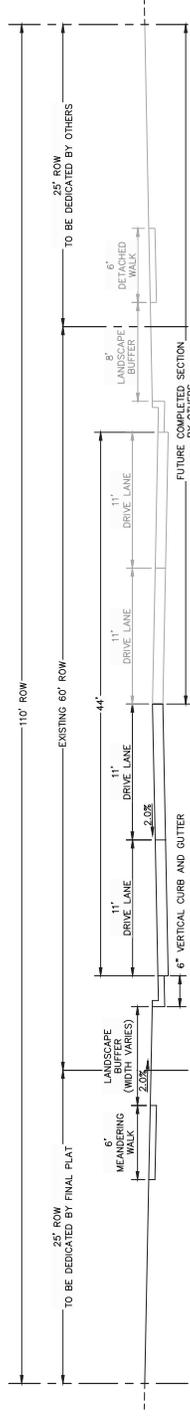
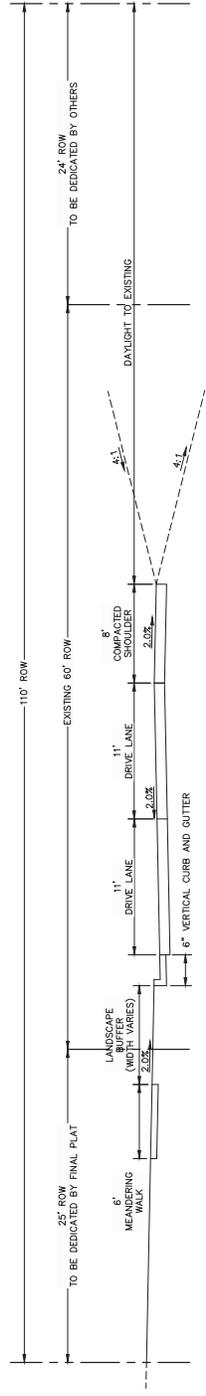
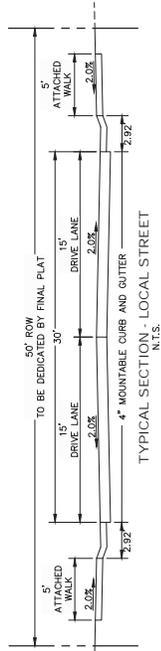
LAND SUMMARY CHART	PERCENT OF TOTAL
TYPE	AREA(AC)
RESIDENTIAL LOTS	35.06
TRACTS	31.07
RIGHT OF WAY	10.82
<b>TOTAL</b>	<b>100.00%</b>



Utility Notification  
Center of Colorado  
Administrative Office 303-232-1991  
1831 S. Highway  
Golden, Co. 80403

CALL 2 BUSINESS DAYS IN ADVANCE BEFORE YOU DIG.  
UNCC CALL BEFORE YOU DIG 811 OR 1-800-922-1987  
UTILITY NOTIFICATION CENTER OF COLORADO  
ADMINISTRATIVE OFFICE 303-232-1991  
1831 S. HIGHWAY GOLDEN, CO. 80403  
GRADE UTILITY MARKING OF UNDERGROUND MEMBER UTILITIES  
CALBRE ENGINEERING, INC. ASSUMES NO RESPONSIBILITY FOR EXISTING UTILITY LOCATIONS (HORIZONTAL AND VERTICAL) UNLESS SHOWN ON THIS DRAWING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION OF ALL UTILITIES PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES.

 Calibre Engineering, Inc. 3000 South Highway 103 Highlands Ranch, CO 80129 PHONE: (303) 730-0434 FAX: (303) 730-0434 CONTACT: GREGORY L PANZA www.calibre-engineering.com Construction Management Civil Engineering Surveying	MOUNTAIN SKY PLANNED UNIT DEVELOPMENT TITLE SHEET	Sheet <b>TS1</b> of <b>7</b> Date <b>30 JUNE 2016</b>
PROJECT NUMBER <b>11TS1.dwg</b> JOB NUMBER <b>EQUINOX MTN SKY</b> PROJECT LOCATION <b>FORT LUPTON</b>		DATE <b>5/26/16</b> REV. PER CITY/CLIENT COMMENTS REVISION DESCRIPTION



Sheet 2  
SE1  
Date 30 JUNE 2016

MOUNTAIN SKY  
PLANNED UNIT DEVELOPMENT  
TYPICAL SECTIONS

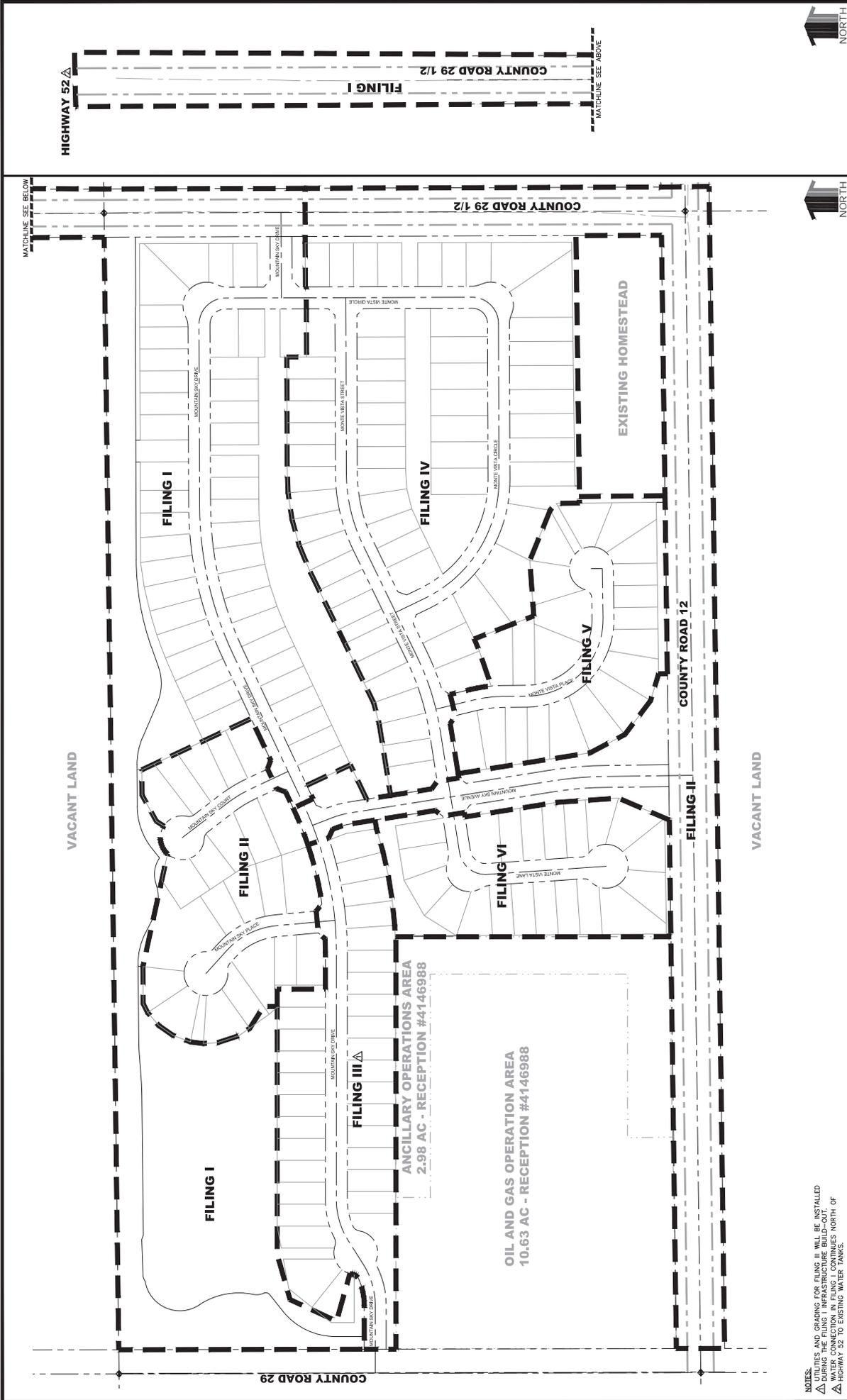
**Calibre**  
Calibre Engineering, Inc.  
1000 South Rodgers Boulevard, Suite 105  
Colorado Springs, CO 80902 (719) 596-0434  
www.calibre-engineering.com

Construction Management Civil Engineering Surveying



Project Name	11SE1.dwg
Job No.	EQUNOX MTN SKY
Program	Fort Lupton
Drawn	GLP
Checked	GLP
Scale	AS SHOWN

DATE	5/26/16	REV. PER CITY/CLIENT COMMENTS	REVISION DESCRIPTION



**MOUNTAIN SKY**  
PLANNED UNIT DEVELOPMENT  
FILING PLAN

**Calibre**  
Calibre Engineering, Inc.  
3000 South Regis Road, Suite 105  
Colorado Springs, CO 80906  
www.calibre-engineering.com  
Construction Management Civil Engineering Surveying

Sheet: **FP1**  
3 of 7  
Date: **30 JUNE 2016**

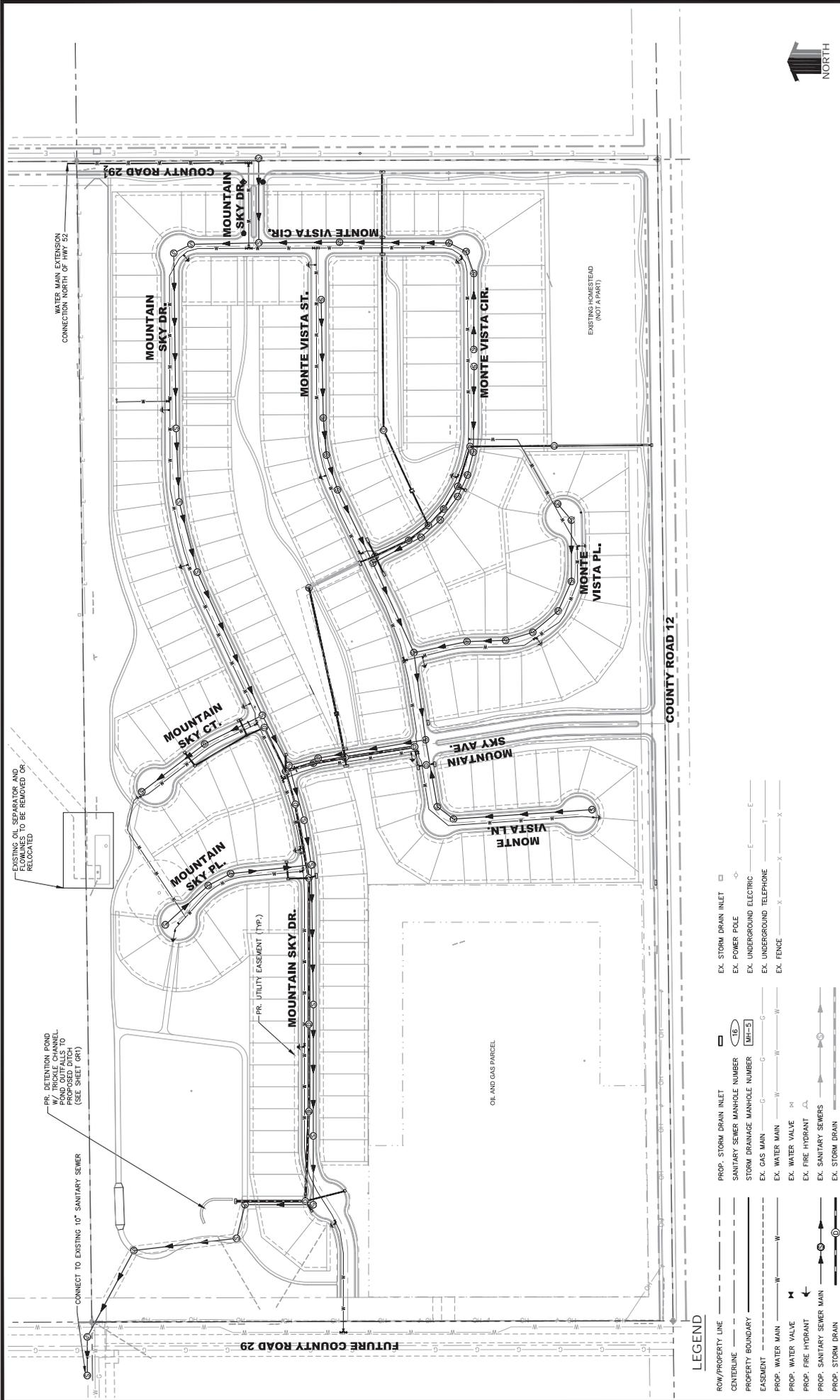
Project Name: **11FP1.dwg**  
Job No.: **EQUINOX MTH SKY**  
Program: **FORT LUPTON**

Scale: 1 inch = 100 ft. Horizontal  

North	East	South	West
BEM	BEM	BEM	GLP

DATE: 5/26/16  
REV. PER CITY/CLIENT COMMENTS  
REVISION DESCRIPTION

**NOTES:**  
 ▲ UTILITIES AND GRADING FOR FILING III WILL BE INSTALLED  
 ▲ DURING THE FILING INFRASTRUCTURE BUILD-OUT.  
 ▲ FILING III IS LOCATED NORTH OF  
 ▲ HIGHWAY 52 TO EXISTING WATER TANKS.



<p>DATE</p> <p>REVISION DESCRIPTION</p>	<p>PROJECT NAME</p> <p>110U1.dwg</p> <p>JOB NUMBER</p> <p>EQUINOX MTN SKY</p> <p>PROGRAM</p> <p>FORT LUPTON</p>	<p>Scale</p> <p>1 inch = 100 ft. Horizontal</p> <p>0 50 100 200</p>	<p>Calibre</p> <p>Calibre Engineering, Inc.</p> <p>3000 South Hodgson Blvd., Suite 105</p> <p>Fort Collins, CO 80526 (970) 796-0434</p> <p>www.calibre-engineering.com</p> <p>Construction Management Civil Engineering Surveying</p>	<p>Sheet</p> <p>4</p> <p>OU1</p> <p>7</p> <p>Date</p> <p>30 JUNE 2016</p>
---	---	---	---	---

PLOT BY: Ben Murrby  
 PLOT DATE: 02/20/16 9:05 AM  
 METERS: 10BASE, W:\PLOT-FIELD\Bldg\110U1\_10PPN\_1178

MOUNTAIN SKY  
 PLANNED UNIT DEVELOPMENT  
 OVERALL UTILITY PLAN

NORTH

- LEGEND**
- 5250 — PROPOSED CONTOURS
  - - - 5250 - - - EXISTING CONTOURS
  - PROPERTY LINE
  - DIRECTIONAL FLOW ARROW
  - PROP. STORM DRAIN
  - PROP. STORM DRAIN INLET
  - SWALE

**NOTES:**

1. GRADING CONTOURS SHOWN HERE ARE FINISHED GRADE FOR STREETS AND OVERLAY GRADES WITHIN THE LOTS AND TRACTS

**811**  
 UNICC  
 CALL BEFORE  
 YOU DIG  
 811  
 OR  
 1-800-922-1987  
 Utility Notification  
 Center of Colorado

**PROJECT BENCHMARK:**  
 THE SOUTH 1/16 CORNER BETWEEN  
 FUTURE COUNTY ROAD 29 AND  
 FUTURE COUNTY ROAD 12  
 FOUND ALUM. CAP. PLS. 25937  
 ELEVATION 4943.57



Sheet	5
GR1	7
Date	30 JUNE 2016

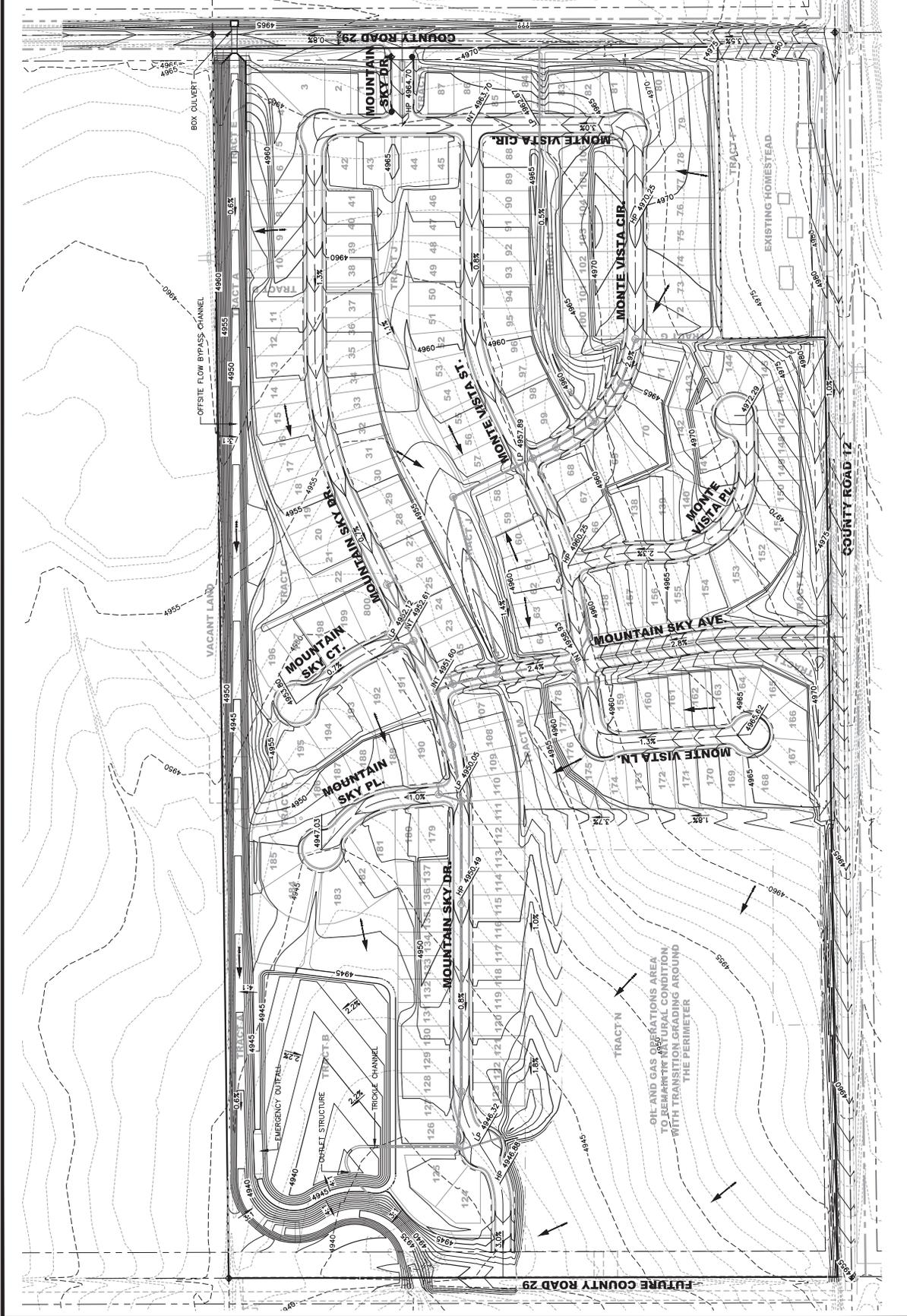
**MOUNTAIN SKY  
 PLANNED UNIT DEVELOPMENT  
 OVERALL GRADING PLAN**

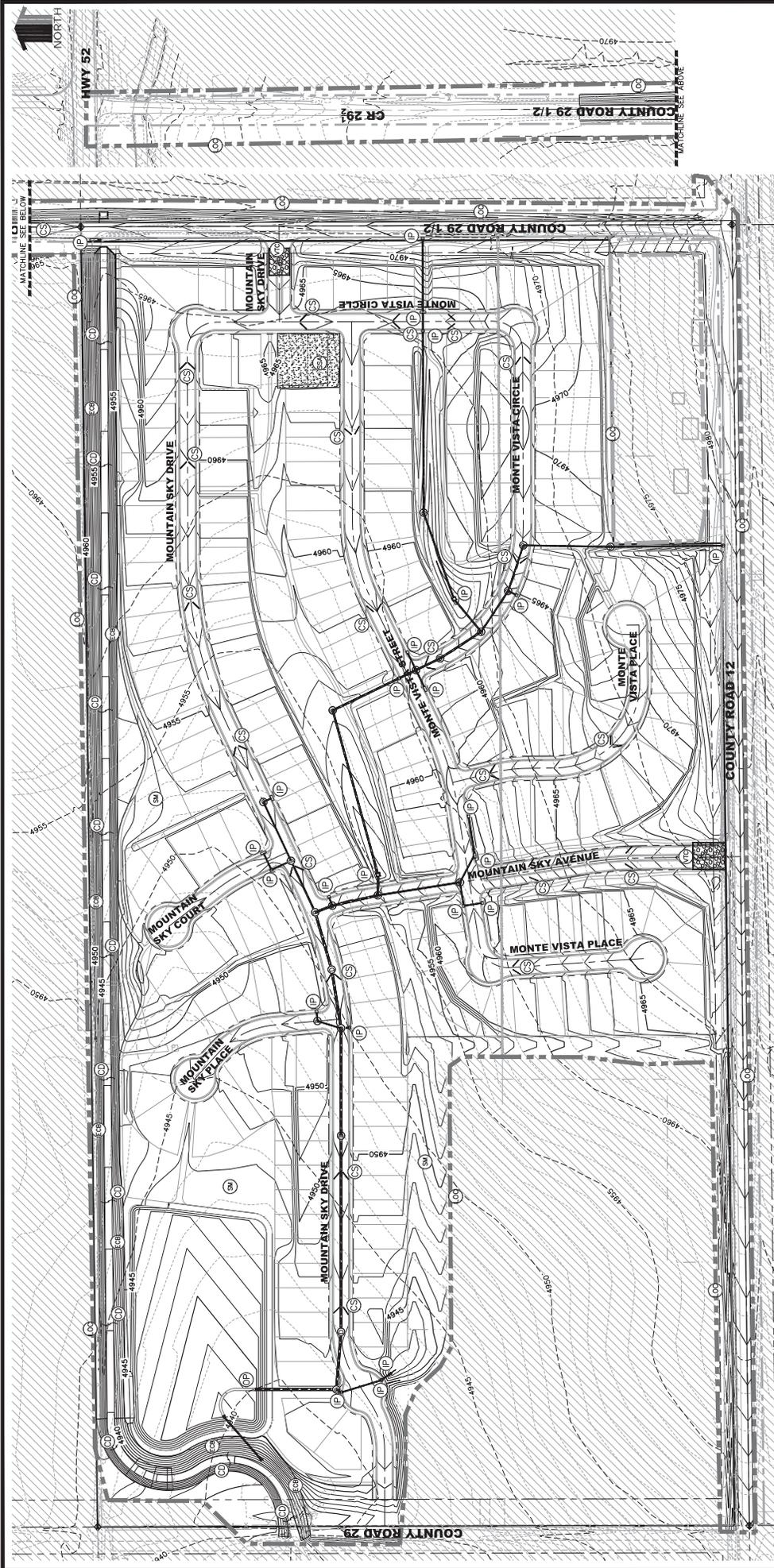
**Calibre**  
 Calibre Engineering, Inc.  
 3000 South Highways, Suite 105  
 Colorado Springs, CO 80905  
 (719) 575-4343  
 www.calibre-engineering.com  
 Construction Management Civil Engineering Surveying



Project Name	11GR1.dwg
Job No.	EQUINOX MTA SKY
Program	FORT LUPTON
Drawn	GLP
Checked	GLP
Reviewed	GLP

DATE	5/26/16	REV. PER CITY/CLIENT COMMENTS	
		REVISION DESCRIPTION	





UNSC  
CALL BEFORE  
YOU DIG  
811  
OR  
1-800-922-1987  
Utility Notification  
Center of Colorado

- LEGEND:**
- CD EROSION CONTROL BLANKET
  - SM TRACKING CONTROL PAD
  - US CURB SOCK INLET PROTECTION
  - DM CHECK DAM
  - IP INLET PROTECTION (ALL INLETS IN SUMP CONDITION)
  - OP OUTLET PROTECTION
  - GD PROTECT EXISTING VEGETATION
  - SM SEEDING AND MULCHING
  - US STABILIZED STAGING AREA
  - DM CONCRETE WASHOUT AREA
  - IP STRAW BALE BARRIER
  - OP LIMITS OF CONSTRUCTION
  - DA PROPOSED DRAIN MANHOLE
  - DR PROPOSED STORM DRAIN PIPE
  - DI PROPOSED STORM DRAIN INLET
  - FA FLOW ARROW
  - SW SWALE

**CONSTRUCTION NOTES: EROSION CONTROL**

1. ALL EROSION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF CONSTRUCTION.
2. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.
3. ALL EROSION CONTROL MEASURES SHALL BE REMOVED UPON COMPLETION OF CONSTRUCTION.
4. ALL EROSION CONTROL MEASURES SHALL BE REPAIRED IMMEDIATELY UPON DAMAGE.
5. ALL EROSION CONTROL MEASURES SHALL BE INSPECTED AND APPROVED BY THE LOCAL HEALTH DEPARTMENT.
6. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED THROUGHOUT CONSTRUCTION.
7. ALL EROSION CONTROL MEASURES SHALL BE REMOVED UPON COMPLETION OF CONSTRUCTION.
8. ALL EROSION CONTROL MEASURES SHALL BE REPAIRED IMMEDIATELY UPON DAMAGE.

**CONSTRUCTION NOTES: EROSION CONTROL CONT'D**

6. BLANKET: BOTTOM OF CHANNEL WILL BE SEEDED AND MULCHED. TOP SHALL BE SEEDED AND MULCHED.
7. TRACKING CONTROL PAD: SHALL BE SEEDED AND MULCHED. AN OPTIONAL LOCATION IS SHOWN ON THIS SHEET. CONSTRUCTION TRAFFIC IS ALLOWED TO BE EXCAVATED INITIALLY TO ACT AS A SITE SEDIMENT BASIN.
8. CURB SOCK INLET PROTECTION: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
9. CHECK DAM: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
10. INLET PROTECTION: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
11. OUTLET PROTECTION: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.

**CONSTRUCTION NOTES: EROSION CONTROL CONT'D**

12. STABILIZED STAGING AREA: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
13. CONCRETE WASHOUT AREA: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
14. STRAW BALE BARRIER: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
15. LIMITS OF CONSTRUCTION: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.

**CONSTRUCTION NOTES: EROSION CONTROL CONT'D**

16. PROTECT EXISTING VEGETATION: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
17. SEEDING AND MULCHING: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
18. STABILIZED STAGING AREA: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
19. CONCRETE WASHOUT AREA: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
20. STRAW BALE BARRIER: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
21. LIMITS OF CONSTRUCTION: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.

**CONSTRUCTION NOTES: EROSION CONTROL CONT'D**

22. PROTECT EXISTING VEGETATION: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
23. SEEDING AND MULCHING: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
24. STABILIZED STAGING AREA: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
25. CONCRETE WASHOUT AREA: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
26. STRAW BALE BARRIER: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.
27. LIMITS OF CONSTRUCTION: SHALL BE SEEDED AND MULCHED. SURFACE ROUGHENED FOR INTERIM STABILIZATION UNTIL SUFFICIENT GROWTH IS IN PLACE TO DETER EROSION.

Sheet  
6  
EC1  
7  
Date  
30 JUNE 2016

**MOUNTAIN SKY  
PLANNED UNIT DEVELOPMENT  
EROSION CONTROL PLAN**

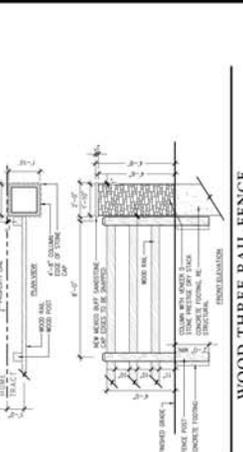
**Calibre**  
Calibre Engineering, Inc.  
3000 South Highways, Boulder, CO 80501  
www.calibre-engineering.com

Scale: 1 inch = 100 ft. Horizontal  
Date: 5/26/16  
Drawn by: BMM  
Checked by: GLP

PROJECT NO: 11EC1.dwg  
JOB NO: MOUNTAIN SKY  
PROGRAM: EQUINOX MOUNTAIN SKY  
FORT LUPTON

REV. PER CITY/CLIENT COMMENTS  
REVISION DESCRIPTION

DATE: 5/26/16



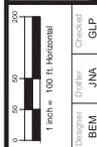
DATE		REVISION DESCRIPTION	
<p>DWM DESIGN          204 S. 202nd St          30090          www.dwmdesign.com</p>			
<p>Drawing Name: GRAPHIC PLAN.dwg          Job Number: EQUINOX MTR SKY          Prepared For: FORT LUPTON</p>		<p>1 inch = 100 ft. Horizontal          Designer: BMF          Drafter: CF          Checked: MY</p>	
<p>Calibre          Calibre Engineering, Inc.          9000 South Rodgers Boulevard, Suite 105          Fort Collins, CO 80504          www.calibre-engineering.com          (970) 730-0404          Construction Management • Civil Engineering • Surveying</p>		<p>MOUNTAIN SKY          PRELIMINARY DEVELOPMENT PLANS          CONCEPTUAL LANDSCAPE PLAN</p>	
Sheet	7	Date	23 FEBRUARY 2016
LS1	7		



Sheet  
 X  
 of  
 7  
**RN1**  
 Date  
 30 JUNE 2016

**MOUNTAIN SKY**  
 PLANNED UNIT DEVELOPMENT  
 NEW ROAD NAMES

**Calibre**  
 Calibre Engineering, Inc.  
 9300 South Rodgers Road, Suite 105  
 Greenwood Village, CO 80120  
 www.calibre-engineering.com  
 Construction Management Civil Engineering Surveying



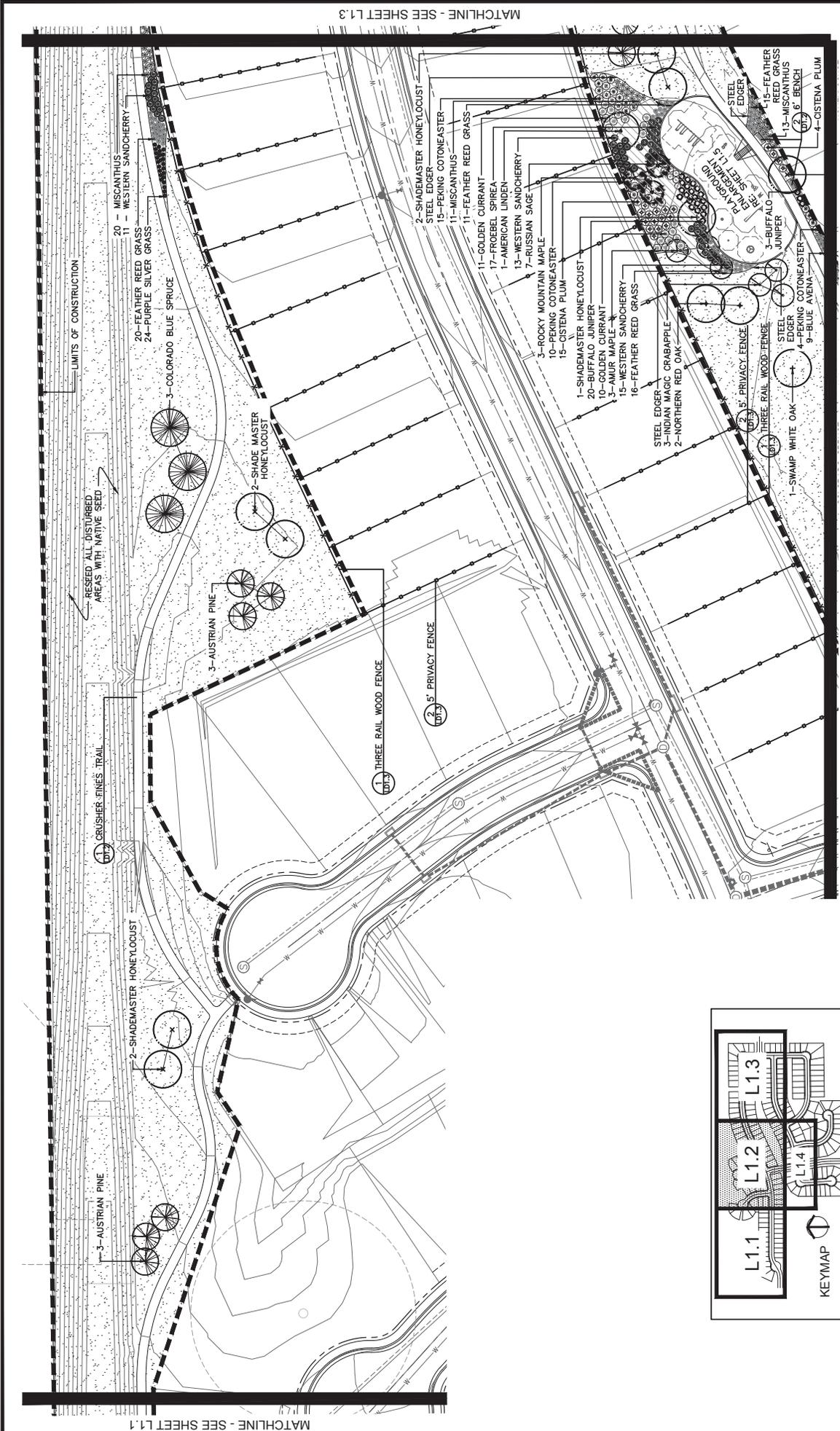
Revision Notes  
 X-NewStreetNames.dwg  
 Job No. EQUNOX MTN SKY  
 Program FORT LUPTON

DATE	REVISION DESCRIPTION

# **Landscape & Irrigation**

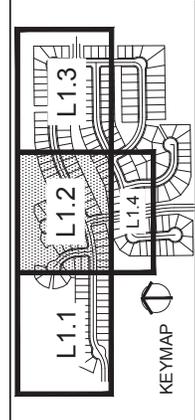






MATCHLINE - SEE SHEET L1.1

MATCHLINE - SEE SHEET L1.3



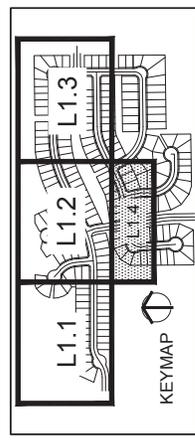
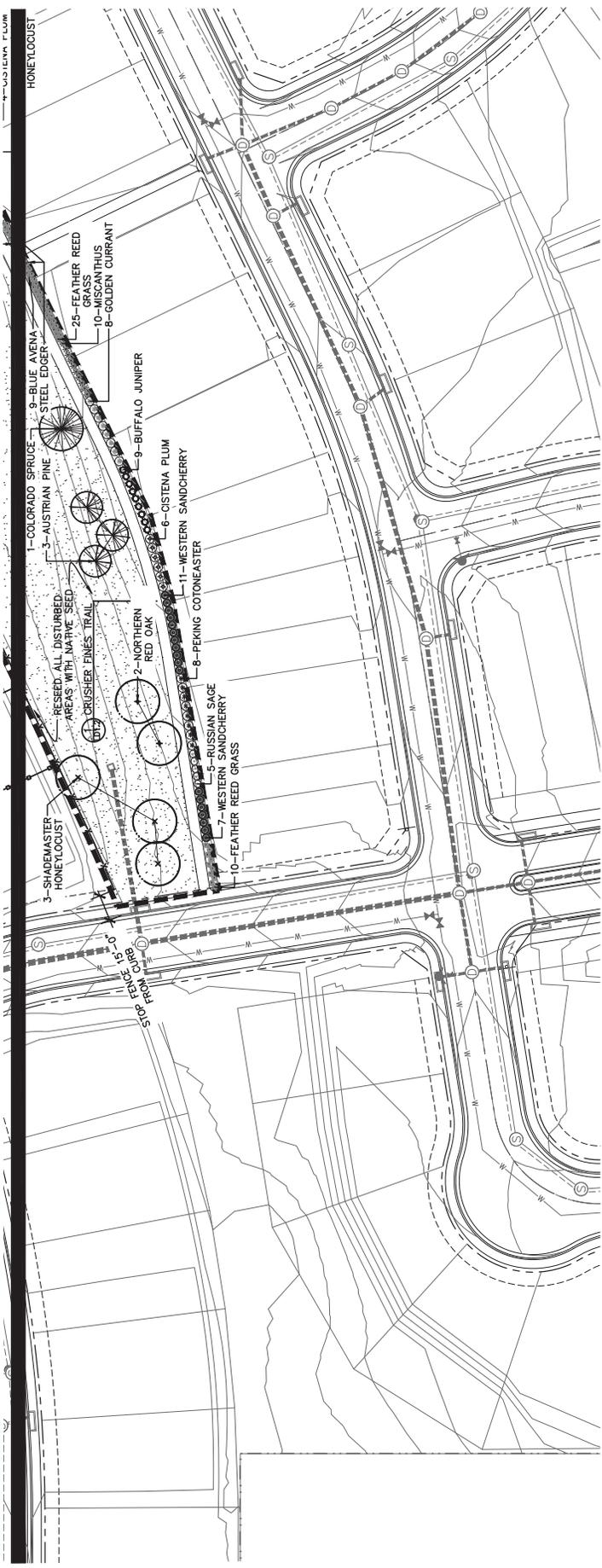
MATCHLINE - SEE SHEET L1.4

		<b>Calibre</b> Calibre Engineering, Inc. 9000 South Regis Road, Suite 105 Greenwood Village, CO 80120 (303) 754-0434 www.calibre-engineering.com Construction Management   Civil Engineering   Surveying	<b>DM DESIGN</b> 9035 Broadway Denver, CO 80209 www.dmdesign.com	Sheet <b>L1.2</b>
				Date 12 FEBRUARY 2016
<b>MOUNTAIN SKY</b> <b>LANDSCAPE PLANS</b> <b>LANDSCAPE PLAN</b>				
PROJECT NAME 01 - LANDSCAPE PLAN (DWG)	JOB NUMBER EDJUNOX MTA SKY	PREPARED BY FORT LUPTON	DESIGNER MW	CHECKED MW
SCALE: 1" = 30'-0"		DRAWN CF	DATE 12 FEBRUARY 2016	REVISION DESCRIPTION

AeccDbFace (AeccLamd100)



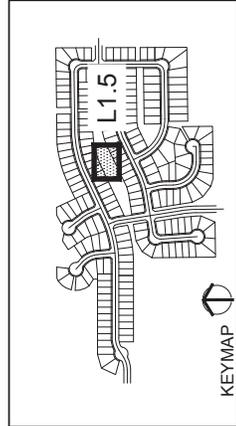
MATCHLINE - SEE SHEET L1.2



SHEET <b>L1.4</b> OF XX	DATE 12 FEBRUARY 2016	<b>DHM DESIGN</b> 9035 Broadway Denver, CO 80209 www.dhmdesign.com	<b>MOUNTAIN SKY</b> LANDSCAPE PLANS LANDSCAPE PLAN	Calibre Engineering, Inc. 800 South Rodgers Boulevard, Suite 105 Fort Collins, CO 80521 www.calibre-engineering.com (970) 794-0434 Construction Management, Civil Engineering, Surveying	NORTH	0 15 30 60 SCALE: 1" = 30'-0" Designer: DMW Drafter: CF Checker: DMW	Drawing Name: 01 - LANDSCAPE PLAN (dwg)	Job Number: EDJINOX MTA SKY	Prepared by: FORT LUPTON	Revision Description: DATE
							Revision Description: DATE			

**LEGEND**

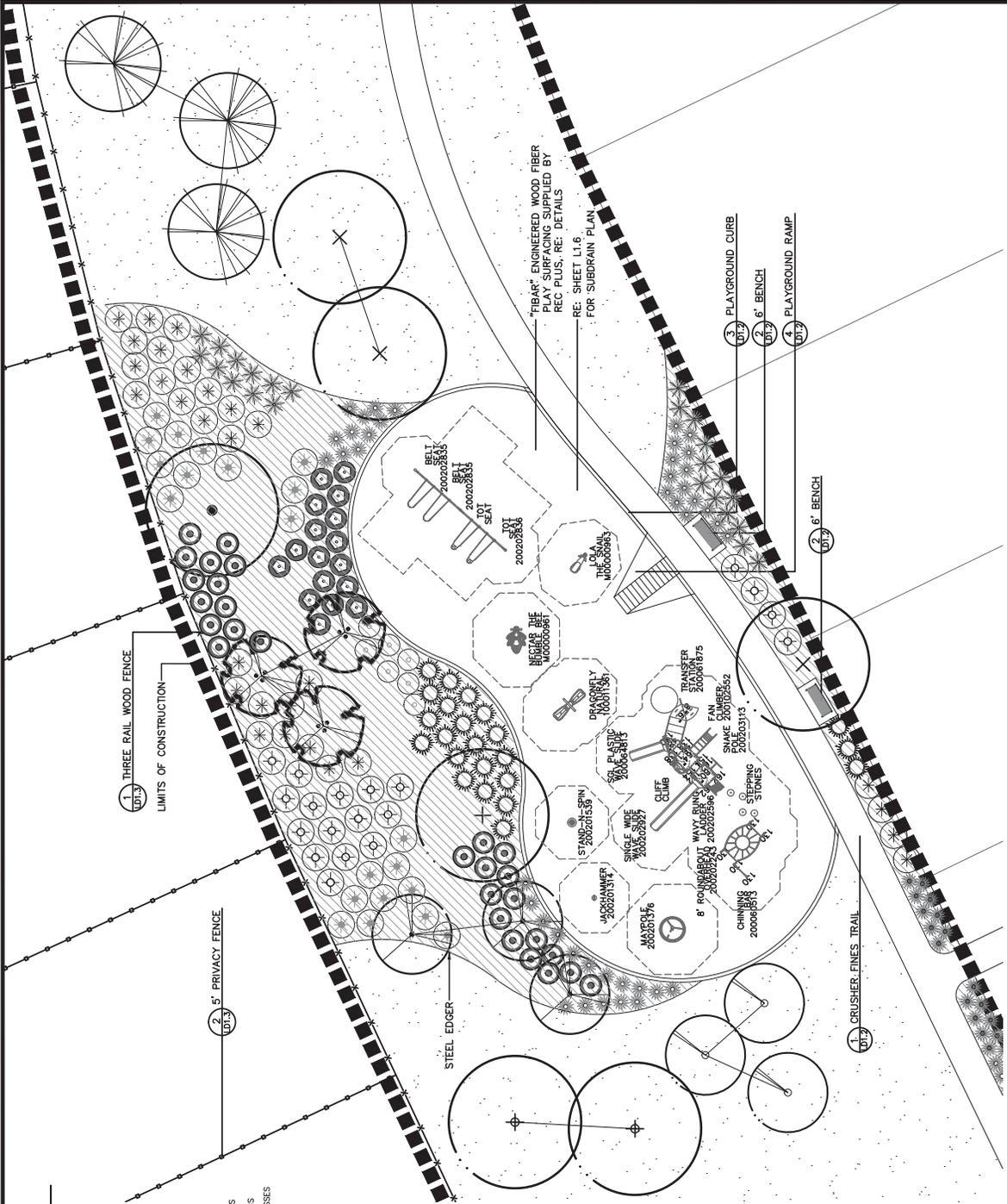
- TOPO-INDEX
- TOPO-INTERMEDIATE
- PROPERTY BOUNDARY
- EXISTING SEWER
- EXISTING WATER
- EXISTING STORM DRAIN
- EXISTING MAN HOLE
- PROPOSED LIGHT POLE
- EXISTING STORM DRAIN INLET
- EXISTING WATER VALVE
- EXISTING HYDRANT
- LIMITS OF CONSTRUCTION
- THREE RAIL WOOD FENCE
- 5' PRIVACY FENCE
- PROPOSED CRUSHER FINES
- PROPOSED TOPO
- PROPOSED WOOD MULCH
- PROPOSED BLUE GRASS SOD
- PROPOSED NATIVE SEED
- PROPOSED EVERGREEN TREE
- PROPOSED DECIDUOUS TREE
- PROPOSED DECIDUOUS SHRUBS
- PROPOSED EVERGREEN SHRUBS
- PROPOSED ORNAMENTAL GRASSES



PLAY EQUIPMENT LIST  
NOTE: ALL PLAY EQUIPMENT TO BE SUPPLIED BY REC PLUS

CONTACT: MIRIAM HOOTSTEIN  
TEL: 303-278-1455

PRODUCT NAME	NUMBER	QTY
JACKHAMMER	200201314	1
MAYPOLE	200201376	1
8' ROUNDABOUT OVERHEAD	200202243	1
CHINNING BAR	200060513	1
SINGLE WAVE SLIDE	200202927	1
WAVY RING LADDER	200202596	1
STAND-N-SPIN	200201539	1
SGL. PLASTIC WAVE SLIDE	200064813	1
SNAKE POLE	200203113	1
FAN CLIMBER	200102552	1
TRANSFER STATION	200061875	1
DRAGONFLY NATURAL	100011361	1
NECTAR THE BUMBLE BEE	M00000961	1
LOLA THE SNAIL	M00000963	1
TOT SEAT	200202836	2
BELT SEAT	200202835	2
CLIFF CLIMBER	200202835	1
STEPPING STONES		4



Sheet of XX  
**L1.5**  
Date 12 FEBRUARY 2016

**MOUNTAIN SKY LANDSCAPE PLANS ENLARGEMENT PLAN**

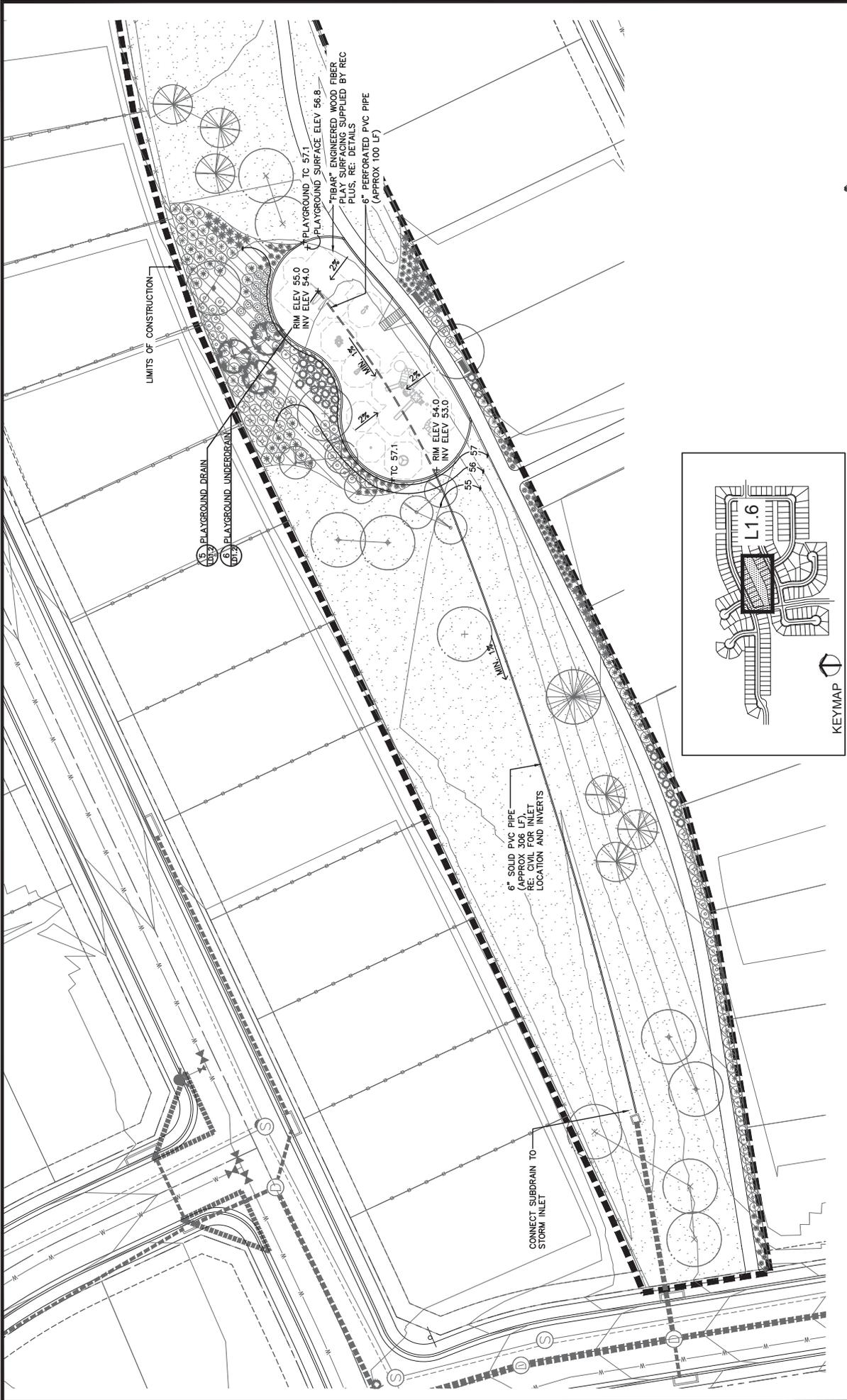
**Calibre**  
Calibre Engineering, Inc.  
900 South Rodgers Boulevard, Suite 105  
Boulder, CO 80509  
www.calibre-engineering.com (303) 440-0434  
Construction Management, Civil Engineering, Surveying

**DHM DESIGN**  
9035 Broadway  
Boulder, CO 80529  
www.dhmdesign.com

0 5 10 20  
SCALE: 1"=10'-0"  
Designer: DMW  
Checker: DMW  
Printer: CR  
MW

02-ENLARGEMENT SHEET (of 11)  
JOB NUMBER: EQUINOX MTA SKY  
Prepared by: FORT LUPTON

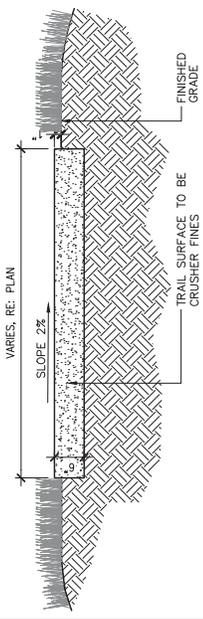
DATE: \_\_\_\_\_ REVISION DESCRIPTION:



Sheet <b>L1.6</b> of XX		Date 12 FEBRUARY 2016	
<b>DM DESIGN</b> 9035 Broadway Denver, CO 80209 www.dmdesign.com		<b>MOUNTAIN SKY</b> LANDSCAPE PLANS SUBDRAIN PLAN	
<b>Calibre</b> Calibre Engineering, Inc. 900 South Regisden Boulevard, Suite 105 Fort Collins, CO 80526 www.calibre-engineering.com (970) 226-0434		Construction Management    Civil Engineering    Surveying	
KEYMAP 		NORTH 	
Drawing Name 03 - SUBDRAIN PLAN.dwg	Job Number EQUINOX MTA SKY	Designer MW	Checker MW
Prepared by FORT LUPTON	Date CF	Checked MW	Date MW
REVISION DESCRIPTION			
DATE			



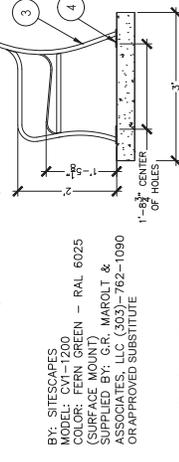
- CRUSHER FINES MATERIAL SHALL MEET THE FOLLOWING SPECIFICATIONS: CLEAN, HARD, DURABLE PARTICLES OR FRAGMENTS OF 3/8" MINUS SELECT GRAY CRUSHED GRANITE, RIVER ROCK OR BASALT. FINES SHALL BE EVENLY MIXED THROUGHOUT THE AGGREGATE. FINES SHALL BE ANGULAR AND MINIMUM OF 90% SHALL HAVE AT LEAST ONE FRACTURED FACE. COLOR TO BE APPROVED BY THE OWNER'S REPRESENTATIVE.
- TRAIL SUB BASE SHALL BE ROLLED AND COMPACTED WITH NO LESS THAN 10 PASSES OF THE ROLLER. BOTH 3 INCH LIFTS OF CRUSHER FINE APPLICATION SHALL BE WATERED, ROLLED AND COMPACTED WITH NO LESS THAN 5 PASSES OF THE ROLLER. TRAIL COMPACTON AND SURFACE WILL BE TESTED BY THE OWNER.
- ALL EDGES OF TRAIL SHOULD BE RAKED, REMOVING EXCESS CRUSHER FINES OUTSIDE OF THE 6" WIDE TRAIL WIDTH.



1 CRUSHER FINES TRAIL

NOT TO SCALE

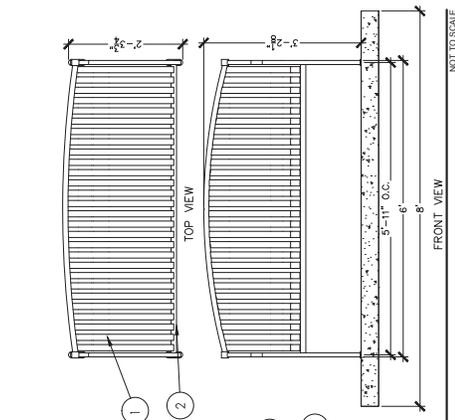
- NOTE:
- CONTRACTOR TO SUBMIT COLOR SAMPLES TO LANDSCAPE ARCHITECT FOR APPROVAL
- MATERIALS LIST
- SEAT STRAPS - 3/4" X 1-1/2" STEEL FLAT BAR
  - SUPPORT PIPES - 1" SQUARE SOLID STEEL BAR
  - END UNITS - 1" SQUARE SOLID STEEL BAR
  - SURFACE MOUNT PLATES - 1/2" X 1-1/2" STAINLESS STEEL
  - MOUNTED WITH FOUR 3/8" X 4-5" STAINLESS STEEL ANCHOR BOLTS (CUSTOM SUPPLIED)



2 BENCH

NOT TO SCALE

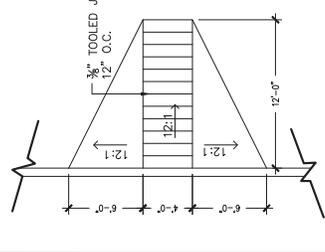
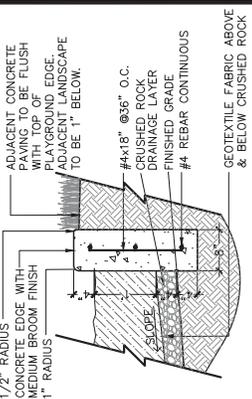
BY: SITESCAPES  
 MODEL: CVT-1200  
 SUPPLIER: GREEN - RAL 6025  
 SURFACE FINISH: GREEN  
 SUPPLIED BY: G.F. MAROLT & ASSOCIATES, LLC (303)-762-1090  
 OR APPROVED SUBSTITUTE



3 PLAYGROUND CURB

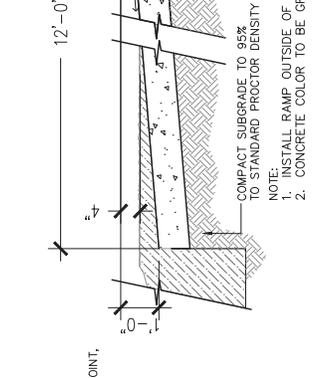
NOT TO SCALE

- PLAYGROUND EDGE:
- VERTICAL AND HORIZONTAL JOINTS TO MATCH ADJACENT CONTROL JOINTS IN WALK.
  - CONTRACTOR TO SLURRY COAT ENTIRE FACE OF INNER PLAYGROUND EDGE FROM TOP OF PLAYGROUND EDGE TO FINISH GRADE.
  - "HONEYCOMBED" WALL WILL RESULT IN REJECTION. REPAIRING WILL NOT BE ACCEPTED.

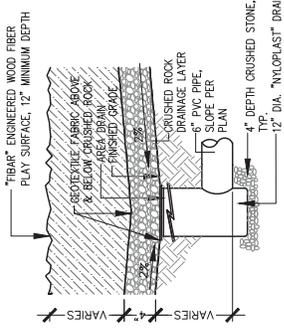


4 PLAYGROUND RAMP

NOT TO SCALE

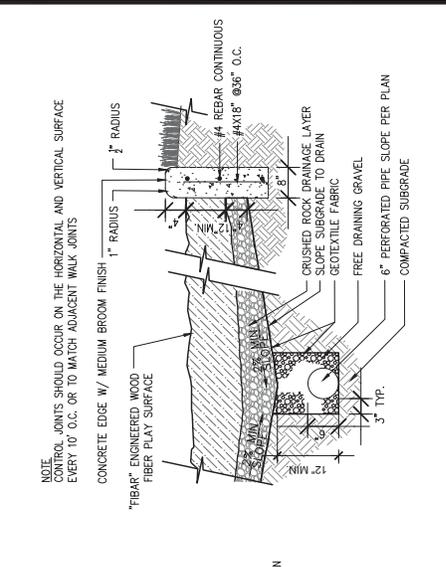


- NOTE:
- INSTALL RAMP OUTSIDE OF PLAY EQUIPMENT SAFETY ZONES.
  - CONCRETE COLOR TO BE GREY



5 PLAYGROUND DRAIN

NOT TO SCALE



6 PLAYGROUND UNDERDRAIN

NOT TO SCALE

DATE	REVISION DESCRIPTION

Revision Number	Description	Checked	Drawn	Design
04 - LANDSCAPE DETAILS (4/16)				
Job Number	EDUINOX MTN SKY			
Prepared By	FORT LUPTON			

**Calibre**  
 Calibre Engineering, Inc.  
 8900 South Rodgers Boulevard, Suite 105  
 Denver, CO 80231  
 www.calibre-engineering.com  
 (303) 799-0434

**MOUNTAIN SKY**  
 LANDSCAPE PLANS  
 LANDSCAPE DETAILS

Sheet  
**LD1.2**  
 of  
 XX

Date  
 12 FEBRUARY 2016

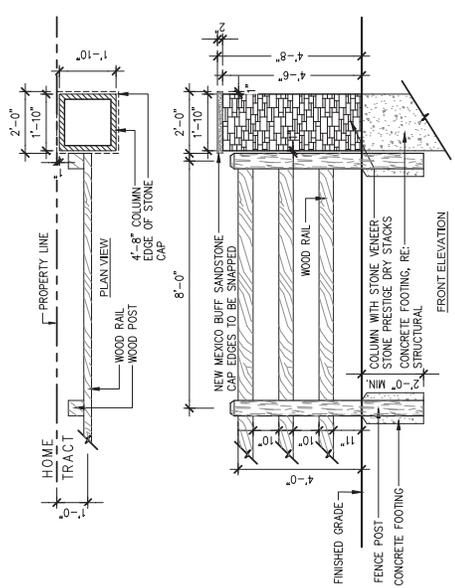
DATE	REVISION DESCRIPTION

Project Name 04 - LANDSCAPE DETAILS.dwg	Checked MMW
Job Number EQUINOX Mtn SKY	Drawn CF
Prepared By FORT LUPTON	

**Calibre**  
 Calibre Engineering, Inc.  
 1000 South Rodgers Boulevard, Suite 105  
 Fort Collins, CO 80528  
 (970) 794-0434  
 www.calibre-engineering.com  
 Construction Management Civil Engineering Surveying

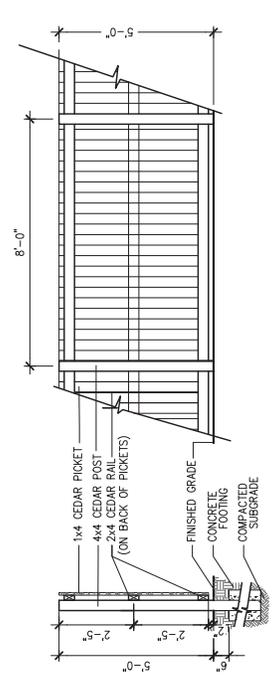
**DM DESIGN**  
 Mountain Sky  
 Landscape Plans  
 Landscape Details

Sheet <b>LD1.3</b>	of <b>XX</b>
Date 12 FEBRUARY 2016	



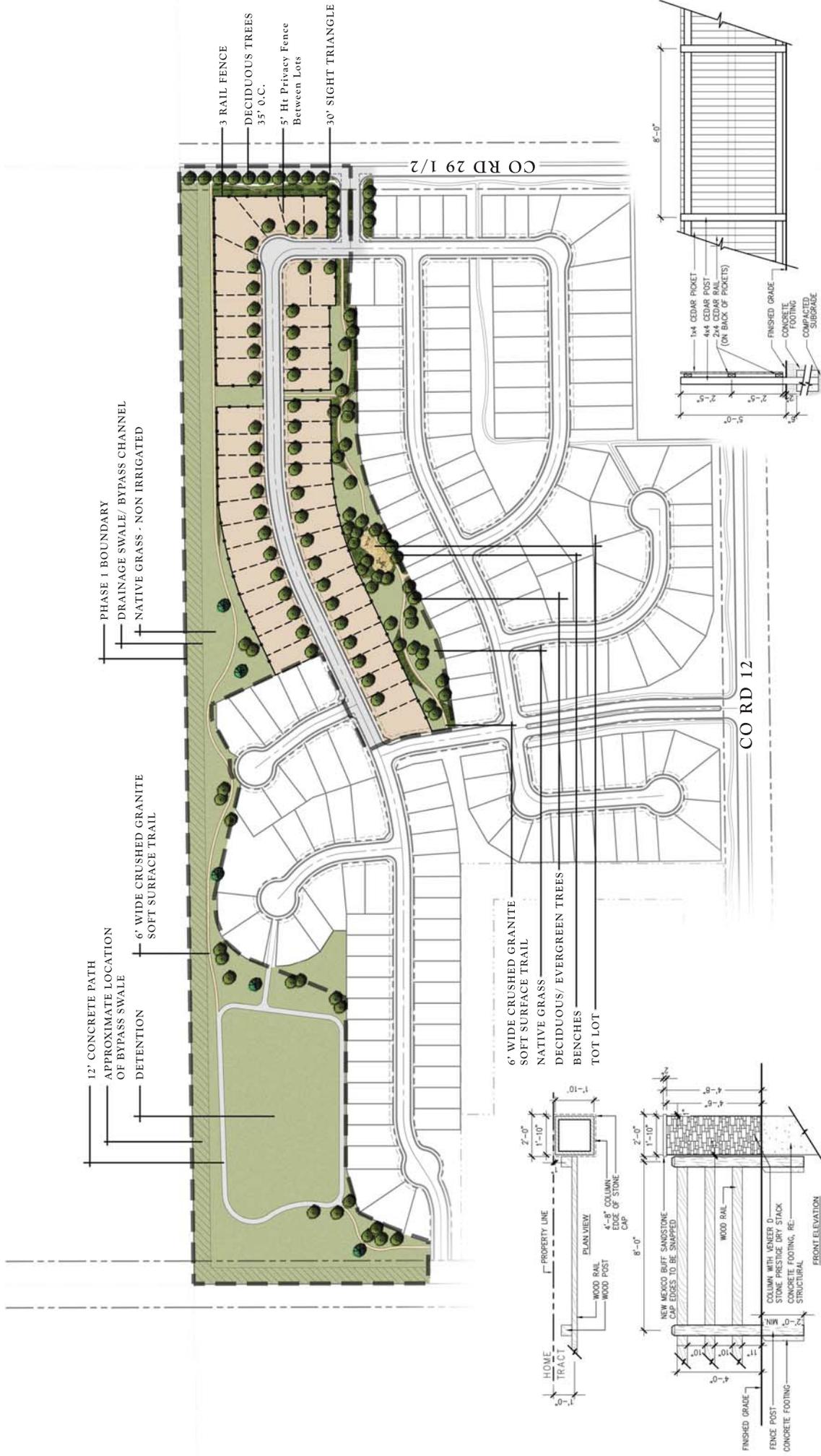
NOTES:  
 1. SUBMIT STONE SAMPLE TO OWNER FOR APPROVAL  
 2. STONE COLUMNS TO BE SPACED AT ALL PROPERTY CORNERS, END OF FENCE, AND AT CHANGE OF DIRECTION IN FENCING

1 THREE RAIL WOOD FENCE NOT TO SCALE



NOTES:  
 1. PRIVACY FENCING TO BE INSTALLED BETWEEN ALL LOTS WITHIN PHASE 1 BOUNDARY AND AS INDICATED ON PLANS

2 5-PRIVACY FENCE NOT TO SCALE



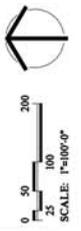
5' HT. Privacy Fence  
NTS

Wood Three Rail Fence Detail  
NTS

# Mountain Sky Phase 1

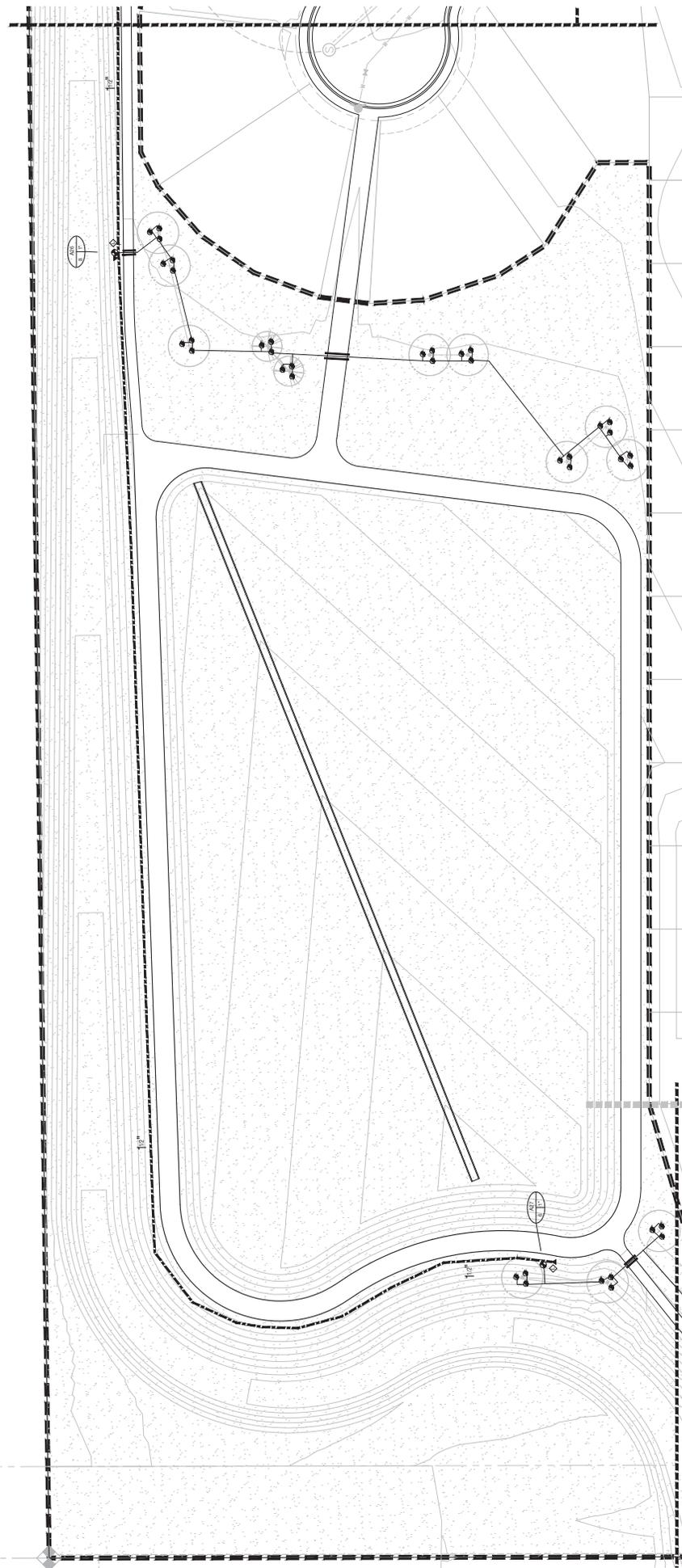
Ft Lupton, Colorado

Conceptual Landscape Plan  
Date: January 27th, 2016



**DHM DESIGN**  
254 S. Gregory  
Suite 200  
30137 E. 82nd  
www.dhmdesign.com





**MOCIA** IRRIGATION DESIGN  
 LABORATORY  
 1400 W. 100TH AVENUE, SUITE 201  
 FORT COLLINS, CO 80526  
 PHONE: 970.226.8914

Sheet **11.** of **11**  
 Date **12 FEBRUARY 2016**

**MOUNTAIN SKY**  
**FINAL DEVELOPMENT PLANS**  
**IRRIGATION PLAN**

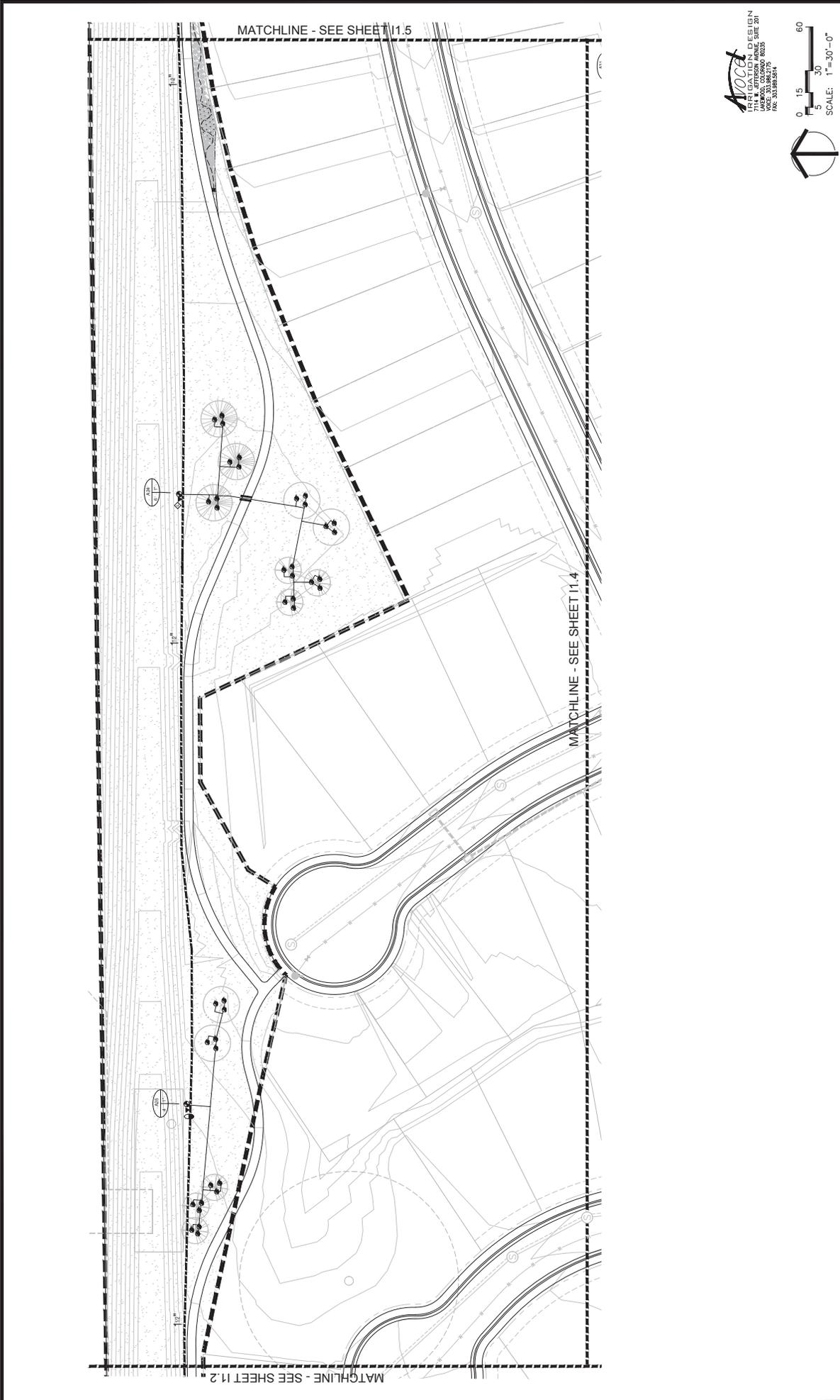
**Calibre**  
 Calibre Engineering, Inc.  
 1000 North Lincoln Road, Suite 105  
 Highlands Ranch, CO 80129  
 www.calibre-engineering.com  
 Construction Management, Civil Engineering, Surveying



Drawing Name: **EQJINX.MTA SKY**  
 Job Number: **FORT LUPTON**  
 Designer: **DCZ** | Checker: **DCZ**  
 Drafter: **DCZ** | Checker: **DCZ**

Drawing Name: **EQJINX.MTA SKY**  
 Job Number: **FORT LUPTON**

DATE	REVISION DESCRIPTION



**MDC**  
 IRRIGATION DESIGN  
 1400 S. W. 10TH AVE., SUITE 105  
 DENVER, COLORADO 80202  
 PHONE: 303.733.8275  
 FAX: 303.733.8274

0 15 30 60  
 SCALE: 1"=30'-0"

<b>Calibre</b> Calibre Engineering, Inc. 10000 E. Harvard Ave., Suite 105 Highlands Ranch, CO 80126 www.calibre-engineering.com Construction Management Civil Engineering Surveying		Sheet <b>11.</b>	Date 12 FEBRUARY 2016
Drawing Name EQJINX.MTA SKY		<b>MOUNTAIN SKY                  FINAL DEVELOPMENT PLANS                  IRRIGATION PLAN</b>	
Job Number EQJINX.MTA SKY		1" = 30' 1" = 15' 1" = 30' 1" = 15' 1" = 30' 1" = 15'	
Prepared by FORT LUPTON		Designer DCZ	
Checked by DCZ		Checker DCZ	
REVISION DESCRIPTION		DATE	



**Arco**  
 1714 W. SPRING AVENUE, SUITE 201  
 WACO, TEXAS 76798  
 PHONE: 817.870.8025  
 FAX: 817.870.8014

SCALE: 1" = 30'-0"

0 15 30 60

Sheet **I1.1** of 1

Date 12 FEBRUARY 2016

**MOUNTAIN SKY  
 FINAL DEVELOPMENT PLANS  
 IRRIGATION PLAN**

**Calibre**  
 Calibre Engineering, Inc.  
 10000 Highway 100, Suite 105  
 Highlands Ranch, CO 80126  
 www.calibre-engineering.com  
 Construction Management, Civil Engineering, Surveying

1	2	3	4	5	6	7	8	9	10
DCZ									

Drawing Name: **EQJINX.MTA SKY**

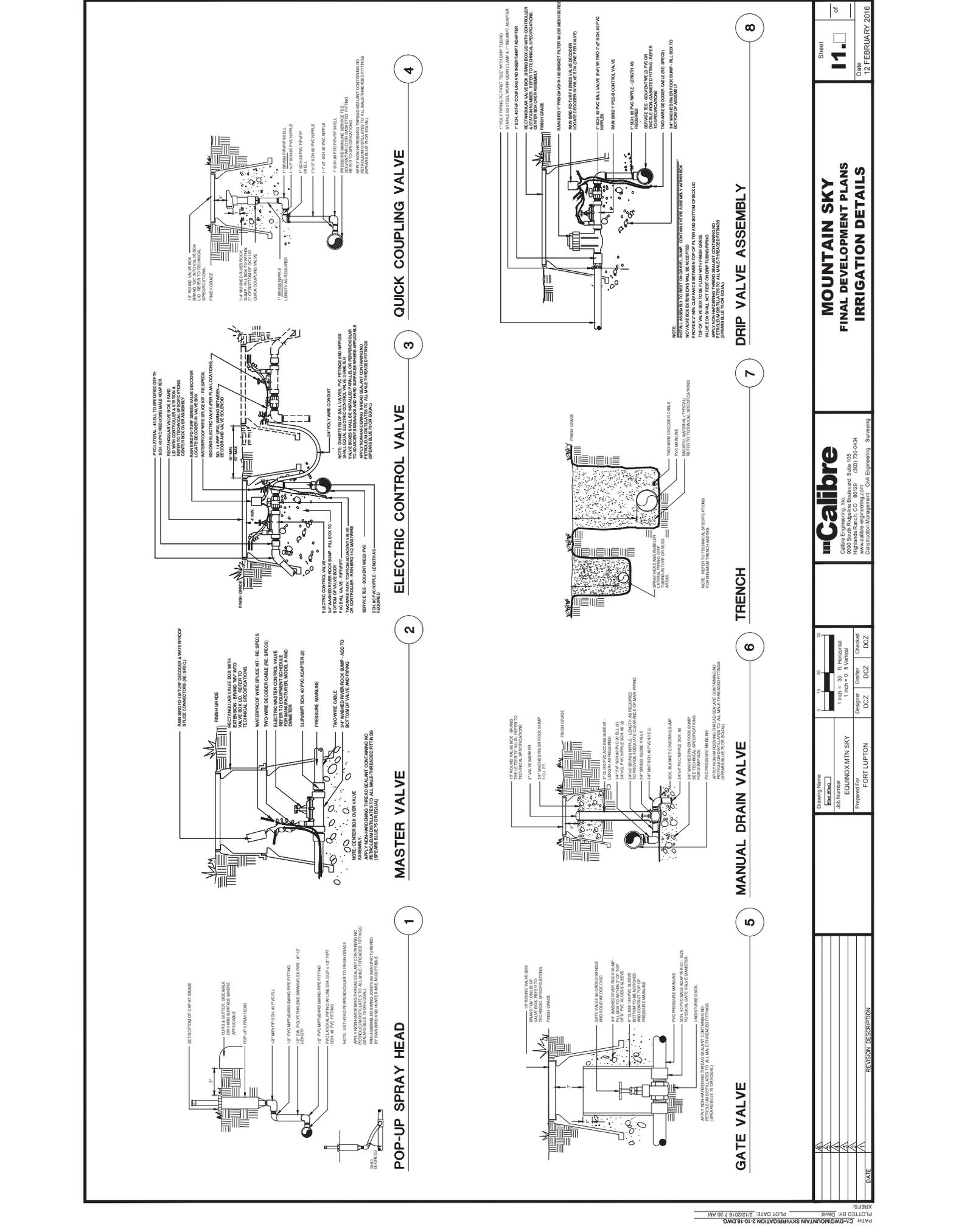
Job Number: **FORT LUPTON**

Prepared By: **DCZ**

Checked By: **DCZ**

DATE	REVISION DESCRIPTION





DATE	REVISION DESCRIPTION

PLotted BY: DWG DATE: 2/12/2016 7:30 AM  
 PTH: C:\G\MOUNTAIN SKY\RR\GATION 2-10-16.DWG  
 MERS:

**MOUNTAIN SKY**  
**FINAL DEVELOPMENT PLANS**  
**IRRIGATION DETAILS**

Calibre  
 Calibre Engineering, Inc.  
 1000 South Broadway, Suite 105  
 Highlands Ranch, CO 80130  
 www.calibre-engineering.com  
 (303) 750-0434  
 Construction Management Civil Engineering Surveying

Drawing Name	EQUNOX MTA SKY						
Job Number	FORT LUPTON	DCZ	DCZ	DCZ	DCZ	DCZ	DCZ
Prepared by							
Design							
Check							

Sheet **11** of  
 Date 12 FEBRUARY 2016





# **Subdivision Improvements Agreement**

## SUBDIVISION IMPROVEMENTS AGREEMENT

THIS AGREEMENT, made and entered into by and between the City of Fort Lupton, County of Weld, State of Colorado, hereinafter called "City" and FL Mountain Sky, LLC, a Colorado limited liability company, hereinafter called "Developer".

WITNESSETH:

WHEREAS, Developer is the owner of real property in the City of Fort Lupton, County of Weld, State of Colorado, as described in Exhibit "A" attached hereto, and by this reference made a part hereof.

WHEREAS, it is provided by resolution of the City Council of Fort Lupton that where designated the Developer shall have entered into a written agreement with the City to install public and/or private improvements, and to deed land for public purposes or right-of-way.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant, and agree as follows:

1. **Engineering Services.** Developer shall furnish, at its own expense, all engineering and other services in connection with the design and construction of the improvements described and detailed on Exhibit "B" attached hereto, and by this reference made a part hereof.
2. **Drawings and Estimates.** The Developer shall furnish drawings and cost estimates for all improvements described and detailed on Exhibit "B" for approval by the City. Upon request the Developer shall furnish one set of reproducible "as built" drawings and a final statement of construction costs to the City.
3. **Construction.** Developer shall furnish and construct, at its own expense and in accordance with drawings and materials approved by the City, the improvements described and detailed on Exhibit "B".
4. **Time for Completion.** Improvements shall be completed according to the terms of this agreement within "construction completion date" appearing in Exhibit "B". The City may for good cause, grant extension of time for completion of any part or all of improvements appearing on said Exhibit "B". Any extension of time shall be in written form only.
5. **Guarantee of Compliance.** Developer shall furnish to the City a cash escrow deposit or other acceptable collateral, releasable only by the City, to guarantee compliance with this agreement. Upon completion of said improvements constructed according to the terms of this agreement, the collateral shall be released. Completion of said improvements shall be determined solely by the City, and a reasonable part of said collateral may be retained to

guarantee maintenance of public improvements for a period of one year from the date of completion.

6. Acceptance and Maintenance of Public Improvements. All improvements designated "public" on Exhibit "B" shall be public facilities and become the property of the City or other public agencies upon acceptance. During the period of one year from and after the acceptance of public improvements, the Developer shall, at its own expense, make all needed repairs or replacement due to defective materials or workmanship which, in the opinion of the City, shall become necessary. If, within ten days of written notice to the Developer from the City requesting such repairs or replacements, the Developer shall not have undertaken with due diligence to make the same, the City may make such repairs or replacements at the Developer's expense. In the case of an emergency such written notice may be waived.
7. Successors and Assigns. This agreement shall be binding upon the heirs, executors, personal representatives, successors, and assigns of the Developer, and shall be deemed a covenant running with the real property as described in Exhibit "A" attached hereto.
8. Improvements and Dedication. The undersigned Developer hereby agrees to provide the following improvements, and to dedicate described property.

A. Improvements. Designate separately each public and private improvement.

Public Improvements:

Completion of Phase I on-site improvements for the Mountain Sky Subdivision shall include:

- Construction of sanitary sewer from point of connection north of the northeast corner of the site to south side of CR 29 ½ including stubouts for extension into future filings.
- Construction of a water main extension along the Mountain Sky Drive south to County Road 29 ½ including stubouts for extension into future filings.
- Construction of a water main within County Road 29 ½ to the existing water main located near the water tank.
- Construction of a bypass drainage swale along the north property line from CR 29 east to CR 29 ½ including a partial box culvert for CR 29 ½.
- Construction of onsite storm sewer system within Filing No. 1 including stubouts for extension into future filings.
- Construction of internal roadways within Filing No.1 including streetscape, signage and striping.
- Construction of one-half street section for CR 29 ½ along frontage for Filing No. 1 including streetscape improvements, signage, striping, barriers, and lane transitions to align with existing 24 feet wide gravel road.
- Construction of a park and open space within Filing No. 1 including associated trails and landscape amenities.

Development Agreement  
Mountain Sky Subdivision  
FL Mountain Sky, LLC  
Fort Lupton, Colorado

See Exhibit "B" for description, estimated quantities and estimated construction

costs.

The improvements shall be constructed in accordance with all City requirements and specifications in accordance with the approved plans and time schedule as indicated in Exhibit "B".

- B. Public dedication of land for right-of-way purposes or other public purpose. Upon approval of this agreement by the City Council of Fort Lupton, the Developer hereby agrees to convey by warranty deed to the City of Fort Lupton the following described land for right-of-way or other public purposes:

All right-of-ways and associated land for other public purposes was dedicated and conveyed to the City by warranty deed with the recording of the Final Plat for the Mountain Sky Subdivision as filed for record in the Office of the Weld County Clerk and Recorder in the State of Colorado on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

FL Mountain Sky, LLC

Developer

By: \_\_\_\_\_  
Gene Osborne., Manager

By: \_\_\_\_\_  
Name, Title

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_.

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

Address: \_\_\_\_\_  
\_\_\_\_\_

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

Development Agreement  
Mountain Sky Subdivision  
FL Mountain Sky, LLC  
Fort Lupton, Colorado

APPROVED BY resolution at the meeting of the Fort Lupton City Council, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Collateral to guarantee compliance with this agreement and construction of public improvements shall be required in the amount of \$\_\_\_\_\_. No Building Permits shall be issued until said collateral is furnished in the amount required and in a form acceptable to the Fort Lupton City Council.

ATTEST:

FORT LUPTON CITY COUNCIL  
WELD COUNTY, COLORADO

\_\_\_\_\_  
Chairman

EXHIBIT A

Legal Description: See subdivision plans.

EXHIBIT B

Public Improvements: Street Name/s

<u>Description</u>	<u>Est. Quantity</u>	<u>Est. Unit Cost</u>	<u>Est. Construct. Cost</u>
--------------------	----------------------	-----------------------	-----------------------------

See engineers cost estimate attached.

Construction Completion Date:

Initials or signature of Developer: \_\_\_\_\_  
\_\_\_\_\_

# **Covenants & Improvement Guidelines**

**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS  
FOR  
MOUNTAIN SKY**

After recording return to:  
WHITE BEAR ANKELE TANAKA & WALDRON  
2154 E. Commons Avenue, Suite 2000  
Centennial, Colorado 80122

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
MOUNTAIN SKY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MOUNTAIN SKY ("Declaration") is made and entered by FL MOUNTIAN SKY, LLC, as of \_\_\_\_\_, 2016 ("Effective Date"). Capitalized terms used in this Declaration have the meanings set forth further in this Declaration.

SUMMARY OF DEVELOPMENT

A. Declarant is the owner of that certain real property in the City of Fort Lupton, County of Weld, State of Colorado, which is legally described on Exhibit A, attached hereto and incorporated herein by this reference (the "Property," as hereinafter more fully defined); and

B. Declarant desires to subject and place upon the Property certain covenants, conditions, easements, architectural guidelines, reservations, rights-of-way, obligations, liabilities and other provisions and restrictions, for the development, improvement, use, operation, maintenance, repair and enjoyment of the Property, that run with the land.

C. This Declaration does not create a Common Interest Community (as defined by the Colorado Common Interest Ownership Act at C.R.S. § 38-33.3-103(8)). Therefore, this Declaration is not governed by the Colorado Common Interest Ownership Act.

D. Declarant imposes the covenants, conditions, restrictions and easements set forth in this Declaration on the Property, and pursuant to C.R.S. § 32-1-1004, Declarant empowers the Home Owners Association with authority to furnish covenant enforcement and design review services for the Property, usmg revenues that are derived from the Property, as more fully set forth in this Declaration.

E. Declarant reserves the right to add additional real property to this Declaration by recording a Supplemental Declaration.

F. The statements in this Summary of Development have the same binding effect as if set forth in the Declaration.

DECLARATION

NOW, THEREFORE, Declarant declares that the Property, and all property that becomes subject to this Declaration in the manner hereinafter provided, is subject to this Declaration and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied, enjoyed, sold, transferred, hypothecated, maintained and altered subject to the terms contained in this Declaration. The terms of this Declaration touch and concern the Property, and (a) run with the land, (b) benefit and burden the Property as an equitable servitude, (c) bind all Persons having or acquiring any interest in the Property or any part of the Property, (d) inure to the benefit of and bind every part of the Property and every interest in the Property, and (e) inure to the benefit of and are enforceable by Declarant, its Affiliates, the Home Owners Association, and their respective designees, assigns and successors in interest.

## ARTICLE 1. DEFINITIONS

The following words and phrases as used in this Declaration have the meanings set forth below. Other terms in this Declaration may be defined in specific provisions of this Declaration and have the meaning assigned by such definition.

### Section 1.1 Defined Words and Phrases.

1.1.1 "Adjacent Properties" has the meaning given to that term in Section 12.1.

1.1.2 "Affiliate" means any Person that, directly or indirectly, is in control of, is controlled by or is under common control with the Person for whom an affiliate is being determined. For purposes hereof, control of a Person means the power, direct or indirect, to (i) vote 20% or more of the ordinary voting power of such Person, or (ii) direct or cause the direction of the management and policies of such Person whether by contract or otherwise, and either alone or in conjunction with others.

1.1.3 "Applicable Laws" means the laws, orders, ordinances, regulations, rules and statutes of all federal, state and local, jurisdictions having authority over the Property, including the City, the Home Owners Association, County, and any other statutory created governing body including, without limitation, associations.

1.1.4 "ARC" means the Architectural Review Committee, which shall be appointed by the Declarant during the Declarant Development Period (as defined in Section 1.1.11), and upon expiration of the Declarant Development Period, appointed by the Home Owners Association, all as provided in Section 3.1 of this Declaration. The ARC shall review, consider and approve, or disapprove, requests for architectural approval, as more fully provided in this Declaration. To the extent (i) the Person with the authority to appoint the ARC, as provided in Section 3.1, has delegated, in writing, some or all architectural authority, to one or more other Persons, or (ii) a representative or committee has been appointed by the ARC to act on its behalf, as provided in Section 3.3.4, then the actions of such Person, representative or committee shall be deemed to be the actions of the ARC.

1.1.5 "Benefited Parties" means Declarant, the Home Owners Association, the ARC and each of their respective parents, subsidiaries, and Affiliates and each of their agents (including, but not limited to, any representative or committee appointed by the ARC or the Home Owners Association and any member of any such committee), directors, employees, members, managers, officers, partners, and shareholders, and their respective heirs, successors, and assigns.

1.1.6 "Builder" means (i) any Person who acquires one or more Lots or Parcels within the Property for the purpose of constructing a building thereon for subsequent sale, and/or rental, or (ii) any Person who is designated by Declarant as a "Builder."

1.1.7 "Claims" means any and all causes of action, claims, costs, damages, expenses, liabilities, and other claims. Notwithstanding anything contained herein to the contrary, however, whenever the same are used in Article 10, the term "Claim" or "Claims" shall have the meaning set forth in Section 10.1.4.

**1.1.8 "Commercial Unit"** means a structure constructed on a Lot for commercial or retail purposes and "for rent" multi-family housing projects that may consist of apartments or townhomes.

**1.1.9 "County"** means Weld County, Colorado.

**1.1.10 "Declarant"** means Liberty Savings Bank, FSB, an Ohio for profit corporation and Platte Basin Consultants, Inc., a Colorado corporation, and/or any other Person to whom Declarant assigns one or more of Declarant rights under this Declaration (which assignment will only be the extent of Declarant rights to which such assignee succeeds), provided, that no assignment of any Declarant rights will be effective unless such assignment is duly executed by the assignor Declarant and recorded in the Recorder's Office.

**1.1.11 "Declarant Development Period"** means the period of time commencing on recordation of this Declaration in the Recorder's Office, and expiring the first to occur of: (a) fifty (50) years after recording of this Declaration, or such shorter period as deemed necessary by Declarant to comply with Applicable Laws, or (b) the date of conveyance of all the Lots to the first Owners thereof other than: (i) the Declarant; or (ii) any Builder; or (iii) any other Person who acquires one or more Lots for the purpose of constructing at least one Commercial Unit or Residential Unit on each such Lot.

**1.1.12 "Declaration"** means this Declaration of Covenants, Conditions and Restrictions for Mountain Sky, as amended from time to time.

**1.1.13 "Development Rights"** means the rights reserved to Declarant in Section 9.I.

**1.1.14 "District Property"** means any real or personal property, including any infrastructure or other Improvements, owned, leased or being constructed by or on behalf of the Home Owners Association. Notwithstanding anything to the contrary, including the location of the Property within the Property, the Property shall not be subject to this Declaration.

**1.1.15 "Established Drainage Pattern"** means the drainage pattern that exists at the time of the overall grading of any Lot which may be reflected on a grading plan or an as-built civil engineer plan for such Lot.

**1.1.16 "Fees"** means, collectively, (i) any type of charge for any services or facilities provided by or through the Home Owners Association, or (ii) any charges imposed by the Home Owners Association for the Services.

**1.1.17 "Fines"** means any monetary penalty imposed by the Home Owners Association or the ARC against an Owner due to a Violation of the Governing Documents by such Owner or any Occupant.

**1.1.18 "Governing Documents"** means this Declaration, the Guidelines, the Rules and Regulations and any other documents, rules, regulations or guidelines now or hereafter adopted by or for the Home Owners Association or ARC, as may be amended and supplemented from time to time.

1.1.19 "Guidelines" means the guidelines as amended from time to time, and further described in Section 3.3.

1.1.20 "Improvements" means all improvements, structures, buildings, and any all landscaping features, buildings, outbuildings, geothermal systems, solar systems, swimming pools, hot tubs, satellite dishes, tennis courts, patios, patio covers, awnings, solar collectors, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, garages, carports, roads, driveways, parking areas, fences, gates, basketball backboards and hoops, swing sets or other play structures, screening walls, retaining walls, stairs, decks, fixtures, painting of any exterior surfaces of any visible structure, additions, walkways, outdoor sculptures or artwork, landscaping, hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, signs, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment. Improvements includes, without limitation, all initial Improvements constructed on any Lot and all subsequent changes, modifications, alterations or adjustments to any previously approved Improvement, including any change of exterior appearance, color, or texture, other than any changes, modifications, alterations or adjustments to the interior of a Unit. Improvements do not include any District Property.

1.1.21 "Lot" means any Parcel of real property within the Property that is described on a recorded plat as a lot or is otherwise designated on a recorded plat as a separate Parcel upon which a Residential Unit or Commercial Unit may be constructed, and includes all Improvements that may be made to such Parcel from time to time including, but not limited to, any Unit that may be constructed on such Parcel.

1.1.22 "Home Owners Association" means Mountain Sky Home Owners Association. In addition to the authority to provide the Services, the Home Owners Association has such other authority with respect to the provision of the Services, as may be permitted by the Special District Act, C.R.S. 32-1-101 et seq., including but not limited to the right to adopt rules and regulations, fees, rates, tolls, penalties and charges, and undertake enforcement actions.

1.1.23 "Mortgage" means any mortgage or deed of trust or other similar security instrument, given voluntarily by the Owner of a Lot, encumbering the Lot to secure the performance of an obligation or the payment of a debt and which is to be released upon performance of the obligation or payment of the debt.

1.1.24 "Notice of Completion" means the notice described in Section 3.7.

1.1.25 "Notice of Noncompliance" means the notice sent by the ARC described in Section 3.9.

1.1.26 "Notice of Violation" has the meaning given to that term in Section 7.4.3.

1.1.27 "Occupant" means any Person, other than Declarant, Declarant's Affiliates, a Builder, the Enforcement Committee, and the Home Owners Association, from time to time that uses or occupies any portion of a Lot or Unit under an ownership right or any lease, sublease, license or concession or other use and occupancy agreement, any guests and invitees of any Owner or Occupant and any other Person that uses any portion of the Property.

1.1.28 "Owner" means each fee simple title holder of a Lot or Unit, including Declarant, Declarant's Affiliates and/or, any Builder, but does not include a Person having a security interest in a Lot or Unit, including, without limitation, a Mortgagee. If there is more than one fee simple holder of title, "Owner" includes each such Person, jointly and severally.

1.1.29 "Parcel" means any portion of real property within the Property that is described on a recorded plat that may be sold or conveyed without violation of Applicable Laws, and includes all Improvements that may be made to such parcel from time to time including, but not limited to, any Unit that may be constructed on such parcel.

1.1.30 "Person" means a natural person, a corporation, a limited liability company, a partnership, a trust, a joint venture, an unincorporated association, or any other entity or any combination thereof and includes each Owner, Declarant, Declarant's Affiliates, the Builders, the ARC, and the Home Owners Association.

1.1.31 "Plans and Specifications" means complete plans and specifications of a proposed Improvement, in the requisite number and format, and containing such information as required by the Guidelines and/or Rules and Regulations, and any other information and materials as may be required by the ARC. By way of example, the Guidelines and/or Rules and Regulations may require plans and specifications to show exterior design, height, materials, color, and location of the Improvement, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan.

1.1.32 "Property" means the real estate described on the attached Exhibit A, as supplemented and amended from time to time, as the same may now or hereafter be improved, and as the Declarant or a Builder may now or hereafter subdivide or re-subdivide, or any portion thereof, provided, however, Property does not include any property that has been withdrawn as provided in Section 11.7 or any District Property.

1.1.33 "Property Risks" has the meaning given to that term in Section 12.1.

1.1.34 "Recorded Covenants" means any covenant recorded in the Recorder's Office encumbering any portion of the Property, by way of example, and not by limitation, any declaration of covenants, any public improvement fee covenants, any associations, any use restrictions or any other type of covenant that has the intent of a covenant that runs with the land.

1.1.35 "Recorder's Office" means the Clerk and Recorder's Office for Weld County.

1.1.36 "Residential Unit" means a residential dwelling constructed on a Lot within the Property, specifically including, but not limited to, a detached home, an attached home or a condominium unit or other separate living unit within a multi-family home, but excluding multi-family projects with "For Rent" units.

1.1.37 "Rules and Regulations" means rules and regulations concerning, without limitation, (i) the appointment of members to the ARC and any established enforcement committee (the

"Enforcement Committee"), (ii) the use of the Property, (iii) certain use restrictions on Residential Units or Commercial Units, (iv) other restrictions governing the conduct of Owners, (v) rules and regulations specific to Residential Units and/or (vi) rules and regulations specific to Commercial Units, as such rules and regulations are adopted initially by Declarant or the Home Owners Association and as may be amended from time to time. The Rules and Regulations are binding upon all Owners and Occupants.

1.1.38 "Services" means the services that the Home Owners Association is empowered to provide pursuant to C.R.S. §32-1-1004, as amended, and other provisions of Title 32 of C.R.S., as amended, including but not limited to covenant enforcement and design review services.

1.1.39 "Special Declarant Rights" means rights which only Declarant has the right to exercise as enumerated in this Declaration, unless assigned by Declarant.

1.1.40 "Supplemental Declaration" means any supplement to this Declaration that amends this Declaration, or adds or withdraws real property to the Property and is recorded in the Recorder's Office.

1.1.41 "Tract" means any parcel of real property within the Property that is described on a recorded plat as a tract and that is not District Property.

1.1.42 "Unit" means a Residential Unit or Commercial Unit that may be constructed on a Lot.

1.1.43 "Violation" means (a) an Improvement that has been installed or constructed without obtaining the ARC's approval, (b) an Improvement that was not installed or constructed in substantial compliance with the approval that was granted by the ARC, or (c) any other violation of the Governing Documents by an Owner or Occupant.

## Section 1.2 Incorporation of Recitals.

The recitals are incorporated into this Declaration by this reference.

## ARTICLE 2. HOME OWNERS

### ASSOCIATION Section 2.1 Authority.

Declarant delegates certain governance matters to the Home Owners Association. Declarant, through this Declaration, grants authority to the Home Owners Association to act on behalf of Declarant for certain matters specifically set forth in this Declaration, including implementing this Declaration.

## ARTICLE 3. ARCHITECTURAL REVIEW

### Section 3.1 Composition of Architectural Review Committee.

The ARC will consist of three (3) or more Persons unless the Person with the authority to appoint the members of the ARC has delegated some or all of the architectural authority pursuant to

Section 3.2. The Declarant has the authority to appoint and remove the members of the ARC, and/or to delegate some or all architectural authority (as provided in Section 3.2 hereof) during the Declarant Development Period. After expiration of the Declarant Development Period, the governing board of the Home Owners Association has the authority to serve as, appoint and remove the members to the ARC, and/or to delegate some or all architectural authority (as provided in Section 3.2 hereof). The appointments of all then-current members of the ARC who were appointed by the Declarant shall automatically terminate on the date which is thirty (30) days after expiration of the Declarant Development Period.

### Section 3.2 Delegation of Authority.

The Person with the authority to appoint the members of the ARC, as provided in the preceding Section 3.1, shall have the right and authority to: (i) delegate, in writing, some or all architectural authority to one or more other Persons, including one or more management companies or Home Owners Association or other district(s), such as by entering into intergovernmental agreement(s) or other document(s) or agreement(s); and (ii) withdraw, in writing, any delegated authority.

### Section 3.3 Architectural Review Requirements; Authority of ARC

3.3.1 Subject to the provisions of this Declaration, no Improvement may be constructed, erected, placed, altered, planted, applied, installed or modified, upon any Lot, unless the Improvement is in full compliance with all provisions of the Governing Documents. Prior to constructing, erecting, placing, altering, planting, applying, installing or modifying an Improvement upon any Lot, the Owner of the Lot must submit Plans and Specification of the proposed Improvement to the ARC for review and consideration, and then receive approval in writing from the ARC, all in accordance with the Guidelines and/or Rules and Regulations. An Owner may designate in writing a Person other than Owner to submit Plans and Specifications as a co-applicant with Owner.

3.3.2 The ARC shall endeavor to exercise its judgment in an attempt to provide for each proposed Improvement to generally harmonize with the existing surroundings, residences, landscaping and structures. Neither the Declarant nor ARC will review or approve any proposed Improvements regarding whether the same complies with Applicable Laws. Rather, as provided in Section 3.3.3, below, Owner is required to submit proposed Improvements to the applicable governmental entities for approval and a determination of compliance with Applicable Laws. In its review of the Plans and Specifications, the ARC may require, as a condition to its considering an approval request, that the Owner pay Fees and reimburse the ARC for the expenses incurred in the process of review and approval or disapproval of the Plans and Specifications.

3.3.3 In addition to the foregoing review and approval, and notwithstanding anything to the contrary in this Declaration, prior to the construction, erection, addition, deletion, change or installation, of any Improvement, Owner must obtain the approval of all governmental entities with jurisdiction there over, and issuance of all required permits, licenses and approvals by all such entities. Owner is solely responsible for compliance with Applicable Laws.

3.3.4 The ARC may, at any time, appoint a representative or committee to act on its behalf. During the Declarant Development Period, the Declarant may contract with the Home Owners Association in order for the Home Owners Association to provide the architectural review services. **If** so, then the actions of

such representative or committee, or the Home Owners Association, as applicable, shall be the actions of the ARC. However, if such a representative or committee is appointed, then the ARC shall have full power over such representative or committee, including the power to at any time withdraw from such representative or committee, any authority to act on behalf of the ARC, and the power to at any time remove or replace such representative or committee.

#### Section 3.4 Guidelines.

If the Guidelines conflict with this Declaration, this Declaration controls. The Guidelines bind the Property and each Owner. The Declarant, the Home Owners Association or the ARC with the prior, written approval of the Person who then has the authority to appoint the ARC, as provided in Section 3.1 of this Declaration, may promulgate, adopt, enact, modify, amend, repeal, and re-enact, architectural standards, rules, regulations and/or guidelines, regarding architectural matters and matters incidental thereto (collectively the "Guidelines"). The Guidelines may include, without limitation: clarification of designs and materials that may be considered in architectural approval and requirements for submissions, procedural requirements, and specification of acceptable Improvements that may be installed without prior review or approval. The Guidelines may permit the Home Owners Association to send demand letters and notices, levy and collect Fees, Fines and interest, and negotiate, settle and/or take any other actions with respect to any violation or alleged violation of any of the Governing Documents. In addition, the Guidelines may provide for blanket approvals, interpretations, or restrictions. By way of example, and not by way of limitation, the Guidelines may state that a certain type of screen door will be acceptable and will not require approval, or may state that only one or more types of fences are acceptable and no other types will be approved. All Improvements proposed to be constructed, erected, placed, altered, planted, applied, installed or modified, upon any Lot by any Owner shall be done and used in accordance with the Guidelines and this Declaration. The Guidelines (as amended from time to time in accordance with their terms) shall not be recorded against the Property but are hereby incorporated into this Declaration as if fully set forth herein.

#### Section 3.5 Procedures.

The ARC will review and approve in writing (which may be with conditions and/or requirements), or disapprove, each request for architectural approval within forty-five (45) days after the complete submission to the ARC, along with receipt acknowledgement by the ARC, of the Plans and Specifications and other materials and information which the ARC may require in conjunction therewith in accordance with the design review procedures set forth in the Guidelines or the Rules and Regulations. If the ARC fails to review and approve in writing (which may be with conditions and/or requirements), or disapprove, a request for architectural approval within forty-five (45) days after the complete submission of the Plans and Specifications and other information requested with respect thereto, such request is deemed approved by the ARC.

#### Section 3.6 Vote.

The affirmative, majority vote of the present members of the ARC is required for approval (which may be with conditions and/or requirements) of each matter, unless the Person with the authority to appoint the ARC, as provided in Section 3.1, has delegated, in writing, some or all architectural

authority, to one or more other Persons or the ARC has appointed a representative or committee to act for it, in which case the decision of such Person, representative or committee shall control.

### Section 3.7 Prosecution of Work After Approval.

After approval (which may be with conditions and/or requirements) of any proposed Improvement, Owner is required to complete and construct the Improvement promptly and diligently, and in complete conformity with all conditions and requirements of the approval and any provision of the Guidelines relating to construction. Except for Declarant or Declarant's Affiliates, failure to complete the proposed Improvement within one (1) year after the date of approval of the application (the "Completion Deadline"), or to complete the Improvement in complete conformance with the conditions and requirements of the approval, constitutes noncompliance with the provisions of this Declaration; provided, however, that the ARC may grant extensions of time for completion of any proposed Improvements, either (a) at the time of initial approval of such Improvements, or (b) upon the request of any Owner, provided such request is delivered to the ARC in writing; provided that the Owner is diligently prosecuting completion of the subject Improvements or other good cause exists at the time such request is made.

### Section 3.8 Notice of Completion.

Upon the completion of any Improvement, Owner will submit a written "Notice of Completion" to the ARC on forms provided by the ARC. Until the date of receipt of such Notice of Completion, the ARC shall not be deemed to have notice of completion of any Improvement for which approval (which may be with conditions and/or requirements) has been sought and granted as provided in this Article.

### Section 3.9 Inspection of Work.

The ARC, or its duly authorized representative, has the right to inspect any Improvement at any time, including prior to or after completion, to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article. However, such right of inspection shall terminate ninety (90) days after the ARC has received a Notice of Completion from the applicant and no action has been initiated by the ARC. The 90-day period to perform inspections after the ARC has received a Notice of Completion does not apply to or limit the right or authority of the Home Owners Association, Enforcement Committee or ARC to require compliance with the Improvement review and approval process as set forth in this Declaration and the Guidelines, or the right or authority of the Home Owners Association or Enforcement Committee to enforce this Declaration, the Guidelines, or any Rules and Regulations, including but not limited to the requirements pertaining to the maintenance of Improvements.

### Section 3.10 Notice of Noncompliance.

If, as a result of inspections or otherwise, or following receipt of a Notice of Completion, the ARC determines that any Improvement has been constructed without obtaining all required approvals (which may be with conditions and/or requirements), or was not constructed in substantial compliance with the approval that was granted, or has not been completed by the Completion Deadline (except landscaping, as provided below), subject to any extensions of time granted pursuant to Section 3.7

hereof, then the ARC will notify the applicant in writing of the non-compliance, specifying the particulars of the noncompliance ("Notice of Noncompliance").

#### Section 3.11 Correction of Noncompliance.

If the ARC determines that a non-compliance exists, the Person responsible for such non-compliance must remedy or remove the same, and return the subject property or structure to a condition acceptable to the ARC, within the period specified in the Notice of Noncompliance. If such Person does not comply with the Notice of Noncompliance by amending the condition within the period specified, the ARC may submit the Notice of Noncompliance to the Home Owners Association for enforcement. The Home Owners Association may at its option, record a notice of non-compliance against the Lot on which the non-compliance exists, may impose Fees, Fines, penalties and interest, may remove the non-complying Improvement, or may otherwise remedy the non-compliance, and the Person responsible for such non-compliance shall reimburse the Home Owners Association, upon demand, for all costs and expenses, as well as anticipated costs and expenses, with respect thereto.

#### Section 3.12 Cooperation.

The ARC has the right and authority to enter into agreements and otherwise cooperate with any architectural review or similar committees, any Home Owners Association or other districts, or one or more boards or committees that exercise architectural or design review functions, or any other Person, in order to increase consistency or coordination, reduce costs, or as may otherwise be deemed appropriate or beneficial by the ARC. Cooperation may include, without limitation, collection, payment, and disbursement of Fees, Fines or charges.

#### Section 3.13 Access Easement.

The Declarant hereby reserves, and each Owner hereby grants, to the ARC, the Home Owners Association, and the Person who then has the authority to appoint the ARC, as provided in Section 3.1 of this Declaration, including the agents, representatives, employees and contractors of the ARC, Home Owners Association and each such Person on, over, under and across each Lot and each of them, excluding any habitable structure and the interior of any residence thereon, easements for performing any of the actions contemplated in the Governing Documents, including inspections and enforcement of each of the terms and provisions of the Governing Documents. Further, the rights and easements granted in this Section may be exercised only during reasonable hours after reasonable notice to the Owners of any affected Lot; except that no such notice is required (i) in connection with any exterior, non-intrusive inspections and maintenance; and (ii) in emergency situations. The interior portions of any Residential Unit are not subject to the easements provided for in this Section.

#### Section 3.14 No Liability.

Neither the Declarant, the ARC, the Home Owners Association, the Person who then has the authority to appoint the ARC, nor any representative or committee appointed by the ARC or any member of any such committee (the "Released Parties") are liable or shall be liable to any Person by reason of any action, failure to act, approval (which may be with conditions and/or requirements), disapproval, or

failure to approve (which may be with conditions and/or requirements) or disapprove, in regard to any matter whether for damage or in equity. In reviewing or approving any matter, the Released Parties are not be responsible for any issue related to the Improvements, whether structural or otherwise, and whether submitted for review or otherwise. The Released Parties are not responsible for any matter related to safety. The Released Parties are not responsible for the conformance of Improvements with applicable Law or compliance with any other standard or regulation, and any approval (which may be with conditions and/or requirements) of any Improvement by the ARC will not be deemed an approval of any such matters, will not be deemed to represent that the Improvement conforms to Applicable Law or complies with any other standards or regulations, and will not constitute a warranty by the ARC to any applicant of the adequacy of design, workmanship or quality of such work or materials for any applicants' intended use. No Owner or other Person is a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by, the Released Parties. Each Owner (i) waives and releases the Benefited Parties from all Claims related to approval or disapproval of any Improvements and (ii) waives and releases all Claims against the Benefited Parties. The foregoing release and waiver are made by each Owner to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, occupants, personal representatives, representatives, and successors. The ARC members, acting in that capacity, shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The ARC members, acting in that capacity, have no personal liability with respect to any contract or other commitment made or action taken on behalf of the ARC.

#### Section 3.15 Variance.

The ARC may, but under no circumstances is obligated to grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration or by the Guidelines, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments will be granted in the ARC's sole discretion and may only be granted if such variance does not impose a material detriment or injury to the other property or improvements within the Property and does not militate against the general intent and purpose hereof. However, any variance that may be granted under this Section is only a variance from the requirements of the applicable Governing Document for the individual applicant, and is not a variance from the requirements of any applicable governmental or quasi-governmental agency or entity. No granting of a variance or adjustment to any one applicant/Owner shall constitute a variance or adjustment, or the right to a variance or adjustment, to any or all other applicants/Owners.

#### Section 3.16 Waivers; No Precedent.

The approval or consent of the ARC, or any representative or committee thereof, to any application for approval does not constitute a waiver of any right to withhold or deny approval or consent by such Person, or any Person, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent as to any other matter. Any changes in Plans and Specifications previously approved by the ARC must be reviewed and approved by the ARC in the same manner as the initial Plans and Specifications.

**Section 3.17 Declarant's Exemption.**

Notwithstanding anything to the contrary, Declarant, Declarant's Affiliates, and the Home Owners Association are exempt from any and all other matters that require ARC review and/or approval.

**Section 3.18 Builders Exemption.**

Notwithstanding anything to the contrary, as long as, and to the extent that, a Builder has received written architectural approval from the Declarant, such Builder shall, as to Declarant-approved Improvements, be exempt from this Article and all provisions of the Governing Documents that require ARC review and/or approval.

**ARTICLE 4. RESTRICTIONS**

**Section 4.1 Property Subject to Applicable Law and this Declaration.**

Notwithstanding anything in this Declaration to the contrary, the Property is subject to Applicable Laws and to all documents recorded in Recorder's Office. Declarant declares that all Lots and Units shall be held and sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the provisions, conditions, limitations, restrictions, agreements and covenants in this Declaration. All Owners, and Occupants shall comply with all Applicable Laws. Neither the ARC nor the Home Owners Association shall have any obligation to enforce compliance with Applicable Laws.

**Section 4.2 Residential Use; Professional or Home Occupation.**

Residential Units must be used for residential use only, including uses which are customarily incident thereto, and not for business, commercial or professional purposes. Notwithstanding the foregoing, Owners may conduct business activities within their Residential Unit if permitted by Applicable Law and if all of the following conditions are satisfied:

**4.2.1** The business conducted is clearly secondary to the residential use of the Residential Unit and is conducted entirely within the Residential Unit;

**4.2.2** The existence or operation of the business is not detectable from outside of the Residential Unit by sight, sound, smell or otherwise, or by the existence of signs indicating that a business is being conducted (other than as may be permitted by the Guidelines and approved by the ARC);

**4.2.3** The business does not result in an undue volume of traffic or parking within the Property;

**4.2.4** The business conforms to all Applicable Laws; and

**4.2.5** the business complies with all the Governing Documents.

Section 4.3 Restriction on Further Subdivision.

No Residential Unit or Lot may be further subdivided or separated into smaller units or lots by any Owner (other than Declarant, Declarant's Affiliates, the Home Owners Association or a Builder), and no portion consisting of less than all of any such Residential Unit or Lot, nor any easement or other interest therein, may be conveyed or transferred by an Owner (other than Declarant, Declarant's Affiliates or a Builder), provided that this prohibition does not prohibit deeds of correction, deeds to resolve boundary line disputes, and similar non-material corrective instruments.

Section 4.4 Residential Leases.

The term "Residential Lease," as used in this Section 4.4 includes any agreement for the leasing or rental of a Residential Unit, or any portion thereof, and shall specifically include month-to-month rentals and subleases. Subject to the provisions of Section 4.2, nothing shall prohibit an Owner from leasing his Residential Unit, or any portion thereof, as long as all residential leases provide that the terms of the Residential Lease and lessee's occupancy of the leased premises is subject in all respects to the provisions of the Governing Documents and that any failure by the lessee to comply with any of the Governing Documents, in any respect, is a default under the Residential Lease, and provided that Home Owners Association may adopt Rules and Regulations that require a minimum lease term.

Section 4.5 Animals.

No animals, birds, livestock, reptiles or insects of any kind may be raised, bred, kept or boarded in or on a Lot or in any Residential Unit, except as permitted by Applicable Laws and in compliance with any Guidelines or Rules and Regulations not in conflict with such Applicable Laws. Each animal must be controlled by its owner and is not allowed off Owner's Lot except when properly controlled and accompanied by its owner or his or her representative, who is responsible for collecting and properly disposing of any animal waste. An Owner's and/or Occupant's right to keep animals is coupled with the responsibility to pay for any damage caused by such animal, as well as any costs incurred as a result of such animals.

ARTICLE 5. OTHER USE RESTRICTIONS

Section 5.1 Temporary Structures; Unsightly Conditions.

No structure of a temporary character, including a house, trailer, tent, shack, mobile home, storage shed, or outbuilding may be placed or erected upon any Lot except (i) by Declarant, Declarant's Affiliates or a Builder at any one time or (ii) by Owner during construction, alteration, repair or remodeling of Improvements. If placed by Owner only necessary temporary structures for storage of materials may be erected and maintained. A Lot Owner's construction or alterations, except during initial construction by Declarant, Declarant's Affiliates or a Builder, of any Improvements must be prosecuted diligently from the commencement until completion. Further, no Owner, except during initial construction by Declarant, Declarant's Affiliates or a Builder, will permit any unsightly conditions or equipment on any Lot to be visible from a street.

## Section 5.2 Miscellaneous Improvements.

5.2.1 Except as provided herein, or as permitted by the ARC and in compliance with the Rules and Regulations and Guidelines, no advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot or Residential Unit other than a name plate of the occupant and a street number. If permitted by Applicable Law and the Governing Documents an Owner may place on its Lot a "For Sale," "Open House," "For Rent," or security sign of not more than five (5) square feet in the aggregate. In addition, signs advertising garage sales, block parties, or similar community events, may be permitted if the same are in accordance with Applicable Law, the Governing Documents or have been submitted to the ARC for review, and have been approved by ARC, in writing, prior to posting of such signs. Notwithstanding the foregoing, signs, advertising, or billboards used by Declarant or Declarant's Affiliates in connection with the sale or rental of Lots or Units, or otherwise in connection with development of or construction on the Lots or Units are permissible. Notwithstanding anything to the contrary set forth in this Section but subject to the limitations set forth in the Rules and Regulations, the ARC shall not prohibit an Owner from displaying an American flag, military service flag or political signage in a window of its Unit or on the balcony or patio adjacent to such Unit.

5.2.2 No wood piles or other stock piles may be located on any Lot as to be visible from a street or from the ground level of any other Lot.

5.2.3 The ARC may adopt Guidelines and/or Rules and Regulations, consistent with applicable state or federal laws and regulations, regarding the installation of satellite dishes, exterior aerials, antennas of any kind, and any wind-electric generator, further, any such devices may be erected or installed by Declarant, Declarant's Affiliates or by any Builder during its construction of Units.

5.2.4 Other than fences which may be constructed, installed or located by Declarant, Declarant's Affiliates or by a Builder, no fences are permitted on the Property except in accordance with the Guidelines and with the prior written approval of the ARC. Each Lot Owner must maintain any fences on its Lot.

## Section 5.3 Vehicular Parking, Storage and Repairs.

Except as may otherwise be provided in the Guidelines and/or Rules and Regulations, commercial vehicles, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, golf carts and boat trailers, must be parked within areas designated by the ARC and must be screened from view by such fencing, screening and/or landscaping as may be specified in the Guidelines and/or the Rules and Regulations. This restriction does not prohibit trucks or commercial vehicles which are necessary for construction or for the maintenance of any portion of the Property or any Improvements, or vehicles for temporary loading or delivery services or in the case of an emergency. Stored vehicles and vehicles which are inoperable or do not have current operating licenses, or other vehicles described in the Guidelines and/or Rules and Regulations, are not permitted on the Property except within enclosed garages. For purposes of this Section the ARC may consider a vehicle to be "stored" if, for example, it is up on blocks or covered with a tarpaulin and remains on blocks or so covered for seventy-two (72) consecutive hours. The ARC may adopt Guidelines and/or Rules and Regulations, consistent with applicable state or federal laws and regulations, regarding the parking, storage and repairs of vehicles.

5.3.1 No maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of any motor vehicles, trailers or boats may be performed or conducted on the Property unless it is done within a completely enclosed structure which screens the sight and sound of the activity from the street and from Adjacent Properties. The foregoing restriction does not prevent washing and polishing of any motor vehicle, trailer or boat.

#### Section 5.4 Nuisances.

No Owner or Occupant will permit a nuisance on its Lot. Owner and Occupant will not permit any use, activity or practice which interferes with the peaceful enjoyment or possession and proper use of any Lot or Unit. This Section 5.4 does not apply to any activities of Declarant, Declarant's Affiliates or of a Builder. Owner or Occupant will not permit any noxious or offensive activity upon any Lot or Unit.

#### Section 5.5 No Hazardous Materials or Chemicals.

No hazardous materials or chemicals may be located, kept or stored in, on or at any Lot except in household products normally kept at homes for use of the residents thereof and in such limited quantities so as not to constitute a hazard or danger to person or property. This Section does not apply to the activities of Declarant, Declarant's Affiliates or a Builder.

#### Section 5.6 No Annoying Lights.

Owner or Occupant will not permit any light to be emitted from any Lot or Unit which is unreasonably bright or causes unreasonable glare. In addition to the foregoing, no electromagnetic, light, laser, or any physical emission which might interfere with aircraft, navigation, communications or navigational aids are permitted. This Section does not apply to the activities of Declarant, Declarant's Affiliates or a Builder.

#### Section 5.7 Restrictions on Trash and Materials.

No Owner or Occupant will permit any refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind to be kept, stored, accumulated on its Lot, nor will such items be deposited on a street, unless placed in a suitable, tightly covered container that is suitably located solely for the purpose of garbage pickup, recycling or composting. Further, no Owner or Occupant will permit any trash or materials to accumulate in such a manner as to be visible from any Lot or Unit. Owners and Occupants will keep all equipment for the storage or disposal in a clean and sanitary condition. No Owner or Occupant will permit any garbage or trash cans or receptacles to be maintained in an exposed or unsightly manner.

#### Section 5.8 Trash Removal Services and Recycling.

Declarant requires centralized trash removal and recycling services for the Lots and/or Units. Without limiting its authority, the Home Owners Association may levy and collect fees, charges, and other amounts to be imposed upon the Lots and/or Units for such trash removal and recycling services; provided,

however that such fees, charges and other amounts must be derived from within the boundaries where the trash removal and recycling services are required or performed. The scope, frequency, and all other matters with respect to such trash removal and recycling services, shall be determined by the Home Owners Association. Without limiting the generality of the foregoing, Home Owners Association may, for example, as a part of establishing rules and regulations related to the enforcement of the covenant to provide centralized trash removal and recycling services, elect to provide for regularly scheduled trash pick-ups and recycling, but may require each Owner to be responsible for scheduling, and paying for, any extraordinary trash pick-ups and/or other recycling and may limit the items eligible for trash pick-up and/or recycling from time to time. In the event that the Home Owners Association does not administer trash removal and/or recycling services for the Property, the Home Owners Association shall enforce this covenant by coordinating the centralized trash removal and recycling services for the Lots and/or Units, including, without limitation, the levy and collection of fees, charges, and other amounts to be imposed upon the Lots and/or Units for such trash removal and recycling services; provided, however that such fees, charges and other amounts must be derived from within the Home Owners Association boundaries where the trash removal and recycling services are required or performed.

#### **Section 5.9 Maintenance.**

Each Lot (including any adjacent tree lawn) must at all times be kept in a clean and sightly condition.

#### **Section 5.10 Landscaping.**

The Owner of each Lot (other than Declarant or a Builder) shall install landscaping on all portions of the Lot which is not covered by a building or Improvement in accordance with the Governing Documents and Applicable Laws. Landscaping plans must be submitted to the ARC for review and approval (which may be with conditions and/or requirements), and such approval shall be obtained prior to the installation of landscaping, in accordance with Article 2 of this Declaration.

#### **Section 5.11 Retention Ponds and Detention Ponds.**

Each Owner acknowledges that in furtherance of developing the Property, retention ponds and/or detention ponds may be constructed within or in proximity to the boundaries of the Property to hold and release storm water in accordance with storm water drainage plans approved by Declarant or Home Owners Association, as applicable. With the presence of retention ponds or detention ponds, surface water may accumulate within the area of such ponds, and there may be periods of time when the area immediately surrounding a retention pond or detention pond is subject to flooding. Additionally, certain risks and dangers of physical injury and property damage are inherent in the physical configuration of a retention pond and a detention pond. The Benefitted Parties are not liable for any injury, loss or damage arising from such flooding or otherwise arising from the retention ponds or detention ponds.

#### **Section 5.12 Grade and Drainage.**

Each Owner shall maintain the Established Drainage Pattern. Any alteration in the Established Drainage Pattern for any Lot will result in the full release of the Benefitted Parties as to any and all liabilities or obligations with respect to the Established Drainage Pattern for any Lot. Each Lot Owner

agrees to indemnify and hold the Benefited Parties harmless from any and all Claims, liabilities, expenses, damages, and attorneys' fees which may be asserted against or incurred by any of the Benefited Parties, and which arise out of or relate to any alteration of the Established Drainage Pattern.

#### Section 5.13 Restrictions on Storage Tanks.

Except as provided in the Rules and Regulations, no tanks for the storage of gas, fuel, oil, or other materials may be erected, placed, or permitted above or below the surface of any Lot (other than reasonably sized propane tanks intended for use with gas grills) and as specifically allowed in the Guidelines and/or Rules and Regulations.

#### Section 5.14 Restrictions on Sewage Disposal Systems.

No cesspool, septic tank or other individual sewage disposal system may be installed on a Lot.

#### Section 5.15 Restrictions on Wells.

No wells may be installed or maintained unless such system is approved in writing by the ARC, and is constructed, designed, equipped, and located in accordance with all Applicable Laws and the recommendations, requirements, and standards of the ARC.

#### Section 5.16 Insurance Risks.

No Lot or Unit may be used for any use, and nothing may be stored on any Lot or Unit, which would constitute an unusual fire hazard, or would result in jeopardizing any insurance maintained on other Lots or Units within or on any other portion of the Property.

#### Section 5.17 Mining or Drilling.

No Lot may be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel or earth.

#### Section 5.18 Storage of Explosives, Gasoline and Similar Substances.

Gasoline or other volatile or incendiary materials or devices shall be stored only in a manner that strictly complies with all Applicable Laws.

#### Section 5.20 Damage or Destruction of Structures on Lots.

Any damage to or destruction of any structure or Improvement located on a Lot shall be promptly repaired and replaced by the Owner of the Lot, in accordance with this Declaration. "Repaired and replaced," as used in this Section 5.21, means restoring the structure or Improvement to substantially the same condition in which it existed immediately prior to such damage or destruction. Except as otherwise provided in this Declaration, the cost of such repair or replacement shall be the personal obligation of the Owner of the Lot on which such work was performed.

#### Section 5.21 Violation of Governing Documents.

If any Owner or Occupants are in Violation of Article 4 or this Article 5, then in addition to any enforcement and remedies available to the Home Owners Association, and in accordance with the procedures in Section 7.4, the Home Owners Association may invoke any one or more of the following remedies: (a) levy Fines upon such Owner for each Violation; (b) cause the Violation to be cured and charge the cost thereof to such Owner; and (c) obtain injunctive relief against the continuance of such Violation. Before invoking any of the foregoing remedies, the Enforcement Committee shall give such Owner prior written notice of the Violation, including a specific description of the Violation and require Owner to take such action as may be necessary to remedy the Violation, including the time period in which the Violation is to be remedied, which time period may not exceed forty-five (45) days.

#### Section 5.22 Easement Areas.

By taking title to any Lot, each Owner acknowledges that certain portions of the Property are subject to easement rights in favor of governmental, quasi-governmental and other parties, including easements for the benefit of utility providers, and the Home Owners Association, among others, pursuant to a plat or other document creating such easement rights recorded in the Recorder's Office. No Owner may use any portion of the Property or place any trees, structures, fences or other improvements on any portion of the Property that would violate any use restrictions contained in any easement, plat or other document creating easement rights.

### ARTICLE 6. EASEMENTS

#### Section 6.1 Easements for Access.

Declarant declares, establishes, grants, and reserves easements over each Lot in favor of Declarant, its Affiliates, the Home Owners Association, the ARC or Enforcement Committee, and the Person who then has the authority to appoint the ARC, including each of their respective agents, representatives, contractors and employees, for performing maintenance, repair, or replacement or other services, including, without limitation, enforcement of any provision in the Governing Documents. The access easements granted in this Section 6.1 may be exercised only during reasonable hours after reasonable notice to the Owner of any affected Lot or Unit; provided, however, that no such notice is required in connection with any exterior, non-intrusive maintenance and in emergency situations entry upon a Lot may be made at any time, provided that Owner is notified of impending emergency entry as early as is reasonably possible. The interior of any Unit is not be subject to the easements provided for in this Section 6.1.

#### Section 6.2 Intentionally Omitted.

#### Section 6.3 Additional Easements.

Until such time, if any, as Declarant subjects any additional property to this Declaration, and after such time, if any, as Declarant withdraws any portion of the Property from this Declaration, Declarant and Declarant's Affiliates shall have whatever easements are reasonably necessary or

desirable across the Property for access to and utility services for the additional property added to, or the portion of the Property withdrawn from, the Property, as the case may be

#### Section 6.4 Limitations on Easements.

The easements established pursuant to this Declaration (a) shall in no way affect, avoid, extinguish, or modify any other covenants, easements, limitations, reservations, or restrictions affecting all or part of the Property recorded prior to this Declaration and (b) shall not be interpreted or construed as preventing or precluding the construction, operation, and use of any Unit or Lot which is otherwise permitted by the terms of this Declaration.

#### Section 6.5 Recorded Easements.

In addition to all easements and rights-of-way of recorded at or before this Declaration, the Property, and all portions thereof, are subject to the easements shown on any plat of the Property.

#### Section 6.6 Acknowledgment of Inconvenience.

Each Owner agrees that there are inconveniences which will accompany the construction of the Development, including, without limitation, construction noise, portable toilets, construction traffic, uncompleted buildings, areas not landscaped, potholes and construction supplies stored in plain view and general inconvenience associated with construction sites and related issues. Each Owner, by taking title to any Lot or Unit, waives any claims associated with the inconveniences, nuisance and hazards associated with such construction.

### ARTICLE 7. COVENANT ENFORCEMENT

#### Section 7.1 Committee.

Declarant grants to the Home Owners Association the right to establish an Enforcement Committee and, upon its establishment, the members of the Enforcement Committee will be appointed and removed by the governing board of the Home Owners Association and shall have the same rights as the Home Owners Association under this Article 7. The Home Owners Association shall be responsible for the ministerial administration and enforcement of the Governing Documents, and has the right to: (a) accept complaints for Violations of the Governing Documents; (b) submit complaints regarding Violations of the Governing Documents; (c) inspect the Property for Violations of the Governing Documents; (d) issue various notices to Owners regarding the Governing Documents; and (e) provide all ministerial administration and enforcement of the Governing Documents.

#### Section 7.2 Purpose and General Authority.

The Home Owners Association shall review all complaints and notifications provided by Declarant, Declarant's Affiliates, an Owner, or the ARC regarding any alleged Violation. The Home Owners Association also has the right to make an investigation on its own regarding potential Violations. The Home Owners Association has the authority to determine whether a Violation has occurred by any Owner, and upon such determination, may issue to an Owner a Notice of Violation identifying the particular circumstances or

conditions of the Violation and require Owner to take such action as may be necessary to correct, remedy or otherwise remove the Violation, including the time period in which the Violation is to be remedied as further set forth in Section 7.4.

### Section 7.3 Fees and Expenses.

All expenses of the Enforcement Committee must be paid by the Home Owners Association with revenues derived from that portion of the Property with respect to which the Enforcement Committee's services are required or performed. The Home Owners Association has the right to charge Fees and Fines for costs of enforcement of the Governing Documents and the costs incurred to correct, remedy or otherwise remedy Violations, in amounts which may be established by the Home Owners Association from time to time.

### Section 7.4 General Inspections; Violation Identified by Another Owner; Notice and Hearing; Remedies.

7.4.1 General Inspection. Any member or authorized agent or consultant of the Enforcement Committee or the ARC, or any authorized officer, director, employee or agent of the Home Owners Association may enter upon any Lot, at any reasonable time after notice to Owner, without being deemed guilty of trespass, in order to investigate or inspect any portion of the Property for alleged Violations of the Governing Documents, or to read a utility meter or to verify any utility matter.

7.4.2 Notice of Alleged Violation; Right to a Hearing. If (i) an investigation or inspection reveals that any part or portion of a Lot or Unit is not in compliance with the Governing Documents, (ii) the ARC has submitted a Notice of Noncompliance with respect to a Lot or Unit, or (iii) another Owner has submitted a complaint in accordance with the Rules and Regulations, the Home Owners Association may send a notice of alleged Violation (a "Notice of Alleged Violation") to the Owner of such Lot or Unit in accordance with the Rules and Regulations. Upon receipt of a Notice of Alleged Violation, an Owner shall be entitled to request a hearing with respect thereto in accordance with the Rules and Regulations.

7.4.3 Remedies. If, after receipt of the Notice of Alleged Violation and, to the extent requested in accordance with the Rules and Regulations, any hearing requested by an Owner, such Owner is found by the Home Owners Association to be in Violation of the Governing Documents and fails to remedy the Violation within the time period specified in the notice of violation ("Notice of Violation") issued pursuant to the Rules and Regulations, the Home Owners Association shall have all remedies available to it at law or in equity, including, without limitation, the following remedies:

7.4.3.1 The Home Owners Association may record a Notice of Violation against the  
Lot or Unit on which the Violation exists;

7.4.3.2 The Home Owners Association has the right to remove, correct or otherwise remedy any Violation in any manner the Mero District deems appropriate;

7.4.3.3 The Home Owners Association may file an action for injunctive relief to cause an existing Violation to be brought into compliance with the Governing Documents and the Home Owners Association shall recover all costs and attorneys' fees associated with bringing the action.

7.4.3.4 The Home Owners Association may levy Fines for such Violation.

7.4.3.5 The Home Owners Association may collect, and shall have a statutory perpetual lien pursuant to § 32-1-1001(1)U)(I), C.R.S. against the Lot subject to the Violation to secure, (1) payment for reimbursement by the violating Owner for any remedial work performed by the Home Owners Association to remove, correct or otherwise remedy the Violation, (2) payment for expenses incurred in obtaining injunctive relief, including costs and attorneys' fees, (3) payment of any Fines levies by the Home Owners Association against such Lot, plus the following amounts, to the extent not inconsistent with Applicable Laws, (4) interest on such amount at a rate equal to eighteen percent (18%), and (5) all costs and expenses of collecting the unpaid amount, including, without limitation, reasonable attorneys' fees.

7.4.4 Deemed Nuisances. Every Violation constitutes a nuisance, and every remedy allowed for such Violation at law, in equity or under the Governing Documents against the violating Owner is available to the Home Owners Association,

7.4.5 Access Easement. Each Lot is subject to an easement in favor of the Home Owners Association, the Enforcement Committee and the ARC, including their respective members, employees, agents and representatives, for the performance of any actions contemplated by this Article 7. All Persons performing such work shall use reasonable efforts to minimize interference with Owner's use and enjoyment of the Lot and Unit when performing such work.

#### Section 7.5 No Liability.

Neither the Home Owners Association, ARC or Enforcement Committee are liable to any Person by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, in regard to any matter whether for damages or in equity. In reviewing any alleged Violation, the Home Owners Association and/or Enforcement Committee are not responsible for any issue related to the alleged Violation. No Owner or other Person is a third party beneficiary of any obligation imposed upon, rights accorded to, action taken by, or approval granted by the Home Owners Association and/or Enforcement Committee. Each Owner (i) waives and releases the Benefited Parties from all Claims related to the actions of the Home Owners Association and/or Enforcement Committee and (ii) waives and releases all Claims against the Benefited Parties. The foregoing release and waiver are made by each Owner to the fullest extent permitted by the law and for and on behalf of itself, its assigns, executors, heirs, occupants, personal representatives, representatives, and successors. The Enforcement Committee members, acting in that capacity, shall not be liable for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Enforcement Committee members, acting in that capacity, shall have no personal liability with respect to any contract or other commitment made or action taken on behalf of the Home Owners Association.

### ARTICLE 8. SPECIAL DECLARANT RIGHTS

#### Section 8.1 Special Declarant Rights.

Declarant reserves for itself and its successors and assigns the right during Declarant Development Period to perform the acts and exercise the rights specified below (the "Special Declarant Rights"). Special Declarant Rights include the following rights:

8.1.1 Add or Withdraw Real Property. The right to add or withdraw real property as set forth in this Declaration.

8.1.2 Completion of Improvements. The right to construct and complete Improvements within the Property.

8.1.3 Exercise of Development Rights. The right to exercise any Development Rights reserved in this Declaration.

8.1.4 Sales, Management and Marketing. The right to maintain sales offices, construction offices, management offices, model homes, and signs, flags and other on-site marketing and sales promotion materials on the Property. Declarant also has the right to relocate any sales offices, management offices, and model homes from time to time at its sole discretion. Declarant also has the right to remove any sales offices and management offices. No structure used by Declarant for a sales office, construction office, management office or model home is the property of any party other than Declarant, unless specifically assigned, conveyed or dedicated by Declarant to such other party. Declarant has the right to assign to Declarant's Affiliates and Builders the rights specified in this subsection 8.1.4.

8.1.5 Project Management. The right to select and hire a third-party manager for the management, administration and operation of the Property or any lesser portion thereof. In addition to Declarant, the Home Owners Association shall have the rights specified in this subsection 8.1.5.

8.1.6 Construction and Access Easements. The right to use easements through the Property for the purpose of making Improvements and providing access within the Property.

8.1.7 Alteration of Units and Lots. The right to alter any condition (including size and location of Improvements) on any Unit or Lot owned by Declarant, whether with respect to sales and marketing efforts or otherwise.

## Section 8.2 Additional Reserved Rights.

In addition to the Special Declarant Rights set forth above, Declarant reserves for itself and its successors and assigns the following additional rights (the "Additional Reserved Rights") during the Declarant Development Period:

8.2.1 Rules and Regulations. The right to adopt Rules and Regulations that are not inconsistent with the District's Rules and Regulations.

8.2.2 Amendment of Declaration. The right to amend this Declaration without Owner consent or approval in connection with the exercise of any Development Rights or in connection with the qualification or continued qualification for loan guarantees, and for compliance with the requirements of government financing programs. Declarant also shall have the right to amend this Declaration to comply with the requirements of Applicable Law if any provision contained in this Declaration does not comply with Applicable Law.

8.2.3 Errors. The right to amend this Declaration without Owner consent or approval in order to correct clerical, typographical or technical errors, or to clarify any of the Governing Documents or any provision of this Declaration.

8.2.4 Amendment of Plat/Re-Plats. The right to supplement plats in connection with the exercise of any Development Rights, the right to re-plat all or any portions of the Property, the right to create additional Lots and Units and the right to subdivide or combine Lots and Units.

8.2.5 Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements over, across, and upon the Property for purposes including, without limitation, streets, paths, walkways, drainage, parking areas, and to create other reservations, exceptions, and exclusions over, across, and upon the Property for the benefit of Owners or the Home Owners Association.

8.2.6 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance, or regulation of the Property.

8.2.7 Irrigation Water. The right to use potable or non-potable water, from whatever source, for any of the following purposes: (i) dust control in connection with constructing and completing improvements within the Property, (ii) establishment of landscaping, (iii) establishment of grass on planned parks and trails, if any, and (iv) any other necessary use for the Development.

8.2.8 Review of Covenants. The right to review and approve, in its sole discretion, prior to recording in the Recorder's Office by any party other than a Benefitted Party, any Recorded Covenants affecting the Property or any portion thereof.

8.2.9 Additional Covenants. The right to subject portions of the Property owned by Declarant or its Affiliates to additional or different covenants, conditions, terms and restrictions, as Declarant may determine.

8.2.10 Other Rights. The right to exercise any additional reserved right created by any other provision of this Declaration.

### Section 8.3 Rights Transferable.

Any Special Declarant Right or Additional Reserved Right created or reserved under this Article 8 for the benefit of Declarant may be transferred to any Person in whole or in part by recording an instrument in the Recorder's Office describing specifically the rights transferred. Such instrument shall be executed by Declarant and the transferee.

## ARTICLE 9. RESERVATION OF DEVELOPMENT RIGHTS

### Section 9.1 Development Rights.

During the Declarant Development Period, Declarant reserves for itself and its successors and assigns the following rights (the "Development Rights"):

9.1.1 Expansion Rights. Declarant reserves the right (but is not required) to subject additional real property to the terms, conditions and restrictions of this Declaration. Furthermore, Declarant reserves the right to subject all or any portion of any such additional real property to such other covenants, conditions and restrictions as Declarant deems appropriate by recording a Supplemental Declaration with respect thereto; provided, however, that no such other covenants, conditions and restrictions may amend or be in conflict with this Declaration, unless approved as an amendment to this Declaration or, where approval is not required, executed by Declarant in accordance with the provisions of this Declaration. The consent of the existing Owners shall not be required for the exercise of these rights, and Declarant may proceed to exercise such rights without limitation, at its sole option.

9.1.2 Exercise of Rights. Declarant may exercise any Development Rights with respect to all or a portion of different parcels of real property at different times in whatever order and to whatever extent Declarant, in its sole discretion, may determine.

#### Section 9.2 Interpretation.

Upon the recording of a Supplemental Declaration, the real property subject thereto, or any part thereof as specifically stated therein, shall be added to and become a part of the Property for all purposes, or for such limited purpose as are set forth in the Supplemental Declaration, and, except as set forth in the Supplemental Declaration, the definitions in this Declaration will automatically extend to encompass and refer to all real property then comprising the Property. Reference to this Declaration in any instrument includes all supplements and amendments to this Declaration without specific reference thereto.

#### Section 9.3 Transfer of Development Rights.

Any right created or reserved under this Article 9 for the benefit of Declarant may be transferred to any Person by recording an instrument in the Recorder's Office specifically describing the rights transferred. Such instrument shall be executed by Declarant and the transferee.

### ARTICLE 10. ALTERNATIVE DISPUTE RESOLUTION

#### Section 10.1 Definitions Applicable to this Article 10.

For purposes of this Article 10 only, the following terms have the meanings set forth in this Section 10.1:

10.1.1 "JAG" means the Judicial Arbiter Group or any other Person agreed to by the Claimant and Respondent in writing for the purpose of performing the functions of the Judicial Arbiter Group under this Declaration with a minimum of ten (10) years' experience in the subject matter of the dispute. In the event that the Judicial Arbiter Group becomes unwilling or unable to perform its functions under this Declaration, JAG shall refer to any organization in the Denver Metropolitan Area

designated by the Home Owners Association that specializes in the provision of impartial mediation and arbitration services and that has a minimum of ten (10) years experience in the provision of such services.

10.1.2 "Bound Party" means each of the Persons subject to this Declaration and any Person not otherwise subject to this Declaration who agrees to submit to this Article 10. Notwithstanding the foregoing, "Bound Party" does not include any of the parties identified in this subsection 10.1.2 if such parties have jointly entered into a separate written agreement providing for dispute resolution applicable to the Claim; in such circumstance, the dispute resolution mechanism set forth in such separate written agreement between such parties shall apply with respect to such Claim unless the parties mutually agree to submit such Claim to the provisions of this Article 10.

10.1.3 "Claimant" means any Bound Party having a Claim.

10.1.4 "Claim" means, except as exempted by the terms of this Article 10, any claim, grievance or dispute between one Bound Party and another, regardless of how the same may have arisen or on what it might be based, including those arising out of or related to the interpretation, application or enforcement of any of the Governing Documents or the rights, obligations and duties of any Bound Party under any of the Governing Documents; or (ii) any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party.

10.1.5 "Notice" means the written notification given by a Claimant to a Respondent and which shall comply with the requirements of subsection 10.5.1

10.1.6 "Party" means the Claimant and the Respondent individually; "Parties" means the Claimant and the Respondent collectively.

10.1.7 "Respondent" means any Bound Party against whom a Claimant asserts a Claim.

10.1.8 "Termination of Mediation" means a period of time expiring thirty (30) days after submission of the matter to mediation (or within such other time as determined by the mediator or agreed to by the Parties) and upon the expiration of which the Parties have not settled the Claim.

10.1.9 "Termination of Negotiations" means a period of time expiring thirty (30) days after the date of the Notice (or such other period of time as may be agreed upon by the Parties) and upon the expiration of which the Parties have not resolved a Claim.

#### Section 10.2 Intent of Article; Applicability of Article; and Applicability of Statutes of Limitation.

10.2.1 Each Bound Party agrees to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit any Claims to the procedures set forth in Section 10.4.

10.2.2 By acceptance of a deed to a Lot, each Owner agrees to abide by the terms of this Article 10.

10.2.3 Any applicable statute of limitation shall apply to the alternative dispute resolution procedures set forth in this Article 10.

#### Section 10.3 Commencement or Pursuit of Claim Against Bound Party.

10.3.1 A Bound Party may not commence or pursue a Claim against any other Bound Party except in compliance with this Article 10.

10.3.2 Prior to any Bound Party commencing any proceeding to which another Bound Party is a party, the Respondent shall have the right to be heard by the Claimant, and to access, inspect, correct the condition of, or redesign any portion of any Improvement as to which a defect is alleged or otherwise correct the alleged dispute.

#### Section 10.4 Claims.

Unless specifically exempted below, all Claims between any of the Bound Parties are subject to the provisions of Article 10. Notwithstanding the foregoing, unless all Parties otherwise agree, the following are not Claims and shall not be subject to the provisions of this Article 10:

10.4.1 Any action or suit by the Home Owners Association, the ARC or Declarant to enforce any provisions of the Governing Documents, including obtaining a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as a court may deem necessary;

10.4.2 Any suit between or among Owners, which does not also include Declarant, Declarant's Affiliates, Home Owners Association, the ARC, or the Enforcement Committee as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

10.4.3 Any claim, grievance or dispute involving allegations of defects in the design or construction of any Improvements;

10.4.4 Any claim, grievance or dispute subject to the provisions of the Construction Defect Action Reform Act, Colo. Rev. Stat. § 13-20-801 to -808, as it may be amended from time to time; and

10.4.5 Any suit in which any indispensable party is not a Bound Party.

#### Section 10.5 Mandatory Procedure.

10.5.1 Notice. Prior to proceeding with any Claim against a Respondent, each Claimant shall give a Notice to each Respondent, which Notice shall state plainly and concisely:

10.5.1.1 The nature of the Claim, including all Persons involved and Respondent's role in the Claim;

**10.5.1.2** The legal basis of the Claim (i.e., the specific authority out of which the Claim arises); the proposed remedy; and

**10.5.1.3** The fact that Claimant will give the Respondent an opportunity to inspect all Property and Improvements potentially involved with the Claim, and that Claimant will meet with Respondent not later than thirty (30) days after such inspection to discuss in good faith ways to resolve the Claim.

## **10.5.2 Negotiation and Mediation.**

**10.5.2.1** The Parties will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, any Party may appoint a representative to assist the Parties in negotiation.

**10.5.2.2** Upon a Termination of Negotiations, Claimant has thirty (30) days to submit the Claim to mediation under the auspices of JAG in accordance with the rules of JAG in effect on the date of the notice that is provided for in subsection 10.5.1.

**10.5.2.3** If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant waives the Claim, and Respondent will be released and discharged from any and all liability to Claimant on account of such Claim.

**10.5.2.4** Any settlement of the Claim through mediation must be documented in writing by the mediator and signed by the Parties. If a Termination of Mediation occurs, the mediator must issue a notice of Termination of Mediation. The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

**10.5.2.5** Each Party will bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator.

**10.5.2.6** If the Parties agree to a resolution of any Claim through negotiation or mediation and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Article 10. In such event, the Party taking action to enforce the agreement will recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including attorneys' fees and court costs.

## **10.5.3 Binding Arbitration.**

**10.5.3.1** Upon Termination of Mediation, if Claimant desires to pursue the Claim, Claimant may initiate final, binding arbitration of the Claim under the auspices of JAG in accordance with the rules of JAG in effect on the date of the Notice that is provided for in Section 10.5 of this Declaration. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. Unless otherwise mutually agreed to by

the Parties, one arbitrator who has expertise in the areas of dispute, which may include legal expertise if legal issues are involved, will arbitrate the dispute.

10.5.3.2 Each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the arbitrator shall award reasonable attorneys' fees and expenses incurred in defending such contests, including those incurred in trial or on appeal, to the non- contesting Party. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator.

#### Section 10.6 Award.

The award of the arbitrator must be accompanied by detailed written findings of fact and conclusions of law. Except as required by Applicable Law or for confirmation of an award, neither Party nor an arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all Parties.

### ARTICLE 11. GENERAL PROVISIONS

#### Section 11.1 Powers and Authority.

The Property is or will be located within the boundaries of the Home Owners Association. Declarant authorizes the Home Owners Association to perform covenant enforcement and design review services as set forth in this Declaration, and the Home Owners Association has agreed to perform covenant enforcement and design review services as set forth in this Declaration. The Home Owners Association may exercise with regard to the Property, all powers and authority reasonably necessary to administer the rights and duties of the Home Owners Association under this Declaration, including, without limitation: (a) the power to adopt and amend budgets for revenues, expenditures, and reserves; (b) the power to collect taxes and Fees from Owners to administer its duties and obligations provided in this Declaration; (c) the power to manage and enforce the Governing Documents; (d) the power to contract with a third-party property manager for the management of the Property and/or for all other duties and responsibilities related to the overall operation of the Property; and (e) all other rights, powers and authority necessary to enforce this Declaration. The Home Owners Association has the power to levy Fees, Fines and other penalties for Violations of the Governing Documents, as allowed by Applicable Law and as set forth in this Declaration.

#### Section 11.2 Delegation.

The duties, easements, responsibilities, and rights that are reserved and granted under this Declaration may be delegated in whole or in part by Declarant, Declarant's Affiliates, and the Home Owners Association to an agent or management company that is acting on behalf of Declarant, Declarant's Affiliates, or the Home Owners Association with respect to all or part of the Property. The right and authority of Declarant under this Declaration automatically ceases upon expiration of Declarant Development Period at which time the foregoing reserved rights vest solely in the Home Owners Association.

#### Section 11.3 Enforcement.

Subject to the provisions of Article 10 of this Declaration (Alternative Dispute Resolution), enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Rules and Regulations, the Guidelines and any other Governing Documents, as at any time amended, may be by any proceeding at law or in equity against any Persons violating or attempting to violate any such provision, and possible remedies include all of those available at law or in equity. Subject to the provisions of Article 10 of this Declaration (Alternative Dispute Resolution), Declarant and the Home Owners Association have the right, but not the duty, to institute, maintain and prosecute any such proceedings. No remedy shall be exclusive of other remedies that may be available. Subject to the provisions of Article 10 of this Declaration (Alternative Dispute Resolution), in any action instituted or maintained under this Declaration or any other such documents, the prevailing party shall be entitled to recover its costs and attorneys' fees incurred in asserting or defending the claim, as well as any and all other sums; except that, any Person who brings an action against the Declarant, any Builder, the Home Owners Association, or the ARC, regarding enforcement, or non-enforcement, of any provision of the Governing Documents, shall not be awarded their costs or any attorney fees. Failure by Declarant, the Home Owners Association, and/or ARC to enforce any covenant, restriction or other provision contained in this Declaration shall in no event give rise to any liability, nor shall such non-enforcement be deemed a waiver of the right to thereafter enforce any covenant, restriction or other provision of this Declaration.

11.3.1 Each Owner, by its acceptance of title to a Lot, assigns and delegates and consents to the assignment and delegation to the Home Owners Association, in their own name as an Owner of property within the Property, the authority, power, right, and responsibility to enforce the Governing Documents. The foregoing shall include the right of the Home Owners Association to send demand letters and notices, to charge interest and/or late charges, to levy and collect Fines, to impose liens (as provided in C.R.S. Section 32-1-1001(j)(1), as amended), to negotiate, settle and/or take any other actions, with respect to any violation(s), or alleged violation(s), of any of the Governing Documents.

#### Section 11.4 Severability.

All provisions of this Declaration are severable. Invalidation of any of the provisions, including any provisions of Article 10 of this Declaration (Alternative Dispute Resolution), by judgment, court order or otherwise, shall in no way affect or limit any other provisions, which remain in full force and effect.

#### Section 11.5 Duration, Revocation and Amendment.

11.5.1 Each and every provision of this Declaration runs with and binds the land, perpetually from the date of recording of this Declaration. Except as otherwise provided in this Declaration, and except for provisions of this Declaration regarding the rights and obligations of Declarant or Declarant's Affiliates, which may not be amended without Declarant's prior written consent, this Declaration may be amended by a vote or agreement of Owners of at least sixty-seven percent (67%) of the Lots subject to the Declaration at the time notice is provided to Owners of a vote on the proposed amendment, as determined by the Home Owners Association in its discretion; provided that, until the expiration of the Declarant Development Period, no amendment of this Declaration shall be effective without the prior, written consent of Declarant and the Home Owners Association.

**11.5.2** During the Declarant Development Period, this Declaration may be amended in whole or in part, at any time, by Declarant without the consent or approval of any other Owner or any other Person, in order to correct clerical, typographical, or technical errors, or any provision to clarify this Declaration.

#### **Section 11.6 Subdivision or Replatting of Lots.**

Declarant reserves for itself and its successors and assigns the right to subdivide or replat any Lot owned by Declarant. Each such subdivision or replatting may change the number of Lots in the Property. The foregoing reservation includes the right to move any lot lines on Lots for the purpose of accommodating Improvements which are, or may be constructed. The rights provided for in this Section 11.6 shall terminate 25 years after recording of this Declaration in the Recorder's Office.

#### **Section 11.7 Withdrawal.**

During the Declarant Development Period, Declarant reserves for itself and its successors and assigns the right to withdraw the Property, or any portion thereof, including one or more Lots, on a Lot by Lot basis, from this Declaration, so long as Declarant owns the portion of the Property to be withdrawn, effective upon the recordation of a Supplemental Declaration, executed by Declarant, referring to this Declaration, describing such portion and declaring that such portion be withdrawn from the Property under this Declaration. Declarant will provide a copy of the Supplemental Declaration to the Home Owners Association. The recording of any such written instrument and the withdrawal of any portion of the Property does not require the consent or ratification of any Owner or other owner of any portion of the Property other than Declarant, but shall require the written consent of an Owner of the portion of the Property being withdrawn, if and only if at the time such portion of the Property then being withdrawn from the Property is not then owned by Declarant.

#### **Section 11.8 Annexation.**

During the Declarant Development Period, Declarant may annex to the Property additional property, including any property which may previously have been withdrawn from the Property and such additional property will be made subject to this Declaration. Each annexation, if any, may be accomplished by recording of an annexation document that shall be considered a Supplemental Declaration under this Declaration that expressly and unequivocally provides that the property described therein shall be subject to this Declaration and all terms and provision hereof.

#### **Section 11.9 Supplements to this Declaration.**

If Declarant elects to submit any additional real property to this Declaration, such additions shall be described in and effected by a Supplemental Declaration. The recording of any such Supplemental Declaration and the resulting expansion of the Property shall not require the consent or ratification of any Owner other than Declarant. A Supplemental Declaration may impose on the real property described therein additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and provisions other than those set forth in this Declaration, taking into account the unique and particular aspects of the real property covered thereby. Upon Recordation of a Supplemental Declaration, the portion of the real property subject to the Supplemental Declaration shall become part

of the Property and shall be subject to all covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration. Any additional use restrictions contained in a Supplemental Declaration only apply to the real property subject to that Supplemental Declaration. Nothing in this Declaration may be construed to obligate Declarant to make any real property, other than the Property, subject to this Declaration. The withdrawal of any portion of the Property shall be effective upon the recordation of a Supplemental Declaration, executed by Declarant, referring to this Declaration, describing such portion and declaring that such portion be withdrawn from the Property under this Declaration. The recording of any such written instrument and the withdrawal of any portion of the Property does not require the consent or ratification of any Owner or other owner of any portion of the Property other than Declarant, but shall require the written consent of an Owner of the portion of the Property being withdrawn, if and only if at the time such portion of the Property then being withdrawn from the Property is not then owned by Declarant.

#### Section 11.10 Notice.

Unless otherwise required by Applicable Law or this Declaration, any requirement to deliver any notice, statement, demand, document or record to an Owner shall be deemed satisfied by sending the same to an Owner by electronic delivery if the Owner has provided an electronic mail or delivery address to the Home Owners Association. Otherwise, an Owner, shall register his mailing address with the Home Owners Association, and any notice, statement, demand, document or record intended to be delivered upon an Owner must be sent by U.S. mail, postage prepaid, addressed in the name of such Person at such registered mailing address. However, if any Owner fails to notify the Home Owners Association of a registered address, then any notice, statement, demand, document or record may be delivered or sent to such Owner at the address of such Owner's Unit.

#### Section 11.11 Limitation on Liability.

Benefited Parties shall not be liable to any Person for any action or for any failure to act arising out of the Governing Documents, if any, unless the action or failure to act was not in good faith and was done or withheld with malice. Further, neither the Home Owners Association nor the ARC nor the Enforcement Committee waives, and no provision of this Declaration is a waiver of, the immunities and limitations to which the Home Owners Association the ARC and the Enforcement Committee have as a matter of law, including the Colorado Governmental Immunity Act, §24-10-101, et seq. C.R.S., as amended. Any releases and waivers in this Declaration apply to this Section 11.11.

#### Section 11.12 No Representations, Guaranties or Warranties.

To the fullest extent permitted by Colorado law, the Benefitted Parties disclaim all warranties of any kind, express or implied, including, without limitation, any implied warranties or habitability, suitability, or fitness for a particular purpose, and no representations, guaranties or warranties of any kind, express or implied, including, without limitation, any implied warranties of habitability, suitability, or fitness for a particular purpose are given or made by any Benefitted Parties, in connection with any portion of the Property, or any Improvement, its physical condition, structural integrity, freedom from defects in design or construction, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as specifically set forth in writing.

Section 11.13 Disclaimer Regarding Safety.

THE BENEFITTED PARTIES DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE PROPERTY. BY ACCEPTING A DEED TO A LOT WITHIN THE PROPERTY, EACH OWNER ACKNOWLEDGES THAT THE BENEFITTED PARTIES ARE OBLIGATED TO DO ONLY THOSE ACTS SPECIFICALLY ENUMERATED IN THIS DECLARATION, IF ANY, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE PROPERTY.

Section 11.14 Waiver of Trial.

BY ACCEPTING A DEED TO ANY LOT, EACH OWNER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY A JURY OR TO A JUDGE WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY THEM AGAINST DECLARANT OR ITS SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS DECLARATION OR ANY DOCUMENT, OR ANY CLAIM ARISING OUT OF ALLEGATIONS OF DEFECTIVE CONSTRUCTION.

Section 11.15 Development Within and Surrounding the Property.

Each Owner acknowledges that development within and surrounding the Property may continue for an indefinite period, and that plans for the density, type and location of improvements, developments or land uses may change over time. Such development may entail changes to or alterations in the access to the Property, views of or from the Property, the Lots or the Units, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other aspects or amenities. Development also may entail noise, odors, unsightliness, dust and other inconveniences or disruptions. By accepting a deed to a Lot or a Unit, each Owner accepts title to such Lot or Unit, as applicable, subject to the foregoing, and waives and releases any claim against the Benefited Parties, arising out of or associated with any of the foregoing. The release and waiver set forth in Section 11.18 (Waiver) shall apply to this Section 11.15.

Section 11.16 Home Owners Association May Assign.

The Home Owners Association may engage one or more third party independent contractors to carry out and enforce all or a portion of the provisions of the Declaration, the Guidelines, the Rules and Regulations and any supplemental documents and agreements related to the provision of covenant enforcement and design review services within the Property. Any such contractors shall be engaged under the sole direction and of control of the Home Owners Association.

Section 11.17 Waiver.

By acceptance of a deed to a Lot, each Owner releases, waives, and discharges the Benefited Parties from all losses, claims, liabilities, costs, expenses, and damages, arising directly or indirectly from any hazards, disclosures or Property Risks set forth in this Declaration.

#### Section 11.18 Headings.

The Article, Section and subsection headings in this Declaration are inserted for convenience of reference only, do not constitute a part of this Declaration, and in no way define, describe or limit the scope or intent of this Declaration or any of the provisions hereof.

#### Section 11.19 Gender.

Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders.

#### Section 11.20 Action.

Any action that has been or may be taken by Declarant, the Home Owners Association, the ARC the Enforcement Committee, or any other Person, may be taken "at any time, from time to time." Each provision that authorizes, directs or permits action shall be deemed to include such language.

#### Section 11.21 Sole Discretion.

All actions which are to be taken by, or on behalf of, Declarant, the Home Owners Association, the ARC, or the Enforcement Committee, or any other Person, shall be deemed to be taken "in the sole discretion" of such Person.

#### Section 11.22 Use of "Include," "Includes," and "Including."

All uses, in this Declaration, of the words "include," "includes," and "including," shall be deemed to include the words "without limitation" immediately thereafter.

#### Section 11.23 No Waiver.

No term or condition of this Declaration shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, et seq. afforded to the Home Owners Association, the Enforcement Committee and/or the ARC.

#### Section 11.24 Exemption.

Notwithstanding anything in this Declaration to the contrary, (a) neither Declarant, Declarant's Affiliates, nor any of their activities shall in any way be subject to the control of, or under the jurisdiction of the Home Owners Association, the ARC or the Enforcement Committee (including any Guidelines or Rules and Regulations), nor shall Declarant or Declarant's Affiliates be required to seek the approval or consent of the Home Owners Association, the ARC or the Enforcement Committee for any construction or other work to be performed by or on behalf of Declarant in the Property and (b) nothing contained in this Declaration shall be construed to prevent or limit (i) Declarant's exercise or enjoyment of any Special

Declarant Right, Additional Reserved Right, Development Right or any other right of Declarant under this Declaration or (ii) the conduct by Declarant, Declarant's Affiliates or their respective employees or agents, as applicable, of any activity, including, without limitation, the erection or maintenance of temporary structures, trailers, improvements or signs, necessary or convenient to the development, construction, marketing or sale of the Property or any other property. Declarant, in its sole discretion, may also exempt a Builder from the provisions of Article 3, (a) as long as the Builder has received written design approval under the Design Guidelines from Declarant, and/or (b) for activities which Declarant deems to be incidental to the Builder's development activities, in Declarant's sole and absolute discretion. This exemption terminates upon expiration of Declarant Development Period.

#### Section 11.25 Runs with the Land; Binding Upon Successors.

The benefits, burdens, and all other provisions contained in this Declaration shall be covenants running with and binding upon the Property and all Improvements which are now or hereafter become a part of the Property. The benefits, burdens, and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of Declarant, the Home Owners Association each of their Affiliates, and all Owners, and to their respective heirs, personal representatives, successors and assigns.

### ARTICLE 12. DISCLOSURES

#### Section 12.1 No Liability for Condition of the Property/Nuisances/Hazards Associated with Adjacent Lands.

By purchasing a Lot or Unit, or any portion thereof, each Owner acknowledges that the Lot or Unit may be located adjacent to or in relatively close proximity to property utilized for commercial and other non-residential uses (collectively the "Adjacent Properties") and further the Lot or Unit may be built on land affected by amendment to the land or soil conditions (including expansive soils corrections) resulting from construction, engineering, grading, and soil preparation. Owners recognize and assume the risks of owning property adjacent to or within relatively close proximity to the Adjacent Properties and the risks of the condition of the land and soils. Such risks include, without limitation: (i) expansive soils conditions and drainage issues on or under the Property and (ii) injury to person and property arising out of, or resulting from, the operation, maintenance and use of the Adjacent Properties, noise associated with the Adjacent Properties, noise, odors, and attractive nuisances to children (all of the above being collectively referred to as the "Property Risks"). The Benefitted Parties have no liability for any personal injury or property damage resulting from the Property Risks. By virtue of taking title to a Lot or Unit subject to this Declaration, each Owner for itself and its heirs, personal representatives, executors, tenants, successors, assigns, invitees and licensees: (i) assumes the risk of loss, injury or damage to property or persons resulting from the Property Risks; (ii) agrees to obtain such policies of insurance as may be necessary to insure such Owner and Occupant from injury or damage to property or person resulting from the Property Risks; (iii) releases and holds harmless the Benefitted Parties and discharges from any liability for any personal injury or property damage resulting from the Property Risks, including, without limitation, arising from the negligence of Declarant and/or Declarant's agents, contractors, subcontractors, employees, officers, successors, assigns, guests, or invitees, and (iv) indemnifies (including the payment of reasonable costs and attorneys' fees) the Benefitted Parties from and against any claims, actions, suits, demands and compensations, either at law

or in equity, brought against or incurred by the Benefitted Parties for or on account of any damage, loss, or injury either to person or property, or both, resulting directly or indirectly from the Property Risks.

#### Section 12.2 Land Use Documents.

The Property is being developed in accordance with the land use regulations of the County. Declarant, for itself, its successors and assigns, reserves the right to obtain modifications and amendments to all land use documents, subject to the approval of the County. Such modifications and amendments could change the uses of the Property and adjacent and nearby land from the uses which are set forth in the land use documents. Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the Development can or will be carried out, or that any such land, whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, or that such use will continue in effect.

#### Section 12.3 Future Development and Views.

Owners acknowledge that existing views, if any, of the immediate and surrounding areas and mountains may be subject to change or elimination as a result of future development of non-residential and residential uses, road construction, tree growth and landscaping. Declarant, Declarant's Affiliates or Builders may charge premium prices for similar houses or lots depending on a variety of factors, which may include location, lot size, cul-de-sac frontage, solar orientation or proximity to open space. The market value of these factors may be subjective. No Builder is authorized to represent a premium price as a "view" premium. Neither Declarant nor Declarant's Affiliates assume any responsibility for any representation or promise made by a Builder, sales counselor, independent broker or other agent or employee of a homebuilder with regard to premium prices. Each Owner acknowledges that development within and surrounding the Development may continue for an indefinite period, and that plans for the density, type and location of improvements, developments or land uses, may change over time. Such development may entail changes to or alterations in the access to the Development, views of or from the Development, the Lots or the Units, surrounding land uses, open space or facilities, traffic volumes or patterns, privacy or other off-site aspects or amenities. Development also may entail noise, odors, unsightliness, dust and other inconveniences or disruptions. By accepting a deed to a Lot or a Unit, each Owner accepts title to such Lot or Unit, as applicable, subject to the foregoing, and waives and releases any claim against the Benefitted Parties arising out of or associated with any of the foregoing.

#### Section 12.4 Separate Ownership of Surface and Subsurface Rights.

Ownership of subsurface rights, including mineral rights, oil, gas, and other hydrocarbons, underlying the Property are separate from surface rights. The owners of such mineral rights, oil, gas and other hydrocarbons and their successors, assignees and lessees reserve the right to exercise all rights of exploration, extraction and removal of the same as allowed by Applicable Laws.

#### Section 12.5 Safety and Security.

Each Owner and Occupant is responsible for their own personal safety and the security of their property in the Development. The Home Owners Association may, but shall not be obligated to, maintain or support certain activities designed to enhance the level of safety or security in accordance with Applicable Law.

None of the Benefitted Parties shall in any way be considered insurers or guarantors of safety or security within the Development, nor be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

#### Section 12.6 Disruption from Development and Construction.

Declarant makes no warranties or representations whatsoever that construction and development will not cause certain disruptions and inconveniences to Owners or Occupants. In that regard, each Owner acknowledges and agrees that construction and development is likely to cause noise, dirt, dust, odors, traffic disruption, temporary closure of facilities and other inconveniences associated with construction and development.

#### Section 12.7 View Impairment.

Neither Declarant, Declarant's Affiliates, the Home Owners Association or ARC guarantee or represent that any view over and across the Lots, Units or other Improvements, or that any open space will be preserved without impairment, nor is there any obligation to relocate, prune, or thin trees or other landscaping. Declarant has the right to add trees, walls, fences, berms, or other structures, signs, lighting, water features and other landscaping from time to time, without regard to any view impairment. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

IN WITNESS WHEREOF, Declarant, as the Owner of the Property, has hereunto set its hand and seal on the Effective Date.

DECLARANT:

LIBERTY SAVINGS BANK, FSB, an Ohio for profit corporation

By:   
Name: JOSEPH C. HOSKINS  
Title: CHIEF ADMINISTRATIVE OFFICER

STATE OF Ohio )  
COUNTY OF Clermont ) ss.

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of June '2015, by Jessica C. Hoskins, as CEO of Liberty Savings Bank, FSB

Witness my hand and official seal.

{SEAL}

M. T. Litchfield  
Notary Public  
My Commission expires: Aug 5, 2016  
M. T. LITCHFIELD, Notary Public  
In: State of Ohio  
My Commission expires: Aug. 5, 2016



**EXHIBIT A**

**THE PROPERTY**

TRACT 3, SADDLER PLANNED UNIT DEVELOPMENT, CITY OF FORT LUPTON, COUNTY OF WELD, STATE OF COLORADO.

**RESIDENTIAL IMPROVEMENT  
GUIDELINES  
AND SITE RESTRICTIONS FOR  
MOUNTAIN SKY HOME OWNERS  
ASSOCIATION**

EFFECTIVE DATE May 16, 2016

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# **1 INTRODUCTION**

## **1.1 Basis for Guidelines**

These Residential Improvement Guidelines and Site Restrictions (the “Guidelines”) are intended to assist Owners living in the Mountain Sky Community (the “Community”) in implementing landscaping and other Improvements to their property. The Declaration of Covenants, Conditions and Restrictions for Mountain Sky (the “Covenants”) require prior approval from the Architectural Review Committee (the “ARC”) before the construction, erection, placement, alteration, planting, installation or modification of any Improvement upon any Unit shall be made. In order to assist Owners, the ARC desires to establish certain pre-approved designs for several types of Improvements and to exempt certain Improvements from the requirement for approval. This booklet contains the guidelines established by the ARC with respect to property subject to the Covenants.

## **1.2 Definitions**

All words and phrases used in these Guidelines shall have the meaning provided in the Covenants unless otherwise defined herein.

The use of the word Owner in these Guidelines shall apply to and include any Person who is permitted to be on the Property by an Owner including, but not limited to, an Owner’s family, guests, invitees, tenants, visitors or independent contractors.

## **1.3 Contents of Guidelines**

In addition to the introductory material, these Guidelines contain (A) a summary of procedures for obtaining approval from the ARC (see Section 2); and (B) a listing of specific types of improvements that Owners might wish to make with specific information as to each of these types of improvements (see Section 3).

## **1.4 Architectural Review Committee or Representative**

The ARC consists of Persons, representatives or a committee appointed to review requests for approval of architectural or site changes.

## **1.5 ARC Contact Information**

The contact information of the ARC, Persons, committee or representative authorized to administer the architectural review process is:

COMPANY NAME	OFFICE	FAX	E-MAIL
Pinnacle Consulting Group, Inc.	970-669-3611	970-669-3612	KammyT@PinnacleConsultingGroupInc.com

## **1.6 Effect of Covenants**

The Covenants govern property within the Community. Each Owner should review and become familiar with the Covenants. Nothing in these Guidelines supersedes or alters the provisions or requirements of the Covenants and, if there is any conflict or inconsistency, the Covenants will control.

## **1.7 Effect of Governmental and Other Regulations**

Use of property and any Improvements must comply with any applicable building codes and other governmental requirements and regulations. Additionally, the Community is subject to the restrictions and controls established in the Mountain Sky Planned Unit Development (PUD). Owners are encouraged to contact the Town of Severance for further information and requirements for Improvements they wish to make.

**APPROVAL BY THE ARC DOES NOT CONSTITUTE ASSURANCE THAT IMPROVEMENTS COMPLY WITH APPLICABLE GOVERNMENTAL REQUIREMENTS OR REGULATIONS OR THAT A PERMIT OR APPROVALS ARE NOT ALSO REQUIRED FROM APPLICABLE GOVERNMENTAL BODIES.**

## **1.8 Interference with Utilities**

In making improvements to property, Owners are responsible for locating all water, sewer, gas, electrical, cable television, or other utility lines or easements. Owners should not construct any improvements over such easements without the consent of the utility involved, and Owners will be responsible for any damage to any utility lines. All underground utility lines and easements can be located by contacting:

**Utility Notification Center of Colorado  
1-800-922-1987**

## **1.9 Goal of Guidelines**

Compliance with these Guidelines and the provisions of the Covenants will help preserve the inherent architectural and aesthetic quality of the Community. It is the responsibility of the ARC to ensure that all proposed improvements meet or exceed the requirements of these Guidelines and to promote the highest quality design for the neighborhood. It is important that improvements to property be made in harmony with and not detrimental to the rest of the Community. A spirit of cooperation with the ARC and neighbors will go far in creating an optimum environment, which will benefit all Owners. By following these Guidelines and obtaining prior written approval for improvements to property from the ARC, Owners will be protecting their financial investment and will help insure that improvements to property are compatible with standards established for the Community. If a question ever arises as to the correct interpretation of any terms, phrases or language contained in these Guidelines, the ARC's interpretation shall be final and binding.

## **1.10 Enforcement of Covenants and Design Guidelines**

The Mountain Sky Home Owners Association (the "Association") shall have primary responsibility for the enforcement of the architectural requirements of the Covenants and these Guidelines. The Association, its agents, and the ARC will investigate written complaints concerning violations of the requirements/prohibitions of the Covenants or these Guidelines, if such complaints are signed and dated by the person making the complaint. The Association, its agents, and the ARC shall use all reasonable means to maintain the anonymity of complainants. If a violation is found as a result of a complaint or through its own inspections, the Association shall notify the Owner whose property is in violation, in writing, requesting that appropriate action be taken to achieve compliance. The Association shall take enforcement action (including assessing fines, fees, and penalties) in accordance with the Association's compliance and fee policy then in effect. Specific duties and powers of the ARC and the Association are more fully set forth in the Covenants.

## **1.11 Builders Exemption**

Pursuant to the Declaration of Covenants, Conditions and Restrictions for MOUNTAIN SKY, Section 3.18, A Builder may request written approval from the Declarant for a building plan or any number of building plans. Upon written approval from the Declarant, the Builder may build that plan, or plans without further review and approval from the ARC subject to the following conditions.

- A.** The Builder shall give notice to the ARC as to which lot, or lots the plan, or plans will be constructed on.
- B.** The Builder may build the identical plan and elevation provided the identical plans and elevations are separated by at least two distinctly different plans.
- C.** The Builder may build the same plan with a different elevation and paint scheme provided the plans are separated by at least one distinctly different plan.
- D.** The Builder may not build the identical plan directly across the street from each other unless the plans have a different elevation and paint scheme.
- E.** In all cases a Builder must offer a minimum of 4 different plans with a minimum of 3 elevations each and a minimum of 5 paint schemes.
- F.** The Builder may submit standardized landscaping plans for the front and/or rear yard for review and approval. Identical front yard landscaping plans may not be constructed next to each other.

Once a home has been purchased by a third party from the Builder these Guidelines will control. All future changes, modifications and additions to the property must be approved by the ARC.

## 1.12 General Housing Guidelines

Residential Properties within Mountain Sky are defined by three distinct Community areas.

The western portion of the Community is defined by large (1/2 acre +/-) lots with semi-custom home styles. The minimum home square footage for this area is 2,200 square feet for ranch style homes and 2,500 square feet for two story style homes. All homes must have a minimum 3 car side-by-side garage with a minimum of 2 separate garage doors. 4 car garages are encouraged. The product design must consider 'four sided architecture' with focus on integration of all elements into a cohesive design. All other design Guidelines defined herein shall apply.

The eastern portion of the Community is defined by smaller suburban (1/4 - 1/5 acre +/-) lots with production home styles. The minimum home square footage for this area is 1,500 square feet for ranch style homes and 1,900 square feet for two story style homes. All homes must have a minimum 2 car side-by-side garage. 3 car garages are encouraged. The product design will focus on the front façade with pleasing side and rear elevations that complement the overall design. All other design Guidelines defined herein shall apply.

The southwestern portion of the Community is planned for multifamily attached housing. The site plans for this area must incorporate all elements dictated by the approved Mountain Sky PUD. The ARC will review the plans paying special attention to features such as: building massing, separation and setbacks; four sided architecture integration; paint and color themes; parking location and adequacy, covered parking and individual garage areas; landscaping themes; entry details and construction phasing. The applicant is encouraged to schedule a preliminary meeting with the ARC to discuss their concept plans prior to formal submission. It is anticipated that the multifamily developer may want to establish a Home Owners Association to enforce special covenants that only affect that area. The ARC and the Association will consider any such request based on its merits. In all cases the Guidelines defined herein shall apply.

***Remainder of the Page Intentionally Left Blank.***

## **2 PROCEDURES FOR ARC APPROVAL**

### **2.1 General**

As indicated in Section 3, there are some cases in which advance written approval of the ARC is not required if the guidelines with respect to that specific type of improvement are followed. In a few cases, as indicated in Section 3, a specific type of improvement is not permitted under any circumstances. In all other cases, including improvements not included in Section 3, advance, or prior written approval by the ARC is required before an improvement to property is commenced.

### **2.2 Drawings or Plans**

Owners are required to submit to the ARC a Design Review Request Form and complete plans and specifications (said plans and specification to show exterior design, height, materials, color, location of the structure or addition to the structure, plotted horizontally and vertically, location and size of driveways, general plan of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required) prior to commencement of work on any improvement to property. In most cases, the materials to be submitted will not have to be professionally prepared by an architect, a landscape architect, or draftsman, and a simple drawing with dimensions and description will be sufficient. In the case of major improvements, such as room additions, structural changes or accessory building construction, detailed plans and specifications, prepared by a licensed architect, may be required. Whether done by the Owner, or professionally, the following guidelines should be followed in preparing drawings of plans:

- A.** The drawing or plan should be done to scale and shall depict the property lines of your lot and the outside boundary lines of the home as located on the lot. If you have a copy of an improvement survey of your lot obtained when you purchased it, this survey would be an excellent base from which to start.
- B.** Existing improvements, in addition to your home, should be shown on the drawing or plan and identified or labeled. Such existing improvements include driveways, walks, decks, trees, shrubs, fences, etc. The proposed improvements should be shown on the plan and labeled. Either on the plan or on an attachment, there should be a brief description of the proposed improvement, including the materials to be used and the colors. For Example: Redwood deck, ten (10) feet by twelve (12) feet with two inch by four inch (2"x4") decking and natural stain.
- C.** The plan or drawing and other materials should show the name of the Owner, the address of the home, the lot, block and filing number, e-mail and a telephone number where the Owner can be reached.
- D.** The proposed improvements must take into consideration the easements, building location restrictions and sight distance limitations at intersections.

- E. Owners should be aware that many improvements require a permit from the Town. The ARC reserves the right to require a copy of such permit as a condition of its approval.
- F. In some instances, elevation drawings of the proposed improvement will be required. The elevation drawings should indicate materials.
- G. Photographs of existing conditions and of proposed materials and colors are encouraged to be included, and are helpful to convey the intended design, but should not be used solely to describe the proposed changes.

### **2.3 Submission of Drawings and Plans**

One copy of the drawing or plans (minimum acceptable size 8.5" x 11") must be submitted to the ARC along with a completed Design Review Request Form. Color photographs, brochures, paint swatches, etc. will help expedite the approval process. Specific dimensions and locations are required.

The review fees as set forth on the Architectural Design Review Submittal Fees Sheet (available from the entity listed in Section 1.5) shall be submitted with the Design Review Request Form. In addition, any costs incurred by the ARC for review of submittals shall be borne by the Owner and shall be payable prior to final approval. Any reasonable engineering consultant fees or other fees incurred by the ARC in reviewing any submission will be assessed to the Owner requesting approval of the submission.

### **2.4 Action by ARC**

The ARC will meet as required to review plans submitted for approval. The ARC may require submission of additional information or material, and the request will be deemed denied until all required information and materials have been submitted. The ARC will act upon all requests in writing within forty-five (45) days after the complete submission of plans, specifications, and other materials and information as requested by the ARC. If, for any reason, the ARC fails to review and approve in writing (which may be with conditions and/or requirements or disapprove, a request for architectural approval within forty-five (45) days after the complete submission of the plans, specifications, materials and other information with respect thereto, such request is deemed approved by the ARC.

### **2.5 Revisions and Additions to Approved Plans**

Any revisions and/or additions to approved plans made by the Owner or as required by any governmental agency, must be re-submitted for approval by the ARC. The revised plans must follow the requirements as outlined above.

### **2.6 Completion of Work**

After approval (which may be with conditions and/or requirements) of any proposed Improvement by the ARC, the proposed Improvement shall be completed and constructed

as promptly and diligently as possible, and in complete conformity with all conditions and requirements of the approval. Failure to complete the proposed Improvement by the Completion Deadline, or to complete the Improvement in complete conformance with the conditions and requirements of the approval, shall constitute noncompliance; provided, however, that the ARC may grant extensions of time to individual Owners for completion of any proposed Improvements, either (a) at the time of initial approval of such Improvements, or (b) upon the request of any Owner, provided such request is delivered to the ARC in writing; provided that the Owner is diligently prosecuting completion of the subject Improvements or other good cause exists at the time such request is made.

## **2.7 Notice of Completion**

Upon the completion of an Improvement, the applicant for approval of the same shall give a written "Notice of Completion" to the ARC (in form and substance acceptable to the ARC, or on forms provided by the ARC). Until the date of receipt of such Notice of Completion, the ARC shall not be deemed to have notice of completion of any Improvement on which approval (which may be with conditions and/or requirements) has been sought and granted as provided in this Section.

## **2.8 Inspection of Work**

The ARC, or its duly authorized representative, shall have the right to inspect any Improvement at any time, including prior to or after completion, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article. However, such right of inspection shall terminate ninety (90) days after the ARC has received a Notice of Completion from the applicant and no action has been initiated by the ARC. The ninety (90) day period to perform inspections after the ARC has received a Notice of Completion does not apply to or limit the right or authority of the ARC to require compliance with the review and approval process as set forth in the Covenants and these Guidelines, or the right or authority of the Association to enforce the Covenants, these Guidelines, or any Rules and Regulations, including but not limited to the requirements pertaining to the maintenance of Improvements.

## **2.9 Rights of Appeal**

The affirmative, majority vote of the ARC shall be required for approval (which may be with conditions and/or requirements) of each matter, unless the Person with the authority to appoint the ARC, as provided in the Covenants, has delegated, in writing, some or all architectural authority, to one or more other Persons or the ARC has appointed a representative or committee to act for it, in which case the decision of such Person, representative or committee shall control. An Owner may appeal to the ARC in the event of adverse action by committee of representative, provided such appeals are submitted in writing within thirty (30) days after the applicant received notice of such adverse action.

## **2.10 Notice of Non-compliance**

If, as a result of inspections or otherwise, the ARC determines that any Improvement has been done without obtaining all required approvals (which may be with conditions and/or requirements), or was not done in substantial compliance with the approval that was granted, or has not been completed by the Completion Deadline (except landscaping, as provided below), subject to any extensions of time granted pursuant to Section 2.6 hereof, then the ARC shall notify the applicant in writing of the Non-Compliance. Such notice of Non-compliance shall be given not later than sixty (60) days after (as applicable), (a) the ARC receives a Notice of Completion from the applicant, or (b) the ARC discovers any such noncompliance. The notice of Non-compliance shall specify the particulars of the Non-compliance.

### **2.11 Correction of Non-compliance**

If the ARC determines that a Non-compliance exists, the Person responsible for such Non-compliance shall remedy or remove the same within not more than forty-five (45) days from the date of receipt of the notice of Non-compliance. If such Person does not comply with the ruling within such period, the ARC shall notify the Association, and the Association may, at its option, record a notice of Non-compliance against the Unit on which the Non-compliance exists, may impose fines, penalties and interest, may remove the Non-complying Improvement, or may otherwise remedy the Non-compliance, and the Person responsible for such Non-compliance shall reimburse the Association, upon demand, for all costs and expenses, as well as anticipated costs and expenses, with respect thereto.

### **2.12 Amendment**

These Guidelines may at any time, from time to time, be added to, deleted from, repealed, amended, and modified, reenacted, or otherwise changed by the ARC in its sole discretion as changing conditions and/or priorities dictate.

### **2.13 Questions**

If you have any questions about the foregoing procedures, feel free to call the ARC at the phone number and address listed in the Section 1.5 of these Guidelines.

***Remainder of page intentionally left blank.***

### **3 SPECIFIC TYPES OF IMPROVEMENTS / SITE RESTRICTIONS**

#### **3.1 General**

The following is a listing, in alphabetical order, of a wide variety of specific types of improvements which Owners typically consider installing, with pertinent information as to each. Unless otherwise specifically stated, drawings or plans for a proposed improvement must be submitted to the ARC and written approval of the ARC obtained before the improvements are made. In some cases, where it is specifically so noted, an Owner may proceed with the improvements without advance approval if the Owner follows the stated guideline. In some cases, where specifically stated, some types of improvements are prohibited. ARC review and approval is required on any external items not be listed below.

##### **3.1.1 Variances**

Approval of any proposed plans by the granting of a variance from compliance with any of the provisions of these Guidelines is at the sole discretion of the ARC when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require.

##### **3.1.2 No Unsightliness**

All unsightly conditions, structures, facilities, equipment, and objects, including snow removal equipment and garden or maintenance equipment, when not in actual use, must be enclosed within a structure.

#### **3.2 Accessory Buildings**

Approval is required. Approval will be based upon, but not limited to, the following criteria:

- A.** Storage sheds and/or accessory buildings must be aesthetically compatible and consistent with the style and character of the home and other homes in the same general area of the Community. Storage sheds and/or any accessory buildings shall not be more than eight (8) feet by ten (10), and shall not be more than eight (8) feet high at the top of wall, nor more than ten (10) feet high at the roof peak. The roof pitch must be complementary to the existing roof on the home, unless otherwise approved by the ARC.
- B.** Siding, roofing, and trim materials must match those on the home, unless otherwise approved by the ARC.
- C.** Smaller Units may not have a suitable location for a storage shed. In any case, no more than one (1) storage shed and one (1) playhouse (see Section 3.57, Playhouses) shall be permitted per property.

- D. The ARC, in reviewing and approving or denying an application for approval of a storage shed or accessory building, shall take into consideration lot size, square footage of the home, the existing grading, fence locations, landscape screenings, etc.
- E. Any utilities serving the storage shed or accessory building shall be underground.
- F. A playhouse or play structure shall not be considered an accessory building.

### **3.3 Additions and Expansions**

Approval is required. Additions or expansions must be constructed of wood, masonite, glass, brick, stone, or other material as used in construction of the exterior of the home. The design must be the same or generally recognized as a complimentary architectural style and meet all design guidelines as may be applicable. Colors must be the same as that of the residence. Patios may not be more than twenty five percent (25%) of the entire rear lot of the home unless otherwise approved by the ARC.

### **3.4 Address Numbers**

Approval is required to replace, alter or relocate existing address numbers, unless the address numbers are replaced using the same style and type of number currently on the residence.

### **3.5 Advertising**

All trade signs, which include, but are not limited to, landscaping, painting, and roofing, may only be displayed while work is in progress and must be removed upon completion of the job. See Section 3.73, Signs.

### **3.6 Air Conditioning Equipment**

Approval is required for all air conditioning equipment including evaporative coolers (swamp coolers) and attic ventilators installed after the initial construction.

Approval is not required for replacement of existing air conditioning equipment with like equipment.

No heating, air conditioning, air movement (e.g. swamp coolers) or refrigeration equipment shall be placed or installed on rooftops, or extended from windows. Ground mounted or exterior wall air conditioning equipment installed in the side yard must be installed in a manner so as to minimize visibility from the street and minimize any noise to adjacent property Owners.

### **3.7 Antennae/Satellite Dishes**

"Permitted Antennas" are defined as (a) an antenna which is less than one meter in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite; (b) an antenna which is less than one meter in diameter and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite; (c) an antenna which is designed to receive broadcast television broadcast signals; or (d) other antennas which are expressly permitted under applicable federal statutes or regulations. In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section. Installation of Permitted Antennas shall not require the approval of the ARC.

- A.** All Permitted Antennas shall be installed with emphasis on being as unobtrusive as possible to the Community. To the extent that reception is not substantially degraded or costs unreasonably increased, all Permitted Antennas shall be screened from view from any street and nearby Units to the maximum extent possible, and placement shall be made in the following order of preference:
  - (1) Inside the structure of the house, not visible from the street
  - (2) Rear yard or side yard, behind and below the fence line
  - (3) Rear yard or side yard, mounted on the house, in the least visible location below roofline
  - (4) Side yard in front of wing fence, screened by and integrated into landscaping
  - (5) Back rooftop
  - (6) Front yard screened by and integrated into landscaping.
- B.** If more than one (1) location on the Unit allows for adequate reception without imposing unreasonable expense or delay, the order of preference described above shall be used, and the least visible site shall be selected.
- C.** Permitted Antennas shall not encroach upon common areas or any other Owner's property.

#### **3.71 Installation**

- A.** All installations must comply with all applicable building codes and other governmental regulations, and must be secured so they do not jeopardize the safety of residents or cause damage to adjacent properties. Any installation must strictly comply with FCC guidelines.
- B.** All Permitted Antennas shall be no larger, nor installed more visibly, than is necessary for reception of an acceptable signal.

- C. Owners are responsible for all costs associated with the Permitted Antenna, including but not limited to costs to install, replace, repair, maintain, relocate, or remove the Permitted Antenna.
- D. All cabling must be run internally when feasible, must be securely attached, and must be as inconspicuous as possible. Permitted Antennas, masts and any visible wiring may be required to be painted to match the color of the structure to which they are attached. The Owner should check with the installer/vendor for the appropriate type of paint.
- E. All other antennas, not addressed above, are prohibited.

### **3.8 Awnings**

Approval is required. Awnings should be an integral part of the house or patio design. The color shall be complimentary to the exterior of the residence.

See Section 3.49, Overhangs/Awnings – Cloth or Canvas.

### **3.9 Balconies**

See Section 3.20, Decks.

### **3.10 Barbecue/Gas Grills**

Approval is not required. All barbecue grills, smokers, etc. must be stored in the rear yard or within an enclosed structure, not visible from the front of the home.

### **3.11 Basketball Backboards**

Approval is not required, subject to the following limitations. No basketball backboards shall be attached to the garage. Only portable basketball backboards shall be allowed if the following guidelines are met:

- A. Portable units cannot be placed in the public right of ways, streets, sidewalks or street lawns;
- B. Location must be at least half of the length of the driveway away from the street,
- C. Portable basketball backboards may not be permanently located in side yards or back yards,
- D. Portable basketball backboards may be left out when not in use only if the backboard, hoop, and net are in good repair. Portable basketball backboards that are not in good repair, including the hoop and net, must be stored out of sight when

not in use and may not be left out for more than 24 hours.

### **3.12 Birdbaths**

See Section 3.78, Statues or Fountains.

### **3.13 Birdhouses and Bird Feeders**

Approval is not required, subject to the following limitations. If installed in the rear yard and the size is limited to one foot by two feet no approval is required. No more than three of each of a birdhouse or birdfeeder shall be installed on any Unit. A birdhouse or bird feeder, which is mounted on a pole, may not exceed five (5) feet in height.

### **3.14 Boats**

See Section 3.47, Motor Vehicles/Recreation Vehicles.

### **3.15 Carports**

Approval will not be granted.

### **3.16 Clothes Lines and Hangers**

Approval is not required, subject to the following limitations. Clotheslines may only be placed in the rear yard. Fixed clotheslines and hangers are not permitted. Temporary drying structures will be permitted so long as such structures are used solely in the rear yard of a lot and are immediately removed from sight after each use. Retractable clotheslines with permanent fixtures require approval.

### **3.17 Cloth or Canvas Overhangs**

See Section 3.49, Overhangs/Awnings – Cloth or Canvas.

### **3.18 Commercial and/or Oversized Vehicles**

The garage area and driveway of each Unit should first be fully used for the parking of vehicles before any street parking is done. However, notwithstanding the foregoing, street parking is not restricted by this Section.

#### **3.18.1 Commercial Vehicles,**

Vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, recreational vehicles, golf carts and boat trailers, shall be parked only

in enclosed garages or specific areas, if any, which may be designated by ARC. This restriction, however, shall not restrict trucks or commercial vehicles which are necessary for construction or for the maintenance of any portion of the Property, or any Improvements located thereon, nor shall such restriction prohibit vehicles that may be otherwise parked as a temporary expedient for loading, delivery or emergency.

Stored vehicles and vehicles which are inoperable or do not have current operating licenses shall not be permitted on the Property except within enclosed garages. For purposes of this Section, the ARC may determine whether a vehicle is considered "stored".

### **3.18.2 Vehicle Maintenance and Repair**

No activity, including maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Unit unless it is done within completely enclosed structure(s) which screen the sight and sound of the activity from the street and from adjoining Units. Any Owner or other Person undertaking any such activities shall be solely responsible for, and assumes all risks of, such activities, including adoption and utilization of any and all necessary safety measures, precautions and ventilation. However, the foregoing restrictions shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle on a Unit, together with those activities normally incident and necessary to such washing and polishing.

### **3.19 Compost**

Approval is not required provided the compost container is not visible to adjacent properties and odor must be controlled. Underground composting is not allowed.

### **3.20 Decks**

Approval is required. The deck must be constructed of redwood or composite type decking products and approved by the ARC. The appropriate Town permits are also required. The decking material must be either redwood in color or of a color that matches one of the exterior paint colors or the masonry on the home. The deck should be located so as not to obstruct or greatly diminish the view for adjacent property Owners.

All deck columns shall be integrated into the architectural style/character of the home. Covered decks shall be compatible with the architectural style of the home through roof form integration, column design, and railing details. Supporting posts and columns associated with all covered decks or those more than thirty (30) inches above grade shall be a minimum eight (8) inches by eight inches unless grouped (two or more 4"x4" posts) or enhanced with a masonry base. When possible, matching the column style present on

the front of the home is preferred.

Decking that is less than thirty (30) inches above grade of the lot, may utilize a lattice skirting provided the skirting is made of redwood minimum one-half (1/2) inch thick boards and stained or painted to match the remaining portions of the deck. Decks may not be more than twenty five (25) percent of the entire rear lot of the home unless otherwise approved by the ARC. Construction shall not occur over easements or beyond the side plane of the home and must be set back a minimum of ten (10) feet from the rear property line or as dictated by zoning. No decks with abutting rear lot lines shall be within thirty (30) feet of each other at any point.

Owners must periodically maintain the deck, including but not limited to, fading, warping, etc.

### **3.21 Dog Houses**

Approval is not required AS LONG AS the dog house complies with the following; Dog house structures may not be larger than ten (10) square feet with a maximum height of four (4) feet to the peak of the roof. The dog house must be located in a fenced back yard or dog run. Dog houses must be installed at ground level, and must not be visible above the fence. Dog houses must also match the colors and materials of the exterior of the home. Limit of one dog house per Unit.

### **3.22 Dog Runs**

Approval is required. Dog runs must be located in the rear or side yard, abutting the home and substantially screened from view by planting fast-growing or mature trees, shrubs or perimeter fencing. Dog runs will be limited to two hundred (200) square feet. Dog run fences must be made of wood and should be left natural in color and sealed to prevent weathering. Covers (e.g. tarps, sheets, blankets, etc.) on dog runs are not allowed.

### **3.23 Doors**

Approval is not required for an already existing main entrance door to a home or an accessory building if the material matches or is similar to existing doors on the house and if the color is generally accepted as a complimentary color to that of existing doors on the house. Complementary colors would be the body, trim or accent colors of the house or white (for storm/screen doors).

- A.** Storm Doors. Approval is not required for storm doors as long as the door is complimentary with the color scheme of the home. Owners wishing to utilize a different color must first obtain approval.
- B.** Security Doors and Windows. All security or security-type doors and windows must be approved prior to installation.

### **3.24 Drainage**

The Covenants require that there be no interference with the established drainage pattern over any property. The established drainage pattern means the drainage pattern as engineered and constructed by the homebuilder prior (or in some cases, immediately following) conveyance of title from the home builder to the Owner. When installing your landscaping ensure all grades and flow patterns conform to the homebuilder's design and recommendations. All drainage from downspouts off the house should conform to the established drainage pattern. Sump pump drainage should be vented a reasonable distance from the property line, on the Owner's property, to allow for absorption. Adverse effects to adjacent properties, including Association lands, sidewalks and streets, will not be allowed.

### **3.25 Driveways**

Approval is required for any changes or alterations to driveways; this includes construction of a pull-off area to the side of the driveway and/or concrete driveway extensions. Only clear sealant may be used on the driveway (no colors) and Owners will be required to maintain the driveways against oil spills, spauling/peeling/etc.

### **3.26 Evaporative Coolers**

See Section 3.06, Air Conditioning Equipment.

### **3.27 Exterior Lighting**

See Section 3.44, Lights and Lighting.

### **3.28 Fences**

#### **3.28.1 General Statement**

Fences constructed by the Developer, Builder or Association along or abutting property lines, arterial streets, collector streets, and local streets may not be removed, replaced, painted a different color or altered, including, adding a gate, without approval of the ARC.

- A.** If any such fences constructed by the Developer or Builder which are located upon an Owner's property are damaged or destroyed by the Owner, the Owner shall repair or recondition the same at the Owner's expense.
- B.** Some fences may be located upon property owned by the Association and, if so, shall not be altered in any way.

### **3.28.2 Fence Designs**

All fences require approval of the ARC.

- A.** Fences installed by the Owner will be located in the rear or side yard along property lines. Fencing adjacent to Streets and Association tracts shall be four (4) feet high, 3 rail white vinyl fencing. The property owner may install a wire mesh to the inside of the fence to restrain pets. The wire mesh must have a vertical 2"x4" rectangular opening pattern. Fencing between private properties shall be five (5) feet tall, 6 inch wide slat, cedar fencing. Gates are preferred to be four (4) feet wide, but may be no wider than five (5) feet if conditions warrant.
- B.** Double fencing of property lines is not permitted. Fences must be placed on the side of the property line of the Owner doing the installation. If 2 Owners are co-installing the fence it may be located directly on the property line.
- C.** All fence slats are required to be placed tightly side by side, shadow box type fencing will not be allowed. However, fences may be constructed 'two-sided' with slats on both sides of the fence rails.
- D.** Fencing for Dog Runs shall be a minimum of four (4) feet in height and a maximum of five (5) feet in height.
- E.** Transitions from five (5) foot cedar to four (4) foot vinyl shall occur in the cedar portion and shall be effected over an eight (8) foot span.

### **3.28.3 Maintenance/Staining**

Regular physical and aesthetic maintenance of fencing is required. All fences must be finished using a semi-transparent redwood colored stain approved by the ARC. Approval is not required for Owners to re-stain their fence.

### **3.28.4 Additional Fence Requirements**

- A.** Fence sections which front any public street, another front yard, common walkway, greenbelt, park or non-urban area must be constructed so that the side of the fence which is generally accepted as being the most "finished" side faces out. The most effective method of accomplishing this is to construct the entire fence with the "finished" side out.
- B.** The ARC will require a transitional section of fencing, as applicable, where a fence adjoins a fence of any lesser height, for symmetry and aesthetics.
- C.** No electric fences are permitted (other than pet containment fencing installed

below grade).

- D. It is important to remember that certain drainage patterns may exist along, or under, proposed fence locations. When constructing a fence, be sure to provide for adequate space between the fence and the ground to accommodate drainage.
- E. When making a submittal for fencing, include the style and height of the fence, color of stain, and all other descriptive details and a plot plan with the location of the fence clearly marked.

### **3.28.5 Prior Approved Fencing**

To the extent that fencing has been previously approved by the ARC based on a prior version of these Guidelines, such fencing will be required to be compliant with this section at such time as the fence is replaced, or whenever any repair is required or made to more than twenty five (25) percent of the existing fencing material.

### **3.29 Fire Pits**

Approval is required for all permanent or built-in structures. Approval is not required for portable units.

### **3.30 Firewood Storage**

Approval is not required for storage of one (1) cord or less of wood. All firewood must be located in the side or rear yard, must be neatly stacked, must not be located so as to block established drainage patterns, and may not be visible from a street or the ground level of any other lot. All other wood must be stored in an approved enclosure, or “screened” from view.

### **3.31 Flags/Flagpoles**

Approval is required for any freestanding flagpole. Under no circumstance may the height of the flagpole exceed the height of the roofline of the residence. Flag size cannot exceed five (5) feet in length and three (3) feet in width.

Approval is not required for flagpoles mounted to the front of the residence provided that the flags displayed thereon (if other than an American Flag) are temporary in nature and are only displayed on holidays or in celebration of specific events. They must not be placed earlier than thirty (30) days prior to the start of the particular holiday/event or celebration and must be removed no later than thirty (30) days following the particular holiday/event or celebration.

**3.31.1 American Flags:** Owners shall be permitted to display an American Flag in accordance with the Federal Flag Code and as follows:

- A.** The flag shall be no larger than three (3) feet by five (5) feet.
- B.** The flag may be displayed in a window or from a flagpole projecting horizontally from a location on the front of the dwelling. Projecting flagpoles shall be no longer than five (5) feet.
- C.** The Owner shall replace the flag and/or flagpole as necessary in order to prevent wear and tear.
- D.** Flags may not be illuminated without prior written approval of the ARC. Any request for lighting must detail the type and location of lighting. Lighting shall be placed so as not to disturb Owners of neighboring lots.
- E.** An Owner may display a service flag denoting the Owner's or their family member's active or reserve U.S. military service. The flag may be displayed on the inside of a window or door of the unit or immediately below the American flag on a pole. The flag may not be larger than nine (9) inches by sixteen (16) inches.

### **3.32 Garage Sales**

Approval is not required. No garage, patio, porch or lawn sale shall be held on any residential site/lot except that the Owner of any such residential site may conduct such a sale for up to three (3) consecutive days not more than three times in any calendar year if (a) the items sold are only his own furniture and furnishings, not acquired for purposes of resale; (b) such sale is held at such time and in such manner as not to unreasonably disturb any other resident of the area; and (c) such sale is held in full compliance with the requirements of all applicable law.

In order to maintain the highest level of Community appearance, all signage for garage sales held as permitted above must be freestanding; no posts may be driven into the ground. All signs must be uniform in size and color and must make it easy for those traveling the Community visiting garage sales to locate the homes having the garage sales. Signs found not meeting the above criteria may be removed. Signs shall be removed within one day after the garage sale is finished and all remaining items disposed of or stored out of view.

### **3.33 Garbage Containers and Storage Areas**

See Section 3.85, Trash Containers, Enclosures and Pickup.

### **3.34 Gardens – Flower or Vegetable**

Approval is not required for flower or vegetable gardens that do not exceed two hundred (200) total square feet. All flower gardens must be weeded, cared for and maintained. Vegetable gardens shall be located in the rear or side yard.

### **3.35 Gazebos**

Approval is required. A gazebo must be an integral part of the rear yard landscape plan and must be similar in material and design to the residence. The color must be generally accepted as a complementary color to the exterior of the residence.

### **3.36 Grading and Grade Changes**

See Section 3.24, Drainage.

### **3.37 Greenhouses**

Greenhouses are not allowed.

### **3.38 Hanging of Clothes**

See Section 3.16, Clothes Lines and Hangers.

### **3.39 Hot Tubs and Jacuzzis**

Approval is required. Hot tubs and Jacuzzis must be an integral part of the deck or patio area and of the rear yard landscaping, and be installed in such a way that it is not immediately visible to adjacent property Owners and that it does not create an unreasonable level of noise for adjacent property Owners. In some instances, additional plant material, around the hot tub, may be required for screening. Non-vegetative screening materials should match or complement the house or deck structure. Prefabricated hot tub enclosures will be evaluated on a case-by-case basis, and may require additional plant material screening.

### **3.40 Irrigation Systems**

Mountain Sky has a non-potable irrigation water supply system that is separate from the potable domestic home supply system. The Owner must ensure that the irrigation installer hooks up the irrigation system to the non-potable system only. Cross connections to the potable system are not allowed, are a violation of Colorado law and may result in significant penalties from the Association. Otherwise approval is not required for underground automatic irrigation systems. Such systems may require approval through the Town and shall comply with any applicable Town codes.. All Units must have an underground automatic irrigation system installed with the landscape. All irrigation systems should be designed by a landscape architect, designer or irrigation specialist to

ensure water management and plant growth. The irrigation system must be designed so that water does not cross property lines and so the irrigation system is in complete compliance with the individual home's soil report recommendations, specifically with regard to the no-irrigation zone at the edge of the home's building foundation.

### **3.41 Kennels**

Kennels or the breeding of animals is not allowed.

### **3.42 Landscaping**

Approval is required. All Owners must comply with any applicable landscaping requirements of the Town and Mountain Sky PUD. Landscaping plans must be in accordance with the specifications shown in Schedule 2, and the approval of such plans shall be obtained prior to the installation of landscaping. The plot plan of the residence and yard must be provided at a measurable scale. All organic materials (plants, shrubs, trees, etc.), building materials (stone, wood, edging, etc.), must be clearly labeled in detail.

The lot landscaping should be designed to create a coherent environment which complements the overall Community. Plant material should relate to the scale and character used in the Community landscape areas and to the lot improvements. Particular attention should be paid to the functional aspects of planting design. Consideration should be given to the use of plants for screening, space definition, erosion control, glare reduction, dust control, and aesthetics. The use of drought tolerant plants is encouraged. This means that in the landscaping of each Unit, plant materials, irrigation systems and maintenance practices should be utilized to conserve water, wherever possible. It should be noted that if Xeriscape landscaping is selected a more traditional "green" appearance can still be achieved. See Section 3.97, Xeriscape.

Landscaping must consist of trees, shrubs, ornamental grasses, ground covers, annual and perennial flowers, turf grasses, mulches and automatic irrigation.

In the case of shade or ornamental trees (deciduous), plantings may not be installed closer than six feet (6') from the property line.

In the case of evergreen trees (conifer), plantings may not be installed closer than ten feet (10') from the property line.

- A.** Thorny plants shall not be located within twenty (20) feet of sidewalks or walkways.
- B.** Planting beds must be separated from turf by edging.
- C.** Artificial Turf is not allowed.

- D. Landscaping in the Street/Tree lawn area shall require one tree in the front of the house and two trees on lots that abut a street on the side of the house. In all cases turf grass shall be installed as the standard to facilitate the egress by the passenger from vehicles parked in the street and to facilitate snow removal from the street. Plans utilizing xeriscape shall be limited to low profile plantings designed to allow vehicle passenger egress.

#### **3.42.1 Landscape Installation Schedule**

- A. Landscaping of all yards shall be completed within one year after closing on the home.
- B. The Owner shall install and thereafter maintain landscaping on their property, including the area between the sidewalk and curb of the street, also known as the Street/Tree lawn area.

#### **3.42.2 Landscape Maintenance**

Each Owner shall maintain all landscaping on such Owner's lot in a neat and attractive condition, including mowing, periodic and horticulturally correct pruning, removal of weeds and debris, and replacement of landscaping. This applies to the front, back, and side yards as well as the Street/Tree lawn area.

#### **3.43 Latticework, Trellis, Arbors**

Approval is required for any type of installation of latticework, trellis or arbor. Adequate framing is required. The inside height of a proposed arbor or trellis must not exceed eight (8) feet, six (6) inches. Considerations will include, but may not be limited to, height, color and material. Arbors must be complementary to the residence. Professionally prepared plans for arbors are highly encouraged to expedite the approval process, otherwise a photograph or catalog picture must be provided.

#### **3.44 Lights and Lighting**

Approval is not required for replacing existing lighting, including coach lights, with the same or similar lighting and style as originally installed.

Approval is required to modify or add exterior lighting.

Approval is required to install motion detector spotlights, spotlights, floodlights or ballasted fixtures (sodium, mercury, multi-vapor, fluorescent, metal halide, etc.).

- A. Considerations will include, but may not be limited to, the visibility, style and location of the fixture.

- B. Exterior lighting for security and/or other uses must be directed at the ground and house, whereby the light cone stays within the property boundaries and the light source does not cause glare to other properties (bullet type light fixtures are recommended).
- C. Ground lighting along walks must be maintained in a working and sightly manner. Low- voltage or solar powered ground lighting fixtures which are typically affixed by stakes or similar posts are to be maintained in good aesthetic repair, be functional, not be a tripping or other physical hazard along pedestrian pathways, and remain generally vertical in their presentation.
- D. The addition of a front yard light post will be allowed with approval, refer to Schedule 1 for additional guidelines.

Holiday lighting and decorations do not require approval. It is required that they not be installed more than thirty (30) days prior to the holiday. They shall be removed within thirty (30) days following the holiday. Clips used for holding holiday lighting cords may remain permanently affixed provided they blend in with the façade they are attached too.

### **3.45 Mailboxes**

Individual mailboxes are not allowed.

### **3.46 Maintenance of Property**

No Unit shall be permitted to fall into disrepair including, but not limited to, missing shingles, failure to maintain landscaping, worn and/or falling fencing and other damage to any privately owned site. All Units, including Improvements and landscaping thereon, shall be kept and maintained by the Owners thereof in a clean, safe, attractive and in good condition. No trash, litter, junk, boxes, containers, bottles, cans, furniture, implements or machinery shall be permitted to remain upon any Unit except as necessary during the period of construction. Lawns must be watered and maintained. Houses must be painted and repaired.

### **3.47 Motor Vehicles/Recreational Vehicles**

All types of "Recreational Vehicles," including but not limited to trucks, trailers, mobile homes, detached camper units, utility and boat trailers, snowmobiles, race cars, watercraft or house trailers, are prohibited from parking anywhere within the Property unless they fit entirely within an enclosed garage, except for the "temporary expedient of unloading, delivery or emergency." Parking three (3) overnights or seventy two (72) hours during a seven (7) day period for loading and unloading is allowed. Parking of a recreational vehicle for a period of time in excess of seventy two (72) hours in a seven (7) day period is prohibited.

Periodic movement of the vehicle for purposes of circumventing this standard shall not qualify the vehicle for exception from this standard. Any "Recreational Vehicle," including but not limited to trucks, trailers, mobile homes, detached camper units, utility and boat trailers, snowmobiles, race cars, watercraft or house trailers shall not be parked, kept, stored or maintained on or adjacent to any open space area within the Property, except while temporarily engaged in loading or unloading of trucks or RVs not to exceed more than one (1) consecutive day. Vehicles in violation hereof may be subject to ticketing and/or towing at Owner's expense, as provided herein or by applicable law.

The purpose of the seventy two (72) hours is to load and unload, not to provide storage/parking for the unit. Recreational Vehicles must be stored/parked in the garage or off site.

Vehicles shall not be parked on landscaped (i.e., rock, sod, mulch, plants, etc.) areas. Inoperable, unused or unregistered vehicles (legally and/or mechanically) must be kept in the garage.

"Inoperable, unused or unregistered" shall also mean any automobile, truck, motorcycle, motorbike or recreational vehicle which has not been driven under its own propulsion or has not been moved outside of the Property for a period of two (2) weeks or longer. The foregoing restriction shall not include otherwise permitted vehicles parked by Owners while on vacation or during a period of illness.

### **3.48 Ornaments/Art - Landscape/Yard**

See Section 3.78, Statues or Fountains.

### **3.49 Overhangs/Awnings- Cloth or Canvas**

See Section 3.51, Patio Covers.

### **3.50 Painting**

Approval is not required if color and/or color combinations are identical to the original manufacturer color established on the home and/or accessory improvement. Any changes to the color scheme must be submitted for approval and must conform to the general scheme of the Community.

- A.** Submit the Design Review Request Form with your color samples and a general description (or photographs) of the colors of the next two (2) houses on either side of your home.
- B.** Outlining the garage door panels in a contrasting color or in a checker board design is not permitted.

- C. Most homes have multiple tone paint schemes (e.g., body color, trim color and accent color for shutters and doors). New colors submitted should preserve this multiple tone scheme.
- D. Color selections may be submitted to the ARC in the form of manufacturer's paint chips. Please indicate which color chips are for trim, body and accent (doors and shutters) color.
- E. In general, after approval, only those areas that are painted may be repainted and only those areas that are stained may be re-stained; unpainted and unstained areas (such as brick or stone) shall remain unpainted and unstained.

### **3.51 Patio Covers**

Approval is required. Patio covers must be constructed of material consistent with the home and be similar or generally recognized as complementary in color to the colors on the house. Freestanding patio covers may be permitted as well as extensions of the roof.

### **3.52 Patios - Enclosed**

See Section 3.03, Additions and Expansions.

### **3.53 Patios - Open**

Approval is required. Open patios must be an integral part of the landscape plan. In some instances, additional plant material, around the patio, may be required for screening or integration into the landscape design. The patio and materials must be similar or generally accepted as a complementary color and design to the residence. Patios may not be more than twenty five (25) percent of the entire rear lot of the home unless otherwise approved by the ARC.

### **3.54 Paving**

Approval is required, regardless of whether for walks, driveways, patio areas or other purposes, and regardless of whether concrete, asphalt, brick, flagstones, stepping stones, pre-cast patterned, or exposed aggregate concrete pavers are used as the paving material.

### **3.55 Pipes**

See Section 3.88, Utility Equipment.

### **3.56 Play Structures and Sports Equipment**

Approval is required for all permanent structures. A minimum five (5) foot setback from the property line, is required for trampolines, swing sets, fort structures, etc. In some instances, additional plant material around the equipment may be required for screening. Wood structures must be constructed of pressure treated or other weather resistant materials. All play equipment must be maintained in a good and sightly manner. Height of any play structure or sports equipment may not exceed twelve (12) feet.

### **3.57 Playhouses**

Approval is not required if a structure is less than thirty (30) square feet and less than six (6) feet high, from highest point to the ground. See Section 3.02, Accessory Buildings.

### **3.58 Poles**

See Section 3.31, Flags/Flagpoles and Section 3.88, Utility Equipment.

### **3.59 Ponds and Water Features**

Approval is required. Considerations by the ARC will include, but not be limited to, the following criteria:

- A.** Must be integrated into landscape scheme.
- B.** Setback shall be a minimum of five (5) feet from all property lines.
- C.** Must not affect existing drainage on the lot or off the property.
- D.** Must be maintained at all times.
- E.** The maximum height of all fountain/pool elements and their spray is not allowed to be higher than four (4) feet from the ground plane.

### **3.60 Pools**

Approval is required. Pools must be placed in the rear yard and be an integral part of the deck or patio area. They should be located in such a way that they are not immediately visible to adjacent property Owners (i.e. screened with plant material). Above ground pools are prohibited. One (1) wading pool, if less than eighteen (18) inches high and eight (8) feet in diameter and placed in the rear yard is permitted on a temporary basis without prior approval. See Section 3.39, Hot Tubs and Jacuzzis.

### **3.61 Radio Antennae**

See Section 3.07, Antennae/Satellite Dishes.

### **3.62 Radon Mitigation Systems**

Approval is not required AS LONG AS the equipment must be painted a color similar or generally accepted as complimentary to the exterior of the house. All equipment shall be installed so as to be screened from view..

### **3.63 Roofing Materials**

Approval is required for all roofing materials other than those originally used by the builder. All buildings constructed on a Unit should be roofed with the same or greater quality and type as originally used by the builder.

Approval is not required for repairs to an existing roof with the same building material that exist on the building.

### **3.64 Rooftop Equipment**

See 3.75, Solar Energy Devices.

### **3.65 Satellite Dishes**

See Section 3.07, Antennae/Satellite Dishes.

### **3.66 Saunas**

See Section 3.02, Accessory Buildings.

### **3.67 Screen Doors**

See Section 3.23, Doors.

### **3.68 Seasonal Decorations**

See Section 3.44, Lights and Lighting.

### **3.69 Sewage Disposal Systems/Septic Systems (Individual)**

Individual sewage disposal systems/septic systems are not allowed.

### **3.70 Sheds**

See Section 3.02, Accessory Buildings.

### **3.71 Shutters - Exterior**

Approval is required. Shutters should be appropriate for the architectural style of the home and be of the appropriate proportion to the windows they frame. Shutters should be the same color as the “accent” color of the home (typically the same as the front door or other accent details).

### **3.72 Siding**

Approval is required. Vinyl siding will not be allowed.

### **3.73 Signs**

Approval is not required for one (1) temporary sign advertising property for sale or lease which is no more than three (3) feet in height and no more than two (2) feet wide, and which is conservative in color and style may be installed in the front yard or on the back yard fence of the Unit.

Approval is required for all other signs, including address numbers and nameplate signs must be approved. No lighted sign will be permitted unless utilized by the Developer and/or a Builder. One political sign per household may be placed in the front yard of the lot during elections. All political signs must be removed within 48 hours of said election. Signs in windows will not be allowed.

- A.** A temporary trade sign pertaining to, but not limited to, contractors, landscapers, painters and roofers, may only be displayed while work is in progress, or not to exceed two months, whichever is less. This signage must meet the above specifications.
- B.** No signs may be placed on Association property.

### **3.74 Skylights**

Approval is required. Bubble type skylights are prohibited. Skylight glazing must be clear, solar bronze, or white.

### **3.75 Solar Energy Devices**

Approval is required (excluding landscape lighting) in order to review aesthetic conditions. Photovoltaic (PV) Solar panels must lay flat on the roof, meet all applicable safety, building codes and electrical requirements, including solar panels for thermal systems (solar water heaters). The ARC is allowed to request changes as long as they don't significantly increase the cost or decrease the efficiency of the proposed device and panels. Please also see Colorado Law C.R.S. 38- 30-168, which governs the review and the Owner's installation of such devices.

### **3.76 Spas**

See Section 3.39, Hot Tubs and Jacuzzis.

### **3.77 Sprinkler Systems**

See Section 3.40, Irrigation Systems and Section 4.09, Irrigation.

### **3.78 Statues or Fountains**

Approval is not required if statues or fountains are installed in the rear yard and are not greater than four (4) feet in height from the highest point, including any pedestal.

Approval is required if the statue or fountain is proposed for the front yard. Statue or fountain location in the front yard should be located close to the main entrance of the house.

### **3.79 Storage Sheds**

See Section 3.02, Accessory Buildings.

### **3.80 Sunshades**

See Section 3.51, Patio Covers.

### **3.81 Swamp Coolers**

See Section 3.06, Air Conditioning Equipment.

### **3.82 Swing Sets**

See Section 3.56, Play Structures and Sports Equipment.

### **3.83 Television Antennae**

See Section 3.07, Antennae/Satellite Dishes.

### **3.84 Temporary Structures**

Approval is not required. The Covenants state that no structure of a temporary character, including, but not limited to, a house trailer, tent, shack, storage shed, or outbuilding shall be placed or erected upon any lot. However, during the actual construction, alteration, repair or remodeling of a structure or other improvements, necessary temporary structures for storage of materials or waste may be erected and maintained by the person doing such work. The work of constructing, altering, or remodeling any structure or other

Improvements shall be diligently pursued from the commencement thereof until the completion.

### **3.85 Trash Containers, Enclosures, and Pick Up**

Approval is required for any trash or garbage enclosure. Refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, or debris of any kind may not be kept, stored or allowed to accumulate on any lot except in sanitary containers or approved enclosures. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner. All garbage or trash cans or receptacles shall be stored out of site (except that a container for such materials may be placed outside at such times as may be necessary to permit garbage or trash pickup.) Trash containers may be placed on the street for pickup after 5:00 p.m. on the evening prior to the day that such trash is to be picked up. Trash containers must be properly stored the evening of pickup.

### **3.86 Tree Houses**

Tree houses are not allowed.

### **3.87 Tree Lawn**

All residence's landscape maintenance responsibility extends from the rear yard to the back of the concrete curbing at the street, even though the area between the walk and curb is within the street right-of-way. Therefore, Owners are responsible for the maintenance of the Street/Tree lawn area (the area between the sidewalk and street). Owners are not permitted to alter plant material installed by the Builder or Developer in Street/Tree lawn area, except to replace dead plant material with like material, or as otherwise approved in writing by the ARC. This includes no addition of shrubs, perennials, annual flowers, ground cover or hardscape materials within this Street/Tree Lawn Area other than for replacement of like material.

### **3.88 Utility Equipment**

Approval is required for installation of utilities or utility equipment. Under the Covenants, pipes, wires, poles, utility facilities must be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure or conduit.

### **3.89 Vanes**

See Section 3.93, Weather Vanes and Directionals.

### **3.90 Vents**

See Section 3.64, Rooftop Equipment.

### **3.91 Walls**

See Section 3.28, Fences.

### **3.92 Walls, Retaining**

Approval is required. Front yard retaining walls shall not exceed thirty (30) inches in height. In the side yard, retaining walls up to thirty (30) inches high, with a planted slope above the wall, may be constructed with approval of the adjoining lot Owner, if appropriate, and approval of the ARC. In no event shall rear yard retaining walls exceed four (4) feet in height unless installed by the Builder or Developer. All retaining walls shall comply with applicable Town requirements and not materially alter the drainage patterns on the lot or adjacent properties. Retaining walls shall be constructed with boulders, stone, brick or split face modular concrete block facing units and installed per manufacturer instructions.

New or old creosote treated timber railroad ties are prohibited.

### **3.93 Weather Vanes and Directionals**

Approval is required.

### **3.94 Wind Electric Generators**

Approval is required. In addition to ARC approval, windmills and any other type of fixture, which fall under the criteria of a wind generator, or are used to generate power etc., must meet the requirement of the C.R.S. 40-2-124 and any regulations of the Colorado Public Utilities Commission.

### **3.95 Windows Replacement**

Approval is required. Considerations will include, but may not be limited to, size, color, existing and proposed window style and style of home.

### **3.96 Windows: Tinting, Security Bars, Well Covers, etc.**

Approval is not required for window well covers that are manufactured with metal or plexiglass. All others will require ARC approval.

Approval is required for any visible window tinting. Highly reflective and/or dark tinting is considered too commercial for residential applications and is not permitted.

Approval is required for security bars and may not be approved on second story windows and other windows visible to the street.

### **3.97 Work Involving Association Property**

Approval is required. Generally, driving vehicles including wheelbarrows across Association property is not permitted. However, when circumstances warrant, the Board of Directors will consider requests provided that prior approval is requested and the Owner advances funds as may be reasonably required by the Board of Directors to repair any damage. The actual restoration of the Association property will be done by the Association.

### **3.98 Xeriscape**

Approval is required. Using drought tolerant plantings and other water conservation methods of landscaping is encouraged; however, the design must be approved. Xeriscape uses much less water than typical suburban residential landscape, but it does not mean that large areas of river rock or mulch will be allowed in place of green, growing plant material. A landscape that contains less than forty five (45) percent sod in the front and/or rear yards, or side yards wider than fifteen (15) feet shall be considered xeriscape.

*Remainder of page intentionally left blank.*

## **SCHEDULE 1 - FRONT YARD LIGHT POST GUIDELINES**

1. Prior written approval is required for exterior lighting.
2. Exterior lights must be conservative in design and be as small in size as is reasonably practical.
3. Exterior lighting should be directed toward the ground and be of low voltage to minimize glare onto neighboring properties and the street.
4. Soft, outdoor pedestrian-oriented lighting should be used of wooden standards with dark colored lighting fixtures so as to be less obtrusive.
5. The light post should match or complement the architecture of the home in design, size, color, and finish along with any existing light fixtures.
6. Light posts shall be located at an appropriate distance from the right-of-way and property line to minimize glare onto neighboring properties and the street and should be integrated into the natural or architectural features of the site.
7. Light or lamp posts shall not be erected higher than 6' feet from ground level, unless approved by the ARC.
8. All lighting should not be intrusive to neighboring properties and must meet all Town requirements.

## **SCHEDULE 2 - LANDSCAPE DETAIL**

To maintain the integrity and aesthetics of the Community, the following landscape standards have been adopted. The lot landscaping should be designed to create a coherent environment which complements the overall Community. Plant material should relate to the scale and character used in the Community landscape areas and to the lot improvements. Particular attention should be paid to the functional aspects of planting design. Consideration should be given to the use of plants for screening, space definition, erosion control, glare reduction, dust control, and aesthetics.

### **PLANT MATERIAL**

Landscaping shall consist of trees, shrubs, ground covers, annual and perennial flowers, turf grasses, mulches and automatic irrigation. In the case of shade or ornamental trees (deciduous), plantings may not be installed closer than 6 feet (6') from the property line. In the case of evergreen trees (conifer), plantings may not be installed closer than 10 feet (10') from the property line. Select a variety of plant species including deciduous and evergreen trees and shrubs. Owners will be required to choose plant material from the approved plant palette. Additional appurtenances, landscape elements, and decorative entry features may be allowed and will be reviewed on a case by case basis.

All plant material shall be installed in the following minimum sizes:

- Deciduous trees - 2.5" caliper
- Ornamental trees - 2" caliper
- Evergreen trees - 6' height minimum
- Shrubs - 5 gallon container (Ornamental grasses (1 gallon) may be substituted for shrubs at a ratio of 3:1)
- Mulch – 1 cubic yard per 80 sq. feet and at a 4" depth
- Rock or Stone Mulch – 3/4" minimum to cobble size, minimum 3" depth Groundcover (excluding mulch), annuals, and perennials - no restrictions

\*Thorny plants shall not be located within 20 feet of sidewalks or walkways.

\*Planting beds must be separated from turf by edging.

### **PLANT LOCATION**

#### **FRONT YARD**

The area from the back of the sidewalk to the front of the building and side yard wing walls is defined as the Front Yard.

#### **SIDE YARD**

The side yard is the portion of the lot between the building, side property line, rear of building and behind the front fence wing walls.

## **REAR YARD**

The rear yard is that portion of the lot between the rear property line and the rear of the building.

### **STANDARD OPTION**

## **FRONT YARD**

### **Turf Requirement:**

- Small (<6,000 sq. ft.) – 40% min / 50% max
- Standard (6,000-8,999 sq. ft.) – 30% min / 40% max
- Large (9,000-14,999 sq. ft.) 25% min / 40% max
- Estate/Custom (15,000 sq. ft. and greater) – 25% min / 40% max

Artificial Turf is not allowed.

### **Plant Material Requirement:**

- Small (<6,000 sq. ft.) – 8 Shrubs, 2 Deciduous Trees
- Standard (6,000-8,999 sq. ft.) – 16 Shrubs, 2 Deciduous Trees, 1 Evergreen Tree or 1 Ornamental Tree
- Large (9,000-14,999 sq. ft.) – 26 Shrubs, 2 Deciduous Trees, 1 Evergreen Tree or 2 Ornamental Trees
- Estate/Custom (15,000 sq. ft. and greater) – 36 Shrubs, 4 Deciduous Trees, 2 Evergreen Trees, 2 Ornamental Trees
- Lots in the eastern portion of the Community are required to have one tree in the Street/Tree lawn area.

## **SIDE YARD**

**Internal Side Yards:** May be covered in rock, no plant material is required but mulches are needed for stability.

**External Side Yards:** On corner lots exposed to public view, they shall be landscaped with turf, shrubs and trees at the rate of one tree and 10 shrubs per 40 linear feet of side yard. Lots in the eastern portion of the Community are required to have two trees in the Street/Tree lawn area.

## REAR YARD

In rear yards there shall be at least 50% bed coverage in any rock/mulch areas that exist from the back corners of the home out to the back yard fence and/or property line. Bed coverage can be a mix of trees/shrubs/ornamental grasses/perennials/etc. Owners can decide what type of bed coverage they want to install.

Natural turf shall be limited to no more than 45% of the area to be landscaped.

Artificial turf is allowed in the rear yard.

## IRRIGATION

All landscaping shall include automatic irrigation.

## XERIC OPTION

### FRONT YARD

The xeric option may require review by the Town, planning department.

**Turf Requirement:** No turf is required.

**Rock and Inorganic Mulches:** Limited to not more than 50% of the area to be landscaped. 50% of all rock and other mulch areas shall be covered with living plant material.

**Brick Pavers, Asphalt Pavers, and Natural Stone:** Limited to not more than 40% of the landscaped area.

**Features:** One of the following features shall be incorporated:

- Wall – 1 to 2.5 feet high decorative natural stone, stucco or approved CMU.
- Berms – low earth berm 2.5 feet tall max, slopes not to exceed one foot rise for each 4 feet of run.
- Natural Boulders – 2 – two feet by three feet minimum.
- Lots in the eastern portion of the Community are required to have one tree in the Street/Tree lawn area.

### SIDE YARD

**Internal Side Yards:** May be covered in rock, no plant material is required but mulches are needed for stability.

**External Side Yards:** On corner lots exposed to public view, they shall be landscaped by combining visible side and front yard areas and applying front yard standards. Lots in the

eastern portion of the Community are required to have two trees in the Street/Tree lawn area.

## **REAR YARD**

Turf or xeric landscaping is not required except when the rear yard at a corner lot is exposed to public view, then it shall be landscaped with turf or xeric landscaping.

In rear yards there shall be 50% bed coverage in any rock/mulch areas that exist from the back corners of the home out to the back yard fence and/or property line. Bed coverage can be a mix of trees/shrubs/ornamental grasses/perennials/etc. Owners can decide what type of bed coverage they want to install.

Natural turf shall be limited to no more than 45% of the area to be landscaped. Artificial turf is allowed in the rear yard.

## **IRRIGATION**

All landscaping shall include automatic irrigation.

\_\_\_\_\_ - 50% Bed Coverage Calculations

“X” = total square footage of rock and wood mulch area (Example 2,200 sf.) “X” times 50% = “Y” ( 2,200 times 50% = 1,100)

“Y” minus 100 sf. for each evergreen tree located in the shrub bed area = “Z” (2 evergreen trees, 1,100 minus 200 = 900)

“Z” divided by 16 sf = the total number of shrubs needed to meet the 50% bed coverage requirement. (900 divided by 16 = 56 shrubs required)

Shrubs = 5 gal containers minimum

Three 1 gal ornamental or perennial containers = 1 shrub

# **Transportation Letter**



## **ALDRIDGE TRANSPORTATION CONSULTANTS, LLC**

*Advanced Transportation Planning and Traffic Engineering*

John M.W. Aldridge, PE, PTOE, AICP  
Colorado Registered Professional Engineer

1082 Chimney Rock Road  
Highlands Ranch, CO 80126  
Fax: 303-703-9152  
Mobile: 303-594-4132  
Email: [john@atceng.com](mailto:john@atceng.com)

June 14, 2016

Russ Burrows, P.E.  
Senior Project Manager  
Calibre Engineering  
9090 S. Ridgeline Blvd.  
Highlands Ranch, CO 80129

Re: Auxiliary Lane Improvement Triggers on SH-52  
Mountain Sky – Ft. Lupton, CO

Dear Russ:

Pursuant to your request, we have determined the number of homes it would take to trigger the warrant for a right turn deceleration lane and a left turn deceleration lane at the intersection of SH-52 and CR 29 ½. Our determination is based on information in the Mountain Sky Traffic Impact Study dated March 11, 2016.

According to recent traffic movement counts, the existing right turn volume is 5 vph in the AM peak hour and 10 in the PM peak hour. The existing left turn volume is 2 vph in the AM peak hour and 4 in the PM peak hour. The State Highway Access Code requires a right turn lane when the turning traffic is greater than 25 vph and a left turn lane when the turning traffic is greater than 10 vph. The Code requires a 600-foot deceleration lane including an 18.5:1 taper for both movements. The left turn lane would also add storage length based on the number of turning movements. In this case, probably 25 feet.

The estimated trip generation and trip distribution is based on full build out of 200 homes. In the AM peak hour, the project will generate 23 vph right turning movements and in the PM peak hour 85 vph. The project will generate 7 vph left turning movements and 15 vph in the PM peak hour. At full build out both turning lanes are warranted.

To warrant the right turn deceleration lane, the project will need to add 15 vph. That represents approximately 20 percent of the full build out or 40 homes. To warrant the left turn deceleration lane, the project will need to add 6 vph. That represents approximately 40 percent of the full build out or 80 homes.



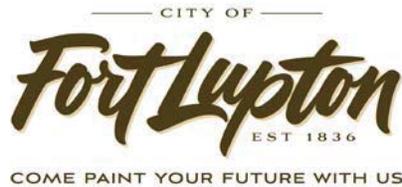
We trust this information will be of assistance in the development of Mountain Sky. ATC appreciates the opportunity to be of service. Please call if you have any questions. We can be reached at 303-703-9112 or email at [john@atceng.com](mailto:john@atceng.com)

Respectfully submitted,

**Aldridge Transportation Consultants, LLC**

John M.W. Aldridge, P.E.  
Principal

# **Legal Notifications**



**CITY OF FORT LUPTON  
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City of Fort Lupton is in receipt of an application for a preliminary PUD plat for a proposed residential subdivision referred to as the Mountain Sky Subdivision and final PUD plat for filing one for the proposed Mountain Sky Subdivision located north and adjacent to County Road 12 and west and adjacent to County Road 29 ½, Fort Lupton, Colorado in the Planned Unit Development (PUD) Zone District, pursuant to the City of Fort Lupton Municipal Code Notice Requirements.

The public hearings are to be held before the Planning Commission on September 20, 2016, at 6:00 P.M., and before the City Council on October 3, 2014, at 7:00 P.M. or as soon as possible thereafter.

The public hearings shall be held in the City Hall, 130 South McKinley Avenue, Fort Lupton, Colorado, or at such other time or place in the event this hearing is adjourned. Further information is available through the City Planning and Building Department at (303) 857-6694, Extension 128.

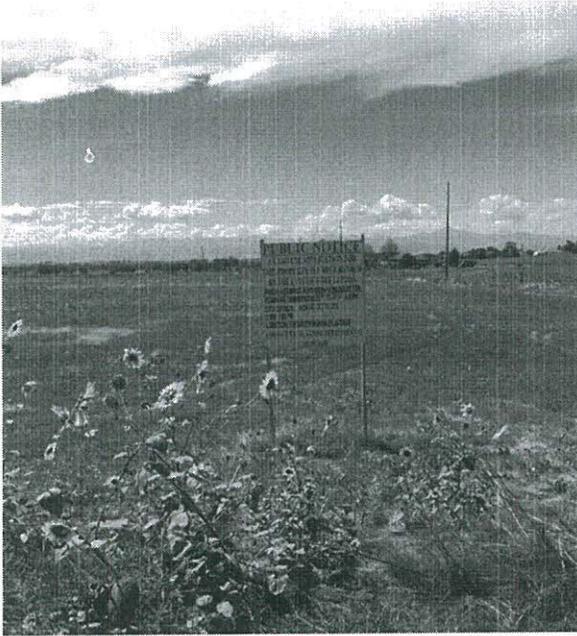
**ALL INTERESTED PERSONS MAY ATTEND.**

**LEGAL DESCRIPTION**

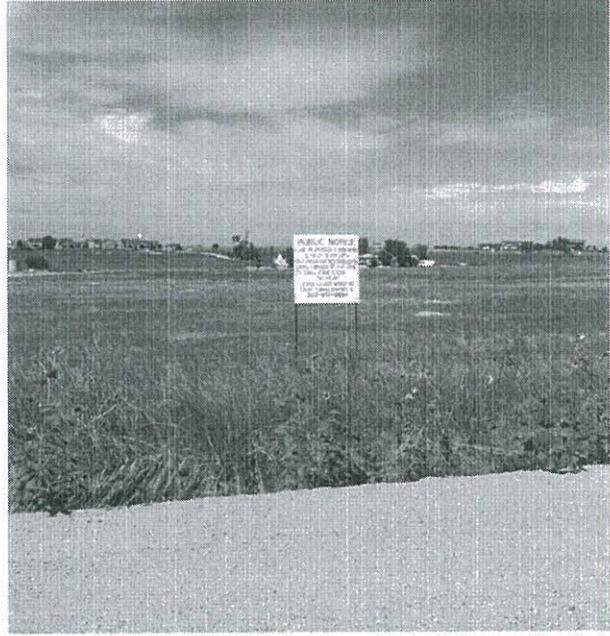
LOT B RECORDED EXEMPTION NO. 1471-04-3 RE-2046, RECORDED AUGUST 21, 1997 IN BOOK 1622 AT RECEPTION NO. 2564863, BEING A PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 66 WEST, WELD COUNTY, COLORADO.

**Sign Posting Affidavit**

Mountain Sky Preliminary PUD Plan & Final PUD Plan – First Filing  
Project Nos. PPL2016-001 & FPL2016-001



COUNTY ROAD 29 1/2



COUNTY ROAD 12

I, Gene Osborne hereby acknowledge that the aforementioned property was posted in accordance with City Codes. Said public hearing notice was posted on this 2 day of September, 2016.

Signature of Owner or Owner's Representative

The foregoing instrument was acknowledged before me by Gene Osborne, this 2 day of Sept, 2016. Witness my hand and seal.

My commission expires 5/23/2020.

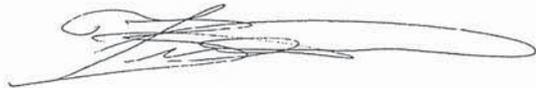
Notary Public

(SEAL)

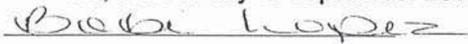


**PROOF OF PUBLICATION  
FORT LUPTON PRESS  
COUNTY OF WELD SS.  
STATE OF COLORADO**

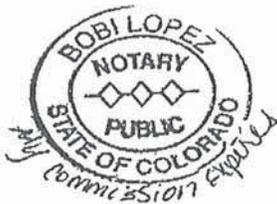
I, Tim Zeman, do solemnly swear that I am the Publisher of the **Fort Lupton Press** is a weekly newspaper printed and published in the County of Weld State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said county of Weld for a period of more than fifty-two consecutive weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado. That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the **period of ONE consecutive insertion(s)** and that the first publication of said notice was in the issue of newspaper, dated **7th day of September 2016** the last on the **7th day of September 2016**



Managing Editor, Subscribed and sworn before me, this **7th day of September 2016**



Notary Public.  
Notary ID No. 20024002511



My Commission Expires February 2, 2018

**CITY OF FORT LUPTON  
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City of Fort Lupton is in receipt of an application for a preliminary PUD plat for a proposed residential subdivision referred to as the Mountain Sky Subdivision and final PUD plat for filing one for the proposed Mountain Sky Subdivision located north and adjacent to County Road 12 and west and adjacent to County Road 29 1/2, Fort Lupton, Colorado in the Planned Unit Development (PUD) Zone District, pursuant to the City of Fort Lupton Municipal Code Notice Requirements.

The public hearings are to be held before the Planning Commission on September 20, 2016, at 6:00 P.M., and before the City Council on October 3, 2014, at 7:00 P.M. or as soon as possible thereafter.

The public hearings shall be held in the City Hall, 130 South McKinley Avenue, Fort Lupton, Colorado, or at such other time or place in the event this hearing is adjourned. Further information is available through the City Planning and Building Department at (303) 857-6694, Extension 128.

**ALL INTERESTED PERSONS MAY  
ATTEND.**

**LEGAL DESCRIPTION**

LOT B RECORDED EXEMPTION NO. 1471-04-3 RE-2046, RECORDED AUGUST 21, 1997 IN BOOK 1622 AT RECEPTION NO. 2564863, BEING A PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 66 WEST, WELD COUNTY, COLORADO.

Published in the Fort Lupton Press  
September 7, 2016

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## CERTIFICATE OF MAILING

I, the undersigned, hereby certify that on the 1<sup>st</sup> day of September 2016, a true and correct copy of the Notice of Public Hearings for the preliminary PUD plat and final PUD plat for filing one for the proposed Mountain Sky Subdivision and the preliminary PUD plat map and final PUD plat map for filing one was sent via United States Mail, postage pre-paid, to the following addresses:

Royce L. Powell  
14425 County Road 12  
Fort Lupton, CO 80621-8205

Kenneth B. Hickey  
14405 County Road 12  
Fort Lupton, CO 80621-8205

FL Mountain Sky LLC  
500 Fairfax Street  
Denver, CO 80220-5133

George Paul & Anna Marie  
Taylor  
1308 7<sup>th</sup> Street  
Fort Lupton, CO 80621-1628

Thomas M. Holton  
12032 Highway 52  
Fort Lupton, CO 80621-8360

Fort Lupton One Hundred Ten  
c/o John J. Vandemoer  
8791 Circle Drive  
Westminister, CO 80031-3675

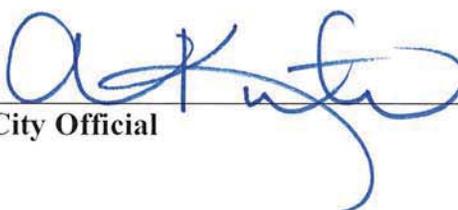
Appel Farms Homeowners Assoc Inc  
PO Box 30  
Frederick, CO 80530-0030

King LLC  
47074 County Road 29  
Fort Lupton, CO 80621-8322

Jack & Cynthia Fitzsimmons  
PO Box 1412  
Nederland, CO 80466-1412

Perry M-J Company  
14286 Highway 52  
Fort Lupton, CO 80621-8223

Fort Lupton Highlands – 160  
c/o John J. Vandemoer  
8791 Circle Drive  
Westminister, CO 80031-3675

  
\_\_\_\_\_  
City Official



**CITY OF FORT LUPTON  
NOTICE OF PUBLIC HEARING**

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**ALL INTERESTED PERSONS MAY ATTEND.**

**LEGAL DESCRIPTION**

LOT B RECORDED EXEMPTION NO. 1471-04-3 RE-2046, RECORDED AUGUST 21, 1997 IN BOOK 1622 AT RECEPTION NO. 2564863, BEING A PART OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 1 NORTH, RANGE 66 WEST, WELD COUNTY, COLORADO.





# Rokeh Consulting, LLC

August 23, 2016

Kerr-McGee Oil and Gas Onshore LP  
Attn: Wattenberg Surface Land  
1099 18<sup>th</sup> Street, Suite 1800  
Denver, CO 80202

RE: Mountain Sky Subdivision Planning Commission and City Council Hearings  
City of Fort Lupton Case # FPL2016-001 & PPL2016-001  
SW 1/4 OF SEC 4, TWN 1 NORTH, RNG 66 WEST OF THE 6TH PM  
Weld County Roads 29 ½ and 12 – Fort Lupton, CO

To Whom it May Concern,

FL Mountain Sky has been scheduled for both Planning Commission and City Council meetings for the Mountain Sky subdivision proposed at the intersection of County Road 29 ½ and County Road 12 in Fort Lupton. The official Fort Lupton schedule for this project has been included with this letter as well as a project summary letter. The Planning Commission meeting for the project has been set for September 20, 2016 at 6PM and the City Council meeting has been set for October 3, 2016 at 7PM.

The subdivision application and plans have been designed and submitted taking into account the surface use agreement areas that we worked out with Ali Weaver in 2015.

If you have any questions or concerns regarding this application please do not hesitate to contact me at 603-387-8688 or Alyssa Knutson (City of Fort Lupton) at 720-466-6128.

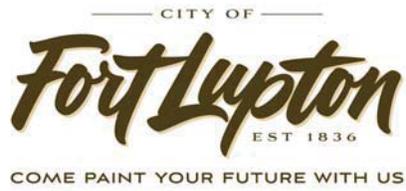
Sincerely,



Jon Rokeh, PE

cc. Alyssa Knutson, Fort Lupton (email)  
Gene Osborne, FL Mountain Sky, LLC (email)  
Greg Panza, Calibre Engineering (email)

**89 King Road, Chichester, NH 03258 \* Telephone: 603.387.8688 \***  
**E-mail: [jon@rokehconsulting.com](mailto:jon@rokehconsulting.com) \* Website: [www.rokehconsulting.com](http://www.rokehconsulting.com)**



**SITE PLAN APPLICATION SCHEDULE**  
**Mountain Sky Subdivision**  
**FPL2016-001 & PPL2016-001**

Deadline	Date	Party Responsible
<b>Pre-Application/DRT Meeting</b>		City Staff & Applicant
<b>Application Received</b>	08/08/2016	Applicant
<b>Application Deemed Complete</b>	08/08/2016	City Staff
<b>Target Date to Send Referrals</b>	08/17/2016	City Staff
<b>Submit Newspaper Publication</b> By noon on the Friday prior to first publication 15 days prior to Planning Commission <i>Municipal Code §16-173(a)(6)</i>	08/26/2016	City Staff
<b>DRT Submittal Meeting</b>	08/30/2016	Design Review Team
<b>Newspaper Publication</b>	08/31/2016	
<b>Deadline to Post Property</b> <i>Municipal Code §16-173(a)(7)</i> 15 days prior to Planning Commission and City Council public hearings	09/05/2016	Staff will provide the signs. Applicant must place them at the property.
<b>Deadline to Notify Neighbors &amp; Mineral Interests</b> 15 days (approximately)	09/05/2016	City Staff
<b>Referral Responses Due</b>	09/12/2016	
<b>Deadline to Distribute Planning Commission Packet</b> Thursday prior to Planning Commission hearing	09/15/2016	City Staff
<b>Planning Commission Hearing</b> Resolution approving site plan	09/20/2016	Applicant Attendance Required
<b>Deadline to Submit AM and Ordinance to City Administrator</b> Typically by Noon on the Thursday before City Council	09/29/2016	City Staff
<b>City Council Hearing</b> 45-60 days after application deemed complete - based on hearing schedule.	10/03/2016	Applicant Attendance Required



March 10, 2016

Todd A. Hodges  
City of Fort Lupton  
130 S. McKinley Ave.  
Fort Lupton, CO 80621

Mr. Hodges,  
Please find below the project narrative and PUD information as requested:

## **Project Narrative**

### **Location**

- The Mountain Sky Development is located within the south half of the southwest quarter of Section 4, Township 1 North, Range 66 West of the 6<sup>th</sup> Principal Meridian and more specifically at the northwest corner of County Road 29 ½ and County Road 12.

### **Description**

- The existing site is or was currently used as farmland.
- Existing portions of the land will remain under the control of oil and gas and are noted in the plans.
- The project proposes to develop the remaining area (~77 acres) with approximately 199 single-family residences and associated infrastructure.
- A drainage channel is proposed on the northern and western property lines to convey existing off-site flows around the development.
- The development is expected to develop over the course of 6 separate filings.
- Improvements to both County Road 29 ½ and County Road 12 are proposed throughout the development of the entire project.

### **Filing 1 Specifics**

- Layout and construct infrastructure for 44 single-family residences
- Build detention pond
- Build drainage channel
- Build sanitary sewer to tie in point
- Build north half of 29 ½ to the first access location as depicted in plans. .

### **Variations from standards requested**

- Variations from the standards for this development are stated below. The current development was designed while the regulations were still being developed and these issues have been vetted through the city for concurrence.
- Maximum depth of detention pond is designed at 7.5ft vs. 5 ft maximum stated in recent regulation. A deeper pond section was used as we were instructed to release at the 5 year historic rate vs. the typical requirement to release at the 100 year historic rate. The deeper pond allows us to do this with less impacts to the development.
- The Pond Cross slope is 2% vs. 3% stated in regulations. The 3% was burdensome due to the ground water and the needed size for the pond. 2% corresponds to UDFCD standards.
- A circular shaped cul-d-sac was used in lieu of the proposed teardrop shaped cul-d-sacs in the newest regulation. A standard cul-d-sac shown in prior regulations was used.

- Proposed local road ROW is 50' vs. 60' stated in regulations. Smaller section due to attached walks vs detached walks as shown below.
- Proposed local roads propose attached sidewalks vs. detached.
- Local roads are designed at 25mph vs. regulations requested road to be designed 30mph.
- Setbacks
- Regulations state that cul-de-sacs can only be 500' or serve 15 dwelling units, whichever is greater. However, one of the cul-d-sacs proposes a length of ~600' and serves 21 units. (This is proposed for filing IV).
- Channel side slopes are 3:1 vs. regulations requiring 4:1 which meets UDFCD requirements at the time of design.

**PUD Information**

- The PUD closely resembles the R3 zoning stated in Ft. Lupton's municipal code.
- A landuse chart is shown below and also included in the plans which states the primary uses and associated setbacks along with comparisons to R3 zoning.
- Attached to this document is the zoning requirements in the same format as Ft. Lupton regulations

<b>PUD ZONING REQUIREMENTS</b>		
<b>PARCEL</b>	<b>CODE</b>	<b>R3 CODE</b>
AREA(AC)	76.95	NA
ALLOWABLE LAND USE	SFD	SFD, MFD
PERMITTED DENSITY	4-6	24
MAXIMUM UNITS	199	NA
MINIMUM LOT SIZE (SF)	5500	5000
MINIMUM LOT WIDTH	55	30
MAXIMUM LOT COVERAGE	45%	NA
<b>PRIMARY USES</b>		
MAXIMUM HEIGHT	35	35
MINIMUM SETBACK FOR ALL STRUCURES FROM ARTERIALS	35	NA
MINIMUM SETBACK FOR ALL STRUCURES FROM COLLECTOR	35	NA
MINIMUM FRONT YARD SETBACK FOR PRINCIPLE STRUCURE	25	25
MINIMUM FRONT YARD SETBACK - GARAGE (NON-GARAGE DOOR SIDE)	25	25
MINIMUM FRONT YARD SETBACK - GARAGE (GARAGE DOOR SIDE)	25	25
MINIMUM SIDE YARD SETBACK	5	5
MINIMUM REAR YARD SETBACK	20	20
MINIMUM DWELLING SIZE (SF)	900	900
<b>ACCESSORY USE</b>		
HEIGHT	15	NA
FRONT SETBACK	25	20
SIDE SETBACK	5	NA
REAR SETBACK	5	NA

## Mountain Sky PUD Zoning Regulations

- a) Intent. The PUD Zone District is intended to provide for the establishment of single-family uses including the necessary appurtenant and accessory facilities and uses associated with such living areas.
- b) No multi-family building will be allowed within this PUD.
- c) Permitted uses. Only single family homes and park areas are permitted within this PUD.
- d) Special uses. No special uses are allowed within this PUD:
- e) Height. No building hereafter erected or structurally altered shall exceed thirty-five (35) feet in height or two (2) stories above the foundation or basement ceiling level.
- f) Rear yard setback. Twenty (20) feet. Patios, covered, enclosed or uncovered, may extend not more than ten (10) feet into the rear yard setback. The rear yard must be on the opposite side of the lot as the front yard.
- g) Side yard setback. Five (5) feet.
- h) Corner setback. A yard of not less than twenty (20) feet shall be maintained between the side lot line abutting the side street and the main building.
- i) Front yard setback. Twenty-five (25) feet. Residential structures located on corner lots shall be designed and constructed so that the front of the structure faces the front yard setback.
- j) Accessory building setback. An accessory building or utility shed may not be located so as to encroach on adjacent public or private property or easements. In no instance shall an accessory building or utility shed be permitted in the front yard. Said buildings shall be set back a minimum of twenty (20) feet from any side street on a corner lot.
- k) Minimum lot area. Five thousand (5,500) square feet per dwelling.
- l) Minimum square feet of floor area:

<i>Dwelling</i>	<i>Square Feet</i>
Ranch style	900
Bi-level	750
Tri-level	800
Two-story	750
Multi-family	500 per dwelling unit

(m) Lot frontage. A minimum of thirty (55) lineal feet measured along the front property line must be maintained.

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  - Adult Signature Required \$0.00
  - Adult Signature Restricted Delivery \$0.00

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City, State, Z

0234 03

**AUG 24 2016**  
Postmark Here

USPS 08/24/2016

**Kerr-McGee Oil and Gas Onshore LP**  
Attn: Wattenberg Surface Land  
1099 18<sup>th</sup> Street, Suite 1800  
Denver, CO 80202

2249 90E0 0000 0E7E 5702

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Kerr-McGee Oil and Gas Onshore LP  
Attn: Wattenberg Surface Land  
1099 18<sup>th</sup> Street, Suite 1800  
Denver, CO 80202



9590 9402 1892 6104 9804 51

2. Article Number (Transfer from service label)

7015 3430 0000 0306 6477

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery

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- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

(over \$500) Restricted Delivery

# Referral Responses



FROM: Alyssa Knutson  
 DATE: 08/17/2016  
 PROJECT: Mountain Sky Subdivision  
 FP2016-001 and PPL2016-001

**INTERNAL DISTRIBUTION:**

- |  |  |   |
|--|--|---|
| <input checked="" type="checkbox"/> City Engineer      | <input checked="" type="checkbox"/> City Attorney      | <input checked="" type="checkbox"/> Police Chief          |
| <input type="checkbox"/> City Administrator            | <input checked="" type="checkbox"/> City Clerk         | <input checked="" type="checkbox"/> Public Works Director |
| <input checked="" type="checkbox"/> Building Inspector | <input checked="" type="checkbox"/> Recreation Manager | <input checked="" type="checkbox"/> Zoning Compliance     |
| <input checked="" type="checkbox"/> OMI                | <input checked="" type="checkbox"/> GIS Specialist     | <input checked="" type="checkbox"/> Finance Director      |

**OUTSIDE DISTRIBUTION:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Fort Lupton Fire Protection District | <input checked="" type="checkbox"/> Weld County Department of Public Health & Environment |
| <input checked="" type="checkbox"/> CDOT                                 | <input checked="" type="checkbox"/> Weld County School District RE-8                      |
| <input checked="" type="checkbox"/> Colorado DRMS                        | <input type="checkbox"/> NCWCD  |
| <input checked="" type="checkbox"/> Colorado Parks and Wildlife          | <input checked="" type="checkbox"/> Fulton Ditch Company                                  |
| <input type="checkbox"/> Division of Water Resources                     | <input type="checkbox"/> Platteville Ditch Company  |
| <input checked="" type="checkbox"/> Army Corp of Engineers               | <input type="checkbox"/> City of Brighton   |
| <input checked="" type="checkbox"/> United Power                         | <input type="checkbox"/> Town of Frederick  |
| <input checked="" type="checkbox"/> Comcast                              | <input type="checkbox"/> Town of Platteville  |
| <input checked="" type="checkbox"/> CenturyLink                          | <input type="checkbox"/> City of Dacono   |
| <input checked="" type="checkbox"/> Xcel Energy                          | <input type="checkbox"/> Town of Firestone  |
| <input checked="" type="checkbox"/> Postmaster                           | <input checked="" type="checkbox"/> Other: Buildings and Grounds                          |
| <input checked="" type="checkbox"/> Weld County Department of Planning   | <input checked="" type="checkbox"/> Other: J&T Consulting                                 |

If you have comments, please respond by: 09/12/2016

Comments may be sent via mail, faxed to 303.857.0351 or emailed to [thodges@fortlupton.org](mailto:thodges@fortlupton.org) and [aknutson@fortlupton.org](mailto:aknutson@fortlupton.org). A non-response to this referral may be considered a favorable response.

COMMENTS:

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DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
DENVER REGULATORY OFFICE, 9307 SOUTH WADSWORTH BOULEVARD  
LITTLETON, COLORADO 80128-6901

**RE: Section 404 of the Clean Water Act Initial Comments**

To whom it concerns:

In accordance with Section 404 of the Clean Water Act, the Corps of Engineers regulates the discharge of dredged or fill material, and any excavation associated with a dredged or fill project, either temporary or permanent, into waters of the United States (WOUS). You should notify this office if the project proposed falls within these regulated activities because the project may require a Department of the Army Section 404 permit.

A WOUS may include ephemeral and/or perennial streams, wetlands, lakes, ponds, drainage ditches and irrigation ditches. A wetland delineation must be conducted, and verified by the Corps of Engineers, using the methods outlined in the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory 1987) and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual*: (using applicable Regional Supplement) to determine wetlands based on the presence of three wetland indicators: hydrophytic vegetation, hydric soils, and wetland hydrology. Wetland delineations must be conducted in the field by a qualified environmental consultant and any aquatic resource boundaries must be identified accordingly. Once the aquatic resources have been identified, only this office can determine if they are WOUS. Please note that development of the upland areas, avoiding stream and wetland resources, does not require authorization from this office.

Nationwide Permits (NWP) authorize common types of fill activities in WOUS that will result in a minimal adverse effect to the environment. Descriptions of the 52 types of nationwide permit activities and their general conditions can be found on our website: <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Colorado.aspx>. Some fill activities require notifying the Corps before starting work. Also, some types/sizes of work may require additional information or mitigation.

Regional General Permits (RGP) authorize specific types of fill activities in WOUS that will result in a minimal adverse effect to the environment. Descriptions of the 4 types of regional general permit activities and their general conditions can be found on our website: <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Colorado/RegionalGeneralPermits.aspx>. These fill activities require notifying the Corps before starting work, and possibly other local or state agencies. Also, some types/sizes of work may require additional information or mitigation. Please note several of the RGP's are applicant and location specific.

Individual permits may authorize fill activities that are not covered under the NWP or Regional General Permits (RGP's). This permit will be processed through the public interest review procedures, including public notice and receipt of comments. An alternative analysis (AA) must be provided with this permit action. The AA must contain an evaluation of environmental impacts for a range of alternatives. These alternatives should include the preferred action, no action alternative, and other action alternatives that would be the identified project purpose. Other action alternatives should include other practicable (with regards to cost, logistics, and technology) that meet the overall project purpose. The alternatives could include offsite alternatives and alternative designs. When evaluating individual permit applications, the Corps can only issue a permit for the least environmentally damaging practicable alternative (LEDPA). In some cases, the LEDPA may not be the applicant's preferred action. The individual permit application form and form instructions can be found on our website: <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/ObtainPermit.aspx>.

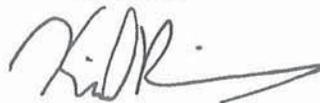
If the activity requires a Department of the Army permit as a result of any impacts to WOUS or any earth disturbances within that resource, a federal action will occur. For the Corps to make a permit decision, the applicant must provide enough information to demonstrate compliance with Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA).

The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to WOUS to the maximum extent practicable at the project site. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. Any loss of an aquatic site may require mitigation. Mitigation requirements will be determined during the Department of the Army permitting review.

If the information that was submitted could impact WOUS, which are jurisdictional resources, this office should be notified. If a section 404 permit is required, work in an aquatic site should be identified by the proponent of the project and be shown on a map identifying the Quarter Section, Township, Range and County, Latitude and Longitude, Decimal Degrees (example 39.55555; -104.55555) and the dimensions of work in each aquatic site.

If there are any questions, please call the Denver Regulatory Office at 303-979-4120.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kiel Downing', with a long horizontal flourish extending to the right.

Kiel Downing  
Chief, Denver Regulatory Office



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Enclosures:  
-PCN Requirements

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## Pre-Construction Notification (PCN) Requirements

(Nationwide Permit General Condition No. 31  
from the February 21, 2012 Federal Register)

US Army Corps of Engineers,  
Omaha District, Denver Regulatory Office  
9307 South Wadsworth Blvd,  
Littleton, CO 80128  
Phone: (303) 979-4120

Website: <http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Colorado.aspx>

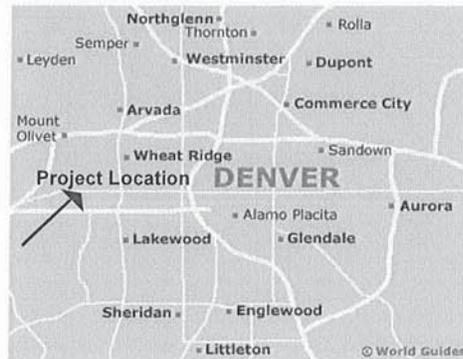
### Contents of Pre-Construction Notification:

The PCN must be in writing and include the following information:

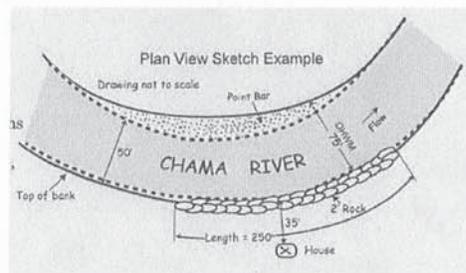
- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- (4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and
- (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(8) Attach map and sketches- examples shown here.

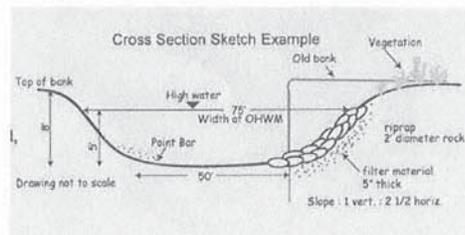
**Location Map:** Photocopy from road or topo map; indicate site location, any landmarks, etc.



**Plan View Sketch:** "Bird's-eye view"; include all features- distances, length and width; dimensions of features and stream/wetlands.



**Cross Section Sketch:** "Cut away view"; include heights, widths of structures, channel, wetland, bank slopes, etc.





COME PAINT YOUR FUTURE WITH US

## Planning & Building

130 S. McKinley Avenue  
Fort Lupton, CO 80621

Phone: 303-857-6694

Fax: 303.857.0351

[www.fortlupton.org](http://www.fortlupton.org)



August 18, 2016

### Via U.S. Mail

U.S. Army Corp of Engineers  
Denver Regulatory Office  
9307 S. Wadsworth Blvd.  
Littleton, CO 80128-6901

Re: Mountain Sky Subdivision Preliminary Plat and Final Plat Filing #1;  
Project Nos. PPL2016-001 & FPL2016-001

To Whom It May Concern,

The City of Fort Lupton is currently reviewing a land use application submitted for the Mountain Sky Subdivision Preliminary Plat and Final Plat for Filing #1. I am enclosing application materials that were submitted by the applicant for the proposed subdivision. Additional application documents can be found online at <http://www.fortlupton.org/567/Mountain-Sky-Subdivision>.

Any comments relevant to this request would be appreciated. Please reply by **September 12, 2016**, so that we may give full consideration to your recommendation. The public hearings for this matter are scheduled for Tuesday, September 20, 2016 at 6:00 PM before the Planning Commission and Monday, October 3, 2016 at 7:00 PM before the City Council.

If you would like to have future referral requests sent via email, please forward me the contact information for the person I should forward them to at [aknutson@fortlupton.org](mailto:aknutson@fortlupton.org) or call 720.466.6128.

Please do not hesitate to contact me with questions or concerns.

Sincerely,

Alyssa Knutson  
Planner

City of Fort Lupton

Enclosures

**From:** [Hice-Idler - CDOT, Gloria](#)  
**To:** [Todd Hodges](#)  
**Cc:** [Alyssa Knutson](#)  
**Subject:** Re: Mountainsky  
**Date:** Thursday, September 15, 2016 9:10:53 AM

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I'm sorry! I thought I had responded to this already.

The TIA indicates that this project (without background traffic included) triggers the need for an eastbound to southbound right deceleration lane and a westbound to southbound left deceleration lane. The City should request that the applicant be responsible for the construction of those lanes, assuming that they can be built using the existing ROW.

If you have any other questions, please contact me.

**Gloria Hice-Idler**  
**Region 4 Permits Manager**  
Region 4 Permits Unit - Traffic



P 970.350.2148 | C 970.381.2475 | F 970.350.2198

10601 W. 10th Street, Greeley, CO 80634

[gloria.hice-idler@state.co.us](mailto:gloria.hice-idler@state.co.us) | [www.codot.gov](http://www.codot.gov) | [www.cotrip.org](http://www.cotrip.org)



On Wed, Sep 14, 2016 at 3:02 PM, Todd Hodges <[thodges@fortlupton.org](mailto:thodges@fortlupton.org)> wrote:

Gloria  
How are you?  
I am checking in to see if you have any comments for the project.  
Thanks

Todd A. Hodges, Planning Director  
"Come Paint Your Future With Us"  
[303-994-3174](tel:303-994-3174)

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For more information please visit <http://www.symanteccloud.com>



# COLORADO

## Parks and Wildlife

Department of Natural Resources

Area 2  
4207 West County Road 16E  
Loveland, CO 80537  
P 970.472.4460 | F 970.472.4468

August 26<sup>th</sup>, 2016

Mr. Todd Hodges  
City of Fort Lupton  
130 South McKinley  
Fort Lupton, CO 80621

Dear Todd: *Hi Todd!*

We received your request for comments for the proposed Mountain Sky Subdivision project located near County Road 12 and County Road 29 ½. Colorado Parks and Wildlife staff reviewed the plan and visited the project site on August 25th to assess potential impacts the project may have on wildlife.

The property is currently occupied with a black-tailed prairie dog colony. Burrowing owls are highly associated with black-tailed prairie dog colonies in Colorado and are listed as a threatened species on the Colorado Threatened and Endangered list. Burrowing owls use prairie dog holes for nesting during the spring and summer months and use prairie dog towns as primary feed grounds during their stay in Colorado. At the time of the site visit, no burrowing owls were observed, but that does not mean they are not present. To avoid conflict with burrowing owls excavation of the site should occur between November 1<sup>st</sup> and February 28<sup>th</sup>. If construction of the site is to begin between March 15<sup>th</sup> and October 31<sup>st</sup>, Colorado Parks and Wildlife (CPW) recommends burrowing owl survey of the property by an accredited biologist which entails several site visits. Burrowing owl survey protocols can be found on the CPW website at:

<http://cpw.state.co.us/Documents/WildlifeSpecies/LivingWithWildlife/RecommendedSurveyOwls.pdf#search=Burrowing%20owl%20survey> If a burrowing owl nest site is detected, CPW recommends that construction activities occur at least 150 feet from the burrow to mitigate any adverse impact to the owls. Prior to construction of the site, any black-tailed prairie dogs that reside within the construction footprint should be humanely euthanized using methods approved by the US Department of Agriculture. Although trap/transplant efforts are an option, difficulty in finding suitable release locations will be problematic, and contacting the Weld County Commissioners is recommended. After removal of the prairie dogs, the burrows should be immediately filled in to prevent being occupied by burrowing owls or other wildlife.

If you have any questions or concerns, please contact District Wildlife Manager Chris Mettenbrink at 303-906-1979.

Sincerely,

  
Larry Rogstad  
Area Wildlife Manager

CC: M Leslie, T Kroening, L Rogstad, C Mettenbrink



MEMO

To:            Todd Hodges  
                 Alyssa Knutson

From:         Roy Vestal

Date:          September 15, 2016

Subject:      Mountain Sky Subdivision Preliminary Plat and Final Plat  
                 (PPL2016-001 & FP2016-001)  
                 Public Works Review

---

Public Works has reviewed the submitted documents for the above referenced development project with the following comments:

1. Construction Drawings
  - a. Sheet OU2 – Why the change to DIP at Hwy 52 crossing (Sheet WS6 shows as PVC)? Does Water and storm maintain 10-ft separation at MtSky Court at west end of MtSky Dr? Would prefer to avoid the jog in the water line at Mt Sky Court and the water line appears to be in contact with the storm manhole.
  - b. Be advised, review of construction drawings is for general compliance with city standards. Final approval of drawings does not infer the drawings are error free and the design engineer and owner are still responsible for any erroneous or missing details.
2. Landscape plans – CR 12 intersection may have sight triangle issues on the northwest corner.
3. Subdivision Improvement Agreement
  - a. Page 2 – revise 8.A. third line to “Completion of Phase I improvements...”. This list include off-site improvements needed (i.e. water line in CR 29½).
  - b. I would like to see a master list of phasing for all off-site improvements for all Filings to build out.

**From:** [Marisa Dale](#)  
**To:** [Alyssa Knutson](#)  
**Subject:** RE: Mountain Sky Subdivision Preliminary Plat and Final Plat (PPL2016-001 & FP2016-001)  
**Date:** Wednesday, August 24, 2016 10:59:03 AM

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Hi Alyssa,

Thank you for allowing United Power, Inc. to review and comment on the Mountain Sky Subdivision Preliminary Plat and Final Plat (PPL2016-001 & FP2016-001) project.

United Power, Inc. appreciates the 8' UE along rear of all lots.

Developer must contact United Power, Inc. for any new or modification of existing electric facilities. Additional side lot easements may be necessary and acquired by separate document depending on streetlight placement and reliable electric facility design.

Thank you,  
Marisa

Marisa Dale, RWA | [Engineering & Rates ROW](#)  
500 Cooperative Way, Brighton, CO 80603 | O 303.637.1387 | C 720.334.5282

Schedule: Mon-Thurs 7:00-4:30, every other Fri 7:00-3:30  
Off Friday Aug 26, Sep 9 & 23, Oct 7 & 21



---

**From:** Jennifer Cupp [mailto:JCupp@fortlupton.org]  
**Sent:** Thursday, August 18, 2016 10:53 AM  
**Cc:** Alyssa Knutson; Todd Hodges; Mari Pena  
**Subject:** Mountain Sky Subdivision Preliminary Plat and Final Plat (PPL2016-001 & FP2016-001)

Good Afternoon,

The documentation located at the link <http://www.fortlupton.org/567/Mountain-Sky-Subdivision> is submitted to you for review and recommendation concerning the preliminary and final plats for Mountain Sky Subdivision. Any comments you consider relevant to this request would be appreciated. Please reply by September 12, 2016 so that we may give full consideration to your recommendation. Any response not received before or on this date may be deemed to be a favorable response to the Planning & Building Department. If you have any questions, you may either contact me or Todd A. Hodges, Planning Director, at [thodges@fortlupton.org](mailto:thodges@fortlupton.org) or 303-857-6694.

Comments may be sent via mail, faxed to 303.857.0351 or emailed to [thodges@fortlupton.org](mailto:thodges@fortlupton.org) and [aknutson@fortlupton.org](mailto:aknutson@fortlupton.org).

Your time in this matter is greatly appreciated!

Alyssa Knutson  
Planner  
130 S. McKinley Ave.  
Fort Lupton, CO 80621  
Office: 303.857.6694  
Direct: 720.466.6128  
Mobile: 303.304.4498

**From:** [Marisa Dale](#)  
**To:** [Alyssa Knutson](#)  
**Subject:** FW: Mountain Sky Subdivision Preliminary Plat and Final Plat (PPL2016-001 & FP2016-001)  
**Date:** Wednesday, August 24, 2016 11:02:53 AM

---

Also, 5' wide UE along lots abutting a tract if tract does not have utility dedication. This is needed for underground electric facilities and to provide reliable electric service to future residents.

Thanks,  
Marisa

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**From:** Marisa Dale  
**Sent:** Wednesday, August 24, 2016 11:00 AM  
**To:** [AKnutson@fortlupton.org](mailto:AKnutson@fortlupton.org)  
**Subject:** RE: Mountain Sky Subdivision Preliminary Plat and Final Plat (PPL2016-001 & FP2016-001)

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500 Cooperative Way, Brighton, CO 80603 | O 303.637.1387 | C 720.334.5282

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Comments may be sent via mail, faxed to 303.857.0351 or emailed to [thodges@fortlupton.org](mailto:thodges@fortlupton.org) and



DEPARTMENT OF PLANNING SERVICES  
1555 N. 17<sup>TH</sup> AVENUE  
GREELEY, CO 80631  
970.400.3549  
FAX 970-304-6498  
kogle@weldgov.com

September 13, 2016

Todd Hodges, Planning Director  
City of Fort Lupton  
130 McKinley Avenue  
Fort Lupton, CO 80621

Subject: Mountain Sky Subdivision PUD Plan

Dear Mr. Hodges:

The Weld County Department of Planning Services has reviewed the request and has the following comments.

Transportation and Public Roads

The proposed single family residential development will access onto County Road 29.5 to the east and County Road 12 to the south. It is unclear if there is an access onto County Road 29. There is sixty feet of right-of-way on both County Roads 12 and 29.5 and both roads appear to have been annexed into Fort Lupton. Future right-of-way on County Road 29.5 will impact lands that remain in Weld County, as such the developer of the Mountain Sky subdivision should be required to compensate the property owner for the additional 25feet of right-of-way required for the full buildout cross section of County Road 29.5.

Half street improvements should not be permitted for any development. If a half street improvement is allowed for the development, the developer shall obtain the full right-of-way and compensate the abutting landowner of the other one-half (1/2) of the street. The developer should guarantee the construction of the improvements on the half-street serving the subdivision via an improvements agreement or similar agreement.

The minimum right-of-way for a publically maintained street is sixty (60) feet if this development were to occur in the County. The applicant is requesting a reduction in right-of-way to fifty (50) feet that will contain two fifteen (15) foot travel lanes and poured in place gutter and attached sidewalk. With the smaller right-of-way all parking shall be off street parking only.

The speed limit within an urban scale subdivision should be restricted to 25 miles per hour as there may be several households with young children. Increasing the speed limit may result in several unforeseen circumstances associated with the neighborhood.

Drainage Patterns

The application materials included a preliminary drainage report, and a Final Drainage report for Filing 1 only with +/- 45 residential parcels and several smaller tracts designated as open space and/or park. Tract C is identified as a detention pond without any program elements. An overview of the entire development

drainage plan was not included in this submittal review, therefore Weld County will provide additional comments for each Filing.

#### Environmental Concerns

The Weld County Department of Health and Environment was unable to respond to this referral. The following comments are generic in nature and may not address unique or related issues regarding this referral request.

Development of this site may result in dusty conditions and storm water runoff. The developer should obtain appropriate storm water discharge and emission permits from the Colorado Department of Public Health & Environment.

#### Water Availability

As required in Section 30-28-136(1)(h)(II), C.R.S., a municipality or quasi-municipality which is designated as the source of water for a proposed subdivision or other use, shall file a report with the county and state engineer documenting the amount of water which can be supplied without causing injury to existing water rights. Such a report should include a summary of water rights owned or controlled by the District, the yield of these rights both in an average year and a dry year, the present demand on the system and the anticipated demand due to commitments for service entered into by the District, and the amount of uncommitted firm supply the District has available for future development. A copy of the Water Supply Information Summary may be obtained from the Colorado Division of Water Resources.

The application materials did not include evidence of potable water. Recorded Exemption 1958 designated a private well would be utilized to serve the property initially. Property owners are advised that the quantity of water available for usage may be limited to specific uses, i.e., "Commercial Use Only," et cetera. Because each situation is unique, the property owners should contact the Office of the State Engineer, Division of Water Resources (1313 Sherman Street, Room 818, Denver, Colorado 80203. Phone 303-866-3581), to discuss each individual situation.

Each development must comply with all applicable Weld County, Colorado Department of Public Health & Environment, EPA and/or Oil & Gas regulations and any other agencies having jurisdiction over the proposed development activities. Contact the appropriate agency for site specific requirements. Potential developers should be aware that the parcel may not be eligible for a commercial well permit which allows for outside irrigation and/or the watering of plant materials. The State Division of Water Resources issues all well permits. Further, the potential developer should be aware that groundwater may not meet all drinking water standards as defined by the Colorado Department of Public Health and Environment. The Colorado Department of Public Health and Environment strongly encourages well users to test their drinking water prior to consumption and periodically thereafter.

#### Public Service Provision

There are two utility easements associated with each parcel, one eight (8) foot easement adjacent to the front and rear property lines. There are no easements adjacent to the side yards. There may be instances when a side yard easement is required for a utility service provider to gain access to better serve the development.

In the utility easement signature block for the Mountain Sky Subdivision Final Plat, Filing 1, US West is identified as the telephone service provider, this signature line should be modified to reflect CenturyLink as the service provider for telephone service.

#### Oil and Gas Development

There is an existing well located to the north of the property and identified on Mountain Sky Subdivision Final Plat, Filing 1 as a Kerr-McGee OnShore LP well. The developer should be required to obtain a

Surface Use Agreement between the mineral estate and the producer and the developer for the existing well and for the future wells to be drilled in the southwest quadrant of the development.

### Adjacent and Surrounding Properties

Lands located north, west and south have been annexed into the City of Fort Lupton and are currently large tracts of lands with limited improvements. There are two parcels of land located north of county Road 12 and west of County Road 29.5 that remain in Weld County. As these two parcels are not a part of the development, the Landscape Plan should be amended to reflect these parcels are in Weld County and therefore the designation of the green open space component should be removed from the drawing.

The parcels of land to the east of County Road 29.5 have limited development with the largest parcel vacant.

Owners of property in the area of this proposal should be made aware that agricultural uses, even when done in a manner consistent with good Agricultural practices, may generate, but are not limited to, noise, dust, flies, odors, aerial spraying and slow moving equipment on County roadways. New residents cannot expect all agricultural practices to stop for their convenience. It is important for future residents to note that adjacent properties may be in unincorporated Weld County and that Weld County supports the Right to Farm Statement (Section 22-2-20.J, Weld County Code) and recommends it be placed on all plats adjacent to unincorporated areas:

Weld County is one of the most productive agricultural counties in the United States, typically ranking in the top ten counties in the country in total market value of agricultural products sold. The rural areas of Weld County may be open and spacious, but they are intensively used for agriculture. Persons moving into a rural area must recognize and accept there are drawbacks, including conflicts with long-standing agricultural practices and a lower level of services than in town. Along with the drawbacks come the incentives which attract urban dwellers to relocate to rural areas: open views, spaciousness, wildlife, lack of city noise and congestion, and the rural atmosphere and way of life. Without neighboring farms, those features which attract urban dwellers to rural Weld County would quickly be gone forever.

Agricultural users of the land should not be expected to change their long-established agricultural practices to accommodate the intrusions of urban users into a rural area. Well-run agricultural activities will generate off-site impacts, including noise from tractors and equipment; slow-moving farm vehicles on rural roads; dust from animal pens, field work, harvest and gravel roads; odor from animal confinement, silage and manure; smoke from ditch burning; flies and mosquitoes; hunting and trapping activities; shooting sports, legal hazing of nuisance wildlife; and the use of pesticides and fertilizers in the fields, including the use of aerial spraying. It is common practice for agricultural producers to utilize an accumulation of agricultural machinery and supplies to assist in their agricultural operations. A concentration of miscellaneous agricultural materials often produces a visual disparity between rural and urban areas of the County. Section 35-3.5-102, C.R.S., provides that an agricultural operation shall not be found to be a public or private nuisance if the agricultural operation alleged to be a nuisance employs methods or practices that are commonly or reasonably associated with agricultural production.

Water has been, and continues to be, the lifeline for the agricultural community. It is unrealistic to assume that ditches and reservoirs may simply be moved "out of the way" of residential development. When moving to the County, property owners and residents must realize they cannot take water from irrigation ditches, lakes, or other structures, unless they have an adjudicated right to the water.

Weld County covers a land area of approximately four thousand (4,000) square miles in size (twice the size of the State of Delaware) with more than three thousand seven hundred (3,700) miles of state and County roads outside of municipalities. The sheer magnitude of the area to be served stretches available resources. Law enforcement is based on responses to complaints more than on patrols of the County, and the distances

which must be traveled may delay all emergency responses, including law enforcement, ambulance, and fire. Fire protection is usually provided by volunteers who must leave their jobs and families to respond to emergencies. County gravel roads, no matter how often they are bladed, will not provide the same kind of surface expected from a paved road. Snow removal priorities mean that roads from subdivisions to arterials may not be cleared for several days after a major snowstorm. Services in rural areas, in many cases, will not be equivalent to municipal services. Rural dwellers must, by necessity, be more self-sufficient than urban dwellers.

People are exposed to different hazards in the County than in an urban or suburban setting. Farm equipment and oil field equipment, ponds and irrigation ditches, electrical power for pumps and center pivot operations, high speed traffic, sand burs, puncture vines, territorial farm dogs and livestock, and open burning present real threats. Controlling children's activities is important, not only for their safety, but also for the protection of the farmer's livelihood.

Thank you for the opportunity to respond to this proposal. This response addresses general requirements, concerns or issues and is intended to assist in your community's decision making process regarding this Land use proposal. The county respectfully reserves the right to make further comment on information or issues as they are discovered.

Sincerely,



Kim Ogle  
Planner

Case File: City of Fort Lupton  
Development Review – Mountain Sky PUD



Right of Way & Permits

1123 West 3<sup>rd</sup> Avenue  
Denver, Colorado 80223  
Telephone: **303.571.3306**  
Facsimile: 303. 571.3524  
donna.l.george@xcelenergy.com

September 9, 2016

City of Fort Lupton Planning Department  
130 South McKinley Avenue  
Fort Lupton, CO 80621

Attn: Alyssa Knutson and Todd Hodges

**Re: Mountain Sky Subdivision Preliminary Plat and Final Plat  
Case #s PPL2016-001 and FP2016-001**

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the preliminary and final plats for **Mountain Sky Subdivision** and has no conflict.

The property owner/developer/contractor must contact the **Builder's Call Line** at 1-800-628-2121 or <https://xcelenergy.force.com/FastApp> (register, application can then be tracked) and complete the application process for any new gas. It is then the responsibility of the developer to contact the Designer assigned to the project for approval of design details. Additional easements may need to be acquired by separate document for new facilities.

As a safety precaution, PSCo would like to remind the developer to call the **Utility Notification Center** at 1-800-922-1987 to have all utilities located prior to any construction.

If you have any questions about this referral response, please contact me at (303) 571-3306.

Donna George  
Contract Right of Way Referral Processor  
Public Service Company of Colorado



## Fort Lupton Fire Protection District

1121 Denver Avenue • Fort Lupton, Colorado 80621

Office: (303)857-4603 • Fax: (303)857-6619 • Website: [www.fortduptonfire.org](http://www.fortduptonfire.org)

**Date: 9/13/2016**

**Project name: Mountain Sky Subdivision FDP Filing 1**

**Project address: CR 29 ½ and CR 12**

**FLFPD Project # 2016-087**

**Plan reviewer: Randall S. Weigum**

The Fire District has reviewed the submitted FDP for Mountain Sky Subdivision Filing 1 located at CR 29 ½ and CR 12. The plans were reviewed for compliance with *2012 International Fire Code (IFC)* as adopted by the Fort Lupton Fire Protection District and the City of Fort Lupton. The FDP for Mountain Sky Subdivision Filing 1 is approved with the following comments:

1. No parking fire lane signs shall be installed on both sides of the median and north/south side of Mountain Sky Drive from the entrance off of South College Avenue. See Sheet RD2 on the Fire District Comments 5.bc MTN SKY\_Filing 1\_CDs 06 30 for locations and attachment Appendix D Section D103.6 for sign requirements. *2012 IFC 503.3*
2. The temporary turnaround radius shall be extended to 48 feet to meet the requirement of the turnaround diameter of 96 feet. See attachment Appendix D Section D103.4 for approved turnarounds and length of roads for the specific type of turnaround. These temporary turnarounds shall be capable of supporting the loads of a 56,000 pound fire apparatus. See Sheets RD2 and RD3 on the Fire District Comments 5.bc MTN SKY\_Filing 1\_CDs 06 30 2016. *2012 IFC 503.2.5 and Appendix D D103.4*
3. When the number of dwelling units exceeds 30 in Filing 1, two separate and approved fire apparatus access roads shall be installed. Before the 31<sup>st</sup> building permit is released, Mountain Sky Avenue shall be extended to Cemetery Road to provide the second access into the development.

The road extension shall be capable of supporting the loads of a 56,000 pound fire apparatus, 20 feet wide and shall be surfaced and maintained to provide all-weather driving capability (gravel or road base). *2012 IFC Section 503.2.1, 503.2.3 and Appendix D Section D107.1*

4. The required fire apparatus access roadways, street signs, water lines and fire hydrants shall installed and operational before any above grade construction is commenced. *2012 IFC Section 503 and Section 507*
5. The fire hydrant located in the middle of Twilight Court can be removed because the water line has been looped. See comment on Sheet OU1 on 2. c Mtn Sky PUD 2016 08 03. *2012 IFC Appendix C Section C105.1 and Table C105.1*



## ***Fort Lupton Fire Protection District***

*1121 Denver Avenue • Fort Lupton, Colorado 80621*

*Office: (303)857-4603 • Fax: (303)857-6619 • Website: [www.fortduptonfire.org](http://www.fortduptonfire.org)*

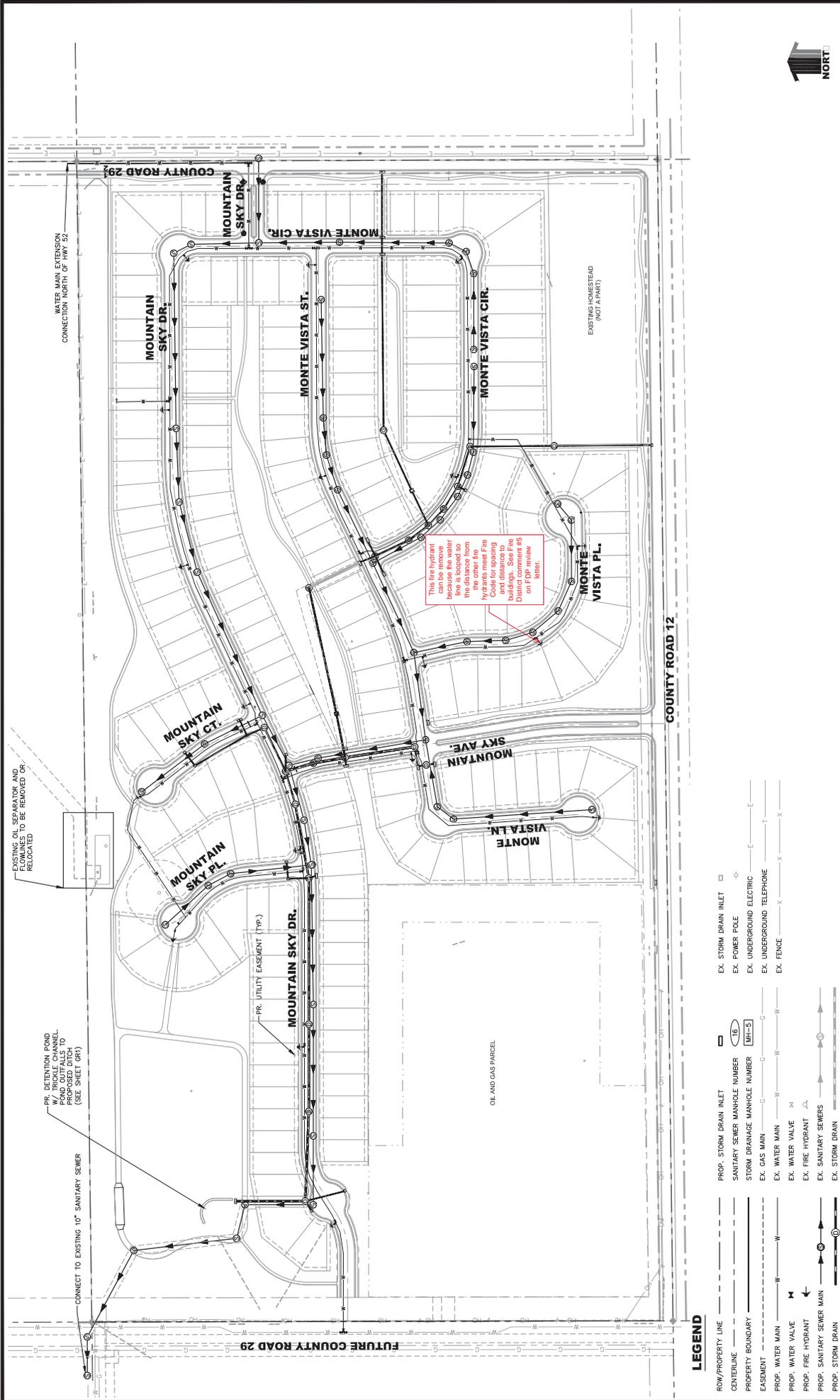
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6. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. See comment on Sheet LS1 of Fire District Comments 2. c Mtn Sky PUD 2016 08 03 and Sheet LS1 on Fire District Comments 5.e Mountain Sky Landscape and Irrigation 6\_30\_16. *2012 IFC Section 507.5.5*

Attached: Fire District Comments 2. c Mtn Sky PUD 2016 08 03

Fire District Comments 5.bc MTN SKY\_Filing 1\_CDs 06 30 2016

Fire District Comments 5.e Mountain Sky Landscape and Irrigation 6\_30\_16



**MOUNTAIN SKY  
 PLANNED UNIT DEVELOPMENT  
 OVERALL UTILITY PLAN**

**Calibre**  
 Calibre Engineering, Inc.  
 9300 South Rodgers Road, Suite 103  
 Colorado Springs, CO 80902  
 (719) 596-0434  
 www.calibre-engineering.com  
 Construction Management, Civil Engineering, Surveying



Project Name	110U1.dwg
Job Name	EQUINOX MTN SKY
Program	FORT LUPTON
Drawn	BEM
Checked	BEM
Created	GLP

DATE	REVISION DESCRIPTION

- LEGEND**
- ROW/PROPERTY LINE
  - CENTERLINE
  - PROPERTY BOUNDARY
  - EASEMENT
  - PROP. WATER MAIN
  - PROP. WATER VALVE
  - PROP. FIRE HYDRANT
  - PROP. SANITARY SEWER MAIN
  - PROP. STORM DRAIN
  - EX. STORM DRAIN INLET
  - EX. POWER POLE
  - EX. UNDERGROUND ELECTRIC
  - EX. UNDERGROUND TELEPHONE
  - EX. FENCE
  - PROP. STORM DRAIN INLET
  - SANITARY SEWER MANHOLE NUMBER
  - STORM DRAINAGE MANHOLE NUMBER
  - EX. GAS MAIN
  - EX. WATER MAIN
  - EX. WATER VALVE
  - EX. FIRE HYDRANT
  - EX. SANITARY SEWERS
  - EX. STORM DRAIN

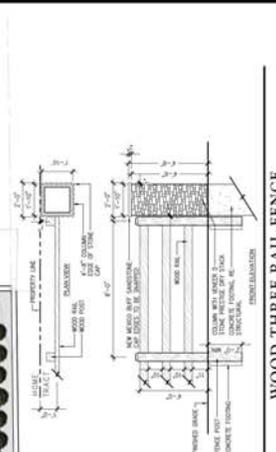


12' CONCRETE PATH  
 APPROXIMATE LOCATION OF BYPASS SWALE  
 6' WIDE CRUSHED GRANITE SOFT SURFACE TRAIL  
 DETENTION AREA

DRAINAGE SWALE/ BYPASS CHANNEL  
 NATIVE GRASS - NON IRRIGATED

WOOD THREE RAIL FENCE  
 DECIDUOUS TREES 35' O.C.  
 5' HT. PRIVACY FENCE  
 30' SIGHT TRIANGLE

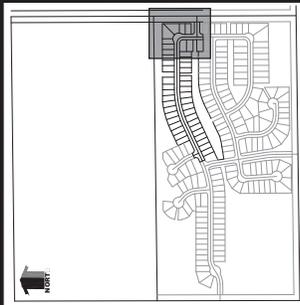
6' WIDE CRUSHED GRANITE SOFT SURFACE TRAIL  
 NATIVE GRASS  
 DECIDUOUS/ EVERGREEN TREES  
 BENCHES  
 TOT LOT



5' HT. PRIVACY FENCE  
 WOOD THREE RAIL FENCE

A 3-foot clear space shall be maintained around the circumference of all fire hydrants.

DATE	REVISION DESCRIPTION		Drawing Name: GRAPHIC PLAN.dwg Job Number: EQUINOX MTN SKY Prepared For: FORT LUPTON	Designer: BMV Drafter: CF Checked: MIV		<b>Calibre</b> Calibre Engineering, Inc. 8000 South Rodgers Boulevard, Suite 105 Fort Collins, CO 80526 www.calibre-engineering.com (970) 730-0404 Construction Management • Civil Engineering • Surveying	Sheet: <b>LS1</b> Date: 23 FEBRUARY 2016
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**KEYMAP**

- CONSTRUCTION NOTES:**
1. CONSTRUCTION DETAILS AND SPECIFICATIONS SHALL BE OTHERWISE NOTED ON PLANS. VERIFY EDITION UNLESS ALL DIMENSIONS ARE TO FINISH, EXCEPT PROFILE. VERIFY CONCRETE DIMENSIONS, UNLESS OTHERWISE NOTED.
  2. SEE LANDSCAPE PLANS FOR TRAILS/WALKS WITHIN TRACTS.
  3. SEE LANDSCAPE PLANS FOR TRAILS/WALKS WITHIN TRACTS.

**ROADWAY NOTES:**

1. VERTICAL MEDIAN SPILL CURB PER FT. LUPTON STD. DETAIL NO. R7
2. VERTICAL CATCH CURB PER FT. LUPTON STD. DETAIL NO. R7
3. MOUNTABLE CURB AND GUTTER PER FT. LUPTON STD. DETAIL NO. R8
4. CURB RAMP COMBINATION CURB, GUTTER AND WALK PER FT. LUPTON STD. DETAIL NO. R9
5. CURB RAMP BARRIER CURB AND WALK PER FT. LUPTON STD. DETAIL NO. R10



INTERSECTION DESIGN NUMBER (SEE SHEET IT1) FOR DETAILED INTERSECTION DESIGNS

- PROPOSED STORM DRAIN PIPE
- PROPOSED STORM DRAIN INLET
- PROPOSED TEMPORARY TYPE III BARRICADE, SEE SHEET D11
- INDICATES UTILITY CROSSING

**811**  
UNCS  
CALL BEFORE  
YOU DIG  
811  
OR  
1-800-922-1987  
Utility Notification  
Center of Colorado

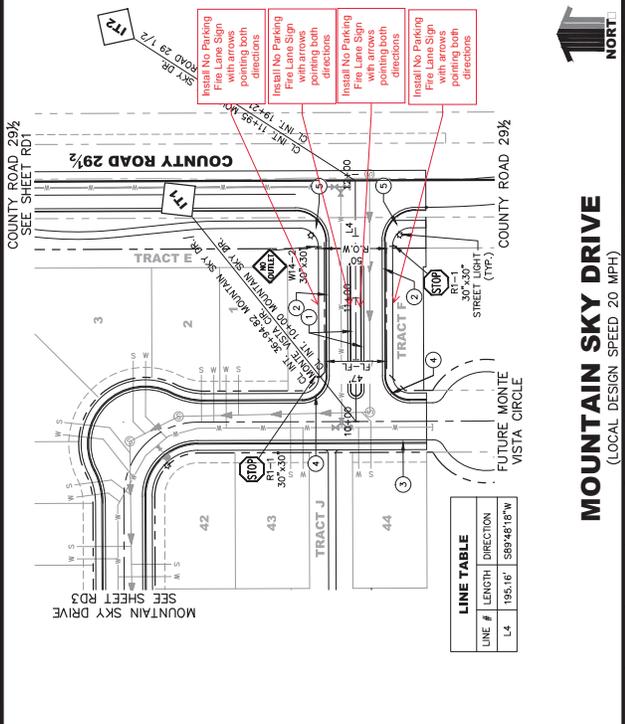
Sheet	8
of	50
Date	
Drawn	
Checked	
Reviewed	
30 JUNE 2016	

**MOUNTAIN SKY ROAD WAY PLAN AND PROFILE**

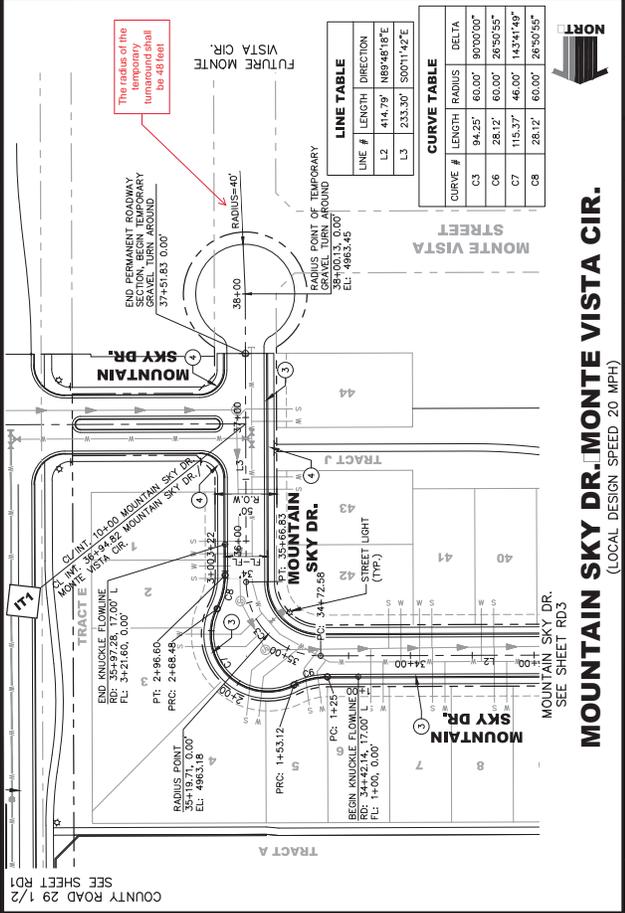
**Calibre**  
Calibre Engineering, Inc.  
1000 West 1st Ave., Suite 102  
Highlands Ranch, CO 80129  
www.calibre-engineering.com  
Construction Management, Cost Engineering, Suretying

Project No.	21003.dwg
30th Number	EQUINOX MTN SKY
Project ECL	FORT LUPTON
Checked	BEAM
Drawn	CMAM
Checked	GLP

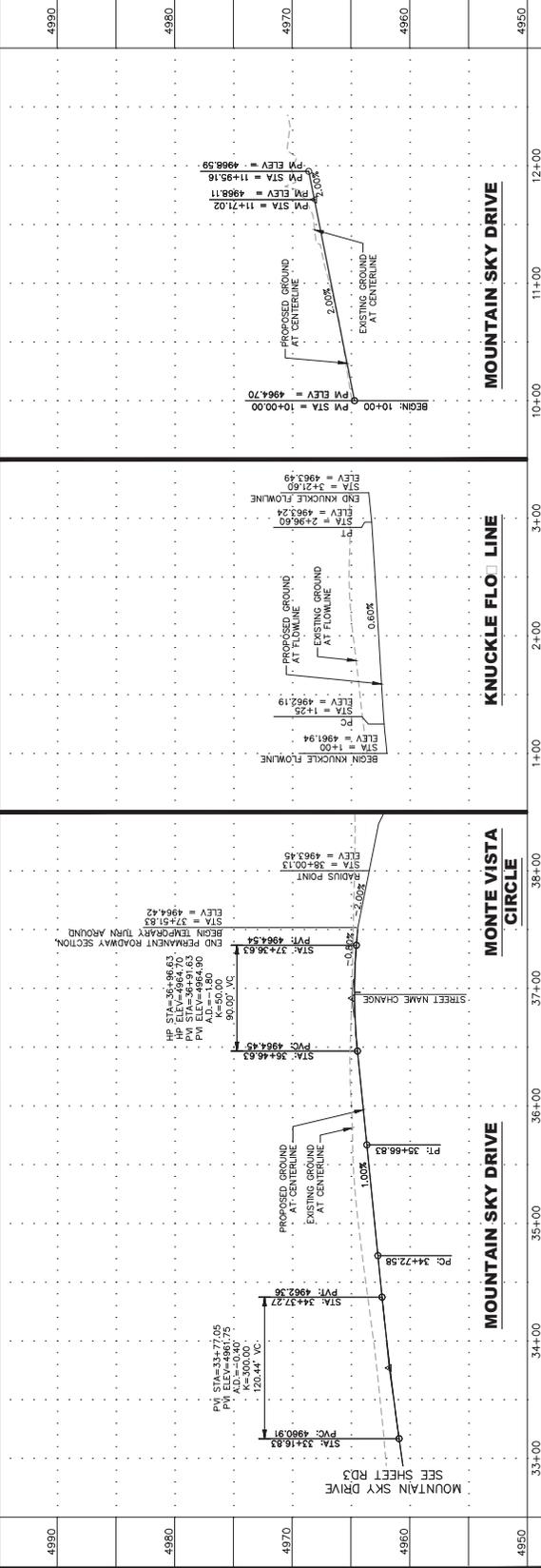
Revision	Description



**MOUNTAIN SKY DRIVE**  
(LOCAL DESIGN SPEED 20 MPH)

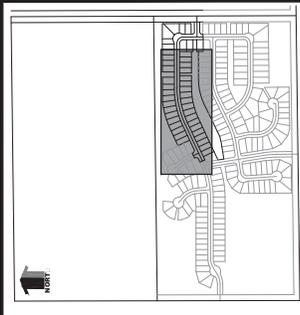


**MOUNTAIN SKY DR. MONTE VISTA CIR.**  
(LOCAL DESIGN SPEED 20 MPH)



**MOUNTAIN SKY DRIVE**

**MONTE VISTA CIRCLE**



**KEYMAP**

- CONSTRUCTION NOTES:**
1. CONSTRUCTION DETAILS AND SPECIFICATIONS SHALL BE OTHERWISE NOTED ON PLANS. BEST EDITOR UNLESS OTHERWISE NOTED.
  2. ALL DIMENSIONS ARE TO FINISH, EXCEPT PROFILE. UNLESS OTHERWISE NOTED.
  3. SEE LANDSCAPE PLANS FOR TRAILS/WALKS WITHIN TRACTS.

**ROADWAY NOTES:**

1. VERTICAL MEDIAN SPILL CURB PER FT. LUPTON STD. DETAIL NO. R7
2. VERTICAL CATCH CURB PER FT. LUPTON STD. DETAIL NO. R7
3. MOUNTABLE CURB AND GUTTER PER FT. LUPTON STD. DETAIL NO. R8
4. CURB RAMP COMBINATION CURB, GUTTER AND WALK PER FT. LUPTON STD. DETAIL NO. R9
5. CURB RAMP BARRIER CURB AND WALK PER FT. LUPTON STD. DETAIL NO. R10



- INTERSECTION DESIGN NUMBER (SEE SHEET IT1) FOR DETAILED INTERSECTION DESIGNS
- PROPOSED STORM DRAIN PIPE
  - PROPOSED STORM DRAIN INLET
  - PROPOSED TEMPORARY TYPE III BARRICADE, SEE SHEET D11
  - INDICATES UTILITY CROSSING



UNCS  
CALL BEFORE  
YOU DIG  
811  
OR  
1-800-922-1987  
Utility Notification  
Center of Colorado

Sheet	9
of	50
Date	30 JUNE 2016

**MOUNTAIN SKY ROADWAY PLAN AND PROFILE**

**Calibre**  
Calibre Engineering, Inc.  
1000 North Lincoln Street, Suite 100  
Highlands Ranch, CO 80129  
www.calibre-engineering.com  
Construction Management, Cost Engineering, Surveying

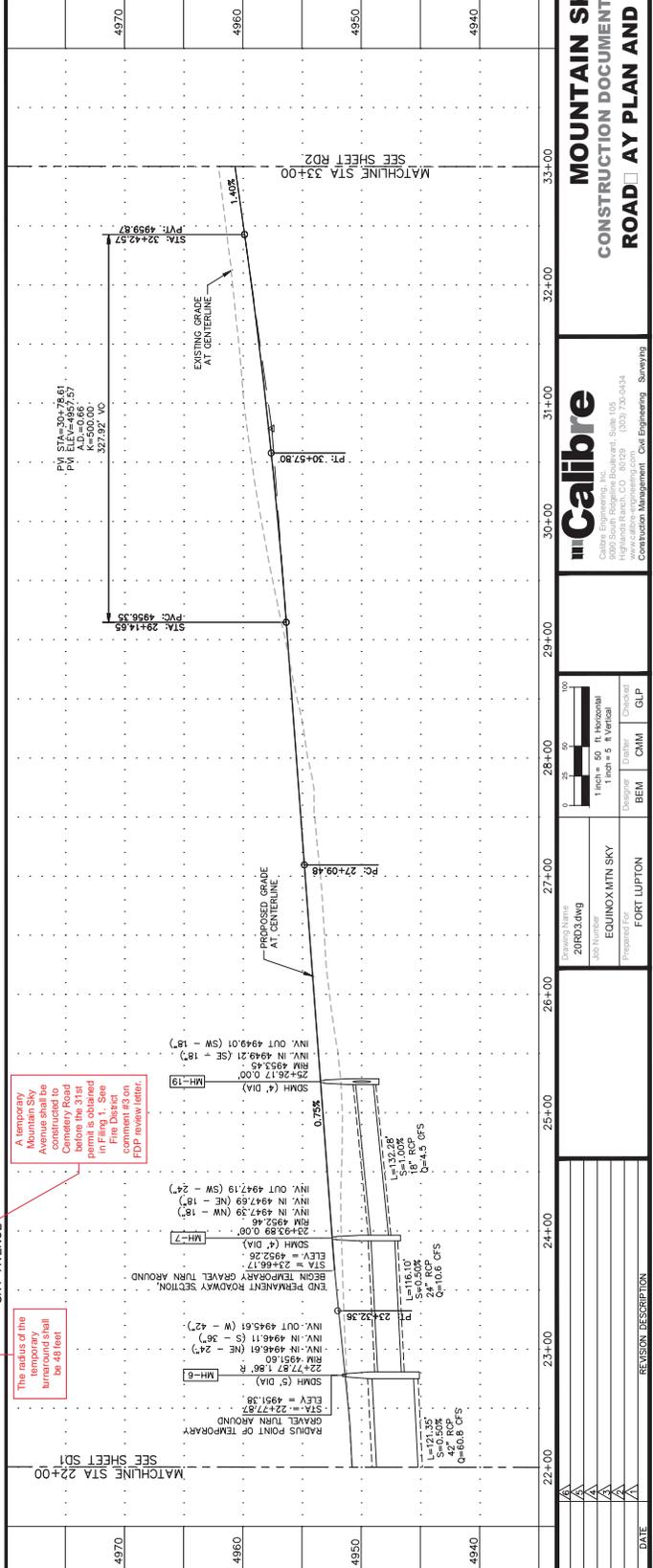
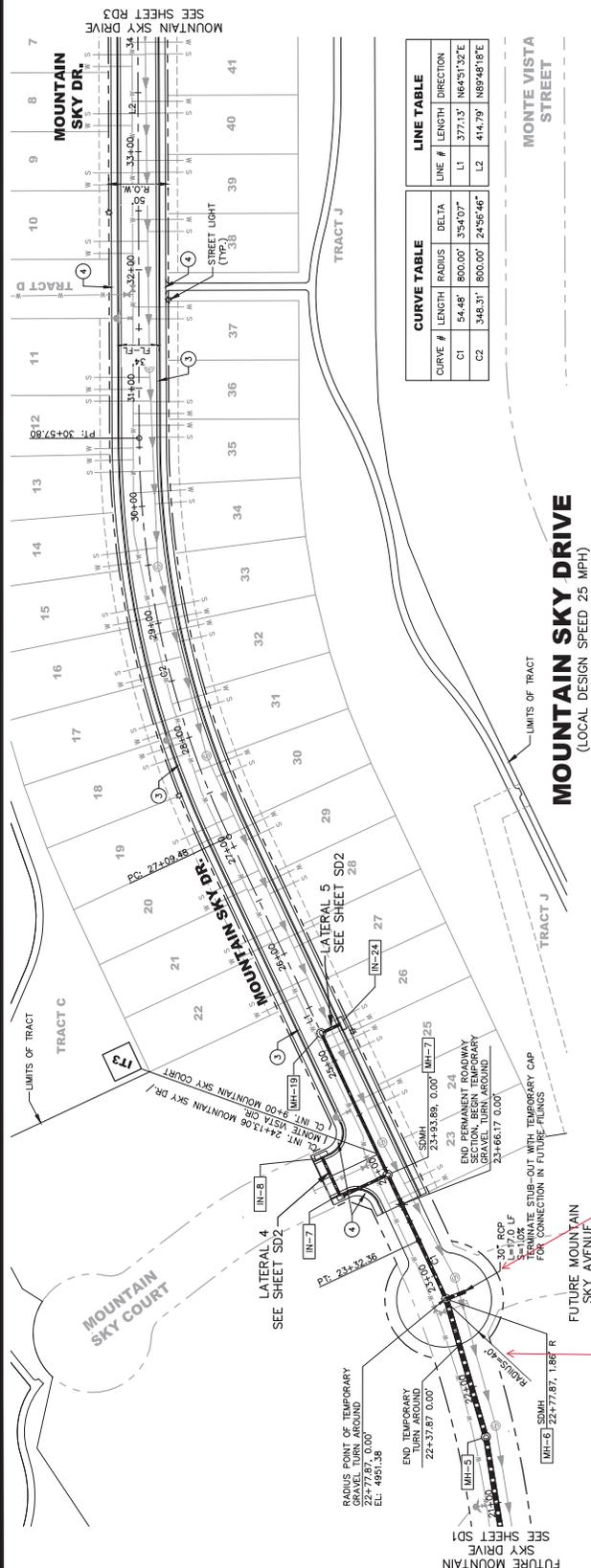
Project Name	21003.dwg
Task	Final
Revision	1
Drawn	GLP
Checked	GLP
Beam	GLP
Check	GLP

Project Name	MOUNTAIN SKY
Task	Final
Revision	1
Drawn	GLP
Checked	GLP
Beam	GLP
Check	GLP

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A temporary temporary road will be constructed to connect to the existing road. The radius of the temporary road will be 48 feet.

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