



**Planning & Zoning Commission
Tuesday, March 17, 2026, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631**

This agenda and the meetings can be viewed at www.Townofeagle.org.

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MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

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Please Note: All participants must remain muted until they are requested to speak. This will reduce background noise disruptions for all meeting attendees. When it is your turn to speak, you will have three (3) minutes for public comment. For technical difficulties, please email gram.dick@townofeagle.org and we will do our best to assist you.

PUBLIC COMMENTS: If you are unable to attend, public comments regarding any items on this agenda can be submitted to the Planning Department at Planning@townofeagle.org and will be included as part of the record.

REGULAR MEETING CALLED TO ORDER

APPROVAL OF MINUTES *Approval of minutes from the following meeting(s) of the Planning & Zoning Commission.*

1. March 3, 2026 P&Z Meeting Minutes

PUBLIC COMMENT

Citizens are invited to comment on any item not on the agenda subject to a public hearing. Please limit your comments to three (3) minutes per person. Those who are speaking are requested to state their name & address for the record.

PUBLIC HEARINGS

1. Project: 481 Whiting Road, Variance Request
File # V25-01
Applicant: Bryan Mullet and Tommie Belz
Location 481 Whiting Road
Staff Contact: Kyle Brotherton, Planner III
Request: Variance request approval to seek a variance from code requirements related to property access standards for a Minor Subdivision.
2. Project: Red Mountain Ranch Planning Area 1
File # DR25-01, PP25-01
Applicant: David Hoffman, Tres Birds
Location 17500 US Highway 6
Staff Contact: Kyle Brotherton, Planner III
Request: For the Planning & Zoning Commission to review and recommend approval with conditions of approval of a Major Development Permit and Preliminary Plat to construct a residential Planned Unit Development consisting of 66 total dwelling units.
3. Project: LUDC26-02, Chapter 4.11 Landscaping Amendments
File # LUDC26-02
Applicant: Town of Eagle
Location Town of Eagle
Staff Contact: Sydney Dynek, Planner, Jessica Lake, Senior Planner, Kyle Brotherton, Planner III
Request: For the Planning Commission to review and recommend approval of staff proposed modifications to the Land Use and Development Code in accordance with SB23-166 requiring jurisdictions to adopt Code language to address the Wildland Urban Interface.
4. Project: 446 Broadway, Variance Request
File # V26-01
Applicant: Jake and Justin Roach
Location 446 Broadway Street
Staff Contact: Kyle Brotherton, Planner III
Request: Variance request denial to seek a variance from Broadway District step-back requirements for a mixed-use Minor Development Permit.

COMMUNITY DEVELOPMENT DEPARTMENT AND TOWN COUNCIL UPDATE

Staff update to the Planning & Zoning Commission on recent work, upcoming files and decisions made by Town Council.

1. February Department Update

OPEN DISCUSSION

ADJOURN

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.

Gram Dick
Administrative Technician II



MEETING MINUTES
Planning & Zoning Commission
Tuesday, March 3, 2026, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631

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PUBLIC WIFI – Eagle Guest

MEETING ACCESS INFORMATION AND PUBLIC PARTICIPATION

This was an in-person meeting with the option for the public to attend via Teams.

6:00 PM - REGULAR MEETING CALLED TO ORDER

Commissioner Matt Hood called the meeting to order at 6:00 PM.

COMMISSIONERS PRESENT

Bill Nutkins, Matt Hood, Keith Montag, Keegan
Winkeller, Jennifer Sturgeon

STAFF

Kyle Brotherton – Interim Com Dev Director
Jessica Lake – Senior Planner
Sydney Dynek – Planner I
Gram Dick – Admin Tech II

COMMISSIONERS ABSENT

Weston Arbogast, Chad Koch

OATH OF OFFICE

1. Mathew Hood
2. Jennifer Sturgeon

APPOINTMENT OF CHAIR

Bill Nutkins motioned to appoint Matthew Hood as chair of the Planning and Zoning Commission. Jennifer Sturgeon seconded, and the motion to approve passed unanimously. All in favor.

APPROVAL OF MINUTES

1. Minutes approved from February 3, 2026. Motion passed unanimously. All in favor.

DECLARATION OF CONFLICTS OF INTEREST

As part of standard meeting procedures, Hood disclosed a potential conflict of interest due to his professional role as a structural engineer involved in projects that could be affected by proposed code amendments. He stated that he could still act impartially, and the Commission agreed that the disclosure did not present a concern.

PUBLIC COMMENT

Commissioner Hood opened the floor for public comment on items not on the agenda, but there were none.

PUBLIC HEARING

1. **Project:** (Request to Continue) Red Mountain Ranch Planning Area 1
File #: DR25-01, PP25-01
Applicant: David Hoffman, Tres Birds
Location: 17500 US Highway 6
Staff Contact: Kyle Brotherton, Planner III
Request: Continue to March 17, 2026 Resolution 02, Series 2026, A Resolution of the Planning and Zoning Commission of the Town of Eagle, Colorado Recommending Approval with Conditions of Approval of a Major Development Permit to Construct a Residential Planned Unit Development Consisting of 66 Total Dwelling Units at 17500 US Highway 6.

Staff Presentation

The Commission considered a request to continue the hearing related to Red Mountain Ranch Planning Area One. Kyle Brotherton, the Interim Community Development Director, explained that the applicants requested additional time to review a new template for the development and subdivision improvements agreement before presenting it to the Commission. The continuation would allow both the applicants and staff to ensure that the agreement was properly evaluated and finalized. Because the hearing was being continued to March 17, 2026, no additional public noticing was required.

Public Comment

No Public Comment.

Motion

Commissioner Montag motioned to continue file DR25-01 & PP25-01 to March 17, 2026. Commissioner Nutkins seconded, and the motion to approve passed unanimously. All in favor.

2. **Project:** LUDC26-01 Miscellaneous Code Amendments
File #: LUDC26-01
Applicant: Town of Eagle
Location: Town of Eagle
Staff Contact: Jessica Lake, Senior Planner
Request: For the Planning & Zoning Commission to review and recommend approval of staff proposed text amendments to the Land Use and Development Code.

Staff Presentation

Jessica Lake, a Planner with the Town, began her presentation and focused on proposed amendments to the Land Use and Development Code. The amendments were intended to resolve inconsistencies in the Code, clarify existing standards, and correct omissions that had created challenges in implementation and enforcement. The revisions covered several sections of Title 4 and were designed to improve regulatory clarity while aligning the Code with best practices and recent state legislation. Among the proposed changes were updates to zone district standards and the Grand Avenue corridor design requirements, including clarifications to terminology, measurement methods, and ground-floor activation requirements to improve consistency in development review. Jessica Lake also explained updates to the amendment process for Planned Unit Developments (PUDs), distinguishing between historic and current approval processes to create a more efficient and less burdensome procedure for property owners seeking amendments. The Commission discussed language related to uses that might detract from other approved uses within a PUD, and staff confirmed that additional clarifying language had been added in response to prior feedback.

Additional Code amendments addressed site design requirements related to storage, recycling, and waste collection areas. The proposed change removed the existing 20-foot separation requirement and replaced it with performance-based standards, allowing more flexible site layouts while maintaining operational effectiveness. Staff confirmed that the change had been coordinated with the town's waste provider. The Commission also reviewed revisions to the "legacy lot" exception, which allows flexibility for development on historically platted properties. The amendment limited the exception to properties consisting of no more than four adjacent historic lots to reflect the original intent of the provision and maintain its applicability to small residential projects. After discussion, staff and commissioners agreed to modify the language by striking the word "four" to improve clarity.

Public Comment

Dawn Koenig from 328 Capitol, Eagle requested additional clarification from Staff on the process of constructing an ADU within the Town of Eagle and suggested extending the provision within the amendment to CMU-1 zoning.

Motion

Commissioner Nutkins motioned to approve PZ Resolution 03, 2026, recommending Amendments to Chapters 4, 8, 10, 11, and 17 of Title 4 of the Eagle Municipal Code Related to Development Standards and Processes with one modification to 4.17.100B #2, C, removal of the word "Four". Commissioner Montag seconded, and the motion to approve passed unanimously. All in favor.

3. **Project:** (Request to Continue) LUDC26-02 Wildland Urban Interface & Turf Landscape Requirements

File #: LUDC26-02

Applicant: Town of Eagle

Location: Town of Eagle

Staff Contact: Sydney Dynek, Planner, Jessica Lake, Senior Planner, Kyle Brotherton, Planner III

Request: To continue the public hearing regarding the repeal and replacement of Chapter 4.11 of the Town of Eagle Municipal Code with an updated Landscape Chapter that aligns with the requirements of SB23-166, SB24-005, and HB25-1113, including provisions related to WUI and turf limitations.

Staff Presentation

The Commission then addressed another code related item concerning Wildland Urban Interface (WUI) and turf landscape requirements. Sydney Dynek, a Planner for the Town, explained that the public hearing on these

requirements should be continued to the March 17, 2026 meeting because staff were still consulting with local and state experts to refine the language. Although an April 1 deadline for adopting the WUI code existed, it was flexible enough to allow additional time for more thorough drafting and analysis. The Commission agreed that continuing the hearing would lead to a stronger and more comprehensive set of regulations.

Public Comment

No Public Comment.

Motion

Commissioner Nutkins motioned to continue the file LUDC26-02 until March 17, 2026. Commissioner Winkeller seconded, and the motion to approve passed unanimously. All in favor.

WORK SESSION

Commissioners and staff engaged in an extended discussion about WUI code development and landscaping standards. Sydney Dynek and Jessica Lake clarified the overall adoption process, noting that the Planning Commission would make recommendations regarding Title 4, which governs landscaping and land use standards, while the Town Council would ultimately decide on both Title 4 and Title 13, which contains building code provisions. Public hearings related to these updates were anticipated for late March and mid-April. Staff also discussed the current staffing situation, noting that the town does not currently have a dedicated building code official. Instead, permit reviews rely on the former official, Eddie Wilson, along with third-party consultants. Staff planned to meet individually with Commissioners and Council Members to answer questions and gather feedback before the next draft of the code is presented.

Several technical issues related to landscaping and wildfire mitigation were explored during the discussion. Commissioners examined front yard landscaping buffers and rear buffers along Interstate 70, weighing state resiliency code requirements against practical limitations such as small lot sizes and constrained building envelopes. The conversation highlighted the difficulty of applying uniform landscaping requirements to properties with varying physical characteristics and development patterns. Commissioners also discussed the possibility of variance processes and the need to balance wildfire mitigation objectives with ecological benefits, visual quality, and property usability.

Tree placement and species selection were also examined in detail with input from Mike Earl, a local tree service professional. Mike Earl explained that many tree species require substantial canopy space and long-term maintenance, making them difficult to establish within narrow landscaping buffers. He emphasized the importance of selecting species that are appropriate for local conditions and recommended maintaining species diversity to improve ecological resilience and reduce maintenance challenges. The discussion expanded to broader wildfire mitigation strategies, including the concept of fuel breaks. Earl raised questions about how fuel breaks around Eagle Ranch are maintained and whether ongoing management of sagebrush and juniper is occurring effectively. Commissioners acknowledged that wildfire mitigation requires coordinated efforts among private landowners, the town, and fire professionals.

To ensure that future code drafts address these concerns, Sydney Dynek encouraged commissioners to share their availability for additional discussions and indicated that staff would circulate questions by email. The goal is to gather detailed feedback and return with revised code language at the next meeting so commissioners can make more informed recommendations.

COMMUNITY DEVELOPMENT UPDATE

No significant Community Development Updates were presented at that time.

CLOSING COMMENTS

Melissa Daruna, the Town Manager, provided an update on the Eagle River Park Coalition and its role in supporting improvements to the River Park area. She explained that the coalition is an informal group of community members focused on brainstorming investment opportunities and collecting public input on potential improvements. While the group does not have formal decision-making authority over park development, it seeks to collaborate with the Town and County and is willing to support fundraising efforts for park projects. The discussion also addressed the current status of park maintenance funding. Melissa Daruna and Commission Members reviewed the history of the original contractor's obligations following construction, including post-construction adjustments, and the Town's allocation of funds for maintenance and installation of rapid blocks. Also noted was the previous flood events and how it affected repair priorities and funding decisions. Looking ahead, Melissa emphasized the importance of involving County and state partners in long-term planning and potential grant applications and encouraged community members to participate in coalition meetings to help guide future improvements.

The meeting concluded with a discussion about the Highway 6 corridor plan. Commissioners noted that design work for the corridor is progressing, with drawings reportedly at approximately the 60 percent completion stage or possibly further. The Capitol Street project has already been fully designed and is scheduled for construction in the spring. Commissioners expressed interest in receiving a formal presentation and update from the Public Works department, explaining that they frequently receive questions from residents about the project and would like more detailed information. Staff directed Commissioners to existing materials available on the Town's website for background information while they work to schedule a more comprehensive update at a future meeting.

ADJOURN

Commissioner Montag motioned to adjourn. Commissioner Nutkins seconded, and the motion to adjourn passed unanimously. All in favor.

Meeting Adjourned at 7:40 PM

AI Assistance

These meeting minutes were generated with the assistance of AI technology to enhance accuracy, organization, and clarity. The final version was reviewed and approved by Gram Dick to ensure completeness and adherence to meeting records.



COMMUNITY DEVELOPMENT DEPARTMENT PLANNING & ZONING STAFF REPORT AND CERTIFICATE OF RECOMMENDATION

MEETING DATE: March 17, 2026
PROJECT: 481 Whiting Minor Subdivision; Variance Request
FILE NUMBER(S): V25-01
REQUEST: Variance Request approval for a proposed Minor Subdivision located at 481 Whiting Road in the Residential Medium Density (R2) District. The proposed project proposes to re-subdivide the property into conforming lots under the current Land Use and Development Code. The Variance Request is to seek a variance from code requirements related to property access.

APPLICANT(S): Bryan Mullet and Tommie Belz
OWNER(S): Bryan Mullet and Tommie Belz
LOCATION: 481 Whiting Road
PROPERTY SIZE: 0.446± acres
ZONING: Residential Medium Density (R2)
EXISTING LAND USE: Duplex
PROPOSED LAND USE: Duplex and Single Family, Duplex, or Multi-Family Dwellings
STAFF: Kyle Brotherton, Interim Community Development Director

BACKGROUND

Location and Existing Conditions

The 0.446-acre property is situated on the north side of Whiting Road approximately 260 feet east of the Whiting Road and Church Street intersection and is occupied by a duplex. The property is located within the Residential Medium Density (R2) District.

The immediate area is developed with a mix of residential, including single family detached and townhome units. Directly to the south of the subject property is a small pocket park.

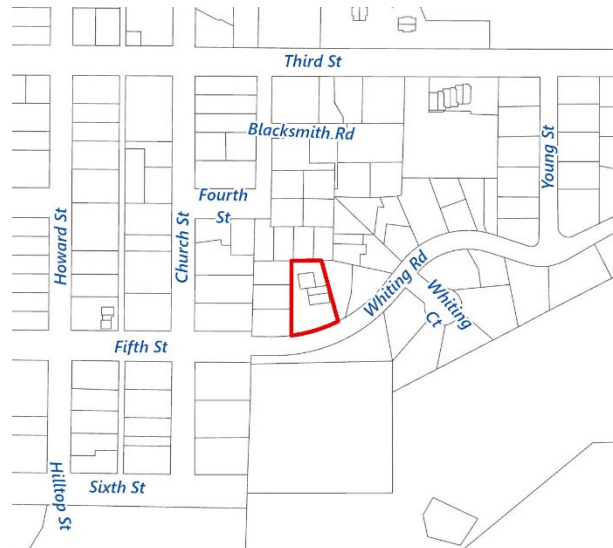
Site History

The subject property was originally platted in the 1970s as part of the Kaibab Park Subdivision. The existing duplex was constructed in 1970, according to the Eagle County Property Appraiser, and in 1995, the F.B.R. Townhomes Subdivision was approved. This subdivision created four lots, Lots A and B which are for the existing duplex units, Lot C which exists to the north of the duplex, and Lot D which is a common area. Lot C is approximately 1,600 square feet and was denoted for use as “multi-family”; however, that lot has never been developed. Additionally, Lot D provides access to the existing duplex as well as to Lot C. The current owners, Byran Mullet and Tommie Belz, purchased the property in January 2013.

The Minor Subdivision proposes to create four residential lots which comply with the current Land Use and Development Code (LUDC) through reconfiguring the existing lots and by eliminating and re-platting existing lot lines. Access to the newly proposed lots will be achieved through an access easement along the western property line, where access to the duplex currently exists.

VARIANCE REQUEST

While the Variance Request is the only item under consideration for this agenda item, the context of the overall development proposal is necessary to fully understand the request for the variance. The request is to seek a variance from the access requirements that require vehicular access to a lot be from a public street as found in Section 4.15.020.B.1, which are specific design standards for subdivisions. The relevant LUDC language for Section 4.15.020.B.1 is detailed below.



LOCATION MAP



AERIAL MAP

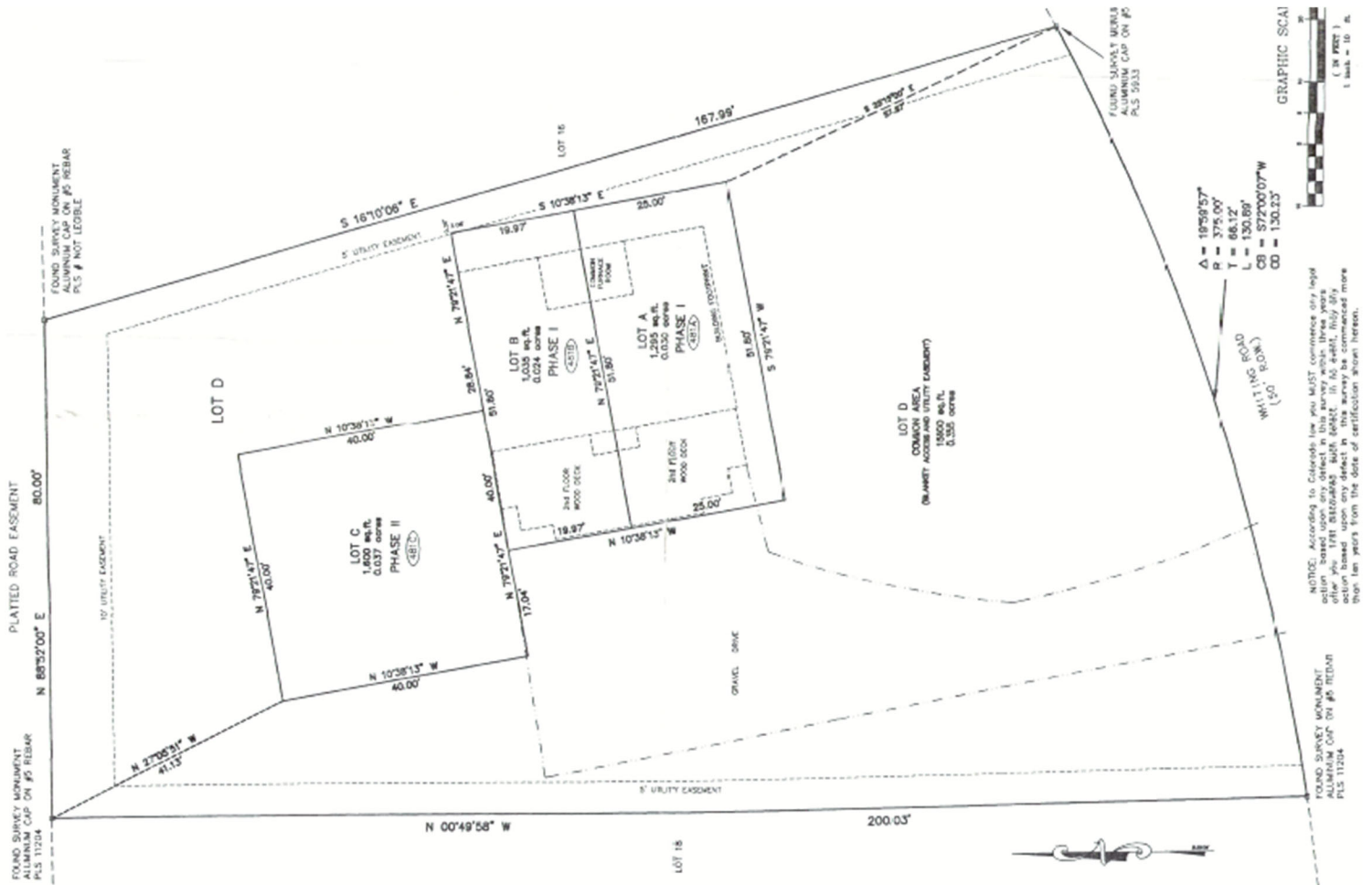
Section 4.15.020. – Lot and block design and access.

B. Access.

1. Lots shall be designed to allow vehicular access from a public street, except that a maximum of 20 condominium units or 20 townhouse lots may front on a private access driveway at least 25 feet in width.

The overall proposal is to re-subdivide the existing F.B.R. Townhomes Subdivision into four residential lots. Lot C, which exists to the north of Lot B, is a building envelope lot surrounded by Lot D, which is a common area that also surrounds Lots A and B, the existing duplex. The Mullet Subdivision proposes to remove existing lot lines for all four lots, and create four new residential lots. Proposed Lot 1 will become the southern-most lot adjacent to Whiting Road; Lot 2 will become the existing southerly duplex unit; Lot 3 will become the existing northerly duplex unit, and Lot 4 will be the northern-most lot. A new access, utility, and drainage easement is proposed to be created along the western property line, while a newly created ten-foot utility easement is proposed along the eastern property line. The newly proposed lot lines for the duplex will transverse the entire property, whereas currently they are building envelope lot lines.

Due to the existing configuration of the F.B.R. Townhomes Subdivision, and the existing duplex, a variance is being requested to vary from the strict application of requiring each lot have access to Whiting Road, which is infeasible without demolishing the existing duplex and the general shape of the overall property boundary. The proposed access, utility, and drainage easement, which is where access currently exists to the duplex, varies in width from approximately 49 feet along Whiting Road to approximately 25 feet along the proposed lot line for Lot 4 to the north. The dimensions of the easement satisfy the required width as stipulated in Section 4.15.020.B.1. even though access is not being provided to Lots 2 through 4 from Whiting Road. Lot 1 would have direct access to Whiting Road.



F.B.R. Townhomes Subdivision



ANALYSIS

The Variance Request under consideration is subject to the requirements of the Land Use and Development Code, specifically Section 4.17.080.F.3.b. This analysis will walk through the requirements for a Variance Request.

Land Use and Development Code

Section 4.17.080.F.3.b of the Town's Land Use and Development Code (LUDC) sets forth the review criteria, all of which must be met, for a variance to be approved. Included under each of the criteria are summarized responses from the applicants; however, full responses can be found in the attached "Variance Narrative".

Criterion 1:***Code language:***

The subject property has an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district.

Applicant's response:

Perhaps the exceptional circumstance to be applied in this case – as a matter of allowing for the reasonable building-out of remaining, undeveloped lots – is due to the Town's recent adoption of new regulations whereby the pre-existing lot and block configurations in the larger Kaibab Park Subdivision – some of which were predicated on the use of private access easements – do not permit total conformance with the strict interpretation and application of Section 4.15.020.B.1.

Criterion 2:***Code language:***

The strict application of the LUDC standards for which a variance is sought would produce undue hardship.

Applicant's response:

Therefore, unless the Applicants were to forfeit their future development rights on Lot 4 (or redevelopment rights on Lots 2 and 3); or unless the Applicants were to create a subdivision with circuitous lot line configurations for Lots 2, 3 and 4 to ensure that each lot *technically* had frontage on Whiting Road, there is no practical, reasonable way to provide legal access to a public street from the proposed lots without the continued use of a private access easement. This is an infill style land use application and situation and to apply the requirements of Section 4.15.020.B.1. strictly or literally, would create an undue, practical hardship not applied in a similar manner to neighboring properties.

Criterion 3:***Code language:***

The applicant's actions did not create the hardship.

Applicant's response:

The Applicants did not create the hardship presented by the original Kaibab Park Subdivision or the F.B.R. Townhomes Subdivision which, effectively, established a development (lot and block) pattern which in some respects encourage re-subdivision and, importantly, the use of private access easements to ensure legal access to public streets and rights-of-way from interior lots prior to the establishment of the LUDC and the provisions of Section 4.15.020.B.1.

*Criterion 4:**Code language:*

The variance requested does not harm the public and does not impair the intent or purposes of this LUDC, goals, and policies, including the specific regulation for which the variance is sought.

Applicant's response:

Approval of this variance request will not harm the public, nor will it impair the intent or purposes of the LUDC. Permitting the continued use of an existing private access for the Mullet Subdivision – in effectively the same manner as has been used since approval and development of the .B.R. Townhomes Subdivision in 1995 – will not negatively impact or preclude conformance with the Town's zoning standards, or the overall site, layout, and design standards such as minimum lot size, minimum setbacks, or maximum lot coverage.

*Criterion 5:**Code language:*

The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden.

Applicant's response:

As noted above, without relief from the strict, literal interpretation of Section 4.15.020.B.1., the Applicants are presented with an exceptional, practical difficult and hardship in seeking to resubdivide their property and, therefore, achieve the full build-out potential of the formerly approved F.B.R. Townhomes Subdivision in a manner that allows for full conformance with other requirements of the LUDC as well as the overarching goals and policies of the Town of Eagle Comprehensive Plan.

*Criterion 6:**Code language:*

The variance request will not violate building or fire code requirements.

Applicant's response:

The variance request to permit the continued use of a private access easement will not violate building or fire code requirements. The F.B.R. Townhomes Subdivision was approved and partially developed using a private access driveway. The existing driveway functions to provide access to two duplex units on Lots A and B, F.B.R. Townhomes Subdivision.

Criterion 7:**Code language:**

The variance is the minimum variance that will afford relief of the subject standards of the LUDC.

Applicant's response:

This request for relief from the strict interpretation and application of Section 4.15.020.B.1 is the minimum amount of relief sought for the efficient build-out of the previously approved F.B.R. Townhomes Subdivision. The proposed Mullet Subdivision is, effectively, an amended final plat which maintains an existing land development pattern while seeking to amend and reimagine lot line configurations to create more buildable sites on new Lots 1 and 4. Granting this variance will permit ongoing, legal access to, and use of, proposed Lots 2 and 3 (existing townhome/duplex structures), while providing access to a public street from proposed Lot 4.

Staff Findings

The proposed Variance Request meets all the required seven criteria that must be met for approval. Staff's findings for each of the criteria are detailed below.

Criterion 1:

The subject property currently utilizes access along the western property boundary, which is through the current common area, Lot D. The proposed minor subdivision maintains and formalizes this access through the access easement while allowing for proposed Lot 1 to have direct access to Whiting Road. Additionally, the size of the access easement generally meets or exceeds the required width found in Section 4.15.020.B.1. Further, the three properties adjacent to the west utilize a similar access arrangement, with two of the properties not having direct access to Whiting Road, and properties to the east have similar access to Whiting Road for lots that are not able to directly access Whiting Road. As such, this criterion is **met**.

Criterion 2:

As the subject property was developed initially in 1970, with the F.B.R. Townhomes Subdivision being approved in 1995 which "condominiumized" the existing duplex and created a third building envelope lot, the only means of access is currently through the existing common area lot, Lot D. The proposed minor subdivision, along with the variance request, would allow for proposed Lot 1 to have direct access to Whiting Road, and the remaining proposed lots, Lots 2 through 4, to access Whiting Road from a formal access easement. The proposed variance reduces the hardship for future development to occur; therefore, this criterion is **met**.

Criterion 3:

The applicants purchased this property in 2013, long after it was originally developed and re-subdivided to the current configuration. As such, the actions of the applicants did not create the current hardship; therefore, this criterion is **met**.

Criterion 4:

The proposed minor subdivision creates two new residential lots, and the requested variance would guarantee perpetual access to the existing duplex and the newly proposed northerly lot, Lot 4, without harming the public or impairing the intent of the LUDC or comprehensive plan. As such, this criterion is **met**.

Criterion 5:

The requested variance demonstrates an exceptional hardship and is not related to convenience or financial burden. As such, this criterion is **met**.

Criterion 6:

The variance request generally does not conflict with building, fire, or public safety requirements. Any future proposed structures would need to comply with applicable building and fire codes at the time of such a submission. As such, this criterion is **met**.

Criterion 7:

With the existing site conditions considered in total, the requested variance to deviate from the required access standards is considered to be the minimum needed to afford relief. The dimensions of the proposed access easement generally meet the dimensional standards considered in Section 4.15.020.B.1., and proposed Lot 1 will have direct access to Whiting Road, where none of the existing buildable lots do. As such, this criterion is **met**.

RECOMMENDATION

The Community Development Department, having reviewed all materials submitted by the applicant and the requirements of the Land Use and Development Code, recommends the following findings of fact and conclusions of law.

Recommended Findings of Fact

1. The 0.446-acre property is located on the north side of Whiting Road approximately 260 feet east of the Whiting Road and Church Street intersection.
2. The subject property is located within the Residential Medium Density (R2) District.
3. The proposal is to re-subdivide an existing subdivision into four residential lots that meet minimum district standards.
4. The project requests a variance strict application of subdivision access standards.
5. The variance request meets all the required seven criteria necessary for approval of such variance.

Recommended Conclusions of Law

1. The variance request is consistent with all required provisions of Section 4.17.080.F.3.b. of the Town's Land Use and Development Code.

Based on the above recommended findings of fact and conclusions of law, the Community Development Department recommends **APPROVAL** of application V25-01.

PLANNING & ZONING RECOMMENDED MOTION

"I move to approve file number V25-01, Resolution 05, Series 2026, based on the testimony provided and the recommended findings of fact and conclusions of law as detailed in the staff report."

Prepared by Community Development Department:



Kyle Brotherton
Interim Community Development Director

ATTACHMENTS:

Resolution 05, Series 2025
Variance Narrative

**TOWN OF EAGLE, COLORADO
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 05
(Series of 2026)**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO APPROVING A VARIANCE REQUEST FOR A MINOR SUBDIVISION LOCATED AT 481 WHITING ROAD

WHEREAS, Bryan Mullet and Tommie Belz (“the Applicants”) own the real property at 481 Whiting Road, Town of Eagle, Eagle County, Colorado (the “Property”);

WHEREAS, on August 1, 2025, the Applicants submitted with the Town an application for a Variance Request to request a variance from required subdivision access standards to access a public street or right-of-way for a Minor Subdivision Application (the “Variance Request Application”); and

WHEREAS, on March 17, 2026, the Planning and Zoning Commission held a properly noticed public hearing on the Variance Request Application.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Findings. The Planning and Zoning Commission finds that the Variance Request Application complies with all applicable provisions of the Eagle Municipal Code, and that approval of the Variance Request Application is in the best interest of the public health, safety, and welfare.

Section 2. Decision. Based on the foregoing findings, the Planning and Zoning Commission approves of the Variance Request Application.

INTRODUCED, READ, PASSED AND ADOPTED ON March 17, 2026.

TOWN OF EAGLE, COLORADO

Matthew Hood, Chair

ATTEST:

Gram Dick, Administrative Technician

Variance Requirements and Standards

Variance from Section 4.15.020.B.1 – Access:

The Applicants are requesting a variance from Subdivision Design and Improvement Standards related to access. Section 4.15.020.B.1 – *Access* of the Town of Eagle Land Use and Development Code (LUDC) states:

“Lots shall be designed to allow vehicular access from a public street, except that a maximum of 20 condominium units or 20 townhouse lots may front on a private access driveway at least 25 feet in width.”

The current F.B.R. Townhome Subdivision, approved in 1995, includes three lots (Lots A, B, and C) with no direct frontage on Whiting Road but which are provided with access to a public street. However, the proposed Mullet Subdivision – which maintains a similar development pattern reliant on access to residential lots by way of a private access easement – will require a variance application from the strict interpretation and application of Section 4.15.020.B.1.

The current lot configuration for the F.B.R. Townhomes included four parcels – Lots A, B, C, and D – with Lots A and B dedicated to a townhome/duplex structure (existing) and a third lot – Lot C – dedicated to future residential, “multi-family” development. Lot D, historically, has been designated as common open space for the owners within the F.B.R. Townhome subdivision.

The current proposal to re-subdivide and amend the F.B.R. Townhome subdivision to create four (4) residential lots maintains essentially the same lot locations and configurations, with three notable changes:

- Former Lot C was effectively established as a building envelope surrounded by common area; the proposed reconfiguration of Lot C – to create new Lot 4 – will eliminate the building envelope and create a new residential lot in the same location – at the end of an existing access drive – where any permanent structures will be located using standards setbacks for the R-2 Zone District rather than a platted building envelope.
- The lot lines that formed Lots A and B (the existing duplex structure) will be extended to the west to meet the westernmost subdivision boundary line to create new Lots 2 and 3. New Lots 2 and 3 will be encumbered by a new access easement for the benefit of new Lots 1, 2, 3, and 4.
- Former Lot D – “Common Area” – within the F.B.R. Townhomes will be eliminated and a new Lot 1 will be created with just over 130 feet of frontage on Whiting Road.

Therefore, unless the Applicants were to forfeit their future development rights on Lots 2, 3, and 4; or unless the Applicants created a subdivision with circuitous lot line configurations to ensure that each lot technically had *frontage* on Whiting Road, there is no

practical, reasonable way to provide legal access to a public street from the proposed lots without the continued use of the existing driveway and a private access easement.

Last, it is worth noting that adjacent development patterns utilize comparable access and lot layout configurations. Kaibab Park Subdivision, Filing No. 1, Block 3, a Resubdivision of Lot 18 (Parcels 1-3, 491, 493, and 495 Whiting Road, respectively) directly adjacent to the Mullet Subdivision includes three residential lots, organized from south to north on a rectangular lot (former Lot 18), and accessed by a 22-foot-wide access easement aligned along the eastern boundary of the parcel. This is effectively the same situation that currently exists – and which is proposed – for the Mullet Subdivision.

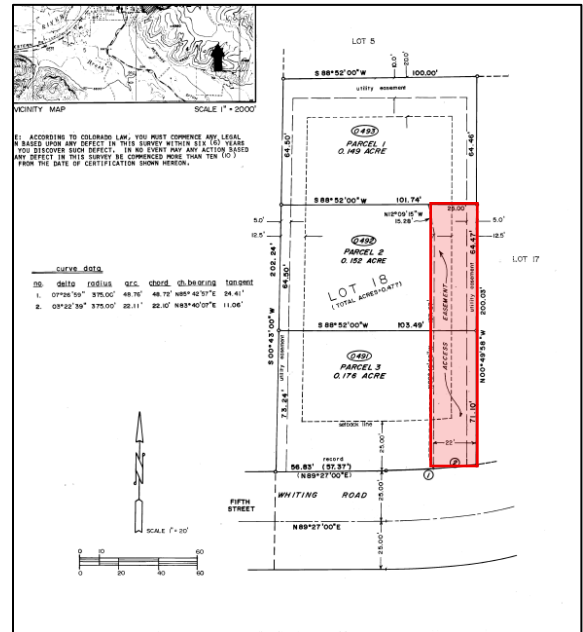


Figure 7: Excerpt from Kaibab Park Lot 18 Minor Subdivision Final Plat showing 22' private access easement.

Variance Standards:

F. Variance

1. Purpose

The variance process allows an applicant to request relief from the strict application of the regulations of this LUDC.

2. Applicability

- a. *An applicant may request a variance to applicable regulations that meet the requirements of the review criteria below.*
- b. *A variance may not be requested to allow a use in any zone district in which it is not listed as a permitted, conditional, or special use.*

3. Review Procedure

Variance applications shall meet the common review procedures identified in Table 4.17-9, with the following modifications:

a. Application

- i. *An application for a variance shall be made on a form provided by the Town and signed by the applicant which clearly states the reasons for the request and how it complies with the conditions for variance.*
- ii. *An applicant may request a variance concurrently with an associated development permit*

application by submitting a request for variance as part of the overall application package.

iii. Public Notice and Public Hearing Requirements

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and shall be noticed pursuant to Section 4.17.050.

Response:

The Applicants are requesting relief from the strict interpretation and application of Section 4.15.020.B.1 – Access, LUDC, as part of an application for a minor subdivision.

b. Review Criteria and Decision

To approve a variance, the Planning and Zoning Commission must find that all of the following criteria apply:

- i. The subject property has an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district;

Response:

The current F.B.R. Townhome Subdivision is similar to surrounding development patterns by way of the irregularity of the surrounding lot and block patterns that were established by the Kaibab Park Subdivision in the 1970's.

Several of the lots within the Kaibab Park Subdivision appear to have been sized and created with the intent to allow for re-subdivision and development of medium density (single-family, duplex, and multi-family) residential development using private access easements to allow for the development - in many instances - of smaller lots that do not front on a public street.

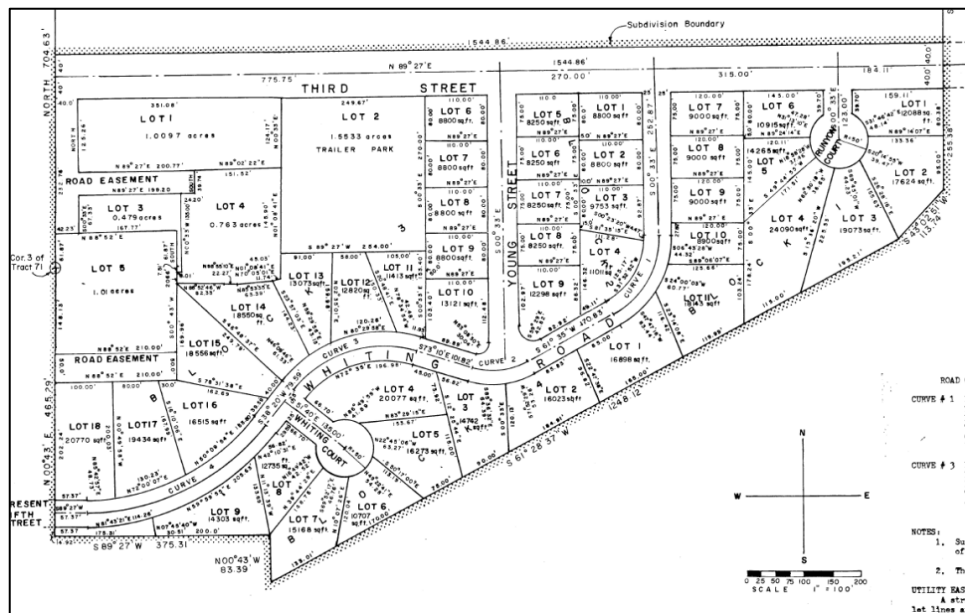


Figure 8: Excerpt of 1971 Kaibab Park Subdivision Filing No. 1 Final Plat.

The current F.B.R. Townhomes Subdivision – approved in 1995 – reflects this development pattern, as does the directly adjacent “Kaibab Park Lot 18, Block 3” minor subdivision. The proposed Mullet Subdivision maintains, for the most part, the established development pattern by reusing the existing access drive and easement configuration to access existing duplex development on proposed Lots 2 and 3 along with proposed Lot 4.

Perhaps the exceptional circumstance to be applied in this case - as a matter of allowing for the reasonable building-out of remaining, undeveloped lots - is due to the Town’s recent adoption of new regulations whereby the pre-existing lot and block configurations in the larger Kaibab Park Subdivision – some of which were predicated on the use of private access easements - do not permit total conformance with the strict interpretation and application of Section 4.15.020.B.1 – *Access*, LUDC.

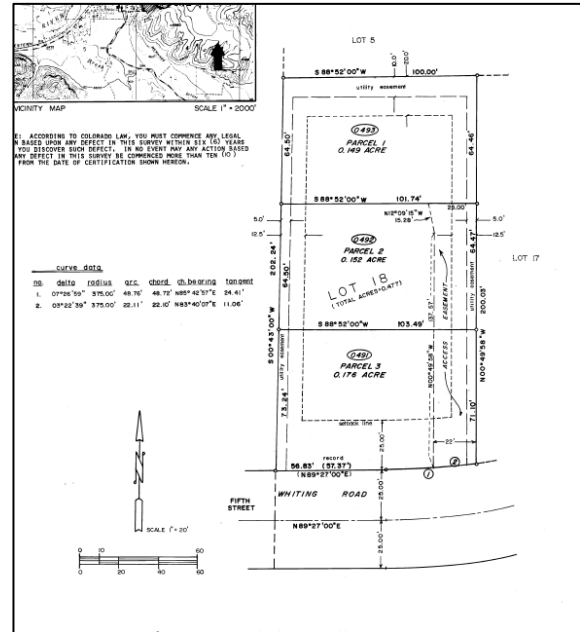


Figure 9: Excerpt from Kaibab Park Lot 18 Minor Subdivision Final Plat.

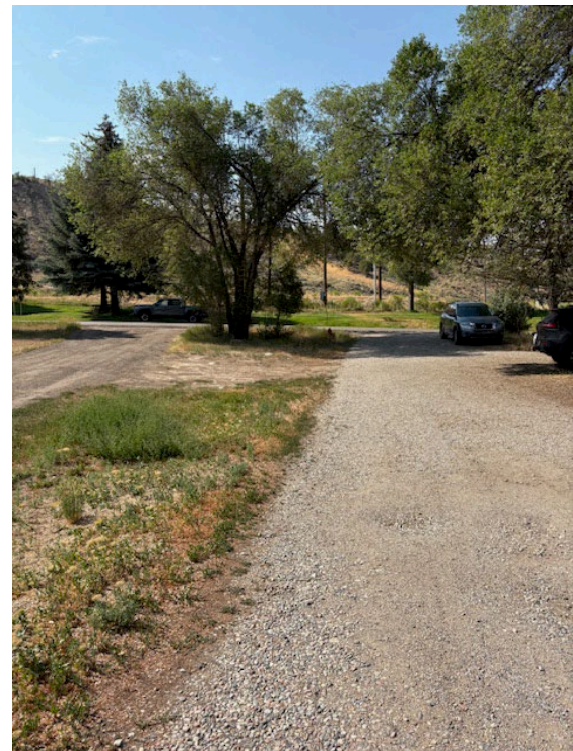


Figure 10: Existing private access drive at Kaibab Park Lot 18 (Looking South Toward Whiting Road).

- ii. The strict application of the LUDC standards for which a variance is sought would produce undue hardship;*

Response:

The current F.B.R. Townhome Subdivision includes three (3) lots (Lots A, B, and C) with no direct frontage on Whiting Road. Lot D (which fronts on Whiting Road) is currently platted as common area. The proposed Mullet Subdivision – which maintains a similar development pattern reliant on access to three residential lots (New Lots 2, 3, and 4) by way of a private access easement – will require a variance application from the strict interpretation and application of Section 4.15.020.B.1.

The current lot configuration for the F.B.R. Townhomes included four parcels – Lots A, B, C, and D – with Lots A and B dedicated to a townhome/duplex structure (existing) and a third lot – Lot C – designated as future, “Multi-Family” residential development. Lot D, historically, has been designated as common open space for the owners within the F.B.R. Townhome subdivision.

The Mullet Subdivision to create four (4) residential lots maintains essentially the same lot locations and configurations as the F.B.R. Townhome Subdivision, while adding one lot (Lot 1) where access could be gained directly from Whiting Road or from the proposed private access easement.

Therefore, unless the Applicants were to forfeit their future development rights on Lot 4 (or redevelopment rights on Lots 2 and 3); or unless the Applicants were to create a subdivision with circuitous lot line configurations for Lots 2, 3, and 4 to ensure that each lot *technically* had frontage on Whiting Road, there is no practical, reasonable way to provide legal access to a public street from the proposed lots without the continued use of a private access easement. This is an infill style land use application and situation and to apply the requirements of Section 4.15.020.B.1 – *Access*, strictly or literally, would create an undue, practical hardship not applied in a similar manner to neighboring properties.

- iii. The applicant's actions did not create the hardship;*

Response:

The Applicants did not create the hardship presented by the original Kaibab Park Subdivision or the F.B.R. Townhomes Subdivision which, effectively, established a development (lot and block) pattern which in some respects encouraged re-subdivision and, importantly, the use of private access easements to ensure legal access to public streets and rights-of-way from interior lots prior to the establishment of the LUDC and the provisions of Section 4.15.020.B.1 – *Access*.

The Applicants intend to continue and reasonably utilize the previously established land development patterns as an efficient and contextually appropriate approach to completing the full build-out of their property while generally improving upon the prior lot layout and design of the subdivision.

- iv. The variance requested does not harm the public and does not impair the intent or purposes of this LUDC, goals, and policies, including the specific regulation for which the variance is sought;*

Response:

Approval of this variance request will not harm the public, nor will it impair the intent or purposes of the LUDC. Permitting the continued use of an existing private access for the Mullet Subdivision - in effectively the same manner as has been used since approval and development of the F.B.R. Townhomes Subdivision in 1995 – will not negatively impact or preclude conformance with the Town's zoning standards, or the overall site, layout, and design standards such as minimum lot size, minimum setbacks, or maximum lot coverage.

Importantly, continued use of a private access easement allows for the full build-out of the subject property in keeping with the goals, policies and implementing actions of the Town of Eagle Comprehensive Plan and Future Land Use Map.

- v. The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden;*

Response:

As noted above, without relief from the strict, literal interpretation of Section 4.15.020.B.1 – *Access*, LUDC, the Applicants are presented with an exceptional, practical difficulty and hardship in seeking to re-subdivide their property and, therefore, achieve the full build-out potential of the formerly approved F.B.R. Townhomes Subdivision in a manner that allows for full conformance with other requirements of the LUDC as well as the overarching goals and policies of the Town of Eagle Comprehensive Plan.

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vi. The variance request will not violate building or fire code requirements; and

Response:

The variance request to permit the continued use of a private access easement will not violate building or fire code requirements. The F.B.R. Townhomes Subdivision was approved and partially developed using a private access driveway. The existing driveway functions to provide access to two duplex units on Lots A and B, F.B.R. Townhomes Subdivision.

The proposed Mullet Subdivision will maintain the same access location and general dimensions. The proposed Access, Utility, and Drainage easement that will be created by this plat was sized to accommodate the existing driveway alignment and conditions, maneuverability, emergency access, while allowing for access improvements in the future.

Specifically, the proposed Access, Utility, and Drainage easement is a minimum of 25 feet wide at its northernmost point (where the access easement touches proposed Lot 4) and just under 49 feet wide at the southernmost side along Whiting Road. By way of comparison, the access easement which services the adjacent Kaibab Park Lot 18, Block 3 subdivision directly to the west is 22 feet wide.

vii. The variance is the minimum variance that will afford relief of the subject standards of the LUDC.

Response:

This request for relief from the strict interpretation and application of Section 4.15.020.B.1 – *Access*, LUDC, is the minimum amount of relief sought for the efficient build-out of the previously approved F.B.R. Townhomes Subdivision.

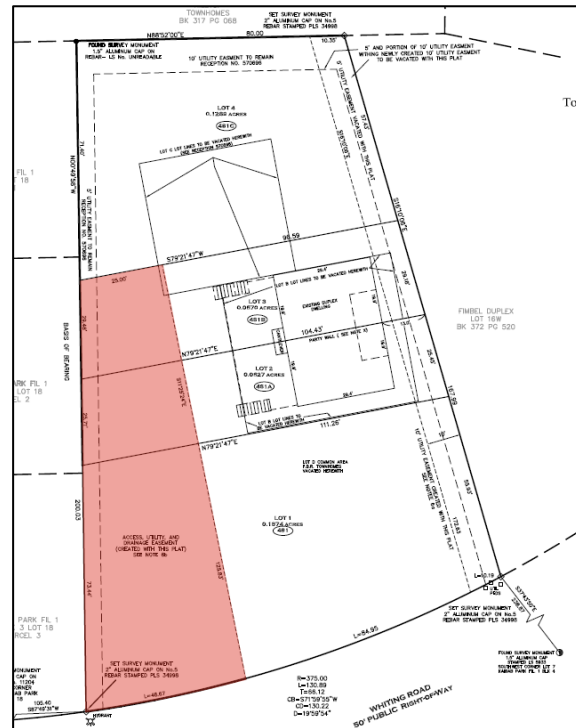


Figure 11: Except from Mullet Subdivision Final Plat highlighting the proposed Access, Utility, and Drainage easement.

The proposed Mullet Subdivision is, effectively, an amended final plat which maintains an existing land development pattern while seeking to amend and reimagine lot line configurations to create more buildable sites on new Lots 1 and 4. Granting this variance request will permit ongoing, legal access to, and use of, proposed Lots 2 and 3 (existing townhome/duplex structures), while providing access to a public street from proposed Lot 4.

Lot 1 will have frontage on Whiting Road and could either access directly from Whiting Road, or use the private Access, Utility, and Drainage easement for access and driveway orientation.

Kyle Brotherton

From: Kenny sexton <crosinpaths@hotmail.com>
Sent: Monday, March 16, 2026 4:41 PM
To: Kyle Brotherton
Subject: 481 Whiting Rd / MS25-03, V25-01

You don't often get email from crosinpaths@hotmail.com. [Learn why this is important](#)

CAUTION: This email is from an external source. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:

As an adjacent property owner at 493 Whiting Rd, I am writing in favor of the minor subdivision and driveway variance for 481 Whiting Rd, owners Bryan Mullet and Tommie Belz. The existing driveway and access to the duplex has existed since at least 1976, as shown on the 1976 BLM aerial imagery provided in the Capitol Flats Preliminary Plan P1 Environmental Report, page 44 https://www.townofeagle.org/DocumentCenter/View/21996/Prelim-Plan_P1-Environmental-Report (circled in red on attached screenshot). In 1995, the FBR Townhomes plat was approved creating 3 lots, Lots A & B for the existing duplex and Lot C for a future unit (triplex). The FBR Townhomes plat shows the outline of the gravel driveway, which generally is as it currently exists.

Additionally, on Whiting Rd, in this Kaibab Park Filing 1 Subdivision, several triplexes are accessed with one driveway off of Whiting Rd.

Again, I am in favor of the application. Thank you for the ability to comment.

Sincerely,

Kenneth Sexton
493 Whiting Rd
Eagle, CO 81631





COMMUNITY DEVELOPMENT DEPARTMENT PLANNING & ZONING STAFF REPORT AND CERTIFICATE OF RECOMMENDATION

MEETING DATE: March 17, 2026
PROJECT: Red Mountain Ranch, Parcel 1
FILE NUMBER(S): DR25-01, PP25-01
REQUEST: Major Development Permit and Preliminary Plat approval for a proposed residential project located at 17500 US Highway 6 in the Red Mountain Ranch PUD District. The proposed project will include 66 total dwelling units consisting of 42 townhome units, 12 duplex units, and 12 detached single family units, along with associated parking and open space amenities.

APPLICANT(S): David Hoffman, Tres Birds
OWNER(S): Griffin Development, LLC
LOCATION: 17500 US Highway 6
PROPERTY SIZE: 17.5± acres
ZONING: PUD
EXISTING LAND USE: Vacant
PROPOSED LAND USE: Residential
STAFF: Kyle Brotherton, Interim Community Development Director

BACKGROUND

Location and Existing Conditions

The 17.5-acre vacant property is situated north of the Eagle River and south of US Highway 6, just east/northeast of the Nogal Road and US Highway 6 intersection. The remainder of the property, consisting of open space tracts which are to remain as such, totals 17.2 acres and was not reviewed as part of this project. The property is located within the Red Mountain Ranch PUD zoning district. The property is also governed by the *Eagle River Corridor Plan* and is depicted as “cluster residential” within the *Eagle River Corridor Plan*.

The immediate area is largely vacant, with a mix of commercial and light industrial uses to the north across US Highway 6 and the Union Pacific Railroad. Additionally, a townhome development exists across US Highway 6 to the west/northwest of the subject property, with Federal Bureau of Land Management (BLM) land existing further to the south across the Eagle River.

Site History

The subject property is part of a larger planned unit development consisting of six total parcels. The property owners petitioned to annex into the Town in 2017 (AN17-01) and went through the adoption of a planned unit development in 2018 (PUD18-01) as well as a preliminary plat/final plat in 2019 (PPFP19-01). The annexation was approved on September 22, 2020, with the Annexation and Development Agreement (ADA) being entered into on October 23, 2020. The Planned Unit Development (PUD) Guide was adopted alongside the annexation.

The ADA established certain parameters for developing the entire six-parcel development site. Provisions of the ADA include development of potable water and wastewater systems throughout the entire site; establishment of Districts, including but not limited to, a Metropolitan District or others; creation of a Riparian Area Management Plan (RAMP) which includes certain provisions for development of riparian and floodplain areas; stipulations for public river access; and others related to the payment of impact and tap fees, open space tracts, homeowners associations, and real estate transfer assessments. The ADA memorialized the payment of a fee



in lieu of the Local Employment Residency (LERP) requirements and established the vested development rights for the overall project.

The ADA sets forth the following conditions for connections to Town utilities, potable water and wastewater, with potable water being a looped system throughout the entire development site and the wastewater system being a private system. While the Town will provide the subject site water service, the developer shall be responsible for operational costs, maintenance, repair, and replacement of the water main extension until such time the water main is looped through the entire planning area and tied back to the Town's water system. The wastewater system shall be constructed with lift stations that will connect to the Town's public wastewater system. The developer shall be responsible for operation and maintenance of the private wastewater system, and the developer also reserves the right to transfer the operation and maintenance of said system to a Metropolitan district or other entity satisfactory to the Town in the Town's sole discretion. Under no circumstances shall a homeowners' association be responsible for the operation and maintenance of the wastewater system, and the Town shall never be responsible for such as well.

The PUD Guide established the uses throughout the entire development area, along with heights, setbacks, density, and maximum lot coverage areas. The overall development maximums for the entire site are 153 dwelling units; 10,000 square feet of commercial space; an environmental education center of 10,000 square feet; and public and private open space, active and passive parks, and trails.

The subject property is within Planning Area 1, R/PUD-1, and is a residential-only planning area with a maximum permitted density of 97 dwelling units with development to occur on 12.5 acres. Planning Area 1 also includes three open space areas: OS-1 which exists to create a small public riverfront park and soft surface footpaths extending east along the Eagle River; OS-2 which creates specific uses for the river corridor and the adjacent 50-foot land from the average high water mark, including the Discovery Trail; and OS-3 which establishes public open space for land south of the Eagle River. The following are the permitted uses by right within R/PUD-1:

- Single family homes
- Two-family dwelling
- Multiple family residential, including condominiums, townhomes, flats or apartments, and single family or two-family dwelling cluster units on specifically designated lots
- Accessory dwelling unit to owner-occupied single family dwelling
- A Homeowner association owned enclosed storage building
- Home occupation

Childcare facilities are considered special uses, and parks, playgrounds, pools, greenbelts, model homes and sales offices, pedestrian and bicycle trails, and detached garages are considered accessory uses. The PUD Guide also states that the density across the site should generally go from highest to lowest from west to east across the site.

The maximum heights established in the PUD Guide are 35' for single family and two-family dwellings, and 40' for multi-family buildings. The setbacks established by the PUD Guide are as follows:

- From Highway 6 right-of-way line: 50' for habitable buildings; 25' for non-habitable buildings (garages) and for surface parking areas
- Front: 10' from the front property line
- Side: 7.5' for single family, two-family, and multi-family buildings
- Rear: 10'
- Stream: 75' as defined in PUD Guide
- Supplementary setback requirements: 30 inches into a required setback for roof eaves, bay window elements, and similar features.

The RAMP, which was submitted and will be part of this approval, contains management plan concepts, best management practices, management of weeds and invasive species, and maintenance and monitoring. The RAMP further reinforces the 75' stream setback from the high-water mark, or the 100-year floodplain, to ensure that riparian areas are protected from development. Additionally, practices are included within the RAMP to utilize natural drainage patterns and the use of swales instead of traditional stormwater systems; the restoration of native vegetation within the stream setback; proactive efforts to remove weeds and invasive plants; and protections for wildlife. The RAMP also includes a list of recommended native plants, noxious and invasive plants of concern, and maps detailing the general areas of wetlands and other vegetated areas within the entire project area, including the subject property in Planning Area 1. Development on Planning Area 1, as well as throughout the entire site, shall comply with the provisions contained in the RAMP.

Within the subject property, numerous wildlife species were mapped as being within or near the property, including an active bald eagle's nest and raptor's nest. This information necessitated the requirement for a wildlife conservation plan to be created and submitted for review and approval. While some species, such as elk and black bears, are considered as high-priority to Colorado Parks and Wildlife (CPW), the areas within or around the project site are considered to be de minimis when the overall areas are taken into consideration. However, bald eagles are protected by the federal Bald and Golden Eagle Protection Act. Typically, bald eagle's nests are not permitted to be disturbed; however, the United States Fish and Wildlife Service (USFWS) has the jurisdiction to issue general permits that allow the incidental taking of bald eagles provided certain conditions are met. The general permit is included as an exhibit in the included wildlife conservation plan, and all provisions of the wildlife conservation plan and the general take permit shall be followed during construction.

DEVELOPMENT PROPOSAL

The request is to construct a total of 66 dwelling units comprised of a mix of 42 townhome units, 12 duplex units, and 12 detached single family units. The project contains 266 parking spaces, 250 of which are for the units and the remaining 16 are on-street parking spaces. The minimum number of parking spaces required per the Land Use and Development Code (LUDC) is 198 spaces, which is based on the number of bedrooms in each dwelling unit.

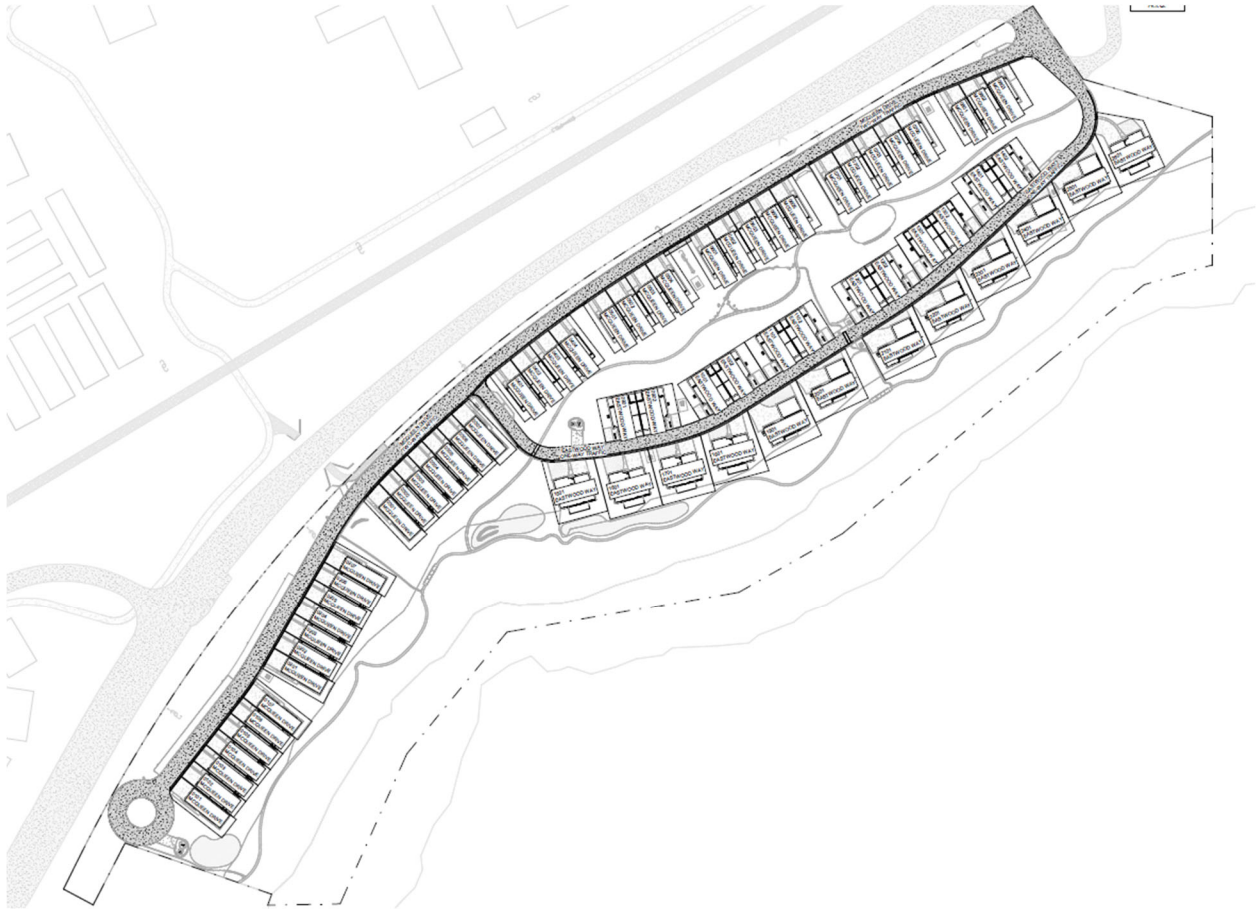
The townhome units are situated along the north and west of the property, generally parallel to US Highway 6, with duplexes positioned generally along the eastern half of the property, south of the townhomes. The single family homes are also positioned generally along the eastern half of the property and are south of the duplexes. This density pattern of the highest-density units towards US Highway 6 and the western portion of the site blends to lower-density single family homes while working east and south, meeting the intent of the original PUD Guide.

Vehicular access to the property is provided from the northeast corner, where there is an existing driveway. Internal site circulation comes from two private roads: McQueen Drive and Eastwood Way. McQueen Drive runs generally parallel to US Highway 6 along the north of the property, is a two-way road, and contains a cul-de-sac at the western terminus. Eastwood Way, which intersects at the approximate midpoint of McQueen Drive, is a one-way road that runs south then east, and then connects to McQueen Drive, making an internal loop around the property.

The subject site contains a soft-trail system, the Discovery Trail, that connects to the OS-1 parcel to the southwest and will connect to the C/PUD-1 parcel to the east/northeast at such time that parcel is developed. The trail has connections to McQueen Drive and Eastwood Way, and a connection is proposed to be provided to the Eagle Valley Trail utilizing an existing culvert under US Highway 6.



Conceptual rendering (tres birds/David Hoffman)



General site plan (tres birds/David Hoffman)

ANALYSIS

The proposed project is subject to the requirements of the Annexation and Development Agreement (ADA) which is described in the Site History section above, and must also comply with *Elevate Eagle*, the Town's Comprehensive Plan; the *Eagle River Corridor Plan*; the Red Mountain Ranch PUD Guide; the Red Mountain Ranch Design Guidelines; and all applicable provisions of the Land Use and Development Code. This analysis will walk through those various provisions.

Elevate Eagle Comprehensive Plan

The proposal is supported by or implements numerous Goals and Policies of *Elevate Eagle*, the Town's Comprehensive Plan, as follows:

- | | |
|--------------|--|
| Policy 1-1.1 | Ensure a healthy mix of housing types and densities (e.g. Single-family, duplex, multifamily, mixed use, and accessory dwelling units) to allow for greater diversity. |
| Goal 2-3 | Celebrate the Town's unique small-town character. |
| Policy 2-3.3 | Ensure new development builds upon and adds value to Eagle's unique community character through adherence to high quality standards of design and construction. |
| Goal 2-4 | Connect Eagle's unique neighborhoods physically and visually through a walkable and trail-oriented environment with high-quality wayfinding. |

Policy 2-4.1	Enhance pedestrian access and amenities, and public gathering areas to promote social interaction.
Policy 2-6.5	Work to improve the appearance of developed areas at the Town's western and eastern edges.
Goal 3-1	Promote the Town's unique activities (e.g. fly fishing, rafting, mountain biking, OHV riding, camping, skiing, snowboarding, snowshoeing, etc.).
Goal 3-3	Continue to maintain the incredible trail and park system and find new opportunities for expansion and connections to keep up with the adventurous residents' lifestyle.
Policy 3-3.1	Ensure residents have access to recreation amenities.
Policy 3-3.3	Encourage development applications or annexation proposals for property adjacent to public lands to include public access where appropriate.
Policy 3-5.4	Require new development to provide trail (hiking, biking, motorized) connections to local and regional destinations or existing trail systems.
Goal 4-2	Find a balance between recreation and preservation along riparian areas to protect habitats and water quality.
Goal 4-3	Support and demonstrate sustainability.
Policy 4-3.2	Promote energy efficient designs and building codes that encourage energy conscious lifestyles and reduce overall energy consumption.

Staff Findings

Based on the above goals and policies, the proposed project meets the intent of *Elevate Eagle*, the Town's Comprehensive plan by aiming to create a mix of housing types while respecting the riparian areas and maintaining numerous recreational activities. Additionally, the development is clustered generally towards the middle of the project site and will create an attractive environment where currently the property is vacant and shows remnants of past gravel mining activity that occurred. The proposal includes drainage swales to treat stormwater runoff before it returns to the Eagle River. Also included within the proposal are a series of soft surface trails that are internal to the site, and which connect to the OS-1 parcel to the west/southwest and will connect to the C/PUD-1 parcel to the east/northeast at such time that parcel is developed. Lastly, a connection is proposed that connects the subject property to the Eagle Valley Trail to the north through an existing culvert under US Highway 6.

Eagle River Corridor Plan

The *Eagle River Corridor Plan* envisions future development on the subject property to be Cluster Residential. Included in the intent of the Cluster Residential designation are the development of smaller neighborhoods consisting of smaller single-family homes and duplexes arranged around common open space. Additionally, public open space should be designed into the neighborhoods, including soft trail systems, which connect throughout the neighborhoods and to existing trails such as the Eagle Valley Trail. Finally, the *Eagle River Corridor Plan* states that the lands south of the Eagle River are incompatible with development, and with private lands abutting BLM land, these lands should be preserved in their natural state to protect riparian environments and wildlife habitats.

Staff Findings

The proposal as designed meets the intent of the Cluster Residential designation contained within the *Eagle River Corridor Plan*. Development consists of single family homes, duplexes, and townhomes, and are generally located near the middle of the project site. Included in the design are soft trail systems throughout the property, and a connection to the Eagle Valley Trail utilizing an existing culvert under US Highway 6. The PUD Guide and ADA also include provisions for public river access for catch-and-release fly fishing.

Red Mountain Ranch PUD Guide

The Red Mountain Ranch PUD Guide, adopted in 2020, set general development guidelines for the entire development site which contains six total planning areas. Applicable to this project is Planning Area 1, specifically R/PUD-1, OS-1, OS-2, and OS-3.

R/PUD-1 established the maximum density for the subject property, along with uses by right, special uses, accessory uses, minimum setbacks, maximum building heights, and maximum lot coverages. The site design of utilizing higher-density townhomes to the west of the property, and generally parallel to US Highway 6, while incorporating the lower-density duplexes and single family homes to the east and south meets the intent of the PUD Guide.

Staff Findings

The proposed project meets the overall intent of the PUD Guide with respect to R/PUD-1 which is the applicable planning area for this proposal. There were inconsistencies with the first submission of the project with regard to setbacks not meeting those established within the PUD Guide and accessory dwelling units not being permitted. Subsequent resubmissions have addressed these comments along with the submission of the Red Mountain Ranch Design Guidelines, which revises the original PUD Guide and is further detailed below.

Red Mountain Ranch Design Guidelines

As part of this project, the Red Mountain Ranch Design Guidelines vary from the overall Red Mountain Ranch PUD Guide and will require a separate amendment to that underlying zoning document. The revised Design Guidelines provide setbacks for each type of housing: townhomes, duplexes, and single family. The setbacks established in the Design Guidelines are as follows:

Townhomes:

- Front – 10'
- Side – 7'6"
- Side Interior – 0'
- Rear – 10'

Duplexes:

- Front – 2'6"
- Side – 7'6"
- Side Interior – 0'
- Rear – 10'

Single Family:

- Front – 2’6”
- Side – 7’6”
- Rear – 10’

The revised Design Guidelines also add clear specifications for lot coverage and minimum lot sizes based on housing type and include provisions for the minimum garage size for each housing type. These additions addressed additional comments related to parking within the project.

The Red Mountain Ranch Design Review Board will review proposed projects within the overall project area to ensure that projects meet the Red Mountain Ranch Design Guidelines.

Staff Findings

The proposed project meets the intent and the requirements of the revised Red Mountain Ranch Design Guidelines. The setbacks shown on the site plans meet the requirements of the Design Guidelines. Garage sizes have been revised to meet the minimum sizes included in the Design Guidelines as well, and the provision for accessory dwelling units as a permitted use within Planning Area 1 has been clarified. However, due to discrepancies with the underlying PUD Guide zoning, a subsequent Major PUD Amendment will need to be processed in order for the Design Guidelines to be permissible.

Land Use and Development Code

The Town’s Land Use and Development Code (LUDC) applies to portions of development where the PUD Guide and Design Guidelines are silent or specifically refer to the LUDC. Parking and subdivision requirements found in Chapter 4.12 and Chapter 4.15 of the Town’s LUDC are the only applicable LUDC provisions, as the Red Mountain Ranch Design Guidelines dictate all other design and development requirements.

The proposed Preliminary Plat generally complies with the subdivision standards contained within Chapter 4.15 of the LUDC. Each proposed dwelling unit has access to private right-of-way, but the PUD Design Guidelines, which will need to be adopted through a Major PUD Amendment process, provide for site-specific setbacks. The PUD Design Guidelines also specify the minimum site area square footages, which is appropriate for a PUD zoning district.

The proposed project provides 266 total parking spaces of which 250 are for the individual units and 16 are provided along the north side of McQueen Drive as on-street parking. Parking spaces meet the minimum size requirements of 9’x19’. The LUDC calculates a minimum number of parking spaces based on the total number of bedrooms contained within a dwelling unit. For a dwelling unit that has less than three bedrooms, the minimum required parking is two spaces per dwelling unit; a dwelling unit that has three or more bedrooms is required to provide three spaces per dwelling unit.

Based on the bedrooms provided within the overall proposal, a minimum of 198 parking spaces is the minimum required. Additionally, bicycle parking is not required.

Staff Findings

The proposed project meets the LUDC requirements for vehicle parking and contains a total of 266 vehicle parking spaces. Each proposed unit contains garages for the parking of two vehicles, and outdoor parking within the driveway or an outdoor parking space(s) adjacent to the driveway or garage total 250 of the overall spaces. To the west end of McQueen Drive and between US Highway 6 and McQueen Drive, 16 on-street parking spaces are provided for visiting guests.

RECOMMENDATION

The Community Development Department, having reviewed all materials submitted by the applicant and the requirements of the Annexation and Development Agreement, Red Mountain Ranch Design Guidelines, and the Land Use and Development Code, recommends the following findings of fact and conclusions of law.

Recommended Findings of Fact

1. The 17.5-acre vacant property is located south of US Highway 6 and north of the Eagle River, just east/northeast of the Nogal Road and US Highway 6 intersection.
2. The subject property is located within the Red Mountain Ranch Planned Unit Development.
3. The proposal generally meets the Town's subdivision standards, with PUD specific amendments incorporated into the proposed PUD Design Standards.
4. The proposal is to construct 66 total dwelling units consisting of 42 townhome units, 12 duplexes, and 12 detached single family dwellings.
5. The project proposes to include a total of 266 parking spaces, of which 250 are associated with the dwelling units and 16 are on-street parking.
6. Access to the subject property will be from the northeast corner of the property accessing US Highway 6.

Recommended Conclusions of Law

1. The development proposal is consistent with and furthers the goals and policies of *Elevate Eagle*, the Town's Comprehensive Plan.
2. The development proposal is consistent with the *Eagle River Corridor Plan*.
3. The development proposal is consistent with the Red Mountain Ranch Design Guidelines, as submitted for approval.
4. The development proposal is consistent with applicable provisions of the Town's Land Use and Development Code.

Based on the above recommended findings of fact and conclusions of law, the Community Development Department recommends **APPROVAL** of applications DR25-01 and PP25-01, subject to the following conditions:

Conditions of Approval

1. That, prior to final plat acceptance, a Development and Subdivision Improvements Agreement (DSIA) shall be signed and executed by the Town of Eagle and Griffin Development, LLC, or their successors.
2. That, prior to final plat acceptance, applicable permits from the Colorado Department of Transportation are acquired for connection to Town utilities and the Eagle Valley Trail.
3. That, prior to final plat acceptance, applicable permits from the Union Pacific Railroad are acquired for connection to Town utilities and the Eagle Valley Trail.
4. That, prior to final plat acceptance, a public utility plan is reviewed and accepted by the Town Engineer or their designee.
5. That, prior to final plat acceptance, an updated wildlife conservation plan, or standalone plan, subject to acceptance by the Town's wildlife biologist, that adequately details how applicable USFWS monitoring, tracking, and reporting requirements shall be met throughout development of the site.
6. That, prior to final plat acceptance, a Major PUD Amendment has been approved by the Town.
7. That, prior to final plat acceptance, the conditions of approval as outlined in the March 4, 2026, letter from Karp Neu Hanlon, P.C. have been satisfied.

PLANNING & ZONING RECOMMENDED MOTION

"I move to recommend approval of file numbers DR25-01 and PP25-01, Resolution 02, Series 2026, with the listed conditions of approval, based on the testimony provided and the recommended findings of fact and conclusions of law as detailed in the staff report."

Prepared by Community Development Department:



Kyle Brotherton
Interim Community Development Director

ATTACHMENTS:

Resolution 02, Series 2025

Development and Subdivision Improvements Agreement (DSIA)

Site Plans

RMR Design Guidelines

RMR PUD Guide

Riparian Area Management Plan

Wildlife Conservation Plan

Original Annexation and Development Agreement

**DEVELOPMENT AND
SUBDIVISION IMPROVEMENTS AGREEMENT
BY AND BETWEEN THE TOWN OF EAGLE AND GRIFFIN DEVELOPMENT INC
FOR RED MOUNTAIN RANCH – FILING NO. 6**

THIS AGREEMENT (“**Agreement**”) is entered into as of this __ day of _____, 2026 by and between the TOWN OF EAGLE, a Colorado home rule municipality (“**Town**”), and Griffin Development LLC, a Colorado limited liability corporation (“**Developer**”) (each a “**Party**” and collectively, the “**Parties**”).

RECITAL

WHEREAS, Developer owns the real property located within the Town and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the “**Property**”); and

WHEREAS, the Property is subject to that certain Annexation and Development Agreement between the Parties recorded on November 10, 2020 at Reception No. 202021008 in the Eagle County real property records (the “**ADA**”) as well as a PUD Guide for the Red Mountain Ranch Planned Unit Development recorded on November 10, 2020 at Reception No. 20201009 (the “**PUD Guide**”); and

WHEREAS, in 2020, the Property was subdivided into eight parcels according to the final plat for Red Mountain Ranching Filing No. 5 recorded at Reception No. 202020731 (“**Subdivision**”).

WHEREAS, Developer desires to further develop Parcel 1 of the Subdivision, also known as Planning Area 1 in the PUD Guide, as a 66-unit residential development (the “**Development**” or “**Parcel 1**”) and filed an application for a Preliminary Plan, (the “**PP**”) as well as an application for a Major Development Plan (the “**MDP**”) (together the “**Applications**”); and

WHEREAS, on March 17, 2026 at a duly noticed public hearing, the Town Planning & Zoning Commission recommended approval of the Applications subject to satisfaction of conditions of approval as memorialized in Resolution No. 02, Series 2026, attached hereto as Exhibit B; and

WHEREAS, on March 24, 2026, at a duly noticed public hearing, Town Council approved the Applications by Resolution No. 18, Series 2026, attached hereto as Exhibit C, subject to satisfaction of certain conditions of approval (the “**Current Approval**”); and

WHEREAS, the Town’s Current Approval for the Development is contingent upon the express condition that all obligations and duties created by this Agreement are faithfully performed by the Developer; and

WHEREAS, the Town and Developer desire to set forth their rights and obligations with respect to the Development in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

TERMS AND CONDITIONS

SECTION 1 - GENERAL TERMS

1.1. **Recitals.** The foregoing recitals are incorporated herein as material representations and acknowledgments of the Parties.

1.2. **Purposes.** The purpose of this Agreement is to set forth the terms and conditions to be met by the Developer with respect to the Development; to set forth the fees to be paid by the Developer upon development of the Property; and to provide for the dedication of all public improvements made on the Property. All terms and conditions contained herein are in addition to all requirements of the Town of Eagle Municipal Code (the “**Code**”), including Title 4 providing for the development and use of lands, as well as state and federal statutes, and are not intended to supersede any requirements contained therein, except where specifically provided in this Agreement. Pursuant to Section 4.17.030(E) of the Code, the Developer agrees to bear all costs and responsibility for completion of the improvements servicing the Property as provided in this Agreement. This Agreement is not executed for the benefit of materialmen, laborers, or others providing work, services, or materials to the Property, or for the benefit of future lot Developers or occupants of the Property. The Developer agrees to comply with all terms and conditions contained in this Agreement.

1.3. **Permitted Uses.** The permitted uses of the Development and the density and intensity of use of the Development, the maximum height, bulk and size of the proposed building, and the location of public improvements and public utilities, and other terms and conditions of development applicable to the Development shall be as set forth in the approved Applications, and the Final Plan Review and Final Plat (as defined in Section 3.2).

SECTION 2 - DEVELOPMENT OF THE PROPERTY

2.1. **Phased Development.** Developer proposes developing the Property in phases that may occur in any sequence. The terms and conditions contained in this Agreement shall be appurtenant to and encumber the Property and shall apply to all subsequent owners of lots of the Property; for the purposes of this Agreement, “Developer” includes Developer’s successors and assigns as to each lot sold who shall be bound by the terms and conditions contained herein. Prior to the commencement of development of any phase and as a condition of a building permit on each lot of the Property, Developer shall: (i) submit a site plan application with the Town referencing the approved PUD Guide for all submittal requirements containing the approved construction drawings for each phase, as they may be amended with the final site plan application and Town approval; (ii) provide updated cost estimates of the public improvements for that phase for the Town’s review and approval and a letter of credit or other security approved by the City in that amount securing those public improvements; and (iii) a title commitment covering any public dedications in that phase. The construction of the public improvements of each phase shall then be governed by the provisions of this Agreement.

2.2. Major Subdivision [and Condominium Plats].

2.2.1. Developer proposes subdividing Parcel 1 into 66 lots.

2.2.2. Developer acknowledges that in any phase of development wherein a new lot is to be created Developer will be required to submit a Subdivision Plat for approval under the Code. In the case of “zero lot line” construction, Developer shall submit “as-built” surveys to the Town Engineer to certify the locations of foundations as constructed at the time of subdivision application.

2.2.3. The Town and the Developer agree and acknowledge that a final condominium and townhome plat shall be prepared after final “as-built” survey of the common elements, limited common elements and units has been completed. This plat may be approved administratively by the Town without further review by the Town Council or the Planning Commission. No individual duplex unit shall be sold into separate ownership until and unless a condominium and townhome plat has been approved by the Town and such plat has been recorded in the real estate records of Eagle County. A plat note on the Final Subdivision Plat for the Property shall be included to this effect [and/or party-wall agreement].

SECTION 3 - OBLIGATIONS OF DEVELOPER

3.1. Representations. The Development shall comply with the requirements of the Code except where specific variances or relief have been granted. Developer shall comply with all applications and materials submitted to the Town and verbal and written representations made by Developer or its representatives to the Town in connection with the Development; the conditions of approval of the Applications and Final Plans, as defined below, shall all be considered “Conditions of Approval” with which Developer shall comply. In the event of conflict between this Agreement and representations made during public hearings, the more specific term shall apply.

3.2. Approved Plans. The lots and public improvements to be constructed on the Development shall conform to the elevations and general design elements as shown on the plans provided by [] as Job No. [] and dated _____, 2026 as approved by the Town in the final review (“**Final Plans**”) or shown on the plat prepared by Ry Patrick Rusk, as Job No. [] dated _____, 2026 as approved by the Town for recording (“**Final Plat**”). Any amendments to such plans and drawings shall require approval by the Town. Developer shall submit any proposed future physical changes or improvements to the Property to the Community Development Director for review and approval.

3.3. Wildlife Conservation Plan. Developer agrees to implement the Wildlife Conservation Plan, inclusive of without limitation the Mitigation Measures and Recommendations, Enhancement and Restoration of Habitat, and U.S. Fish and Wildlife Service Eagle Disturbance General Take Permit in full and in a timely manner, at Developer’s sole cost, as a material obligation of this Agreement. Implementation shall include all measures identified as pre-construction, construction-phase, post-construction, and long-term operational measures in the Wildlife Conservation Plan, as applicable to the Project.

3.4. Local Contractors. Developer agrees that all work on the Development shall be performed by contractors who are licensed to work in the Town of Eagle.

3.5. Construction. Developer agrees that construction noise shall only occur Monday to Friday from 7:00 am to 7:00 pm and Saturday from 9:00 am to 6:00 pm. On Sundays, no outside construction or related construction support activities shall be permitted at any time. Finish work and related support activities that occur within a fully constructed structure is permitted between the hours of 9:00 am and 6:00 pm. All construction and construction support related activities on holidays are prohibited in conformance with Title 13.02.010 of the Code

3.6. Nuisances. Developer shall prevent the existence of any nuisances as defined by the Code; provided that, for purposes of this Section, the presence of ground squirrels, vermin or noxious weeds on the Property shall be deemed nuisances. If the Town determines that a nuisance exists, Developer shall promptly remove or abate such nuisance at Developer's sole cost. If the nuisance is not abated to the reasonable satisfaction of the Town within 30 days following Developer's receipt of written notice from the Town describing the nuisance, the Town may draw upon the Performance Guarantee, as defined in Section 4.2 below, to pay the cost of abating the nuisance, including any expenses and penalties incurred under the Code. The Town may exercise this right in addition to, or in lieu of, other available remedies. The decision to draw on the Performance Guarantee shall be within the sole discretion of the Town.

3.7. Conditions of Development Permit. Prior to issuance of the Major Development Permit, the Developer shall satisfy all of the following conditions.

3.7.1. *Compliance.* Comply with all requirements of the Code, other sections of this Agreement and any requirements imposed by state, federal or local law.

3.7.2. *Design Guidelines.* Developer shall submit to the Town for approval proposed design guidelines establishing architectural and building material standards, landscape design, urban design, site design standards and a design review process for the Preschool and Fire Station Properties (the "**Design Guidelines**"). The Town shall not issue a building permit or development permit for Parcel 1 until the Design Guidelines have been approved by the Town.

3.7.3. *Development Review Costs.* Pursuant to Section 4.17.030(E)(2) of the Code, Developer shall pay to the Town the actual costs incurred by the Town for consulting engineering, surveying, base map updating, consultant planning services, publication costs, and legal services rendered in connection with Developer's Applications. Said costs shall be paid in full prior to the issuance of the Major Development Permit

3.7.4. *Recording.* Record an executed copy of this Agreement and the Riparian Action Management Plan (as discussed in Section 6.4 below) in the Office of the Eagle County Clerk and Recorder, pay all applicable recording fees, and provide recorded copies to the Office of the Town Clerk.

3.7.5. *Metro District.* Establish a Metropolitan District ("**Metro District**") and service plan approved by the Town in accordance with Section 6.5 below.

3.7.6. *Parcel OS-1*. Developer shall submit a draft special warranty deed for conveyance of Parcel OS-1 to the Town in accordance with paragraph 10.a of the ADA and Section 6.1 below.

3.8. Conditions of Building Permit. Prior to issuance of a building permit for any building in the Development, the Developer shall satisfy all of the following conditions:

3.8.1. *Compliance*. Comply with all requirements of the Code, other sections of this Agreement and any requirements imposed by state, federal or local law.

3.8.2. *Recording*. Record the Town-approved Major Development Permit and Final Plats in the Office of the Eagle County Clerk and Recorder, pay all applicable recording fees, and provide recorded copies to the Office of the Town Clerk.

3.8.3. *Stormwater Drainage*. A drainage plan shall be approved by the Town Engineer prior to the filing of the first building permit application for the Development

3.8.4. *Conditions of Approval*. Comply with all requirements in the Conditions of Approval set forth in Exhibit D, which are incorporated herein as if set forth in full, including securing approval for all external authority permits, and recording any easements, easement agreements, easement encroachments, and/or right of way encroachments as part of this Agreement and the approved Applications.

3.8.5. *Payment of Fees*. Pay to the Town all applicable administrative fees and dedication and impact fees under the Code. An exact accounting of the fees due will be itemized on the building permit application.

3.8.5.1. Pursuant to Section 4.17.030(E) of the Code, Developer shall pay to the Town all costs generated by staff's review of the application and that all pass-through costs have been paid.

3.8.5.2. The street improvement fee set forth in Code § 3.10.020 and as updated in the Town's Fee Schedule.

3.8.5.3. The fire protection impact fee set forth in Code § 3.10.040 and as updated in the Town's Fee Schedule.

3.8.5.4. The public safety impact fee set forth in Code § 3.10.030 and as updated in the Town's Fee Schedule.

3.8.5.5. The cash in lieu fee to the School District set forth in Code § 4.15.060.E and as updated in the Town's Fee Schedule.

3.8.5.6. Developer shall pay such other impact fees as lawfully imposed by the Town.

3.8.6. *Improvement Cost Estimate*. Submit for review and approval an engineer's estimate

of Public Improvements, as defined in Section 4.1, in accordance with Engineering Standards and post the required amount of security as set forth in Section 4.3 below.

3.9. Conditions of Certificate of Occupancy. Prior to issuance of a certificate of occupancy, the Developer shall satisfy all of the following conditions:

3.9.1. Comply with all requirements of the Code, other sections of this Agreement, and state and federal law.

3.9.2. Install all Public Improvements, as defined herein and required by the Code, Engineering Standards and identified on the Final Plans, provide as-built drawings of the installed Public Improvements, and have the Town approve and accept the installed Public Improvements pursuant to Section 4.5 below.

3.9.3. Make or fund any replacement of Public Improvements if the Town determines, in its sole discretion, that any of the Public Improvements require replacement.

3.9.4. Make or fund any repairs to any public facilities damaged during construction of the Development or Public Improvements if the Town determines, in its sole discretion, that any public facilities were damaged by Developer.

3.9.5. Provide as-built drawings and an improvement survey plat per the Engineering Standards.

SECTION 4 - PUBLIC IMPROVEMENTS

4.1. Public Improvements. Developer shall, at its own expense, design, construct and install all public improvements necessary for the Development required by the Code, Engineering Standards including as identified on the Final Plans or shown on the Final Plat (the “**Public Improvements**”). The Public Improvements shall be constructed in conformance with the approved Final Plans, including all approved supplemental plans and specifications of the Town of Eagle Public Works, then in effect.

4.2. Permits and Easements. The Developer shall obtain and present to the Town all land boundary surveys, permits, licenses, and easements of a temporary or permanent nature, if any, necessary for the construction or maintenance of Public Improvements, including as identified in the Conditions of Approval.

4.3. Security for Public Improvements. Developer shall post sufficient security to guarantee the installation, performance, or maintenance of any required Public Improvements in accordance with the Code and Engineering Standards (the “**Performance Guarantee**”). The total amount of the Performance Guarantee shall be 125% of the amount specified on Exhibit E, attached hereto and incorporated by this reference. The Parties agree that the amounts on Exhibits E does not necessarily reflect the Town Engineer’s estimate of what the actual cost to the Town would be if the Town were required to fund construction of all the Public Improvements, repair or any damage to public facilities caused in connection with the Development. As the Public Improvements and repairs are completed, Developer may apply to the Town Manager for release for all or part of the

security, which release shall be approved by the Town Engineer or the Town Attorney.

4.3.1. *Draw.* If the required Improvements are not satisfactorily constructed or completed in the time and manner required herein, the Town may, after first giving Developer written notice of such failure and not less than 30 days to cure such failure, draw on the Performance Guarantee to complete the Improvements. If the Performance Guarantee is to expire within 14 calendar days and Developer has not yet provided a satisfactory replacement or satisfactorily completed the Improvements, the Town may draw on the Performance Guarantee and either hold such funds as security for performance of this Agreement or spend such funds to complete the Improvements or correct problems with the Improvements as the Town deems appropriate

4.4. Certification. Developer shall retain, at its sole expense, a licensed professional engineer for on-site construction inspections to ensure that all Improvements installed by Developer are installed as required pursuant to Town standards, specifications. The engineer shall certify to the Town Engineer in writing that the Improvements were installed were completed in compliance with Town standards, approvals, plans, specifications, and this Agreement and submit to the Town a completed acceptance checklist utilizing a form approved by the Town.

4.5. Acceptance.

4.5.1. *Conditions.* Acceptance of Public Improvements shall be requested by the Developer of the Town Manager and shall be granted only after the Town approves the as-built drawings referenced in Section 3.9.5 and the certification described in Section 4.4 above. Developer shall be responsible for the maintenance of Public Improvements until the Public Improvements are accepted by the Town. Prior to said acceptance, Developer shall post a bond or other security in an amount determined by the Town Manager to cover the cost of maintenance of the Public Improvements before acceptance by the Town and shall reimburse the Town for the actual cost of all inspections pursuant to Section 4.17.030(E)(2) of the Code.

4.5.2. *Conveyance.* Within 30 days of the acceptance date, Developer shall dedicate or convey to the Town any additional rights-of-way and easements required for the operation, maintenance, repair and replacement of the Public Improvements free and clear of all liens and encumbrances that might adversely affect the use of the Public Improvements for their intended purpose. Developer shall also execute a bill of sale conveying the Public Improvements which are to be conveyed to the Town pursuant to this Agreement free and clear of all liens and encumbrances.

4.6. Inspection. The Town may enter and inspect any portion of the Development to determine whether the Developer is in compliance with the obligations set forth in this Agreement, including but not limited to as necessary to accept the Public Improvements pursuant to Section 4.5 above and during the Warranty Period.

4.6.1. *Deficiencies.* If the Town determines that any Improvements as set forth in this Agreement have not been constructed and installed as required, the Town shall furnish the Developer with a list of specific deficiencies. The Town shall not be required to issue a

building permit or certificate of occupancy so long as the listed deficiencies remain.

4.6.2. *Failure to Cure.* If the Town determines the Developer has not cured the deficiencies within thirty (30) days after presentation of the list to the Developer, the Town may, but need not, cause such additional work to be done as it deems necessary to complete any public improvements or to cure any listed deficiencies. Developer shall be liable to the Town for the entire cost of such additional work, whether performed by the Town's employees or by others at the direction of the Town. If the Developer does not pay the Town the cost of such additional work including, as may be appropriate, the cost the Town expended for materials, for services of those not employed by the Town, and for the apportioned cost of wages and benefits paid for by the Town for hours of the Town employees, then the Town may, upon ten (10) days' notice to the Developer, have a lien against all or any part of the Property. The Town may certify the amount of such lien to the Eagle County Treasurer for collection, enforcement and remittance of general property taxes or assessments. In addition, if attorney's fees are incurred by the Town to enforce this Agreement, they shall be paid by the Developer.

4.7. Warranty. All Public Improvements accepted and conveyed to the Town shall be guaranteed for two years from the date of the Town's acceptance (the "**Warranty Period**"). Developer shall provide to the Town a bond or sufficient warranty for any and all Public Improvements conveyed to the Town pursuant for the Warranty Period in accordance with Engineering Standards. Specifically, but not by way of limitation, the Developer shall warrant that:

- (a) The title conveyed shall be good and its transfer rightful;
- (b) The Public Improvements conveyed shall be free from any security interest or other lien or encumbrance; and
- (c) The Public Improvements so conveyed shall be free of any defects in materials or workmanship for a period of two years, as stated above.

4.8. Title Policy. Developer shall provide the Town a commitment for a title insurance policy indicating that the Property is free and clear of all encumbrances whatsoever which would impair the use of the Property for the approved Development. Further, said title commitment or an additional title commitment shall show that any property to be dedicated to the Town is free and clear of all encumbrances which would make Public Improvements and dedications unacceptable as the Town in its sole discretion determines. At the time the building permit is issued, the title insurance policy(s) shall be provided to the Town, and the premium(s) for the title insurance shall be paid by the Developer. In the event the title commitment(s) reflect encumbrances which would impair the use of the Property as proposed or which would make the public dedications unacceptable, the Town shall notify the Developer, who shall cure or otherwise remove or subordinate said encumbrances to the satisfaction of the Town.

4.9. Maintenance of Improvements. Unless dedicated to and accepted in writing by the Town for maintenance, all Improvements shall be maintained by Developer, and for any Improvements that will be maintained by the Town, a separate maintenance agreement shall be required. Acceptance by the Town of ownership of any Public Improvement pursuant to Section 4.5 does

not constitute acceptance by the Town of maintenance for such improvement. If Developer wishes to transfer maintenance obligations to any other entity, including a homeowners' association, Developer shall obtain prior written approval from the Town. Developer shall be responsible for maintenance, including without limitation, weed control, vermin control and debris removal, on all vacant lots and tracts until such time as such lots or tracts are developed.

4.10. Utility and Drainage Easements. All utility and drainage easements shall be accessible to the Town at all times. In the event any structure is constructed which obstructs partially or wholly Town access to said easements, the Town retains the right to remove such obstruction at the sole cost of the Developer. The Town shall not be responsible for any costs associated with the replacement of said obstructions. The easements shown on the Final Plat shall be modified to show the actual “as built” placement of utilities.

SECTION 5 - PRIVATE IMPROVEMENTS

5.1. Private Improvements. Developer shall, at its own expense, design, construct and install all private improvements necessary for the Development required by the Code, Engineering Standards including as identified on the Final Plans or shown on the Final Plat (the “**Private Improvements**”).

5.2. Landscaping. Landscaping shall be installed per approved development plans and installation must be completed prior to issuance of a temporary certificate of occupancy (TCO) or certificate of occupancy (CO). For landscaping that cannot be completed prior to request for TCO or CO due to weather or season, a “**Landscaping Guarantee**” is required per Section 5.3 below for no less than one hundred twenty-five percent (125%) of the cost of the landscaping improvements for the Development. If any landscaping within a Phase remains uncompleted because of weather conditions, then, prior to issuance of any CO in any Phase, Developer shall ensure that the Landscaping Guarantee associated with the landscaping of such Phase remains in place, and the Landscaping Guarantee shall not be released until all planting and materials shown on the Plans are installed and accepted and the irrigation is installed and functional in compliance with the Plans. The Town shall have the right to draw on the Landscaping Guarantee for any landscaping or irrigation Improvements that are not installed during the next season in which weather permits installation. Any costs incurred by the Town in excess of the funds provided by the Performance Guarantee shall be payable by Developer within 30 days after receipt of invoices. If Developer fails to pay such amounts, the same may be recovered by the Town by any lawful means, including certification to the County Treasurer for collection in the same manner as real estate taxes.

5.3. Security for Private Improvements. In the event that the Town determines, in its reasonable discretion, that circumstances exist which materially threaten or impair the Developer’s ability to complete any required Private Improvements in accordance with this Agreement, the Code, or applicable standards, the Town may require the Developer to post security to guarantee completion of such Private Improvements. Upon written notice from the Town describing the basis for the required security, the Developer shall, within the time period specified in such notice, post security in a form acceptable to the Town Manager and Town Attorney, and in an amount determined by the Town Engineer, Community Development Director, or designee to be sufficient to guarantee

completion of the identified Private Improvements, including a reasonable contingency. The Town and Developer acknowledge that the amount of such security may exceed the Developer's remaining cost to complete the Private Improvements, and is intended to represent the Town Engineer's estimate of the cost the Town may incur if it is required to complete such Private Improvements. Following completion of the Private Improvements, certification of completeness by the Developer, and inspection by the Community Development Director, Town Engineer, or designee, the Developer may apply for the partial or full release of the security. Any release shall be approved by the Town Manager, with concurrence by the Town Engineer, Community Development Director or Town Attorney, consistent with applicable Town standards and procedures.

SECTION 6 - ADA SPECIFIC DEVELOPER OBLIGATIONS

6.1. Parcel OS-1. Developer shall convey Parcel OS-1 to the Town by special warranty deed within thirty (30) days of issuance of a Development Permit for Planning Area 1 in accordance with paragraph 10.a of the ADA, including any reserved easements and restrictive covenants governing the uses.

6.2. Dedications and Fees.

6.2.1. *Sanitary Sewer System.* Developer shall dedicate/assign the sanitary and sewer structures to the Metro District upon completion of the Public Improvements.

6.2.2. *Water Rights.* The Town acknowledges that sufficient water rights have previously been dedicated to the Town to serve the Development as required in ADA, paragraph 13.b.

6.2.3. *LERP.* The Town acknowledges that the Developer had paid the cash-in-lieu payment for the Local Employee Residence Program (LERP) as required in the ADA, paragraph 12.

6.2.4. *Land and Open Space.* The Parties agree that the Property is subject to the Town land and open space dedication requirements set forth in the Code. The Developer shall deed to the homeowners association all property rights necessary for management as public open space as depicted on the Final Plat and Final Plans, for the use and enjoyment of the general public.

6.3. Discovery Trail. Pursuant to the ADA, paragraph 6.c Developer shall construct a soft surface trail for pedestrian use and public access to the Eagle River (the "Discovery Trail") in the location identified on the Final Plat and Final Plans. The Parties agree there is no Town property requiring a temporary construction easement. Developer has dedicated a perpetual non-exclusive easement to the Town on the Final Plat. Developer shall remain responsible for maintenance of the Discovery Trail until Developer transfers maintenance responsibilities to a homeowner's association or a nonprofit corporation under a maintenance agreement approved by the Town, which approval shall not be unreasonably withheld.

6.4. RAMP. The Riparian Action Management Plan (RAMP) shall be recorded concurrently with this Agreement and constitute covenants running with land that shall be binding on

Developer's successors and assigns. By recording the RAMP, Developer, its successors and assigns, agree to comply with the Riparian Management Plan Concepts, Best Management Practices, and Management of Weeds and Invasive Species as a condition of future land use approvals. In accordance with paragraph 8.b of the ADA, the Town of Eagle is named as a beneficiary and is provided with the rights to enforce the RAMP, including in the event the stormwater appurtenances are not adequately maintained threatens water quality on Eagle River

6.5. Metro District; Wastewater. Pursuant to the ADA paragraphs 6.b. and 7.a, Developer shall establish a Metro District to finance, acquire, design, construct, operate, and maintain wastewater improvements required by the Development. Developer shall provide a service plan for Town approval before any approval of a final plat. The service plan must comply with ADA paragraph 6.b. for operation and maintenance obligations, including for sewage / private wastewater collection system and account for the potential assumption of an assignment of rights and obligations for the dedicated access easements on the Final Plat.

6.6. Potable Water Service. [Need more information about phasing the connection to the water main / Looped System and completion of the water system improvements necessary to serve the Development].

6.7. Irrigation. The Developer agrees to construct and install, at the Developer's sole expense, an irrigation system sufficient to irrigate [xx] square feet of irrigated open space as identified on the Final Plans. The plans and specifications for such system shall be subject to the approval of the Town Engineer, which approval shall not be unreasonably withheld. Irrigation systems in the drainage ways and cut and fill slopes shall be installed temporarily and may be removed when revegetation has been established and irrigation is no longer necessary. All disturbed areas shall be restored in accordance with the Code, as amended from time to time.

6.8. Homeowners Association; Covenants. Pursuant to the ADA, a homeowner owners association shall be created by the Developer before any properties within the Development are sold to third parties.

6.8.1. The Articles of Incorporation and covenants shall be reviewed by the Town Attorney to ensure that they meet the Town's requirements that the association (1) maintains, operates and assumes full responsibility for all easements and common areas within the Property as shown on the Final Plat, including landscaping, the Discovery Trail (as applicable), and the pedestrian connection through the culvert under Highway 6; (2) maintains all private open space; (3) implements the recorded Riparian Areas Management Plan, including maintenance of stormwater structures, which structures may be periodically inspected by the Town for compliance with the RAMP; and (4) is empowered to enforce any provisions of the covenants, conditions and restrictions affecting the Property.

6.8.2. The covenants for the Property shall also address, at a minimum: party wall agreements, snow removal, snow storage, building and landscape maintenance, sidewalk maintenance, drainage maintenance, road maintenance, use of limited and general common elements, fencing styles and heights, outdoor storage of vehicles (including recreational vehicles, boats, trailers, and the like), and pets. The Articles of Incorporation and covenants shall be reviewed and approved, and the Articles filed with the Colorado

Secretary of State prior to the recordation of the Final Plat.

6.8.3. Maintenance obligations for the dedicated Access Easements on the Final Plat shall be the sole responsibility of the owners association, not the Town; such obligations may be assigned to the Metro District.

6.9. Revegetation and Landscaping. [Landscaping plans?] within eighteen (18) months of the filing of the Final Plat, the Developer shall landscape the Property to eliminate erosion and revegetate any disturbed areas pursuant to plans reviewed and approved by the Town concurrent with the development schedule. Erosion mitigation shall be ongoing. The Developer shall further install or require by covenant landscaping on the Property pursuant to plans approved by the Town. Subject to the Landscaping Guarantee Section [] above. Specific components of the Landscaping Plan shall include, but are not limited to:.

6.10. Fencing Plan. Prior to the commencement of development of the Property, Developer shall provide a Fencing Plan to the Town for its review and approval. The Fencing Plan shall show a common and uniform fencing theme (design and materials) for the Property and shall be included in the Covenants for the Property as an architectural requirement applicable to all unit owners. All fencing shall be wildlife friendly to eliminate the chance of entanglement or impalement of wildlife attempting to jump fences, in accordance with [cite] of the Code. [Include additional code provisions]

6.11. Pedestrian Access. The Developer shall install safe pedestrian access within the Property consistent with the approved Final Plans. The Developer shall ensure such access complies with ADA requirements, including proper ramps and sidewalks/paths..

6.12. Emergency Access. Plans for emergency access to the Property shall be submitted to the Planning Department according to specifications approved by the Eagle River Fire Protection District.

6.13. Dust, Mud, and Erosion Control. The Developer shall maintain all streets and surrounding areas during construction of the Public Improvements by employing techniques acceptable to the Town for dust, mud, and erosion control.

6.14. Dogs Prohibited During Construction. The Developer shall prohibit its contractors and subcontractors from bringing dogs onto the Property during working hours, even if such dogs are to be kept inside motor vehicles.

6.15. Trash Enclosures. Developer shall provide bear-resistant trash dumpsters within a fenced and locked trash enclosure. The homeowners association shall manage and maintain the trash enclosure area.

6.16. Architectural Standards. Roof materials may be asphalt shingle or composite shakes, metal (standing seam, pro-panel, Cor-Ten, corrugated or copper) or a combination of those materials. All metal roofing materials shall be non-reflective. Colors should be natural, earthtones such as brown, grey, green, rusted or patina. Cedar shakes are not permitted. Siding may be metal, masonry, cementitious board or panel, wood, stucco, or natural or cultured stone with color palette

of natural earth tones. (Applications include vertical or horizontal, standing seam, board and batten or panels.)

6.17. Lighting. Lighting must also comply with the applicable lighting standards of § 4.07.010 the Code. Common Areas, sidewalks, parking areas may also be illuminated with code-compliant site lighting.

6.18. Fire Suppression. All residences are required to have a monitored residential fire sprinkler system pursuant to the requirements of (ERFPD) Eagle River Fire Protection District.

6.19. Signs. The Developer shall ensure that all signs proposed for the Development comply with the standards and limitations set forth in the Code for residential uses. Unless exempt by the Code sign regulations, all signs are subject to the Town's approval.

SECTION 7 - VESTED RIGHTS

In accordance with and subject to the provisions of C.R.S. § 24-68-101 et seq., Developer shall have the vested right to develop the Development as set forth in the approved Applications provided however that Developer shall have three (3) years to complete the improvements. This Agreement shall not preclude the application to Developer of changes in laws, regulations, plans, or policies, to the extent that such changes are specifically mandated and required by changes in state or federal laws or regulations. In the event changes in the law prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with the law and according to the Town's terms. In the event of a change of law, the Developer and Town shall take action as may be reasonably required in good faith to meet the intent of this Agreement.

SECTION 8 - INSURANCE

8.1. Required. Developer and every contractor hired by Developer to perform work under this Agreement shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by such contractor.

8.1. Amounts: The required coverages set forth below shall be procured and maintained with forms and insurers acceptable to the Town.

8.1.1. Workers compensation insurance to cover obligations imposed by applicable Colorado law for any employee engaged in the performance of work.

8.1.2. General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual, and employee acts), blanket contractual independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

8.2. Form. The policies shall be endorsed to include the Town and the Town's officers and employees as additional insureds. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Every policy shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, or carried by or provided through any insurance pool of the Town, shall be excess and not contributory insurance to that provided by Developer. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations. Developer shall be solely responsible for deductible losses under any policy required above

8.3. Certificate. Upon request by the Town, Developer shall provide the Town with a certificate of insurance as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policy shall not be canceled, terminated or materially changed until at least 30 days prior written notice has been provided to the Town Inspection.

SECTION 9 - DEFAULT; TERMINATION

9.1. Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other party, unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such thirty (30) day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such thirty (30) day period. Upon the occurrence of a default under this Agreement, the non-defaulting party may take action pursuant to the Code or institute legal proceedings to enforce the terms of this Agreement. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

9.2. Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of war, a pandemic for which a disaster emergency is declared by the Governor, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Upon the request of either Party hereto, an extension of time, including an extension of applicable contract dates, for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

SECTION 10 - DEFENSE AND INDEMNITY

10.1. Developer's Actions. Developer shall hold harmless and indemnify Town and its elected and appointed officers, agents, employees, and representatives from claims, costs, and liabilities for any personal injury, death, or physical damage (including inverse condemnation) which arises directly or indirectly, as a result of the construction of the Development, or of operations performed

under this Agreement, by Developer or by Developer's contractors, subcontractors, agents or employees, whether such operations were performed by Developer or any of Developer's contractors, subcontractors, or any one or more persons directly or indirectly employed by, or acting as agent for, Developer or any of Developer's contractors or subcontractors.

10.2. Town's Actions. Nothing in this section shall be construed to mean that Developer shall indemnify or hold the Town or its elected and appointed representatives, officers, agents and employees harmless from any claims of personal injury, death or property damage arising from, or alleged to arise from any act or omission of the Town with regard to improvements that have been offered for dedication and accepted by Town for maintenance. Nothing contained herein is intended to nor shall be construed as a waiver of the Town's governmental immunity under state or federal law.

SECTION 11 - MISCELLANEOUS PROVISIONS

11.1. Assignment. This Agreement may not be assigned by the Developer without the prior written consent of the Town, which consent shall not be unreasonably withheld, conditioned or delayed. In the event the Developer desires to assign its rights and obligations herein, it shall so notify the Town in writing together with the proposed assignee's written agreement to be bound by the terms and conditions contained herein.

11.2. No Agency, Joint Venture or Partnership It is specifically understood and agreed to by and between the Parties that: (1) the subject Development is a private development; (2) the Town has no interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the Town accepts the same pursuant to the provisions of this Agreement or in connection with the Current Approvals (as defined in the Recitals above); (3) Developer shall have full power over and exclusive control of construction of the Development on the Property subject to the Current Approvals and Conditions of Approval of the Town; and (4) the Town and Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between Town and Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between Town and Developer

11.3. Waiver of Defects. In executing this Agreement, the Developer waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, or concerning the power of the Town to impose conditions on the Developer as set forth herein, and concerning the procedure, substance, and form of the ordinances or resolutions adopting this Agreement.

11.4. Amendments. This Agreement shall not be amended or modified, except by subsequent written agreement of the Parties.

11.5. Release of Liability. It is expressly understood that the Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Town Code and Ordinances and the laws of the State of Colorado, and that the Developer, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town officers or agents or their designees which is subsequently held unlawful by a court of law.

11.6. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and in no way defines, limits, or prescribes the scope or intent of this Agreement or any part hereof.

11.7. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors, and assigns.

11.8. Invalid Provision. If any provisions of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect. It is the intention of the parties hereto that, if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

11.9. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Eagle County, Colorado.

11.10. Attorneys' Fees; Survival. Should this Agreement become the subject of litigation, the substantially prevailing Party shall be entitled to, and the failing Party shall pay, all reasonable attorneys' fees, expenses, and court costs. All rights concerning remedies and/or attorneys shall survive any termination of this Agreement.

11.11. Authority. Each person signing this Agreement represents and warrants that he is fully authorized to enter into and execute this Agreement, and to bind the Party it represents to the terms and conditions hereof.

11.12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed one and the same instrument.

11.13. Notice. All notices required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. All notices so given shall be considered effective 72 hours after deposit in the United States mail with the proper address as set forth below. Either Party by notice so given may change the address to which future notices shall be sent.

Notice to Town:

Town of Eagle
200 Broadway Street
P.O. Box 609
Eagle, CO 81631

With copy to:

Karp Neu Hanlon, P.C.
P. O. Drawer 2030
Glenwood Springs, CO 81602

Notice to Developer:

With a copy to:

11.14. Construction. Each reference in this Agreement to any of the Current Approvals shall be deemed to refer to the Current Approval as it may be from time to time pursuant to the provisions of this Agreement, whether or not the particular reference refers to such possible amendment.

11.15. Covenants Running with the Land. All of the provisions contained in this Agreement constitute covenants running with the land. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property.

IN WITNESS WHEREOF, this Agreement has been entered into by and between the Town and Developer as of the date and year first above written.

[Signatures on following page]

TOWN OF EAGLE, COLORADO

Brian Woods, Mayor

ATTEST:

Camille Deering, Town Clerk

DEVELOPER
GRIFFIN DEVELOPMENT LLC, a
Colorado limited liability company

By: [Name], [Title]

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

Subscribed and sworn to before me this ____ day of _____, 2026, by
_____ as _____ of Griffin Development LLC.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: _____
Notary Public

Exhibit A - Legal Description

GRIFFIN DEVELOPMENT LLC, EAGLE RIVER COMMERCIAL LLC, & RED MOUNTAIN RANCH PARTNERSHIP LLLP BEING THE OWNERS OF 100 PERCENT OF THE PROPERTY EXCLUSIVE OF STREETS AND ALLEYS DESCRIBED AS:

A PARCEL OF LAND SITUATE IN SECTIONS 26, 27, 33, AND 34, TOWNSHIP 4 SOUTH, RANGE 84 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, BEING A PORTION OF TRACTS 58, 59 AND 70, OF SAID TOWNSHIP AND RANGE, COUNTY OF EAGLE, STATE OF COLORADO, BEING A PORTION OF THESE LANDS DESCRIBED IN LAND SURVEY PLAT NO. 574, 575, AND 576, AS DEPOSITED IN THE EAGLE COUNTY LAND SURVEY PLAT RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF HIGHWAY 6 RIGHT OF WAY AND SUBJECT PROPERTY; THENCE DEPARTING SAID SOUTH LINE S 73°54'09" E, 166.17 FEET; THENCE N 83°53'51" E, 164.57 FEET; THENCE N 03°16'32" E, 207.75 FEET; THENCE N 88°53'49" E, 1444.68 FEET; THENCE N 00°03'48" E, 1304.45 FEET; THENCE N 89°56'08" E, 1452.88 FEET; THENCE N 01°26'49" W, 410.52 FEET TO APPROXIMATE CENTERLINE OF THE EAGLE RIVER; THENCE ALONG SAID APPROXIMATE CENTER OF THE EAGLE RIVER S 74°05'42" E, 61.00 FEET; THENCE N 89°29'45" E, 168.06 FEET; THENCE N 60°21'13" E, 237.26 FEET; THENCE N 41°29'08" E, 382.43 FEET; THENCE N 36°38'50" E, 287.00 FEET; THENCE N 47°37'56" E, 301.83 FEET; THENCE N 53°45'25" E, 221.64 FEET; THENCE N 56°52'49" E, 306.49 FEET; THENCE N 67°43'57" E, 484.77 FEET; THENCE S 85°00'54" E, 131.72 FEET; THENCE S 75°53'38" E, 341.84 FEET; THENCE N 83°57'06" E, 341.07 FEET; THENCE N 71°13'40" E, 310.58 FEET; THENCE N 57°40'11" E, 499.51 FEET; THENCE N 42°33'26" E, 259.34 FEET; THENCE N 32°48'52" E, 262.87 FEET; THENCE N 21°21'27" E, 271.70 FEET; THENCE N 18°01'29" E, 171.02 FEET; THENCE N 38°30'11" E, 154.44 FEET; THENCE N 52°40'07" E, 201.11 FEET; THENCE DEPARTING SAID APPROXIMATE CENTERLINE OF THE EAGLE RIVER N 26°50'41" W, 63.81 FEET TO THE SOUTH LINE OF HIGHWAY 6 RIGHT OF WAY; THENCE ALONG SAID SOUTH LINE OF HIGHWAY 6 RIGHT OF WAY S 63°08'01" W, 3932.72 FEET; THENCE IN A SOUTHWESTERLY DIRECTION WITH A NON-TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 11410.00 FEET, HAVING A CHORD BEARING OF S 61°05'01" W AND A CHORD DISTANCE OF 816.31 FEET, HAVING A CENTRAL ANGLE OF 04°06'00" AND AN ARC LENGTH OF 816.48 FEET; THENCE S 59°02'01" W, 2572.80 FEET; THENCE IN A SOUTHWESTERLY DIRECTION WITH A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 2242.00 FEET, HAVING A CHORD BEARING OF S 42°41'01" W AND A CHORD DISTANCE OF 1262.26 FEET, HAVING A CENTRAL ANGLE OF 32°42'00" AND AN ARC LENGTH OF 1279.56 FEET; THENCE S 26°20'01" W, 267.31 FEET TO THE POINT OF BEGINNING – CONTAINING 106.194 ACRES MORE OR LESS.

Exhibit B – P&Z Resolution

Exhibit C – Town Council Resolution

Exhibit D – Conditions of Approval

Exhibit E – Approved final plans for the Development

- 1. Site Plan**
- 2. Engineering Plans**
- 3. Project Narrative**
- 4. Draft Plat**

Exhibit F – Estimate for Public Improvements

Exhibit G – Development Phases

**TOWN OF EAGLE, COLORADO
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 02
(Series of 2026)**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO RECOMMENDING APPROVAL WITH CONDITIONS OF A MAJOR DEVELOPMENT PERMIT AND PRELIMINARY PLAN TO CONSTRUCT A RESIDENTIAL PLANNED UNIT DEVELOPMENT CONSISTING OF 66 TOTAL DWELLING UNITS AT 17500 US HIGHWAY 6

WHEREAS, Griffin Development, LLC (“the Applicant”) owns the real property at 17500 US Highway 6, Town of Eagle, Eagle County, Colorado (the “Property”);

WHEREAS, on February 12, 2025, the Applicant submitted with the Town applications for a Major Development Permit and Preliminary Plan to construct a residential planned unit development consisting of 66 total dwelling units at 17500 US Highway 6 (the “Applications”); and

WHEREAS, on February 17, 2026, the Planning and Zoning Commission held a properly noticed public hearing on the Applications.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Findings. The Planning and Zoning Commission finds that the Major Development Permit and Preliminary Plan Applications comply with all applicable provisions of the Eagle Municipal Code, and that approval of the Applications are in the best interest of the public health, safety, and welfare.

Section 2. Decision. Based on the foregoing findings, the Planning and Zoning Commission recommends approval of the Applications, subject to the following conditions:

1. That, prior to final plat acceptance, a Development and Subdivision Improvements Agreement (DSIA) shall be signed and executed by the Town of Eagle and Griffin Development, LLC, or their successors.
2. The, prior to final plat acceptance, applicable permits from the Colorado Department of Transportation are acquired for connection to Town utilities and the Eagle Valley Trail.
3. That, prior to final plat acceptance, applicable permits from the Union Pacific Railroad are acquired for connection to Town utilities and the Eagle Valley Trail.
4. That, prior to final plat acceptance, a public utility plan is reviewed and accepted by the Town Engineer or their designee.
5. That, prior to final plat acceptance, an updated wildlife conservation plan, or standalone plan, subject to acceptance by the Town’s wildlife biologist, that adequately details how applicable USFWS monitoring, tracking, and reporting requirements shall be met throughout the development of the site.

6. The, prior to final plat acceptance, a Major PUD Amendment has been approved by the Town.
7. That, prior to final plat acceptance, the conditions of approval outlined in the March 4, 2026, letter from Karp Neu Hanlon, P.C. have been satisfied.

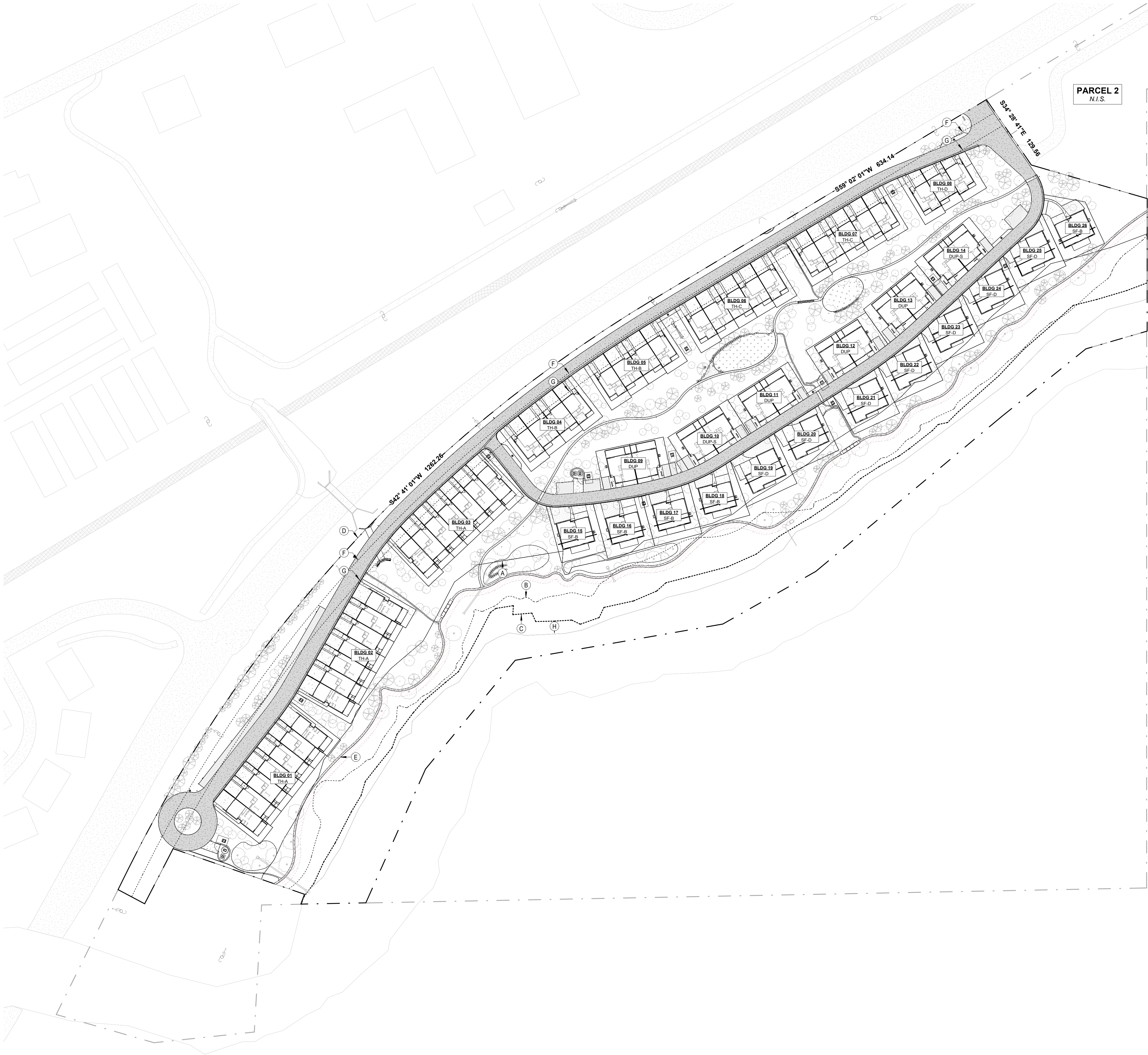
INTRODUCED, READ, PASSED AND ADOPTED ON MARCH 17, 2026.

TOWN OF EAGLE, COLORADO

Matthew Hood, Chair

ATTEST:

Gram Dick, Administrative Technician



1 PARCEL 1 SITE PLAN
SCALE: 1" = 80'-0"

GENERAL NOTES

1. UTILITIES WILL BE CONNECTED TO THE LOCAL EAGLE MUNICIPALITY SYSTEMS.
2. ONLY WATER AND ELECTRICITY WILL BE BROUGHT TO THE SITE AS THERE IS NO ACCESS TO GAS AND ALL BUILDINGS WILL BE ELECTRIC.
3. RE: CIVIL SHEETS (C-SERIES) FOR DETAILED UTILITY AND GRADING INFORMATION.

SHEET NOTES

- A 75' STREAM SETBACK
B 100 YEAR FLOOD PLAIN
C AVERAGE HIGH WATER LINE
D PROPOSED BIKE PATH CONNECTION
E 12' PUBLIC TRAIL EASEMENT
F 25' SETBACK FROM HWY 6 ROW
G 50' SETBACK FROM HWY 6 ROW
H EAGLE RIVER

ANNOTATION TYPES

- PARCEL BOUNDARY
--- PROPERTY BOUNDARY
SPECIFIC TO INDIVIDUAL UNITS
--- SETBACK
--- 100 YEAR FLOOD PLAIN
--- AVERAGE HIGH WATER LINE
--- 12' PUBLIC TRAIL EASEMENT
S#.# SIGNAGE TAG
RE: SIGNAGE SCHEDULE ON G-03
P# PARKING SPOT
9' X 19' TYP.
UNIT TAG

MATERIALS

- ROAD
ASPHALT
CURB & GUTTER
CONCRETE
DRIVEWAYS
CONCRETE (BRUSHED)
DRIVEWAYS
GRAVEL/CRUSHER FINES
WALKWAYS
CONCRETE (EXPOSED AGGREGATE)
PRIVATE TRAIL
GRAVEL/CRUSHER FINES
PUBLIC DISCOVERY TRAIL
GRAVEL/CRUSHER FINES
STORMWATER
SWALE
STORMWATER
WATER QUALITY POND
LANDSCAPED AREA
PLANTED

UTILITIES

- EE EE EE ELECTRICAL
OVERHEAD, EXISTING
EU EU EU ELECTRICAL
UNDERGROUND, PROPOSED
W W W WATER SUPPLY
S S S SANITARY SEWER
SF SF SF SANITARY FORCE MAIN
T TRANSFORMER
SL SANITARY LIFT STATION
IRRIGATION

PLANTINGS

- DECIDUOUS TREE
RE: LANDSCAPE
CONIFEROUS TREE
RE: LANDSCAPE

PROJECT:
**RED MOUNTAIN
RANCH**

ADDRESS:
17500 US-6
EAGLE, CO 81631

ARCHITECTURE:
tres birds

PROJECT TEAM:

MIKE MOORE
303-324-3622
MMM@TRESBIRDS.COM

DOUG NEWBY
720-563-7299
DN@TRESBIRDS.COM

DAVID HOFFMAN
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DAISY WICKS
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DW@TRESBIRDS.COM

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CONSULTANTS:

CIVIL ENGINEERING
WILSON & CO
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303-501-1217
BEN.BEISLER@WILSONCO.COM

LANDSCAPE
WENK ASSOCIATES
TYLER KIGGINS
720-669-3112
TKIGGINS@WENKLA.COM

STRUCTURAL
KL&A
JAKE HOHMANN, PE
303-384-9910
JHOHMANN@KLAA.COM

SUSTAINABILITY
ARUP
TESSA MCNAMARA
212-897-1067
TESS.MCNAMARA@ARUP.COM

SET:

**(MDP) MAJOR
DEVELOPMENT
PERMIT**

ISSUANCE:

R3 SUBMITTAL

ISSUE DATE:

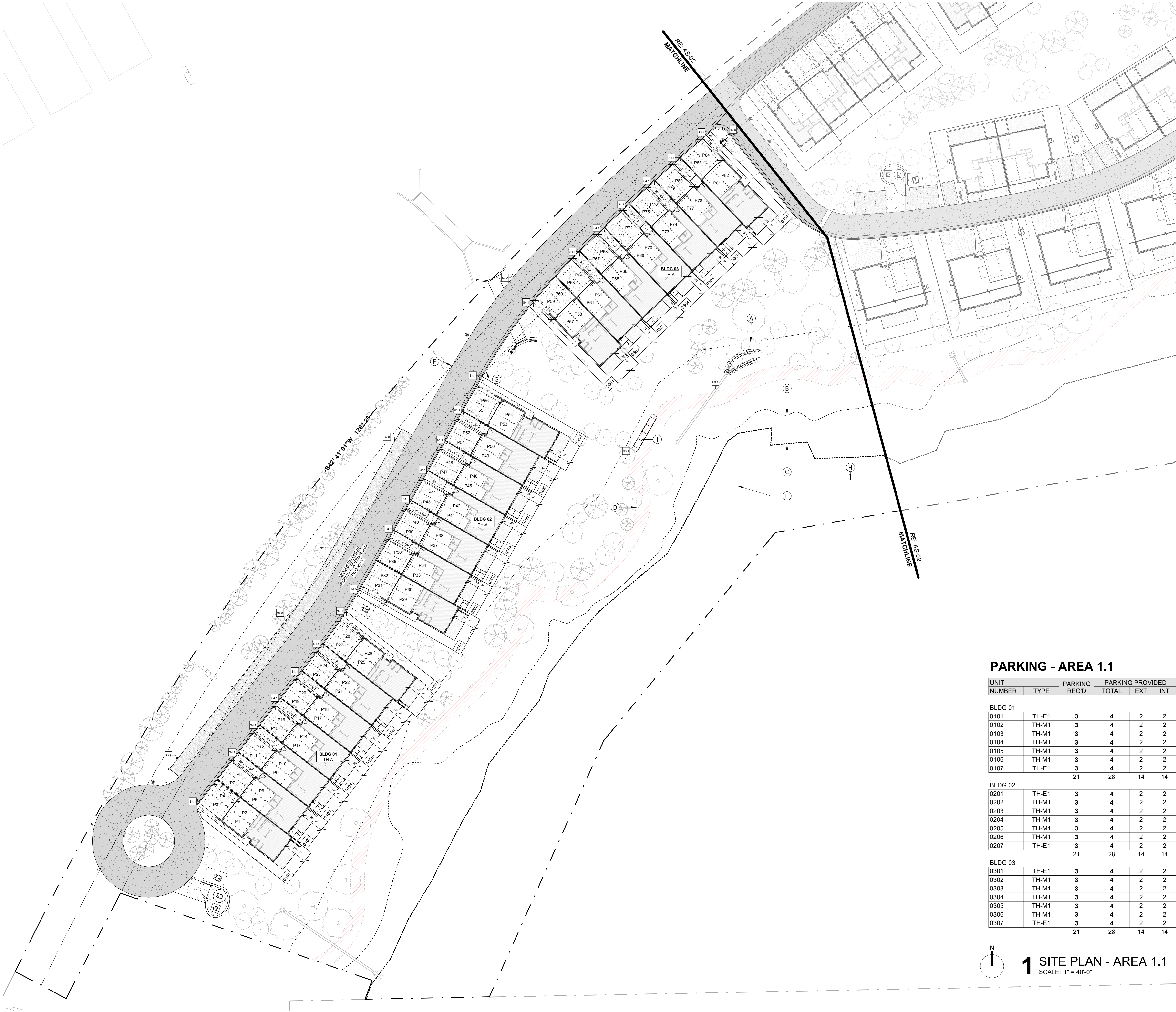
01.23.2026

REVISION HISTORY:

DRAWING SHEET TITLE:

**SITE PLAN -
PARCEL 1**

AS-00



PARKING - AREA 1.1

UNIT		PARKING REQ'D	PARKING PROVIDED		
NUMBER	TYPE		TOTAL	EXT	INT
BLDG 01					
0101	TH-E1	3	4	2	2
0102	TH-M1	3	4	2	2
0103	TH-M1	3	4	2	2
0104	TH-M1	3	4	2	2
0105	TH-M1	3	4	2	2
0106	TH-M1	3	4	2	2
0107	TH-E1	3	4	2	2
		21	28	14	14
BLDG 02					
0201	TH-E1	3	4	2	2
0202	TH-M1	3	4	2	2
0203	TH-M1	3	4	2	2
0204	TH-M1	3	4	2	2
0205	TH-M1	3	4	2	2
0206	TH-M1	3	4	2	2
0207	TH-E1	3	4	2	2
		21	28	14	14
BLDG 03					
0301	TH-E1	3	4	2	2
0302	TH-M1	3	4	2	2
0303	TH-M1	3	4	2	2
0304	TH-M1	3	4	2	2
0305	TH-M1	3	4	2	2
0306	TH-M1	3	4	2	2
0307	TH-E1	3	4	2	2
		21	28	14	14

1 SITE PLAN - AREA 1.1
SCALE: 1" = 40'-0"

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B 100 YEAR FLOOD PLAIN
C AVERAGE HIGH WATER LINE
D PUBLIC ACCESS TRAIL "DISCOVERY TRAIL"
E SWALE FOR CONVEYING STORM WATER TO THE RIVER
F 25' SETBACK FROM HWY 6 ROW
G 50' SETBACK FROM HWY 6 ROW
H EAGLE RIVER
I BRIDGE @ DISCOVERY TRAIL

ANNOTATION TYPES

- PARCEL BOUNDARY
--- PROPERTY BOUNDARY
SPECIFIC TO INDIVIDUAL UNITS
--- SETBACK
--- 100 YEAR FLOOD PLAIN
--- AVERAGE HIGH WATER LINE
12' PUBLIC TRAIL EASEMENT
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9' X 19' TYP.
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CONCRETE
DRIVEWAYS
CONCRETE (BRUSHED)
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STORMWATER
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LANDSCAPED AREA
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S S S SANITARY SEWER
SF SF SF SANITARY FORCE MAIN
T TRANSFORMER
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- DECIDUOUS TREE
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SET:
**(MDP) MAJOR
DEVELOPMENT
PERMIT**

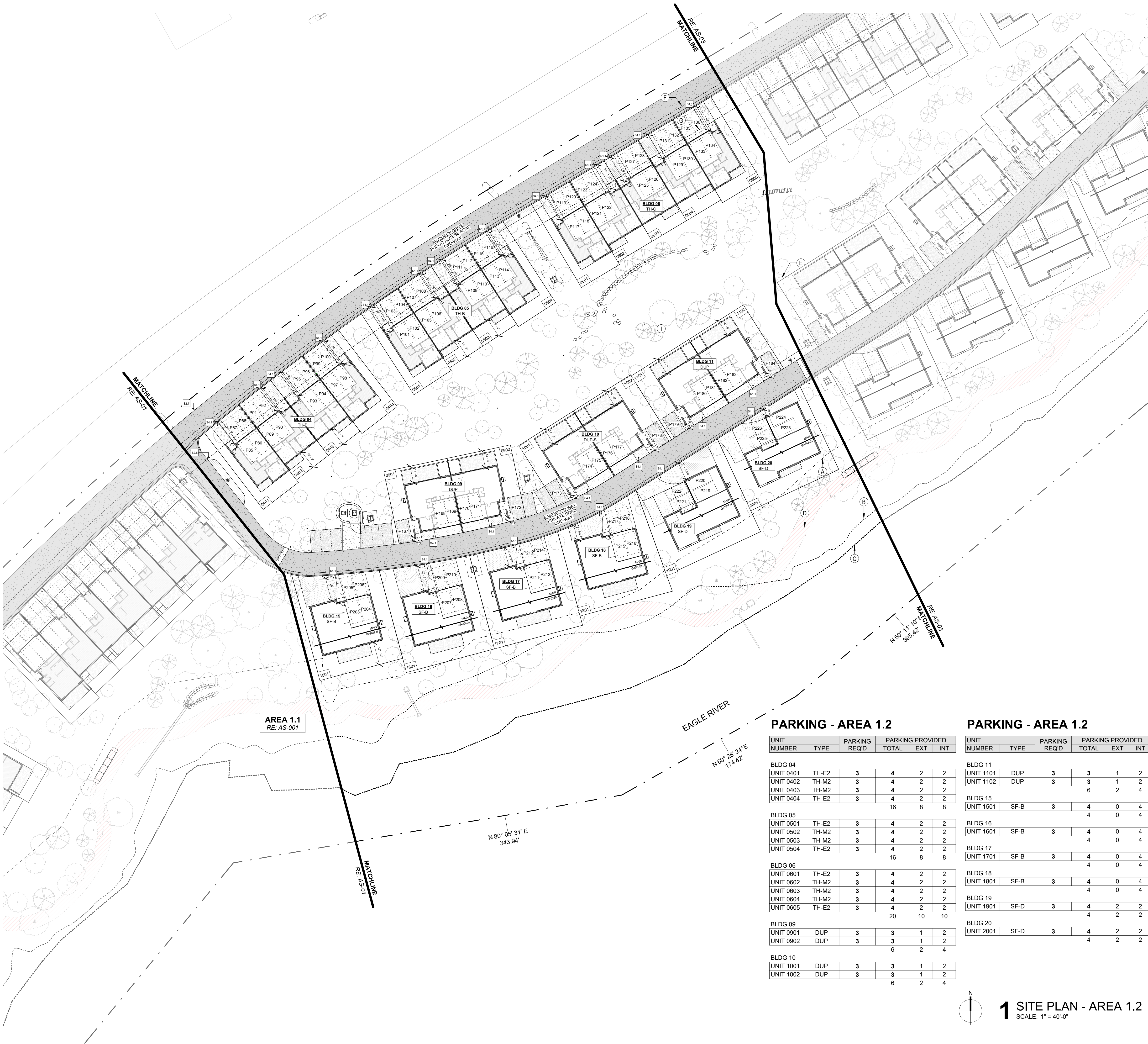
ISSUANCE:
R3 SUBMITTAL

ISSUE DATE:
01.23.2026

REVISION HISTORY:

DRAWING SHEET TITLE:
**SITE PLAN -
AREA 1.1**

AS-01



GENERAL NOTES

- 1. UTILITIES WILL BE CONNECTED TO THE LOCAL EAGLE MUNICIPALITY SYSTEMS.
- 2. ONLY WATER AND ELECTRICITY WILL BE BROUGHT TO THE SITE AS THERE IS NO ACCESS TO GAS AND ALL BUILDINGS WILL BE ELECTRIC.
- 3. RE: CIVIL SHEETS (C-SERIES) FOR DETAILED UTILITY AND GRADING INFORMATION.

SHEET NOTES

- A 75' STREAM SETBACK
- B 100 YEAR FLOOR PLAIN
- C AVERAGE HIGH WATER LINE
- D PUBLIC ACCESS TRAIL "DISCOVERY TRAIL"
- E SWALE FOR CONVEYING STORM WATER TO THE RIVER
- F 25' SETBACK FROM HWY 6 ROW
- G 50' SETBACK FROM HWY 6 ROW
- I PRIVATE TRAIL FOR RESIDENTS

ANNOTATION TYPES

- Parcel Boundary
- Property Boundary Specific to Individual Units
- Setback
- 100 Year Flood Plain
- Average High Water Line
- 12' Public Trail Easement
- Signage Tag RE: SIGNAGE SCHEDULE ON G-03
- Parking Spot 9' X 19' TYP.
- Unit Tag

MATERIALS

- Road Asphalt
- Curb & Gutter Concrete
- Driveways Concrete (Brushed)
- Driveways Gravel/Crusher Fines
- Walkways Concrete (Exposed Aggregate)
- Private Trail Gravel/Crusher Fines
- Public Discovery Trail Gravel/Crusher Fines
- Stormwater Swale
- Stormwater Water Quality Pond
- Landscaped Area Planted

UTILITIES

- Electrical Overhead, Existing
- Electrical Underground, Proposed
- Water Supply
- Sanitary Sewer
- Sanitary Force Main
- Transformer
- Sanitary Lift Station
- Irrigation

PLANTINGS

- Deciduous Tree RE: LANDSCAPE
- Coniferous Tree RE: LANDSCAPE

PROJECT:
RED MOUNTAIN RANCH

ADDRESS:
17500 US-6
EAGLE, CO 81631

ARCHITECTURE:
tres birds

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NOT FOR CONSTRUCTION

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(MDP) MAJOR DEVELOPMENT PERMIT

ISSUANCE:

R3 SUBMITTAL

ISSUE DATE:

01.23.2026

REVISION HISTORY:

DRAWING SHEET TITLE:

SITE PLAN - AREA 1.2

AS-02

1 SITE PLAN - AREA 1.2
SCALE: 1" = 40'-0"

1. UTILITIES WILL BE CONNECTED TO THE LOCAL EAGLE MUNICIPALITY SYSTEMS.
2. ONLY WATER AND ELECTRICITY WILL BE BROUGHT TO THE SITE AS THERE IS NO ACCESS TO GAS AND ALL BUILDINGS WILL BE ELECTRIC.
3. RE: CIVIL SHEETS (C-SERIES) FOR DETAILED UTILITY AND GRADING INFORMATION.

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- A 75' STREAM SETBACK
- B 100 YEAR FLOOR PLAIN
- C AVERAGE HIGH WATER LINE
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- E SWALE FOR CONVEYING STORM WATER TO THE RIVER
- F 25' SETBACK FROM HWY 6 ROW
- G 50' SETBACK FROM HWY 6 ROW
- H EAGLE RIVER
- I PRIVATE TRAIL FOR RESIDENTS

PARCEL BOUNDARY
 PROPERTY BOUNDARY
 SPECIFIC TO INDIVIDUAL UNITS
 SETBACK
 100 YEAR FLOOD PLAIN
 AVERAGE HIGH WATER LINE
 12' PUBLIC TRAIL EASEMENT
 SIGNAGE TAG
 RE: SIGNAGE SCHEDULE ON G-03
 PARKING SPOT
 9' X 14' TYP.
 UNIT TAG

	ROAD ASPHALT
	CURB & GUTTER CONCRETE
	DRIVEWAYS CONCRETE (BRUSHED)
	DRIVEWAYS GRAVEL/CRUNCHER FINES
	WALKWAYS CONCRETE (EXPOSED AGGREGATE)
	PRIVATE TRAIL GRAVEL/CRUNCHER FINES
	PUBLIC DISCOVERY TRAIL GRAVEL/CRUNCHER FINES
	STORMWATER SWALE
	STORMWATER WATER QUALITY POND
	LANDSCAPED AREA PLANTED

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DEVELOPMENT
PERMIT

R3 SUBMITTAL

01.23.2026

SITE PLAN - AREA 1.3

AS-03

PLANTINGS

Red Mountain Ranch

Design Guidelines – Draft (09.22.2025 Revision)



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1. Purpose and Intent

The purpose of the Red Mountain Ranch Design Guidelines is to serve as the governing regulations which will control the development of the Red Mountain Ranch Planned Unit Development (PUD). All buildings and exterior improvements constructed as part of the Red Mountain Ranch PUD shall be subject to the following requirements. Uses by right can be found within the recorded Red Mountain Ranch PUD Guide.

It is the intent of the Red Mountain Ranch PUD to preserve the existing riparian landscape, native flora, old growth tree coverage, and grading as much as possible while planting new native vegetation to further enhance the natural environment within the properties governed by the Red Mountain Ranch PUD.

2. Definitions

Accessory Building: As defined in the Town of Eagle Land Use and Development Code

Accessory Dwelling Unit: As defined in the Town of Eagle Land Use and Development Code

Adaptive Plant: A non-native plant that can conform to a site's environmental conditions.

Addition: An improvement that increases the square footage of a structure. These include lateral additions added to the side or rear of a structure, vertical additions added on top of a structure and enclosures added underneath a structure.

Alteration: An improvement that changes the exterior appearance of a structure. These include changes to façade materials, openings, porches/decks/patios, exterior lighting.

Azimuth: Degree from which a panel or building is offset from True North.

Boundary Wall(s): Rigid walls used for separating spaces owned by multiple home/landowners or separating porches/decks/patios/driveways from HOA-owned and managed land.

Building Height: As defined in the Town of Eagle Land Use and Development Code

Dormer: A roofed structure, often containing a window, that projects vertically beyond the plane of a pitched roof.

Driveway: As defined in the Town of Eagle Land Use and Development Code

Duplex: A building containing two structurally independent dwelling units that appears to be a single, integrated structure. Where sizes of lots, FAR, etc. are provided, sizes/dimensions/percentages are based on each dwelling unit within a duplex, not the duplex as a whole.

Dwelling Unit: A building or part of a building with one kitchen providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation as defined by the Town's adopted building code, for not more than one family or household. For the purposes of this definition, a kitchen is defined as having either a 240v outlet or a gas line for a cooking appliance within 20-ft of a sink.

Energy Use Intensity (EUI): The amount of energy used per square foot annually. Calculated by dividing the total energy consumed in kBtu by the building in a year by the total Gross Floor Area.

Exterior Corner(s): The point at which two exterior walls form an external angle.

Façade: As defined in the Town of Eagle Land Use and Development Code

Floor Area Ratio (FAR): The measurement of a building's total floor area (measured to the outermost edge of the exterior wall, including covered porches/decks/patios/driveways) in relation to the size of the lot/parcel that the building is located on. FAR is expressed as a decimal number and is derived by dividing the total area of the building by the total area of the parcel (building area ÷ lot area).

Grade, Existing: As defined in the Town of Eagle Land Use and Development Code

Grade, Finished: As defined in the Town of Eagle Land Use and Development Code

Gross Floor Area (GFA): As defined in the Town of Eagle Land Use and Development Code

High Water Mark: The point along the bank of a stream or river that marks the water level of high spring runoff discharge, based on a recurrence interval of 10 years.

Hotel/Motel: As defined in the Town of Eagle Land Use and Development Code

Interior Corner(s): The point at which two exterior walls form an internal angle.

Interior Lot Line: A property line located between dwelling units at townhomes and duplexes with a shared common wall.

Native Plant: A plant species that is naturally found in the region.

Pervious Surface/Permeable Paving: Also referred to as pervious material. A material or surface that allows for the absorption of water into the ground or plant material, such as permeable pavers or a vegetated roof.

Primary Entrance: The place of pedestrian ingress and egress to a building, parcel, or development used most frequently by the public.

Retaining Wall(s): Relatively rigid walls used for supporting soil laterally so that it can be retained at different levels on the two sides.

Riparian Area Management Plan (RAMP): The purpose of the RAMP is to address the protection and maintenance of riparian buffers on property, utility easements, and greenway corridors along the Eagle River as part of the Red Mountain Ranch Development area.

Roofline: As defined in the Town of Eagle Land Use and Development Code

R-Value: A measure of resistance to the flow of heat through a given thickness of a material (such as insulation) with higher numbers indicating better insulating properties measured in $K \times m^2 / W$.

Setback: As defined in the Town of Eagle Land Use and Development Code

Single Family Home: A free-standing residential building, designed to be used as a single-dwelling unit, with one owner, and no shared walls.

Site Lighting: Lighting used to illuminate the site and site fixtures, including but not limited to the discovery trail, driveways, walkways, roads, parking lots.

Solar Heat Gain Coefficient (SHGC): The fraction of the incident solar radiation admitted to the interior of a building through a window, door, or skylight.

Townhome: A unit, together with the lot appurtenant thereto, held in fee simple ownership sharing a common unpierced vertical wall(s) with another townhouse(s) which comprises at least 10 percent of the linear measurement around the perimeter of the unit.

U-Value or U-Factor: A measure of the heat transmission through a building part (such as a wall or window) or a given thickness of a material (such as insulation) with lower numbers indicating better insulating properties measured in $W / K \times m^2$.

Walk Out Basement: A story that works with the natural topography of a site and allows for an occupied story to walk directly out onto the neighboring landscape.

Wall, Parapet: A portion of a wall that extends above the roof line.

Xeriscape: Landscape methods that conserve water by using drought-tolerant plants and planting techniques, with efficient irrigation systems.

3. Residential Construction

3.1. Applicable Planning Areas

- A. Section 3 applies to all Planning Area's in the Red Mountain Ranch Development.

3.2. Applicable Codes

- A. Codes and amendments adopted by the Town of Eagle shall govern.
- B. All residential dwelling units shall be designed so that they fall under the necessary requirements to meet the International Residential Code (IRC).

3.3. Accessory Dwelling Units

3.3.1. Applicable Planning Areas

- A. Accessory Dwelling units are permitted on Planning Area 1.
- B. Accessory Dwelling units are permitted on Planning Areas 3 through 6.

3.4. Siting

3.4.1. Setbacks

- A. Planning Area 1 minimum setbacks on residential lots are as follows:
 - 1. Townhomes:
 - a. Front: 10-feet (10')
 - b. Side: 7-feet 6-inches (7'-6")
 - c. Side Interior: 0-feet (0')
 - d. Rear: 10-feet (10')
 - 2. Duplexes:
 - a. Front: 2-feet 6-inches (2'-6")
 - b. Side: 7-feet 6-inches (7'-6")
 - c. Side Interior: 0-feet (0')
 - d. Rear: 10-feet (10')
 - 3. Single Family
 - a. Front: 2-feet 6-inches (2'-6")

- b. Side: 7-feet 6-inches (7'-6")
- c. Rear: 10-feet (10')

B. Planning Area 4 minimum setbacks on residential lots are as follows:

- 1. Townhomes:
 - a. Front: 10-feet (10')
 - b. Side: 7-feet 6-inches (7'-6")
 - c. Side Interior: 0-feet (0')
 - d. Rear: 20-feet (20')
- 2. Duplexes:
 - a. Front: 10-feet (10')
 - b. Side: 7-feet 6-inches (7'-6")
 - c. Side Interior: 0-feet (0')
 - d. Rear: 20-feet (20')
- 3. Single Family
 - a. Front: 10-feet (10')
 - b. Side: 7-feet 6-inches (7'-6")
 - c. Rear: 20-feet (20')

C. Planning Area 5 and 6 minimum setbacks on residential lots are as follows:

- 1. Duplexes:
 - a. Front: 10-feet (10')
 - b. Side: 7-feet 6-inches (7'-6")
 - c. Side Interior: 0-feet (0')
 - d. Rear: 20-feet (20')
- 2. Single Family
 - a. Front: 10-feet (10')
 - b. Side: 7-feet 6-inches (7'-6")
 - c. Rear: 20-feet (20')

3.4.2. Orientation and Massing

- A. Buildings shall be sited and massed according to the following sections to optimize production of building mounted solar energy generation systems and

infrastructure, while minimizing loads on HVAC systems through the deployment of passive heating and cooling principles.

3.4.3. Site Preservation

- A. Existing trees, ground cover, and other vegetation noted in the RAMP as native and in good condition shall remain.
- B. Proposed development shall limit disturbance to the minimum area necessary for construction and shall provide a Construction Management Plan as part of a complete Design Review Submittal.
- C. Minimize grading and hardscapes to provide connections between stands of native vegetation and landscaped areas; use native and water wise vegetation for all planting.

3.4.4. Lot Coverage

- A. Minimum Lot Sizes:

	Townhome	Duplex 1/2	Single Family
Planning Areas 1-4	900 sf	2,000 sf	6,000 sf
Planning Area 5	1,200 sf	2,000 sf	15,000 sf
Planning Area 6	1,200 sf	2,000 sf	15,000 sf

- B. Maximum Floor Area Ratio (FAR) per building type:

	Townhome	Duplex 1/2	Single Family
Planning Areas 1-4	3.0	2.0	1.0
Planning Area 5	3.0	2.0	0.4
Planning Area 6	3.0	2.0	0.4

- C. Dwelling units are limited to a maximum of 10,000 sf

3.4.5. Parking

- A. Parking shall be based on the Town of Eagle's zoning code and shall meet the minimum requirements described.

B. Minimum Garage size requirements by Planning Area:

	Townhome	Duplex 1/2	Single Family
Planning Areas 1-4	1 Car	2 Car	2 Car
Planning Areas 5-6	2 Car	2 Car	2 Car

C. Minimum garage sizes shall be as follows (width x depth of interior faces of garage):

1. One-car garage: 14-feet x 20-feet (14' x 20')
2. Two-car garage: 20-feet x 20-feet (20' x 20')
3. Three-car garage: 32-feet x 20-feet (32' x 20')

D. Planning areas 1 through 4 must provide the necessary garage parking spaces but may provide additional required spaces throughout the development Planning Area.

E. Planning areas 5 and 6 must provide all necessary parking within the individual property lines for each dwelling unit.

3.4.6. Grading

- A. Design grading to minimize changes to natural topography and minimize impacts to stands of existing vegetation.
- B. Grading shall establish positive drainage, in accordance with the Town of Eagle building code, away from structures, minimize grading and utilize natural drainage patterns to dissipate and infiltrate stormwater across the site.
- C. Proposed development shall limit disturbance to the minimum area necessary for construction and shall provide a Construction Management Plan as part of a complete Design Review Submittal.
- D. New grading shall be minimal to allow for drainage around dwelling units and collection of stormwater for drainage to HOA-managed on-site stormwater swales and detention ponds.

3.4.7. Planting and Vegetation

- A. Site landscaping shall prioritize native and water wise vegetation.
 - 1. Pre-approved and recommended planting species are established in the RAMP.
- B. Individual irrigated turf areas are not permitted throughout the development.
 - 1. Exception: Areas provided by the development and HOA-maintained for common use are permitted.

- 2. Exception: Per sizes listed below:

	Townhome	Duplex 1/2	Single Family
Planning Areas 1-6	N/A	1,000 sf	2,000 sf

3.4.8. Fencing and Walls

- A. Fences are not permitted, unless approved by the design review board.
 - 1. Exception: At the Northern edge of the Red Mountain Ranch property neighboring Highway US6, around public gardens, and composting areas.
 - 2. Exception: Berms are permitted throughout the Red Mountain Ranch Property.
 - 3. Exception: Screening of mechanical equipment, metering, etc.

3.4.9. Address Signage

- A. Signage shall be limited to building addressing and individual characters shall be six inches (6") or less measured vertically.
 - 1. Exception: As part of the development, one sign at the entry to each Planning Area is permitted.
- B. Address signage shall be located clearly on dwelling unit's elevation facing the street.

1. Where driveways exceed easy visibility to a dwelling unit's elevation, a yard sign, constructed of a natural material, located at the beginning of the driveway shall be permitted.

3.4.10. Site Lighting

- A. All site lighting shall be LED with a color temperature of 2,700-Kelvin (K).
- B. Site lighting shall meet the night sky requirements set forth in the Town of Eagle code.
- C. Diodes within lighting fixtures shall not be visible.
- D. Site lighting fixtures shall be consistent with precedent fixtures used throughout the rest of the development. To the extent possible, the fixtures below shall be used for site lighting. Use of alternative lighting fixtures must be approved by the Design Review Board.
 1. Louis Polusen Flindt Bollard
 2. Louis Polusen Flindt Garden Bollard

3.5. Performance Criteria and Systems

3.5.1. Performance Standards

- A. Dwelling units shall be designed to meet the International Energy Conservation Code (IECC) 2021 or currently adopted energy code, whichever is more restrictive, unless noted otherwise.

3.5.2. Photovoltaic Infrastructure

- A. All solar infrastructure shall be located on the roofs of dwelling units or accessory buildings.
- B. Solar infrastructure shall be placed at a tilt between 22.5 – 37 degrees with an azimuth to North between 110 – 230 degrees.

3.5.3. Natural Gas Systems

- A. No fossil fuels shall be burned on-site for residential dwelling units.

1. Exception: Fixtures such as outdoor grills, fire pits, etc.

3.5.4. Mechanical Systems

- A. Dwelling units shall be mechanically ventilated.
- B. Smart thermostats with scheduled setpoints shall be installed in dwelling units.
- C. MERV 13 filters shall be installed on all outdoor air intake systems.

3.5.5. Electrical Systems

- A. Dwelling units shall be Photovoltaic ready.
 1. Reference the [United States Environmental Protection Agency \(EPA\) Solar Photovoltaic Guidelines](#) for photovoltaic ready homes.
- B. Dwelling unit garages shall be EV charging ready for future installation.

3.5.6. Plumbing Systems

- A. All plumbing fixtures shall be [EPA WaterSense](#) labeled.
- B. Laundry appliances and dishwashers shall have an [Energy Star Rating](#).
- C. Potable water shall not be used for irrigation systems.
- D. Irrigation of planting on-site shall be met with 100% raw water diverted from the Eagle River to HOA-owned and managed on-site detention basins or met with a recycled water source.
 1. Water gathered from the Eagle River shall be in accordance with the allowed water rights assigned to Red Mountain Ranch.

3.5.7. Building Envelope Systems

- A. Exterior Walls
 1. Exterior walls shall be designed to 10% better than code.
- B. Roofs
 1. Roofs shall be designed to 10% better than code.
- C. Openings

1. All openings shall be designed with a minimum of double pane glazing.
2. Windows and doors shall have a maximum Solar Heat Gain Coefficient (SHGC) of 0.5.

3.6. Building Characteristics

3.6.1. Building Form

- A. The maximum height of residential dwelling units shall be defined in the Red Mountain Ranch PUD as measured per the Town of Eagle Land Use Code.
 1. Dwelling units shall be maximum 2 stories.
 - a. Exception: Where townhomes are located a minimum of 150-feet (150') from the high-water mark of the Eagle River, 3 stories shall be permitted.
- B. Roofs
 1. Flat roofs are not permitted as the primary roof structure.

3.6.2. Plans

- A. Entries from the exterior shall be covered by a minimum of 30-inches (30") measured from the exterior building face.
- B. Living Spaces (living room, kitchen, dining room, etc.)
 1. Living spaces should open into nature.

3.6.3. Roof and Parapets

- A. Roofs shall not be constructed of asphalt shingles.

3.6.4. Materials and Color

- A. Non-Combustible exterior finish materials shall be located up to a minimum height of 18-inches (18") around the building's perimeter.

3.6.5. Lighting

- A. All lighting shall be LED with a color temperature of 2,700-Kelvin (K)
- B. Where lighting with an up-light is permitted per the Town of Eagle code, the light must be located under an overhang.

- 1. Exception: Landscape lighting that meets the Town of Eagle code.
- C. Diodes within lighting fixtures shall not be visible.

- 1. Exception: Holiday lights

3.6.6. Exterior Equipment

- A. Exterior equipment shall be hidden from plain sight and integrated into the buildings' form or screened with vegetation or fencing.

4. Commercial Construction

4.1. Applicable Planning Areas

- A. Section 4 applies to Planning Area's 2, and 3 in the Red Mountain Ranch Development.

4.2. Applicable Codes

- A. Codes and amendments adopted by the Town of Eagle shall govern. As a rule, if two regulations pose a conflict, the more restrictive regulation applies.

4.3. Siting

4.3.1. Setbacks

- A. Minimum setbacks for Commercial buildings shall be as follows:
 - 1. Front: 10-feet (10') at Planning Area 2; 25-feet (25') at Planning Area 3
 - 2. Side: 12-feet 6-inches (12'-6")
 - 3. Rear: 20-feet (20')

4.3.2. Orientation and Massing

- A. Buildings shall be sited and massed according to the following sections to optimize production of building mounted solar energy generation systems and infrastructure, while minimizing loads on HVAC systems through the deployment of passive heating and cooling principles.

4.3.3. Site Preservation

- A. Existing trees, ground cover, and other vegetation noted in the RAMP as native and in good condition shall remain.
- B. Proposed development shall limit disturbance to the minimum area necessary for construction and shall provide a Construction Management Plan as part of a complete Design Review Submittal.
- C. Minimize grading and hardscapes to provide connections between stands of native vegetation and landscaped areas; use native and water wise vegetation for all planting.

4.3.4. Parking

- A. Parking shall be based on the Town of Eagle's zoning code and shall meet the minimum requirements described.

4.3.5. Grading

- A. Design grading to minimize changes to natural topography and minimize impacts to stands of existing vegetation.
- B. Grading shall establish positive drainage, in accordance with the Town of Eagle building code, away from structures, minimize grading and utilize natural drainage patterns to dissipate and infiltrate stormwater across the site.
- C. Proposed development should limit disturbance to the minimum area necessary for construction and shall provide a Construction Management Plan as part of a complete Design Review Submittal
- D. Buildings should be placed to preserve existing grading.
 - 1. New grading should be minimal to allow for drainage around buildings and collection of stormwater for drainage to HOA-managed on-site stormwater swales and detention ponds.

4.3.6. Stormwater and Drainage

- A. Buildings shall be equipped with foundation drains that are directed to HOA-managed on-site stormwater swales and detention ponds.

4.3.7. Planting and Vegetation

- A. Site landscaping shall prioritize native and water wise vegetation.
 - 1. Pre-approved and recommended planting species are established in the RAMP.
- B. Irrigated turf areas are permitted on Planning Area 2 and 3.

4.3.8. Fencing and Walls

- A. Fences are not permitted, unless approved by the Design Review Board.

1. Exception: At the Northern edge of the Red Mountain Ranch property neighboring Highway US6, around public gardens, and composting areas.
 2. Exception: Berms are permitted throughout the Red Mountain Ranch Property.
- B. Retaining walls and boundary walls shall be permitted in accordance with the sections below.
1. No concrete retaining walls or boundary walls are permitted.
 2. Retaining walls and boundary walls shall be constructed of river rock, gabion walls, or materials consistent with the exterior façade of buildings or structures.

4.3.9. Address Signage

- A. Signage shall be limited to building addressing and individual characters shall be 12-inches (12”) or less measured vertically.
1. Exception: As part of the development, one sign at the entry to each Planning Area is permitted.

4.3.10. Site Lighting

- A. All site lighting shall be LED with a color temperature of 2,700-Kelvin (K).
- B. Site lighting shall meet the night sky requirements set forth in the Town of Eagle code.
- C. Diodes within lighting fixtures shall not be visible.
- D. Site lighting fixtures shall be consistent with precedent fixtures used throughout the rest of the development. To the extent possible, the fixtures below shall be used for site lighting. Use of alternative lighting fixtures must be approved by the Design Review Board.
1. Louis Polusen Flindt Bollard
 2. Louis Polusen Flindt Garden Bollard

4.4. Performance Criteria and Systems

4.4.1. Performance Standards

- A. Commercial buildings shall be designed to meet the International Energy Conservation Code (IECC) 2021, unless noted otherwise.

4.4.2. Photovoltaic Infrastructure

- A. All solar infrastructure shall be located on the roofs of commercial buildings.
- B. Solar infrastructure shall be placed at a tilt between 22.5 – 37 degrees with an azimuth to North between 110 – 230 degrees.

4.4.3. Natural Gas Systems

- A. No fossil fuels shall be burned on-site for commercial buildings.
 - 1. Exception: Fixtures such as outdoor grills, fire pits, etc.
 - 2. Exception: If required by the commercial restaurant tenant on Planning Area 2, a propane tank may be equipped within the back-of-house loading and trash area.
 - a. The propane tank must be properly screened so as to not be visible from the parking lot or publicly occupied areas of Parcel 2.

4.4.4. Mechanical Systems

- A. Commercial buildings shall be mechanically ventilated.
- B. Smart thermostats with scheduled setpoints and setbacks shall be installed.
- C. MERV 13 filters shall be installed on all outdoor air intake systems.

4.4.5. Electrical Systems

- A. EV Charging requirements for commercial construction shall comply with the Town of Eagle code.

4.4.6. Plumbing Systems

- A. All plumbing fixtures shall be [EPA WaterSense](#) labeled.
- B. Potable water shall not be used for irrigation systems.

C. Irrigation of planting on-site shall be met with 100% raw water diverted from the Eagle River to HOA-owned and managed on-site detention basins or met with a recycled water source.

1. Water gathered from the Eagle River shall be in accordance with the allowed water rights assigned to Red Mountain Ranch.

4.4.7. Building Sprinkler Systems

A. All commercial buildings shall be fully sprinklered.

4.4.8. Building Envelope Systems

A. Exterior Walls

1. Exterior walls shall be designed to 10% better than code.

B. Roofs

1. Roofs shall be designed to 10% better than code.

C. Openings

1. All openings shall be designed with a minimum of double pane glazing.
2. Windows and doors shall have a maximum Solar Heat Gain Coefficient (SHGC) of 0.5.
3. Windows shall not have a vinyl frame.

4.5. Building Characteristics

4.5.1. Building Form

A. The maximum height of commercial buildings shall be measured per the Town of Eagle code, and limited to a maximum height of:

4.5.2. Plans

A. Entries from the exterior shall be covered by a minimum of 48-inches (48") measured from the exterior building face.

4.5.3. Roof and Parapets

- A. Roofs shall be designed as non-combustible (Class A fire rating) with 1/8-inch (1/8") metal mesh coverings for ventilation openings.
- B. Roofs shall not be constructed of asphalt shingles.

4.5.4. Materials and Color

- A. Field applied exterior coatings are not permitted.
 - 1. Exception: Where long term maintenance is required, field applied exterior coatings are permitted.
 - 2. Exception: At the sole discretion of the Design Review Board, field applied exterior coatings may be permitted.
- B. Stucco is not permitted.

4.5.5. Lighting

- A. All lighting shall be LED with a color temperature of 2,700-Kelvin (K).
- B. Where lighting with an up-light is permitted per the Town of Eagle code, the light must be located under an overhang.
 - 1. Exception: where up-lighting is allowed for landscaping per the Town of Eagle code.
- C. Diodes within lighting fixtures shall not be visible.
 - 1. Exception: Holiday lights

4.5.6. Exterior Equipment

- A. Exterior equipment shall be hidden from plain sight and integrated into the buildings form or screened with vegetation or fencing.

5. Construction Regulations

5.1. Regulations

- A. Construction regulations shall conform with the Town of Eagle code.

6. Alterations, Additions, and Maintenance

6.1. Regulations

- A. Alterations, additions, and maintenance shall conform with the Town of Eagle code.

7. Design Review and Approval

7.1. Development Regulations

7.1.1. Introduction

- A. The following sections describe the major steps involved in the Red Mountain Ranch design review process. Submittal materials required for each step in the process are also listed. The Design Review Board (DRB) may, at the request of an owner or their own discretion, modify any of these submittal requirements. Approved plans will be valid for 18 months from date of approval. The administrator will determine the level of review after expiration.
- B. While these design guidelines constitute the primary tool for controlling the development of Red Mountain Ranch, other materials must also be considered during the design process. In addition to these guidelines, the annexation of Red Mountain Ranch into the Town of Eagle included the approval of a development guide. The Town of Eagle has adopted various codes and regulations that apply to this development (building, electrical, plumbing, mechanical, lighting ordinances, land use code, etc.) Each of these documents establishes regulations that also control the development of Red Mountain Ranch. In some cases, there may be conflicting provisions within these control documents. In the event of such conflict, the most restrictive provisions shall apply.

7.2. Design Review Process

7.2.1. Design Review Process

- A. The design review process encompasses three design stages as follows:

7.2.2. Step One: Pre-Design Conference

- A. The Pre-Design Conference is an informal review to exchange introductory design information between the DRB Administrator and the Owner, Architect, and Builder. The purpose of the Pre-Design Conference is to facilitate the smooth, timely and cost-effective review and approval of development at Red Mountain Ranch. It is intended that the Pre-Design Conference be held at the very beginning of the design process prior to the Owner committing substantial professional design costs.

B. Topics of Discussion:

1. Red Mountain Ranch Design Guidelines and other related Town of Eagle regulations
2. Energy efficiency and performance characteristics will be prioritized throughout the Design Review Process
3. Property boundaries and setbacks
4. Easements and utilities
5. Topographic survey
6. Site characteristics (views, sun, adjacent properties, solar infrastructure access, road access, etc.)
7. Riparian Area Management Plan as it pertains to the site in question.
8. Required Materials
 - a. Pre-Design Conference Application
 - b. Pre-Design Conference Fee
 - c. Information indicating the relationship of proposed development to the site and adjacent homesites.
 - d. Conceptual site plan of the homesite indicating the location of all proposed structures, other site improvements, and information from the RAMP.
 - e. Plan for achieving the performance requirements set forth in the Red Mountain Ranch Design Guidelines.
 - f. Perspective and other informal character sketches, clippings, etc. of the proposed residence floor plans and elevations. Formal detailed plans are not required at the Pre-Design Stage.

7.2.3. Step Two: Preliminary Plan Review

- A. The Preliminary Plan Review is the first of two review stages conducted with the full Design Review Board. The purpose of the Preliminary Plan Review is to

ensure that the design development level drawings conform to the Red Mountain Ranch Design Guidelines prior to construction level drawings being undertaken. It is intended to provide the Owner, Architect and DRB with the information needed to avoid wasted time, effort and expense that result from pursuing a design in conflict with the Design Guidelines.

B. The typical Preliminary Plan Review, without limitation, will focus on:

1. Responses to matters identified at the Pre-Design Conference
2. Plan to comply with the Design Guidelines performance requirements.
3. Design specific site plan and architecture responsiveness to the Plat, Design Guidelines, and other applicable regulations
4. Preliminary materials and color selections
5. Preliminary exterior lighting plans
6. Preliminary landscape, planting, and irrigation plans

C. Required Materials

1. Preliminary Plan Review Application and Checklist
2. Preliminary Plan Review Fee
3. Topographic Survey prepared by a licensed surveyor of the lot showing:
4. Property boundaries of the subject homesite and adjacent property lines within 20'
5. Setback lines
6. Platted easements
7. 2' contour intervals, significant natural features (e.g. rock outcrops, drainages, trees, etc.)
8. Other improvements, utilities, or other structures affecting development on the homesite.
9. PDF set of plans including:

- a. Site plan based on Topography showing property boundaries of the subject homesite and adjacent property lines within 20'
 - b. Setback lines
 - c. Easements
 - d. Existing and proposed contours at 2' intervals
 - e. Building footprint and eave drip line locations
 - f. Driveways
 - g. Site drainage
 - h. Utilities including evidence of adequate sewer service gradient
 - i. Site improvements such as fences, decks, patios, walks, etc.
10. Preliminary energy model of proposed buildings and structures
11. Proposed Architectural Plans showing:
- a. Floor plans of all proposed buildings or structures
 - b. Floor area and site coverage calculation table total building and impervious surfaces
 - c. All elevations with existing and final grading shown
 - d. Longitudinal and cross building sections through all principal masses of the building
 - e. Building height calculation
12. Table of exterior materials and color samples
13. Proposed exterior lighting and cut sheets
14. Exterior assemblies
15. Proposed Landscape Plan showing:
- a. Footprint of buildings and structures
 - b. Existing and final contours at 2' interval

- c. Lawn area, building perimeter beds, other planting beds, street trees, other trees
- d. Conceptual plant massing including intended mature height and spread
- e. Sprinkler irrigation, drip irrigation, and non-irrigated areas
- f. Summary table of irrigation areas by type, square footage, and % of the lot area

7.2.4. Step Three: Final Plan Review

- A. The purpose of the Final Plan Review is to ensure responsiveness to Preliminary Plan Review guidance, and to ensure that the construction plan set including all improvements to the site conforms to the Design Guidelines. Final approval will be the record basis for issuance of the Design Review Approval letter and stamped plan set required by the Town of Eagle prior to their review of a building permit application.
- B. The typical Final Plan Review, without limitation, will focus on:
 - 1. Response to matters identified at the Preliminary Plan Review
 - 2. Design specific site plan and architecture responsiveness to the Plat, Design Guidelines, and other applicable regulations.
 - 3. Final materials and color selections
 - 4. Final exterior lighting plan
 - 5. Final landscape, planting, and irrigation plan.
- C. Required Materials
 - 1. Responses to Preliminary Plan Review comments
 - 2. Final energy model of proposed buildings and structures
 - 3. Proposed Site Plan
 - 4. Property lines of and within 20' of subject lot
 - 5. Design Review Setback lines

6. Platted easements
7. Existing and proposed contours (2' interval)
8. Building footprint and eave drip lines
9. Driveways/Walkways
10. Site drainage
11. Utility, meter, and panel locations and sewer service gradient
12. Site improvements (e.g. fences, decks, patios, walks, etc.)
13. Grading Plan
14. Proposed buildings and structures footprint
15. Total buildings and structures footprint
16. Drainage paths
17. Proposed contours (2' interval)
18. Pervious and impervious totals compared to lot area
19. Construction Management Plan
 - a. Erosion, dust and trash control, dumpster, construction fences, sanitation
 - b. All existing vegetation to remain must be surrounded by construction fences separated from the building area and site staging area
 - c. Curb, sidewalk and/or pavement protection
 - d. Soil and materials staging area
 - e. Construction trailer location
 - f. Site access and construction impact limits
 - g. Construction sign design and location
 - h. Material recycling plan
20. Proposed Building Plans

- a. Dimensioned floor plans of all proposed buildings and structures
- b. Dimensioned elevations of all proposed buildings and structures with existing and finished grade
- c. Longitudinal and cross building sections through all principal masses of the building
- d. Building Height Calculations
- e. Building height to be calculated to a permanent on-site benchmark.
- f. Overall building height from proposed grading to finished roof line is to be provided.
- g. Overall building height calculated from top of foundation to the ridge of the roof is to be provided.
- h. Exterior lighting plan and specifications
- i. Building area table
- j. Square footage of all finished and unfinished spaces including garage, mechanical, etc.

21. Architectural Details

- a. Eave and rake sections and details
- b. Typical foundation/wall sections showing structure and exterior materials
- c. Exterior assemblies
- d. Porch/Deck details
- e. Railing Details
- f. Window and trim section and elevation for all wall conditions
- g. All exterior materials
- h. Exterior elements not otherwise readily apparent on plans and elevations

22. Table and samples of proposed exterior materials

23. Exterior materials sample board

24. Final Landscape Plan

- a. Footprint of buildings and structures, and all other improvements
- b. Existing and final contours at 2' interval
- c. Planting plan (lawn areas, perimeter planting beds, other planting beds, trees, etc.)
- d. Plant list (botanical name, common name, size, quantity)
- e. Irrigation plan (sprinkler irrigation, drip irrigation, non-irrigated areas, etc.)
- f. Summary table of irrigation square footage by type and % of lot area

25. Estimated Construction Schedule

- a. Start date, substantial completion date, landscaping installation date, occupancy date.

D. Incomplete/Late Submittals

- 1. Incomplete and/or late submittals will not be accepted.

E. Town of Eagle Building Permit Sets

- 1. Following Final DRB Approval the Applicant shall provide the DRB with an electronic Full-scale Plan Set that have been revised to address the Conditions of Final Approval (if any). Within 1 week after acceptance of the Revised Final Plan Sets the DRB will issue to the Owner a Design Review Approval letter and stamped plans. Upon issuance of its building permit, the Town of Eagle will retain one of these plans sets for their records and issue the second with the Building Permit for construction.

7.2.5. Construction Inspections

- A. The Town of Eagle is the responsible agency for construction inspections. The Design Review Board will also inspect construction progress at certain milestones as follows:
- B. Pre-Construction Meeting on Site

1. The purpose of the Pre-Construction Meeting on site is to assure that the builder and Owner have installed the elements of the Construction management plan prior to any other construction on the site.
2. When the building permit is received, the Owner, Owner's Representative, and/or Builder shall notify the Design Review Administrator and schedule an on-site meeting with the Design Review Administrator to review the installation of all elements of the Construction Management Plan.
3. Once the Construction Management Plan elements are properly installed, the Design Review Administrator will release the site for construction.

C. Improvement Location Certificate and Inspection

1. The purpose of the Improvement Location Certificate and Inspection is to assure that the foundation footers are located in accordance with the approved plans and that no encroachment into setbacks or easements occurs.
2. The Owner is responsible for providing the Design Review Administrator with a copy of the Improvement Location Certificate by a licensed Surveyor. Alternatively, the Owner may provide the Design Review Administrator with a copy of the Town of Eagle footer and foundation forming inspection reports and surveys (if required by the Town).

D. Framing/Building Height Inspection

1. The purpose of the Framing/Building Height Inspection is to ensure that the building is being built in accordance with the approved plans.
2. The Owner is responsible for notifying the Design Review Board at the same time as the Town of Eagle is notified for its framing inspection. The DRB will attend the framing inspection on site. If the building height is as provided in the approved drawings, the DRB will insert a note in the file to that effect. If the building height exceeds the approved height, remedial measures shall be required which may include but not be limited to construction stop order pending resubmittal for amended final plan approval, and/or framing demolition and reconstruction to the approved design.

E. Design Changes During Construction

1. It is common for the design of buildings to be refined during the construction process. To the extent that such changes differ from the approved design, the Owner is responsible to seek and obtain the DRB approval for such changes prior to implementation. The DRB will make reasonable efforts to review such changes promptly. However, if in the sole opinion of the DRB Administrator such changes constitute a substantial variance from the approved design, full board action at a regularly scheduled meeting may be required.
2. The Owner is required to present proposed changes to the DRB for approval prior to implementation. The DRB submittal and review process for design changes during construction will be managed at an appropriate level based on the scope of the proposed changes. Minor changes may be addressed administratively, whereas substantial changes may require full DRB action. The DRB will make every reasonable effort to act on such changes in a timely manner.

F. Certificate of Compliance Review

1. The purpose of the Compliance Review is to confirm that the buildings and structures and all site improvements are constructed in close conformance with the approved Final Design. The Town of Eagle requires a Certificate of Compliance from the Design Review Board prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.
2. The Owner is responsible for notifying the Design Review Board when the residence is ready for the Certificate of Compliance review. The DRB will conduct a site visit and inspection to confirm completion of the project as approved. If confirmed, the DRB will issue a Certificate of Compliance. Also, if confirmed the DRB will release the Construction Compliance Deposit.

G. Modifications/Alteration/Additions to Existing Building or Structures

1. Design Review Board approval is required for any modifications to the exterior of an existing building or its landscape. The review of modifications to existing buildings will generally follow the procedures outlined in the Preliminary Review and Final Review steps above. Prior to the beginning of

any design of modifications/alterations/additions the Owner is required to contact the DRB to outline a review process and submittal requirements for the changes.

H. Continuity of Construction

1. All improvements commenced on the lots will be prosecuted diligently to completion. If an improvement is commenced and then abandoned for more than ninety (90) days, or if construction is not completed within a reasonable period set forth in the Construction Schedule, then after notice and the opportunity for hearing as provided in the Bylaws of the Association may impose a fine of \$1,000 per day (or such other reasonable amount as the Associate may set) to be charged against the Owner of the lot until construction is resumed or the improvement is completed as applicable, unless the Owner can prove to the satisfaction of the Design Review Board that such abandonment is for circumstances beyond the Owner's control.

**PUD GUIDE FOR
THE RED MOUNTAIN RANCH PLANNED UNIT DEVELOPMENT**

September 15, 2020

**APPROVAL OF THIS PLAN CREATES A VESTED PROPERTY RIGHTS PURSUANT
TO SECTION 24-68-103, C.R.S., AS AMENDED**

Eagle County, CO
Regina O'Brien
Pgs: 27
REC: \$143.00
DOC: \$0.00

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1.0 PURPOSE:

The purpose of the Red Mountain Ranch PUD Guide is to serve as the governing land use regulations which will control the development of the Red Mountain Ranch PUD. The PUD Guide will serve as the "Zone District Regulations" for the PUD and is in conformance with Section 4.11.030 of the Eagle Municipal Code (the "Town Code").

The Red Mountain Ranch PUD authorizes a total of 153 dwelling units at a maximum equivalent of 113.1 EQRs, 10,000 square feet of commercial space, an environmental education center of 10,000 square feet, public and private open space, active and passive parks and trails on 106.194 acres of land within the Town of Eagle, Eagle County, Colorado (the "Town") as described in the approved Red Mountain Ranch PUD Zoning Plan.

Development within the PUD is administered by the Town through the provisions of this PUD Guide and through the review and approval of specific Development Plans for each Planning Area. Building construction within the PUD is governed by the applicable Town ordinances, rules, regulations and codes. This PUD Guide and exhibits shall constitute a site-specific development plan and creates a vested right pursuant to Article 68 of Title 24, Colorado Revised Statutes, as amended.

The approved Red Mountain Ranch PUD Zoning Plan Sheets 1-6 dated April 3, 2020 are attached to this PUD Guide as Exhibit A.

2.0 DEFINITIONS:

For the purposes of the PUD, the following terms shall have the following meanings, and any terms not defined herein shall have the meaning set forth in the Town Code.

A. Active Recreation

Common areas within the PUD which include useable open space; improved common recreational amenity areas such as pools and fitness facilities; picnic sites; playgrounds; open turf and lawn areas that are sufficient in size to support recreational sports activities; trails and adjacent open spaces not required for direct access to dwelling units or commercial facilities, if connected to a regional system or established trail network; and similar areas as determined by the Community Development Director.

B. Boutique Hotel

Boutique Hotel means a non-residential structure with no more than 30 rooms which provides temporary overnight sleeping accommodations to guests for a fee for a total continuous duration of less than thirty (30) days. A Boutique Hotel shall not include any dwelling units.

C. Buffer Zones and Common Open Space

The term buffer zones and/or open space as used in this document is intended to describe areas within development parcels that have been designed to meet Conservation Oriented Design and Cluster Residential design concepts by creating open space and buffers within and around development areas. Buffer zone and open space lands shall be natural or formal landscape areas or parks that are held in common ownership by the master homeowner association of the greater neighborhood. Roads may traverse buffer zones and open space. Parking areas are not allowed in lands that are allocated as buffer zones and common open space. Lands under ownership of private residences or individual building homeowner associations shall not count toward buffer zone requirements.

D. Building Height Measurement

Building height shall be measured as per Town Code.

E. Building Height Measurement for 40 foot Maximum

For Multi-Family Residential, Mixed Use, Educational and Commercial buildings that are restricted to a 40 foot maximum height the method of measurement shall be defined as follows: The maximum distance possible measured vertically from any point on existing or proposed grade, whichever is more restrictive, to the highest point of the roof directly above. Building height exceptions shall be as per Town Code.

F. Campground

Campground means an establishment that provides overnight or short term sites for two or more tents or camper vehicles for recreation, education or vacation purposes. Continuous occupancy of a campground by a person for a period of in excess of two weeks shall be prohibited.

G. Community Garden

A community garden is any piece of land gardened by a group of people, utilizing either individual or shared plots on private or public land. The land may produce fruit, vegetables, and/or ornamentals.

H. Stream

Stream means a watercourse having a natural source and terminus, banks and channel, through which waters flow at least periodically. Stream includes creeks and other flowing waters that are tributary to a river. Man-made irrigation ditches are excluded from this definition.

I. Farmer's Market

A farmers' market is a physical retail marketplace intended to sell foods directly by farmers to consumers. Farmers' markets may be indoors or outdoors and typically consist of booths, tables or stands where farmers sell fruits, vegetables, meats, cheeses, flowers, plants, and/or prepared foods and beverages. Retail offerings may also include crafts and other non-perishable items.

J. Planning Areas

Areas as indicated on the approved Red Mountain Ranch PUD Zoning Plan for development, the development of which shall be regulated by this Red Mountain Ranch PUD Guide and by specific Development Plans. These Planning Areas are listed as Planning Area 1, Planning Area 2, Planning Area 3, Planning Area 4, Planning Area 5-B, Planning Area 5 and Planning Area 6.

K. Red Mountain Ranch PUD

The Red Mountain Ranch PUD is a zone district authorized by the Town of Eagle Ordinance No. 22, Series of 2020, and containing the property commonly known as Red Mountain Ranch.

L. Special Use

Special Use shall be as defined in Section 4.05 of the Town Code.

M. Wholesale Nursery

Wholesale Nursery allows for cultivation, propagation and/or storage of nursery stock, trees, shrubs, flowers, fruit or vegetables outdoors, or within a greenhouse or hoop house for the purpose of contract sales, wholesale or for off-site delivery. On-site sales shall be prohibited. The nursery shall not be open to the public.

3.0 TOWN OPEN SPACE STANDARDS AND REQUIREMENTS:

Town Code Section 4.11.030. - Standards and requirements.

A. Open Space

The PUD zoning requirement detailed in Section 4.11.030.C of the Town Code requires 20% of the gross PUD area as open space. At 106.2 acres, the Red Mountain Ranch PUD requires 21.2 acres of open space and 7.9 acres of active recreation areas. The proposed plan exceeds these minimum requirements.

Tables 1 and 2 detail the required open space areas.

Table 1. PUD Common Open Space, Usable Open Space, Active Recreation 106.2 acres total

Required 20% of total area	106.2 x 0.20	21.2	acres
Required 75% Usable (<10% Slope)	21.2 x 0.75	15.9	acres
Required Active Recreation (50% of Usable)	15.9 x 0.50	7.9	acres
Proposed Common Open Space:			acres
PA-1	65%	22.2	acres
PA-2	42%	2.6	acres
PA-3	91%	13.1	acres
PA-4	34%	4.6	acres
PA-5	57%	8.4	acres
PA-5B	100%	3.0	acres
PA-6	26%	5.2	acres
Total	56%	59.1	acres
Balance	Required 21.2	+37.9	acres
Proposed Usable Open Space:		16.04	acres
PA-1 through 6	Provided, see worksheet	16.04	acres
Total		16.04	acres
Balance	Required 15.9	+0.14	acres
*Proposed Active Recreation:		16.55	acres
* The CPW public fishing easement is 16.55 acres.		*	acres

Table 2. Municipal and Park Land Dedication

Total Project Area 106.2 acres

Total Units	153	MF units
# of people (2.5/unit)	382.5	people
Required Acres (.012)	4.59	acres
Public/Private 50%	2.29/2.29	acres

PROPOSED

Total Public Dedication		
PA-1 Town Park OS-1	1.8	acres
PA-1 South of River OS-3	15.4	acres
PA-5B Riverfront Park	3.0	acres
*Total	20.2	acres
Balance	+17.91	acres
Total Private Dedication		
PA-3 Environmental Education Facility OS-5	14.5	acres
Balance	+12.21	acres
Total Provided	34.7	acres
Total Balance	+30.11	acres
*Of the public land dedication (2.29 acres total required), 80% must be usable (i.e. having a slope of 10% or less). Subject application proposes 2.46 acres usable where 1.8 acres is required. See worksheet.		

4.0 PUD PLANNING AREAS:

4.1. PLANNING AREA 1:

A. R/PUD-1

1. Purpose:

To provide sites for a variety of residential land uses including single family, two-family dwelling, townhomes, condominiums and apartments at a maximum density of 97 dwelling units.

The design of residential neighborhoods in this district is intended to allow for flexibility, innovation and site sensitive planning that is responsive to both the design character and the functional requirements of the community. In general, residential density should be higher at the west end of the property and transition to lower density to the east.

The Discovery Trail will traverse R/PUD-1. A public trail easement of 12 feet in width shall be created for the Discovery Trail.

Site planning should follow the principles of Conservation Oriented Development and Cluster Residential design as articulated in the Eagle Area Community Plan and in the Town of Eagle River Corridor Plan. The design should provide for clustered areas of development areas and integrate buffer zones and formal or informal open space areas within the plan. Within the area of 12.5 acres designated as R/PUD-1 there should 4 acres designed as parks, open space or buffer zones for a ratio of 68% development area to 32% of buffer zone and common open space.

2. Uses by Right:

- a. Single family homes.
- b. Two-family dwelling.
- c. Multiple family residential, including condominiums, townhomes, flats or apartments, and single family or two-family dwelling cluster units on specifically designated lots.
- d. Accessory dwelling unit to owner-occupied single family dwelling.
- e. A Homeowner Association owned enclosed storage building.
- f. Home occupation.

3. Special Uses:

- a. Child care facilities.

4. Accessory uses:

- a. Parks, playground, pools, greenbelt.
- b. Model homes and sales office.
- c. Pedestrian and bicycle trails.
- d. Detached garages.

5. Minimum Building Setback Requirements:

- a. Highway 6: All habitable buildings shall maintain a 50-foot setback from the Highway 6 right-of-way line. Non-habitable buildings including garages, and surface parking areas shall maintain a 25-foot setback from the Highway 6 right-of-way line.
Internal roads, driveways, signs, landscaping, grading, berms and utility structures shall be allowed within the Highway 6 setback.
- b. Front: The front building setback shall be 10 feet from the front property line.
- c. Side: The side setback for single family homes and two-family dwelling buildings shall be 7.5 feet. The side setback for multi-family buildings shall be 7.5 feet.
- d. Rear: The rear yard setback shall be 10 feet.
- e. Stream: 75 feet as defined in this PUD Guide.
- f. Supplementary setback requirements:
Roof eaves, bay window elements and similar features may encroach up to 30 inches into any required setback.

6. Maximum Building Height:

35 feet for single family and two-family dwelling buildings. 40 feet for multi-family residential buildings.

7. Maximum Lot Coverage: To encourage clustering, small lots and the provision of common open space while integrating Conservation Oriented Design and Residential Cluster Design techniques there are no maximum lot coverage restrictions.

8. Maximum Density:

The maximum density shall not exceed 97 dwelling units.

B. OS-1

1. Purpose:

To provide a site for a small public riverfront park with publicly accessible soft surface footpaths extending east along the river. Fishing shall be allowed by fly fishing and catch and release only, no commercial guided fishing shall be allowed. The Discovery Trail will traverse OS-1.

2. Uses by Right:

- a. Park, playground, picnic shelters, trails, restrooms and associated parking.
- b. Accessory uses customarily appurtenant to uses by right listed above.

3. Special Uses:

- a. Special Events.

4. Minimum Building Setback Requirements:

- a. Front: Highway 6 shall be considered the front setback. Buildings such as picnic shelters and restrooms, shall maintain a 25-foot setback from the Highway 6 right-of-way line. Internal roads, parking, driveways, signs, landscaping, grading, berms and utility structures shall be allowed within the front setback.
 - b. Side: The side setback for picnic shelters and buildings shall be 7.5 feet.
 - c. Rear: 10 feet.
 - d. Stream: 75 feet as defined in this PUD Guide.
 - e. Supplementary setback requirements:
Roof eaves, bay window elements and similar features may encroach up to 30 inches into any required setback except the stream setback.
5. Maximum Building Height: 15 feet
 6. Maximum Lot Coverage: There are no maximum lot coverage restrictions.
 7. Maximum Density:
There is no allowed density.

C. OS-2

1. Purpose:
The purpose of OS-2 is to describe specific uses for the river corridor and the adjacent 50-foot land from the average high water mark. The Discovery Trail will traverse OS-2. A public trail easement of 12 feet in width shall be created for the soft surface trail. The exact trail location will be determined at Development Permit approval for R/PUD-1 and the easement shall be dedicated at the first post development subdivision plat filed for Planning Area 1. Fishing shall be allowed by fly fishing and catch and release only, no commercial guided fishing shall be allowed. There are no buildings or formal improvements allowed other than those specifically listed below.
2. Uses by Right:
 - a. Soft surface trails with limited river access points
 - b. Natural vegetation management and removal of non-native species to maintain the health of the native ecosystem.
 - c. Planting of native vegetation to improve or protect the native ecosystem.
3. Special Uses:
 - a. None

D. OS-3

1. Purpose:
The purpose of OS-3 is to provide public open space for the land within Planning Area 1 that is south of the river.

Fishing shall be allowed by fly fishing and catch and release only, no commercial guided fishing shall be allowed. There shall be no overnight camping allowed on OS-3. There are no buildings or formal improvements allowed other than those specifically listed below.

2. Uses by Right:
 - a. Soft surface trails with limited river access points
 - b. Natural vegetation management and removal of non-native species to maintain the health of the native ecosystem.
 - c. Planting of native vegetation to improve or protect the native ecosystem.
3. Special Uses:
 - a. None

4.2 Planning Area 2: C/PUD

A. C/PUD-1

1. Purpose:

To provide a land for a neighborhood center area allowing for small scale residential and commercial uses with a focus on walkability from existing and future residential density and proximate public and educational uses. This area has the potential to include a river view restaurant that would serve the greater Eagle community as a unique tourism asset and community gathering spot. The Discovery Trail will traverse C/PUD-1. A public trail easement of 12 feet in width shall be created for the Discovery Trail.
2. Uses by Right:
 - a. Single family, two-family dwelling and/or multi-family residences.
 - b. Accessory dwelling unit to owner-occupied single family dwelling.
 - c. Boutique Hotel.
 - d. Bed & Breakfast.
 - e. Restaurant.
 - f. Retail.
 - g. Farmer's Market
 - h. Community garden.
 - i. Greenhouse.
 - j. Existing or restored historic buildings.
 - k. Home occupation.
3. Special Uses:
 - a. Child care facilities.
4. Accessory Uses:
 - a. Parks, playground, pools, greenbelt.
 - b. Pedestrian and bicycle trails.
 - c. Detached garages

5. **Maximum Density:**
Up to 10 residential units and 10,000 square feet of commercial use.
6. **Minimum Building Setback Requirement:**
 - a. Highway 6: All habitable buildings shall maintain a 50-foot setback from the Highway 6 right-of-way line. Non-habitable buildings including garages, and surface parking areas shall maintain a 25-foot setback from the Highway 6 right-of-way line.
Internal roads, driveways, signs, landscaping, grading, berms and utility structures shall be allowed within the Highway 6 setback.
 - b. Front: The front building setback shall be 10 feet from the front property line.
 - c. Side: The side setback for single family homes and two-family dwelling buildings shall be 7.5 feet. The side setback for multi-family buildings shall be 7.5 feet. The side setback for commercial buildings shall be 12.5 feet.
 - d. Rear: The rear yard setback shall be 20 feet.
 - e. Stream: 75 feet as defined in this PUD Guide.
 - f. Supplementary setback requirements:
Roof eaves, bay window elements and similar features may encroach up to 30 inches into any required setback except the stream setback.
7. **Maximum Building Height:**
35 feet for single family and two-family dwelling buildings. 40 feet for multi-family residential, mixed use and commercial buildings.
8. **Maximum Site Coverage:**
As this standard is applied to C/PUD-1 site coverage shall be measured against the entire parcel of 2.9 acres. This standard will not apply to internal lots created to define building or lot ownership.
 - a. Building: 20%
 - b. All impervious: 40%

B. OS-4

1. **Purpose:**
The purpose of OS-4 is to describe specific uses for the river corridor and the adjacent 50-foot land from the average high water mark as well as for the upland area extending north to Highway 6.

The Discovery Trail will traverse OS-4. A public trail easement of 12 feet in width shall be created for the soft surface trail along Highway 6. The exact location of the trail will be determined at Development Permit approval for C/PUD-1 and the easement shall be included with the first post-development permit subdivision plat filed within Planning Area 2. All trails will constructed by the developer. Fishing shall be allowed by fly fishing and catch and release only, no commercial guided fishing shall be allowed. There

are no buildings or formal improvements allowed other than those specifically listed below.

2. Uses by Right:
 - a. Soft surface trails with limited river access points
 - b. Natural vegetation management and removal of non-native species to maintain the health of the native ecosystem.
 - c. Planting of native vegetation to improve or protect the native ecosystem.
 - d. Existing historic buildings may be maintained and restored in place.
3. Special Uses:
 - a. None

4.3. Planning Area 3 Nature Center: C/PUD

A. C/PUD-2

1. Purpose:

To provide a land area for an environmental education facility, employee housing and open space. C/PUD-2 shall be donated or conveyed to a non-profit entity that will operate an environmental education center. The Discovery Trail will traverse C/PUD-2. A public trail easement of 12 feet in width shall be created for the Discovery Trail.
2. Uses by Right:
 - a. Buildings for non-profit programming, environmental education and programming.
 - b. Multi-family residential that is subordinate to the environmental education center. Prohibited as a primary use.
 - c. Outdoor recreation facilities.
 - d. Open sided shade shelters.
 - e. Existing, restored or relocated historic buildings.
 - f. Landscape improvements, soft surface trails and interpretive signs.
 - g. Pedestrian bridge over the Eagle River.
3. Special Uses:
 - a. None
4. Minimum Building Setback Requirement:
 - a. Highway 6: All buildings shall maintain a 25-foot setback from the Highway 6 right of way line. Internal roads, driveways, parking, signs, landscaping, grading, berms and utility structures shall be allowed within the Highway 6 setback.
 - b. Front: 25 feet
 - c. Side: The side setback shall be 12.5 feet.
 - d. Rear: The rear yard setback shall be 20 feet.
 - e. Stream: 75 feet as defined in this PUD Guide.
 - f. Supplementary setback requirements:

Roof eaves, bay window elements and similar features may encroach up to 30 inches into any required setback except the stream setback.

5. **Maximum Building Height:**
40 feet for commercial, educational and multi-family structures.
35 feet for single family and two-family dwelling structures.
6. **Maximum Density:**
A maximum of 6 dwelling units not to exceed a total of 6,000 of floor area. These units are allowed only as a support use to the primary use by right education and programming facility. The dwelling units may not be developed prior to a primary facility. These dwelling units shall not be subdivided from the primary use facility.

10,000 square feet of enclosed education and programming space.
7. **Maximum Site Coverage:**
The C/PUD-2 area has been tightly defined and is adjacent to a significant open space parcel in OS-5. The maximum building and lot coverage ratios have been developed in recognition of this adjacent open space.
 - a. Building: 30%
 - b. All impervious: 70%

B. OS-5

1. **Purpose:**
The purpose of OS-5 is to describe specific uses for open space land on both sides of the Eagle River designated as OS-5. The Discovery Trail will traverse OS-5.

This intent for this area is to provide open space in conjunction with the environmental education facility located on C/PUD-2. OS-5 shall be donated or conveyed to a non-profit entity that will operate an environmental education center. OS-5 should not be subdivided as a separate parcel from C/PUD-2. The soft surface trail traverses OS-5. The exact trail location will be determined at Development Permit approval for C/PUD-2 and a 12-foot wide easement shall be recorded upon completion of the path improvements. Fishing shall be allowed by fly fishing and catch and release only, no commercial guided fishing shall be allowed. There are no buildings or formal improvements allowed other than those specifically listed below.
2. **Uses by Right:**
 - a. Open sided shade shelters.
 - b. Existing, restored or relocated historic buildings.
 - c. Interpretive signs.
 - d. Pedestrian bridge over the Eagle River.
 - e. Soft surface trails and/or boardwalks with limited river access points.

- f. Natural vegetation management and removal of non-native species to maintain the health of the native ecosystem.
 - g. Planting of native vegetation to improve or protect the native ecosystem.
3. Special Uses:
- a. None
4. Setbacks:
- a. Highway 6: All buildings shall maintain a 25-foot setback from the Highway 6 right of way line. Internal roads, driveways, parking, trails, signs, landscaping, grading, berms and utility structures shall be allowed within the Highway 6 setback.
 - b. Front: 25 feet
 - c. Side/rear: 10 feet.
 - d. Stream: 75 feet as defined in this PUD Guide.

4.4. Planning Area 4: R/PUD

A. R/PUD-2

1. Purpose:
To provide sites for the balance of 153 units allowed in Planning Areas 1-6, but no more than forty-four (44) units. The Discovery Trail will traverse R/PUD-2. A public trail easement of 12 feet in width shall be created for the Discovery Trail.

Site planning should follow the principles of Conservation Oriented Development and Cluster Residential design as articulated in the Eagle Area Community Plan and in the Town of Eagle River Corridor Plan. The design should provide for clustered areas of development areas and integrate buffer zones and formal or informal open space areas within the plan. Lands adjacent to Highway 6 would be an appropriate location for buffer and open space areas. Within the area of 9.2 acres designated as R/PUD -2 there should be 4.1 acres designed as open space or buffer zones for a ratio of 55% of development area and 45 % of buffer zone and common open space. Internal roadways serving Planning Area 3, 4 and 5B would be allowed within the open space/buffer zones.

2. Uses by Right:
- a. Single family, two-family dwelling or multi-family townhome dwelling units.
 - b. Accessory dwelling unit to owner-occupied single family dwelling.
 - c. Campground.
 - d. Home occupation.
3. Special Uses:
- a. Child care facilities.
 - b. Bed and breakfast facility.
4. Accessory uses:

- a. Parks, playground, pools, greenbelt.
- b. Model homes and sales office.
- c. Pedestrian and bicycle trails.
- d. Detached garages, sheds and other similar buildings.

5. Minimum Building Setback Requirements:

- a. Highway 6: All habitable buildings shall maintain a 50-foot setback from the Highway 6 right of way line. Non-habitable buildings including garages, and surface parking areas shall maintain a 25-foot setback from the Highway 6 right-of-way line.
Internal roads, driveways, signs, landscaping, grading, berms and utility structures shall be allowed within the Highway 6 setback.
- b. Front: 10 feet.
- c. Side: The side setback shall be 7.5 feet.
- d. Rear: The rear yard setback shall be 20 feet.
- e. Stream: 75 feet as defined in this PUD Guide.
- f. Supplementary setback requirements:
Roof eaves, bay window elements and similar features may encroach up to 30 inches into any required setback except the stream setback.

6. Maximum Building Height:
35 feet.

7. Maximum Lot Coverage:

- a. Building – 50%
- b. All impervious materials - 70%

8. Maximum Density:

The maximum density shall not exceed 44 dwelling units.

B. OS-6

1. Purpose:

The purpose of OS-6 is to describe specific uses for the river corridor and the adjacent 50-foot land from the average high water mark. The Discovery Trail may traverse OS-6. A public trail easement of 12 feet in width shall be dedicated to the Town for the soft surface trail. The location of the trail will be determined at Development Permit approval for R/PUD-2 and the easement shall be included in the first post-development subdivision plat filed within Planning Area 4. OS-6 includes a Colorado Parks and Wildlife public fishing easement from 25 feet north of the average high water mark to the centerline of the river. There are no buildings or formal improvements allowed other than those specifically listed below.

2. Uses by Right:

- a. Soft surface trails.

- b. Natural vegetation management and removal of non-native species to maintain the health of the native ecosystem.
 - c. Planting of native vegetation to improve or protect the native ecosystem.
- 3. Special Uses:
 - a. None.

4.5. Planning Area 5B: Eagle River Park: P/PUD

A. P/PUD

- 1. Purpose:
To provide a land area for a recreation/park site to be dedicated to the Town. This park will provide parking and access to the existing Colorado Parks and Wildlife public fishing easement. The Discovery Trail will traverse P/PUD.
- 2. Uses by Right:
 - a. Outdoor recreation facilities.
 - b. Park and picnic facilities including open sided shade shelter.
 - c. Boat ramp.
 - d. Public restrooms.
 - e. Parks, playground, greenbelt.
 - f. Existing, restored or relocated historic buildings.
 - g. Day use parking.
- 3. Minimum Building Setback Requirement:
There shall be a 25-foot side and front setback and a 75-foot stream setback as defined in this PUD Guide. A boat ramp and associated improvements and a soft surface trail may be located within the Eagle River setback.
- 4. Maximum Building Height:
20 Feet.
- 5. Density Allowance:
N/A
- 6. Maximum Site Coverage:
N/A

4.6. Planning Area 5: R/PUD

A. R/PUD-3

- 1. Purpose:
To provide sites for no more than fifteen (15) single family or two-family dwelling units.

Planning Area 5 has been designed to meet the principles of Conservation Oriented Development and Cluster Residential design by creating OS-7 and OS-8 and tightly

defining the size, shape and scale of the development area designated as R/PUD-3. The 15 dwelling units will be clustered into the 6.2 acres designated as R/PUD-3.

Access to R/PUD-3 will be directly from Highway 6.

2. Uses by Right:
 - a. Single family and two-family dwelling units.
 - b. Accessory dwelling unit to owner-occupied single family dwelling.
 - c. Home occupation.
3. Special Uses:
 - a. Child care facilities.
 - b. Bed and breakfast.
4. Accessory uses:
 - a. Parks, playground, pools, greenbelt.
 - b. Model homes and sales office.
 - c. Pedestrian and bicycle trails.
 - d. Detached garages, sheds, non-commercial greenhouses and other structures.
5. Minimum Building Setback Requirements:
 - a. Highway 6: All habitable buildings shall maintain a 50-foot setback from the Highway 6 right of way line. Non-habitable buildings including garages, and surface parking areas shall maintain a 25-foot setback from the Highway 6 right-of-way line.

Internal roads, driveways, signs, landscaping, grading, berms and utility structures shall be allowed within the front setback.

 - b. Front: 10 feet
 - c. Side: The side setback for single family homes and two-family dwelling buildings shall be 7.5 feet.
 - d. Rear: The rear yard setback shall be 20 feet.
 - e. Stream: 75 feet.
 - f. Supplementary setback requirements:
Roof eaves, bay window elements and similar features may encroach up to 30 inches into any required setback except the stream setback.
6. Maximum Building Height:
35 feet.
7. Maximum Lot Coverage:
 - a. Building - 50%
 - b. All impervious materials - 70%
8. Maximum Density:
The maximum density shall not exceed 15 dwelling units.

B. OS-7

1. Purpose:

The purpose of OS-7 is to describe specific uses for the river corridor and the adjacent 50-foot land from the average high water mark. OS-7 includes a CPW public fishing easement. There are no buildings or formal improvements allowed other than those specifically listed below.

2. Uses by Right:

- a. Soft surface trails.
- b. Natural vegetation management and removal of non-native species to maintain the health of the native ecosystem.
- c. Planting of native vegetation to improve or protect the native ecosystem.

3. Special Uses:

- a. None.

C. OS-8

1. Purpose:

The purpose of OS-8 is to describe specific uses for an open space buffer area. There are no buildings or formal improvements allowed other than those specifically listed below. An access road from R/PUD-3 may traverse through OS-8 to provide connection to R/PUD-4.

2. Uses by Right:

- a. Formal landscape areas.
- b. Parks, playgrounds, trails.
- c. Natural vegetation and landscaping.
- d. Open sided shade shelters and picnic areas.
- e. Roads and driveways.

3. Special Uses:

- a. None

4.7. Planning Area 6: R/PUD

A. R/PUD-4

1. Purpose:

To provide sites for no more than twenty-five (25) single family or two-family dwelling units.

Site planning should follow the principles of Conservation Oriented Development and Cluster Residential design as articulated in the Eagle Area Community Plan and in the Town of Eagle River Corridor Plan. The design should provide for clustered areas of

development areas and integrate buffer zones and formal or informal open space areas within the plan. Within the area of 14.9 acres designated as R/PUD -4 there should be 6.7 acres designed as open space or buffer zones for a ratio of 55% of development area and 45 % of buffer zone and common open space. Buffer and open space zones may include internal roads.

R/PUD-4 will have direct Highway 6 access.

2. Uses by Right:
 - a. Single family or two-family dwelling units.
 - b. Accessory dwelling unit to owner-occupied single family dwelling.
 - c. Home occupation.
3. Special Uses:
 - a. Child care facilities.
 - b. Bed and breakfast facility.
4. Accessory uses:
 - a. Parks, playground, pools, greenbelt.
 - b. Model homes and sales office.
 - c. Pedestrian and bicycle trails.
 - d. Day care of less than 8 children
 - e. Detached garages, sheds, greenhouses and other structures.
5. Minimum Building Setback Requirements:
 - a. Highway 6: All buildings shall maintain a 50-foot setback from the Highway 6 right of way line.
Internal roads, driveways, signs, landscaping, grading, berms and utility structures shall be allowed within the front setback.
 - b. Front: 10 feet
 - c. Side: The side setback for single family homes and two-family dwelling buildings shall be 7.5 feet. The side setback for multi-family buildings shall be 7.5 feet.
 - d. Stream: 75 feet as defined in this PUD Guide.
 - e. Setbacks from internal property lines shall be:
Front: 25 feet from edge of private road asphalt.
Side: 12.5 feet.
Rear: 20 feet.
 - f. Supplementary setback requirements:
Roof eaves, bay window elements and similar features may encroach up to 30 inches into any required setback except the stream setback.
6. Maximum Building Height:
35 feet.
7. Maximum Lot Coverage:

- a. Building - 30%
 - b. All impervious materials - 50%
8. Maximum Density:
The maximum density shall not exceed 25 dwelling units.

B. OS-9

- 1. Purpose:
The purpose of OS-9 is to describe specific uses for the river corridor and the adjacent 50-foot land from the average high water mark. OS-9 includes a CPW public fishing easement. There are no buildings or formal improvements allowed other than those specifically listed below.
- 2. Uses by Right:
 - a. Soft surface trails.
 - b. Natural vegetation management and removal of non-native species to maintain the health of the native ecosystem.
 - c. Planting of native vegetation to improve or protect the native ecosystem.
- 3. Special Uses:
 - a. None

4.8. Planning Area Summary Chart

Red Mountain Ranch PUD Zoning Plan Planning Area Summary Chart							Date: 9/5/19
	PUD Designation	Planning Area Acres	% of Total Site	Maximum Density	DU's per Acre	Development Area and % of Planning Area	Open Space Area and % of Planning Area
Planning Area 1	R/PUD	34.7 acres	32.5% of Total Site	97	2.8	12.5 acres 36%	22.2 acres 64%
Planning Area 2	C/PUD	5.5 acres	5.1% of Total Site	10 du's 10,000 sf Commercial	2 0.045 far	2.9 acres 53%	2.6 acres 47%
Planning Area 3	C/PUD	14.5 acres	13.6% of Total Site	6 du's 10,000 sf Commercial	0.4 0.015 far	1.4 acres 10%	13.1 acres 90%
Planning Area 4	R/PUD	13.8 acres	12.9% of Total Site	44 du's	3.2	9.2 acres 66%	4.6 acres 34%
Planning Area 5B	P/PUD	3.0 acres	2.8% of Total Site	0	0	0	3 acres 100%
Planning Area 5	R/PUD	14.6 acres	13.7% of Total Site	15 du's	1.05	6.2 acres 43%	8.4 acres 57%
Planning Area 6	R/PUD	20.1 acres	18.8% of Total Site	25 du's	1.25	14.9 acres 74%	5.2 acres 26%

5.0 TEMPORARY USES

Temporary uses including, but not limited to construction staging, project sales office, and pre-development temporary uses such as, but not limited to, corporate team building events, day outfitter programs, and agricultural uses may be permitted in all Planning Areas and Wholesale Nursery may be permitted in Planning Area 6, R/PUD 4 in accordance with Town Code Section 4.04.100 B. Temporary Uses.

6.0 DENSITY TRANSFER PROVISION

A total of 153 dwelling units will be allowed on Planning Areas 1-6. A density transfer shall be allowed between all Planning Areas except Planning Area 3 and 5B. However, this total of 153 dwelling units cannot exceed an allocation of 113.1 EQR, with EQRs assessed pursuant to the Code schedule of EQRs.

For example – if Planning Area 1 has a maximum density of 97 dwelling units and only 70 dwelling units are approved for development, 27 dwelling units may be transferred to other Planning Areas. Transfers shall not exceed the maximum allowed units on any Planning Area unless approved by the Town Council.

7.0 WATER AND WASTEWATER SERVICE

Development on all lands within the PUD is prohibited until connection to the Town municipal water system. The maximum number of EQR allowed within the PUD is 113.1 EQR as set forth above. Wastewater service shall be provided by a wastewater system constructed, owned, operated and maintained by Developer, a Metro District or another entity approved by the Town as set forth in the ADA.

8.0 STREET STANDARDS

All streets shall remain private. Private street standards will be detailed as part of future Development Plans and subdivision applications for each Planning Area.

9.0 TRAIL STANDARDS

Soft surface trails including the Discovery Trail shall be a maximum of 3 feet wide if located within the stream setback and shall be a minimum of 6 feet wide when located outside of the stream setback. All soft surface trails constructed of crusher fines or similar materials, as approved by the Town. Any associated public easement shall be 12 feet in width.

Hard surface common area trails shall be a minimum of 6 feet wide and constructed of a durable hard surface such as asphalt or concrete and there shall be a dedicated easement of 12 feet in width. Sidewalks connecting parking areas to residential units may be a minimum of 4 feet in width.

The Discovery Trail shall be constructed to the US Forest Service Trail Accessibility Guidelines dated 2013 as may be amended from time to time.

10.0 STREAM SETBACKS AND WATER RESOURCE PROTECTION

For the purpose of protecting water resources, including wetlands and riparian areas, the following shall be observed in all areas of the Red Mountain Ranch PUD: a 75 foot strip of land measured horizontally from the high water mark on each side of the river, or the limits of the 100 year floodplain, whichever provides the greater separation from the river, shall be protected in its natural state. No grading or removal of vegetation may occur within the stream setback. If necessary to protect the stream, wetlands, or riparian areas, additional width may be required. There shall be no projections into either the 100 year floodplain or stream setback.

A. Permissible Improvements or Activities. Certain improvements and or activities may be located within the stream setback as long as site disturbance is minimized to the greatest extent practical, including, but not limited to the following: improvements pursuant to a floodplain development permit; revegetation of previously disturbed areas, removal of existing building encroachments, footpaths not exceeding 3 feet in width following a route which minimizes disturbance and formed of generally natural, pervious materials; public multi-use paths that are part of the public trail system or that are to be dedicated as public trails through the development review process; head gates, pump houses, hydroelectric wheelhouses and piping, and ditches; flood control and bank

stabilization devices; the removal of state-listed noxious weeds; the removal of dead or dying vegetation; and the removal of vegetation for wildfire mitigation.

Underground utilities or public park improvements and/or structures may be located in such protected area provided there is no practical alternative location, that the plans are approved as a part of a Development Permit or Special Use Permit, or as part of a site specific development plan, following procedures set forth in the Town Code, and that all construction scars are revegetated with appropriate vegetation and sufficient temporary irrigation, if necessary.

B. Exceptions. The Director of Community Development or the Public Works Director may approve a reduction of the stream setback to a minimum of 50 feet or the outer edge of the 100 year floodplain, whichever provides the greater separation from the stream through a Finding of No Significant Impact ("FONSI") process.

1. Report Required. In order to be considered for an exception, the applicant must clearly demonstrate compliance with all the following criteria through the submittal of a report prepared by a resource biologist or other qualified professional. At the discretion of the Director of Community Development or the Public Works Director, the report may be referred to outside agencies for comment, including but not limited to the Eagle County Department of Environmental Health, Colorado Geological Survey, Colorado Parks and Wildlife, the Army Corps of Engineers, or any other applicable agency. The report must specifically address all of the following:
 - i. Water Quality. That the setback reduction will not degrade water quality of the stream or ground water.
 - ii. Erosion. That the setback reduction will not impact shoreline and stream banks, or cause erosion.
 - iii. Habitat. That the setback reduction will not degrade fish and wildlife habitat.
 - iv. Scenic and recreational values. That the setback reduction will not negatively impact scenic and recreational value associated with the stream.
 - v. Alternative Design. That the proposal for improvements on the site results in a design that more adequately preserves unique characteristics of the site, protects public view sheds, enhances public recreation enjoyment of the stream, or creates a design that results in greater public benefit than would be created by adhering to the 75 foot setback.
 - vi. Other circumstances. That other circumstances prevent adherence to the 75 foot setback, including but not limited to: lot depth, lot dimensions, existing development; lot topography.
- C. Determination. Based upon review of the application material and the information obtained at the pre-application meeting, and applying the above criteria, the

Director may determine that a FONSI is warranted. If the Director determines that a FONSI is warranted, the Director shall approve the requested exception.

11.0 RIPARIAN AREA MANAGEMENT PLAN

A Riparian Area Management Plan ("RAMP") shall be submitted prior to or in conjunction with the first Development Plan for a Planning Area. The RAMP shall comply with the provisions of Section 7 of the Red Mountain Ranch Annexation & Development Agreement (the "ADA").

12.0 COLORADO PARKS AND WILDLIFE (CPW) FISHING EASEMENT

Notwithstanding any provision herein to the contrary, all uses and activities within the Colorado Parks and Wildlife easement recorded November 30, 1988 in Book 496 at Page 133 in the real property records of Eagle County (the "CPW Public Fishing Easement") shall be subject to the limitations of the CPW Public Fishing Easement.

13.0 PARKING REQUIREMENTS

All uses within Red Mountain Ranch will be subject to the parking standards of the Town Code. Any accessory dwelling associated within a single family residence shall have one dedicated on-site parking space. A Boutique Hotel use as defined in this PUD Guide shall provide one parking space per guest room.

14.0 DESIGN REVIEW

Design guidelines shall be prepared that will establish architectural and building material standards, landscape design, urban design, site design standards and a design review process for each PUD Planning Area within Red Mountain Ranch. These guidelines shall be approved by the Town and in place for any area of the Red Mountain Ranch PUD prior to the approval of any Subdivision Final Plat for that area.

The appropriate home owners association for each Planning Area identified in this PUD Guide, with the exception of Planning Area 5B, Town Park and Planning Area 3, Nature Center, shall establish a Home Owners Association Board that shall have authority and responsibility over the design review process for the Planning Areas within such association.

All projects requiring a Town building permit shall adhere to the standards of this PUD and, where not specifically covered, the provisions of the Town Code.

Applicants for all new buildings or building modifications, residential landscaping or residential landscaping modifications, as defined in the adopted design guidelines, shall submit such proposals for review and approval by the appropriate Home Owners Association Board.

A. Architectural Design Standards:

The site design concept for Red Mountain Ranch Planning Area 1 is to create a pedestrian friendly, walkable integrated neighborhood with a variety of housing types.

The architecture of the Red Mountain Ranch community will both integrate with and enhance the beauty of the Town and the Eagle River corridor.

Design Guidelines will:

1. Establish design and construction standards that both fit in the setting and ensure a consistent high level of quality across a wide array of housing types;
2. Respond to the unique attributes and sensitivities of the site which are reflected in the design tenets underlying the plan;
3. Implement a diverse but cohesive, unified and balanced architectural and landscape theme;
4. Control massing of buildings to be appropriate in scale and context;

B. Environmental Building Practices:

Each Planning Area should include guidelines that address state of the art environmental building practices.

1. Low environmental impact and energy efficiency approaches to site planning, design, landscaping and construction are highly encouraged.
2. Owners are encouraged to review LEED guidelines published by the US Green Building Council (www.usgbc.org) which encourage energy efficiency, resource efficiency and healthy indoor air quality.
3. Passive and active solar is highly encouraged. Hot water and photo voltaic solar panels are encouraged to be well planned and integrated in to the architectural design. Panels should be installed in the same plane as the roofs and close to flush with the roof. Solar panels and all associated mounting brackets and hardware shall be all black. No bright shiny metal elements are allowed.

C. Landscape Design Standards:

Landscape Design Standards will be written and adopted as an integral part of the overall design guidelines. The Landscape Design Standards will meet the requirements of Town Code Section 4.07.020. The intent of the landscape design guidelines will be provide standards for landscaping and water conservation within the PUD that enhance and maintain the character of the residential neighborhoods and public spaces of the Red Mountain Ranch PUD. This will be accomplished by:

1. Setting minimum and maximum standards for planting within residential and public spaces.
2. Promoting the conservation of water through selection of proper plant palettes and the use of efficient irrigation techniques.
3. Controlling the spread of noxious weeds and invasive plant species.

The perimeter area of the Red Mountain Ranch property has been appropriately designed to address compatibility of adjacent uses. The higher density and intensity of land uses is focused towards the existing town center and decreases to very low density residential uses as the property extends eastward. Those densities are compatible with the existing approved residential neighborhoods adjacent to the east end of Red Mountain Ranch. The riverfront area has been protected with additional enhanced setbacks and limitations on uses and vegetation management. The Highway 6 perimeter will be enhanced with landscape screening and berms where appropriate. These details will be developed as the specific PUD Development Plans are designed and reviewed.

D. Illumination Design Standards:

Illumination design standards for residential and public uses shall be included within the approved design guidelines. The Illumination Standards will meet the requirements of Town Code Section 4.07.010. The intent of these standards will be to provide compliance with adopted Town lighting requirements and appropriate dark sky practices.

E. Fencing Design Standards:

Fencing design standards shall be included within the approved design guidelines. The intent of these standards will be to provide a compatible appearance among residential properties and to regulate the structure, location, height, color and materials of fencing prior to installation. Where appropriate and as required, wildlife friendly fencing will be specified. The Fence Design Standards will meet the supplemental setback standards of Town Code Section 4.04.100 H 6.

15.0 SIGNS

Signs shall comply with the Town Code; unless a comprehensive Red Mountain Ranch Sign Program is approved by the Town.

16.0 DOGS AND PET CONTROL

Each dwelling unit will be permitted to house up to two dogs and offspring up to three months old. Residents will be prohibited from harboring dogs on their property unless they have adequate facilities (i.e., animals kept in residence, a fenced yard, an electronically fenced yard, dog run, or kennel) to contain the animals. Enclosed runs must be located immediately adjacent to the home, within the lot's building envelope if an envelope is required and shall not exceed 1,000 square feet. If facilities are inadequate to contain the dog(s), the animals will be immediately removed from the subdivision until adequate structures can be built.

At no time are dogs to be allowed to run freely, other than within designated leash free dog parks. Red Mountain Ranch shall be subject to any and all leash laws and other pet regulations as adopted by the Town.

Any additional pet restrictions adopted by Red Mountain Ranch owners through other documents such as declarations, covenants and restrictions, design guidelines or rules and regulations will be enforceable by the entity designated for such purpose and will not be enforced by the Town.

17.0 TRASH & RECYCLING RECEPTACLES

Single family, two-family dwelling residences and multi-family residences with garages within the Red Mountain Ranch PUD shall be restricted from storing or leaving trash and recycling receptacles outside overnight. Trash and recycling receptacles shall be placed outside on the day of pick-up and shall be returned to an indoor location the same day.

Multi-family buildings requiring separate exterior trash and recycling storage shall provide wildlife resistant trash and recycling enclosure structures consistent with the approved Design Guidelines.

18.0 AMENDMENTS TO THE RED MOUNTAIN RANCH PUD GUIDE

It is anticipated that modifications or amendments to this PUD Guide will be necessary from time to time. Application for amendment shall be submitted and reviewed as set forth in the Town Code.

CONCEPT RIPARIAN AREAS MANAGEMENT PLAN

RED MOUNTAIN RANCH PUD

Eagle County, Colorado



prepared for:

RED MOUNTAIN RANCH PARTNERSHIP LLLP

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BIRCH ECOLOGY

SEPTEMBER 2025

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1.0 INTRODUCTION

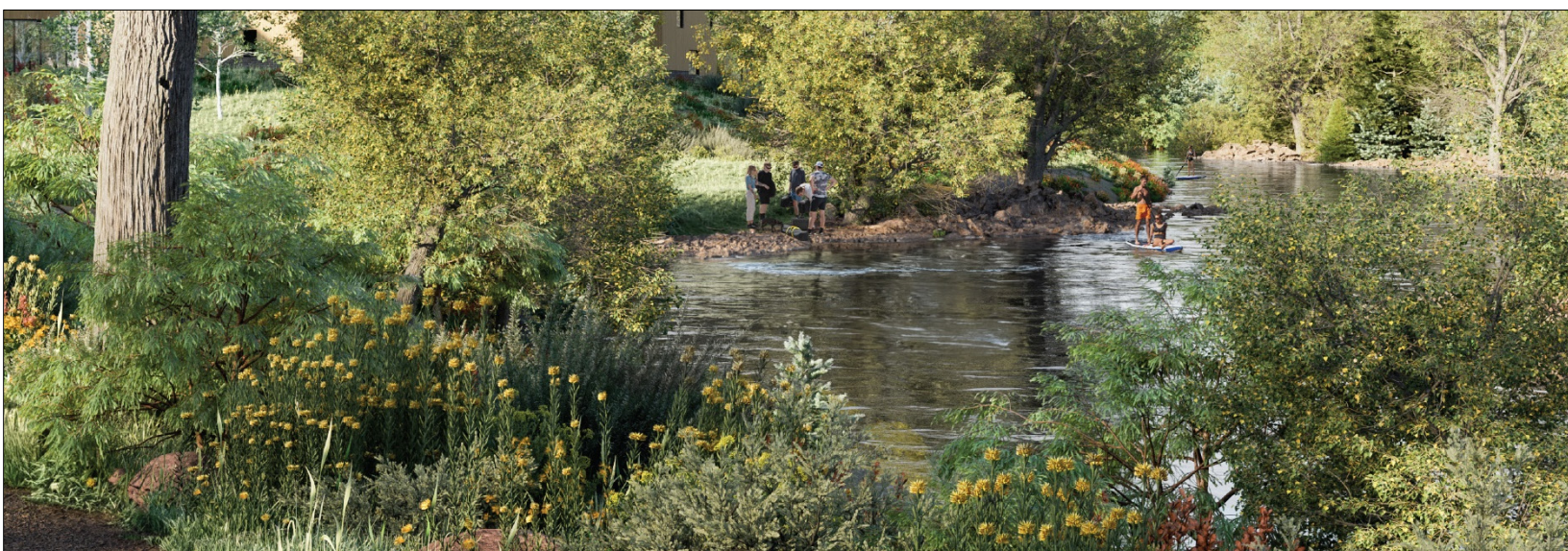
Red Mountain Ranch is a 106.2-acre PUD located just east of downtown Eagle Colorado, between Highway 6 and the Eagle River (Figure 1). The property has been divided into seven planning areas as detailed in the September 15th, 2020 PUD Guide. The PUD authorizes a total of 153 dwelling units including single-family, two-family and multi-family housing; commercial space; parks and open space; and amenities such as a community garden, a Discovery Trail, and a Nature Center, as shown by the PUD Zoning Plan (Figure 2; Sheets 1-6).

In accordance with the PUD Guide, site planning will follow the principles of Conservation Oriented Development and Cluster Residential design as articulated in the Eagle Area Community Plan and the Town of Eagle River Corridor Plan. The design will provide for clustered areas of development and integrate buffer zones, formal and informal open space areas within the plan.

A focal aspect of Red Mountain Ranch is designated open space, which will center around and protect the riparian corridor. More than half (56%) of the total area is designated as open space (59.1 acres), which exceeds the required 21.2 acres of open space per the Town Code by 37.9 acres.

This Riparian Areas Management Plan works to realize the vision for Red Mountain Ranch to protect water quality and habitat while providing access to the river for fishing and recreation, education, and community enjoyment. The following descriptions specify Management Plan Concepts and Best Management Practices that can promote the ecological functioning of the Eagle River riparian corridor while providing a balance of land uses for the site.

This Plan is a living document that may be updated as detailed planning progresses for each phase of the project. It is a conceptual plan intended to establish policies and guidelines which will inform project planning and provide for future adaptive management of the riparian corridor.



2.0 ENVIRONMENTAL SETTING



Red Mountain Ranch is located between U.S. Highway 6 and the Eagle River, with open space areas that extend south of the river in Planning Areas 1 and 3 (Figures 1 & 2). Red Mountain Ranch includes approximately 1.9 miles of river frontage.

BLM lands in the Hardscrabble SRMA are located south of Planning Areas 1 and 2. A

portion of the BLM property extends to the north side of the Eagle River between Planning Areas 1, 2 and 3 (Figure 2). The team is partnering with the BLM to integrate this area north of the river into project planning, with the possibility for a connected trail system that crosses between both properties. Private lands in Diamond Star Ranch border the other planning areas on the south side of the river.

Land uses have included past gravel mining in Planning Areas 1, 2, 4, 5 and 6, with agricultural uses for the other areas. Red Mountain Farm currently operates onsite and grows fresh produce for restaurants from their gardens in Planning Area 2. In addition, the river frontage is actively used for fishing. Red Mountain Ranch encompasses a Colorado Parks and Wildlife fishing easement along the Eagle River within Planning Areas 2-6.



The Eagle River supports riparian vegetation with a mature overstory of cottonwood trees, willows, and abundant native shrubs. Stands of mature balsam poplar (*Populus balsamifera*) and narrowleaf cottonwood (*Populus angustifolia*) trees are a prominent feature of the riparian corridor, growing with scattered blue spruces (*Picea pungens*) on the floodplain.



Mature tree canopy in OS-1 with younger narrowleaf cottonwoods and hawthorns.

Along with cottonwood saplings, river hawthorn (*Crataegus rivularis*) shrubs are common in the understory where they grow with native shrubs including skunkbrush sumac (*Rhus trilobata*), silver buffaloberry (*Shepherdia argentea*), basin big sagebrush (*Artemisia tridentata* ssp. *tridentata*), golden currant (*Ribes aureum*) and Wood's rose (*Rosa woodsii*). The cobbly edge of the river is lined by sandbar willow (*Salix exigua*), a native wetland shrub which is important for habitat and erosion control.



Dense stand of sandbar willow on a cobble bar in the Eagle River.

In addition to these native species, Russian olive (*Elaeagnus angustifolia*) trees are common along the riparian corridor and will be removed. During weed management, it will be important to distinguish Russian olive from the desirable native silver buffaloberry, which has a similar appearance.



Silver buffaloberry (far right) grows with two Russian olives along the bank of the Eagle River.

The understory of the riparian corridor is characterized by introduced grasses growing with abundant weeds, as well as a few native species. The dominant grass is the introduced perennial smooth brome (*Bromus inermis*), an aggressive species that can crowd out native plants. In the shady understory of the cottonwoods, smooth brome grows with dense stands of noxious weeds including Canada thistle (*Cirsium arvense*), houndstongue (*Cynoglossum officinale*), and burdock (*Arctium minus*). In the drier areas, white top (*Cardaria draba*), Russian knapweed (*Acroptilon repens*), and Scotch thistle (*Onopordum acanthium*) are problematic.



Dense growth of Canada thistle, houndstongue and burdock.

Riparian wetlands line the banks of the Eagle River, as illustrated by the Preliminary Wetland Map prepared by Birch Ecology (Figure 3, sheets 1 to 7). The wetlands illustrated on Figure 3 were delineated in accordance with U.S. Army Corps of Engineers methodology in 2013, 2015 and 2016. However, the mapping is considered preliminary because it has not yet been formally reviewed or approved by the Corps. As the development progresses, the delineation will be updated, and a formal Corps approval will be obtained to provide a basis for wetland permitting. Currently, only minor wetland disturbances are anticipated to facilitate fishing, river access, and irrigation diversions.



Wetlands on the floodplain of the Eagle River.

Wetland development and the width of the riparian habitat through Red Mountain Ranch have been affected by prior land uses. These have included physical changes to the floodplain and terraces from mining and agriculture, as well as hydrologic changes from irrigation practices. Since our initial wetland mapping was completed in 2008, there has been a significant reduction in groundwater flow and irrigation return flow to through Red Mountain Ranch, which is causing changes in the vegetation. In particular, the landscape directly north of Red Mountain Ranch, between Highway 6 and I-70, is no longer irrigated. This has caused a corresponding decrease in water feeding the wetlands on Red Mountain Ranch, and there has been an increase in weeds at the edge of wetlands. Some of the canopy die-back on mature cottonwood trees could also be related to these hydrologic changes. Future management of stormwater runoff can be used to mitigate some of these changes.



***Wetland area affected by a reduction in irrigation water.
This area has been mowed for weed management.***

The upland terrace bordering Highway 6 has been mined for gravel and reclaimed, leaving a highly disturbed habitat in Planning Areas 4, 5, and 6. As shown below, the post-mining landscape has created a sharp transition in both vegetation and topography between the upper terrace and the floodplain of the river, reducing the width of the riparian habitat.



Formerly mined and reclaimed area in Planning Area 4 with limited riparian habitat.

Within the mined area, the riparian vegetation quickly transitions to an upland seeding of crested wheatgrass (*Agropyron cristatum*), an introduced annual. Other reclaimed areas have been seeded with Russian wildrye (*Psathrostachys juncea*), which is growing with whitetop and other weeds. In addition, a few isolated tamarisk (*Tamarix ramosissima*) shrubs were noted during the site inventory; however, none were observed near the river. Tamarisk is a state-listed noxious weed that can threaten habitat quality, so the shrubs in Planning Area 6 will be removed.



Steep bank in the previously mined area.

Similarly, the upland terrace in Planning Areas 1 & 2 has been disturbed by agricultural land uses and past gravel mining, and the woody riparian overstory is limited in places, as shown below and on Figure 4.



Limited riparian habitat in a disturbed section of Planning Area 1.

Remnant stands of sagebrush, rabbitbrush, and skunkbrush are also present, but these areas typically have a weedy understory. This vegetation will be restored and enhanced as a part of site landscaping to improve the habitat quality along the river.



Basin big sagebrush grows at the edge of the riparian habitat in Planning Area 2.

3.0 RIPARIAN MANAGEMENT PLAN CONCEPTS

Valuing the riparian corridor, protecting its habitat and the water quality of the Eagle River are fundamental to the vision for Red Mountain Ranch. In support of these goals, the team has adopted a forward-thinking approach that incorporates state-of-the-art techniques for stormwater management and site landscape design, using thoughtful site planning that focuses development to the north, closest to Highway 6 and away from the Eagle River.

The following Riparian Management Plan Concepts incorporate specifications provided in the PUD guide to facilitate the dual goals of public enjoyment and ecological protection. The following list addresses protocols to protect the quality and ecological functioning of riparian habitat, preserve natural beauty, provide enjoyable and responsible recreational access, protect the water quality of the Eagle River, and promote environmental sustainability.

3.1 Stream Setback

A key component of project planning is the establishment of a stream setback along the Eagle River (Figure 2). The setback will provide a connected corridor of open space bordering the river which will be maintained in its natural state, then enhanced by controlling weeds, restoring disturbances, and replanting with native vegetation.

In accordance with the PUD Guide, a stream setback shall be maintained between the proposed development and the Eagle River.

- At minimum, this area shall be spaced either 75 horizontal feet from the high-water mark or the edge of the 100-year floodplain, whichever provides greater distance from the river. Additional area may be added to protect streams, wetlands, or riparian areas.
- The stream setback can be reduced to a minimum of 50 feet or the outer edge of the 100-year floodplain following approval by the Director of Community Development or the Public Works Director through a Finding of No Significant Impact ("FONSI").
- The stream setback will be protected in its natural state. This will promote the ecological functioning of the riparian habitat and provide a buffer between the development and the Eagle River to protect water resources.
- Any improvements or activities within this area will minimize site disturbance.
- No grading or removal of vegetation will be conducted within the stream setback, except for those activities listed below, which are specified in the 2020 PUD Guide:
 - Revegetation of previously disturbed areas.
 - Removal of state-listed noxious weeds.
 - Removal of dead or dying vegetation and vegetation removal for wildfire mitigation.
 - Footpaths not exceeding 3 feet in width, following a route which minimizes disturbance, and formed of generally natural pervious materials.
 - Public multi-use paths that are part of the public trail system or that are to be dedicated as public trails through the development review process.



DISCOVERY TRAIL VIEW SINGLE FAMILY HOMES AND EAGLE RIVER

- Head gates, pump houses, hydroelectric wheelhouses and piping, and ditches.
 - Flood control and bank stabilization devices.
 - Underground utilities, public park improvements, and/or structures that do not have a practical alternative location. These features must be approved as part of a Development Permit or Special Use Permit, or as part of a site-specific development plan, following procedures set forth in the Town Code. Construction disturbance will be revegetated and, if necessary, equipped with temporary irrigation.
 - Removal of existing building encroachments.
- Regulated activities in wetlands shall be coordinated with the U.S. Army Corps of Engineers and, if required, appropriate mitigation (including seed mixes for revegetation) shall be approved by the Corps as a part of the wetland permitting process.
 - If any easements are to be located within the stream setback, the easement holders have the right to maintain the vegetation as necessary in accordance with the terms of the easement.

3.2 Stormwater Management and Water Quality Protections

The site plan integrates modern stormwater management practices to promote infiltration and reduce runoff from impervious surfaces; limit pipes; and eliminate concentrated discharge points to the Eagle River. As shown by the Site Plan on Figure 5, the design focuses development away from the river and provides natural vegetated buffer regions, with native vegetation in the stream setback to protect the water quality.

- Natural drainage patterns will be used to dissipate stormwater across the site, in contrast to traditional stormwater infrastructure. Runoff will be directed to existing drainage swales to minimize pipes, limit grading, and preserve existing stands of native vegetation.
- Native vegetation in the Stream Setback and adjacent open space areas will filter runoff, remove sediment, uptake nutrients, and protect the water quality of the river.
- Drainage features will be designed with sufficient capacity to accommodate future changes from on-site and off-site development, with a goal of limiting concentrated discharges to the Eagle River.
- In contrast to traditional curb-and gutter systems, runoff from roads will be directed to grass-lined swales to capture and filter stormwater to remove sediments, nutrients, and pollutants, and promote infiltration.
- Permeable paving will be used for parking areas to promote infiltration of runoff and groundwater recharge.
- No snow storage areas will be located within the stream setback. The snow storage areas within the development will utilize either permeable paving or landscaped beds to promote infiltration and protect water quality.

- The use of chemical herbicides, especially within the stream setback, will be limited, with a focus on integrated weed management to protect water quality.

3.3 Landscape and Restoration Ecology

The ecology of Red Mountain Ranch is fundamental to the landscape design. Within the stream setback, native plant communities will be restored and enhanced to support the ecological functioning of the riparian corridor. Site landscaping will also incorporate native plants and adaptable water-wise species. As described above, stormwater features will be integrated into the landscape design. Runoff will be routed to grass-lined swales, wetlands, and landscaped areas rather than piped into concentrated discharges. Grading will be limited, with a goal of preserving existing mature trees and stands of native vegetation.

- The stream setback will be restored and enhanced by preserving existing native vegetation, removing noxious weeds and invasive plants, and integrating supplemental native plantings. Table 1 provides a list of recommended native species for restoration of the Stream Setback area.
- Pollinator gardens will support the operations of Red Mountain Farm and will enhance both aesthetics and habitat quality.
- Grading is being designed to minimize changes to natural topography and preserve stands of native vegetation.
- Existing high-value native trees will be retained whenever possible, considering tree health and safety.
- Natural drainage patterns will be enhanced and mimicked to dissipate stormwater through wetlands, grass-lined swales, and vegetated areas.
- Native, adaptable, water-wise plants will be incorporated throughout the development.
- Efficient irrigation systems will limit water use. Raw water will be used for irrigation.

3.4 Management of Weeds and Invasive Plants

Managing weeds within the stream setback will be an important part of habitat restoration. As discussed above, initial site reconnaissance has shown that weeds are already common in many areas of Red Mountain Ranch. A proactive effort using integrated weed management techniques will limit the spread of undesirable weeds and enhance habitat quality along the Eagle River.

- Noxious weeds, as identified by the State of Colorado, shall be controlled within the riparian corridor. The Colorado Noxious Weed List is updated regularly and can be accessed at: <https://www.colorado.gov/pacific/agconservation/noxious-weed-species>.
- A detailed site inventory and mapping prepared by the project ecologist will identify weed management concerns and priorities. This will allow weed management to begin prior to construction.
- Integrated weed management should be used to limit weed dispersal during construction and prevent establishment in new areas.

- Regular site visits by the project ecologist will facilitate a proactive approach to weed management within the Stream Setback.
- Integrated weed management shall be the preferred method of weed control, using a multifaceted approach that includes cultural, mechanical, and chemical methods. A goal of integrated weed management is to reduce the dependence on chemical herbicides over time.
- The use of pesticides, herbicides and chemical fertilizers shall be minimized. The selection of chemical herbicides shall be based on the least environmentally damaging option available to effectively control noxious weeds.

3.5 River Access and Trails

The trail system will provide connectivity across Red Mountain Ranch and public access to the Eagle River. A focal point will be the soft-surface Discovery Trail which will invite visitors to explore the riparian habitat and will connect the park spaces in Planning Areas 5B and OS-1 to the Nature Center in C/PUD-2. The Discovery Trail will highlight the ecology of the riparian corridor and may include educational signage.

All trails will be designed with permeable materials and carefully routed to protect habitat and integrate with the natural environment. Designated river access areas will be provided to direct people through the setback and minimize trampling of riparian vegetation. These access areas have been designed to protect and preserve the highest quality habitats. For example, the river access near the proposed hotel in Planning Area 2 makes use of an existing, highly disturbed area of the riverbank; the adjacent stands of riparian vegetation will be preserved and enhanced. Additional plantings and signage will be used in key locations to control river access and direct users to the designated access points. Finally, a boat ramp will also provide river access within the future Town Park in Planning Area 5B.

- **Trails** will facilitate walkable connectivity across Red Mountain Ranch.
 - Within the stream setback, only soft surface trails are permitted with a maximum width of 3 feet. Outside the stream setback, paths may be a durable hard surface with a minimum width of 6 feet.
 - Trail routes will be selected to minimize ecological disturbance.
 - A pervious surface such as crusher fines will be used to construct soft surface trails. Where necessary, a boardwalk may be incorporated.
 - The Discovery Trail will provide public pedestrian access between the park spaces in Planning Area 5B and OS-1. A concept plan is illustrated by Figure 2, Sheets 2-4; however, the final trail alignment is to be determined along with the Development Permit application for each planning area.
 - The Discovery Trail design and construction will meet the 2013 US Forest Service Trail Accessibility Guidelines.
 - A pedestrian bridge will connect the Nature Center to a preservation area on the south side of the Eagle River within Planning Area 3.
 - Red Mountain Ranch will work with the BLM regarding a potential trail connection between Planning Areas 1, 2 and 3.



DISCOVERY TRAIL VIEW TO PARCEL 2 BEER GARDEN

- **River Access**

- A boat ramp in Planning Area 5B will provide river access within the East Eagle River Park.
- Access points will provide designated areas for river access and protect riparian vegetation in other locations.
- Shrubs will be planted around the access areas to prevent erosion and discourage human activity outside the designated area.

3.6 Fishing Access and Management

Red Mountain Ranch will provide access to a Colorado Parks and Wildlife Fishing Easement that extends out for 25 feet from the high-water line of the Eagle River in Planning Areas 2-6 (Figure 2, Sheets 2-6). A boat ramp and parking lot in the East Eagle River Park in Planning Area 5B will facilitate access to the CPW fishing easement via the Discovery Trail.

Fishing access will be planned to facilitate wise stewardship of natural resources by funneling river access to a limited number of designated locations to minimize trampling of streamside vegetation; by allowing only fly-fishing and catch-and release with no guided trips; and by instituting fishing closures when the Eagle River reaches high temperatures. Signage and an informational campaign will educate users about responsible stewardship and encourage them to "Respect the River."

Provisions for in-stream fish habitat restoration are also included in the PUD Guide.

- **Fishing Access**

- Red Mountain Ranch will provide access to a Colorado Parks and Wildlife Fishing Access Easement.
- The CPW fishing easement extends 25 feet north of the average high-water mark in Planning Areas 2-6 as shown by Figure 2.
- Activities within the Public Fishing Easement will follow the specifications for the Colorado Parks and Wildlife easement recorded November 30, 1988 in Book 496 at Page 133 in the real property records of Eagle County (the "CPW Public Fishing Easement").
- Only fly fishing and catch and release will be permitted. Commercial guided fishing will not be allowed. These conditions apply to the entire river frontage of Red Mountain Ranch, including lands outside the CPW Fishing Easement.
- Access to the river will be facilitated by designated access points to limit impact to the riparian areas outside these locations.
- Fishing closures will protect trout during high water temperatures and will be based upon recommendations from Colorado Parks and Wildlife.
- In-stream fish habitat restoration can be conducted during the construction of non-potable diversion improvements or the boat ramp as per the PUD Guide.



EAGLE RIVER VIEW TO HOTEL AND BEER GARDEN

3.7 Protections for Wildlife

Protecting wildlife habitat and use is a central part of the vision for Red Mountain Ranch. As illustrated by Figure 2, more than half of the total project area is designated as open space, including a continuous stretch of river frontage covering approximately 1.9 miles. The Riparian Areas Management Plan is one of many project elements that are designed to protect the ecological functioning and habitat value of the riparian corridor.

- The project will restore areas of degraded habitat within the stream setback, control invasive weeds, and re-plant native riparian trees and shrubs in areas that have been impacted by past gravel mining. This will improve habitat connectivity in disturbed areas of the river corridor.
- Seasonal trail closures may be instituted during elk calving season. CPW will be consulted for recommendations.
- The Eagle River will be closed to fishing when the temperatures are too high, in accordance with CPW recommendations.
- Only catch-and-release and fly fishing will be permitted with no guided trips.
- Dogs are not allowed to run freely.
- Trash receptacles and signage will facilitate waste disposal along trails.
- To prevent attracting and habituating wildlife, residential trash and recycling will not be left outside overnight or will be stored within designated wildlife resistant trash and recycling enclosure structures.
- Fencing will be minimized, and only wildlife-friendly fencing will be used where necessary, following the recommendations provided by the 2009 Colorado Parks and Wildlife document "Fencing with Wildlife in Mind."
- Dark sky practices will limit light pollution to maintain a natural environment in the Eagle River Valley. Illumination Standards will follow the requirements of the Town Code Section 4.07.010.
- Restriction of bright shiny metal elements will reduce unnatural light reflections that can negatively impact wildlife.

3.8 Sustainability

This PUD seeks to use state-of-the-art sustainable practices, including Conservation Oriented Development and Cluster Residential Design concepts, to carefully steward energy and water resources.

- **Environmental building practices** will include:
 - Conservation Oriented Development and Cluster Residential Design.
 - Energy efficient designs including solar panels.
 - Encouragement of owners to follow LEED guidelines established by the US Green Building Council (www.usgbc.org).
 - An integrated neighborhood connected by a network of walkable paths.

- Irrigation will be reduced by planting water-efficient vegetation and utilizing runoff for hydration.

3.9 Ownership

Homeowners' associations will be generally responsible for ownership and maintenance of open spaces.

- The master homeowners' association of the greater neighborhood shall have common ownership of buffer regions and open space areas.
- Maintenance of the Discovery Trail shall be conducted by the developer until this responsibility is transferred to a homeowners' association or nonprofit corporation under a maintenance agreement approved by the Town.

3.10 Town of Eagle Beneficiary Status

In accordance with Section 8b of the approved ADA, the Town of Eagle is hereby named as a beneficiary and is provided with the rights of the Town to enforce this Riparian Areas Management Plan.

- The Town shall provide notice of default to the Developer and shall provide a reasonable period to cure such default, which period shall not be less than 30 days or such additional time as appropriate if 30 days is inadequate.
- The Town is granted the right to enter the riparian area to take corrective action if any default is not cured.
- The Town shall have a right to recover costs for any such enforcement.

4.0 BEST MANAGEMENT PRACTICES FOR RIPARIAN AREAS

The following Best Management Practices (BMPs) are included to provide property managers, residents, and guests with a set of concise principles that can be used to inform their management and use of the riparian corridor. The purpose of these guidelines is, first, to educate the residents and visitors regarding the sensitivity, functioning, and importance of the riparian habitat; and second to identify activities and practices that will protect and enhance the functions of the riparian habitat, as well as activities that are discouraged.

- Minimize disturbances within the stream setback.
- Avoid the creation of bare soil areas.
- Limit vegetation removal to what is necessary for health and safety, focusing on diseased or damaged plants that present a safety hazard.
- Prune rather than remove the entire tree or shrub.
- Promote dense vegetation to reduce runoff and trap sediment.
- Landscape with native plants; any additional planting materials shall be from the plant list and/or seed mix tables.
- Leave wood and other natural materials in streams and on the adjacent floodplain.
- Keep grass clippings and other yard waste out of the stream setback area.
- Direct drainage to landscaped areas and grass-lined swales, not directly toward the river.
- Keep pet waste away from the riparian corridor and the river.
- Limit the area of impervious surfaces you create and try to encourage runoff to infiltrate the soil.
- Remain on designated paths and avoid trampling the streamside vegetation.
- Paths to the stream should have a soft surface that will allow water to infiltrate.
- Ensure vegetation is growing along the sides of the path to help anchor the soil.
- If necessary, use only slow-release fertilizers and limit the use of pesticides.
- Nothing shall be poured down storm drains, including soapy water, automobile oil, paint, household chemicals, and pesticides.

5.0 MANAGEMENT OF WEEDS AND INVASIVE SPECIES

5.1 Priority Weeds of Concern

As described above in Section 2.0, prior land uses have disturbed the Eagle River riparian corridor through Red Mountain Ranch, facilitating the establishment of noxious weeds and aggressive, introduced plants. In addition to physical disturbances from mining and agricultural land uses, changed flood irrigation practices in the area have altered site hydrology and contributed to an increase in weeds. In particular, some wetland areas that may be reverting to uplands have exhibited a marked increase in Canada thistle (*Cirsium arvense*) abundance.

Table 2 lists the noxious weeds and invasive plants of concern identified at Red Mountain Ranch during the 2023 growing season, and major stands are shown on Figure 4, sheets 1-7. As summarized in Table 2, 16 species of state-listed noxious weeds are present; however, none of these are List A weeds, the most serious category. In addition to Canada thistle, the most problematic species include Russian knapweed (*Acroptilon repens*), houndstongue (*Cynoglossum officinale*), burdock (*Arctium minus*), white top (*Cardaria draba*), Scotch thistle (*Onopordum acanthium*), plumeless thistle (*Carduus acanthoides*), musk thistle (*Carduus nutans*), and ox-eye daisy (*Leucanthemum vulgare*). In addition, three woody species of noxious weeds are present - Russian olive (*Elaeagnus angustifolia*), Siberian elm (*Ulmus pumila*), and tamarisk (*Tamarix ramosissima*) - which are notable because they can significantly degrade the quality of riparian habitat. Currently, tamarisk and Siberian elm are restricted to the formerly mined area in Planning Area 6, but Russian olive is common along the banks of the Eagle River. Cheatgrass (*Bromus tectorum*) is the only noxious grass species on the list; it is primarily restricted to dry upland areas outside the riparian corridor and is most abundant in the formerly mined area in Planning areas 4-6.

Other problematic weeds in Table 2 are included because they present a significant threat to the native plant communities. These include several plants that were once listed as noxious weeds but have been reclassified. Some of the most concerning species in this other group of weeds include Russian thistle (*Salsola australis*), kochia (*Kochia scoparia*), yellow and white sweet clover (*Melilotus officinalis*; *M. albus*), purple mustard (*Chorispora tenella*), flaxweed (*Descurainia sophia*), and tumble mustard (*Sisymbrium altissimum*).

5.2 Weed Management Recommendations

Understanding the life cycle of these weeds is the key for effective management. Treatment methods will vary based on the duration of a plant's life span, from short-lived annual and biennial weeds to longer-lived perennials with below ground parts that can survive from year-to-year.

Short-lived annual and biennial weeds die after producing seed. Annuals complete their entire life cycle in one year; biennials will typically grow leaves the first year, then flower, set seed, and die in the second year. Preventing seed production is a key for managing annual and biennial weeds.

- Annuals typically have a shallow root system and they do not overwinter. Hand-pulling can be an effective option if the population size is manageable.

- Biennials live for two years, and they typically have better developed root systems. They can be hand-pulled or dug if the population size is manageable.
- Most biennials grow as a rosette in the first year which can be spot-sprayed with herbicide, minimizing the amount of chemical needed to treat large populations.
- Cutting or mowing can be effective for biennials in their second year to prevent seed formation.
- If the weed has already produced seed, then carefully cutting off the seed head from the rest of the plant and disposing of it in a contained trash bag is recommended to limit seed spread.

Long-lived perennial weeds that complete their life cycle over several years are usually more difficult to control, since they have belowground parts that can overwinter, store energy, and help the plant to spread vegetatively.

- Mowing rhizomatous perennial weeds can help reduce seed spread, however they cannot be eliminated without also killing the root. Repeated mowing can help to weaken stands and can be coupled with herbicide treatments.
- Herbicide may be necessary for eradicating certain perennial weeds. Recommended treatments can vary widely by species, so it is important to consult with a professional. Targeted-spot spraying can be used to limit the amount of chemicals applied and should always be the preferred method of herbicide application, especially in riparian areas.
- For woody species such as Russian olive, tamarisk and Siberian elm, hand-pulling is only possible for young seedlings. Both tamarisk and Russian olive form a deep taproot, even on young plants. Regularly monitoring and hand-pulling any seedlings before they are deeply rooted is recommended.
- The most effective method of control for weedy trees is the "cut-stump" method; the tree is cut off just above the ground surface, then herbicide is painted on the freshly cut surface of the stump. This limits the amount of chemical necessary, and it kills the root system without having to disturb the soil.
- Biological control agents are available from the Colorado Department of Agriculture's Request-a-Bug program for certain perennial weeds. These are used to suppress weed growth and generally do not result in eradication. However they can be an important part of integrated weed management and are a useful tool when coupled with other methods.

Guidance on Treatment Methods

The timing of weed management depends on the ecology of the weed species as well as the chosen method.

Hand pulling is most effective when the plant has not yet created a seed head. If the plant has produced seed, it is critical that the seed head is disposed of properly in a closed trash bag. Use caution not to disperse seed during this process. Weed seeds should be sent to the landfill rather than composted to limit the potential for further spread.

When **hand pulling** weeds, it is important to pull slowly and firmly to remove as much as the root as possible. Perennial weeds will re-sprout if the root has not been removed fully, however it is not necessary to get the root of annuals or biennials in their second year. It is difficult to remove the entire root system except under the most favorable conditions, so hand pulling is rarely effective for rhizomatous perennial weeds such as Canada thistle and Russian knapweed. The soil disturbance created by hand pulling can stimulate additional weed seed germination.

Mowing or cutting can be used to weaken stands of weeds between other treatments, or to prevent seed formation of taller weeds. However, mowing can contribute to weed seed spread if executed improperly. Moreover, mowing is ineffective for low growing weeds, or species such as kochia which can form hundreds of flowers within a few inches of the soil surface. Mowing rarely kills weeds but can be combined with herbicide treatments to weaken persistent stands. However recently sprayed weeds should not be mowed, so that the herbicide has time to work – most importantly, it needs to be transported to the root system to kill perennial weeds.

Biological control uses plant pathogens (usually insects or fungus) to infect weeds and suppress their growth. As discussed above, biological control agents rarely kill weeds so they must be used in combination with other methods. The Colorado Department of Agriculture currently offers biological control agents for five of the weeds present at Red Mountain Ranch: tamarisk, Russian knapweed, Canada thistle, field bindweed, and musk thistle.

Herbicide is an important tool for managing weeds in conjunction with other methods. On large properties with extensive infestations, it is a necessity. Herbicides should only be applied by a Licensed Commercial Pesticide Applicator. Careful spot spraying methods should always be used, especially in riparian areas. It is important to consider non-target impacts and avoid herbicide use on flowering plants, to limit potential impacts on pollinators.

It will be important to quickly identify weed problems as they emerge and to aggressively manage the first flush of weeds to prevent seed formation. Diligence during the first few years of a restoration will result in significant long-term cost savings for weed management. The Project Ecologist will provide recommendations for Integrated Weed Management and will oversee the implementation of this program.

Identification of invasive Russian Olive vs. native Silver Buffaloberry

Silver buffaloberry (*Shepherdia argentea*) is a **desirable native shrub** that occurs along the Eagle River riparian corridor at Red Mountain Ranch. It is important to distinguish this species from the invasive, state-listed noxious weed **Russian olive** (*Elaeagnus angustifolia*).

Silver Buffaloberry is a thorny shrub or small tree with elliptical to lance shaped, silvery leaves that are covered with a dense layer of scaly hairs. The plant has a wiry and stiff appearance with **OPPOSITE branching**. This is the easiest character to identify, and it is visible year-round. The twigs and bark also have a grayish appearance.



Buffaloberry: Stiff gray leaves are oriented upwards.



Buffaloberry: Opposite branching with a grayish appearance.

Buffaloberry: Thorny shrub that can form dense stands.



A close-up photograph of a shrub with silvery, fuzzy leaves and clusters of small yellow flowers, identified as the 'Fuzzy Yellow' variety of Silver Cholla. The leaves are elongated and have a distinctively fuzzy, tomentose underside. The flowers are small, bright yellow, and arranged in dense, elongated clusters along the stems. The background shows more of the plant and some green foliage, suggesting a natural, outdoor setting.

A photograph of a Salix alba (Weeping Willow) tree. The tree features long, slender, silvery-green leaves that are densely packed along its drooping branches. The branches are dark brown and hang over a body of water, which is visible in the background. The water reflects the green foliage of the tree. The overall scene is a natural, outdoor setting.

[illegible]

23

5.3 Integrated Weed Management Techniques

The Colorado Natural Areas Program describes Integrated Weed Management as “a process by which one selects and applies a combination of management techniques (biological, chemical, mechanical, and cultural) that, together, will control a particular weed species or infestation efficiently and effectively, with minimal adverse impacts to non-target organisms.” Rather than focusing simply on the symptoms of the weed infestation, Integrated Weed Management differs from traditional weed management in that it uses an ecological approach to address the ultimate causes of weed infestation, and considers the biological and ecological characteristics of individual weeds to determine effective means of control. One important objective of Integrated Weed Management is to use a combination of techniques to reduce the need for chemical herbicides over the long-term. In this way, integrated weed management can be used to protect the water quality of the Eagle River.

5.3.1 Cultural Control

Cultural control methods for weed management seek to limit disturbances that provide opportunities for weed invasion, while establishing and maintaining healthy communities of desirable plant species that are resistant to weed invasion. By controlling cultural conditions, weed abundance can be reduced.

5.3.2 Biological Control

Biological control utilizes deliberately introduced organisms, usually insects, to control weeds by harming them in some way and thereby suppressing their growth. Biological control can weaken undesirable weeds and reduce seed production, but does not typically result in eradication. This method has limited applicability since biocontrol agents are only available for a few species. However, these can be obtained from the Colorado Department of Agriculture's Request A Bug Program: <https://www.colorado.gov/pacific/agconservation/request-bug>.

5.3.3 Mechanical Control

Mechanical control methods include physically disturbing or removing weeds. Tilling, mowing, hand pulling, raking with an action hoe, and cutting with a line trimmer are all examples of mechanical control. These techniques can be used to kill plants if they are small and can be removed entirely, or mechanical control can be used in combination with other techniques to reduce seed production and deplete the belowground reserves of perennial weeds.

5.3.4 Chemical Control

Chemical control methods utilize herbicides to kill or injure unwanted weeds. Over the years, numerous classes of herbicides have been synthesized that act upon different pathways within the plant to cause death or injury. In addition, some herbicides are available that have been derived from plants. The herbicide classes correspond to their mode of action: growth regulators, amino acid inhibitors, grass meristem destroyers, cell membrane destroyers, root and shoot inhibitors, and amino acid derivatives that interfere with plant metabolism.

Herbicides should be carefully selected based on the target weed species, the presence of desirable native species in the area to be treated, soil texture and pH, and environmental conditions, such as the proximity to open water, among other factors. Within the riparian corridor, selection of herbicides should be based on the least environmentally damaging

option available to effectively control noxious weeds. Consultation with a Licensed Commercial Pesticide Applicator is recommended.

6.0 MAINTENANCE & MONITORING FOR ADAPTIVE MANAGEMENT

The Homeowners Association may engage the Project Ecologist to assist with monitoring. The ecologist would visit the project site several times during the growing season to observe vegetation conditions, identify problematic stands of state-listed noxious weeds and other invasive species, and provide recommendations for integrated weed management. In addition, the Ecologist would provide recommendations to promote the long-term health of the riparian corridor. The Ecologist would look for social trail formation, vegetation trampling, and any other problems from humans, pets, or wildlife use. If there are bare areas, they will be re-seeded or replanted. If social trails become problematic, strategic plantings, signage, temporary fencing, and/or other means will be evaluated to re-direct foot traffic and restore native vegetation. The Ecologist would provide regular feedback to the Homeowner's Association throughout the growing season, to facilitate adaptive management and assist with implementing the recommendations.

7.0 TABLES

TABLE 1. RECOMMENDED NATIVE PLANTS
Eagle River Riparian Corridor
Red Mountain Ranch

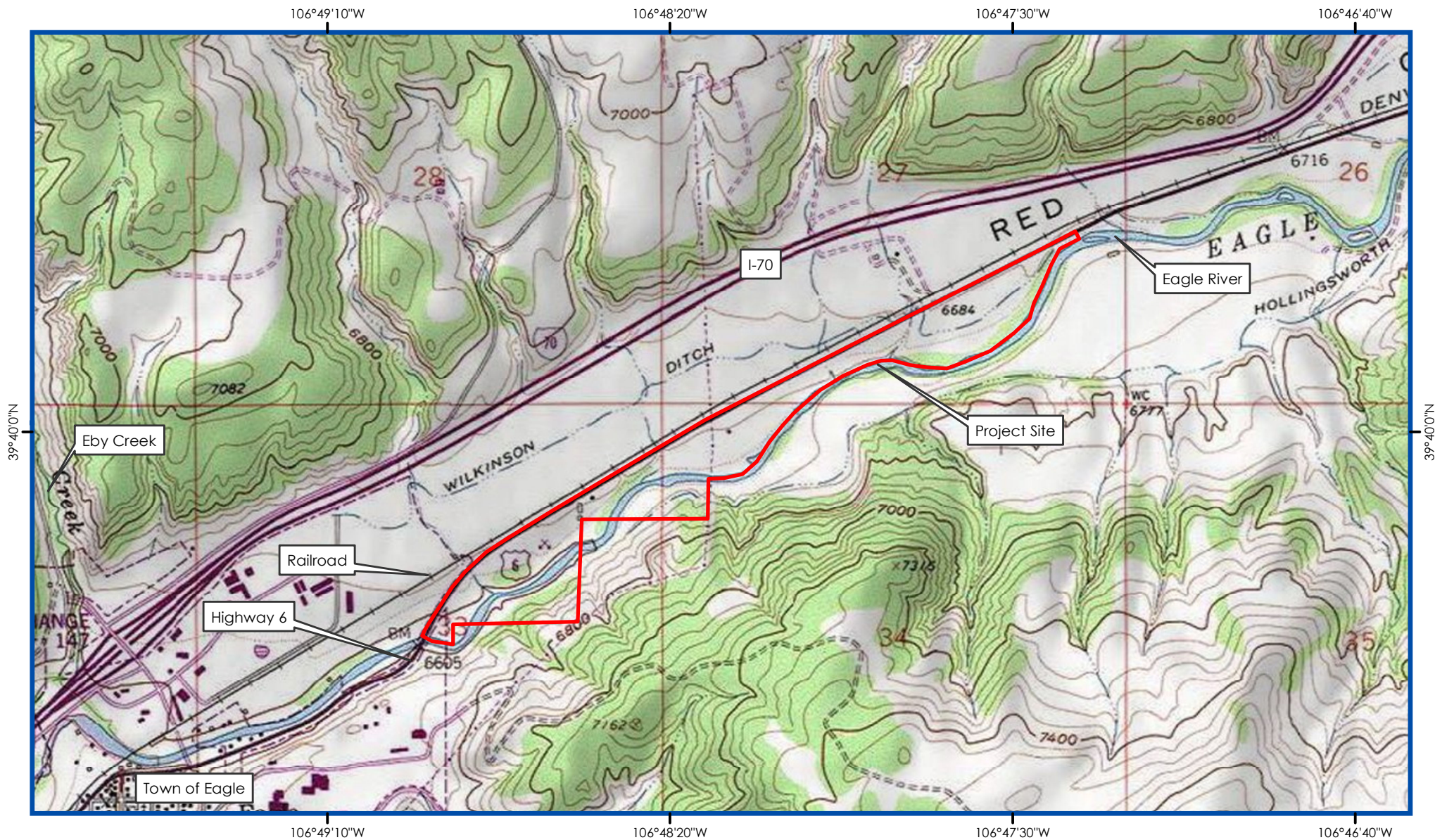
SCIENTIFIC NAME	COMMON NAME	FAMILY
Trees		
<i>Juniperus scopulorum</i>	Rocky Mountain Juniper	Cupressaceae
<i>Picea pungens</i>	Blue spruce	Pinaceae
<i>Populus angustifolia</i>	Narrowleaf cottonwood	Salicaceae
<i>Populus balsamifera</i>	Balsam poplar	Salicaceae
Shrubs		
<i>Alnus incana</i> <i>ssp. tenuifolia</i>	Thinleaf alder	Betulaceae
<i>Amelanchier alnifolia</i>	Serviceberry	Rosaceae
<i>Artemisia tridentata</i> <i>var. tridentata</i>	Big sagebrush	Asteraceae
<i>Betula occidentalis</i> <i>(B. fontinalis)</i>	River birch	Betulaceae
<i>Cercocarpus montanus</i>	Mountain mahogany	Rosaceae
<i>Chrysothamnus parryi</i>	Parry's rabbitbrush	Asteraceae
<i>Cornus sericea</i> <i>(C. stolonifera)</i>	Redosier dogwood	Cornaceae
<i>Crataegus rivularis</i>	River hawthorn	Rosaceae
<i>Distegia involucrata</i>	Bush honeysuckle	Caprifoliaceae
<i>Prunus virginiana</i> <i>var. melanocarpa</i>	Choke cherry	Rosaceae
<i>Purshia tridentata</i>	Bitterbrush	Rosaceae
<i>Rhus trilobata</i>	Skunk brush	Anacardiaceae
<i>Ribes aureum</i>	Yellow currant	Grossulariaceae
<i>Ribes inerme</i>	Whitestem gooseberry	Grossulariaceae
<i>Rosa woodsii</i>	Woods' rose	Rosaceae
<i>Salix bebbiana</i>	Bebb willow	Salicaceae
<i>Salix exigua</i>	Sandbar willow	Salicaceae
<i>Salix lasiandra</i> <i>var. caudata</i>	Whiplash willow	Salicaceae
<i>Salix monticola</i>	Mountain willow	Salicaceae
<i>Shepherdia argentea</i>	Silver buffaloberry	Elaeagnaceae
Woody Vines		
<i>Clematis ligusticifolia</i>	Virgin's Bower	Ranunculaceae

TABLE 2. NOXIOUS AND INVASIVE PLANTS OF CONCERN
Eagle River Riparian Corridor
Red Mountain Ranch

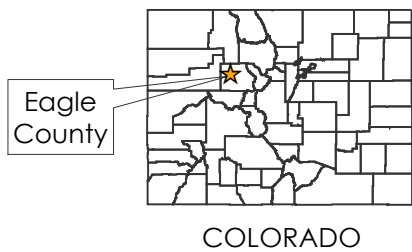
SCIENTIFIC NAME	COMMON NAME	FAMILY	ORIGIN*	NOXIOUS WEED STATUS
Trees				
<i>Elaeagnus angustifolia</i>	Russian olive	Eleagnaceae	I+	B
<i>Ulmus pumila</i>	Siberian elm	Ulmaceae	I+	C
Shrubs				
<i>Tamarix ramosissima</i> (<i>T. chinensis</i>)	Tamarisk	Tamaricaceae	I+	B
Perennial Forbs				
<i>Acroptilon repens</i>	Russian knapweed	Asteraceae	I+	B
<i>Cardaria draba</i>	White top	Brassicaceae	I+	B
<i>Cirsium arvense</i>	Canada thistle	Asteraceae	I+	B
<i>Convolvulus arvensis</i>	Field bindweed	Convolvulaceae	I+	C
<i>Leucanthemum vulgare</i>	Ox-eye daisy	Asteraceae	I+	B
<i>Medicago lupulina</i>	Black medic	Fabaceae	I	
<i>Rumex crispus</i>	Curly dock	Polygonaceae	I	
Annual/Biennial Graminoids				
<i>Bromus tectorum</i>	Cheatgrass	Poaceae	I+	C
Annual/Biennial Forbs				
<i>Arctium minus</i>	Common burdock	Asteraceae	I+	C
<i>Carduus acanthoides</i>	Plumeless thistle	Asteraceae	I+	B
<i>Carduus nutans</i>	Musk thistle	Asteraceae	I+	B
<i>Chenopodium album</i>	Lamb's quarters	Chenopodiaceae	I	
<i>Chorispora tenella</i>	Purple mustard	Brassicaceae	I	
<i>Cynoglossum officinale</i>	Houndstongue	Boraginaceae	I+	B
<i>Descurainia sophia</i>	Flixweed	Brassicaceae	I	
<i>Kochia scoparia</i>	Kochia	Chenopodiaceae	I	
<i>Lactuca serriola</i>	Prickly lettuce	Asteraceae	I	
<i>Lepidium perfoliatum</i>	Clasping peppergrass	Brassicaceae	I	
<i>Melilotus albus</i>	White sweet clover	Fabaceae	I	
<i>Melilotus officinalis</i>	Yellow sweet clover	Fabaceae	I	
<i>Onopordum acanthium</i>	Scotch thistle	Asteraceae	I+	B
<i>Salsola australis</i> (<i>S. iberica</i>)	Russian thistle	Chenopodiaceae	I	
<i>Sisymbrium altissimum</i>	Tumble mustard	Brassicaceae	I	
<i>Sonchus arvensis</i>	Perennial sow thistle	Asteraceae	I+	C
<i>Verbascum thapsus</i>	Great mullein	Scrophulariaceae	I+	C

*Origin: N = Native; I= Introduced; I+ = Colorado State Noxious Weed

8.0 FIGURES



BASE: USGS 7.5' Eagle Quadrangle, Colorado



LEGEND

Red Mountain Ranch Boundary



1:24,000

0 600 1200 2,400
Feet

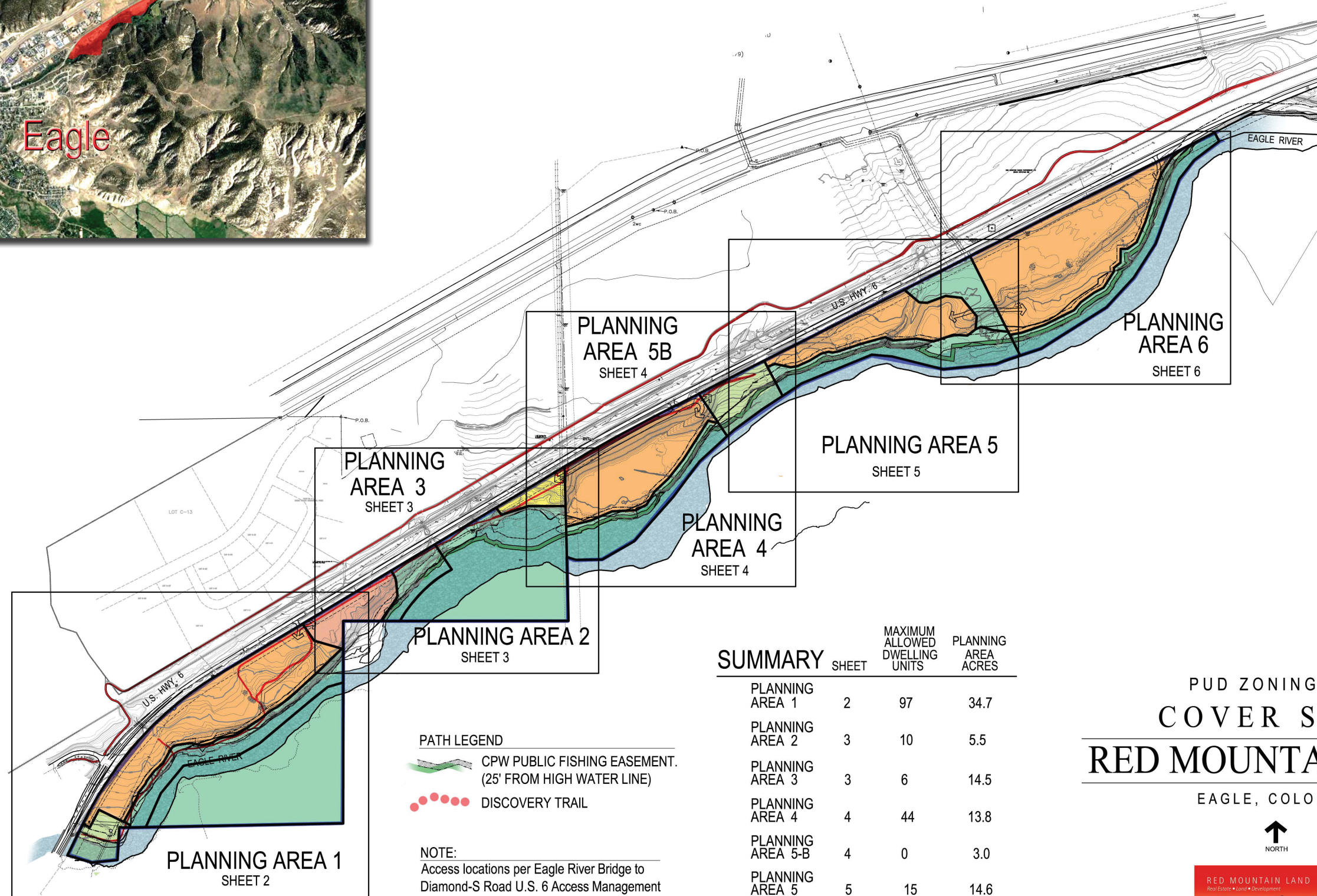
Figure 1. Project Location Map
Red Mountain Ranch
Eagle Colorado
September 2025

Prepared by:



Birch Ecology LLC

710 Tenacity Drive
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Longmont, CO 80504
(720) 350-2530
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PATH LEGEND

 CPW PUBLIC FISHING EASEMENT.
(25' FROM HIGH WATER LINE)

 DISCOVERY TRAIL

NOTE:
Access locations per Eagle River Bridge to
Diamond-S Road U.S. 6 Access Management
Plan.
Area measurements may vary by actual field
survey at Development Permit.

SUMMARY	SHEET	MAXIMUM	PLANNING
		ALLOWED DWELLING UNITS	AREA ACRES
PLANNING AREA 1	2	97	34.7
PLANNING AREA 2	3	10	5.5
PLANNING AREA 3	3	6	14.5
PLANNING AREA 4	4	44	13.8
PLANNING AREA 5-B	4	0	3.0
PLANNING AREA 5	5	15	14.6
PLANNING AREA 6	6	25	20.1
TOTALS		*	106.2

*TOTAL D.U. NOT TO EXCEED 153

PUD ZONING PLAN COVER SHEET RED MOUNTAIN RANCH

EAGLE, COLORADO



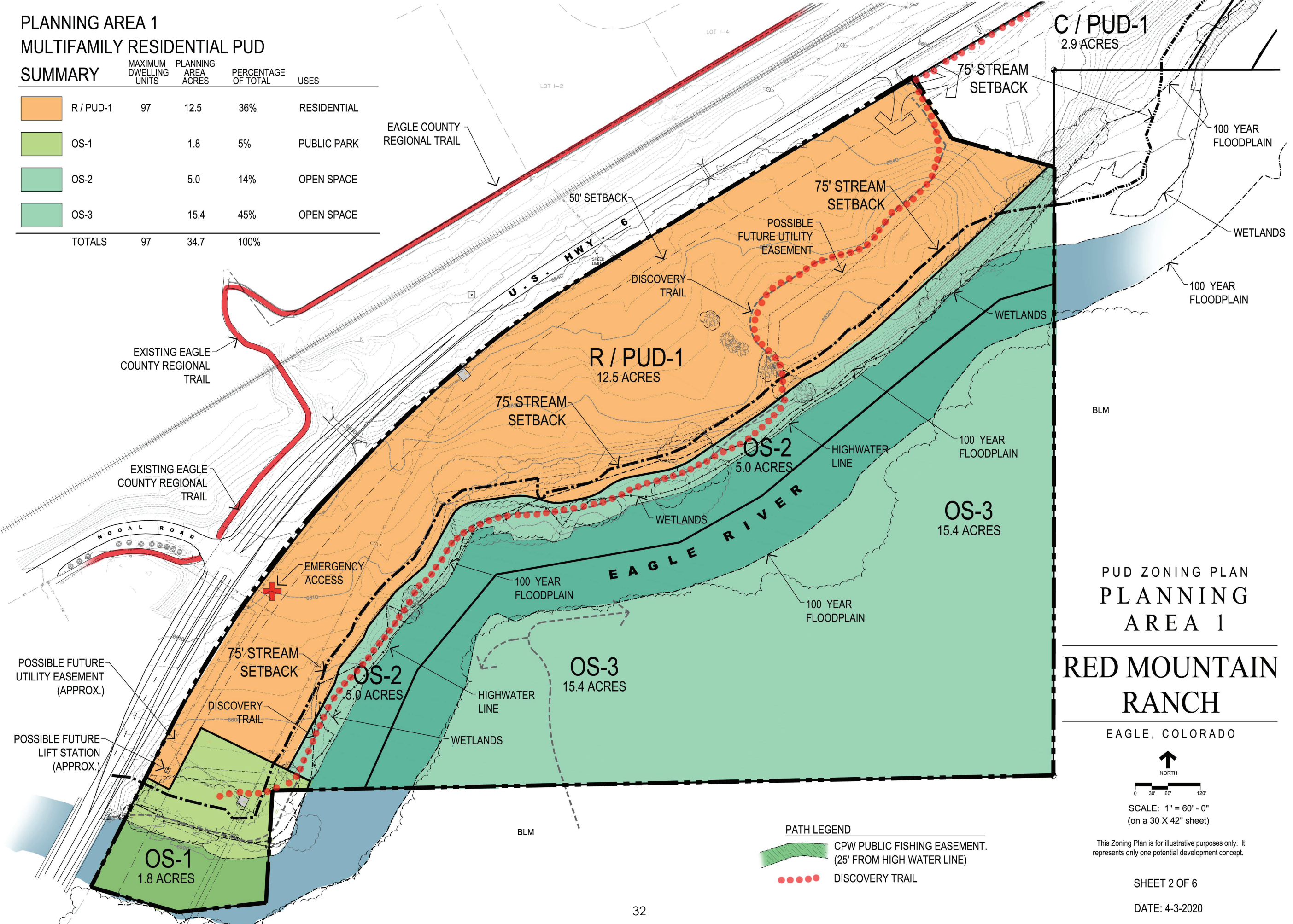
This Zoning Plan is for illustrative purposes only. It
represents only one potential development concept.

SHEET 1 OF 6

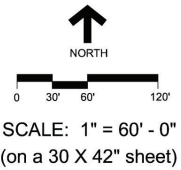
DATE: 4-3-2020

PLANNING AREA 1
MULTIFAMILY RESIDENTIAL PUD

SUMMARY		MAXIMUM DWELLING UNITS	PLANNING AREA ACRES	PERCENTAGE OF TOTAL	USES
	R / PUD-1	97	12.5	36%	RESIDENTIAL
	OS-1		1.8	5%	PUBLIC PARK
	OS-2		5.0	14%	OPEN SPACE
	OS-3		15.4	45%	OPEN SPACE
TOTALS		97	34.7	100%	



PUD ZONING PLAN
PLANNING
AREA 1
RED MOUNTAIN
RANCH
EAGLE, COLORADO



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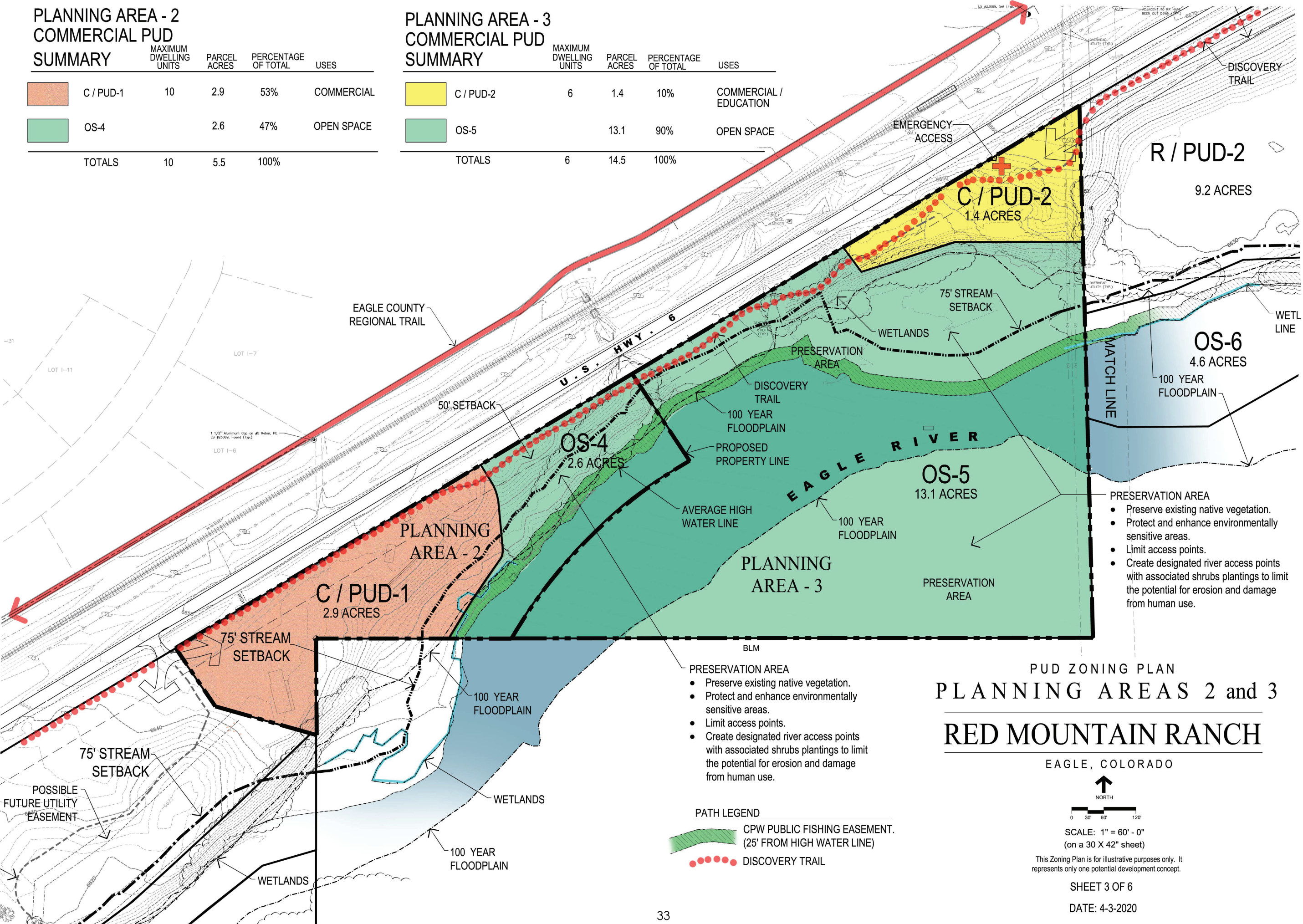
SHEET 2 OF 6
DATE: 4-3-2020

PLANNING AREA - 2
COMMERCIAL PUD
SUMMARY

		MAXIMUM DWELLING UNITS	PARCEL ACRES	PERCENTAGE OF TOTAL	USES
	C / PUD-1	10	2.9	53%	COMMERCIAL
	OS-4		2.6	47%	OPEN SPACE
TOTALS		10	5.5	100%	

PLANNING AREA - 3
COMMERCIAL PUD
SUMMARY

		MAXIMUM DWELLING UNITS	PARCEL ACRES	PERCENTAGE OF TOTAL	USES
	C / PUD-2	6	1.4	10%	COMMERCIAL / EDUCATION
	OS-5		13.1	90%	OPEN SPACE
TOTALS		6	14.5	100%	



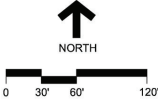
- PRESERVATION AREA
- Preserve existing native vegetation.
 - Protect and enhance environmentally sensitive areas.
 - Limit access points.
 - Create designated river access points with associated shrubs plantings to limit the potential for erosion and damage from human use.

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- PATH LEGEND
- CPW PUBLIC FISHING EASEMENT. (25' FROM HIGH WATER LINE)
 - DISCOVERY TRAIL

PUD ZONING PLAN
PLANNING AREAS 2 and 3
RED MOUNTAIN RANCH

EAGLE, COLORADO



SCALE: 1" = 60' - 0"
(on a 30 X 42" sheet)

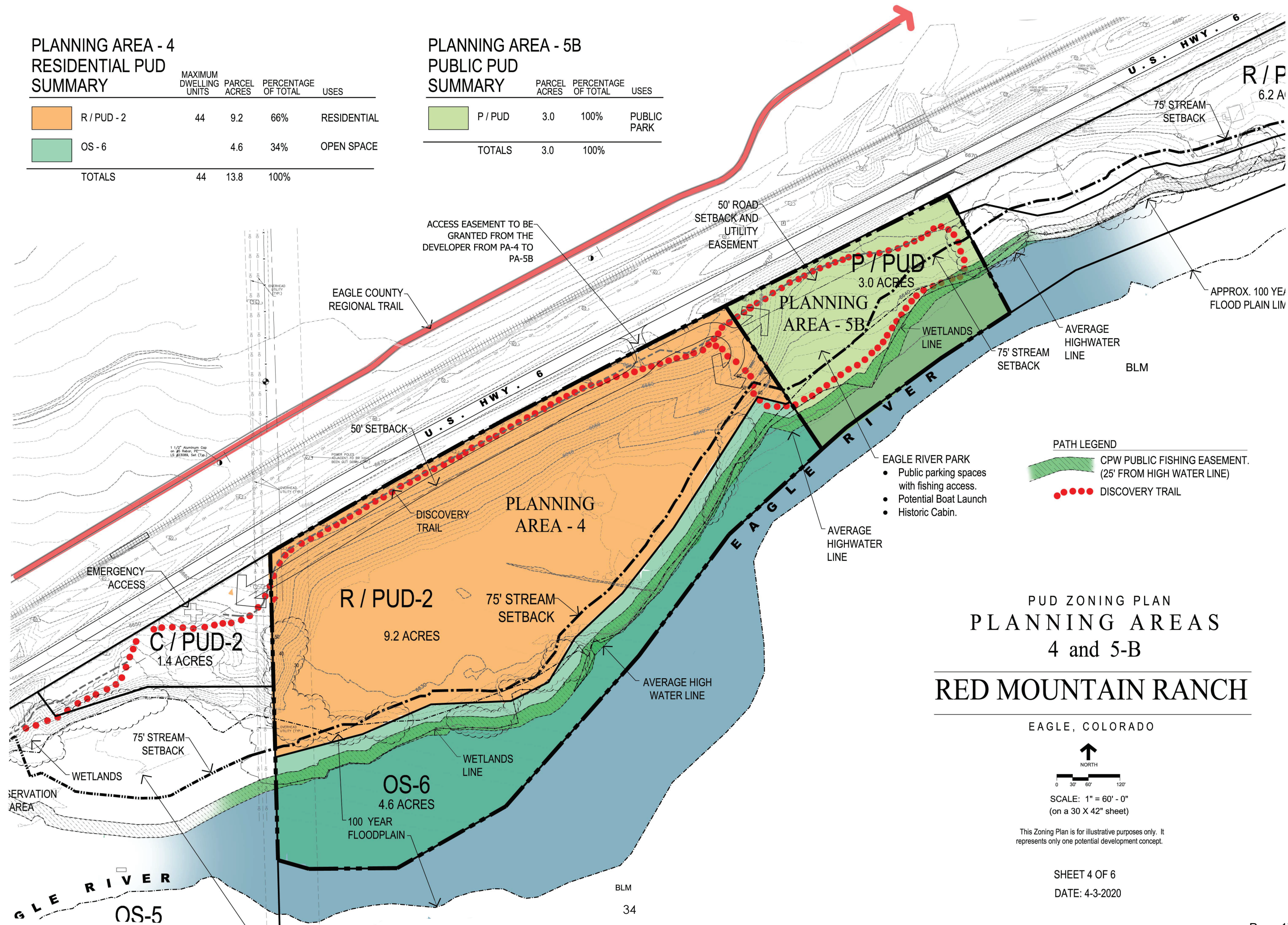
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SHEET 3 OF 6

DATE: 4-3-2020

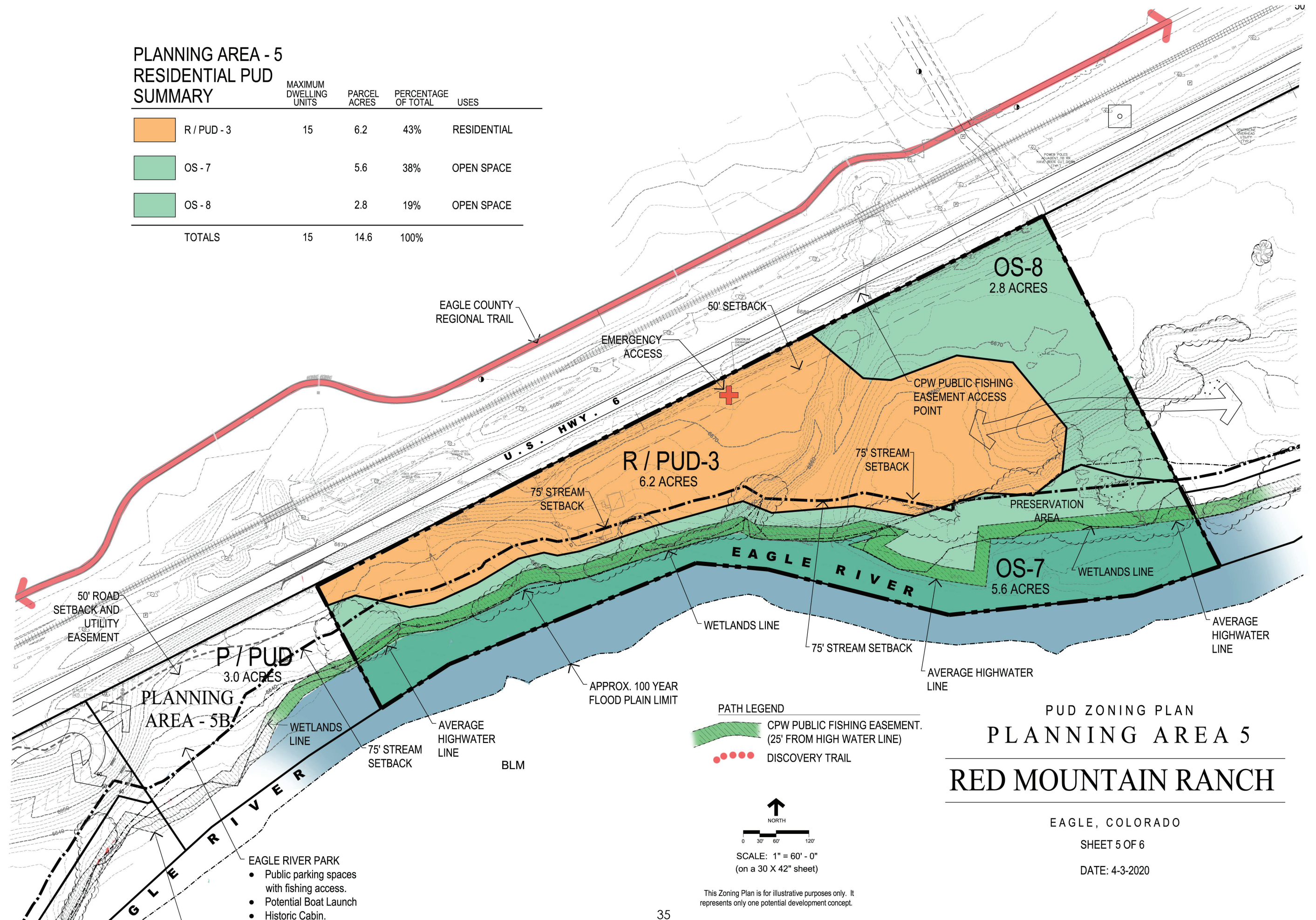
PLANNING AREA - 4 RESIDENTIAL PUD SUMMARY				
	MAXIMUM DWELLING UNITS	PARCEL ACRES	PERCENTAGE OF TOTAL	USES
R / PUD - 2	44	9.2	66%	RESIDENTIAL
OS - 6		4.6	34%	OPEN SPACE
TOTALS	44	13.8	100%	

PLANNING AREA - 5B PUBLIC PUD SUMMARY				
	PARCEL ACRES	PERCENTAGE OF TOTAL	USES	
P / PUD	3.0	100%	PUBLIC PARK	
TOTALS	3.0	100%		



PLANNING AREA - 5 RESIDENTIAL PUD SUMMARY

		MAXIMUM DWELLING UNITS	PARCEL ACRES	PERCENTAGE OF TOTAL	USES
	R / PUD - 3	15	6.2	43%	RESIDENTIAL
	OS - 7		5.6	38%	OPEN SPACE
	OS - 8		2.8	19%	OPEN SPACE
TOTALS		15	14.6	100%	



PUD ZONING PLAN PLANNING AREA 5 RED MOUNTAIN RANCH

EAGLE, COLORADO

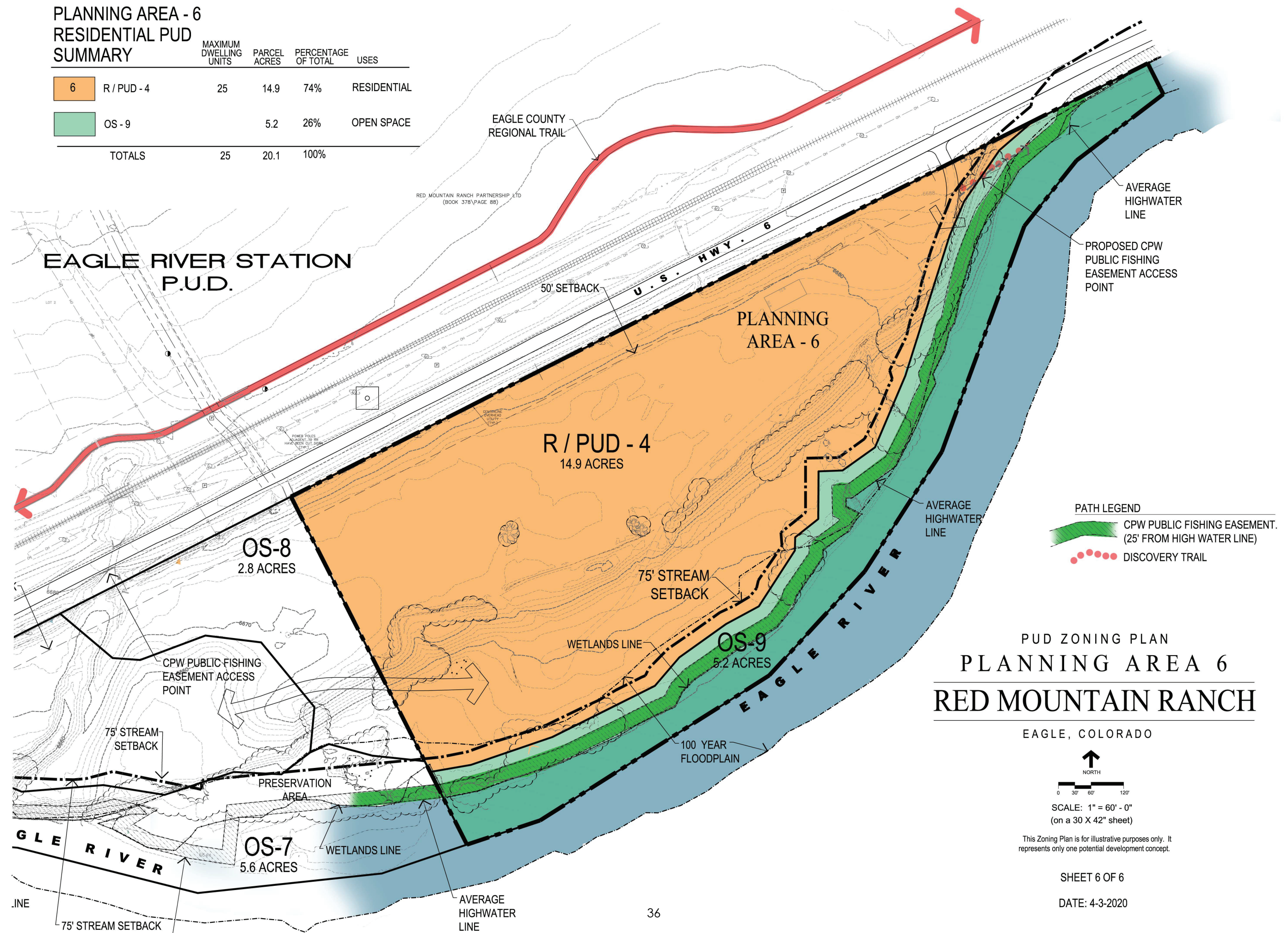
SHEET 5 OF 6

DATE: 4-3-2020

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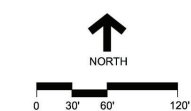
PLANNING AREA - 6 RESIDENTIAL PUD SUMMARY

		MAXIMUM DWELLING UNITS	PARCEL ACRES	PERCENTAGE OF TOTAL	USES
6	R / PUD - 4	25	14.9	74%	RESIDENTIAL
	OS - 9		5.2	26%	OPEN SPACE
TOTALS		25	20.1	100%	



PUD ZONING PLAN PLANNING AREA 6 RED MOUNTAIN RANCH

EAGLE, COLORADO



SCALE: 1" = 60' - 0"
(on a 30 X 42" sheet)

This Zoning Plan is for illustrative purposes only. It represents only one potential development concept.

SHEET 6 OF 6

DATE: 4-3-2020

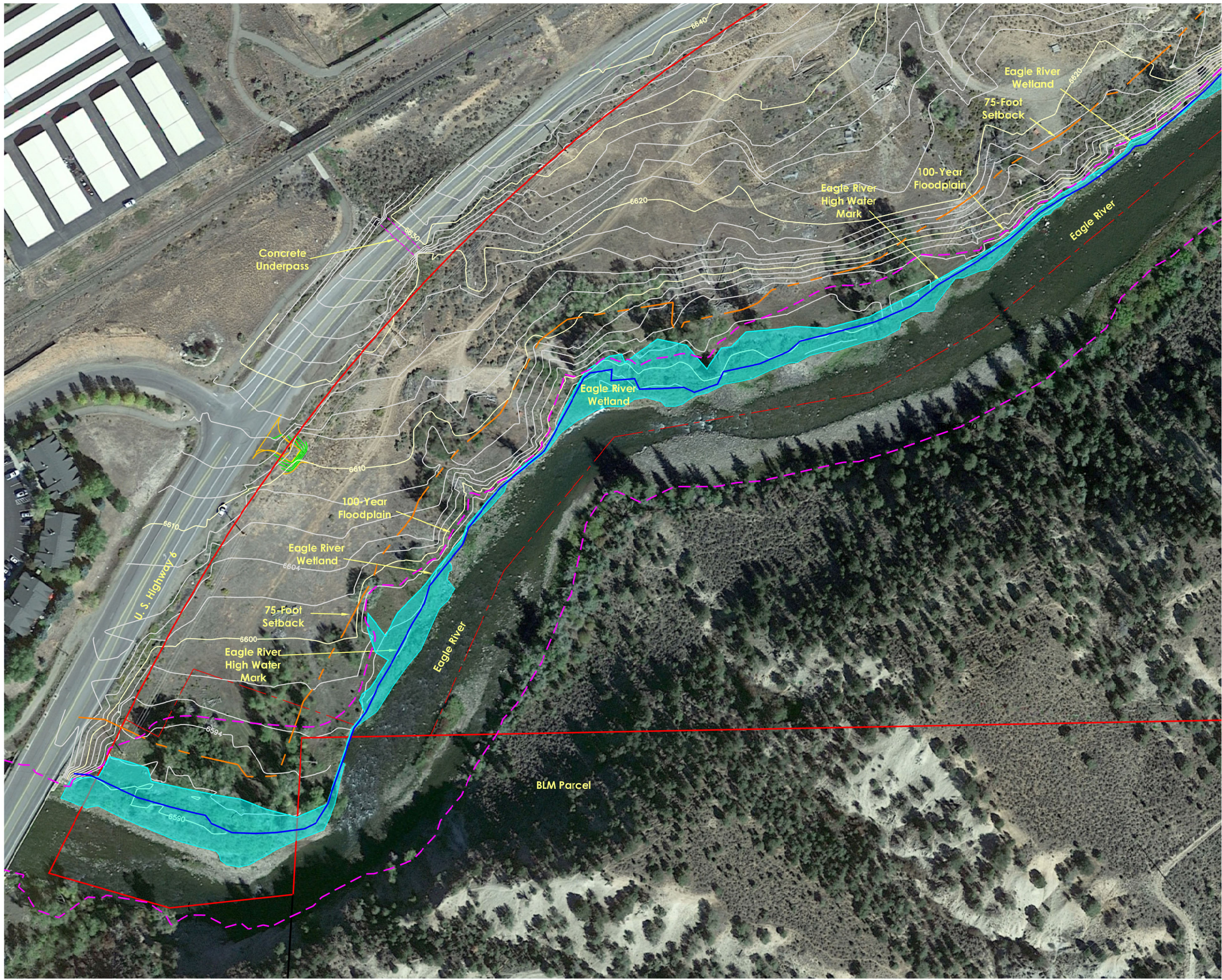


Figure 3. Wetland Map
Red Mountain Ranch
Sheet 1 of 7

- LEGEND:**
- Wetlands -- Delineated in 2015
 - Eagle River High Water Mark
 - 100-Year Floodplain Limits
 - 75-Foot Setback
 - Property Boundary
 - Planning Area Boundaries
 - Existing Contours
 - Proposed Contours



Date: June 2024
 Contour Interval = 2 ft
 Scale: 1 in = 125 ft

Please note, wetland boundaries have not yet been reviewed and approved by the U.S. Army Corps of Engineers.

prepared by:



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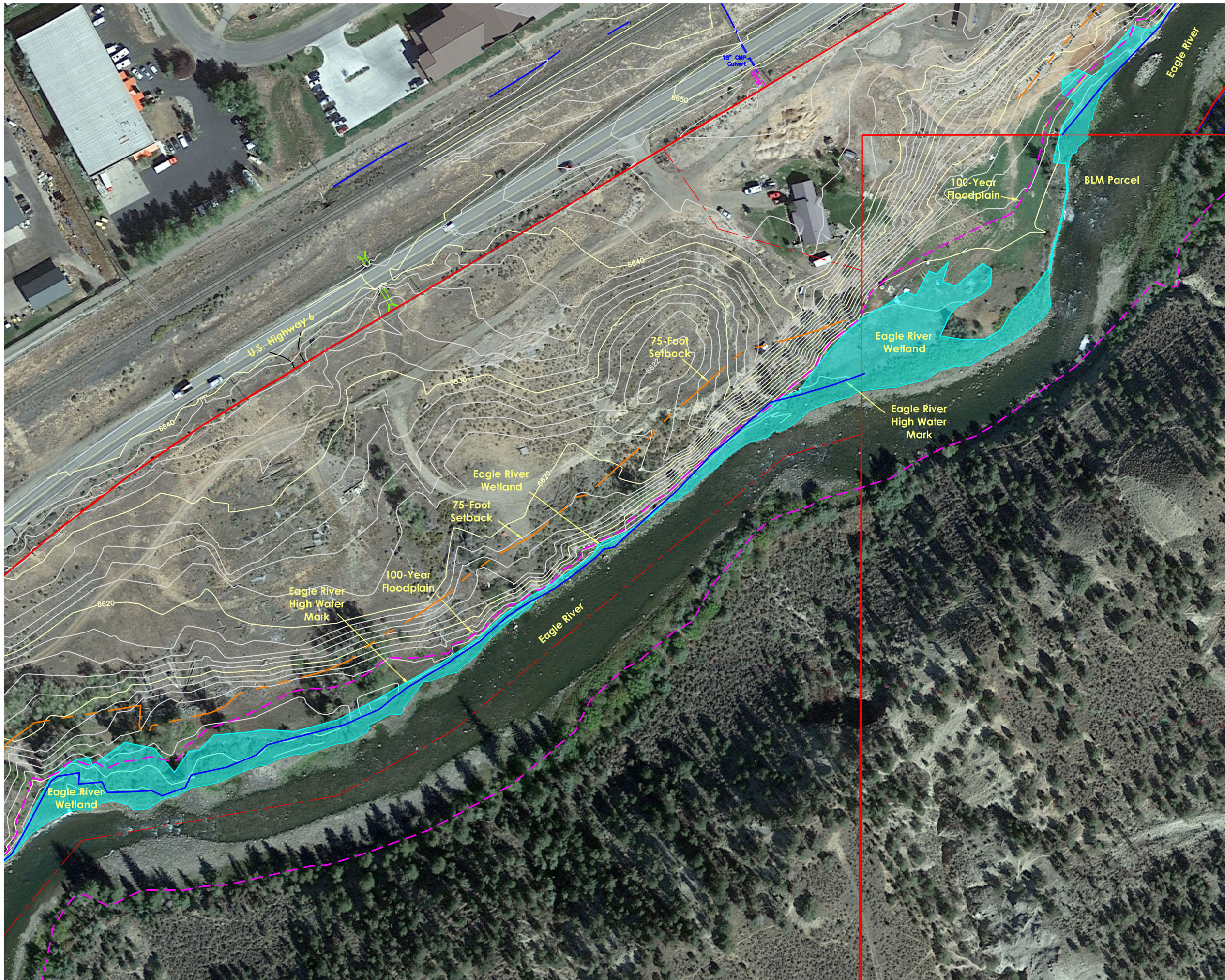


Figure 3. Wetland Map
Red Mountain Ranch
Sheet 2 of 7

- LEGEND:**
- Wetlands -- Delineated in 2015
 - Eagle River High Water Mark
 - 100-Year Floodplain Limits
 - 75-Foot Setback
 - Property Boundary
 - Planning Area Boundaries
 - Existing Contours
 - Proposed Contours



Date: June 2024
 Contour Interval = 2 ft
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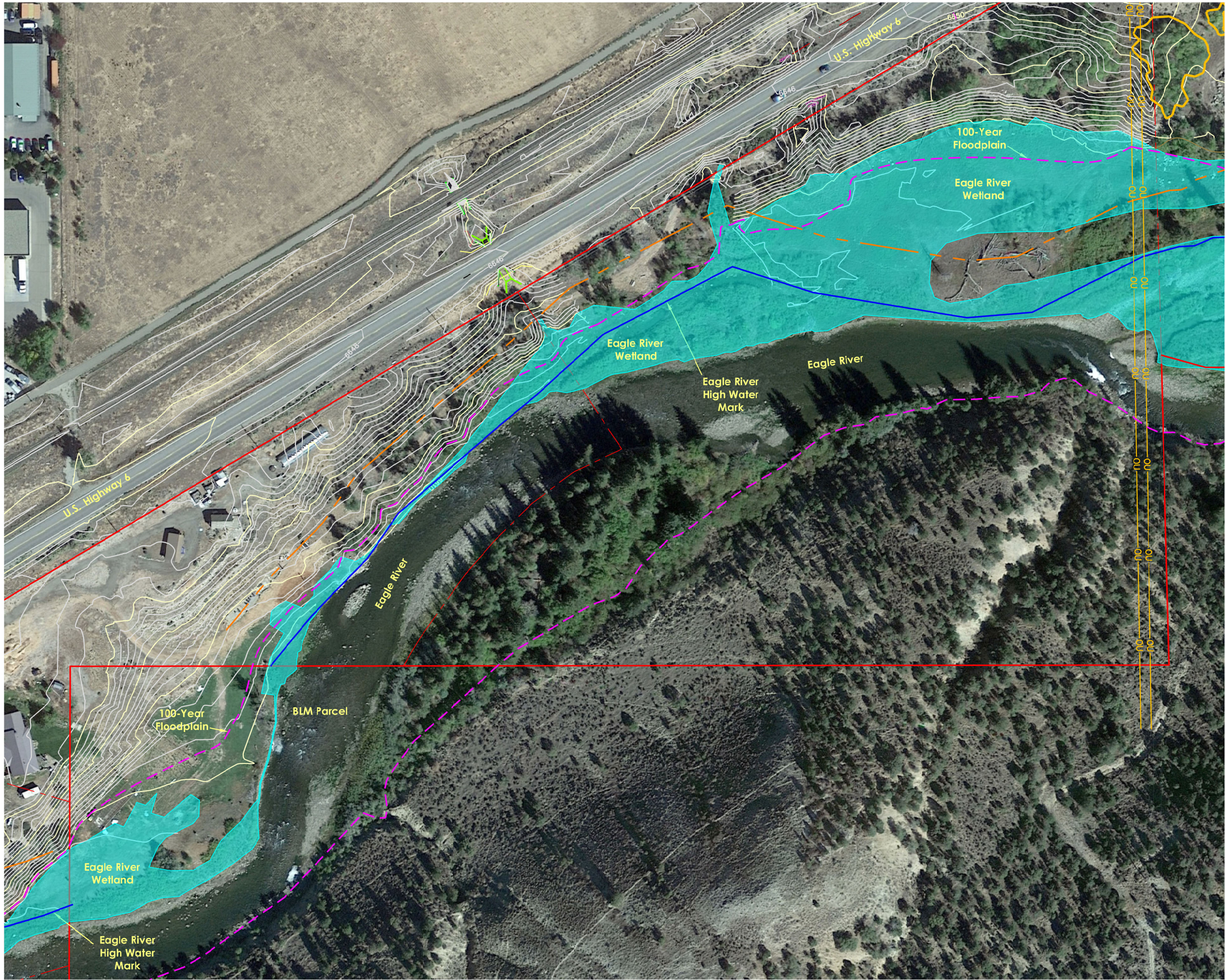


Figure 3. Wetland Map
Red Mountain Ranch
Sheet 3 of 7

- LEGEND:**
- Wetlands -- Delineated in 2013, 2015, & 2016
 - Eagle River High Water Mark
 - 100-Year Floodplain Limits
 - 75-Foot Setback
 - Property Boundary
 - Planning Area Boundaries
 - Existing Contours
 - Proposed Contours



Date: June 2024
 Contour Interval = 2 ft
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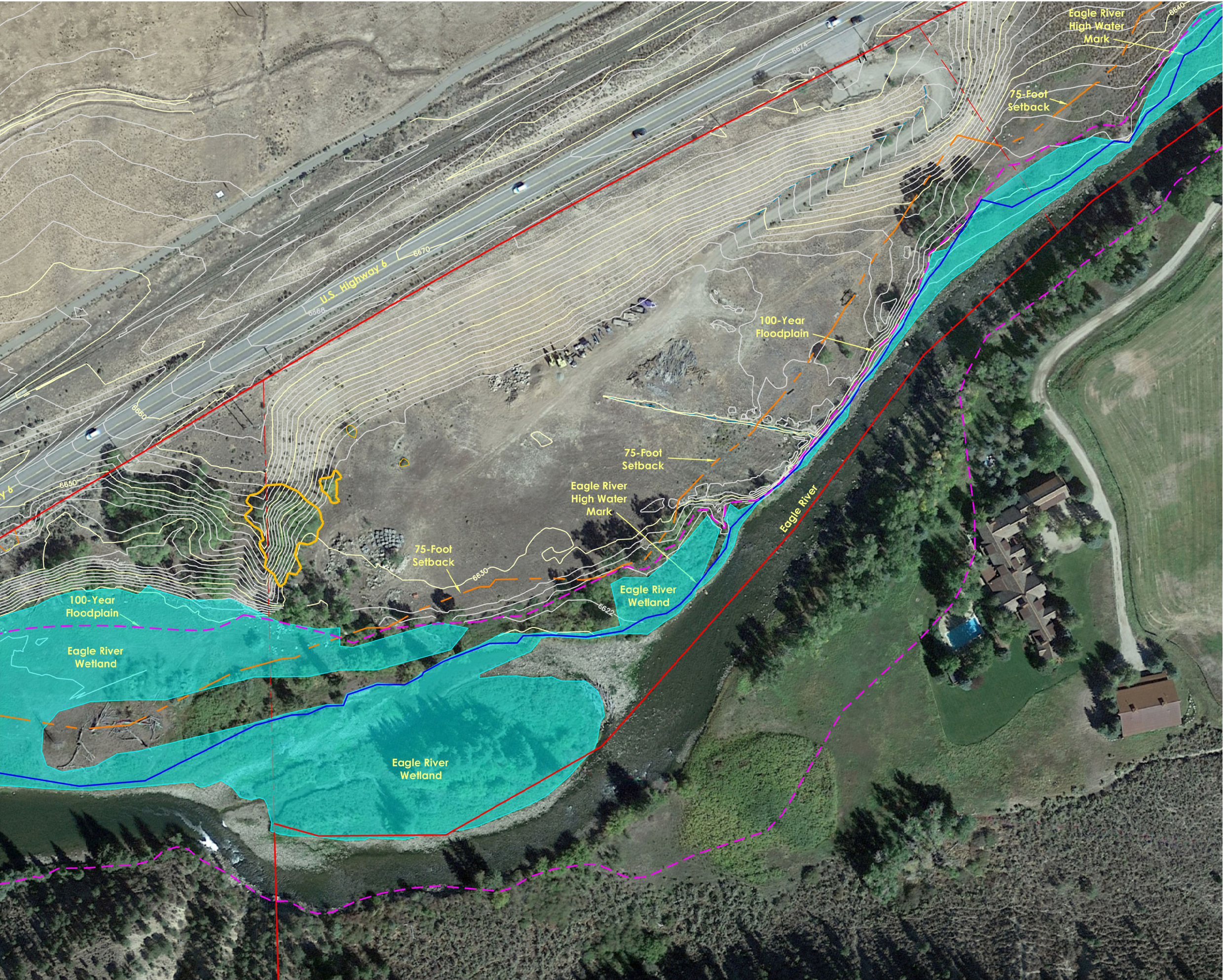


Figure 3. Wetland Map
Red Mountain Ranch
Sheet 4 of 7

- LEGEND:**
- Wetlands -- Delineated in 2013 & 2015
 - Eagle River High Water Mark
 - 100-Year Floodplain Limits
 - 75-Foot Setback
 - Property Boundary
 - Planning Area Boundaries
 - Existing Contours
 - Proposed Contours



Date: June 2024
Contour Interval = 2 ft
Scale: 1 in = 125 ft

Please note, wetland boundaries have not yet been reviewed and approved by the U.S. Army Corps of Engineers.

prepared by:



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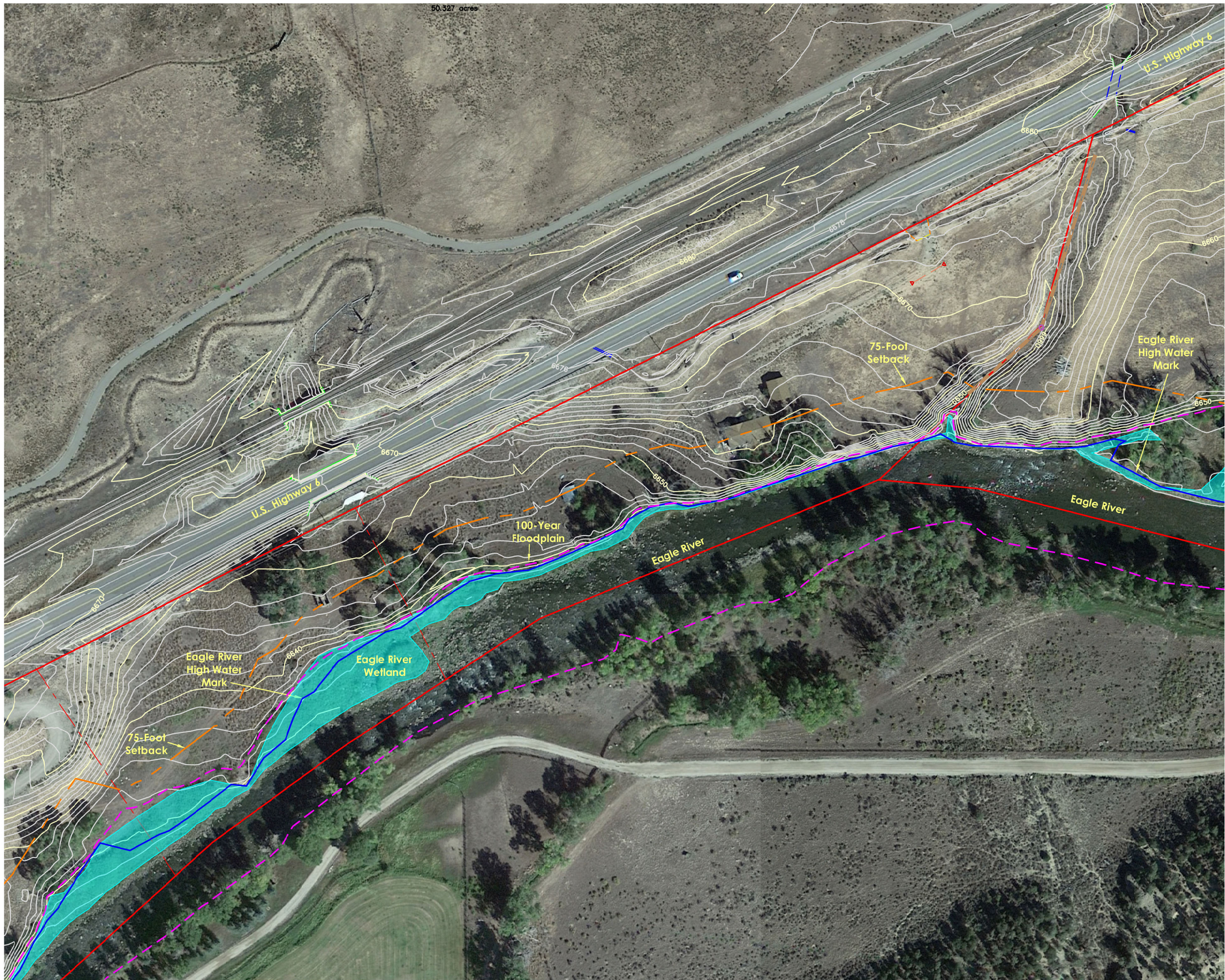


Figure 3. Wetland Map
Red Mountain Ranch
Sheet 5 of 7

LEGEND:

- Wetlands -- Delineated in 2015
- Eagle River High Water Mark
- 100-Year Floodplain Limits
- 75-Foot Setback
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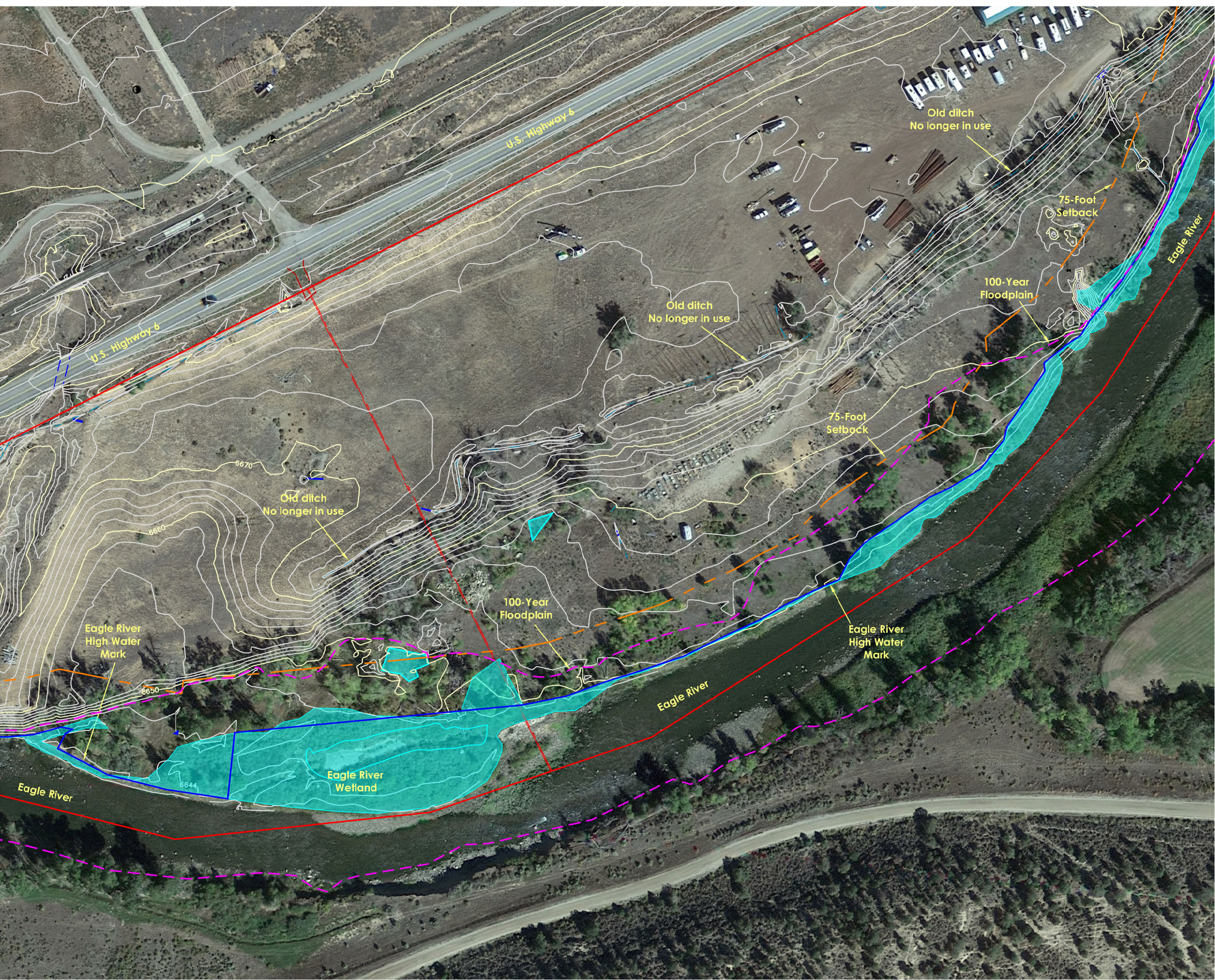


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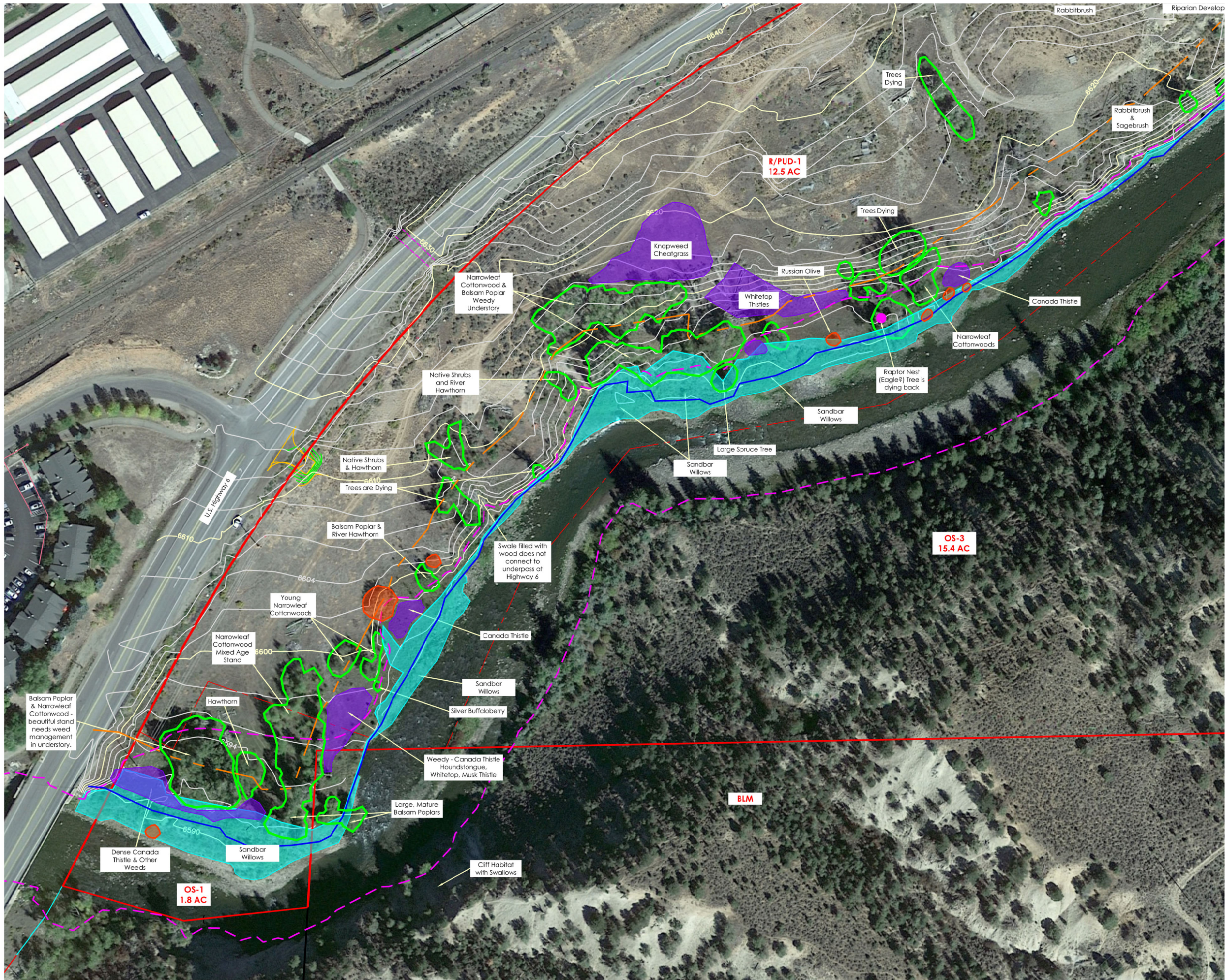
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**Figure 4. Riparian Corridor
Existing Conditions
Red Mountain Ranch
Sheet 1 of 7**

- LEGEND:**
- Weed Dominated Areas
 - Russian Olive Trees to Remove
 - Native Tree Canopy
 - Wetland Boundary
 - Eagle River High Water Mark
 - 100-Year Floodplain Limits
 - 75-Foot Setback
 - Property Boundary



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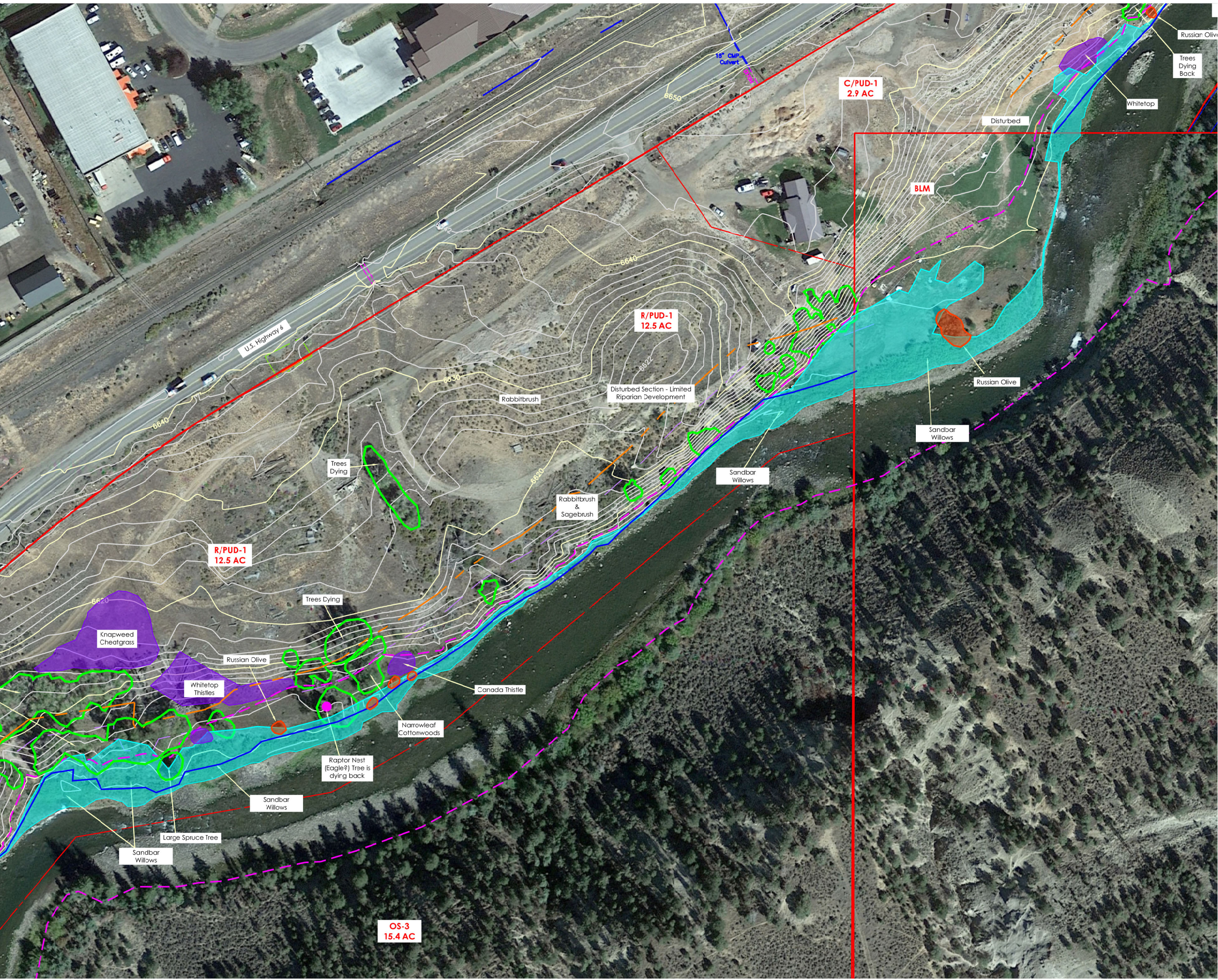


Figure 4. Riparian Corridor
Existing Conditions
Red Mountain Ranch
Sheet 2 of 7

- LEGEND:**
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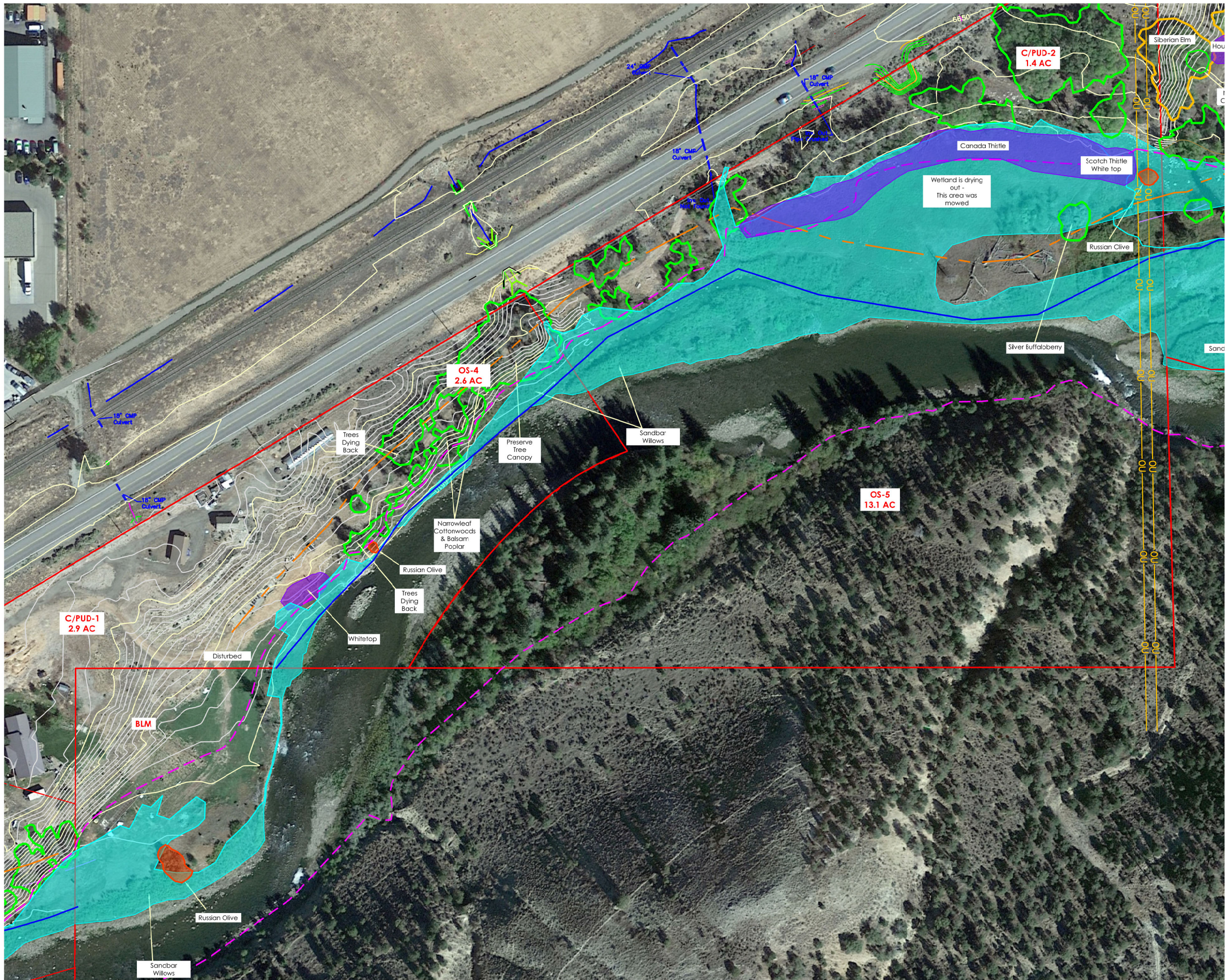
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**Figure 4. Riparian Corridor
Existing Conditions
Red Mountain Ranch
Sheet 3 of 7**

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 - Russian Olive Trees to Remove
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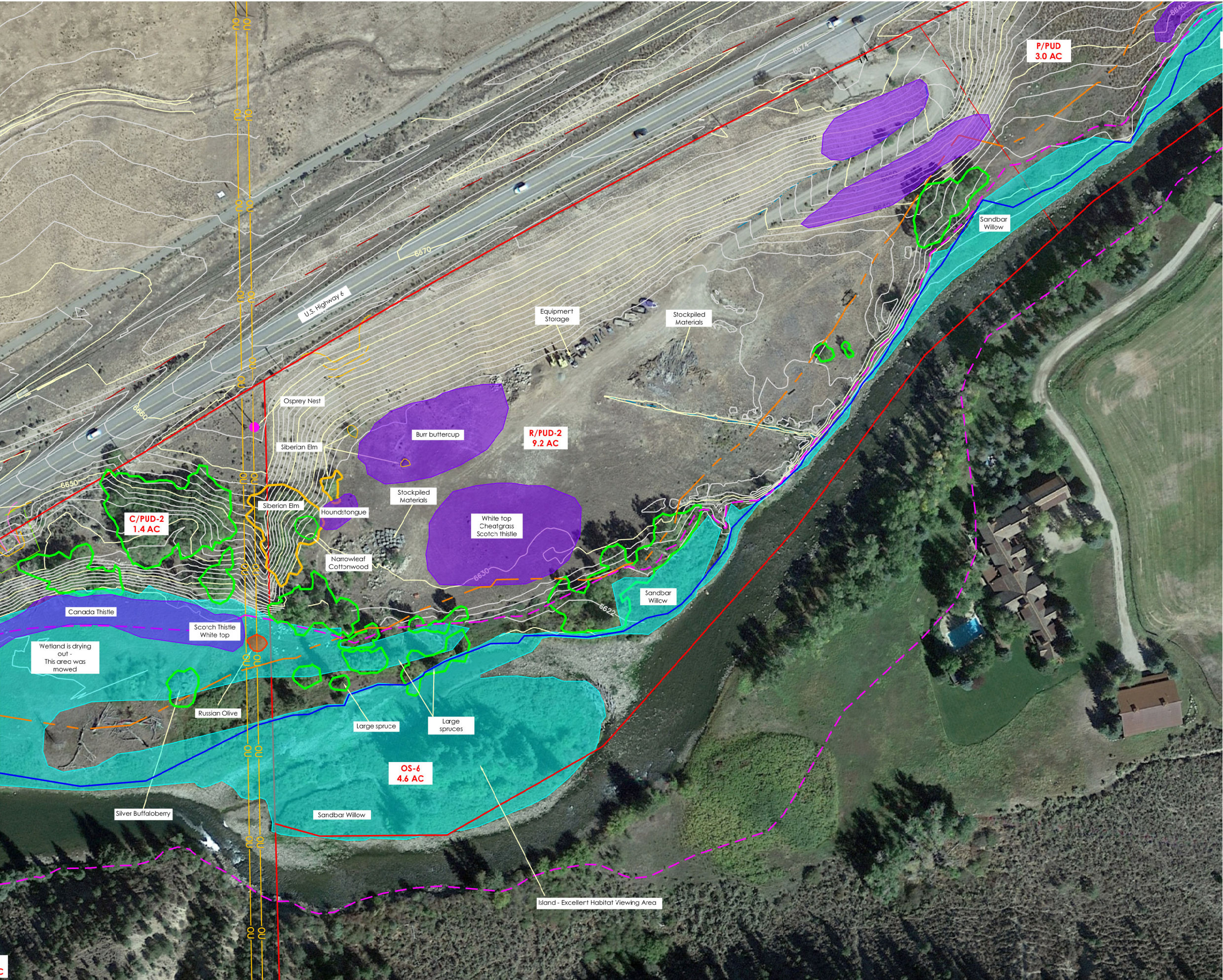


Figure 4. Riparian Corridor
Existing Conditions
Red Mountain Ranch
Sheet 4 of 7

- LEGEND:**
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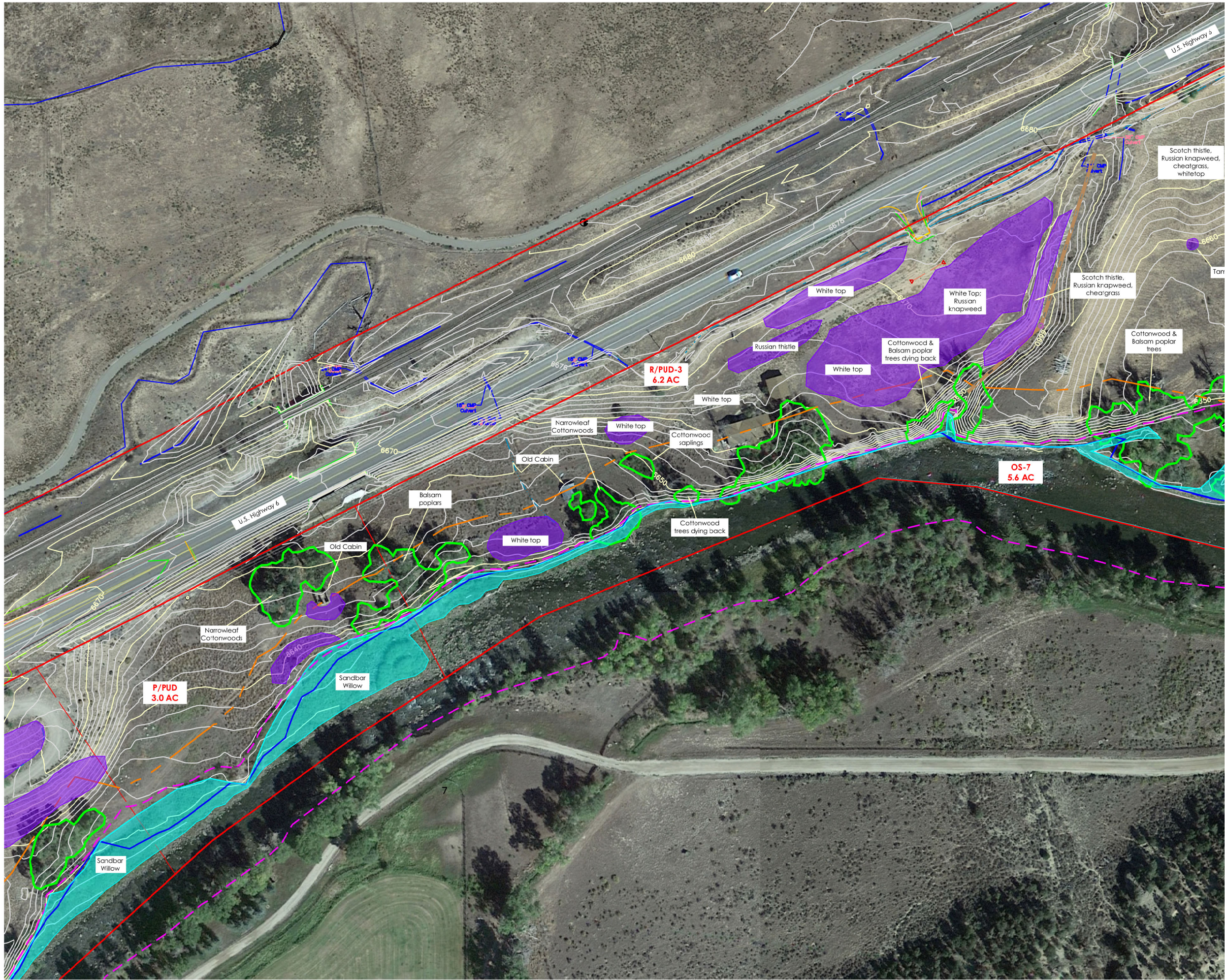
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**Figure 4. Riparian Corridor
Existing Conditions
Red Mountain Ranch
Sheet 5 of 7**

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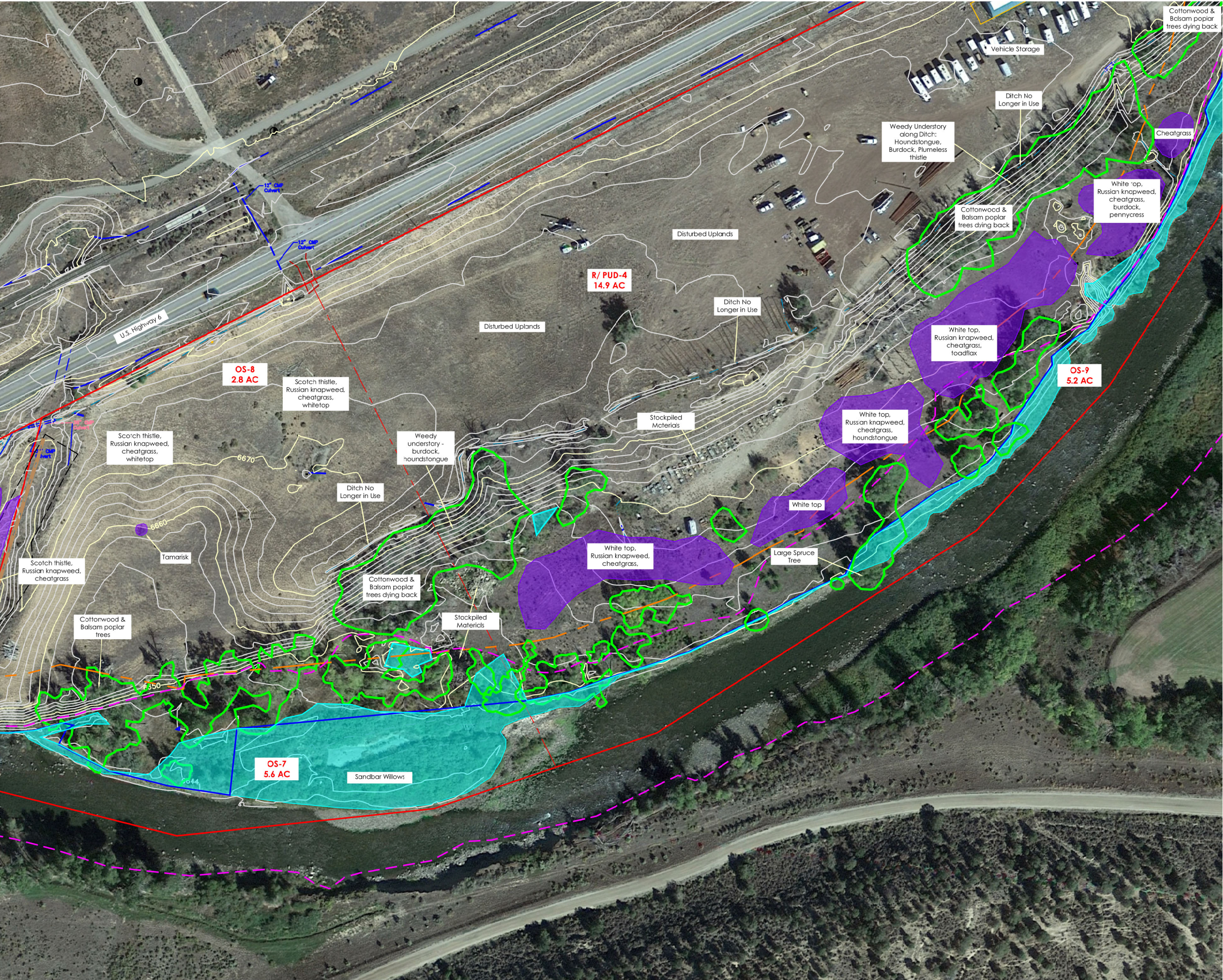
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**Figure 4. Riparian Corridor
Existing Conditions
Red Mountain Ranch
Sheet 6 of 7**

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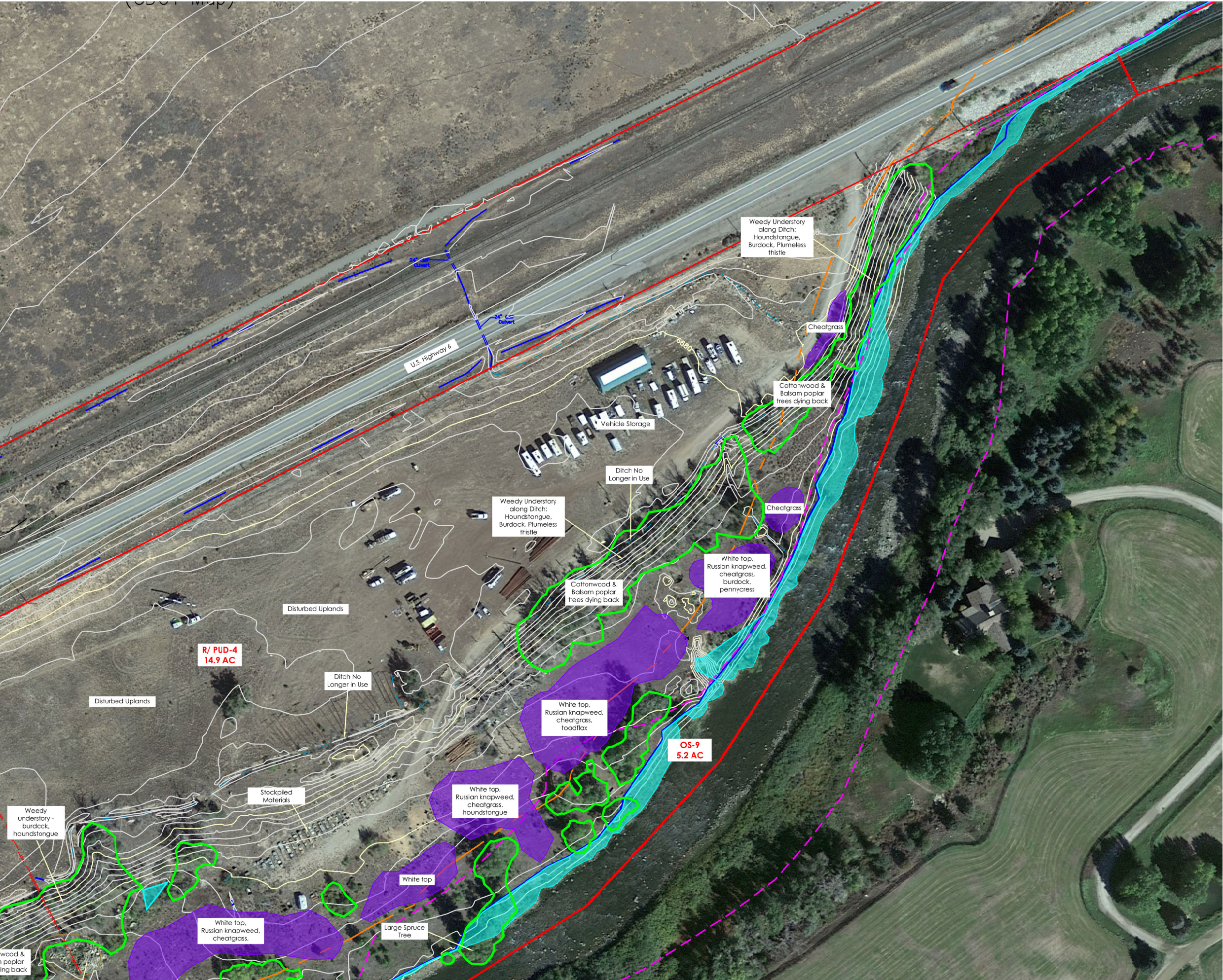
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**Figure 4. Riparian Corridor
Existing Conditions
Red Mountain Ranch
Sheet 7 of 7**

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Figure 5. Site Plan



Ecological Resource Consultants, LLC

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Red Mountain Ranch Wildlife Conservation Plan Town of Eagle, Eagle County, Colorado

January 23, 2026

Prepared For:

Griffin Development LLC
701 Lionshead Cir.
Vail, Colorado 81657
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ERC Project #200-2513

**Red Mountain Ranch
Wildlife Conservation Plan
Eagle County, Colorado**

January 23, 2026

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ATTACHMENTS

Appendix A – Development Plan

Appendix B – CPW SAM and HPH Wildlife Maps

Appendix C – USFWS IPaC Species List

Appendix D – USFWS Eagle Disturbance General Take Permit

1.0 Introduction

1.1 Background and Scope of the Report

Ecological Resource Consultants, LLC (ERC) provides the following Wildlife Conservation Plan (WCP) on behalf of Griffin Development, LLC, for the proposed Red Mountain Ranch 15.1-acre residential development property (Project Area) in Eagle County, Colorado. This report includes a site-specific evaluation of wildlife habitat and use within the Project Area based on existing vegetation communities, Species Activity Mapping (SAM) and High Priority Habitat (HPH) data from Colorado Parks and Wildlife (CPW), and potential federal and state listed threatened or endangered species and/or habitat that could exist on, or immediately surrounding, the Project Area. This report was prepared to provide information relevant to the Town of Eagle Land Use and Development Code (Town Code) Chapter 4.14.040 and is intended to satisfy the requirements of Section E Wildlife Conservation Plan (Town of Eagle Recode 2023).

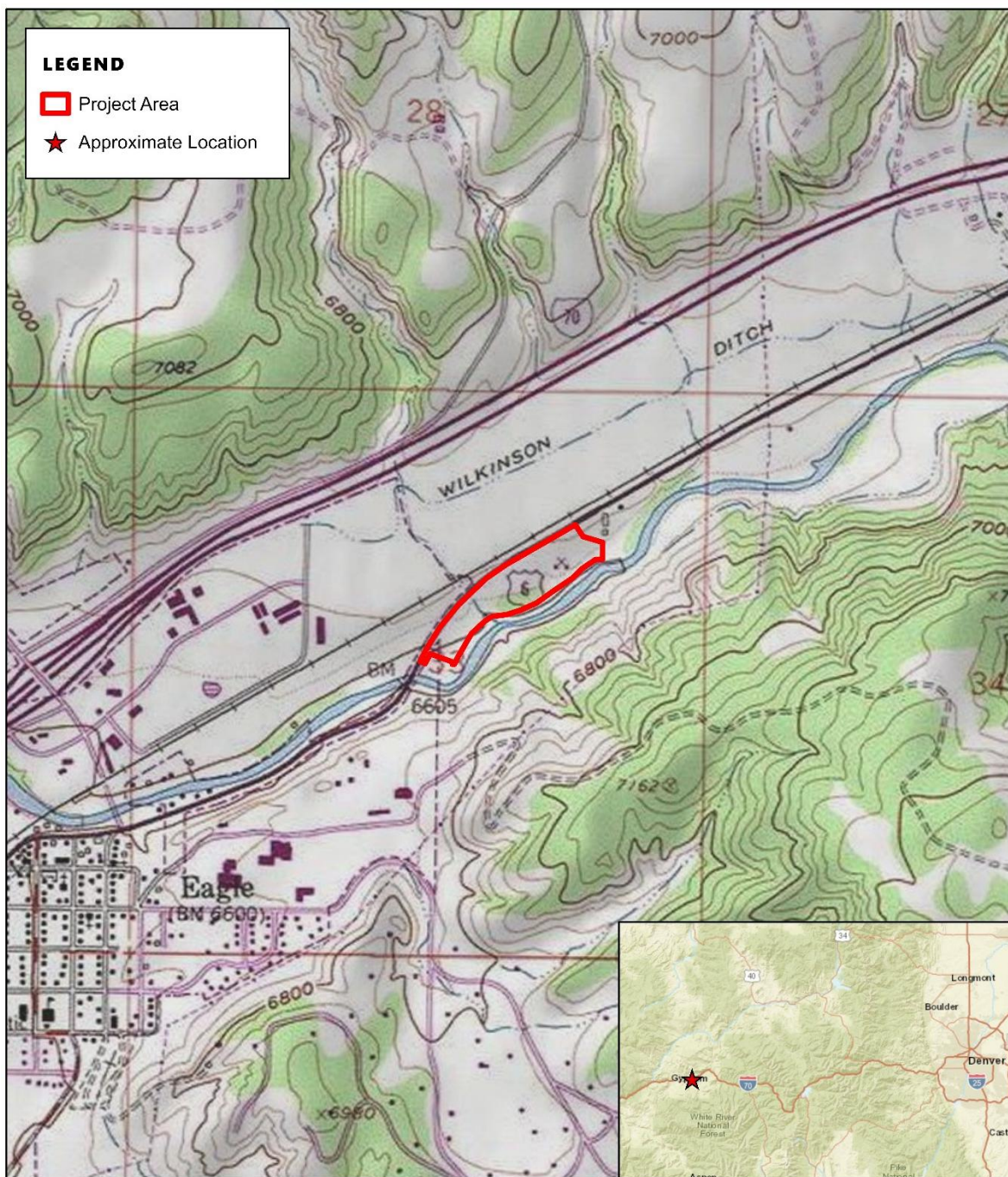
1.2 Project Area Location

The Project Area is located in Eagle County, Colorado in Section 33, Township 4 South, Range 84 West (Latitude 39.662467°N, Longitude -106.812183°W; **[Figure 1]**). The Project Area is situated on an undeveloped property, bound by Highway 6 to the north and the Eagle River to the south, within the Town of Eagle.

1.3 Town of Eagle Code and Plan Guidelines

The Town Code contains a variety of policies requiring the conservation and protection of wildlife habitat, specifically habitats containing elements necessary for the survival and health of wildlife species within Eagle County. Any proposed developments that will, or may, have an adverse impact on wildlife and/or wildlife habitat require a WCP.

Furthermore, according to the Town Code, residential developments larger than two (2) acres require a WCP. Review criteria for the WCP includes impacts to wildlife species directly, wildlife habitat, wildlife migration, movement, and displacement, and cumulative impacts to the Project Area and the surrounding vicinity. ERC has reviewed development plans for the Project Area and addresses potential impacts, mitigation measures, and potential habitat enhancement and restoration effort recommendations within the plan below.



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ERC #: 200-2513

**FIGURE 1
LOCATION & TOPOGRAPHIC MAP**

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 625 1,250
Feet

2.0 Existing Conditions

ERC evaluated the existing conditions, vegetation communities, and general wildlife habitat within the Project Area. The evaluation first consisted of a preliminary desktop review utilizing existing available mapping. Available mapping compiled for the Project Area included:

- Satellite imagery, August 2023 (Google Earth 2025),
- CPW SAM data (CPW 2025a),
- CPW HPH data (CPW 2024a)
- US Fish and Wildlife Service (USFWS) – Critical Habitat Layers (USFWS 2025a),

The data was reviewed, and the general extents and characterization of land use classes and vegetation cover types were documented. Site-specific field evaluation was then conducted in June and July 2025, to evaluate existing conditions within the Project Area.

2.1 Project Area Description

The Project Area comprises approximately 15.1 acres of relatively flat terrain, situated along the north bank of the Eagle River. The Project Area is located in the northern portion of the Town of Eagle with an approximate elevation between 6,610 and 6,650 feet above mean sea level (Google Earth 2025). The Project Area is surrounded by commercial, residential, and industrial properties, as well as Highway 6, to the north and northwest, Eagle River to the south and west, and undeveloped property to the northeast. The Project Area is primarily comprised of disturbed shrubland situated within an upland terrace, with dispersed patches of bare soil, as well as a riparian corridor along the Eagle River.

The landscape within the upland terrace in the northern part of the Project Area has been previously disturbed by past gravel mining activities. The previous land use has contributed to the disturbed shrubland that comprises the majority of the Project Area, and while remnants of desert shrubland dominated by big basin sagebrush (*Artemisia tridentata* ssp. *tridentata*) and rubber rabbitbrush (*Ericameria nauseosa*) persist, they primarily have a sparse, weedy understory. The riparian corridor supports riparian vegetation with a mature overstory of cottonwood trees, willows, and other native shrubs (Birch Ecology, LLC 2025).

2.2 Proposed Project Description

The proposed project is a residential development with a total of 66 residential units, comprised of 42 townhomes, 12 duplexes, and 12 single family homes. Open space amenities and community landscape features are also proposed as part of the overall development. The development plan depicts an entrance from Highway 6 located at the northeast corner of the Project Area.

The public land dedication requirement of the Planned Unit Development (PUD) of at least 20%, as specified in the Town Code Section 4.08.040 C.1., is satisfied with three areas dedicated to open space, totaling approximately 20 acres (57% of Planning Area 1 of the PUD). Furthermore, pursuant to Town Code Section 4.14.050 C.2., a 75-foot riparian setback has been incorporated into the project plans

between the proposed development and the Eagle River. The Code requires a minimum setback of 75 feet from the ordinary high-water mark or the extent of the mapped 100-year floodplain, whichever is greater. At this location, the 75-foot setback is in effect because the mapped 100-year floodplain is narrower than 75 feet. This setback is intended to minimize erosion, protect water quality, and preserve fish and wildlife habitat. The riparian setback area will be protected and not subject to site disturbance, including grading, excavation, removal of native vegetation, or new construction, with the exception of a permissible unpaved pedestrian trail, approved flood control or stormwater structures, and a diversion point for a non-potable irrigation pump station. Additionally, invasive vegetation management, as well as revegetation of disturbed areas, will be conducted with the goal of enhancing the riparian setback area within the Project Area. The development plan for the proposed project is in **Appendix A**.

2.3 Land Use Classes and Vegetation Cover Types

In total, two (2) land use classes and vegetation cover types were identified by ERC within the Project Area. Refer to **Table 1** for a summary of the habitat types and their distribution.

Table 1. Summary of Habitat Types and Their Distribution in the Project Area.

Land Use Classes and Vegetation Cover Types	Approximate Area	
	(acres)	(percent)
Ruderal Shrubland	10.9	72%
Riparian Woodland	4.2	28%
Total Project Area	15.1	100%

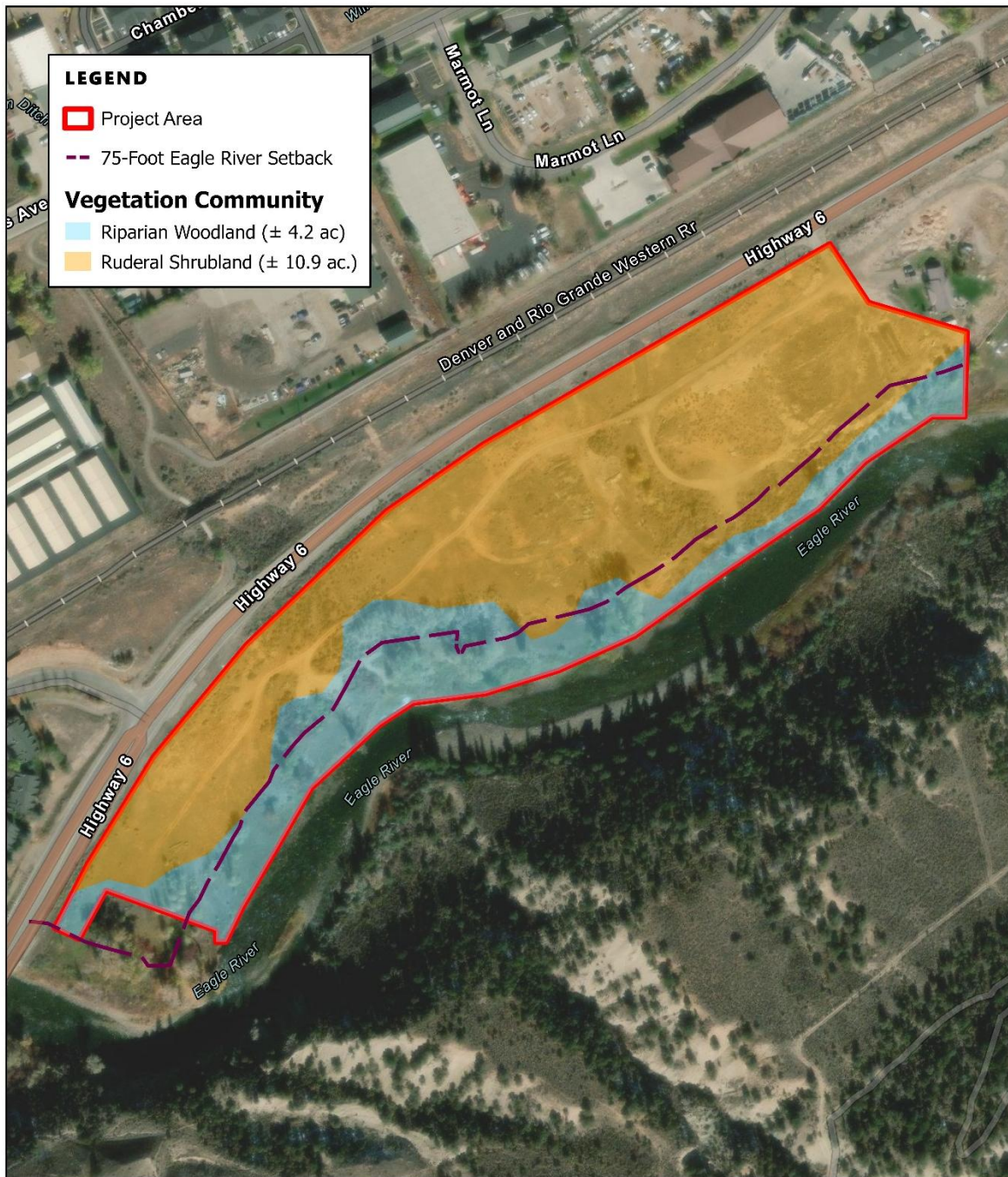
Source: NatureServe 2025

The following **Table 2** provides a brief description of the existing land use classes and vegetation cover types identified within the Project Area, as illustrated in **Figure 2**. Representative examples of these vegetation communities are shown in Photos 1 through 8.

Table 2. Description of Land Use Classes and Vegetation Cover Types within the Project Area.

Land Use Classes and Vegetation Cover Types	Description
Ruderal Shrubland	This community is characterized by a shrub canopy with non-native herbaceous understory. Within the Project Area, the dominant species are comprised of big basin sagebrush and rubber rabbitbrush. Shrub cover varies throughout this vegetation community within the Project Area, resulting in areas with sparse cover (<5% cover), interspersed with areas of dense cover (>70% cover). The herbaceous understory is dominated by non-native grasses and forbs, such as cheatgrass (<i>Bromus tectorum</i>), white top (<i>Lepidium draba</i>), scotch thistle (<i>Onopordum acanthium</i>), and Russian knapweed (<i>Rhaponticum repens</i>). Within this vegetation community, there are areas that consist of bare ground and relatively low vegetation cover dispersed throughout the Project Area.
Riparian Woodland	The riparian woodland community consists of tree canopy dominated by narrowleaf cottonwood (<i>Populus angustifolia</i>) and balsam poplar (<i>Populus balsamifera</i>) with a shrub layer dominated by river hawthorn (<i>Crataegus rivularis</i>) and coyote willows (<i>Salix exigua</i>). The herbaceous understory within the Project Area contains weedy and non-native species in some areas, such as smooth brome (<i>Bromus inermis</i>) and Canada thistle (<i>Cirsium arvense</i>). Areas directly adjacent to the stream contain hydrophytic vegetation within the wetlands. The 75-foot riparian setback bisects this vegetation community, resulting in protection from the proposed development for the majority of the riparian woodland (Figure 2).

Source: NatureServe 2025



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**FIGURE 2
VEGETATION COMMUNITIES
AND 75-FOOT SETBACK MAP**

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 125 250 Feet



Photo 1. View facing south, showing the ruderal shrubland community and the riparian woodland community along the Eagle River.



Photo 2. View facing southeast, showing bare ground within the ruderal shrubland community, and the Eagle River riparian woodland community.



Photo 3. View facing southeast, showing mature cottonwoods within the riparian woodland community along the Eagle River.



Photo 4. View facing south from the northern portion of the Project Area, showing disturbed habitat characterized by sparse shrubs and scattered forbs within the ruderal shrubland community.



Photo 5. View facing northwest within the western portion of the Project Area, depicting the areas of bare ground and minimal vegetation coverage within the ruderal shrubland community.



Photo 6. View facing southwest along the southern boundary of the Project Area, depicting the disturbed riparian woodland community along the Eagle River.



Photo 7. View facing northeast along the southern boundary of the Project Area, depicting the disturbed riparian woodland community along the Eagle River.



Photo 8. View facing southwest along the southern boundary of the Project Area, depicting the wetlands along the Eagle River within the riparian community in the foreground, and the riparian woodland community in the background.

3.0 Wildlife

ERC conducted a literature review as part of initial data collection for preparation of this report. Among others, ERC reviewed the available literature sources including CPW information and the USFWS Federal Register.

Field inspections were conducted in June and July 2025 to identify and document the presence of vegetation communities, general wildlife habitat use, and migratory bird habitat as well as potential for threatened and endangered species/habitat. Upon review of all available resources, including literature and field inspections, ERC provides the following determination for the Project Area.

3.1 Site Specific Wildlife Use

Wildlife can utilize the landscape in a multitude of ways. Wildlife can use specific habitats as areas of permanent inhabitation, seasonal inhabitation, breeding grounds, migratory routes, for foraging purposes, as temporary shelter, and as general "open space." General wildlife habitat within the Project Area consists primarily of ruderal shrubland habitat, as well as riparian habitat along the Eagle River.

The majority of potential wildlife habitat within the Project Area has been historically disturbed due to gravel mining activities. The ruderal shrubland vegetation community is predominantly non-native and weedy species, with patches devoid of vegetation. This habitat is not typically considered of high ecological value to wildlife; however, this area can have beneficial values to certain wildlife species. This area, at a minimum, is considered "open space" providing limited foraging and hunting grounds, refuge, and limited areas for nesting. Such lands provide food, cover, nesting, and open-space habitat, allowing movement and exchange of plant and animal populations.

Conversely, the riparian woodland vegetation community adjacent to the Eagle River largely consists of native vegetation, providing habitat to various species, including breeding and migrating birds, water dependent species, and big game. However, there are portions of the riparian woodland habitat within the Project Area that are disturbed and contain non-native understory, impacting the habitat quality.

3.2 Colorado Parks and Wildlife (CPW) Species Activity Mapping (SAM)

CPW has developed Species Activity Mapping (SAM) which identifies buffer zones and other distribution data for general wildlife species which is available in Geographic Information Systems (GIS) format (CPW 2025a). The latest publicly available SAM data issued by CPW is from January 13, 2025, with definitions updated January 28, 2025 (CPW 2025a, 2025b). This mapping provides information on wildlife distributions to public and private agencies for environmental assessment, land management resource planning, and general scientific research. The specific CPW-mapped wildlife use areas or current ranges for any species within ½-mile of the Project Area are summarized as follows in **Table 3**. Refer to **Appendix B** for the CPW maps within the vicinity of the Project Area.

Table 3. CPW Species Activity Mapped Wildlife Use Areas Within the Project Area

CPW SAM Layer	Definition	Mapped within the Project Area (Y=Yes, N=No)	¹ Abundance
BALD EAGLE			
ACTIVE NEST SITE:	A specific location in which a pair of Bald Eagles have at least attempted to nest within the last five years. Any nest location that can be directly tied to courtship, breeding, or brooding behavior is considered active. A buffer zone extends ½ mile around a known active nest.	Y	G5 (S3)
SUMMER FORAGE:	Foraging areas frequented by breeding bald eagles from March 15 to July 31. These areas are almost always associated with nesting pairs.	Y; the majority of the Project Area except the northeast portion	
WINTER FORAGE:	Foraging areas frequented by wintering bald eagles between November 15 and March 15. May be a large area radiating from preferred roosting sites. In western Colorado preferred roosting sites are within dominant riparian zones.	Y	
WINTER RANGE:	Those areas where bald eagles have been observed between November 15 and April 1.	Y	
WINTER CONCENTRATION:	Areas (tree, islands, etc.) within an existing winter range where eagles concentrate between November 15 and April 1. These areas may be associated with roost sites.	Y	
BATS			
LITTLE BROWN MYOTIS OVERALL RANGE:	The area which encompasses the observed and predicted range of a population of bats.	Y	G3 (S5)
LONG-EARED MYOTIS OVERALL RANGE:	The area which encompasses the observed and predicted range of a population of bats.	Y	G5
LONG-LEGGED MYOTIS OVERALL RANGE:	The area which encompasses the observed and predicted range of a population of bats.	Y	G4 (S5)
SILVER-HAIRED BAT OVERALL RANGE:	The area which encompasses the observed and predicted range of a population of bats.	Y	G4 (S3)
WESTERN SMALL-FOOTED MYOTIS OVERALL RANGE:	The area which encompasses the observed and predicted range of a population of bats.	Y	G5 (S4)
HOARY BAT OVERALL RANGE:	The area which encompasses the observed and predicted range of a population of bats.	Y	G3

CPW SAM Layer	Definition	Mapped within the Project Area (Y=Yes, N=No)	¹ Abundance
TOWNSEND'S BIG-EARED BAT OVERALL RANGE:	The area which encompasses the observed and predicted range of a population of bats.	N; approximately 1,700 feet to the northwest of the Project Area	G4 (S2)
BIRDS (excl. raptors)			
BAND-TAILED PIGEON BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G4
BREWER SPARROW BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5 (S4)
BROWN-CAPPED ROSY FINCH OVERALL RANGE:	Area which encompasses all known seasonal activity areas within the observed range of a Brown-capped rosy finch population.	Y	G4 (S3)
GRAY VIREO BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5 (S2)
JUNIPER TITMOUSE BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5 (S4)
LAZULI BUNTING BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5
LEWIS'S WOODPECKER BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G4

CPW SAM Layer	Definition	Mapped within the Project Area (Y=Yes, N=No)	¹ Abundance
OLIVE-SIDED FLYCATCHER BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G4 (S3)
PINYON JAY BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G3
RUFIOUS HUMMINGBIRD MIGRATION RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found while seasonally moving between their winter range and their breeding range.	Y	G4 (SNR)
VEERY BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5 (S3)
VIRGINIA'S WARBLER BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5
BLACK BEAR			
OVERALL RANGE:	The area which encompasses all known seasonal activity areas within the observed range of a population of black bear.	Y	G5
HUMAN CONFLICT AREA:	That portion of the overall range where two or more confirmed black bear complaints per season were received which resulted in CPW investigation, damage to persons or property (cabins, tents, vehicles, etc.), and/or the removal of the problem bear(s). This does not include damage caused by bears to livestock.	Y	
FALL CONCENTRATION:	That portion of the overall range occupied from August 15 until September 30 for the purpose of ingesting large quantities of mast and berries to establish fat reserves for the winter hibernation period.	N; approximately 2,000 feet to the northwest of the Project Area	

CPW SAM Layer	Definition	Mapped within the Project Area (Y=Yes, N=No)	¹ Abundance
DWARF SHREW			
OVERALL RANGE:	An area which encompasses the probable range of Dwarf Shrew in Colorado. Dwarf Shrew is primarily associated with mountain habitats, mostly reported in rocky habitats in the alpine tundra and subalpine coniferous forests but also found in dry brushy slopes in Colorado around 1,670 m.	Y	G4 (S2)
ELK			
OVERALL RANGE:	The area which encompasses all known seasonal activity areas within the observed range of an elk population.	Y	G5
SUMMER RANGE:	That part of the range of a species where 90% of the individuals are located between spring green-up and the first heavy snowfall, or during a site-specific period of summer as defined for each Data Analysis Unit. Summer range is not necessarily exclusive of winter range; in some areas winter range and summer range may overlap.	Y	
WINTER RANGE:	That part of the overall range of a species where 90 percent of the individuals are located during the average five winters out of ten from the first heavy snowfall to spring green-up, or during a site-specific period of winter as defined for each DAU. Winter range is not delineated for elk on the Eastern Plains.	Y	
WINTER CONCENTRATION AREA:	That part of the winter range of elk where densities are at least 200% greater than the surrounding winter range density during the average five winters out of ten from the first heavy snowfall to spring green-up, or during a site specific period of winter as defined for each Data Analysis Unit.	N; approximately 1,900 feet to the southeast of the Project Area	
SEVERE WINTER RANGE:	That part of the range of a species where 90 percent of the individuals are located when the annual snowpack is at its maximum and/or temperatures are at a minimum in the two worst winters out of ten. The winter of 1983-84 is a good example of a severe winter.	Y; the far southwest corner overlaps, and range adjoins south of the Project Area	
LYNX			
LYNX POTENTIAL HABITAT	Areas having the highest potential of lynx occurrences in the state. These areas usually contain positive, probable, or possible reports. This information was derived from modeling potential lynx habitat.	Y	G5 (S1)

CPW SAM Layer	Definition	Mapped within the Project Area (Y=Yes, N=No)	¹ Abundance
RAPTOR (excl. Bald Eagle)			
GOLDEN EAGLE BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5 (S3)
NORTHERN GOSHAWK BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	-
PRAIRIE FALCON BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5 (S4)
NORTHERN HARRIER BREEDING RANGE:	The area which encompasses the geographic area in which a population of birds can typically be found breeding (the period of time during each year when a species reproduces - mates and has young) in Colorado.	Y	G5 (S3)
MOOSE			
SUMMER RANGE:	That part of the overall range where 90% of the individuals are located during the summer months. This summertime frame will be delineated with specific start/end dates for each moose population within the state (ex: May 1 to Sept 15). Summer range is not necessarily exclusive of winter range.	Y	G5 (SNA)
OVERALL RANGE:	The area which encompasses all known seasonal activity areas within the observed range of a population of moose.	Y	

CPW SAM Layer	Definition	Mapped within the Project Area (Y=Yes, N=No)	¹ Abundance
MOUNTAIN LION			
OVERALL RANGE:	The area which encompasses all known seasonal activity areas within the observed range of a population of mountain lion.	Y	G5 (S4)
HUMAN CONFLICT AREA:	An area where a mountain lion has been involved in an incident (conflict with a human that may have serious results), an attack on a human, predation on domestic pets, or depredation on livestock held within close proximity to human habitation.	N; however, the conflict area surrounds the Project Area on north, west, and south sides	
MULE DEER			
SUMMER RANGE:	Part of the Overall Range where 90% of the individuals are located between spring green-up and the first heavy snowfall. Summer Range is not necessarily exclusive of Winter Range; in some areas Winter Range and Summer Range may overlap.	Y	G5 (S4)
WINTER RANGE:	That part of the overall range where 90 percent of the individuals are located during the average five winters out of ten from the first heavy snowfall to spring green-up, or during a site specific period of winter as defined for each DAU. Winter range is only delineated for migratory populations.	Y	
SEVERE WINTER RANGE:	That part of the overall range where 90% of the individuals are located when the annual snow pack is at its maximum and/or temperatures are at a minimum in the two worst winters out of ten.	N; located approximately 350 feet southeast of the Project Area	
WINTER CONCENTRATION AREA:	That part of the winter range where densities are at least 200% greater than the surrounding winter range density during the same period used to define winter range in the average five winters out of ten.	N; located approximately 350 feet south and southeast of the Project Area	
CONCENTRATION AREA	That part of the overall range where higher quality habitat supports significantly higher densities than surrounding areas. These areas are typically occupied year-round and are not necessarily associated with a specific season. Includes rough break country, riparian areas, small drainages, and large areas of irrigated cropland.	N; located approximately 1,600 feet northeast of the Project Area	

CPW SAM Layer	Definition	Mapped within the Project Area (Y=Yes, N=No)	¹ Abundance
RESIDENT POPULATION AREA	An area that provides year-round range for a population of mule deer. The resident mule deer use all of the area all year; it cannot be subdivided into seasonal ranges although it may be included within the overall range of the larger population.	N; located approximately 1,700 feet northwest of the Project Area	
MIGRATION CORRIDOR	A specific mappable site through which large numbers of animals migrate and loss of which would change migration routes.	N; located approximately 1,700 feet northwest of the Project Area	
OVERALL RANGE:	Area which encompasses all known seasonal activity areas within the observed range of a mule deer population.	Y	
REPTILES			
BULLSNAKE OVERALL RANGE:	Area which encompasses all known seasonal activity areas within the observed range of a bullsnake population.	Y	-
TERRESTRIAL GARTERSNAKE OVERALL RANGE:	Area which encompasses all known seasonal activity areas within the observed range of a terrestrial gartersnake population.	Y	G5
RIVER OTTER			
WINTER RANGE:	Areas used by otters during the period when ice cover is prevalent. Will normally, but not necessarily, be smaller than overall range.	Y; along the southern boundary of the Eagle River	G5 (S3)
OVERALL RANGE	An area which encompasses all mapped seasonal activity areas within the observed range of a population of river otters.	Y; along the southern boundary of the Eagle River	G5 (S3)
SNOWSHOE HARE			
OVERALL RANGE:	An area which encompasses the probable range of Snowshoe Hare in Colorado. Snowshoe Hare is primarily associated with dense understory vegetation that provides both browse and cover in mature Engelmann spruce (<i>Picea engelmanni</i>)–subalpine fir (<i>Abies lasiocarpa</i>), and early seral lodgepole pine (<i>Pinus contorta</i>).	Y	G5

CPW SAM Layer	Definition	Mapped within the Project Area (Y=Yes, N=No)	¹ Abundance
SOUTHERN RED-BACKED VOLE			
OVERALL RANGE	An area which encompasses the probable range of Southern Red-backed Vole in Colorado. Southern Red-backed Vole is primarily associated with moist and well-developed coniferous forests. They are most abundant in lodgepole pine (<i>Pinus contorta</i>) stands, usually between 8,000 and 11,000 feet.	Y	G5
WHITE-TAILED JACKRABBIT			
OVERALL RANGE:	An area which encompasses the probable range of White-tailed Jackrabbit in Colorado. White-tailed Jackrabbit is primarily associated with grasslands, green pastures, and forests at high altitudes.	Y	G5 (S4)
WILD TURKEY			
WINTER RANGE:	That part of the overall range where 90% of the individuals are located from November 1 to April 1 during the average five winters out of ten.	N; located approximately 1,500 feet northwest of the Project Area	G5
OVERALL RANGE:	Area which encompasses all known seasonal activity areas within the observed range of a wild turkey population.	N; located approximately 200 feet southeast and 1,500 feet north of the Project Area	
PRODUCTION AREA:	Those area(s) that are used by turkeys for nesting during the period from March 15 to August 15. Human activity should be restricted in these areas during this period.	N, located approximately 1,500 feet northwest of the Project Area	

Source: CPW 2025a, 2025b; NatureServe 2025

¹Natureserve Conservation Status Rankings: GX = Presumed Extinct, GH = Possibly Extinct; G = Global Ranking, S = State Ranking; 1 = Critically Imperiled, 2 = Imperiled, 3 = Vulnerable, 4 = Apparently Secure, 5 = Secure, SNR= No Status Rank, SNA=Exotic

Primary CPW SAM wildlife habitat considerations include an active bald eagle (*Haliaeetus leucocephalus*) nest, golden eagle (*Aquila chrysaetos*) and non-eagle raptor breeding ranges, river otter (*Lontra canadensis*), lynx (*Lynx canadensis*) potential habitat, elk (*Cervus canadensis nelsoni*) severe winter range, and black bear (*Ursus americanus*) human conflict area. The mapped bald eagle nest site, and golden eagle, northern goshawk (*Accipiter gentilis*), northern harrier (*Circus hudsonius*), and prairie falcon (*Falco mexicanus*) breeding ranges are addressed in **Section 3.3** and **Section 4.3**. The black bear and mountain lion human conflict areas, elk and mule deer severe winter range are discussed in **Section 4.2**. Additional

species and habitat ranges (e.g., bats, migratory songbirds, small mammals, reptiles) are also mapped in the CPW SAM dataset; however, these are not considered primary management drivers for the Project Area.

3.3 Migratory Bird Treaty Act

Migratory birds are protected under the Migratory Bird Treaty Act ([MBTA]; 16 U.S.C. 730-712). Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act ([BGEPA]; 16 U.S.C. 668-668c). These federal regulations make it illegal for anyone to take, possess, import, export, transport, sell, purchase barter, or offer for sale, purchase, or barter any migratory bird, bald or golden eagle, or the parts, nests, or eggs of such a bird except under the terms of a valid permit issued pursuant to federal regulations.

Within the Project Area, the riparian vegetation contains a mature overstory of cottonwood trees and shrubs that provide potential habitat for migratory birds. Migratory birds likely utilize the Project Area primarily for foraging and breeding; their active nests are protected under the MBTA.

As summarized previously in **Section 3.2**, the CPW SAM (CPW 2025a) mapping depicts golden eagle, northern goshawk, prairie falcon, and northern harrier breeding ranges across the entire Project Area. No individuals were observed within Project Area. However, one unoccupied non-eagle raptor nest was observed within the top canopy of a large spruce (*Picea* sp.) on the bank of the Eagle River along the southern boundary of the Project Area.

Within the Project Area, an active bald eagle nest (CPW-documented Nest 09458A) was observed in one of the mature cottonwood trees along the banks of the Eagle River; this nest is the same nest that was identified using CPW SAM desktop data. The USFWS has regulatory authority under the BGEPA to permit “take” of bald eagles. An Eagle Disturbance Take General Permit for Nest 09458A was issued by the USFWS (Permit Number- PER23023565; **Appendix D**). Under this permit, it is authorized to disturb bald eagles at this nest location as a result of building construction and maintenance, alterations of water bodies, alteration of vegetation, prescribed burn operations, recreation, and loud intermittent noises when there is no practicable alternative to avoiding or minimizing the disturbance. This permit expires August 31, 2026, but can be renewed on a yearly basis throughout the construction phase of the project.

3.4 Federal and State Threatened and Endangered Species

The Endangered Species Act (ESA) of 1973 was enacted by the United States to conserve endangered and threatened species and the ecosystems that they depend on. Under the ESA, species may be listed as either “endangered” or “threatened”; both designations are protected by law. The ESA is administered by USFWS. The USFWS has developed project specific species lists, available online by request, identifying threatened, endangered, proposed, and candidate species, and designated critical habitat protected under the ESA that may occur within the boundary of the proposed project and/or may be affected by the proposed project (USFWS 2025b; [Project Code: 2025-0142943; **Appendix C**]).

Species identified as state threatened or endangered are protected by CPW under Colorado Revised Statute Title 33-2-105. State regulations prohibit “any person to take, possess, transport, export, process,

sell or offer for sale, or ship and for any common or contract carrier to knowingly transport or receive for shipment” any species or subspecies listed as state endangered or threatened. CPW also has identified State Species of Special Concern, which are species or subspecies of native wildlife that are currently vulnerable in their Colorado range and have the potential to become threatened or endangered. Species of Special Concern are not protected under state regulations but the ‘take’ of individuals and disturbance of their habitat is strongly discouraged.

Using the USFWS Information, Planning, and Conservation System (IPaC) and CPW species lists, federal and state listed threatened and endangered species were screened for their potential to occur within the Project Area. Although the IPaC also identifies proposed and candidate species that may occur within the Project Area, these species are not afforded protection under the ESA and therefore, are not evaluated. Furthermore, state listed species that also have a federal status (threatened or endangered), and that were not identified by the IPaC, are not discussed below. **Table 4** contains a list of species identified on the IPaC, as well as state-listed species that occur within the vicinity of the Project Area, along with their status, preferred habitat, and potential for occurrence within the Project Area. No critical habitat is present within the vicinity of the Project Area.

Table 4. Summary of Federal Species That May Occur in the Project Area and State Listed Species That May Occur in Eagle County

Common Name	Scientific Name	¹ Status	Habitat	Potential to Occur in Project Area
AMPHIBIANS				
Boreal Toad	<i>Bufo boreas</i>	SE	Pond margins, willow karrs, wet meadows and riparian areas. Between 8,000 and 11,000 feet in elevation. Requires shallow, open water for breeding. Overall range is within Eagle County but does not overlap the Project Area.	No Potential to Occur
BIRDS				
Mexican spotted owl	<i>Strix occidentalis lucida</i>	FT, ST	Old growth or mature forests that possess complex structural components. Canyons with riparian or conifer communities. Rock walls with caves, ledges, and other areas provide protected nest and roost sites. No suitable habitat is present with the Project Area	No Potential to Occur
Yellow-billed cuckoo	<i>Coccyzus americanus</i>	FT	Require relatively large (>20 hectares), contiguous patches of multilayered riparian habitat for nesting. No suitable habitat is present with the Project Area	No Potential to Occur

Common Name	Scientific Name	¹ Status	Habitat	Potential to Occur in Project Area
FISH				
Bonytail	<i>Gila elegans</i>	FE, SE	Lives in large, fast-flowing waterways of the Colorado River Basin and restricted to Mesa and Moffat Counties. Hydrologic Unit Code (HUC) 12 presence does not overlap Eagle County.	No Potential to Occur
Colorado pikeminnow	<i>Ptychocheilus lucius</i>	FE, ST	Medium to large rivers. Current distribution in Colorado is restricted to the Upper Colorado River system and the Green River system. HUC 12 presence does not overlap Eagle County.	No Potential to Occur
Humpback chub	<i>Gila cypha</i>	FE, ST	Associated with a variety of habitats ranging from pools with turbulent to little or no current, substrates of silt, sand, boulder, or bedrock. In Colorado, the humpback chub has been found in the Yampa, Gunnison, Green, and Colorado rivers. HUC 12 presence does not overlap Eagle County.	No Potential to Occur
Razorback sucker	<i>Xyrauchen texanus</i>	FE, SE	Large river species not found in smaller tributaries and headwater streams. Found in water from 4-10 feet in depth, adults are associated with areas of strong current and backwaters. HUC 12 presence does not overlap Eagle County.	No Potential to Occur
MAMMALS				
Gray wolf	<i>Canis lupus</i>	EXP; SE	Habitat generalists. CPW mapping has indicated wolf activity through watersheds within Eagle County.	Low Potential to Occur
Canada lynx	<i>Lynx canadensis</i>	FT, SE	Large contiguous areas of subalpine forests; areas that receive deep snow and have high-density populations of snowshoe hares. CPW SAM data depicts potential habitat within the Project Area, however, no suitable habitat is present.	No Potential to Occur
River Otter	<i>Lontra canadensis</i>	ST	Riparian habitats. Mapped range is within the Project Area along the Eagle River.	High Potential to Occur
Wolverine	<i>Gulo gulo</i>	SE	High alpine habitats. There is currently no known population of wolverines within Colorado, however, CPW has mapped potential habitat for future reintroduction efforts within Eagle County.	No Potential to Occur

Common Name	Scientific Name	¹ Status	Habitat	Potential to Occur in Project Area
PLANTS				
Ute Ladies'-tresses	<i>Spiranthes diluvialis</i>	FT	Typically found on alluvial banks, point bars, floodplains associated with perennial streams, seasonally flooded river terraces, subirrigated or spring fed stream channels, and lakeshores. USFWS current range data does not overlap the Project Area.	No Potential to Occur

Source: USFWS 2025b, 2025c; CPW 2025a, 2025c, 2025d

¹Status: FT=Federally Threatened; FE=Federally Endangered; EXPN=Experimental Population, Non-Essential; ST=State Threatened; SE=State Endangered

Based on habitat requirements and CPW range maps, there is one species, river otter, that has a high potential to occur, and one species, gray wolf (*Canis lupus*), with low potential to occur in the Project Area. Furthermore, one species, Canada lynx, has potential habitat mapped within the Project Area (CPW 2025a). However, after reviewing this species habitat requirements, it has been determined that lynx are not likely to occur within the Project Area due to the lack of contiguous areas of dense subalpine forest in the vicinity.

4.0 Potential Impacts

4.1 Impacts on Habitat and General Wildlife Use

The Project Area was evaluated for potential impacts from the proposed residential development on general wildlife use and vegetation communities. The maximum extent of disturbance was developed with consideration to required setbacks and operational needs.

Table 5 presents the disturbances to land use classes and vegetation cover types within the proposed Project Area. **Figure 3** below identifies the proposed direct disturbance to land use class and vegetation cover types for the proposed project.

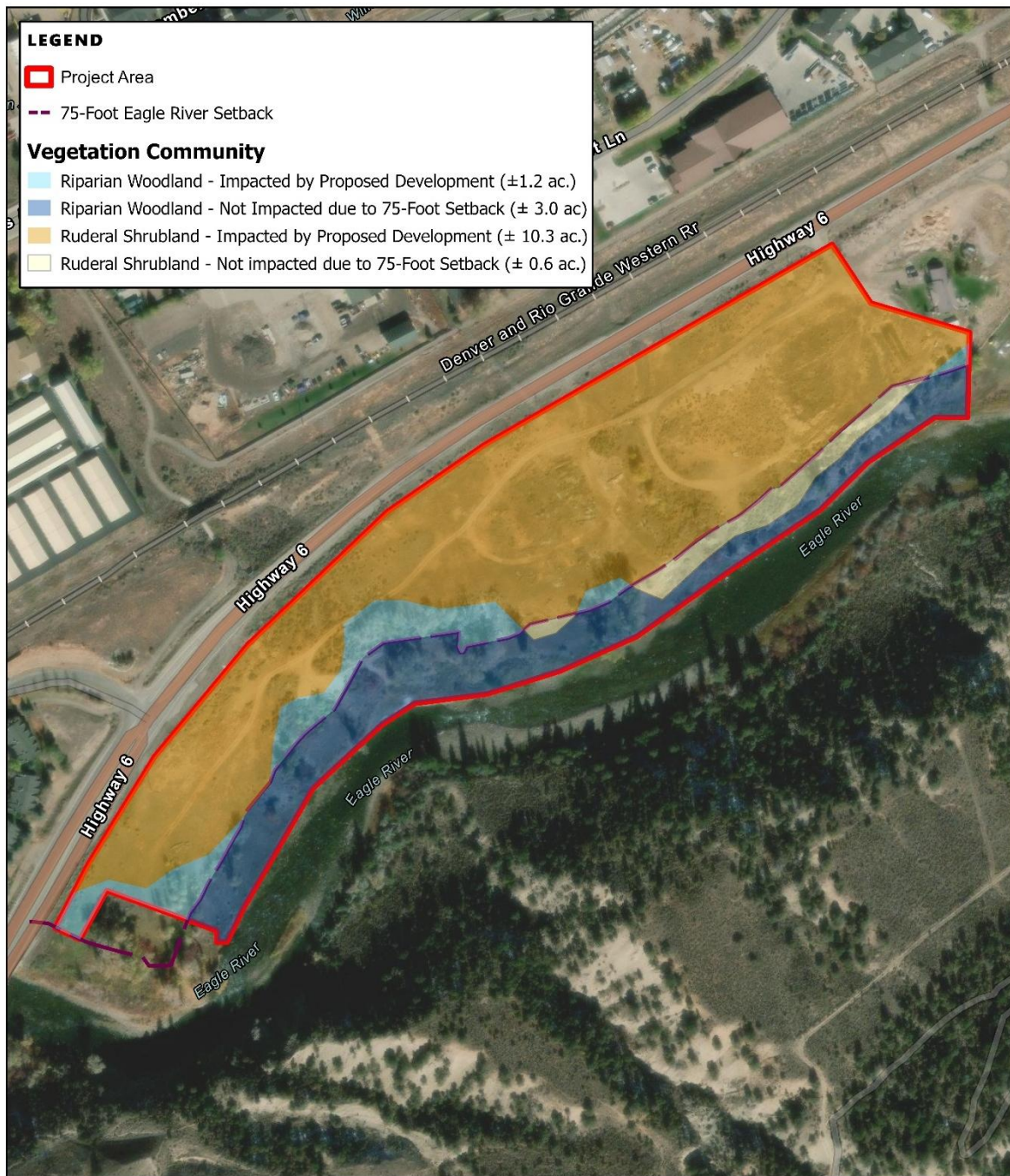
Table 5. Impacts to Land Use Class and Vegetation Cover Type Within the Project Area Based on the Development Plan

Land Use Classes and Vegetation Cover Type Disturbance	Area (ac)
Ruderal Shrubland	10.3
Riparian Woodland	1.2
Total Direct Impact	11.5

As with any planned development project, potential disturbances from construction, natural habitat loss and increased human activity can result in increased human-wildlife conflicts, increased mortality, habitat fragmentation, dispersion of wildlife populations and adjustments in wildlife patterns. The direct loss of habitat (vegetation removal) through the conversion of land from open space to a residential development represents the greatest impact of the proposed project. However, most of the existing ruderal shrubland habitat in the Project Area is generally considered degraded due to historical land use (i.e., gravel mining). The riparian area along the southern boundary of the Project Area, which provides high quality habitat for various species, will largely remain undisturbed due to the 75-foot riparian setback from the Eagle River. The degraded areas within the riparian habitat will also be enhanced through invasive vegetation management and restoration efforts.

The proposed project may have indirect impacts on wildlife use. Increased noise, lighting, human activity, and general heavy construction operations during construction will result in localized dispersion and avoidance of use in the immediate vicinity of the Project Area.

- Disturbance to wildlife is inevitable with any proposed residential development activity, especially in the mountainous areas of Colorado and Eagle County. Impacts on wildlife use from the proposed project would include direct disturbance of 11.5 acres of potential habitat within the Project Area, and temporary localized displacement associated with additional noise and lighting from the proposed project. This localized loss of habitat is not likely to threaten the overall health and viability of any species.
- The majority of the disturbance will occur within the ruderal shrubland community, which is dominated by herbaceous non-native understory. This vegetation community has been degraded by previous land use activities. The low ecological value of this community limits the overall impact on existing wildlife habitat.
- Section 4.14.040.C.1 of the Town Code generally requires all development to maintain a minimum setback of 100 feet or greater from any identified critical wildlife habitat area or migration corridor, subject to approval by CPW. However, Town staff notes that the WCP takes precedence in defining the appropriate buffer based on the specific context of the project. Email correspondence with the Town Planner, Kyle Brotherton, dated July 9, 2025, confirmed that the Town of Eagle will not enforce a 100-foot buffer around the bald eagle nest (Nest 09458A) within the Project Area, and will defer to federal regulations regarding bald eagles, as it was not identified as “critical wildlife habitat area” by CPW in a comment letter dated May 1, 2025. Furthermore, a review of CPW SAM and HPH data indicates that no mapped critical habitat or migration corridors, as specified within *CPW Recommendations to Avoid and Minimize Impacts to Wildlife from Land Use Development in Colorado*, occur within 100 feet of the Project Area (CPW 2023, 2024a, 2025a). However, four other HPH layers overlap the Project Area that are not categorized as critical wildlife habitat or migration corridors (**Appendix B**); therefore, these habitats are not subject to the 100-foot buffer required in the Town Code Section 4.14.040.C.1 (CPW 2024a). Accordingly, the project design incorporates a 75-foot riparian setback, consistent with Town Code Section 4.14.050(C) and providing substantial protection for riparian habitat and wildlife resources.



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**FIGURE 3
IMPACT MAP**

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 125 250 Feet

4.2 Impacts on Colorado Parks and Wildlife (CPW) Species Activity Mapping (SAM)

Based on CPW SAM, multiple wildlife species and habitat ranges overlap the Project Area. These include elk, black bear, river otter, migratory birds and raptors, as well as broader overall ranges for bats, small mammals, and reptiles (**Appendix B**). Of these, only elk severe winter range is designated by CPW as HPH (CPW 2024a, 2025a). The Project Area also overlaps a mapped black bear human conflict area. River otter is addressed in **Section 4.4**, and migratory birds and raptors are addressed in **Section 4.3**. Other CPW-mapped species and habitat ranges (e.g., bats, small mammals, reptiles) represent broad overall ranges rather than site-specific habitat and do not carry high-priority status; therefore, they are not considered to represent significant impacts for this project.

The identified habitat ranges for elk and black bear designate very large regional territories utilized by each of these species. The Project Area represents only a de minimis portion of these species' regional habitat ranges (**Appendix B**). Furthermore, setback areas were considered when determining acreage of direct disturbance to these habitats, which lessens the amount of habitat that is anticipated to be disturbed. Therefore, residential development activities within the Project Area are not expected to negatively impact individuals or populations of wildlife of these species.

The CPW SAM mapping in the Project Area are further described below:

- Elk Severe Winter Range - That part of the range of a species where 90 percent of the individuals are located when the annual snowpack is at its maximum and/or temperatures are at a minimum in the two worst winters out of ten.
 - The Project Area overlaps a small area (approximately 0.07 acre) of mapped severe winter range, and this overlap lies entirely within the 75-foot riparian setback where development will not occur. To the north, the landscape is fragmented with existing commercial development, and this area is not mapped as severe winter range. The Project Area lies at the northern margin of the mapped habitat. Within the Town of Eagle to the southeast, portions of the severe winter range have already been urbanized, although undeveloped habitat remains in the broader landscape. Accordingly, the proposed project will not directly impact the functional portions of severe winter range, and the riparian setback will provide an additional buffer between the development and the adjacent mapped habitat.
- Black Bear Human Conflict Area - That portion of the overall range where two or more confirmed black bear complaints per season were received which resulted in CPW investigation, damage to persons or property (cabins, tents, vehicles, etc.), and/or the removal of the problem bear(s).
 - The Project Area overlaps 11.7 acres of human conflict area, but the proposed project will result in disturbance of 10.58 acres of mapped black bear human conflict area when taking into account the 75-foot riparian setback. This amount of area is considered de minimis in the context of the county and state-wide mapped black bear human conflict areas. This block of mapped black bear human conflict area extends in all directions, to include the Town of Eagle and nearly the entire town of Gypsum. Residents should be advised to follow the guidelines provided by CPW Living with Bears (CPW 2024b).

4.3 Impacts Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act

Non-eagle migratory birds may utilize the Project Area; however, they are not anticipated to be impacted. A migratory bird nest survey should be conducted within the Project Area prior to earth disturbance during the active nesting season, between April 1 and August 31. Additionally, a nest survey should be conducted within a ½ mile buffer of the Project Area during the active raptor nesting season (February 1 and September 15) and eagle nesting season (December 1 through July 31) to verify the presence/absence of additional raptor and eagle nest sites prior to earth disturbance or vegetation removal.

- The CPW SAM identifies the overall range for several non-raptor migratory birds within the Project Area (**Appendix B**). Non-raptor migratory birds are not likely to be adversely impacted as a result of the project. The Project Area contains only a very small portion of these species' broad overall ranges, and the habitats present on-site are already fragmented and disturbed, further limiting the likelihood of significant impacts.
- One raptor nest was observed within the Project Area. During the site visit, the nest was unoccupied; therefore, the species utilizing the nest could not be confirmed.
- The project is anticipated to disturb an active bald eagle nest, CPW-documented Nest 09458A. Under the BGEPA, eagles are protected from disturbance and other activities that may result in a "take"; however, USFWS issues general permits that allow the incidental take of bald eagles for eligible activities when certain general conditions are met. The project activity, inclusive of building construction within 660 feet of a bald eagle nest, qualified for an Eagle Disturbance General Take Permit in accordance with Title 50 Code of Federal Regulations 22.280. The permit authorization is accompanied by General Permit Standard conditions, specifying avoidance and minimizations measures that must be implemented to the extent practicable. Under this permit, incidental take of bald eagles by disturbance is authorized at this nest location as a result of building construction and maintenance, alterations of water bodies, alteration of vegetation, prescribed burn operations, recreation, and loud intermittent noises when there is no practicable alternative to avoiding or minimizing the disturbance. The permit (Permit Number- PER23023565) was issued by USFWS on 8/27/2025 and is effective 9/1/2025 through 8/31/2026, with the ability to renew yearly throughout the construction phase of the project. The following list provides examples of avoidance and mitigation measures for the bald eagle nest, and is not intended to be an exhaustive list of the measures that will be implemented for the Project:
 - Preserving healthy, mature trees (i.e., potential nest sites) within the Project Area, as well as preserving the root integrity of the nest tree by avoiding ground disturbance activities within 50 feet of the nest tree.
 - Construction within 660 feet of the nest will be avoided within the first three months of the breeding season (December-February) to the extent practicable. If construction cannot be avoided during the breeding season, construction within 660 feet of the nest will be initiated as late in the breeding season as possible and will begin at the furthest possible distance and will progress gradually towards the nesting tree.

- During the breeding season, exterior construction within 660 feet will be avoided during the first two hours after sunrise and during the two hours before and after sunset to the extent practicable.

Refer to **Appendix D** for a complete list of General Conditions required under the issued permit (Permit Number PER23023565).

4.4 Impacts Federal and State Threatened and Endangered Species

Two (2) federal or state listed threatened and endangered species were identified as having the potential to occur within the Project Area. Gray wolves were identified as having low potential to occur, while river otters have a high potential to occur. A brief explanation is provided as to the species' habitat requirements, potential occurrence within the Project Area, and potential impacts to the species or their habitats from the proposed development.

- **Gray Wolf** – Gray wolves are federally listed as an experimental population, non-essential, as well as state endangered. For the purposes of federal consultation, non-essential experimental populations are treated as a proposed species on private land (USFWS 2025b). Gray wolves are habitat generalists and are primarily found in areas with a sufficient prey base such as elk or deer populations (CPW 2025d). In January 2025, CPW's wolf reintroduction efforts led to the release of wolves in Eagle County. CPW 2025 Collared Gray Wolf Activity Maps show that wolves have been recorded in the majority of watersheds within Eagle County (CPW 2025d). While the Project Area is in an urbanized area, it's bound by mostly undeveloped federally owned lands to the south and the north. Wolves generally avoid humans and urban areas, so while the Project Area may not contain suitable habitat and the proposed development will not have an adverse impact on this species or its habitat, wolves may pass through the area in search of prey, resulting in a low potential of occurrence.
- **River Otter** – The river otter is a state threatened species. Otters use riparian habitats along perennial streams and typically live in bank dens that have been abandoned by beavers (CPW 2025e). CPW SAM identifies the Eagle River and adjacent riparian areas as overall and winter range (CPW 2025b). However, due to the 75-foot riparian setback, the majority of the riparian area will not be disturbed. Moreover, enhancements to the riparian area through vegetation management will improve habitat quality; therefore, project development is not likely to adversely impact the river otter's habitat.

4.5 Cumulative Impacts

The cumulative project impacts to both the Project Area and within Eagle County have been assessed to consider the elimination, reduction, or fragmentation to the degree that the viability of an individual species or the diversity of species within Eagle County is reduced. The surrounding areas to the north and west have previously been developed. Although incremental impacts to wildlife habitat and species have accumulated over time throughout the Town of Eagle, the location of this project would not significantly impact the overall quality or health of wildlife habitat within the Project Area or Eagle County. The Project Area is contiguous with the existing developments along US-6 to the north and the existing developments to the west.

4.6 CPW Review

Matt Yamashita, Area Wildlife Manager for CPW has provided comments on the proposed development plan on May 1, 2025. Comments regarding planning area 1, the current proposed development, included the recommendations below.

- Provide public fishing access in the proposed development and permit fishing on the north side of the Eagle River in associated open spaces included in the development plan.
- For the active bald eagle nest, CPW's recommendations are consistent with the *Recommended Buffer Zones and Seasonal Restrictions for Raptors*, including no surface occupancy and no ground disturbance year-round within 0.25 mile of an active nest. No permitted or authorized human activities within 0.5 mile of an active nest from December 1-July 31.
- A Bureau of Land Management Special Recreation Management Area is located to the south of the Project Area. CPW recommends not including trail based recreational connectivity to the south, which has the potential to increase fragmentation to critical winter range and disturbance to deer and elk. If connectivity is to occur, CPW recommends further consultation.
- Avoiding the construction of fences where practicable.
- Designating fenced dog parks and implementing a leash policy outside of the dog park to reduce potential for wildlife conflict.
- Properly provide signage and education to residents and visitors throughout the development on topics regarding disturbance to wildlife and human-wildlife conflict.

In summary, While CPW's seasonal restrictions and spatial buffers regarding the active bald eagle nest are more protective than USFWS eagle nest buffers, the USFWS has primary authority for the regulation of "take" for bald eagles. As discussed in **Section 4.3**, an Eagle Disturbance General Take Permit in accordance with Title 50 Code of Federal Regulations 22.280 was issued by USFWS on 8/27/2025 for the eagle nest within the proposed development (**Appendix D**). Other CPW recommendations, such as fencing considerations, are anticipated to be implemented and are discussed in **Section 5.0**. While the remaining CPW recommendations are not incorporated into this plan, they remain important considerations for long-term land use management and could be evaluated further during final design

5.0 Mitigation Measures and Recommendations

Specific to the Town of Eagle Land Use and Development Code Wildlife Habitat considerations, mitigation measures should be deployed for this development project in order to minimize potential wildlife disturbance to the extent practicable. The following provides a list of mitigation measures that have been implemented and a list of recommendations.

Mitigation Measures that have been implemented in the proposed project plan:

1. **Buffers.** The Proposed development incorporated a 75-foot riparian setback in accordance with the Town Code to create a natural buffer and preserve habitat.

2. **Fencing.** Fencing will be restricted to use along the northern edge of the Project Area neighboring Highway 6, and around the perimeter of public gardens. If fencing is to be used within the Project Area, it will adhere to the CPW Wildlife-Friendly Fencing recommendations provided in *Fencing with Wildlife in Mind* (Hanophy 2009).
3. **Minimizing Nighttime Lighting.** Site lighting will meet the night sky requirements set forth in the Town of Eagle Code. All light sources shall be shielded so that light will not shine onto adjacent properties. Lighting will utilize the minimum illumination necessary for safety and will be directed downward, away from sensitive natural areas.
4. **Native Vegetation and Weed Control.** Site landscaping will prioritize native and water-wise vegetation from a pre-approved and recommended species list provided in the Concept Riparian Areas Management Plan (Birch Ecology, LLC 2025). Mature trees and stands of native vegetation will be preserved, and areas of degraded habitat and invasive or weedy vegetation will be controlled and restored.
5. **Trail Closure and Educational Signage.** The proposed Discovery Trail located within the 75-foot riparian setback, and within the vicinity of a bald eagle nest (Nest 09458A), will be closed to public use during the bald eagle nesting season (December 1-July 31). Signage will be posted at each terminus of the trail, notifying the public of seasonal trail closures. Additional educational signage will be posted at trail entry points, featuring information on wildlife and the riparian habitat along the Discovery Trail.
6. **Dedicated Open Space.** The Planned Unit Development (PUD) meets the Town of Eagle public open space dedication requirement (Town Code Section 4.08.040 C.1 [minimum 20%]), through the designation of three open space areas totaling approximately 20 acres (57% of Planning Area 1 of the PUD). The majority of the open space (approximately 15.4 acres) is located south of the Eagle River and will maintain its natural state.

Recommendations:

1. **Refuse.** Dumpsters and debris should be secured within wildlife safe containers to reduce the likelihood of bears, small mammals, birds, or other species that have adapted to live in and around urbanized environments from habituating themselves to unsafe food sources or increasing the probability of human-wildlife conflicts during construction. Only bear-resistant refuse disposal containers should be used for trash collection within the development post-construction.
2. **Education.** Construction employees and future residents should be educated on the sensitivity of wildlife harassment and best practice for preventing human-wildlife conflict in the area. The use of signs in and around the development and trails should present this education and should also state the need to keep residents and pets out of the riparian setback area.
3. **Domestic Animals.** Establish specific enforcement measures to control domestic animals and household pets including implementing Town of Eagle leash policies (Town Code), restrictions on

outdoor cats, and quiet hours to reduce disturbances to resting or nocturnal species from dogs barking.

4. **Traffic Control.** Posted speed limits should be enforced, and acceleration/deceleration lanes or speed bumps should be installed at the development entrance to enhance safety. During construction operations, heavy equipment operators should be advised of potential wildlife hazards.

6.0 Enhancement and Restoration of Habitat

All areas temporarily disturbed during construction should be reseeded or replanted with native species or species on the Town of Eagle's approved landscaping list. The 75-foot riparian setback along the Eagle River will be maintained and will have disturbed areas restored.

7.0 Summary

ERC has completed this WCP on behalf of Griffin Development, LLC for the proposed Red Mountain Ranch residential development project to meet the requirements of the Town of Eagle Land Use and Development Code Chapter 4.14.040, Section E Wildlife Conservation Plan. As with any planned development project, disturbances from construction, habitat loss, and increased human activity can result in human-wildlife conflicts, increased mortality, habitat fragmentation, and shifts in wildlife use patterns. Overall, the proposed project is not anticipated to result in significant adverse effects on wildlife resources within the Project Area.

The primary exception is the presence of an active bald eagle nest within the Project Area. For this nest, Griffin Development, LLC has obtained a USFWS Eagle Disturbance General Take Permit (Permit No. PER23023565; **Appendix D**), which authorizes incidental disturbance provided that avoidance and minimization measures are implemented to the extent practicable. This permit allows construction to proceed within 660 feet of the nest when no reasonable alternatives exist. A key consideration is the difference between USFWS and CPW guidance: CPW's *Recommended Buffer Zones and Seasonal Restrictions for Raptors* (CPW 2020) are more conservative, advising year-round no-disturbance within 0.25 mile of an active nest and seasonal restrictions out to 0.5 mile. These two frameworks differ in the level of protection recommended: compliance with USFWS permit conditions satisfies federal requirements, while CPW's recommendations represent additional state-level best practices. While the project is legally authorized under USFWS, CPW's guidance reflects a more conservative approach that emphasizes additional protections at the state level. The USFWS take permit includes monitoring and reporting requirements, ensuring that eagle activity and potential disturbance are tracked throughout construction. Clear documentation of compliance with the USFWS permit and continued coordination with CPW will help manage this regulatory discrepancy and maintain transparency throughout project implementation.

This report has been prepared by:

ECOLOGICAL RESOURCE CONSULTANTS, LLC

Drafted by:



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Reviewed by:



Diane Wright, Project Ecologist

(303) 679-4820 x115 / diane@erccolorado.net

8.0 References

Birch Ecology, LLC. 2025. *Concept Riparian Areas Management Plan*

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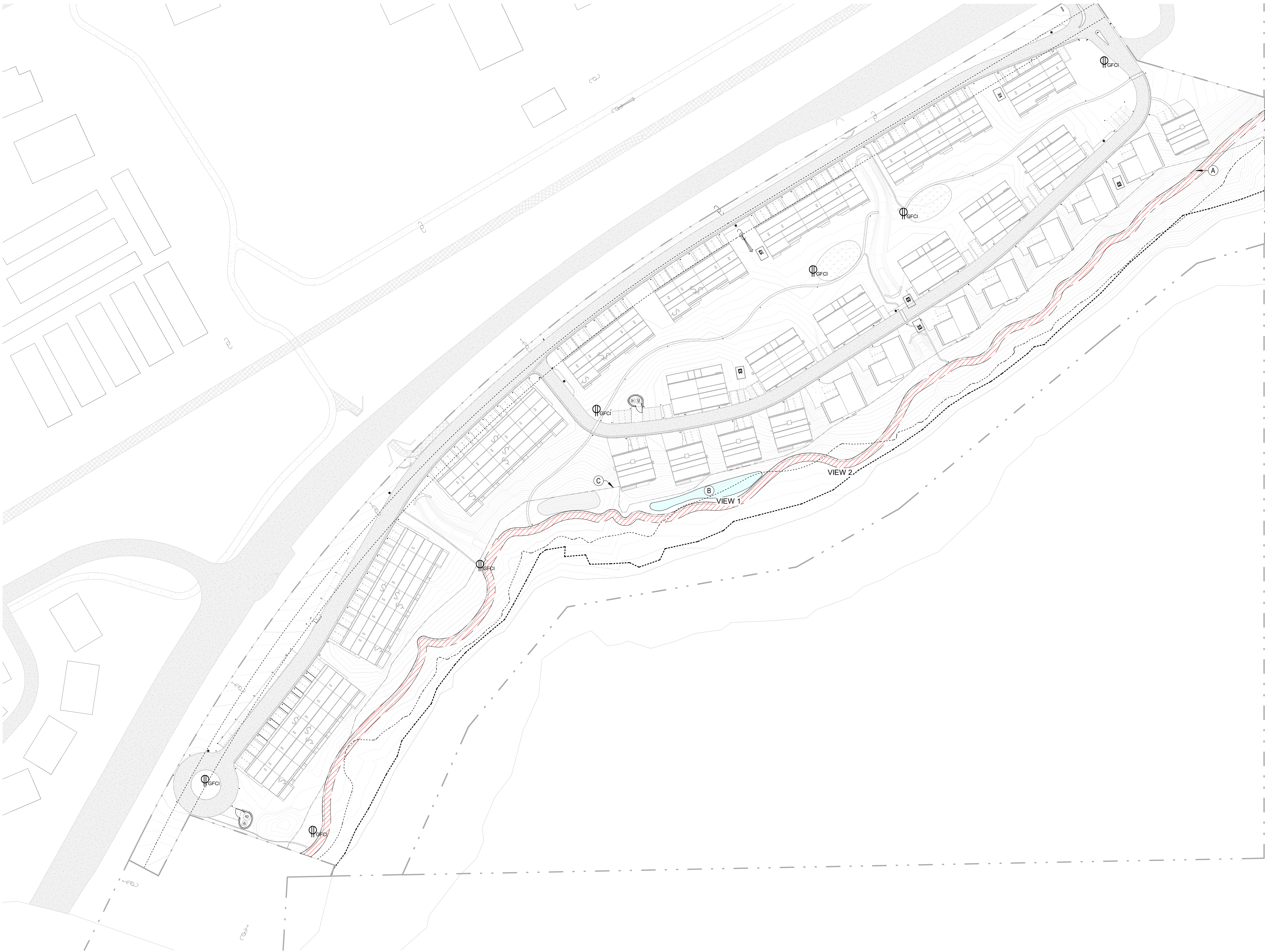
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USFWS. US Fish and Wildlife Service. 2025c. Species profile for Ute-Ladies'-tresses. Environmental Conservation Online System. <https://ecos.fws.gov/ecp/species/2159>

Appendix A

Development Plan



1 SITE PLAN
SCALE: 1" = 80'-0"

SHEET NOTES

- A DISCOVERY TRAIL SETBACK
- B POTENTIAL NEW LOCATION FOR SWALE
- C 75' STREAM SETBACK

PROJECT:
RED MOUNTAIN RANCH (SITE)

ADDRESS:
17500 US-6
EAGLE, CO 81631

ARCHITECTURE:
tres birds

PROJECT TEAM:

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NOT FOR CONSTRUCTION

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SUSTAINABILITY
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TESSA MCNAMARA
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TESS.MCNAMARA@ARUP.COM

ISSUANCE:
COORDINATION

ISSUE DATE:
09.04.2025

REVISION HISTORY:

DRAWING SHEET TITLE:
SITE PLAN

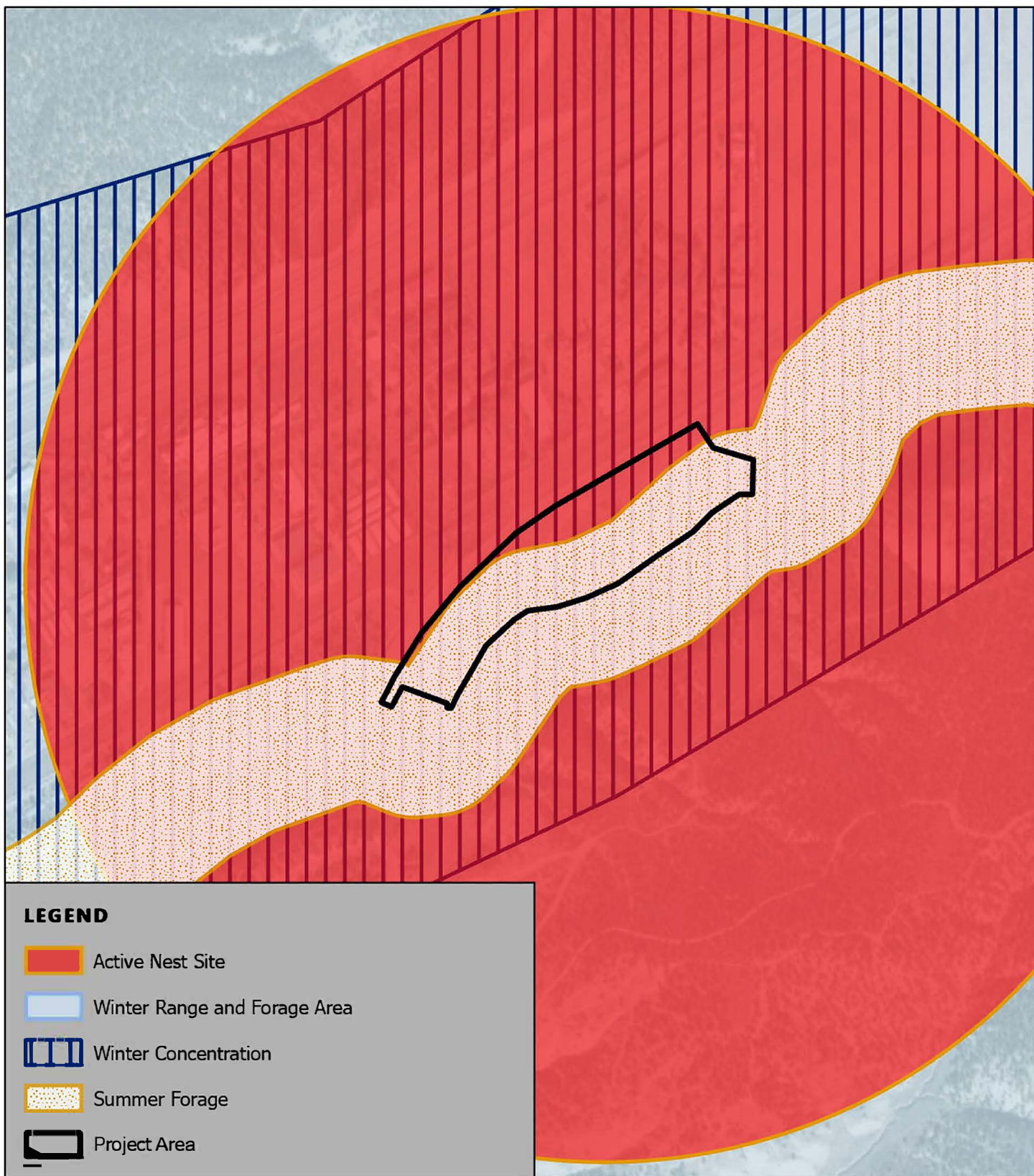
CRD-1.1

LINE TYPES

- PARCEL BOUNDARY
- PROPERTY BOUNDARY
SPECIFIC TO INDIVIDUAL UNITS
- SETBACK
- 100 YEAR FLOOD PLAIN
- AVERAGE HIGH WATER LINE
- 12' PUBLIC TRAIL EASEMENT

Appendix B

CPW SAM and HPH Wildlife Maps



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ERC #: 200-2513

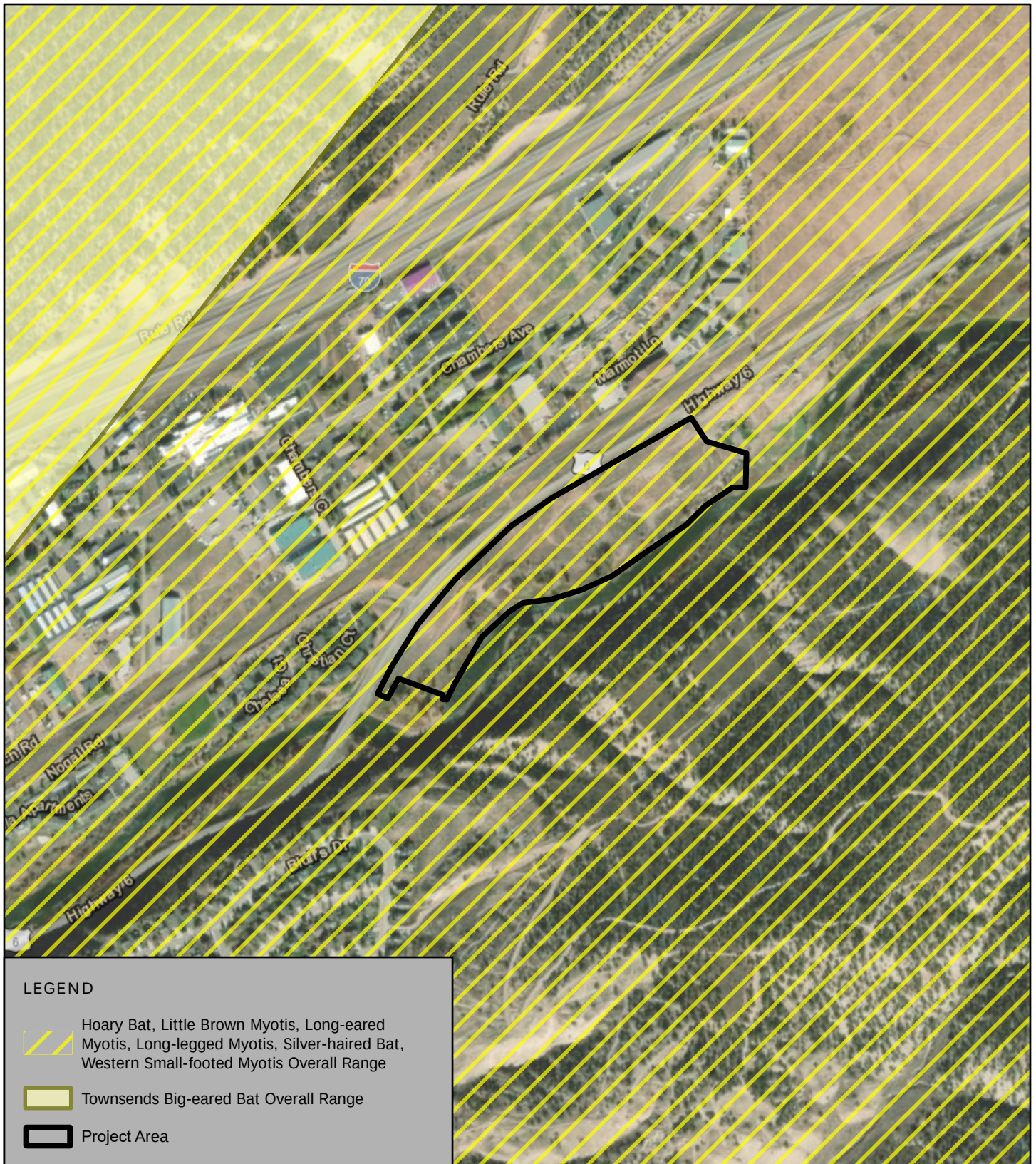
CPW SPECIES ACTIVITY MAPPING

BALD EAGLE

RED MOUNTAIN RANCH EAGLE COUNTY, COLORADO



0 500 1,000 Feet



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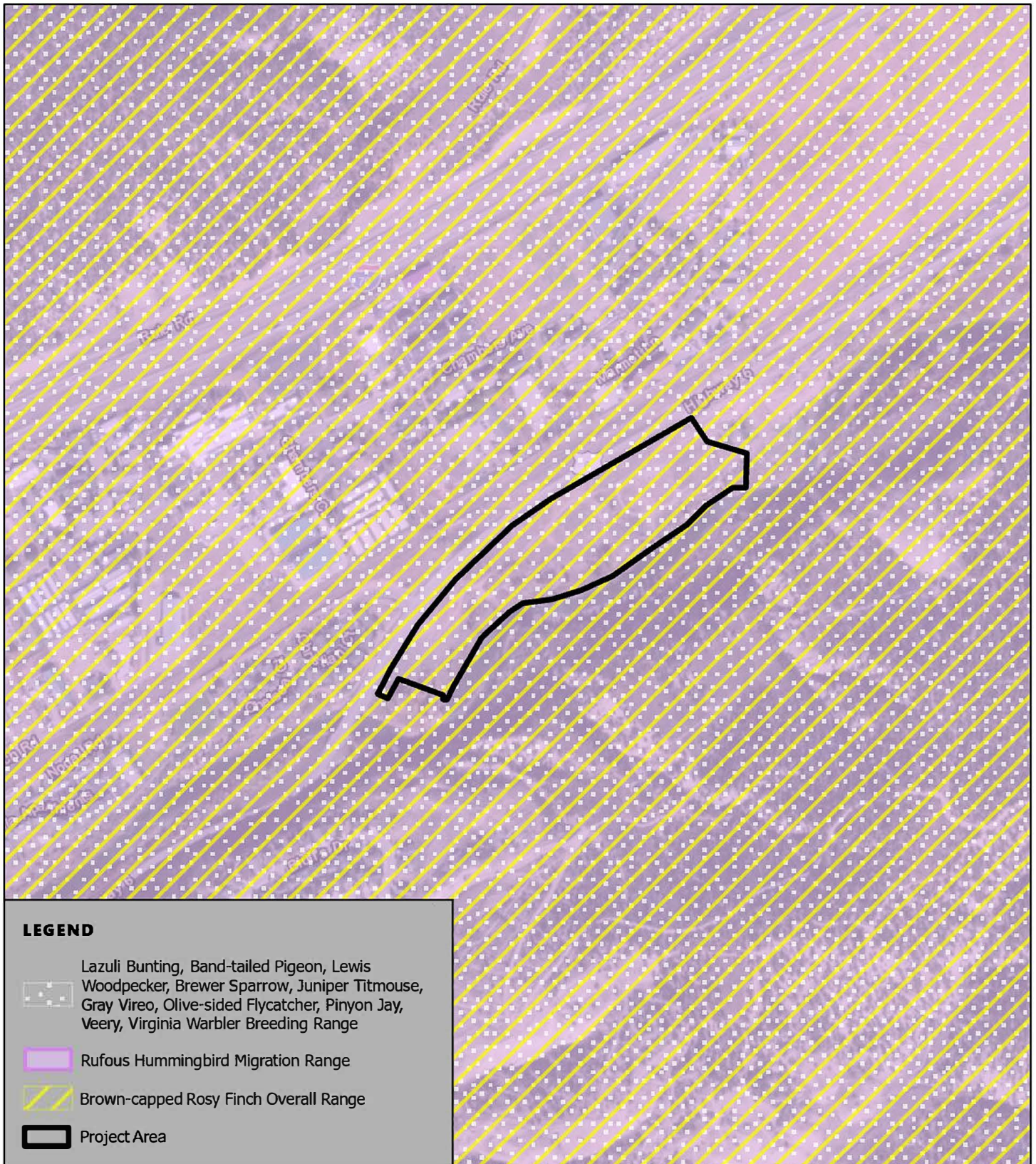
CPW SPECIES ACTIVITY MAPPING

BATS

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 500 1,000 Feet



Prepared By:



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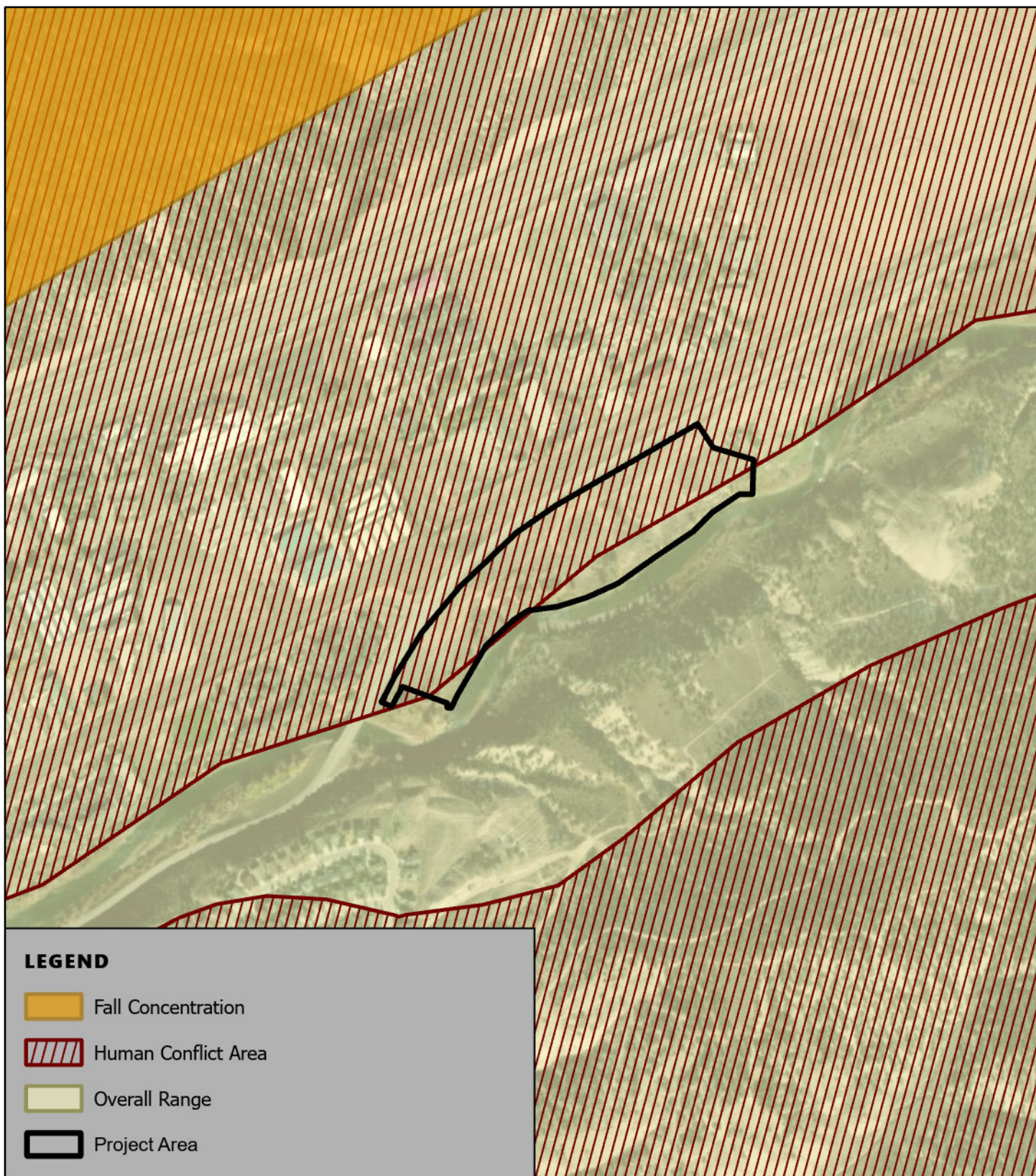
CPW SPECIES ACTIVITY MAPPING

BIRDS (NON-RAPTOR)

RED MOUNTAIN RANCH EAGLE COUNTY, COLORADO



0 500 1,000 Feet



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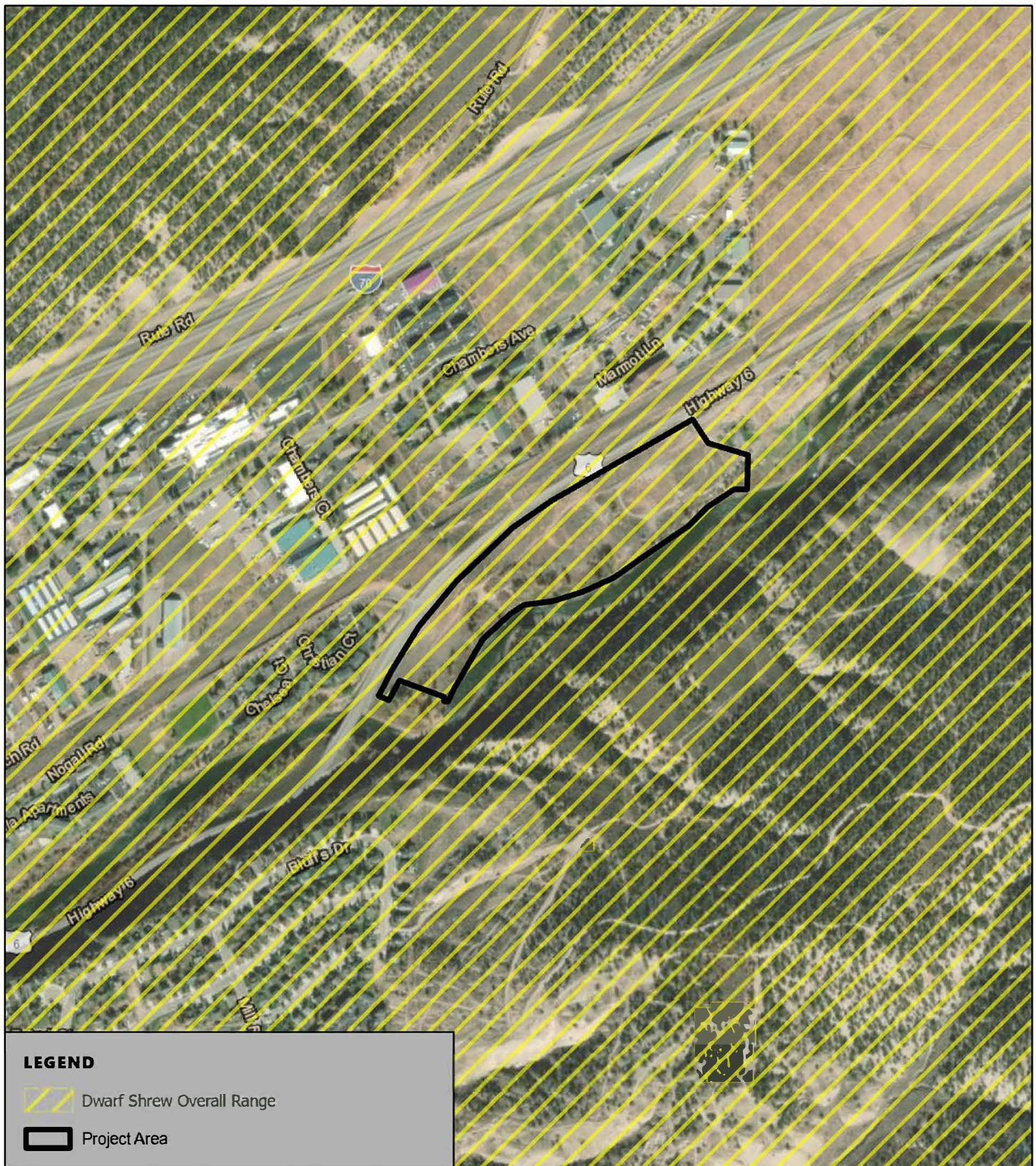
CPW SPECIES ACTIVITY MAPPING

BLACK BEAR

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 500 1,000 Feet



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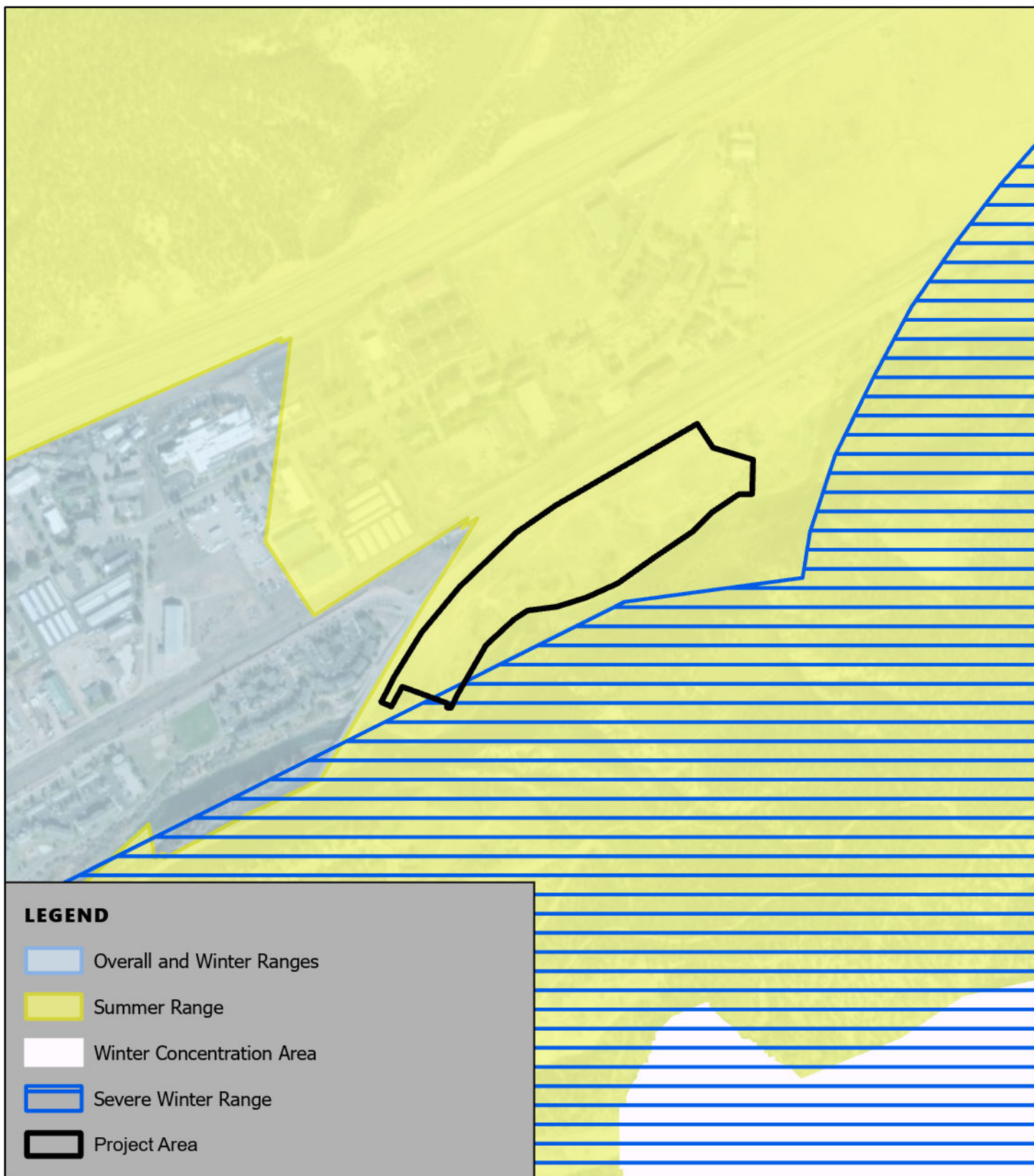
CPW SPECIES ACTIVITY MAPPING

DWARF SHREW

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 500 1,000 Feet



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CPW SPECIES ACTIVITY MAPPING

ELK

RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO



0 500 1,000 Feet



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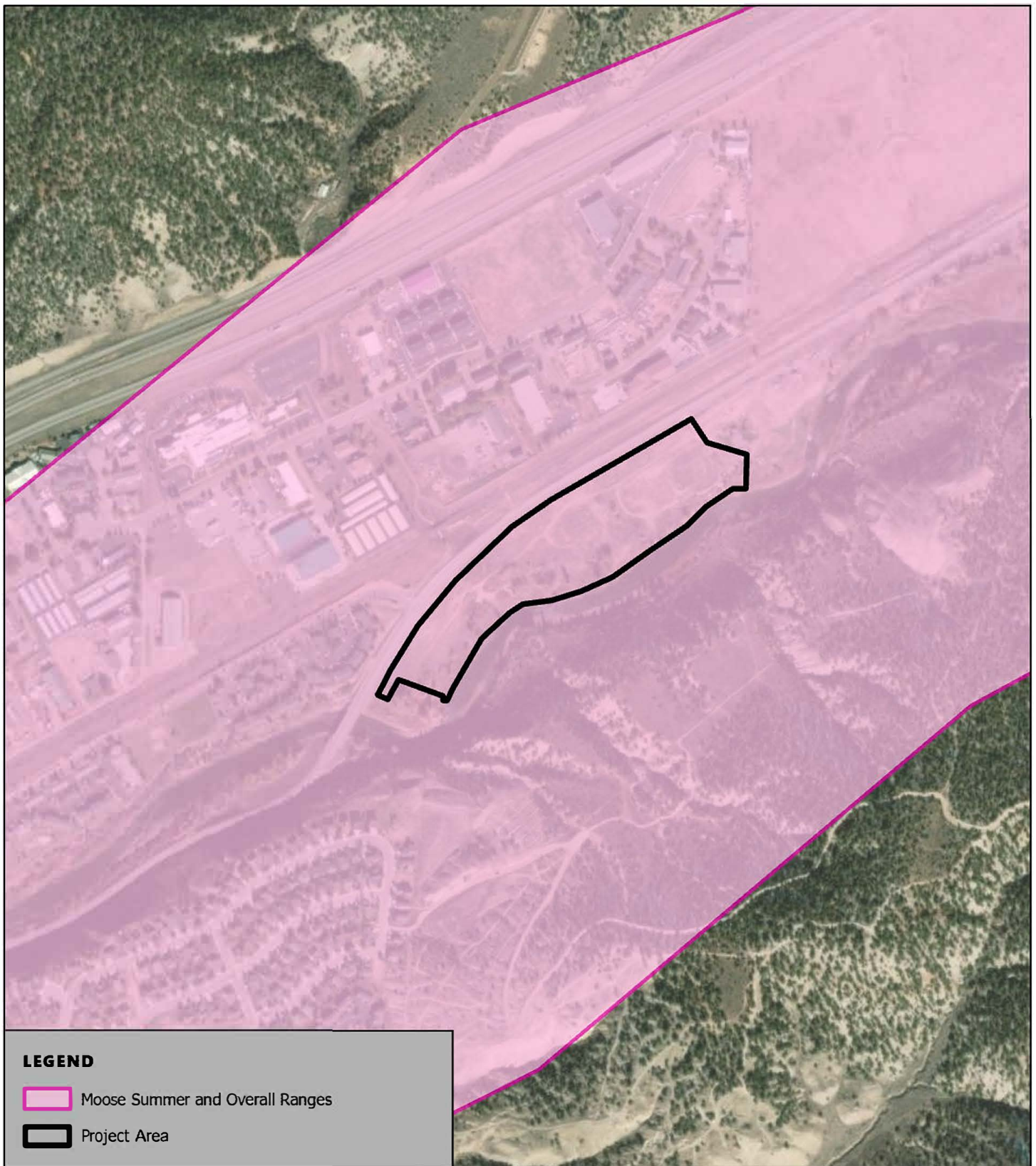
CPW SPECIES ACTIVITY MAPPING

LYNX

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 500 1,000 Feet



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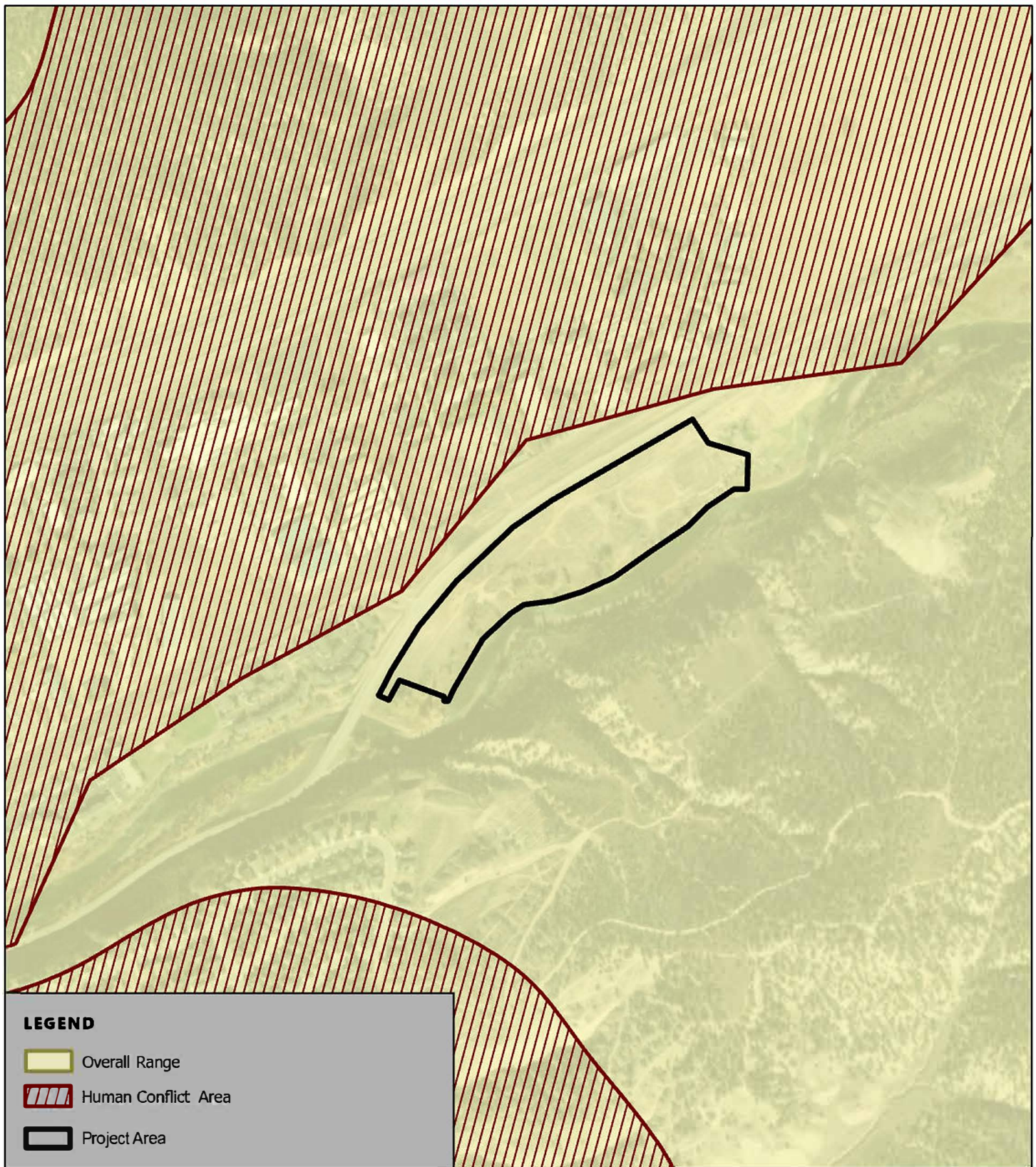
CPW SPECIES ACTIVITY MAPPING

MOOSE

RED MOUNTAIN RANCH EAGLE COUNTY, COLORADO



0 500 1,000 Feet



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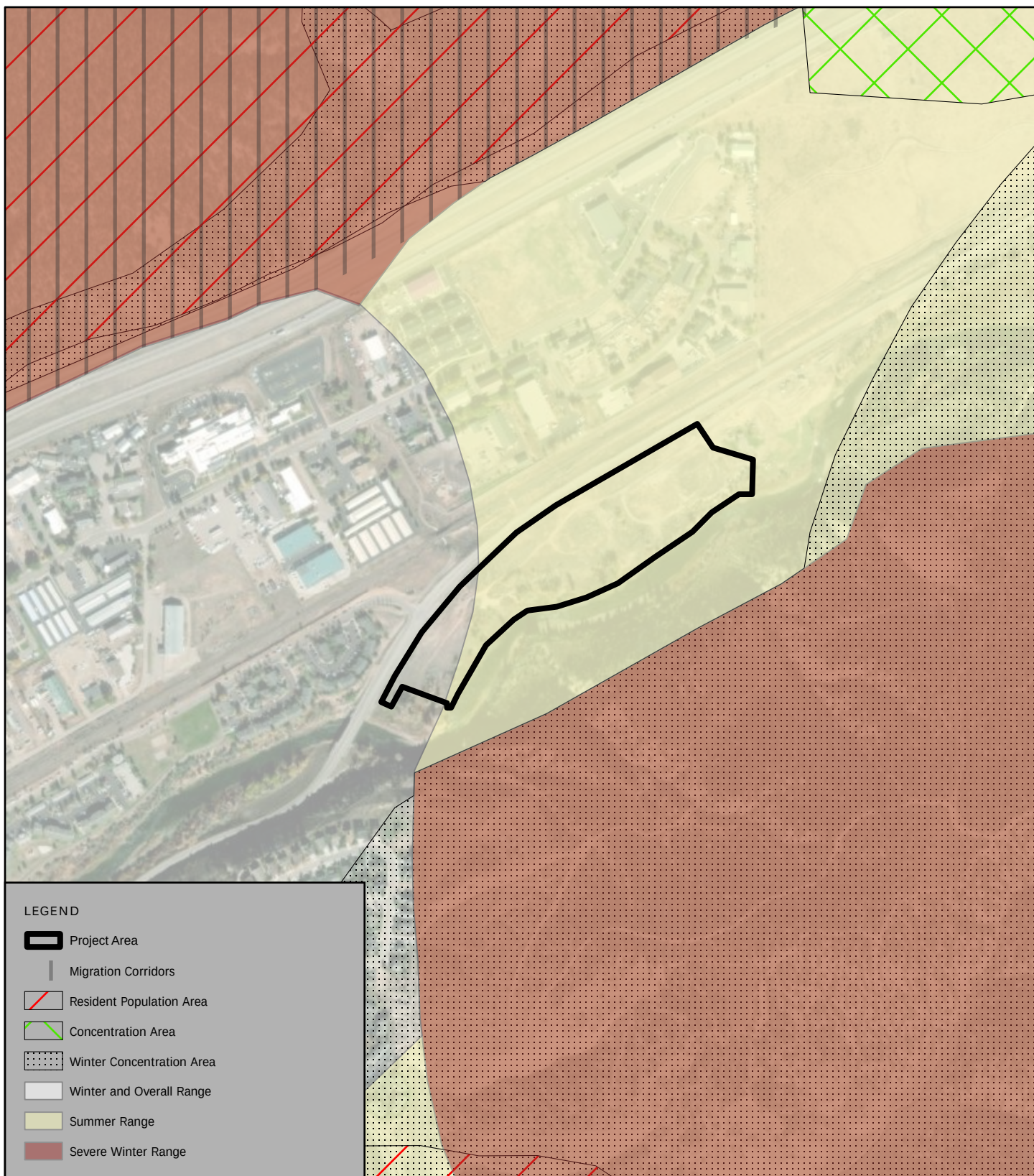
CPW SPECIES ACTIVITY MAPPING

MOUNTAIN LION

RED MOUNTAIN RANCH EAGLE COUNTY, COLORADO



0 500 1,000 Feet



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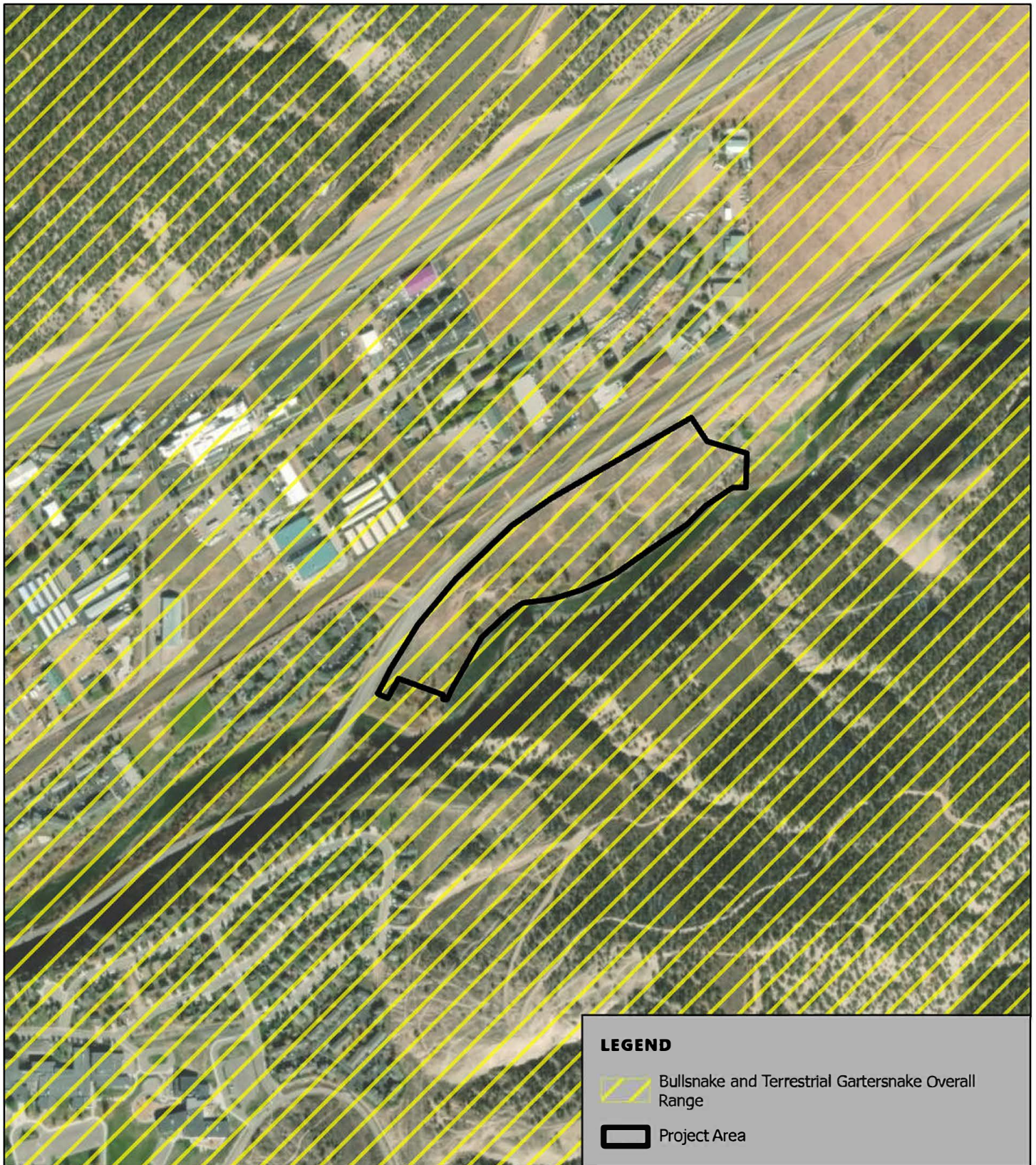
CPW SPECIES ACTIVITY MAPPING

MULE DEER

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**

E

0 500 1,000 Feet



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CPW SPECIES ACTIVITY MAPPING

REPTILES

RED MOUNTAIN RANCH EAGLE COUNTY, COLORADO



0 500 1,000 Feet



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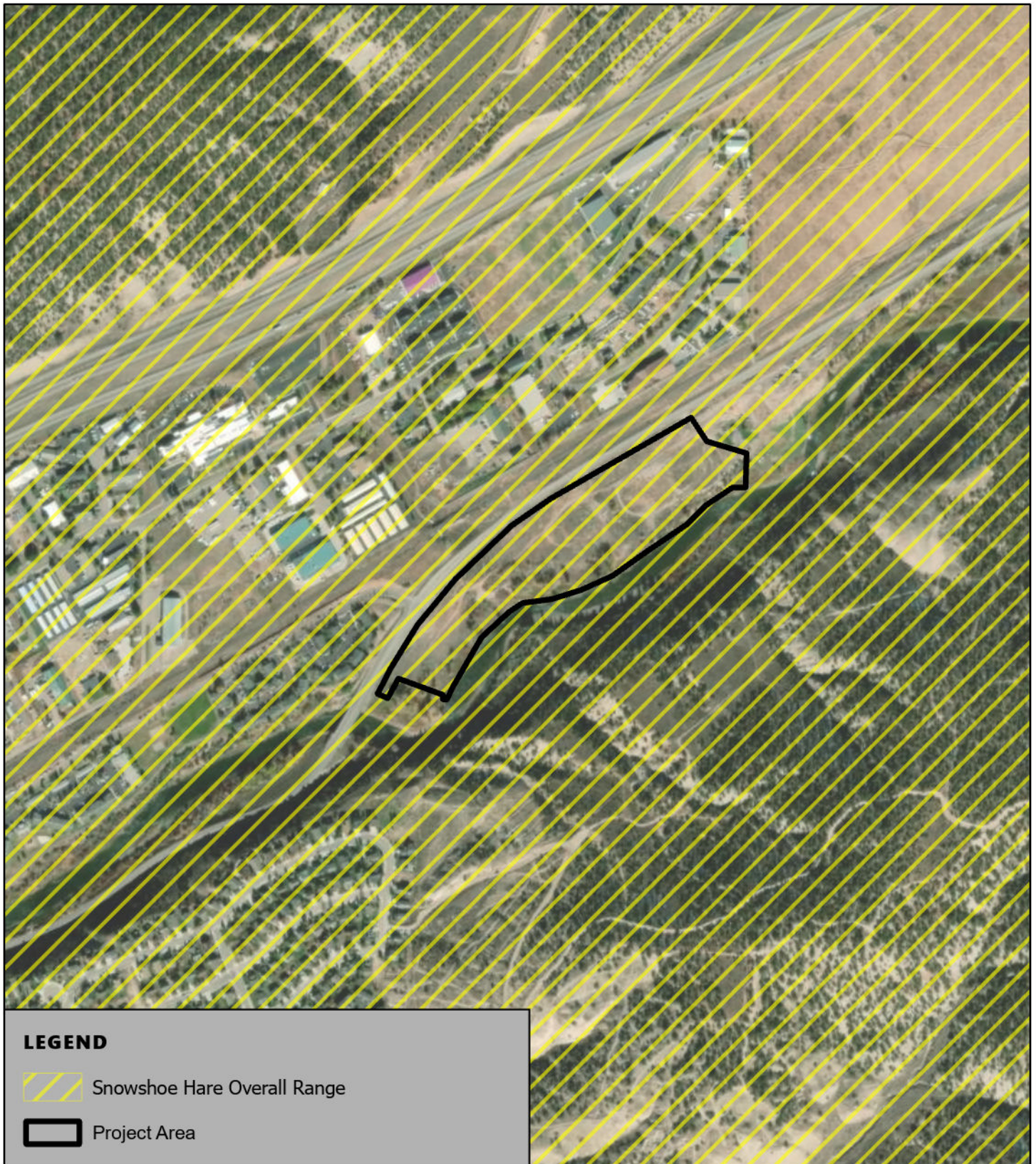
CPW SPECIES ACTIVITY MAPPING

RIVER OTTER

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 500 1,000
Feet



LEGEND

 Snowshoe Hare Overall Range

 Project Area

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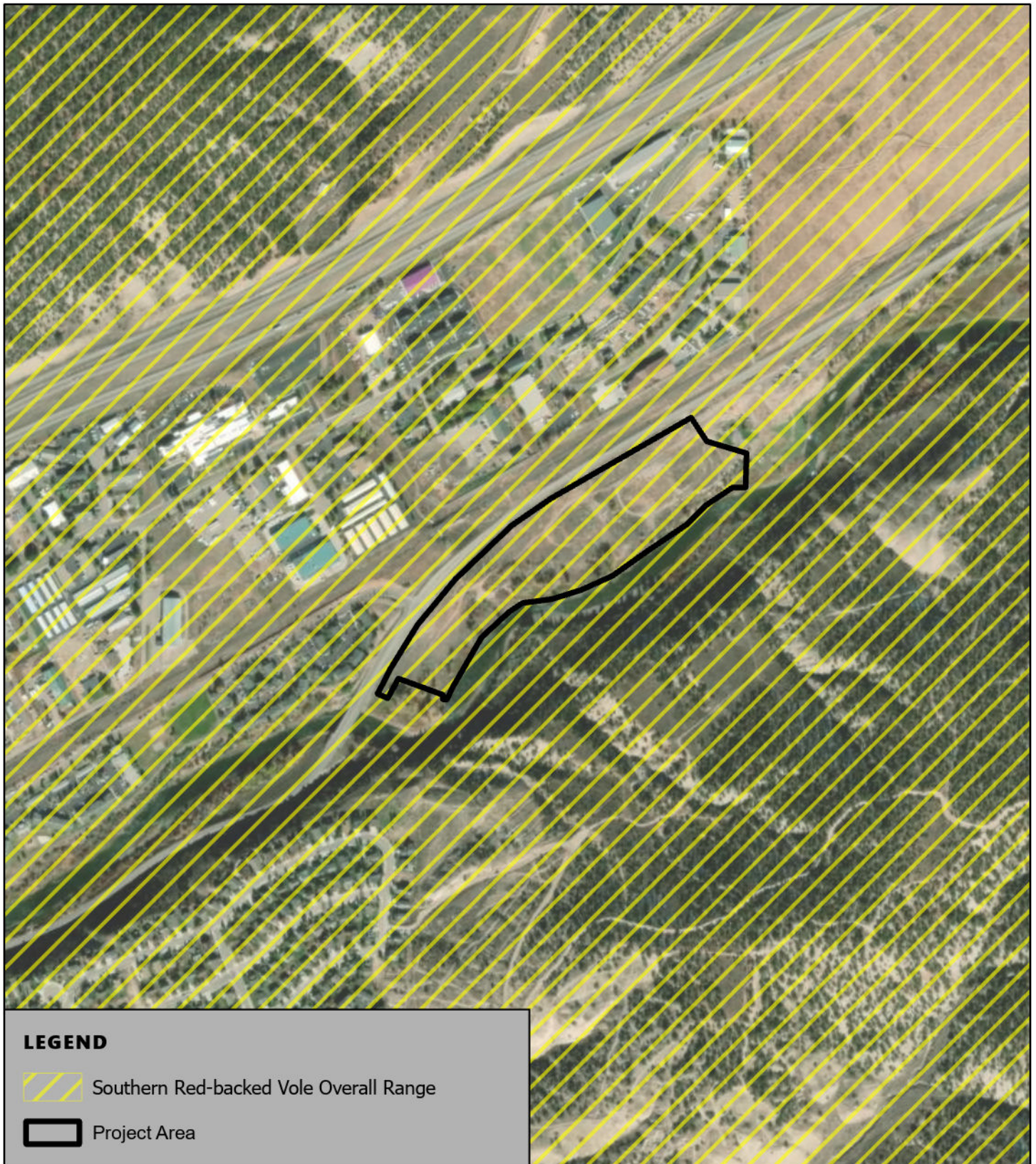
CPW SPECIES ACTIVITY MAPPING

SNOWSHOE HARE

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 500 1,000 Feet



LEGEND

 Southern Red-backed Vole Overall Range

 Project Area

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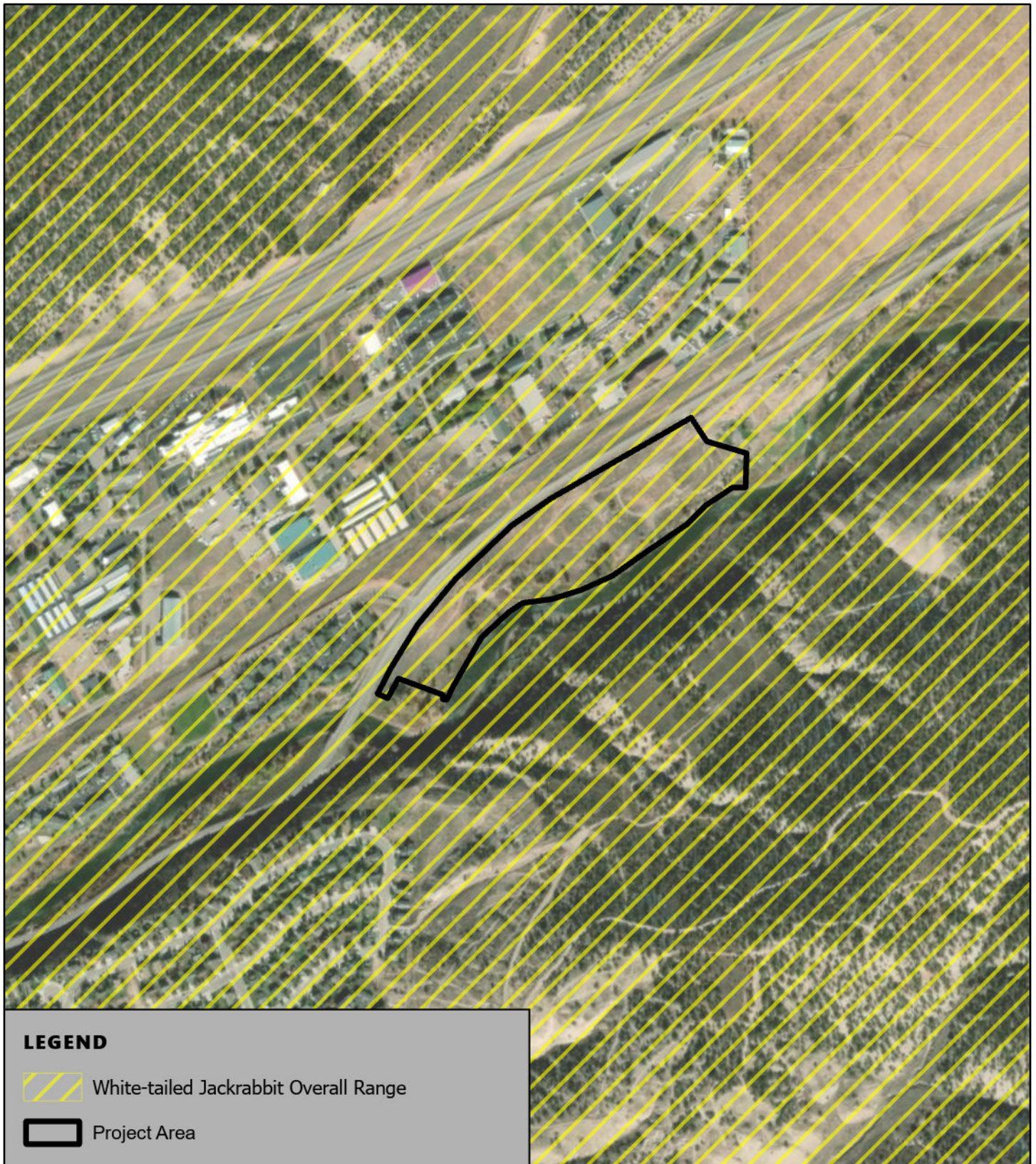
CPW SPECIES ACTIVITY MAPPING

SOUTHERN RED-BACKED VOLE

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 500 1,000 Feet



Prepared By:



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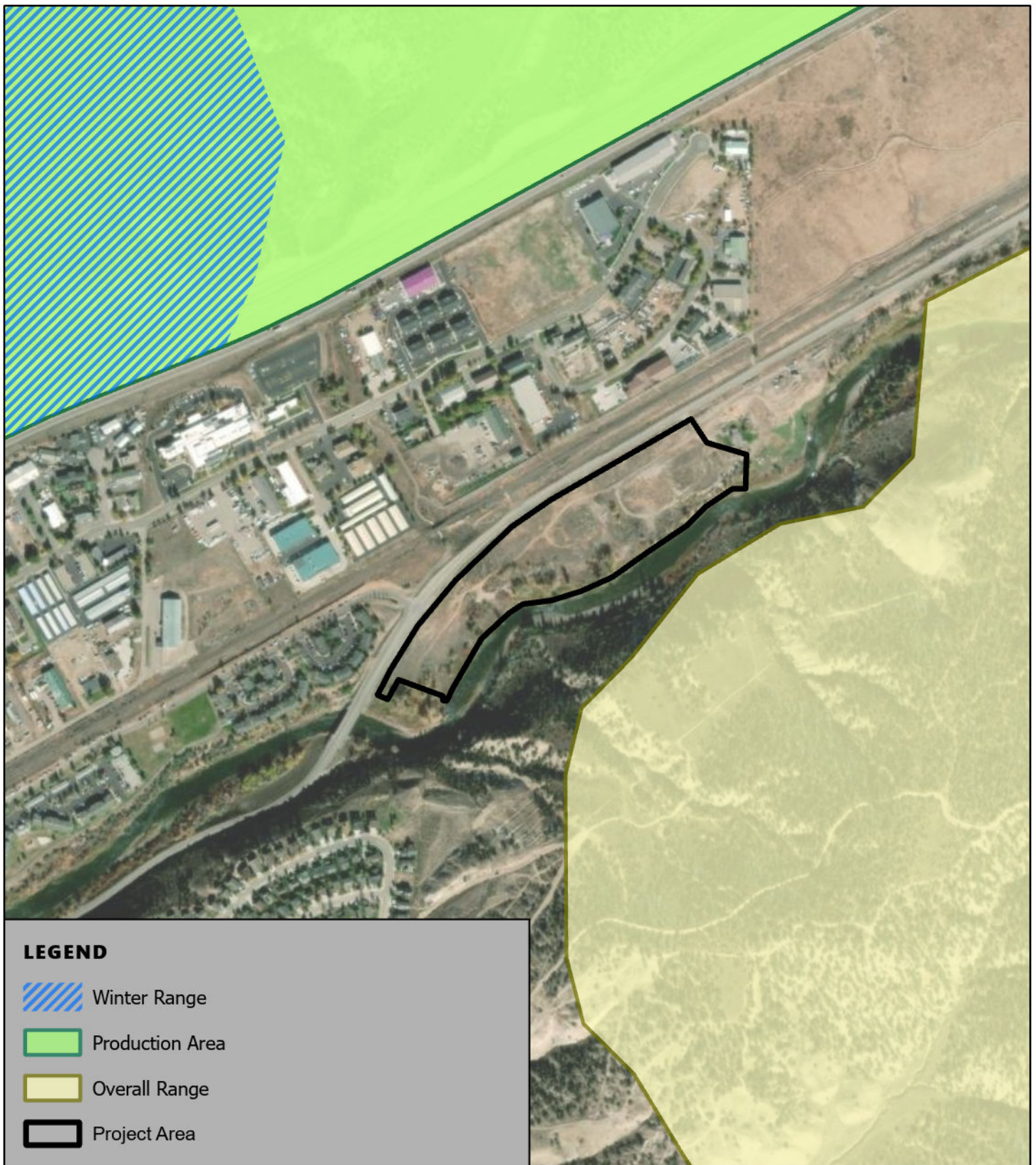
CPW SPECIES ACTIVITY MAPPING

WHITE-TAILED JACKRABBIT

**RED MOUNTAIN RANCH
EAGLE COUNTY, COLORADO**



0 500 1,000 Feet



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CPW SPECIES ACTIVITY MAPPING

WILD TURKEY

RED MOUNTAIN RANCH EAGLE COUNTY, COLORADO



0 500 1,000 Feet



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CPW HIGH PRIORITY HABITAT (HPH)

RED MOUNTAIN RANCH EAGLE COUNTY, COLORADO



0 500 1,000 Feet

Appendix C

USFWS IPaC Species List



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Western Colorado Ecological Services Field Office
445 West Gunnison Avenue, Suite 240
Grand Junction, CO 81501-5711
Phone: (970) 628-7180 Fax: (970) 245-6933



In Reply Refer To:
Project Code: 2025-0142943
Project Name: Red Mountain Ranch

08/29/2025 17:57:57 UTC

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat ([Colorado Ecological Services Field Office](#)). Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the [IPaC](#) website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The purpose of the ESA is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the ESA and its implementing regulations ([50 CFR 402 et seq.](#)), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR

402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at: <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf>.

Projects and activities without a Federal nexus (e.g., without Federal funding, permit, or authorization) should be evaluated for the potential to "take" listed wildlife. Take does not apply to listed plants and to designated critical habitat. The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct ([ESA Section 3, Definitions](#)). Harm in the definition of "take" in the ESA means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering ([50 CFR 17.3](#)).

Gray Wolf: On November 8, 2023, the Service promulgated an ESA section 10(j) (i.e., experimental population) rule (10(j) rule) for gray wolf (*Canis lupus*) within the State of Colorado ([88 FR 77014](#)). For purposes of ESA section 7 consultation, we treat experimental populations as if they are proposed for listing, except on National Park Service and Service lands, where they are treated as threatened. Evaluations for proposed species are completed under the regulations for conferencing ([50 CFR 402.10](#)). Conferencing for species that are proposed for Federal listing, or for proposed critical habitat, is only required if a proposed action is likely to jeopardize the continued existence of a species or will result in destruction or adverse modification of proposed critical habitat. If an action agency determines that their action would not jeopardize the continued existence of the species, and/or would not result in the destruction or adverse modification of critical habitat, and the Service concurs, the conferencing requirement is fulfilled.

Colorado River Fish/Depletions: Formal interagency consultation under section 7 of the ESA is required for projects that may lead to depletions of water from any system that is a tributary to the Colorado River. Federal agency actions resulting in water depletions to the Colorado River system may affect the endangered bonytail (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus lucius*), razorback sucker (*Xyrauchen texanus*), and the threatened humpback chub (*Gila cypha*), and their designated critical habitats.

Water depletions include evaporative losses and consumptive use of surface or groundwater within the affected basin, often characterized as diversion minus return flows. Project elements that could be associated with depletions include, but are not limited to: ponds, lakes, and reservoirs (e.g., detention, recreation, irrigation, storage, stock watering, municipal storage, and power generation); drilling, hydraulic fracturing and completion of oil and gas wells; hydrostatic testing of pipelines; water wells; dust abatement; diversion structures; and water treatment facilities. Any actions that may result in water depletions should be identified. An analysis of the water depletion should include: an estimate of the amount and timing of the average annual water use (both historic and new uses) and methods of arriving at such estimates; location of water use or where diversion occurs, as specifically as possible; if and when the water will be returned to the system; and the intended use of the water. Depending on Project details, the Service may have more specific questions regarding the potential consumptive use of the water.

The Service, in accordance with the Upper Colorado River Endangered Fish Recovery Program (<https://coloradoriverrecovery.org/uc/>), adopted a [de minimis policy](#), which states that water-related activities in the Upper Colorado River Basin that result in less than 10 acre-foot per year of depletions in flow have no effect on the Colorado River endangered fish species and their critical habitat, and thus do not require consultation for potential effects on those species and critical habitat. While no section 7 consultation is needed, the Service requests Federal agencies notify the Upper Colorado Fishes Coordinator of depletions between 0.1 and 10 acre-feet per year with the approximate location of the project (e.g., reference to the most proximate surface water or tributary), the water use (e.g., agricultural, oil and gas, energy), and the timing of and depletion

amount. Detention basins designed to detain runoff for less than 72 hours, and temporary withdrawals of water outside of critical habitat (e.g., for hydrostatic pipeline testing) that return all the water to the same drainage basin within 30 days, are considered to have no effect and do not require consultation.

Suckley's Cuckoo Bumble Bee: On December 17, 2024, Suckley's cuckoo bumble bee (*Bombus suckleyi*) (Suckley's) was proposed for listing as an endangered species (89 FR 102074). Suckley's is an obligate social parasite of social bumble bees in the genus *Bombus*. Suckley's cannot successfully reproduce without the availability of suitable host colonies. It is a semi-specialist parasite and confirmed to usurp nests of Western bumble bee (*Bombus occidentalis*) and Nevada bumble bees (*Bombus nevadensis*) (Service 2024).

Based on the best available information, no Suckley's have been observed in Colorado since 2014 despite ongoing surveys. The Species Status Assessment (SSA) shows observations since 2018 occur only in northern latitudes, primarily in Canada ([Service 2024](#)), but the species may persist in high quality upper elevation habitats in western States. While Suckley's is proposed for listing, there is no prohibition of "take" under Section 9 of the ESA; therefore, projects without a federal nexus, do not need to engage with the Service to exempt take under the ESA. However, we encourage including conservation measures benefiting pollinators and pollinator habitat into projects. Examples include retaining suitable foraging (diversity and abundance of native floral resources), nesting (suitable host colony above or below ground), and overwintering habitat (loose substrates such as leaf litter, duff, rotting logs); maintaining habitat for host bumble bees by avoiding impacts to abandoned underground holes (rodent burrows); and revegetation efforts that include native seed mixes to promote an abundance and diversity of native floral resources. Additionally, we recommend supporting and conducting general bumble bee and pollinator surveys.

While the species is not currently known to occur in Colorado, we encourage proactive conservation actions to protect and conserve pollinators and pollinator habitat. Examples include retaining suitable foraging (diversity and abundance of native floral resources), nesting (suitable host colony above or below ground), and overwintering habitat (loose substrates such as leaf litter, duff, rotting logs); maintaining habitat for host bumble bees by avoiding impacts to abandoned underground holes (rodent burrows); and revegetation efforts that include native seed mixes to promote an abundance and diversity of native floral resources. Additionally, we recommend supporting and conducting general bumble bee and pollinator surveys.

Migratory Birds: In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts, see <https://www.fws.gov/program/migratory-bird-permit/what-we-do>.

It is the responsibility of the project proponent to comply with these Acts by identifying potential impacts to migratory birds and eagles within applicable NEPA documents (when there is a federal nexus) or a Bird/Eagle Conservation Plan (when there is no federal nexus). Proponents should implement conservation measures to avoid or minimize the production of project-related stressors or minimize the exposure of birds and their resources to the project-related stressors. For more information on avian stressors and recommended conservation measures, see <https://www.fws.gov/library/collections/threats-birds>.

In addition to MBTA and BGEPA, Executive Order 13186: *Responsibilities of Federal Agencies to Protect Migratory Birds*, obligates all Federal agencies that engage in or authorize activities that might affect migratory birds, to minimize those effects and encourage conservation measures that will improve bird populations. Executive Order 13186 provides for the protection of both migratory birds and migratory bird habitat. For information regarding the implementation of Executive Order 13186, please visit <https://www.fws.gov/partner/council-conservation-migratory-birds>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Code in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Bald & Golden Eagles
- Migratory Birds
- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Western Colorado Ecological Services Field Office
445 West Gunnison Avenue, Suite 240
Grand Junction, CO 81501-5711
(970) 628-7180

PROJECT SUMMARY

Project Code: 2025-0142943
Project Name: Red Mountain Ranch
Project Type: Residential Construction
Project Description: Residential Construction
Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@39.662375100000006,-106.81213157900777,14z>



Counties: Eagle County, Colorado

ENDANGERED SPECIES ACT SPECIES

There is a total of 11 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 4 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Canada Lynx <i>Lynx canadensis</i> Population: Wherever Found in Contiguous U.S. There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3652	Threatened
Gray Wolf <i>Canis lupus</i> Population: CO No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4488	Experimental Population, Non- Essential

BIRDS

NAME	STATUS
Mexican Spotted Owl <i>Strix occidentalis lucida</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8196	Threatened
Yellow-billed Cuckoo <i>Coccyzus americanus</i> Population: Western U.S. DPS There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3911	Threatened

FISHES

NAME	STATUS
Bonytail <i>Gila elegans</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions: Water depletions in the upper Colorado River basin adversely affect this species and its critical habitat. Effects of water depletions must be considered even outside of occupied range. Species profile: https://ecos.fws.gov/ecp/species/1377 General project design guidelines: https://ipac.ecosphere.fws.gov/project/76MLO5ESVBHSNDXVZBL3NCIGEQ/documents/generated/10417.pdf	Endangered
Colorado Pikeminnow <i>Ptychocheilus lucius</i> Population: Wherever found, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions: Water depletions in the upper Colorado River basin adversely affect this species and its critical habitat. Effects of water depletions must be considered even outside of occupied range. Species profile: https://ecos.fws.gov/ecp/species/3531 General project design guidelines: https://ipac.ecosphere.fws.gov/project/76MLO5ESVBHSNDXVZBL3NCIGEQ/documents/generated/10418.pdf	Endangered

NAME	STATUS
Humpback Chub <i>Gila cypha</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions: Water depletions in the upper Colorado River basin adversely affect this species and its critical habitat. Effects of water depletions must be considered even outside of occupied range. Species profile: https://ecos.fws.gov/ecp/species/3930 General project design guidelines: https://ipac.ecosphere.fws.gov/project/76MLO5ESVBHSNDXVZBL3NCIGEQ/documents/generated/10419.pdf	Threatened
Razorback Sucker <i>Xyrauchen texanus</i> There is final critical habitat for this species. Your location does not overlap the critical habitat. This species only needs to be considered under the following conditions: Water depletions in the upper Colorado River basin adversely affect this species and its critical habitat. Effects of water depletions must be considered even outside of occupied range. Species profile: https://ecos.fws.gov/ecp/species/530 General project design guidelines: https://ipac.ecosphere.fws.gov/project/76MLO5ESVBHSNDXVZBL3NCIGEQ/documents/generated/10420.pdf	Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> There is proposed critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/9743	Proposed Threatened
Suckley's Cuckoo Bumble Bee <i>Bombus suckleyi</i> Population: No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/10885	Proposed Endangered

FLOWERING PLANTS

NAME	STATUS
Ute Ladies'-tresses <i>Spiranthes diluvialis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2159 General project design guidelines: https://ipac.ecosphere.fws.gov/project/76MLO5ESVBHSNDXVZBL3NCIGEQ/documents/generated/10383.pdf	Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

BALD & GOLDEN EAGLES

Bald and Golden Eagles are protected under the Bald and Golden Eagle Protection Act ² and the Migratory Bird Treaty Act (MBTA) ¹. Any person or organization who plans or conducts activities that may result in impacts to Bald or Golden Eagles, or their habitats, should follow appropriate regulations and consider implementing appropriate avoidance and minimization measures, as described in the various links on this page.

-
1. The [Bald and Golden Eagle Protection Act](#) of 1940.
 2. The [Migratory Birds Treaty Act](#) of 1918.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

There are Bald Eagles and/or Golden Eagles in your [project](#) area.

Measures for Proactively Minimizing Eagle Impacts

For information on how to best avoid and minimize disturbance to nesting bald eagles, please review the [National Bald Eagle Management Guidelines](#). You may employ the timing and activity-specific distance recommendations in this document when designing your project/activity to avoid and minimize eagle impacts. For bald eagle information specific to Alaska, please refer to [Bald Eagle Nesting and Sensitivity to Human Activity](#).

The FWS does not currently have guidelines for avoiding and minimizing disturbance to nesting Golden Eagles. For site-specific recommendations regarding nesting Golden Eagles, please consult with the appropriate Regional [Migratory Bird Office](#) or [Ecological Services Field Office](#).

If disturbance or take of eagles cannot be avoided, an [incidental take permit](#) may be available to authorize any take that results from, but is not the purpose of, an otherwise lawful activity. For assistance making this determination for Bald Eagles, visit the [Do I Need A Permit Tool](#). For assistance making this determination for golden eagles, please consult with the appropriate Regional [Migratory Bird Office](#) or [Ecological Services Field Office](#).

Ensure Your Eagle List is Accurate and Complete

If your project area is in a poorly surveyed area in IPaC, your list may not be complete and you may need to rely on other resources to determine what species may be present (e.g. your local FWS field office, state surveys, your own surveys). Please review the [Supplemental Information on Migratory Birds and Eagles](#), to help you properly interpret the report for your specified location, including determining if there is sufficient data to ensure your list is accurate.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to bald or golden eagles on your list, see the "Probability of Presence Summary" below to see when these bald or golden eagles are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Dec 1 to Aug 31
Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1680	Breeds Dec 1 to Aug 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read ["Supplemental Information on Migratory Birds and Eagles"](#), specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

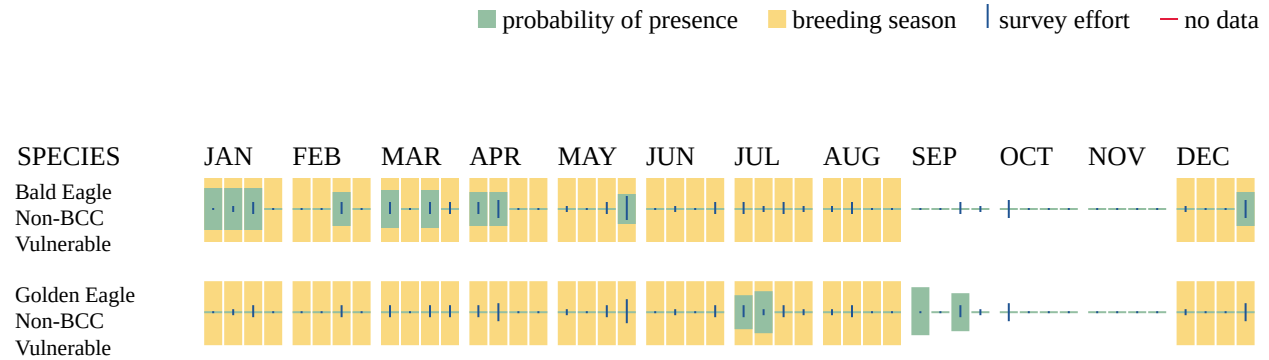
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

A week is marked as having no data if there were no survey events for that week.



Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide avoidance and minimization measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

MIGRATORY BIRDS

The Migratory Bird Treaty Act (MBTA) ¹ prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service (Service).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, see the "Probability of Presence Summary" below to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Dec 1 to Aug 31
Broad-tailed Hummingbird <i>Selasphorus platycercus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/11935	Breeds May 25 to Aug 21
Brown-capped Rosy-finch <i>Leucosticte australis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9461	Breeds Jun 15 to Sep 15
Cassin's Finch <i>Haemorhous cassinii</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9462	Breeds May 15 to Jul 15
Clark's Nutcracker <i>Nucifraga columbiana</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/9421	Breeds Jan 15 to Jul 15
Evening Grosbeak <i>Coccothraustes vespertinus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9465	Breeds May 15 to Aug 10
Golden Eagle <i>Aquila chrysaetos</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1680	Breeds Dec 1 to Aug 31
Lewis's Woodpecker <i>Melanerpes lewis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9408	Breeds Apr 20 to Sep 30
Long-eared Owl <i>asio otus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/3631	Breeds Mar 1 to Jul 15
Olive-sided Flycatcher <i>Contopus cooperi</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/3914	Breeds May 20 to Aug 31

NAME	BREEDING SEASON
Pinyon Jay <i>Gymnorhinus cyanocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9420	Breeds Feb 15 to Jul 15
Virginia's Warbler <i>Leiothlypis virginiae</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9441	Breeds May 1 to Jul 31

PROBABILITY OF PRESENCE SUMMARY

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read "[Supplemental Information on Migratory Birds and Eagles](#)", specifically the FAQ section titled "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Green bars; the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during that week of the year.

Breeding Season (■)

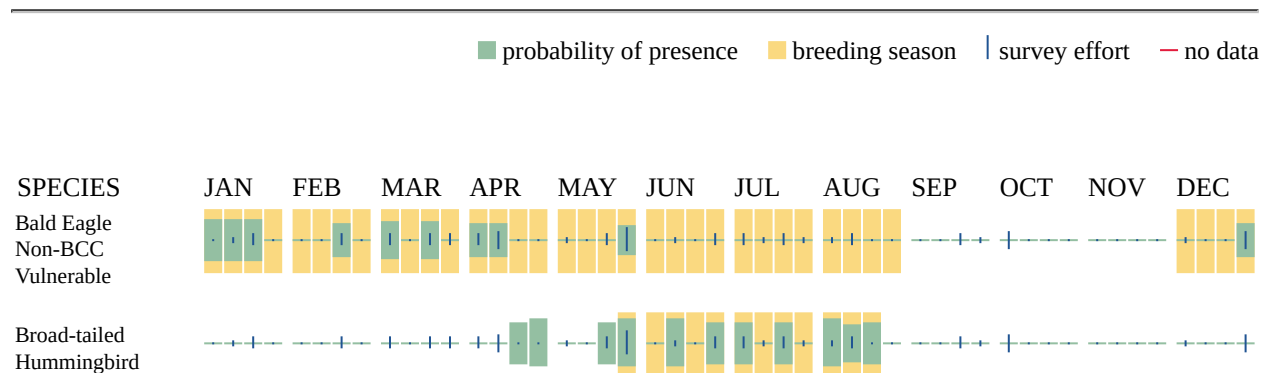
Yellow bars; liberal estimate of the timeframe inside which the bird breeds across its entire range.

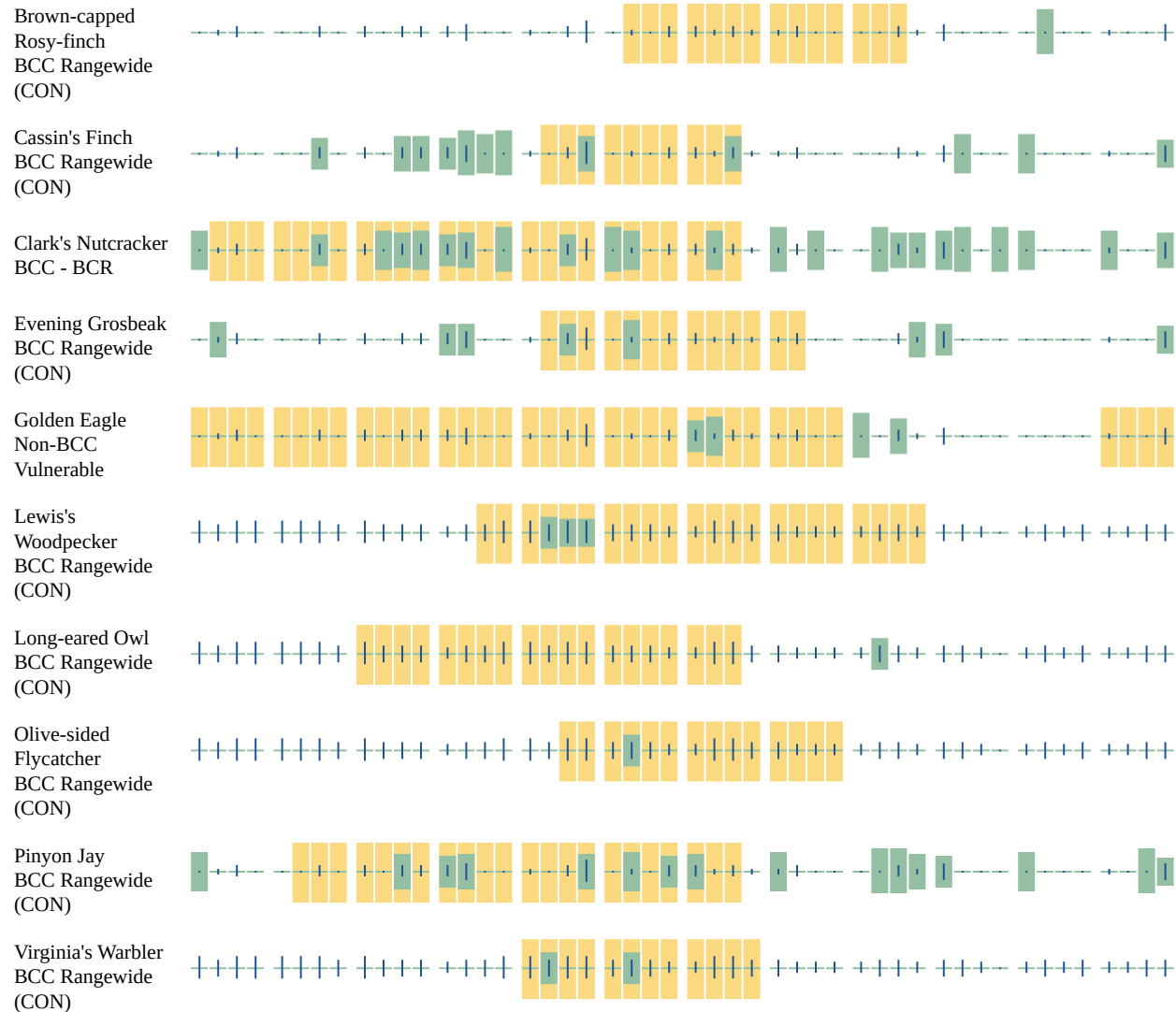
Survey Effort (|)

Vertical black lines; the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps.

No Data (—)

A week is marked as having no data if there were no survey events for that week.



BCC Rangewide
(CON)

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incidental-take-migratory-birds>
- Nationwide avoidance and minimization measures for birds
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

FRESHWATER EMERGENT WETLAND

- PEM1A

RIVERINE

- R4SBA
- R3UBH

IPAC USER CONTACT INFORMATION

Agency: Private Entity
Name: Morgan Colacone
Address: 2820 Wilderness Place
City: Boulder
State: CO
Zip: 80301
Email: mcolacone@erccolorado.net
Phone: 3036794820

Appendix D

USFWS Eagle Disturbance General Take Permit



General Eagle Permit - Disturbance Take - Commercial

Permit Number: PER23023565

Version Number: 0

Effective: 2025-09-01 **Expires:** 2026-08-31

Issuing Office:

Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

5275 Leesburg Pike

Falls Church, Virginia 22041-3803

eaglegeneralpermits@fws.gov

Eric L. Kershner

Chief, Division of Bird Conservation, Permits, and
Regulations

Migratory Bird Program, U.S. Fish and Wildlife

Permittee:

Rodrigo Cortina

701 West Lionshead Circle

Vail, Colorado 81657

970-331-3736

Subpermittees:

Stephen Stone

Name and Title of Principal Officer:

Rodrigo Cortina

Primary Contact Information:

Rodrigo Cortina, 970-331-3736

Authority: Statutes and Regulations: 16 U.S.C. 668-668(d), 16 U.S.C 703-712 50 CFR Part 13, 50 CFR 22.280



General Eagle Permit - Disturbance Take - Commercial

Permit Number: PER23023565

Version Number: 0

Effective: 2025-09-01 **Expires:** 2026-08-31

Location where authorized activity may be conducted:

Location: Eagle County/ Town of Eagle/ Colorado

Latitude, Longitude: 39.662498, -106.812125

Eagle Nest Location Coordinates: 39.662194, -106.811674



General Permit Requirements and Conditions:

General Permit Conditions – Bald Eagle Disturbance

Definitions (as defined in 50 CFR 22.6):

Alternate Nest means one of potentially several nests within a nesting territory that is not an in-use nest at the current time. When there is no in-use nest, all nests in the territory are alternate nests.

Disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

Eagle nest means any assemblage of materials built, maintained, or used by bald eagles or golden eagles for the purpose of reproduction. An eagle nest remains an eagle nest until it becomes so diminished, or the nest substrate upon which it is built fails, that the nest is no longer usable and is not likely to become usable to eagles, as determined by a Federal, Tribal, or State eagle biologist.

In-use nest means a bald eagle or golden eagle nest that contains one or more viable eggs or dependent young, or, for golden eagles only, has had adult eagles on the nest within the past 10 days during the breeding season.

Incidental take means take that is foreseeable and results from, but is not the purpose of, an activity.

Nesting territory means the area that contains one or more eagle nests within the home range of a mated pair of eagles, regardless of whether such nests were built by the current resident pair.

Practicable means available and capable of being done after taking into consideration existing technology, logistics, and cost in light of a mitigation measure's beneficial value to eagles and the activity's overall purpose, scope, and scale.

Definitions for the purposes of these permit conditions:

Breeding season refers to the period of time where eagles are breeding, or are preparing to breed. Actual breeding season dates can vary slightly between breeding pairs and from year to year. For bald eagles, the Service uses the date ranges listed by state in Table 1 (located at the end of this permit).

Occupied nest means an in-use bald eagle nest or an alternate bald eagle nest that has had attending adults within the past 10 days during the first 3 months of the breeding season.



General Eagle Permit - Disturbance Take - Commercial

Permit Number: PER23023565

Version Number: 0

Effective: 2025-09-01 **Expires:** 2026-08-31

General Permit Requirements and Conditions:

A. Authorization.

You are authorized to disturb bald eagles at the nest location listed above under “Location”; where authorized activity may be conducted.

(1) Disturbance is authorized provided there is no practicable alternative to avoiding or minimizing it. The authorization applies only to disturbance take resulting from activities and infrastructure described in your general permit application and conducted in accordance with the terms of this permit.

(2) Disturbance is authorized for activities associated with building construction and maintenance, linear infrastructure construction and maintenance, alteration of shorelines and water bodies, alteration of vegetation (including timber management), prescribed burn operations, motorized recreational activities, nonmotorized recreational activities, aircraft operation, and loud intermittent noises (including blasting). You must remain in compliance only with the permit conditions in C(1) and the conditions associated with your activity type(s) you are conducting.

B. Prohibited. This permit does not authorize:

(1) Take of eagle nests, including by substantively modifying nesting substrate sufficient to render the substrate unsuitable for eagle nesting, except as authorized in C(8) for prescribed burn operations.

(2) Disturbance of golden eagles.

(3) Incidental or intentional take that results in injury or death of eagles.

(4) Possession of eagles, nestlings, or eggs.

(5) Permanent take of any eagle territory. Your activities must not eliminate the potential for future nesting activity within any eagle territory.

C. Avoidance and Minimization. You must implement the avoidance and minimization measures set forth below for the activity type(s) you are conducting under this permit. Breeding season dates are listed in Table 1 below.

(1) *All Activities:*

(a) You must review the Service’s National Bald Eagle Management Guidelines (BEMG) (available at [National Bald Eagle Management Guidelines pdf](#)) and conduct your activity consistent with these guidelines. You must document in writing any applicable BEMG recommendations you do not implement with a justification as to why the measure is not practicable.



General Eagle Permit - Disturbance Take - Commercial

Permit Number: PER23023565

Version Number: 0

Effective: 2025-09-01 **Expires:** 2026-08-31

General Permit Requirements and Conditions:

(b) In many areas bald eagles have demonstrated tolerance to human activity. If bald eagles have demonstrated tolerance to your activity or similar activities within the same distance to the nest, you may opt to not implement all of the conditions in Condition C. You must document in writing any applicable conditions you do not implement with a justification as to how you determined the condition is not warranted.

(c) You must avoid activities that may affect the survivability of the nest tree or other natural nesting substrate. The nest location must be identified on plans and communicated to contractors or other third parties doing work at your site. You must preserve the root integrity of the nest tree by avoiding heavy equipment operation, soil compaction, or ground disturbance greater than 12 inches deep within the nest tree's dripline or 50 feet, whichever is greater.

(d) To the maximum degree practicable, avoid conducting activities that may disturb eagles during severe weather such as heavy rain, severe thunderstorms, high winds, or extreme temperatures (high or low) to ensure adult eagles can provide necessary warmth and shelter for eggs and nestlings while they are vulnerable to such weather events.

(2) *Construction of Buildings and Infrastructure* .

Exterior construction includes exterior building construction as well as related activities. No measures are required for unoccupied nests. For nests that are occupied or status is unknown, you must, to the extent practicable:

(a) Initiate exterior construction and related activities within 330 feet of the nest outside the breeding season.

(b) Initiate exterior construction within 660 feet of the nest as late in the breeding season as possible to avoid the time of year when eagles are most susceptible to disturbance. To the extent practicable, avoid conducting exterior construction within 660 feet of the nest during the first three months of the breeding season.

(c) Initiate exterior construction at the furthest possible distance from the nest to allow the eagles the opportunity to adjust to your activities. Work toward the nest such that any activity to be conducted nearest to the nest occurs last.

(d) Avoid exterior construction within 660 feet of the nest before and for two hours after sunrise and also for two hours before and after sunset to allow eagles time each day to care for nestlings.

(e) Minimize noise and visibility of exterior construction for activities that will occur within 660 feet



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of the nest. For example, create barriers using available natural and artificial barriers such as screening vegetation, topography, or vertical structures.

(f) Minimize infrastructure or other project component inspection activities within 330 feet of the nest.

(g) For inspections within 330 feet of the nest,

(i) Inform all individuals of the nest's location, including scheduled and unscheduled inspectors;

(ii) Conduct all inspection activities from closed cab vehicles whenever practicable;

(iii) Inform inspectors to limit their time within 330 feet of the nest, including limiting unnecessary noise and visual disturbance; and

(iv) Avoid approaching the nest directly on foot.

(3) *Maintenance of Buildings and Infrastructure* .

Conditions (a)-(b) are required for all nests, regardless of status. For nests that are occupied or status is unknown, conditions (c)-(i) are also required, unless eagles have demonstrated tolerance to maintenance activities. To the maximum extent practicable, conduct vegetation alteration outside of the breeding season. You must also, to the extent practicable:

(a) Follow state and federal guidelines, laws, and labels and instructions at all times if using pesticides, herbicides, or other chemicals during facility maintenance. To the maximum degree practicable, avoid the use of anticoagulant rodenticides. Anticoagulant rodenticides are a leading cause of eagle death. This permit does not authorize the killing or injury of eagles resulting from chemical or pesticide exposure.

(b) Avoid material and equipment storage within 330 feet of the nest. Do not store or stage materials and equipment within the dripline of the nest tree, or 50 feet, whichever is greater.

(c) Minimize material and equipment storage and staging within 660 feet of the nest tree. If you must use areas within 600 feet of the nest for staging during the breeding season, reduce the visibility of material or equipment by creating natural or artificial barriers using screening vegetation, topography, or vertical structures.

(d) If maintenance, restoration, and landscaping activities are visible from the nest, avoid these activities within 660 feet of the nest before and for two hours after sunrise and for two hours before and



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after sunset.

(e) When conducting maintenance, restoration, and landscaping activities within 660 feet of the nest, begin as late in the breeding season as possible. To the maximum degree practicable, avoid conducting such activities within 660 feet of the nest during the first three months of the breeding season.

(f) Initiate and conduct maintenance, restoration, and landscaping activities at the furthest possible distance from the nest and work toward the nest such that any activity to be conducted nearest the nest occurs last.

(g) Minimize the use of open cab equipment when conducting activities within 330 feet of an eagle nest.

(h) Avoid the use of heavy equipment or loud machinery within 330 feet of an eagle nest.

(i) Avoid the use of netting adjacent to any water features to reduce risk of eagle entanglement.

(4) Alteration of shorelines and water bodies .

Conditions (a)-(d) are required for all nests, regardless of status. For nests that are occupied or status is unknown, conditions (e)-(f) are also required. To the maximum extent practicable, conduct alteration outside of the breeding season.

(a) Avoid draining or drawing down any existing waterbodies within 660 feet of an eagle nest at a rate faster than normal water usage or evaporation.

(b) When altering shoreline or waterbody boundaries or conducting any associated geotechnical work within 660 feet of an eagle nest, you must:

(i) Avoid work within 660 feet of the nest before and for two hours after sunrise also for two hours before and after sunset.

(ii) Initiate work within 660 feet of the nest as late in the breeding season as possible. Avoid conducting work within 660 feet of the nest during the first three months of the breeding season.

(iii) Initiate work and related activities within 330 feet of the nest outside the breeding season.

(iv) Initiate work at the furthest possible distance from the nest. Work toward the nest such that any activity to be conducted nearest to the nest occurs last.



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(v) Minimize noise and visibility of exterior construction for activities that will occur within 660 feet of the nest. For example, create barriers using available natural and artificial barriers such as screening vegetation, topography, or vertical structures.

(c) Remove dams and other infrastructure for controlling water outside of the breeding season.

(d) To the maximum degree practicable, construct new dams and infrastructure for controlling water outside of the breeding season. If construction must occur during the breeding season, you must:

(i) Avoid construction within 660 feet of the nest before and for two hours after sunrise and also for two hours before and after sunset.

(ii) Initiate construction within 660 feet of the nest as late in the breeding season as possible. To the extent practicable, avoid conducting construction within 660 feet of the nest during the first three months of the breeding season.

(iii) Initiate construction and related activities within 330 feet of the nest outside the breeding season.

(iv) Initiate construction at the furthest possible distance from the nest. Work toward the nest such that any activity to be conducted nearest to the nest occurs last.

(v) Minimize noise and visibility of construction for activities that will occur within 660 feet of the nest. For example, create barriers using available natural and artificial barriers such as screening vegetation, topography, or vertical structures.

(e) Design and construct new, or modifications to existing, water bodies in a manner that protects the nest tree, including all practicable measures to protect soil and prevent erosion that would destabilize the tree.

(5) *Alteration of Vegetation.*

Conditions (a)-(e) are required for all nests, regardless of status. For nests that are occupied or status is unknown, condition (f) is also required. To the maximum extent practicable, conduct vegetation alteration outside of the breeding season. You must also, to the extent practicable:

(a) Minimize the amount of tree or significant vegetation removal within 660 feet of the nest.

(b) Avoid clearcutting trees within 330 feet of the nest tree at any time.



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(c) Retain the maximum number of mature trees practicable within 660 feet of the nest. Prioritize retaining mature trees within 330 feet of the nest, trees adjacent to foraging areas, and trees with documented use as perch or roost trees.

(d) Take every practical precaution, such as using a professional tree service, to fell trees near the nest tree in such a way that they do not contact the nest tree, especially the crown of the nest tree.

(e) Remove vegetation for chipping, burning, or other disposal methods that may cause disturbance at least 660 feet from the nest.

(f) If conducting timber operations or forestry, avoid new construction of log transfer facilities, in-water log storage areas, new road construction, and chain saw or yarding operations within 330 feet of the nest.

(g) For any vegetation removal that must occur during the breeding season within 660 feet of the nest, begin at the furthest possible distance from the nest and work toward the nest such that any removal to be conducted nearest to the nest occurs last.

(6) *Prescribed Burns.*

Conditions (a)-(d) are required for all nests, regardless of status. For nests that are occupied or status is unknown, conditions (e) and (f) are also required. You must, to the extent practicable:

(a) Conduct prescribed burns outside of the breeding season. If prescribed burns are conducted during the breeding season, you must document in writing with a justification as to why (e.g., human safety, federal mandates).

(b) Remove fuels (e.g., leaves, woody debris) near the nest tree to avoid fire climbing the tree. This includes fuels that present a hazard to the nest tree, fuels that are on or close to the bole of the nest tree, and fuels that may loft embers near the nest tree such as palm trees or high shrubs or bushes. To the extent practical, this measure must be performed outside of the breeding season or when the eagle nest is not occupied.

(c) Avoid creating new fire breaks or fire lines within 660 feet of any bald eagle nest at any time of year. Perform maintenance on any pre-existing fire breaks within 660 feet of a bald eagle nest outside of the breeding season or when the eagle nest is not occupied.

(d) Utilize smoke management and ignition techniques that minimize the amount and duration of flame and smoke impacts to the nest (e.g., igniting a backing or flank fire).



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(e) Minimize the presence of and any activities of ground crews within 660 feet of the nest.

(f) Do not conduct a prescribed burn during weather and wind conditions that are likely to expose the nest to fire or smoke.

(g) You are authorized for the incidental take of eagle nests that occurs during a prescribed burn, provided that incidental take occurs after application of all avoidance and minimization measures. This authorization does not include take caused by lack of due diligence or negligence; for example, failure to identify nest locations prior to conducting an activity.

(7) Motorized and Nonmotorized Recreation.

No measures are required for unoccupied nests. For nests that are occupied or status is unknown, you must, to the extent practicable:

(a) Install signs to create a minimum 330 feet nest buffer around the nest. Signs may be temporary or permanent. Signs should inform recreationists that they are entering an important eagle use area, unless you document doing so is likely to increase risk to eagles.

(b) Close trails, roads, or boat launch areas within 660 feet of the nest. You may reduce this buffer if adult eagles have shown tolerance to use, and you document how you have determined eagles are tolerant to use.

(c) If visiting recreationists are likely to engage in eagle watching, either set up an area for recreationists to view the nest from greater than 660 feet or instruct recreationists to remain at least 330 feet from the nest and observe eagles from their vehicles or from behind natural or artificial barriers. If eagles have demonstrated tolerance, viewing can occur at closer distances. You must document how you have determined eagles are tolerant to viewing within 330 feet.

(d) Do not authorize recreational activities such as camping (including campfires), boating, fishing, and hunting within 330 feet of a nest. You may reduce this buffer if adult eagles have shown tolerance to use, and you document how you have determined eagles are tolerant to use.

(8) Aircraft operation.

No measures are required for unoccupied nests. For nests that are occupied or status is unknown, you must, to the extent practicable:

(a) Avoid any helicopter and fixed-wing aircraft flights within 1,000 feet of an eagle nest during the first three months of the breeding season or until the adults are observed in incubating position.



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(b) Avoid helicopter and fixed-wing aircraft flights within 1,000 feet of an eagle nest at a frequency more than once per day.

(c) Minimize the duration that any helicopter and fixed-wing aircraft spends within 1,000 feet of an eagle nest, not to exceed 3 minutes when passing within 1,000 feet of an eagle nest.

(d) This permit does not authorize disturbance with unmanned aircraft systems (i.e., UAS or drones). Any UAS use must be in a manner that does not cause disturbance, as defined in 50 CFR 22.6.

(9) *Blasting and other loud intermittent activity.*

No measures are required for unoccupied nests. For nests that are occupied or status is unknown, you must, to the extent practicable:

(a) Avoid blasting and any activities that produce other loud intermittent noise within one-half-mile of the nest during the breeding season. If occupancy is known, conduct blasting activities only during the period between when eggs are laid (e.g., adults are incubating position) to when nestlings are at least nine weeks old. Nestling age can be determined by size (i.e., approaching adult size) and posture (e.g., erect, starting to stand on edge of nest).

(b) Use all available methods and technology to reduce the noise generated by your activity. These may include but are not limited to blast mats, vibratory pile driving, or constructed sound barriers.

D. Monitoring. You must, to the maximum degree practicable, observed the permitted eagle nest, sufficient to:

(1) Determine nest status (i.e., occupied or unoccupied) during the breeding season (see Table 1), and

(2) If occupied, determine nest fate (i.e., fledged young or failed to fledge young).

Observations must be performed in a manner that does not cause additional disturbance to breeding eagles. For example, observe the nest from beyond 660 feet or from behind screening vegetation or structures.

E. Reporting. You must submit an annual report of nest status and, if occupied, nest fate using Form 3-202-15 (Eagle Incidental Take Annual Report). Your annual report is due within 30 days of the expiration of your permit or prior to requesting renewal of your permit, whichever is first. An annual report is required, even if no eagle activity was observed or no activities were conducted.



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F. Subpermittees. You may designate subpermittees to conduct some or all of your permitted activities. A subpermittee is an individual to whom you have provided written authorization to conduct some or all of the permitted activities in your absence. Authorized subpermittees are any person who is (1) employed by or under contract to you for the activities specified in this permit, or (2) otherwise designated a subpermittee by you in writing. As the permittee, you are legally responsible for ensuring that your subpermittees are adequately trained and adhere to the terms of your permit.

You and any subpermittees must carry a legible paper or electronic copy of this permit and subpermittee designation letter and display it upon request whenever you are exercising its authority. Subpermittees must be at least 18 years of age. You are responsible for maintaining current records of who you have designated as a subpermittee, including copies of any designation letters provided to individuals not named above.

G. Other Conditions.

(1) You must comply with all of the regulations and permit conditions in 50 CFR parts 10, 13, 21, and 22.

(2) You must keep records of all activities conducted under this permit, including any subpermittee activities carried out under the authority of this permit (see 50 CFR § 13.46).

(3) By accepting this permit, you are authorizing the Service to inspect the location and records relating to the activity (see 50 CFR § 13.21(e)). Service or Service contractors may require access to your project site to ensure general permitting is consistent with eagle preservation. The Service will provide reasonable notice for requests to access sites and negotiate with the permittee about practicable and appropriate access conditions to protect human health and safety and address physical, logistical, or legal constraints.

(4) You are responsible for ensuring that the permitted activity complies with all Federal, Tribal, State, and local laws. This permit is not valid if implementing any of its provisions may affect a listed, proposed, or candidate species or designated or proposed critical habitat under the federal Endangered Species Act, nor has the potential to cause effects to cultural resources or historic properties protected by the National Historic Preservation Act.

(5) The Service may amend, suspend, or revoke a permit issued under this subpart if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspension, and revocation of Federal permits set forth in 50 CFR § 13.23,



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13.27, and 13.28. General permits cannot be amended by the permit holder.

(6) Notwithstanding the provisions of 50 CFR § 13.26, you remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit.

(7) The Service will regularly evaluate whether the take of bald eagles authorized under general permits remains compatible with the preservation of eagles. If the Service finds, through the best available information, that the general permit program is not compatible with the preservation of bald eagles and golden eagles, the Service may suspend issuing general permits in all or in part after publishing a notice in the Federal Register. If the Service suspends general permitting, take currently authorized under this general permit remains authorized until expiration unless you are notified otherwise.

Table 1. Bald eagle breeding season dates by state or portions of states.

State	Breeding Season		State	Breeding Season	
	Beginning	Ending		Beginning	Ending
Alabama	1-Oct	30-May	Nebraska	1-Dec	15-Jul
Alaska	1-Mar	31-Aug	Nevada	1-Dec	31-Jul
Arizona	15-Oct	15-Jul	New Hampshire	15-Feb	15-Aug
Arkansas	1-Nov	30-Jun	New Jersey	1-Jan	31-Jul
California	1-Dec	15-Aug	New Mexico	15-Oct	15-Jul
Colorado	1-Dec	31-Jul	New York	1-Jan	31-Aug
Connecticut	1-Jan	31-Jul	North Carolina	1-Nov	30-Jun
Delaware	15-Dec	30-Jun	North Dakota	15-Jan	31-Aug
District of	15-Dec	15-Jul	Ohio	1-Jan	31-Jul



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Columbia					
Florida	1-Oct	30-May	Oklahoma – except panhandle	1-Oct	30-May
Georgia	1-Oct	30-May	Oklahoma – panhandle only	15-Oct	15-Jul
Idaho	1-Jan	15-Aug	Oregon	1-Jan	15-Aug
Illinois	15-Dec	31-Jul	Pennsylvania	1-Jan	31-Jul
Indiana	15-Dec	31-Jul	Rhode Island	1-Jan	31-Jul
Iowa	1-Jan	31-Jul	South Carolina	1-Oct	30-May
Kansas	1-Dec	31-Jul	South Dakota	15-Jan	31-Aug
Kentucky	1-Nov	15-Jul	Tennessee	1-Nov	30-Jun
Louisiana	1-Oct	30-May	Texas – east of 100th meridian	1-Oct	30-May
Maine	1-Feb	30-Aug	Texas – west of 100th meridian	15-Oct	15-Jul
Maryland	15-Dec	30-Jun	Utah	1-Dec	31-Jul
Massachusetts	15-Jan	31-Aug	Vermont	1-Feb	15-Aug
Michigan	15-Jan	15-Aug	Virginia	15-Dec	15-Jul
Minnesota	15-Jan	15-Aug	Washington	1-Jan	15-Aug
Mississippi	1-Oct	30-May	West Virginia	1-Dec	15-Jul
Missouri	15-Dec	15-Jul	Wisconsin	15-Jan	15-Aug



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General Permit Requirements and Conditions:

Montana	15-Jan	31-Aug	Wyoming	1-Jan	15-Aug
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ANNEXATION AND DEVELOPMENT AGREEMENT

THIS ANNEXATION AND DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of the 13 day of October, 2020 (the "Effective Date"), by and between the TOWN OF EAGLE, COLORADO, a Colorado municipal corporation with an address of P.O. Box 609, Eagle, Colorado 81631 (the "Town"); and EAGLE RIVER COMMERCIAL LLC, a Colorado limited liability company ("ERC") with an address of 232 West Meadow Drive, Vail, Colorado 81657, GRIFFIN DEVELOPMENT LLC, a Colorado limited liability company ("Griffin") with an address of P.O. Box 3149, Vail, Colorado 81658, and RED MOUNTAIN RANCH PARTNERSHIP, LLLP, a Colorado limited liability limited partnership ("RMR") with an address of 232 West Meadow Drive, Vail, Colorado 81657 (collectively "Developer") (each a "Party" and collectively the "Parties").

WHEREAS, collectively, Developer owns approximately 106.218 acres of real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Developer desires to annex the Property to the Town and thereafter develop the Property (the "Development"), and on July 10, 2020, Developer refiled a Petition for Annexation with the Town;

WHEREAS, specifically, Griffin owns Planning Area 1, ERC owns Planning Area 2, and RMR owns Planning Areas 3-6 of the Development;

WHEREAS, contemporaneously with the annexation of the Property, the Town is zoning the Property Planned Unit Development (the "PUD"), which zoning includes a Planned Unit Development Guide (the "PUD Guide") for the Property;

WHEREAS, pursuant to Resolution No. 41, the Town's Board of Trustees found that the Property is eligible for annexation to the Town pursuant to C.R.S. §§ 31-12-104 and 105; and

WHEREAS, the Parties wish to set forth their understanding of the terms and conditions upon which the Property will be annexed to the Town and the Development will proceed.

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

1. **Purpose.** The purpose of this Agreement is to set forth the terms under and conditions which the Property will be annexed to the Town and the Development will proceed. Unless otherwise expressly provided to the contrary herein, all conditions contained herein are in addition to any and all requirements of the Code and other applicable law.
2. **Annexation.** The annexation of the Property shall be in accordance with the Colorado Municipal Annexation Act of 1965, C.R.S. § 31-12-101, *et seq.*, as amended.

Eagle County, CO
Regina O'Brien
Pgs: 35
REC: \$183.00
DOC: \$0.00

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3. Term and Termination.

a. This Agreement shall commence on the Effective Date, and shall continue for 20 years from the Effective Date, unless otherwise terminated as provided herein (the "Term"). If the PUD Guide is not approved by the Town or is successfully challenged, or if the annexation of the Property is not completed, then this Agreement shall be null and void and of no force and effect whatsoever.

b. If any judicial proceeding or other legal action is brought by a third party, including referendum or initiative, that challenges this Agreement, the annexation of the Property to the Town, the PUD Guide or any of the Town's resolutions or ordinances, this Agreement will remain in full force and effect through and until the 31st day following entry of a final, non-appealable order resolving such legal action, unless earlier terminated or modified by a written amendment signed by the Parties. However, to the extent any Development Permits, building permits, or any other approval necessary for the Development are delayed or withheld due to the legal action described above, any obligations of Developer under this Agreement shall be tolled until resolution of such legal action.

c. For purposes of this Agreement, "Legal Challenge Period" means the period of time commencing upon the date of final approval by the Board of Trustees of the PUD and ending on the 31st day thereafter.

4. Reserved Rights. Nothing in this Agreement shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or abrogation of the Town's legislative, governmental, or police powers to promote and protect the health, safety and general welfare of the Town or its residents.

5. Developer's General Obligations.

a. *No Obligation to Develop.* Developer shall have no obligation under this Agreement to develop all or any portion of the Project and shall have no liability under this Agreement to the Town or any other person or entity for its failure to commence or complete the Development, except as expressly provided herein.

b. *Plans.* With input from the Town, Developer shall prepare all applications and related plans for the Project at Developer's sole cost, which applications and related plans shall comply with the PUD Guide.

c. *Construction of Public Improvements.* The Property may be further subdivided to allow for appropriate development creation of open space parcels and ownership transfers of parcels, tracts and lots, in accordance with the Code. In consideration for the Town's approval of each Development Permit, Developer shall construct and install all of the public improvements required for that subdivision in accordance with the PUD Guide, the Town's applicable ordinances, codes and regulations and all other applicable law. With each Development Permit, Developer shall submit a subdivision improvement agreement, in a form approved by the Town,

to guarantee the construction of the public improvements associated with that Development Permit application.

d. *Reimbursement of Costs.* Developer shall pay to the Town the actual cost incurred by the Town in connection with the annexation, the Development and the PUD Guide pursuant to and in accordance with the Agreement for Payment of Development Review Expenses Incurred by the Town, dated June 2, 2017, by and between the Town and RMR.

e. *Compliance with Law.* Developer shall at all times comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environmental, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable environmental statutes of the State of Colorado; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

f. *Joint and Several Liability.* ERC, Griffin and RMR shall be jointly and severally liable for all obligations of Developer under this Agreement.

g. *Transportation Issues.* Developer has applied for access permits from the Colorado Department of Transportation ("CDOT") for Planning Areas 1-6 as shown on Exhibit B. All required access permits shall have been issued by CDOT prior to submittal of the first application for a Development Permit for the Development. Prior to issuance of the first Development Permit for the Development, Developer shall grant associated access easements to the Town, which will be located within the 50-foot setback from the Highway 6 right-of-way line. Developer also acknowledges that it may need to convey additional land within the Property to the Town for the construction of roadway improvements on Highway 6, as required by CDOT.

6. Specific Improvements.

a. *Water Main Extension.*

i. Developer shall install a water main extension to the eastern end of the Property, designated as Planning Area 6 in accordance with the PUD Guide and Chapter 12.08 of the Code. Although the water main extension shall be dedicated to the Town and operated and maintained by the Town, Developer shall bear all costs of operation,

maintenance, repair and replacement of the water main extension until such time as the water main extension is completed and looped through Planning Area 6 such that water service in Planning Area 6 is tied back into the Town's public water system (the "Looped System"). To ensure payment of these costs, Developer shall post a form of security, acceptable to the Town. The Town shall have the right, at any time, to inspect the water main.

ii. The Town is not obligated to provide potable water service to any Planning Area until the Town has inspected and approved the construction of the water main extension through the subject Planning Area. Each phased extension shall be subject to a 2-year warranty and security as set forth in the applicable subdivision improvement agreement.

iii. Upon completion of the Looped System, the Town shall inspect the Looped System, and if the Town is satisfied that the Looped System complies with the PUD Guide and the Code, the Town will take ownership of the Looped System, and assume all costs of operation and maintenance.

iv. Until the Looped System is complete, Developer shall install a water meter at the end of the line and the Town shall flush the line at a frequency as required to meet State safe water drinking standards. So long as any portion of the water main line is not looped, Developer shall be responsible for payment of the flushed water at the then applicable Town bulk water rate, and all such costs shall be paid within 7 days of receipt of an invoice from the Town for the same.

v. At the time of final approval of a subdivision plat or other Development Permit for other properties that use the Looped System, the Town will use its best efforts to require, as a condition of approval, a proportional reimbursement to Developer. Nothing contained in this Agreement shall operate to create an obligation on the part of the Town to pay or reimburse any costs to Developer in the event such costs are not recovered by the Town as contemplated herein, for any reason, from the properties or property owners that use the Looped System.

b. *Wastewater.*

i. Developer shall construct a private wastewater collection system for Planning Areas 1-6 with lift stations. The plans for the private wastewater collection system shall be submitted to the Town for review and approval for each Planning Area with the application for the associated Development Permit.

ii. Developer shall be responsible for operation and maintenance of the private wastewater collection system, provided that Developer may transfer operation and maintenance responsibilities to the Metro District, or if no Metro District is established, to another entity satisfactory to the Town in the Town's sole discretion. In no case shall the private wastewater collection system be operated or maintained by a homeowners' association. The entity responsible for the private wastewater collection system shall be

established and approved by the Town prior to submittal of the application for the first Development Permit for the Development.

iii. Once constructed pursuant to the Town's standards and specifications and approved by the Town (which construction and approval may occur in phases), the private wastewater collection system shall be connected to the Town's public wastewater collection system.

iv. The Town shall never be responsible for the ownership, operation or maintenance private wastewater collection system.

c. *Discovery Trail.* Developer shall construct a soft surface trail for pedestrian use and public access to the Eagle River (the "Discovery Trail"), in the exact location to be determined at the time of each applicable Development Permit application, in compliance with the PUD Guide. Construction of Discovery Trail in each Planning Area shall occur as that Planning Area develops, and the Town shall grant Developer necessary temporary construction easements over any Town-owned property traversed by Discovery Trail. Following acceptance by the Town of Discovery Trail in a Planning Area, Developer shall grant, for the use and benefit of the public, a perpetual and non-exclusive easement to the Town, provided that Developer shall remain responsible for maintenance of Discovery Trail until Developer transfers the maintenance responsibility to a Homeowners' Association or nonprofit corporation under a maintenance agreement approved by the Town, which approval shall not be unreasonably withheld.

7. Districts.

a. *Metropolitan District.* Subject to applicable law, Developer may form a metropolitan district (the "Metro District") to finance, acquire, design, construct, operate and maintain improvements required for the Development. The Town will not unreasonably withhold its approval of the service plan for the District. Further, the Town agrees that the District may exercise any and all powers and functions permitted by law in accordance with its service plan, including the provision of facilities and services to the Development. If the Metro District wishes to assume maintenance of any improvements otherwise being maintained by Developer, such assumption shall be subject to the Town's prior approval.

b. *Other Districts.* In addition to the Metro District, to facilitate financing, maintenance, and development of the Public Improvements, the Parties may agree to create one or more additional general improvement districts pursuant to C.R.S. § 31-25-601, *et seq.*, or one or more special improvement districts pursuant to C.R.S. § 31-25-501, *et seq.*

8. RAMP.

a. Prior to submission of the first Development Permit application for the Development, Developer shall provide to the Town for review and approval a Riparian Area Management Plan ("RAMP"), which shall apply to all riparian and floodplain areas on the Property. The RAMP shall include the following provisions, at a minimum:

- i. Identification of riparian areas in Planning Areas 1-6;
- ii. Description of permitted uses and measures for protection and preservation of the functions and values of the riparian corridor, including a monitoring, ownership and maintenance of open space and any improvements located on those areas that are included in the RAMP;
- iii. Identification of riparian areas and recommendations for seasonal closures due to wildlife concerns, the location of trails, multi-use paths, bridges, boardwalks, river access, shelters, boat ramps, utilities, and other facilities, away from the most sensitive wetlands and wildlife habitats, and integrating the existing public fishing easement;
- iv. Identification of areas in need of restoration and noxious weed management;
- v. Specifications for riparian enhancement plantings;
- vi. Description of acceptable landscaping, improvements and grading activities, as well as permitted uses in riparian and floodplain areas;
- vii. Management practices for removing trash and debris, including plans for dog waste bags and signage;
- viii. A snow storage plan designed to prevent snow storage in riparian areas or the floodplain; and
- ix. An information campaign.

b. The RAMP shall name the Town as a beneficiary and shall provide rights of the Town to enforce the RAMP. The RAMP shall require the Town to provide notice of default to the Developer and shall provide a reasonable period to cure such default, which period shall be not less than 30 days or such additional time as appropriate if 30 days is inadequate. The RAMP shall provide the Town with the right to enter the riparian area and take corrective action if any default is not cured, and the right to recover costs for any enforcement.

9. **River Access.** Any land other than Parcel 5B that is conveyed to the Town or other local government or non-profit entity for open space on which public access is granted, on lands not within the Colorado Parks and Wildlife ("CPW") easement area, and which includes the Eagle River or access to the Eagle River, shall contain the following restrictions, provided that the Town shall not be responsible for any enforcement of such restrictions:

a. Fishing shall be allowed by fly fishing and catch and release only, and no commercial guided fishing shall be allowed.

b. Public access for fishing shall be subject to the designated CPW RAMP access points and subject closure as recommended by the Colorado Parks and Wildlife due to high water temperatures to protect trout; and

c. In-stream habitat restoration and enhancement for fish population may take place at such time as non-potable diversion improvements are constructed or such time as the boat ramp is constructed.

10. Open Space.

a. *Parcel OS1.* Developer shall convey Parcel OS1 to the Town by special warranty deed within 30 days after issuance of the first Development Permit for Planning Area 1, or within 10 years of the Effective Date, whichever occurs first. The conveyance of Parcel OS1 shall be subject to reserved easements as necessary for utilities, wastewater and storm water facilities to serve the Development. The Town acknowledges that there will be no legal access to Parcel OS1 until Developer constructs such access over and across Planning Area 1. Parcel OS1 shall be used for open space purposes only, subject to a restrictive covenant executed by the Town and Developer governing the uses of Parcel OS1.

b. *Parcels OS2, OS4, OS6, OS7, OS8, and OS9.* Parcels OS2, OS4, OS6, OS7, OS8 and OS9 shall be owned and maintained by a Homeowners' Association. The purpose of these parcels shall be for recreation, the Discovery Trail, soft surface trails with limited river access points, maintenance of Colorado Parks and Wildlife public fishing easements, and natural vegetation management and removal of non-native species to maintain health of the ecosystem and planting of native vegetation.

c. *Parcel OS5.* Developer shall convey Parcel OS5 to Walking Mountains Science Center, a 501(c)(3) nonprofit organization, or a similar nonprofit organization providing environmental science education approved by the Town. The purpose of Parcel OS5 shall be to provide open space on both sides of the Eagle River in conjunction with the environmental education facility located on Parcel C/PUD-2 for recreation, the Discovery Trail, interpretive signs, a pedestrian bridge over the Eagle River, soft surface trails with limited river access points, and natural vegetation management and removal of non-native species to maintain health of the ecosystem and planting of native vegetation.

d. *Parcel OS3.* Developer shall convey Parcel OS3 to the Town by special warranty deed within 30 days after issuance of the first Development Permit for the Development, or within 10 years of the Effective Date, whichever occurs first. The purpose of Parcel OS3 shall be for unimproved passive, non-motorized recreation including soft trails, excluding paved trails, roads, above ground structures or hunting. Parcel OS3 shall be used for open space purposes only, subject to a restrictive covenant executed by the Town and Developer governing the uses of Parcel OS3.

e. *Parcel 5B.* Developer shall convey Parcel 5B to the Town by special warranty deed within 30 days after issuance of the first Development Permit for Planning Areas 4, 5 or 6, or within 10 years of the Effective Date, whichever occurs first. The conveyance of Parcel 5B shall be subject to a reserved easement for utilities and drainage. Developer shall provide an access from Highway 6 to Parcel 5B upon issuance of the first Development Permit for Planning Area 4, and shall provide an associated access easement to the Town. Parcel 5B shall be used for open

space purposes only, subject to a restrictive covenant executed by the Town and Developer governing the uses of Parcel 5B.

f. *Satisfaction of Code Requirements.* The conveyance of property described in this Section shall constitute complete satisfaction of the Municipal and Park Land dedication requirements of Code § 4.13.190.

11. Impact Fees. At the time of issuance of each building permit, under the Code in effect at the time of the building permit application, Developer agrees to pay the associated impact fees, including without limitation the following:

a. *Schools.* Developer shall pay cash-in-lieu of conveyance of school lands in accordance with Code § 4.13.080.D, as amended.

b. *Streets.* Developer shall pay the Street Improvement Fee in accordance with Code § 4.13.220, as amended.

c. *Fire.* Developer shall pay the Fire Protection Impact Fee in accordance with Code § 4.13.230, as amended.

d. *Public Safety.* Developer shall pay the Public Safety Impact Fee in accordance with Code § 4.13.250, as amended.

e. *Other.* Developer shall pay such other impact fees as lawfully imposed by the Town.

12. Local Employee Residences. Developer shall provide a cash-in-lieu payment for local employee residences in the amount of \$750,000, payable as follows: \$375,000 paid within 7 days after expiration of the Legal Challenge Period; and \$375,000 paid within 3 years of the Effective Date. The payment described in this Section shall constitute complete satisfaction of the requirements of Code § 4.04.110 for the Development.

13. Water and Wastewater.

a. *Tap Fees.* Water and wastewater tap fees shall be paid with each building permit application, at the rates in place at the time of such application.

b. *Water Rights.*

i. The maximum approved density for the Development is 153 units and 113.1 EQR. Within 7 days after expiration of the Legal Challenge Period, Developer shall convey to the Town, via Special Warranty Deed, all water rights historically used upon the Property, plus any additional water needed to meet the Code requirement of 0.95 acre-feet/EQR for potable water service and water necessary for the raw water irrigation system, as outlined below. The Development shall provide raw water irrigation for all permanently irrigated residential landscape area, 3.39 acres, for which Code § 12.16.060 allows a credit

of 14.76 EQR. The potable water dedication is therefore based on 98.34 EQR, which requires dedication of 93.42 acre-feet of historic consumptive use credits. The Development includes an additional 1.31 acres of raw water irrigation in parks and other open space areas for a total of 4.70 acres. The raw water irrigation requirement is 8.13 acre-feet, based on a quantified HCU of 1.73 acre-feet per acre in Case No. 84CW659, which is sufficient to irrigate this acreage. Therefore, the total required water rights conveyance amount is 101.55 acre-feet.

ii. Parcels 1-6 of the Development have associated senior water rights of 48.2 acre-feet of consumptive use from the Wilkinson Ditch and 17.01 acre-feet of consumptive use from the Warren Ditch for a total of 65.21 acre feet. The remaining balance of 36.34 acre-feet shall be conveyed by Developer from water rights associated with the parcel previously conveyed to the Eagle County School District for which Developer retained the water rights, for a total of 101.55 acre feet.

iii. To satisfy non-irrigation season needs, upon the effective date of the annexation of the Property to the Town, Developer shall pay to the Town a one-time fee at the non-irrigation season rate of \$7,000 per 0.05 acre-feet x 113.1 EQR, for a total of \$39,585.

iv. Upon the conveyances in this Section, there are no additional water rights associated with the Property and available for purchase by the Town in accordance with Code § 12.26.070.

v. Developer shall reimburse the Town for any and all costs and fees, including engineering and legal fees, associated with the necessary water court applications to change the dedicated water rights for use within the Town's potable water system and any changes necessary for the operation of the raw water irrigation system. Within 45 days of the effective date of the annexation of the Property to the Town, the Town and Developer shall enter into a lease whereby the Town will lease to Developer the water rights to be used in the raw water irrigation system.

14. Homeowners' Associations. Developer may create no more than 3 Homeowners' Associations for Planning Areas 1-6, which shall be subject to review and approval by the Town. Each Association shall assume the obligation to maintain common areas, including without limitation private roads, common landscaping, trails, sidewalks, signage, drainage facilities, and riparian areas.

15. Real Estate Transfer Assessment. Within 30 days after the expiration of the Legal Challenge Period, Developer shall record a covenant against the Property requiring payment of a real estate transfer assessment in the amount of 0.4% of the consideration paid for each non-exempt transfer of any real property in the Development (the "RETA"). The covenant shall be in substantially the form attached hereto as Exhibit C and incorporated herein by this reference. The funds collected from the RETA shall be transmitted to the Town, to be deposited in the general fund and used for public purposes as the Town determines necessary.

16. Vested Rights.

a. The PUD Guide shall constitute a Site Specific Development Plan under the Code and C.R.S. § 24-68-101, *et seq.* Developer shall have a vested property right to undertake and complete the Development and use the Property under the terms and conditions set forth in the PUD Guide. The vested rights shall continue for 10 years from the Effective Date, provided that, if within such 10-year period, the Town has granted initial acceptance of the water main extension through Planning Area 1, the term of the vested rights shall be extended to 20 years from the Effective Date.

b. After expiration of the Term, the vested rights shall be deemed terminated and of no further force or effect, provided that termination of the vested rights shall not affect any common law vested rights obtained prior to such termination, or any right, whether characterized as vested or otherwise, arising from this Agreement, the ordinance adopted to create the zoning classification for the Property, or from Town permits, approvals, or other entitlements for the Property that were granted or approved prior to, subsequent to, concurrently with the approval of this Agreement, including Developer's complete satisfaction of the requirements of Code § 4.04.110 for the maximum approved density (*i.e.*, 153 units) for the Property.

c. The establishment of vested rights shall not preclude the application of regulations of general applicability, including without limitation the application of local improvement districts, building, fire, plumbing, engineering, electrical, and mechanical codes, or the application of regional, state, or federal regulations, as all of the foregoing exist on the Effective Date or as enacted or amended after the Effective Date.

17. Indemnification. Developer agrees to indemnify and hold the Town harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity, in connection with, or on account of the performance of work in the Development by Developer, or its agents, contractors or employees pursuant to this Agreement, except to the extent any such claims, costs or liability arises from the negligent or intentional act or omission of the Town. Developer's obligation to indemnify the Town shall survive termination of this Agreement.

18. Remedies.

a. *Town.* The Town's remedies against Developer for Developer's breach of this Agreement include without limitation: the refusal to issue any Development Permit relating to property located within any Planning Area affected by such breach; the refusal to issue any building permit or certificate of occupancy for property located within any Planning Area affected by such breach; the revocation of any building permit in any Planning Area affected by such breach which was previously issued, but under which construction directly related to such building permit has not commenced; and any other remedy available at law.

b. *Developer.* Developer's remedies against the Town for the Town's breach of this Agreement are limited exclusively to breach of contract. In no event shall Developer be entitled to specific performance, economic damages, lost profits, consequential damages or punitive damages of any kind.

c. *Notice of Breach.* In the event of a breach by either Party, the non-breaching Party shall deliver written notice to the breaching Party of such breach and the breaching Party shall have 30 days from the date of such notice to cure the breach. If the breach is not cured, the non-breaching Party is entitled to the remedies specified above.

d. *Attorney Fees and Costs.* In the event that any Party to this Agreement is required to commence legal action to enforce this Agreement, each Party shall be responsible for its own attorney fees and expenses in connection with such action.

19. **Miscellaneous.**

a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Eagle County, Colorado.

b. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

c. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

d. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

e. *Notice.* Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent prepaid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.

f. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

h. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other. Notwithstanding the foregoing, Developer may assign this Agreement if the assignee executes an Assignment and Assumption of Development Agreement Rights and Obligations substantially in the form of Exhibit D, attached hereto and incorporated herein.

i. **Governmental Immunity.** The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

j. **Subject to Annual Appropriation.** Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

k. **Recordation.** This Agreement shall be recorded in the real estate records of the Eagle County Clerk and Recorder.

l. **Rights and Remedies.** The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

m. **Covenants.** The provisions of this Agreement shall be binding on all subsequent owners of the Property as covenants running with the Property, to be released only by the Town, unless this Agreement is otherwise terminated in accordance with its terms or by any Party pursuant to the terms of this Agreement. The benefits and burdens of this Agreement shall bind and inure to the benefit of all estates and interests in the Property and all successors in interest to the Parties to this Agreement, except as otherwise provided herein.

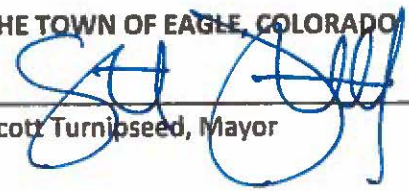
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

ATTEST:


Jenny Rakow, Town Clerk



THE TOWN OF EAGLE, COLORADO


Scott Turnipseed, Mayor

EAGLE RIVER COMMERCIAL LLC

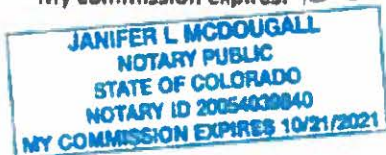
Mervin Lapin

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

Subscribed and sworn to before me this 15 day of September, 2020, by
Mervin Lapin as Manager of EAGLE RIVER COMMERCIAL LLC.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: 10-21-2021



Janifer L. McDougall
Notary Public

GRIFFIN DEVELOPMENT LLC

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

Subscribed and sworn to before me this 15 day of September, 2020, by
Mervin Lapin as Manager of GRIFFIN DEVELOPMENT LLC.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires:

Notary Public

RED MOUNTAIN RANCH PARTNERSHIP

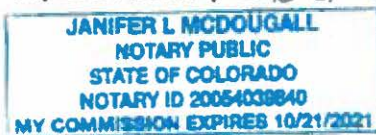
Mervin Lapin

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

Subscribed and sworn to before me this 15 day of September, 2020, by
Mervin Lapin as Manager of RED MOUNTAIN RANCH PARTNERSHIP, LLLP.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: 10-21-2021



Janifer L. McDougall
Notary Public

EAGLE RIVER COMMERCIAL LLC

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

Subscribed and sworn to before me this _____ day of _____, 2020, by
_____ as _____ of EAGLE RIVER COMMERCIAL LLC.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires:

Notary Public

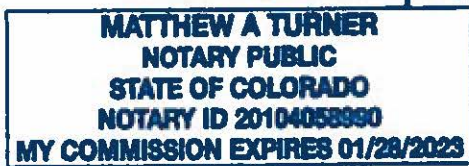
GRIFFIN DEVELOPMENT LLC

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

Subscribed and sworn to before me this 15 day of September, 2020, by
Rodrigo Cortina as Manager of GRIFFIN DEVELOPMENT LLC.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: January 28, 2023



Matthew A. Turner
Notary Public

RED MOUNTAIN RANCH PARTNERSHIP

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

Subscribed and sworn to before me this _____ day of _____, 2020, by
_____ as _____ of RED MOUNTAIN RANCH PARTNERSHIP, LLLP.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires:

Notary Public

EXHIBIT A

Legal Description

A parcel of land situate in Sections 26, 27, 33, and 34, Township 4 South, Range 84 West, of the Sixth Principal meridian, being a portion of Tracts 58, 59 and 70, of said Township and Range, County of Eagle, State of Colorado, being a portion of those lands described in Land Survey Plat No. 574, 575, and 576, as deposited in the Eagle County Eagle County Land Survey Plat Records, more particularly described as follows:

Beginning at a point on the south line of Highway 6 right of way and subject property; thence departing said south line S 73°54'09" E, 166.17 feet; thence N 83°53'51" E, 164.57 feet; thence N 03°16'32" E, 207.75 feet; thence N 88°53'49" E, 1444.68 feet; thence N 00°03'48" E, 1304.45 feet; thence N 89°56'08" E, 1452.88 feet; thence N 01°26'49" W, 410.52 feet to the approximate centerline of the Eagle River; thence along said approximate centerline of the Eagle River S 74°05'42" E, 61.00 feet; thence N 89°29'45" E, 168.06 feet; thence N 60°21'13" E, 237.26 feet; thence N 41°29'08" E, 382.43 feet; thence N 36°38'50" E, 287.00 feet; thence N 47°37'56" E, 301.83 feet; thence N 53°45'25" E, 221.64 feet; thence N 56°52'49" E, 306.49 feet; thence N 67°43'57" E, 484.77 feet; thence S 85°00'54" E, 131.72 feet; thence S 75°53'38" E, 341.87 feet; thence N 83°57'06" E, 341.07 feet; thence N 71°13'40" E, 310.58 feet; thence N 57°40'11" E, 499.51 feet; thence N 42°33'26" E, 259.34 feet; thence N 32°48'52" E, 262.87 feet; thence N 21°21'27" E, 271.70 feet; thence N 18°01'29" E, 171.02 feet; thence N 38°30'11" E, 154.44 feet; thence N 52°40'07" E, 201.11 feet; thence departing said approximate centerline of the Eagle River N 26°50'41" W, 63.81 feet to the south line of Highway 6 right of way; thence along said south line of Highway 6 right of way S 63°08'01" W, 3932.72 feet; thence in a southwesterly direction with a non-tangent curve turning to the left with a radius of 11410.00 feet, having a chord bearing of S 61°05'01" W and a chord distance of 816.31 feet, having a central angle of 04°06'00" and an arc length of 816.48 feet; thence S 59°02'01" W, 2572.80 feet; thence in a southwesterly direction with a tangent curve turning to the left with a radius of 2242.00 feet, having a chord bearing of S 42°41'01" W and a chord distance of 1262.26 feet, having a central angle of 32°42'00" and an arc length of 1279.56 feet to a 1350; thence S 26°20'01" W, 267.31 feet to the Point of Beginning.

Containing 106.194 acres more or less.

**COLORADO DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY ACCESS PERMIT**

EXHIBIT

B

CDOT Permit No.
319170

State Highway No / Mp / Side
005E / 150.375 / Right

Permit Fee
3/4/20 \$100.00

Date of Transmittal
02/27/2020

Region / Section / Patrol / Name
3 / 02 / 2M18 Derek Scavill

Local Jurisdiction
Eagle

The Permittee(s):

The Applicant(s):

Griffin Development, LLC
701 W. Lonshead Cr.
Vail, Colorado 81657
(970) 476-2050

is hereby granted permission to have an access to the state highway at the location noted below. The access shall be constructed, maintained and used in accordance with this permit, including the State Highway Access Code and any attachments, terms, conditions and exhibits. This permit may be revoked by the Issuing Authority if at any time the permitted access and its use violate any parts of this permit. The Issuing authority, the Department and their duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.

Location: Located on the south side of Hwy 005 E at city street Nogal Rd. and approximately 1950 feet east of MP 150

Access to Provide Service to: (Land Use Code)
998 - Emergency Services Access

(Size) (Units)
Less than 1 trip/day

Additional Information:

Emergency Access

MUNICIPALITY OR COUNTY APPROVAL

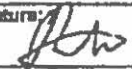
Required only when the appropriate local authority retains issuing authority.

Signature	Print Name	Date	Title
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Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used.

The permittee shall notify Cary Griffin 2M2 with the Colorado Department of Transportation, at (970) 445-8134 at least 48 hours prior to commencing construction within the State Highway right-of-way.

The person signing as the permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and its terms and conditions.

Permittee Signature: 	Print Name RODRIGO CORTINA	Date 2/28/20
Co-Permittee Signature: (if applicable)	Print Name	Date

This permit is not valid until signed by a duly authorized representative of the Department.
COLORADO DEPARTMENT OF TRANSPORTATION

Signature 	Print Name BRIAN K. LUAN	Title ACCESS MGR	Date (of Issue) 3-5-2020
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Copy Distribution:

Required:
1.Region
2.Applicant

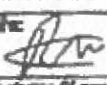
3.Staff Access Section
4.Central Files

Make copies as necessary for:
Local Authority
MTCE Patrol
Inspector
Traffic Engineer

Previous editions are obsolete and may not be used
Page 1 of 3 CDOT Form #181 5/07

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT		CDOT Permit No. 319171
		State Highway No / Mp / Side 008E / 150.570 / Right
Permit Fee \$0.00	Date of Transmittal 02/27/2020	Region / Section / Patrol / Name 3 / 02 / 2M16 Derek Scovill
		Local Jurisdiction Eagle

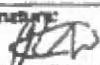
The Permittee(s): Griffin Development, LLC 701 W. Lonshead Cr. Vail, Colorado 81657 (970) 476-2050	The Applicant(s):
Is hereby granted permission to have an access to the state highway at the location noted below. The access shall be constructed, maintained and used in accordance with this permit, including the State Highway Access Code and any attachments, terms, conditions and exhibits. This permit may be revoked by the Issuing Authority if at any time the permitted access and its use violate any parts of this permit. The Issuing authority, the Department and their duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.	
Location: Closure located on the south side of Hwy 008 E approximately 1000 feet east of Nogal Rd. and 2950 feet east of MP 150	
Access to Provide Service to: (Land Use Code) (Size) (Units)	
Additional Information: <u>Access Closure</u>	

MUNICIPALITY OR COUNTY APPROVAL Required only when the appropriate local authority retains issuing authority.			
Signature	Print Name	Date	Title
Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used. The permittee shall notify Cary Griffin 2M2 with the Colorado Department of Transportation, at (970) 445-8134 at least 48 hours prior to commencing construction within the State Highway right-of-way. The person signing as the permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and its terms and conditions.			
Permittee Signature: 	Print Name: RODRIGO CORTINA	Date: 2/26/20	
Co-Permittee Signature: (if applicable)	Print Name	Date	
This permit is not valid until signed by a duly authorized representative of the Department. COLORADO DEPARTMENT OF TRANSPORTATION			
Signature: 	Print Name: BRIAN KILLIAN	Title: ACCESS MGR	Date (of issue): 2-5-2020

Copy Distribution: Required: 1.Region 2.Applicant 3.Staff Access Section 4.Central File Make copies as necessary for: Local Authority MTCE Patrol Inspector Traffic Engineer Previous editions are obsolete and may not be used Page 1 of 3 CDOT Form #181 5/87

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT			CDOT Permit No. 319172
			State Highway No / Mp / Side 008E / 150.673 / Right
Permit Fee \$300.00	Date of Transmittal 02/27/2020	Region / Section / Patrol / Name 3 / 02 / 2M18 Derek Scovill	Local Jurisdiction Eagle

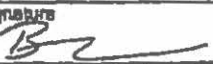
The Permittee(s): Griffin Development, LLC 701 W. Lionshead Cr. Vail, Colorado 81657 (970) 476-2050	The Applicant(s): 																					
Is hereby granted permission to have an access to the state highway at the location noted below. The access shall be constructed, maintained and used in accordance with this permit, including the State Highway Access Code and any attachments, terms, conditions and exhibits. This permit may be revoked by the Issuing Authority if at any time the permitted access and its use violate any parts of this permit. The Issuing authority, the Department and their duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.																						
Location: Located on the south side of Hwy 008 E approximately 1615 feet east of Nogal Rd. and 3580 feet east of MP 150																						
<table border="1"> <thead> <tr> <th>Access to Provide Service to: (Land Use Code)</th> <th>(Size)</th> <th>(Units)</th> </tr> </thead> <tbody> <tr> <td>210 - Single-Family Detached Housing 10 DU</td> <td>13</td> <td>DHV</td> </tr> <tr> <td>820 - Shopping Center 7,000 SF</td> <td>84</td> <td>DHV</td> </tr> <tr> <td>831 - Quality Restaurant 3,000 SF</td> <td>25</td> <td>DHV</td> </tr> <tr> <td>411 - City Park 1.8 Acres</td> <td>17</td> <td>DHV</td> </tr> <tr> <td>220 - Apartment 97 DU</td> <td>86</td> <td>DHV</td> </tr> <tr> <td>TOTAL</td> <td>205</td> <td>DHV</td> </tr> </tbody> </table>		Access to Provide Service to: (Land Use Code)	(Size)	(Units)	210 - Single-Family Detached Housing 10 DU	13	DHV	820 - Shopping Center 7,000 SF	84	DHV	831 - Quality Restaurant 3,000 SF	25	DHV	411 - City Park 1.8 Acres	17	DHV	220 - Apartment 97 DU	86	DHV	TOTAL	205	DHV
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Additional Information: Development Mixed Use Access																						

MUNICIPALITY OR COUNTY APPROVAL Required only when the appropriate local authority retains issuing authority.			
Signature	Print Name	Date	Title
Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used. The permittee shall notify Cary Griffin 2M2 with the Colorado Department of Transportation, at (970) 445-8134 at least 48 hours prior to commencing construction within the State Highway right-of-way. The person signing as the permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and its terms and conditions.			
Permittee Signature: 	Print Name: RODRIGO CORONA	Date: 2/28/20	
Co-Permittee Signature: (if applicable)	Print Name	Date	
This permit is not valid until signed by a duly authorized representative of the Department.			
COLORADO DEPARTMENT OF TRANSPORTATION			
Signature: 	Print Name: BRIAN KILLIAN	Title: ACCESS MGR.	Date (of issue): 3-5-2020

Copy Distribution: Required: 1.Region 2.Applicant 3.Staff Access Section 4.Central Files Make copies as necessary for: Local Authority Inspector Traffic Engineer Previous editions are obsolete and may not be used Page 1 of 3 CDOT Form #181 5/87

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT			COOT Permit No. 319173
			State Highway No / Mp / Side 006E / 150.978 / Right
Permit Fee 9/4/20 \$100.00	Date of Transmittal 02/27/2020	Region / Section / Patrol / Name 3 / 02 / 2M18 Derek Scovill	Local Jurisdiction Eagle

The Permittee(s): Red Mountain Ranch Partnership, LTD 232 W. Meadow Dr. Vail, Colorado 81657-5079 (970) 471-4224	The Applicant(s):
Is hereby granted permission to have an access to the state highway at the location noted below. The access shall be constructed, maintained and used in accordance with this permit, including the State Highway Access Code and any attachments, terms, conditions and exhibits. This permit may be revoked by the Issuing Authority if at any time the permitted access and its use violate any parts of this permit. The Issuing authority, the Department and their duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.	
Location: Located on the south side of Hwy 006 E approximately 3175 feet east of Nogal Rd. and 70 feet west of MP 151	
Access to Provide Service for: (Land Use Code) 996 - Emergency Services Access	(Size) (Units) Less than 1 trip/day
Additional Information: Emergency Access	

MUNICIPALITY OR COUNTY APPROVAL Required only when the appropriate local authority retains issuing authority.			
Signature	Print Name	Date	Title
Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used. The permittee shall notify Cary Griffin 2M2 with the Colorado Department of Transportation, at (970) 445-8134 at least 48 hours prior to commencing construction within the State Highway right-of-way. The person signing as the permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and its terms and conditions.			
Permittee Signature:	Print Name	Date	
	MERVYN LAPIN	2-28-20	
Co-Permittee Signature: (if applicable)	Print Name	Date	
This permit is not valid until signed by a duly authorized representative of the Department. COLORADO DEPARTMENT OF TRANSPORTATION			
Signature	Print Name	Title	Date (of issue)
	BRIAN KILLIAN	ACCESS MGR	3-5-2020

Copy Distribution:

Required:
1.Region
2.Applicant

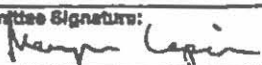
3.Staff Access Section
4.Central Files

Make copies as necessary for:
Local Authority
MTCE Patrol
Inspector
Traffic Engineer

Previous editions are obsolete and may not be used
Page 1 of 3 COOT Form #191 5/07

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT			CDOT Permit No. 319174
			State Highway No / Mp / Side 006E / 151.200 / Right
Permit Fee 24/20 \$300.00	Date of Transmittal 02/27/2020	Region / Section / Patrol / Name 3 / 02 / 2M18 Derek Scovill	Local Jurisdiction Eagle

The Permittee(s): Red Mountain Ranch Partnership, LTD 232 W. Meadow Dr. Vail, Colorado 81657-5079 (970) 471-4224	The Applicant(s): 																		
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Location: Located on the south side of Hwy 006 E approximately 4355 feet east of Nogal Rd. and 1100 feet east of MP 151																			
<table border="1"> <thead> <tr> <th>Access to Provide Service to: (Land Use Code)</th> <th>(Size)</th> <th>(Units)</th> </tr> </thead> <tbody> <tr> <td>210 - Single-Family Detached Housing 44 DU</td> <td>50</td> <td>DHV</td> </tr> <tr> <td>220 - Apartment Low-rise 6 DU</td> <td>7</td> <td>DHV</td> </tr> <tr> <td>Nature Center (6,000 SF)</td> <td>16</td> <td>DHV</td> </tr> <tr> <td>Boat Ramp (12 Trailer Spaces)</td> <td>33</td> <td>DHV</td> </tr> <tr> <td>Total</td> <td>106</td> <td>DHV</td> </tr> </tbody> </table>		Access to Provide Service to: (Land Use Code)	(Size)	(Units)	210 - Single-Family Detached Housing 44 DU	50	DHV	220 - Apartment Low-rise 6 DU	7	DHV	Nature Center (6,000 SF)	16	DHV	Boat Ramp (12 Trailer Spaces)	33	DHV	Total	106	DHV
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Additional Information: Development Mixed Use Access																			

MUNICIPALITY OR COUNTY APPROVAL Required only when the appropriate local authority retains issuing authority.			
Signature	Print Name	Date	Title
Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used.			
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Permittee Signature: 	Print Name MERVYN LAPIN	Date 2-28-20	
Co-Permittee Signature: (if applicable)	Print Name	Date	
This permit is not valid until signed by a duly authorized representative of the Department.			
COLORADO DEPARTMENT OF TRANSPORTATION			
Signature 	Print Name BRIAN K. LIAN	Title ACCESS MGR	Date (of issue) 3-5-2020

Copy Distribution:

Required:
 1.Region
 2.Applicant

3.Staff Access Section
 4.Central Files

Make copies as necessary for:
 Local Authority
 MTCE Patrol
 Inspector
 Traffic Engineer

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 Page 1 of 3 CDOT Form #101 5/07

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT			CDOT Permit No. 319175
			State Highway No / Mp / Side 006E / 151.476 / Right
Permit Fee 34120 \$100.00	Date of Transmittal 02/27/2020	Region / Section / Patrol / Name 3 / 02 / 2M18 Derek Scovill	Local Jurisdiction Eagle

The Permittee(s): Red Mountain Ranch Partnership, LTD 232 W. Meadow Dr. Vail, Colorado 81657-5079 (970) 471-4224	The Applicant(s):
is hereby granted permission to have an access to the state highway at the location noted below. The access shall be constructed, maintained and used in accordance with this permit, including the State Highway Access Code and any attachments, terms, conditions and exhibits. This permit may be revoked by the Issuing Authority if at any time the permitted access and its use violate any parts of this permit. The issuing authority, the Department and their duly appointed agents and employees shall be held harmless against any action for personal injury or property damage sustained by reason of the exercise of the permit.	
Location: Located on the south side of Hwy 006 E approximately 4355 feet east of Nogal Rd. and 2580 feet east of MP 151	
Access to Provide Service to: (Land Use Code) 996 - Emergency Services Access	(Size) (Units) Less than 1 trip/day
Additional Information: Emergency Access	

MUNICIPALITY OR COUNTY APPROVAL Required only when the appropriate local authority retains issuing authority.			
Signature	Print Name	Date	Title
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Permittee Signature:	Print Name	Date	
<i>Mervyn Capin</i>	MERVYN LAPIN	2-28-20	
Co-Permittee Signature: (if applicable)	Print Name	Date	
This permit is not valid until signed by a duly authorized representative of the Department. COLORADO DEPARTMENT OF TRANSPORTATION			
Signature	Print Name	Title	Date (of issue)
<i>Brian Killian</i>	BRIAN KILLIAN	ACCESS MGR	3-5-2020

Copy Distribution:

Required:
1.Region
2.Applicant

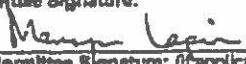
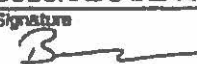
3.Staff Access Section
4.Central Files

Make copies as necessary for:
Local Authority
MTCE Patrol
Inspector
Traffic Engineer

Previous editions are obsolete and may not be used
Page 1 of 3 CDOT Form 8101 3/07

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT			CDOT Permit No. 318177
			State Highway No / Mp / Side 006E / 151.605 / Right
Permit Fee \$0.00	Date of Transmittal 02/27/2020	Region / Section / Patrol / Name 3 / 02 / 2M18 Derek Scovill	Local Jurisdiction Eagle

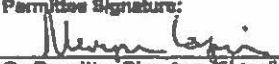
The Permittee(s): Red Mountain Ranch Partnership, LTD 232 W. Meadow Dr. Vail, Colorado 81657-5079 (970) 471-4224	The Applicant(s):
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Location: Closure located on the south side of Hwy 006 E approximately 6500 feet east of Nogal Rd. and 3250 feet east of MP 151	
Access to Provide Service to: (Land Use Code) (Size) (Use)	
Additional Information: <u>Access Closure</u>	

MUNICIPALITY OR COUNTY APPROVAL Required only when the appropriate local authority retains issuing authority.			
Signature	Print Name	Date	Title
Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used. The permittee shall notify Cary Griffin 2M2 with the Colorado Department of Transportation, at (970) 445-8134 at least 48 hours prior to commencing construction within the State Highway right-of-way. The person signing as the permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and its terms and conditions.			
Permittee Signature:	Print Name	Date	
	MERYN LAPIN	2-28-20	
Co-Permittee Signature: (if applicable)	Print Name	Date	
This permit is not valid until signed by a duly authorized representative of the Department. COLORADO DEPARTMENT OF TRANSPORTATION			
Signature	Print Name	Title	Date (of issue)
	BRIAN KILLIAN	ACCESS MGR	3-5-2020

Copy Distribution: Required: 1. Region 2. Applicant 3. Staff Access Section 4. Central Files Make copies as necessary for: Local Authority MTCE Patrol Inspector Traffic Engineer Previous editions are obsolete and may not be used Page 1 of 3 CDOT Form #101 5/07

COLORADO DEPARTMENT OF TRANSPORTATION STATE HIGHWAY ACCESS PERMIT			CDOT Permit No. 319178
			State Highway No / Mp / Side 006E / 151.866 / Right
Permit Fee \$100.00	Date of Transmittal 02/27/2020	Region / Section / Patrol / Name 3 / 02 / 2M18 Derek Scovill	Local Jurisdiction Eagle

The Permittee(s): Red Mountain Ranch Partnership, LTD 232 W. Meadow Dr. Vail, Colorado 81657-5079 (970) 471-4224	The Applicant(s):
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Location: Located on the south side of Hwy 006 E approximately 7880 feet east of Nogel Rd. and 4800 feet east of MP 151	
Access to Provide Service to: (Land Use Code) 210 - Single-Family Detached Housing 55 DU	(Size) 58
	(Units) DHV
Additional Information: Development Residential Access	

MUNICIPALITY OR COUNTY APPROVAL Required only when the appropriate local authority retains issuing authority.			
Signature	Print Name	Date	Title
Upon the signing of this permit the permittee agrees to the terms and conditions and referenced attachments contained herein. All construction shall be completed in an expeditious and safe manner and shall be finished within 45 days from initiation. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used. The permittee shall notify Cary Griffin 2M2 with the Colorado Department of Transportation, at (970) 445-8134 at least 48 hours prior to commencing construction within the State Highway right-of-way. The person signing as the permittee must be the owner or legal representative of the property served by the permitted access and have full authority to accept the permit and its terms and conditions.			
Permittee Signature: 	Print Name MERVYN LAPIN	Date 2-28-20	
Co-Permittee Signature: (if applicable)	Print Name	Date	
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Signature	Print Name	Title	Date (of issue)
	BRIAN KILLIAN	ACCESS MGR	3-5-2020

Copy Distribution:

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 1.Region
 2.Applicant

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Make copies as necessary for:
 Local Authority
 MTCE Patrol
 Inspector
 Traffic Engineer

Previous editions are obsolete and may not be used
 Page 1 of 3 CDOT Form #101 5/07

EXHIBIT C

Real Estate Transfer Assessment

COVENANT OF REAL ESTATE TRANSFER ASSESSMENT

This Covenant of Real Estate Transfer Assessment (the "Covenant") is made by _____ ("Owner"), effective upon its recording in the Eagle County, Colorado, real property records (the "Effective Date").

WHEREAS, Owner owns that certain property more particularly described in Exhibit 1, attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Owner entered into an Annexation and Development Agreement with the Town of Eagle, Colorado (the "Town") dated _____ and Owner agreed to a residential real estate transfer assessment in the amount of 0.4% of the Consideration (defined below) paid for each residential property transfer of any portion of the Property, excluding Exempt Transfers (defined below); and

WHEREAS, each person acquiring any interest in any portion, lot or tract within the Property shall be deemed for all purposes to have assented and agreed, as an essential condition of any conveyance to it, to the provisions of this Covenant, to have agreed to comply with this Covenant and to have waived any right to challenge or contest the provisions hereof or to seek any refund or abatement of the assessment payable hereunder.

NOW THEREFORE, Owner hereby covenants and binds the Property as follows:

1. Covenant. Owner hereby covenants and agrees that, except for Exempt Transfers, a transfer assessment (the "Transfer Assessment") based on a percentage of the Consideration paid on the transfer of any portion of or interest in the Property shall be due and payable by the Transferee at the time of transfer and shall apply to each transfer of any portion of or interest in the Property. The Transfer Assessment is 0.4% of the Consideration paid for such transfer. Owner hereby waives, on behalf of itself and its successors in title, any right to challenge the Transfer Assessment on any basis.

2. Definitions. For purposes of this Covenant, the following words are defined as follows:

a. "Transfer" means and includes, whether in one transaction or in a series of related transactions, any conveyance, ground lease with a term exceeding 30 years ("Lease") or other Transfer of beneficial ownership of any residential portion of the Property, including but not limited to (i) the conveyance of fee simple title to any residential portion of the Property, (ii) the Transfer of more than 50% of the outstanding shares of the voting stock of a corporation which, directly or indirectly, owns the Property, and (iii) the Transfer of more than 50% of the interest in net profits or net losses of any partnership, limited liability company, joint venture or other entity which, directly or indirectly, owns the Property. "Transfer" shall not mean or include the Transfers excluded under Section 3.

b. "Transferee" means and includes all parties to whom any interest in the Property passes by a Transfer, and each party included in the term "Transferee" shall have joint and several liability for all obligations of the Transferee under this Covenant.

c. "Fair Market Value" means the Consideration, as such term is defined below, given for the Transfer, or, in the case of a Transfer that is a Lease not exempt under Section 3 or is otherwise not in all respects a bona fide sale, as determined by the Town. The Town shall give written notice to the Transferee if the Town disputes the Consideration as the Fair Market Value within 15 days after the Transferee provides the Town the report of the Transfer as required herein. Failing to do so, the Consideration shall be deemed binding as the Fair market Value of the Transfer. If the Town objects by written notice delivered to the Transferee within the time allotted herein, then a Transferee may make written objection to the Town's determination within 15 days after the Town has given notice of such determination, in which event the Town shall obtain an appraisal, at the Transferee's sole expense, from a real estate appraiser of good reputation, who is qualified to perform appraisals in Colorado, who is familiar with Eagle County real estate values, and who shall be selected by the Town. The appraisal shall be binding on both the Town and the Transferee as to the Fair Market Value of the Transfer. Notwithstanding the foregoing, where a Transferee does not make a full report of a Transfer within 15 days after the time required by this Covenant for making such report, the Transferee shall be deemed to have waived all right of objection concerning Fair Market Value, and the Town's determination of such value shall be binding.

d. "Consideration" means and includes the total of money paid and the Fair Market Value of any property delivered, or contracted to be paid or delivered, in return for the Transfer of any Property, and includes any money or property paid or delivered to obtain a contract right to purchase any Property, and the amount of any note, contract indebtedness (including without limitation obligations which could be characterized as contingent land gain), or rental payment reserved in connection with such Transfer, whether or not secured by any lien, mortgage, or other encumbrance, given to secure the Transfer price, or any part thereof, or remaining unpaid on the property at the time of Transfer, whether or not assumed by the Transferee. The term "Consideration" does not include the amount of any outstanding lien or encumbrance for taxes, special benefits or improvements in favor of the United States, the State of Colorado, or a municipal or quasi-municipal governmental entity.

e. "Affiliate" means, with respect to the person or entity, any other person or entity which controls, is controlled by, or is under common control with, such original person or entity. For the purposes of this definition, "control" means the ability to directly or indirectly manage, determine and control the operations and business affairs of a person or entity, whether through the ownership of at least 50% of the voting securities, by contract or otherwise.

3. Exemptions. Except to the extent that they are used for the purpose of avoiding the Transfer Assessment, the Transfer Assessment shall not apply to any of the following (each an "Exempt Transfer" and collectively "Exempt Transfers");:

a. Any Transfer to the United States, or any agency or instrumentality thereof, the State of Colorado, any county, city and county, municipality, district or other political subdivision of the State of Colorado.

b. Any Transfer to Owner or an Affiliate of Owner.

c. Any Transfer to a lender pursuant to a deed of trust or other security interest ("Financing Encumbrance").

d. Any Transfer pursuant to a foreclosure, sale, transfer, assignment, or deed-in-lieu pursuant to the rights and remedies of any Financing Encumbrance or other Transfer for the benefit of creditors.

e. Any Transfer arising solely from the termination of a joint tenancy or the partition of property held under common ownership, except to the extent that additional consideration is paid in connection therewith;

f. Any Transfer or change of interest by reason of death, whether provided for in a will, trust or decree of distribution;

g. Any Transfer made (i) to an Affiliate without consideration except of the cancellation of stock, membership interest, or other beneficial interest; or (ii) by an entity, trust or joint venture (collectively, an "Entity") to its shareholders, partners, members, or beneficiaries (collectively, the "Members") in connection with the liquidation of such Entity or other distribution of property or dividend in kind to Members, if the Property is Transferred generally pro rata or in accordance with its Entity organizational documents to its Members, and no consideration is paid other than the cancellation of the Member's interest in the Entity.

h. Any Transfer made solely for the purpose of confirming, correcting, modifying or supplementing a Transfer previously recorded, making minor boundary adjustments, removing clouds on titles, or granting easements, rights-of-way or licenses.

i. Any Transfer pursuant to any decree or order of a court of record determining or vesting title, including a final order awarding title pursuant to a condemnation proceeding, but only where such decree or order would otherwise have the effect of causing the occurrence of a second assessable Transfer in a series of transactions which includes only one effective Transfer of the right to use or enjoyment of a Property.

j. Any lease of any Property (or assignment or Transfer of any interest in any such lease) for a period of less than 30 years.

k. Any Transfer to secure a debt or other obligation or to release property which is security for a debt or other obligation, including Transfers in connection with foreclosure of a deed of trust or mortgage or Transfers in connection with a deed given in lieu of foreclosure.

l. The subsequent Transfer(s) of a Property involved in a "tax free" or "tax deferred" trade under the Internal Revenue Code, including but not limited to like-kind exchanges.

m. Any Transfer of any portion of the Property that does not contain inhabitable, residential improvements.

4. Application for Exemption.

a. In the event of any Transfer evidenced by a recorded deed that is claimed to be an Exempt Transfer, the Transferee shall apply to the Town Manager for a certificate of exemption. The burden of proving any exemption shall in all cases be upon the one claiming it. The certificate may be issued by the Town Manager either before or after the execution of the instruments effecting the Transfer. The certificate shall be in a form prepared by the Town Manager. For any Transfers not evidenced by a recorded deed, including but not limited to Entity restructures, the Transferee may, but is not required to apply to the Town Manager for a certificate of exemption.

b. Any exemption denied by the Town Manager may be appealed to the Town's Board of Trustees (the "Board of Trustees") within 7 days, and such appeal shall be considered by the Board of Trustees within 30 days of receipt of the same and the appellant shall not be required to post any bond or deposit while the appeal is pending.

5. Receipt and Application of Funds. The Transfer Assessment may be paid either by the buyer or the seller of the Property, as may be negotiated in each transaction. All Transfer Assessments shall be paid directly to the Town. A portion of the funds may be used to administer the collection of the Transfer Assessment.

6. Penalties and Liens. Penalties and liens shall be imposed as set forth below.

a. Except for Exempt Transfers, the Transfer Assessment is due and payable at the time of the Transfer, and is delinquent if it remains unpaid for 30 days thereafter. In the event that the Transfer Assessment is not paid prior to becoming delinquent, a delinquency penalty of 10% of the amount of Transfer Assessment due shall accrue. If a portion of the Transfer Assessment is paid prior to becoming delinquent, the penalty shall only accrue as to the delinquent portion. Interest shall accrue at the rate of one and 1.5% per month, or fraction thereof, compounded annually, on the amount of Transfer Assessment exclusive of penalties, from the date the tax becomes delinquent to the date of payment. The Town shall also be entitled to recover the reasonable expenses of collection, including attorney fees and court costs, which shall become part of the Transfer Assessment.

b. Any person liable for a Transfer Assessment who causes the deed, instrument of conveyance or document evidencing said Transfer to be filed of record in the office of the Eagle County Clerk and Recorder or attempts to so record the document before the Transfer Assessment and all penalties and interest thereon have been paid in full, shall be in violation of this Covenant.

c. Any remedies provided for herein shall be cumulative, not exclusive, and shall be in addition to any other remedies provided by law.

7. Relationship to Land. Owner acknowledges and agrees that the obligations imposed by this Covenant are related to and touch and concern the Property.

8. Recording. This Covenant shall be recorded in the records of Eagle County, Colorado.

9. Enforcement. This Covenant is made for the express benefit of the owners and occupants of the Property and for the additional express benefit of the Town. The Town shall have the right and power to bring suit for either legal or equitable relief for any breach, default or lack of compliance with the provisions of this Covenant, provided that no suit may be filed until the Town and Owner or its successors and assigns is provided with written notice of such breach or lack of compliance and fails to cure such breach or lack of compliance within 10 days after the mailing of such notice. Further, the Town shall have the right to refuse to further process or deny any building permit, certificate of occupancy or development application with regard to any portion of the Property for which a Transfer Assessment is owed and not paid. Owner shall not have any obligation to enforce this Covenant, and the failure to pay any Transfer Assessment payable hereunder upon subsequent transactions shall not constitute a default by Owner hereunder.

10. Defense and Cure of Covenant.

a. In the event of any legal challenge by a third party to the validity or enforceability of any provision of this Covenant, Owner shall cooperate with the Town, as necessary, in the defense of such challenge. During the pendency of any such legal challenge, through and including any final court action, Owner shall not assert any legal position contrary to the enforceability of this Covenant. However, Owner shall not be obligated to defend any challenge to this Covenant and may disclaim its interest or fail to respond to any action or pleading, unless required to respond by court order.

b. In the event of a final court action determining this Covenant to be invalid or unenforceable, in whole or in part, Owner shall cooperate with the Town as necessary, and use its efforts to cure any legal defects, and immediately upon such cure, take such actions as may be necessary to render the terms of this Covenant effective and enforceable. No such action shall alter the amount of the Transfer Assessment.

c. Owner shall not be required to purchase or repurchase any of the Property to effect a cure nor be required to pay any transfer fees not collectable by the Town because this Covenant is held to be invalid or unenforceable by any final court action.

11. Severability. Any determination by any court of competent jurisdiction that any provision of this Covenant is invalid or unenforceable shall not affect the validity or enforceability of any other provision hereof.

12. Statement Regarding Assessment. Upon written request by any interested party, the Town shall issue a written statement setting forth the amount of any unpaid Transfer Assessment with respect to any specific portion of the Property identified in such request. Such statement shall be furnished as soon as reasonably practicable, but in no event later than 30 days after receipt of the request, and shall be binding on the Town.

13. Other Real Estate Transfer Assessments. Owner reserves the right to impose additional real estate transfer assessments by covenant upon the Property, including, without limitation, a real estate transfer assessment contained in a common interest community declaration to be recorded against the Property. The Town acknowledges that additional real estate transfer assessments may be imposed upon the Property.

14. Amendment. The Owner may amend or terminate this Covenant. However, this Covenant shall not be amended or terminated without the advance written consent of the Board of Trustees. If the Town provides such consent, no amendment shall be effective unless it is contained in a written instrument signed and acknowledged by Owner or its successors in the same manner as a deed and duly recorded in the records of Eagle County, Colorado.

15. Term. Except as provided herein, the term of this Covenant shall be perpetual.

16. Colorado Law. The interpretation, enforcement or any other matters relative to this Covenant shall be construed and determined in accordance with the laws of the State of Colorado.

17. Binding on Successors. The provisions of this Covenant shall run with the Property and be binding on all persons who hereafter acquire any interest in the Property, whether as an owner, renter, trustee, or mortgage beneficiary or otherwise.

18. Encumbrance. Until terminated, each and every provision contained in this Covenant shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any of the Property is transferred, granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.

STATE OF COLORADO)
)ss.
COUNTY OF EAGLE)

My commission expires:

Exhibit 1

LEGAL DESCRIPTION

A parcel of land situate in Sections 26, 27, 33, and 34, Township 4 South, Range 84 West, of the Sixth Principal meridian, being a portion of Tracts 58, 59 and 70, of said Township and Range, County of Eagle, State of Colorado, being a portion of those lands described in Land Survey Plat No. 574, 575, and 576, as deposited in the Eagle County Eagle County Land Survey Plat Records, more particularly described as follows:

Beginning at a point on the south line of Highway 6 right of way and subject property; thence departing said south line S 73°54'09" E, 166.17 feet; thence N 83°53'51" E, 164.57 feet; thence N 03°16'32" E, 207.75 feet; thence N 88°53'49" E, 1444.68 feet; thence N 00°03'48" E, 1304.45 feet; thence N 89°56'08" E, 1452.88 feet; thence N 01°26'49" W, 410.52 feet to the approximate centerline of the Eagle River; thence along said approximate centerline of the Eagle River S 74°05'42" E, 61.00 feet; thence N 89°29'45" E, 168.06 feet; thence N 60°21'13" E, 237.26 feet; thence N 41°29'08" E, 382.43 feet; thence N 36°38'50" E, 287.00 feet; thence N 47°37'56" E, 301.83 feet; thence N 53°45'25" E, 221.64 feet; thence N 56°52'49" E, 306.49 feet; thence N 67°43'57" E, 484.77 feet; thence S 85°00'54" E, 131.72 feet; thence S 75°53'38" E, 341.87 feet; thence N 83°57'06" E, 341.07 feet; thence N 71°13'40" E, 310.58 feet; thence N 57°40'11" E, 499.51 feet; thence N 42°33'26" E, 259.34 feet; thence N 32°48'52" E, 262.87 feet; thence N 21°21'27" E, 271.70 feet; thence N 18°01'29" E, 171.02 feet; thence N 38°30'11" E, 154.44 feet; thence N 52°40'07" E, 201.11 feet; thence departing said approximate centerline of the Eagle River N 26°50'41" W, 63.81 feet to the south line of Highway 6 right of way; thence along said south line of Highway 6 right of way S 63°08'01" W, 3932.72 feet; thence in a southwesterly direction with a non-tangent curve turning to the left with a radius of 11410.00 feet, having a chord bearing of S 61°05'01" W and a chord distance of 816.31 feet, having a central angle of 04°06'00" and an arc length of 816.48 feet; thence S 59°02'01" W, 2572.80 feet; thence in a southwesterly direction with a tangent curve turning to the left with a radius of 2242.00 feet, having a chord bearing of S 42°41'01" W and a chord distance of 1262.26 feet, having a central angle of 32°42'00" and an arc length of 1279.56 feet to a 1350; thence S 26°20'01" W, 267.31 feet to the Point of Beginning.

Containing 106.194 acres more or less.

EXHIBIT D

Assignment and Assumption of Development Agreement Rights and Obligations

AFTER RECORDING RETURN TO:

ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT RIGHTS AND OBLIGATIONS

This Assignment and Assumption of Development Agreement Rights and Obligations (this "Assignment") is made as of _____, 20__ (the "Effective Date"), by and between _____ ("Assignor"), and _____ ("Assignee").

RECITALS

Pursuant to that certain Purchase and Sale Agreement, dated as of _____, by and between Assignor and Assignee concerning the purchase and sale of certain real property described therein, and more fully described in Exhibit A, attached hereto (the "Property"), Assignor sold to Assignee and Assignee acquired from Assignor the Property on the Effective Date.

In connection with Assignor obtaining from the Town of Eagle, Colorado (the "Town"), certain entitlement approvals for the Property, Assignor and the Town entered into that certain Annexation and Development Agreement, dated _____, which agreement was recorded in the real property records of the Eagle County Clerk prior to this Assignment (the "ADA"). In connection with the Assignee's acquisition of the Property, Assignor agreed to assign to Assignee all of Assignor's rights under the ADA (the "Assigned Rights"), and Assignee agreed to assume all of the obligations of Assignor under the ADA, whether express or implied (the "Assumed Obligations").

AGREEMENT

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

1. Assignment and Assumption. Assignor hereby expressly transfers, conveys and assigns to Assignee, and Assignee hereby accepts from Assignor, the Assigned Rights.

Additionally, Assignor hereby expressly transfers, conveys and assigns to Assignee, and Assignee hereby accepts from Assignor, the Assumed Obligations, and Assignee agrees to perform the Assumed Obligations. As additional consideration for the purchase and sale of the Property, Assignee hereby indemnifies and holds Assignor harmless from and against any and all claims, liens, damages, demands, causes of action, liabilities, lawsuits, judgments, losses, costs and expenses (including but not limited to attorneys' fees and expenses) actually asserted against or incurred by Assignor in connection with Assignee's failure to satisfy the Assigned Rights.

2. General Provisions.

a. No Implied Waiver. No failure by either party to insist upon the strict performance of any provision contained in this Assignment shall constitute a waiver of any such provision.

b. No Oral Amendment or Modifications. No amendments, waivers or modifications of the terms and provisions contained in this Assignment, and no approvals, consents or waivers by either party under this Assignment, shall be valid or binding unless in writing and executed by the party to be bound thereby. No such termination, extension, modification or amendment shall be effective unless and until a proper instrument in writing has been executed and recorded in the Records.

c. Severability. If any provision of this Assignment shall be held invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of any other provision of this Assignment, and there shall be substituted for the affected provision a valid and enforceable provision as similar as possible to the affected provision.

d. Binding Effect. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The provisions contained in this Assignment shall be construed as covenants running with the Property.

e. Construction; Captions for Convenience. The parties acknowledge and agree that both they and their counsel have reviewed this Assignment, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Assignment. All headings and captions used herein are for convenience only and are of no meaning in the interpretation or effect of this Assignment.

f. Costs of Legal Proceedings. In the event either party institutes legal proceedings with respect to this Assignment, the prevailing party shall be entitled to recover, in addition to any other relief to which it is entitled, its costs and expenses incurred in connection with such legal proceedings, including, without limitation, reasonable attorneys' fees.

g. No Third Party Beneficiaries. None of the terms, conditions or covenants contained in this Assignment shall be deemed to be for the benefit of any person other than

Assignee, its successors and assigns specifically designated as such in writing, and no other person shall be entitled to rely hereon in any manner.

h. Relationship of Parties. Nothing in this Assignment shall be construed or deemed to make or constitute the parties as partners, joint venturers or any other form of joint participants in the development of the Property.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

ASSIGNOR:

By: _____

Name: _____

Title: _____

ASSIGNEE:

By: _____

Name: _____

Title: _____



To: Planning and Zoning Commission

From: Community Development Department

Date: March 17, 2026

Agenda Item: LUDC text amendment to add regulations in alignment with the State Resilience Code (WUI Code) under SB23-166

REQUEST

For the Planning Commission to review and recommend approval of staff proposed modifications to the Land Use and Development Code in accordance with SB23-166 requiring jurisdictions to adopt Code language to address the Wildland Urban Interface.

BACKGROUND

Overview

In July of 2025, the state of Colorado adopted a State Resilience Code (SRC). This was adopted by the Wildfire Resilience Code Board (WRCB) within the Division of Fire Protection and Control (DFPC) that was created through [SB23-166](#), a bill addressed at increasing communities' wildfire resilience in the wake of the Marshall Fire. To be in compliance with this state legislation, the Town must adopt standards that are equal to or more restrictive than the State Resilience Code (SRC) by April 1, 2026, with implementation occurring by July of 2026. Staff has been in conversation with local jurisdictions and State authorities via peer exchanges and have received intel on good authority that this April 1 deadline is flexible. With this being said, communities need to be making progress towards compliance and do need to have language adopted by July 31st, 2026, as the State will be publishing a list of compliant and non-compliant communities at that time.

The SRC is intended to increase communities' resilience to wildfire by implementing ignition resistant construction and fire resilient site design. Ignition resistant construction means construction materials that will not ignite by embers or prolonged contact from flames, with the goal of reducing structure loss from wildfire. Fire resilient site design entails ensuring landscaping does not ignite and sustain flames against the exterior of structures and that landscaping does not support fires moving across the landscape.

The SRC applies to all new construction, including residential and commercial structures, and significant renovations.

As will be discussed further in the memo, while staff is ultimately not recommending the Town adopt the SRC, staff would like to recognize the strengths the SRC brings to the table. The Department of Fire Protection and Control (DFPC) assembled fire professionals from across the State to meet and discuss what a state-wide resilience code could look like, accounting for the diversity of urban and rural environments across the state. After convening this group to draft language for the SRC, the State has also hosted trainings across the state, one of which Community Development staff attended in Leadville, to walk through the SRC and how to implement it.

Beginning in January of 2024, the Town has participated in the Eagle County Wildfire Collaborative Working Group, which consists of fire professionals, building officials, and planning staff from across Eagle County. The goal of these conversations has been to create consistent standards across the County to provide clarity and reduce confusion within the general public and the development community by introducing coordinated strategies for regional uniformity.

Currently, the Town is in between Step 1 and Step 2 of the three-step process as depicted in the graphic below. The Town is currently collaborating with Headwaters Economics via a technical assistance program, at no cost to the Town, who has analyzed our Land Use and Development Code (LUDC) to identify where amendments were required to comply with the SRC.



Since the January 6 Work Session, staff has met with our peers in Carbondale, Basalt, and Avon to better understand how our neighboring communities are approaching this legislation. Additionally, staff has continued attending meetings with the Eagle County Wildfire Collaborative Working Group, the peer working group organized through Headwaters, the State’s Wildfire Resilience Code peer exchanges, and one on one conversations with local experts. Informed by this collaboration and expertise, staff is bringing forth proposed amendments to the LUDC that meet the standards of the SRC while accounting for Eagle’s context. This will be addressed later in the memo and staff is bringing forth a 7A-style amendment package to adopt into the Town’s Building Codes to address the SRC standards.

ANALYSIS

Mapping

Overview: The mapping element of the State Resilience Code indicates the level of hazard found throughout the Town and subsequently determines what regulations and standards new structures and significant redevelopment in Town are held to. To comply with SB23-166 the Town must adopt a map indicating level of hazard, and this map must be updated every 3 years and submitted to the State to conform with the regulations. The State’s Map is the minimum required to be compliant.

After verifying with the Town’s legal counsel, the map will be reviewed and decided upon by Town Council. Staff will be recommending that the Town adopt the Community Wildfire Protection Plan (CWPP) map published by Eagle County. Staff is making this recommendation because 90% of structure fires are started as a result of embers, which can travel 1.5 miles or further with strong winds, and given the boundaries of Eagle, this places the entire community at risk. From the American Institute of Certified Planners (AICP) Code of Ethics, the “primary obligation as planners and active participants in the planning process is to serve the public interest”. Staff believes this recommendation is in the best interest of the public and is putting it forth for the Council’s consideration.

Building

Overview: To comply with the legislation, the Town must adopt regulations for structures within the WUI. As these regulations fall under Title 13 and are out of the purview of the Land Use Code, the Commission will not be making any decisions on these specific regulations.

Staff will be recommending that Town Council adopt an amended version of 7A into Title 13.

Comparison between SRC and Proposed 7A Amendments and Targeted LUDC Amendments

Following up on a request from previous discussions with the Commission, staff has made a comparison table to document the similarities and differences between the SRC and the proposed 7A amendments and tailored LUDC amendments package. For brevity staff has not provided each specific detail verbatim but summarized these details at a high level to provide said comparison.

	State Resilience Code	7A Amendments
Mapping	Accompanied by State hazard map that indicates level of hazard across the Town of Eagle and is based on Landfire datasets and FlamMap, which does not account for variable weather conditions.	- CWPP map, indicating all of Eagle is in the WUI - Based on Landfire dataset's Fire Regime Condition Class (FRCC) tool, accounting for climate, current conditions and ecosystem health.
Building	- Town is divided based on hazard ratings shown on the State Map, which are no hazard rating, Class 1 hazard rating, or Class 2 - Applicant has to demonstrate that their proposed building materials meet the testing standards - Requires a variance process to be available to the applicants that staff has to administer - Example: Class 2 requires double paned windows, one pane being tempered glass	- One set of standards would apply to all the Town of Eagle - Applicant can use the approved State Fire Marshal (SFM) materials database from California, or applicant can demonstrate the proposed materials meet the listed materials standards 7A does not require a variance process be made available - Example: Requires windows meet the existing IECC standards the Town has already adopted, no additional requirements
Site & Area Requirements (includes Title 4)	- If used with the state map: - Chapter 5 of the SRC has the following standards – - If there is no hazard rating there are no defensible space requirements - If designated Class 1: - Zone 1 (0-5 feet of structure): no new trees or combustible plants/mulch allowed in the	- No defensible space requirements are written into the 7a building code standards or the CWPP Map - Applies to all of Town - Zone 1 (0-5 feet of structure): no new trees or combustible plants/mulch allowed in the first

	first 5 feet, ignition resistant plantings allowed • If designated Class 2: • Zone 1 (0-5 feet of structure): no new trees or combustible plants/mulch allowed in the first 5 feet, ignition resistant plantings allowed, all shrubs/slash/combustible mulch and woody debris has to be removed • Zone 2 (5-30 feet of structure): trees allowed as long as there's 10 feet separation between understory shrubs and plants and the bottom of tree branches; and separation between tree canopies and structures of at least 10 feet • Zone 3: (30-100 feet of structure): tree crowns shall be spaced a minimum of 6-10 feet of each other • Fences within 8 feet of a structure need to be made of noncombustible materials • Retaining walls with 8 feet of a structure required to be made of noncombustible materials • Buildings need a permanently posted address at the driveway entrance visible from both directions	5 feet, ignition resistant plantings allowed • Zone 2 (5 feet to property boundary): trees allowed as long as there's separation between understory shrubs and plants (no ladder fuels) and separation between tree canopies and structures of at least 10 feet • Fences within 8 feet of a structure need to be made of noncombustible materials • Retaining walls with 8 feet of a structure required to be made of noncombustible materials
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Site and Area Requirements

Overview: Following the work session on January 6, staff has proceeded with drafting tailored amendments to Title 4 to incorporate the relevant SRC standards. To ensure the proposed standards are implementable, staff has engaged with our peers in Basalt, Carbondale, Avon, Vail, and Blackhawk to understand what our neighbors are doing. To ensure these standards are ecologically sound, staff has also conversed with a local arborist, Mike Earl of Old Growth Tree Service, as well as Norris Designs, a company that does landscape architecture work in Eagle. Internally, Community Development staff have been in conversation with the Public Works team about trees and tree health at a high level since before the finalized State Code language became available.

Staff Recommendation: Staff recommends adopting the proposed LUDC amendments to incorporate State Code standards. These specific amendments will be discussed in greater detail below.

Eagle has never adopted Codes by reference into the LUDC and it would be a departure from the Town's historic planning practices. Additionally, within the last 3 months, staff has received different interpretations of the same SRC language from the consultant group the state is working with. Given how much room for interpretation there is, it leaves staff with serious concerns about how adopting only the minimum standards would work in terms of implementation in Eagle.

Title 4 Code Amendments

Overview: To comply with the SRC, the turf requirements encompassed in SB24-005, and in practice with staff's ongoing efforts to enhance clarity in the Land Use Code, staff engaged in a thorough reorganization of Chapter 4.11. The standards required by SB24-005 and SB23-166 were incorporated in with the existing standards and the Chapter was restructured so standards are organized by their proximity to a primary building on the property, with some standards applicable to the whole property and others applicable to just specific segments of the property.

Chapter 4.11 currently has standards listed in several different locations, which has proven challenging for staff and applicants. Additionally, the existing language was copied and pasted from the Town's previous land use Code without full consideration of the Town's context in the 21st century. Staff has worked to address these issues and solicited feedback from Headwaters Economics and Western Resources Advocates, as well as from local arborist Mike Earl and local landscape architecture group Norris Designs.

During the Planning Commission meeting on March 3, staff heard that Commissioners felt it was important for staff to carry forward certain elements of the existing Chapter 4.11, including front-yard buffer requirements for all of Town and rear-yard buffer requirements for properties in the Chambers Avenue Area that back to I-70. Unfortunately, these elements are not included in the current draft of Chapter 4.11. Staff believes there are ways to incorporate them; however, given the limited time available, the challenges posed by zone district setbacks, easement constraints, WUI distancing requirements, and ensuring the long-term health of trees and plant materials could not be fully resolved. Staff will closely monitor the implementation of this chapter through building permits and land-use applications, and will provide updates to the Commission and bring forward any concerns as they arise.

This round of Code amendments will repeal and replace Chapter 4.11 in the Land Use Code. This [proposed Code amendment package is linked here](#) and included as an attachment to this memo for the Commission's reference. As part of this Code amendment, staff is also adding definitions to reflect the wildfire and turf amendments for community member clarity. These [definitions are also being linked here \(starting bottom of page 1\)](#).

Alignment with the Comprehensive Plan:

Increasing the fire resiliency of structures in the community is aligned with the community values depicted in the Town's Comprehensive Plan. While the incorporation of these regulations could be tied into all the goals, staff has identified the strongest ties to Goal 2: Elevating our Unique Character, Goal 4: Elevating our Relationship with the Environment, and Goal 5: Elevating our Connections.

Within Goal 2, the policies regarding preserving and showcasing the rich cultural heritage of the Eagle Area (2-3.1), preserving and enhancing Eagle's unique character areas (2-3.2), and ensuring new development builds upon Eagle's community character by adherence to high quality standards of construction (2-3.3), are all contingent upon preserving the built environment of Eagle as it stands today.

These policies and the action items detailed in Chapter 5 of the Comprehensive Plan depend on protecting these existing structures and empowering intentional redevelopment that aligns with them.

Under Goal 4, the policies speaking to supporting and demonstrating sustainability (4-3), supporting and demonstrating the efficient use of natural resources (4-3.3), and plan for safety and resiliency by mitigating potential natural hazards (4-4), support the regulations of the State Code. Adopting these regulations will also serve as a positive contribution to Action 4.14 “Develop a Hazard Mitigation and Resiliency Plan to address wildfire and flood mitigation and response through coordination with state and federal agencies” by increasing the community’s resiliency to wildfire hazard and improving communications about addresses via improved site signage.

Furthermore, in Goal 5, the policies speaking to providing equitable and sustainable public services and infrastructure (5-4) and maintain public services and infrastructure per community expectations around Town standards (5-4.1) are supported by the Town’s incorporation of the State Resilience Code standards. Adding construction and materials standards, as well as site design and landscaping standards, that increase the resilience of structures to wildfire will help to protect public services and infrastructure into the future. By preserving the Town’s existing facilities with enhanced wildfire resiliency elements, the Town is also efficiently stewarding the public tax dollars by not exposing these structures that the public has funded at risk of potentially being critically damaged or lost.

Increasing the community’s resiliency to fire also aligns with the [Town’s adopted Source Water Protection Plan](#) (SWPP). The SWPP speaks to the significant impacts of wildfire on drinking water quality, and the need to take action to look out for the quality of the Town’s drinking water source.

Adopting standards that hold new construction and significant renovation to more fire resilient standards also supports the Town’s values of sustainability and natural resources. By protecting existing structures within the Town, the community reduces the likelihood of large-scale rebuilding after a wildfire, which in turn supports the Town’s 2030 climate action targets.

Decision Maker Feedback:

Staff was able to meet with several decision makers in person and received perspectives from several over email. The perspectives shared were noted by staff, summarized and detailed in the following paragraph so staff can share what we heard with the Commission and the public.

Concerns: Decision makers expressed strong concerns about costs and affordability, and how these may be impacted by the WUI Code. One person noted their concerns about the impacts to Old Town Eagle, while another noted their uncertainty if the Town should be stepping in here or if the insurance companies should be enforcing these restrictions. One person expressed that they thought Class 2 for all of Town was too restrictive, but they would be interested in all of Town being Class 1 with specific designated areas being Class 2.

Hopes: One individual expressed that their goal in this Code work was to not create an overburdensome application or review process for applicants. One person expressed their interest in wanting to think about what’s best for the community even if it differs from what our neighbors choose to do.

Requests from staff to support decision making: Someone expressed interest in seeing a visual of how this actually applies to OTR and CMU1 lots, and encouraged staff to present the pros and cons of both

options, maps, and materials lists. One individual requested an explanation of where we started, why this was done, and how these things are going to help in these areas of our process and in these areas of Town.

Clarification: During these conversations, a few comments were shared where staff felt additional context would be helpful for the Commission and the public. One decision maker noted a preference for using the State Map, as they felt it more accurately reflected wildfire risk. Staff would like to provide some additional information: based on widely accepted research showing that approximately 90% of structure ignitions during wildfires are caused by wind-driven embers—which can travel 1.5 to 2 miles ahead of a fire front—the entirety of Town is effectively within potential ember exposure. This understanding was also reflected in the March 10 Town Council presentation from GEFPD (linked in the attachments). Staff’s intention here is not to discount the State Map, but rather to highlight the role ember cast plays in defining local vulnerability.

A separate comment suggested that staff’s recommendation of 7A was primarily due to ease of administration. Staff would like to clarify that the primary reason for recommending 7A with the proposed LUDC amendments is our assessment that this approach provides the strongest protection for the health, safety, and welfare of the community. Ease of administration is a secondary consideration. That said, this approach does offer practical benefits: the 7A materials list aligns directly with the 7A code language, which supports consistency and makes it more accessible for homeowners completing smaller projects. In contrast, using the 7A materials list with the SRC would require additional interpretation and staff capacity that we do not currently have available.

Final Considerations:

In summary, staff appreciates the time and thought decision makers dedicated to sharing their perspectives. The input received has helped clarify areas of concern, highlight community priorities, and identify where additional information is needed. While there were differing viewpoints, staff heard consistent themes around cost, clarity, fairness, and the desire to ensure the Town adopts an approach that meaningfully improves community safety without creating unnecessary burden.

Staff also recognizes that several comments raised questions about risk mapping and code selection. As noted above, staff’s intent in providing additional context is simply to support informed decision making. We acknowledge that mapping wildfire risk is complex and that reasonable people may interpret the available tools differently. Staff’s goal is to ensure the Commission has the full picture—including the role of ember exposure, the limitations of available maps, and the rationale behind staff’s recommendation of 7A with LUDC amendments.

As this process moves forward, staff remains committed to continued engagement, transparent communication, and refining the draft based on Commission direction. We will continue monitoring

the implications of the proposed approach and will return to the Commission with updates, data, and recommendations as needed. Our shared goal is to adopt a code framework that best serves the health, safety, and long-term resilience of the Town, while remaining practical for applicants, homeowners, and staff to administer.

PUBLIC COMMENT/OUTREACH

Public hearings were noticed in accordance with Title 4 requirements. Staff received 2 letters of public comment from developers in the community who expressed concerns about the potential cost implications of adopting a 7A-style amendment package. Staff conducted small group conversations with decisionmakers one and two at a time to hear their thoughts on the WUI Code at large. That feedback has been incorporated into the segment above.

After hearing the recommendation from Planning & Zoning, staff anticipates creating a tiered public outreach approach with digital and in person elements. Staff will be creating a general informative flyer with the regulations to be shared on the website and social media. Staff has already started reaching out to HOAs and will continue this conversation through final adoption. Additionally, staff anticipates having an open house where developers and community members can ask questions and discuss the new regulations and their implications.

ATTACHMENTS

- [PZ Resolution 06, Series 2026](#)
- [Presentation from Greater Eagle Fire Protection District](#) (Starting at 11minutes 20 seconds)
- [SB23-116](#)
- [Colorado State Resilience Code](#)
- [Headwaters Economics Report on Construction Costs](#)
- [Resource Sheet from WUI Collaborative](#)
- [Firewise Plant Lists from CSU](#)
- [Recommended LUDC amendments from Headwaters Economics consulting team](#)

**TOWN OF EAGLE, COLORADO
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 06
(Series of 2026)**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO RECOMMENDING REPEAL AND REPLACE OF CHAPTER 11 OF TITLE 4 AND MISCELLANEOUS AMENDMENTS TO CHAPTERS 10, 12, 14, 16, AND 20 OF THE EAGLE MUNICIPAL CODE RELATED TO DEVELOPMENT STANDARDS AND PROCESSES

WHEREAS, pursuant to C.R.S. § 31-15-103, municipalities shall have power to make and publish ordinances which are necessary and proper to provide for the safety, to preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such municipality and the inhabitants thereof not inconsistent with the laws of this state; and

WHEREAS, the Town of Eagle (the “Town”) is a home-rule municipality organized under Article XX of the Colorado Constitution and with the authority of the Eagle Home Rule Charter (the “Charter”); and

WHEREAS, pursuant to Section 1.01.080 of the Eagle Town Code (the “Code”), the Town may amend the Code and pursuant to Section 4.17.120 of the Code, the Town may amend the Land Use and Development Code (the “LUDC”); and

WHEREAS, by April 1, 2026, municipalities are required to adopt standards equal to or more restrictive than the State Resilience Code to comply with Colorado SB23-166 with implementation required by July 2026; and

WHEREAS, the Planning and Zoning Commission wishes to repeal and replace Chapter 11 of Title 4 of the Code as it relates to Landscaping, Irrigation, Screening, and Fencing; and

WHEREAS, the Planning and Zoning Commission finds and determines that the proposed amendments to the Code outlined herein are reasonably necessary to promote the legitimate public purposes of the public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. **Section 4.20.020.** Definitions for ‘Anticipated mature size’, ‘Bioswale’, ‘Defensible space’, ‘Fine fuels’, ‘Immediate zone (Zone 1)’, ‘Intermediate zone (Zone 2)’, ‘Ignition-resistant vegetation’, ‘Invasive plant species’, ‘Linear planting strip’, ‘Mulch’, ‘Non-combustible breaks’, ‘Red flag’, ‘Rootable soil volume’, ‘Tree canopy’, ‘Tree crown’, and ‘Turf’ are hereby added to Section 4.20.020. of the Eagle Municipal Code as follows:

Anticipated mature size. The height and width a plant is expected to reach when fully grown.

Bioswale. A vegetated, low-lying area or trough that uses plant materials and specialized soil mixes to treat, absorb, and convey stormwater runoff.

Defensible space. An area where fuels have been treated, cleared, or modified to slow wildfire and create space for suppression operations.

Fine Fuels. Fuels such as grass, leaves, needles, and small twigs that ignite readily and are consumed rapidly.

Immediate zone (Zone 1). The zone from the exterior wall of a building (or vertical plane below the outermost projection) to five (5) feet away.

Intermediate zone (Zone 2). The zone from five (5) feet from a building to the property line.

Ignition-Resistant Vegetation. Plants with low ignition potential due to foliage chemistry and structure; while they can be damaged by fire, they do not significantly contribute to fire intensity.

Invasive plant species. Are plants that are not native to an environment, and once introduced, they establish, quickly reproduce and spread, and cause harm to the environment, economy, or human health

Linear planting strip. means a continuous landscaping area aligned with parking rows or drive aisles intended to connect multiple planting areas to create shared soil volumes.

Mulch. A layer of material applied to the surface of the soil to conserve soil moisture, reduce weed cover, and improve soil health.

Non-combustible breaks. Areas or materials that do not ignite or support combustion used to interrupt fuel continuity (e.g., hardscape or rock mulch).

Pervious surface. Also referred to as pervious material. A material or surface that allows for the absorption of water into the ground or plant material, ~~such as permeable pavers or a vegetated roof.~~

Red flag. A term used by fire-weather forecasters to call attention to weather of particular importance to fire behavior. The purpose is to call attention of forecast users to special conditions of limited duration that may result in extreme burning conditions. In addition to being used when extreme burning conditions are expected, the term may be employed when rapid weather change is expected to cause an important increase in danger without actually reaching the extreme stage. (A red flag may be specified for a given period or to continue until specifically removed from the forecast statement.)

Rootable soil volume. Means a contiguous, uncompacted, and aerated volume of soil suitable for tree root growth, providing at least 2 cubic feet of volume per square foot of mature tree canopy projection, or a minimum of 300-1000 cubic feet per tree based on tree size. It must be comprised of sandy loam or similar approved planting medium, have a minimum depth of 3 feet, and have a maximum compaction level of 1.4 g/cc. Rootable soil volume may include soil shared between trees, engineered soil cells, or structural soils.

Tree crown. The primary and secondary branches growing from the main stem, together with twigs and foliage.

Turf. Means continuous plant coverage consisting of non-native grasses or grasses that have not been hybridized for arid conditions and which, when regularly mowed, form a dense growth of leaf blades and roots.

Functional Turf means turf that is located in a recreational use area or other space that is regularly used for civic, community, or recreational purposes, which may include a playground, a sports field, a picnic ground, an amphitheater, a portion of a park, and the playing area of a golf course, such as a driving range, chipping and putting green, tee box, green, fairway, and rough.

Nonfunctional Turf means turf that is not functional turf. Nonfunctional turf includes but is not limited to turf located in a street right-of-way, parking lot, median, or transportation corridor.

Functional Artificial Turf means artificial turf that is located in a recreational use area or other space that is regularly used for civic, community, or recreational purposes, which may include a playground, a sports field, a picnic ground, an amphitheater, a portion of a park, and the playing area of a golf course, such as a driving range, chipping and putting green, tee box, green, fairway, and rough; OR a component of a product designed and approved by a professional engineer for civil infrastructure projects, including but not limited to: covers for solid waste facilities and brownfield sites; and revetments for slopes, channels, levees, and dams.

Section 2. **Section 4.10.050.C.3.b.ii.a.** Section 4.10.050.C.3.b.ii.a. of the Eagle Municipal Code is hereby amended as follows:

(a) Opaque privacy fencing, made with non-combustible materials within 8 ft of a building, is required where commercial ~~lots~~ uses abut residential neighborhoods. The fence shall be ~~between six and eight feet~~ a minimum of 42 inches in height. The Director may approve the use of plant material as a screening device if plant quantities and plant spacing are designed to create ~~dense,~~ visual barriers and comply with all provisions of Chapter 4.11.

Section 3. **Section 4.10.050.C.1.b.v.** Section 4.10.050.C.1.b.v. of the Eagle Municipal Code is hereby amended as follows:

(b) *Landscaped areas.* Landscaping shall integrate with landscaping found along the Broadway streetscape and applicants are required to describe how their proposed landscaping is native, will be maintained and integrates with the existing street landscaping. ~~Appropriate mature heights of ornamentals and shrubs shall not exceed four feet in height. Planting materials may include annuals, perennials, grasses, small ornamental trees or shrubs that flower, have colorful winter bark or showy fruits.~~ Plantings shall be kept to designated planting areas and applicants shall provide a landscape plan for any proposed landscaping in the Broadway district

(planting pots typically do not require a landscape plan). ~~Turf is permitted, however, applicants shall show how the turf is to be maintained. Hardscaped paths are required through any turf areas from the property line to the building entry door.~~

Section 4. **Section 4.10.050.C.2.b.ii.** Section 4.10.050.C.2.b.ii. of the Eagle Municipal Code is hereby amended as follows and Section 4.10.050.C.2.b.iii. shall be renumbered as ii:

~~ii. — Lots that abut the 1-70 corridor, a railroad or a residential zone district shall have a minimum 15-foot landscaped buffer paralleling the property line shared with the interstate right-of-way. In the buffer, one tree is required to be planted for every 25 linear feet of property line. A minimum of one-third of all required trees shall be evergreen, and shall be placed 20 feet on center minimum and 30 feet on center maximum, in groups of three or five. Shrub massing shall be used in conjunction with tree plantings. Selected shrubs shall have a minimum mature height of eight feet.~~

Section 5. **Section 4.10.050.C.2.c.** Section 4.10.050.C.2.c. of the Eagle Municipal Code is hereby amended as follows:

~~ii. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or formal internal pedestrian way, such as a marked or signed walkway.~~

~~iii.ii.~~ Trucks, trailers, and outdoor containers used for functions such as delivery or maintenance shall only be parked or stored in designated loading and unloading areas that are completely screened from adjacent streets or properties for the duration that they are on the site, and shall be removed promptly upon the completion of use or service.

~~iv.iii.~~ Exterior display areas shall be clearly depicted on the development plan. All exterior display areas shall have a minimum buffer of ten feet from vehicle lanes or parking areas and shall be permanently screened around the perimeter of the exterior display area with walls or fences, in conformance with §4.11.600.

~~v.iv.~~ Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters and trash compacters shall be incorporated into the overall design of the building and the landscaping so that their visual impacts are screened from view from adjacent properties and public streets, and the screening materials shall be consistent with the principal materials of the building and landscaping and in conformance with §4.11.600.

Section 6. **Section 4.10.050.C.4.b.ii.** Section 4.10.050.C.4.b.ii. of the Eagle Municipal Code is hereby deleted:

~~ii. — No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or formal internal pedestrian way, such as a marked or signed walkway.~~

Section 7. **Section 4.12.040.I.** Section 4.12.040.I. of the Eagle Municipal Code is

hereby deleted:

~~I. EV Charging. On-site electric vehicle charging shall be provided in compliance with the Colorado Model Electric Ready and Solar Ready Code as applicable to the Town.~~

Section 8. Section 4.14.040.C.2. Section 4.14.040.C.2. of the Eagle Municipal Code is hereby amended as follows:

a. Applicants shall work with a landscape designer or other professional to determine plant species for the site. To the greatest extent possible, Only plant species native to Eagle County or that are on an approved Town landscaping list ~~may~~ should be introduced on sites containing ~~important~~ critical wildlife habitat areas.

b. To the maximum extent feasible, existing herbaceous and woody cover on sites shall be maintained and removal of native vegetation shall be minimized; except for fire mitigation at the discretion of the Fire District.

c. Only animal species approved by Colorado Parks and Wildlife may be introduced on sites containing ~~important~~ critical wildlife habitat areas.

Section 9. Section 4.14.040.C.4. Section 4.14.040.C.4. of the Eagle Municipal Code is hereby amended as follows:

a. Fencing on sites ~~containing~~ within critical wildlife habitat shall not exceed four feet in height, unless the Director approves the fencing to confine permitted domestic animals or to protect permitted ornamental landscaping or gardens.

b. The ~~Director will~~ applicant shall work with CPW and the Fire District to determine the type of fencing most appropriate for the site. ~~determine the type of fencing appropriate for the wildlife species on the site based on Colorado Parks and Wildlife fence guidelines and as consistent with~~ [Section 4.11.070](#).

Section 10. Section 4.16.020.D. Section 4.16.020.D. of the Eagle Municipal Code is hereby amended as follows:

4. Marking of roads. Approved signs or other approved notices shall be provided and maintained for access roads and driveways to identify such roads and prohibit the obstruction thereof.

5. Marking of fire protection equipment. Fire protection equipment and fire hydrants shall be clearly identified in a manner approved by the code official to prevent obstruction.

6. Address markers. Buildings shall have a permanently posted address, which shall be placed at each driveway entrance and be visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located in a manner approved by the code official.

Section 11. **Chapter 4.11.** Chapter 4.11 of the Eagle Municipal Code is hereby repealed in its entirety and reenacted in the form attached hereto.

INTRODUCED, READ, PASSED AND ADOPTED ON MARCH 17, 2026.

TOWN OF EAGLE, COLORADO

Matthew Hood, Planning Commissioner

ATTEST:

Gram Dick, Administrative Technician II

Chapter 4.11 — Landscaping, Irrigation, Screening and Fencing

Section 4.11.010 – Purpose and Intent.

The purpose of this chapter is to ensure that landscaping, fencing, and screening support a resilient, fire-adapted, and water-efficient community by using fire-wise design, climate-appropriate plantings, preservation of healthy existing vegetation, and durable materials that enhance neighborhood character and environmental stewardship.

Landscaping shall reduce wildfire risk, promote plant health, minimize water use, and prevent habitat fragmentation and invasive species, consistent with the Town’s Comprehensive Plan and state regulations.

Section 4.11.020 – Authority; Relationship to State Requirements

These standards meet or exceed State requirements for wildfire resiliency and water-efficient landscaping while allowing flexibility and creativity in landscape design to protect public health, safety, property, and welfare.

Section 4.11.030 – Applicability.

- A. *General Applicability.* All properties within the Town of Eagle proposing new construction and/or substantial redevelopment subject to a development plan, use permit (special or conditional), and/or building permit shall comply with this chapter. Specific thresholds for ‘substantial redevelopment’ are established in the Administrative Manual.
- B. *Subdivisions.* Subdivision applications shall comply with this chapter and applicable streetscape guidelines.
- C. *Landscape Permit.* A separate landscape permit is required when landscaping is not reviewed under another permit.
- D. *Tree Removal Permit.* Removal of any tree requires a tree removal permit unless exempted elsewhere in this chapter.
- E. *Installation.* Plant materials and irrigation shall be installed prior to issuance of a certificate of occupancy, unless the Director approves seasonal deferral with a performance guarantee.
- F. *Conflict.* Where conflicts exist, the provisions of this chapter control to the extent of the conflict.

Section 4.11.040 – Required Plans.

- A. *Required Plans.* Landscape and irrigation plans are required for all developments subject to this chapter. Grading, drainage, and erosion control plans shall be submitted when proposed work would alter existing grades, drainage patterns, or require erosion control measures. The Town maintains submittal checklists in the Administrative Manual.

Section 4.11.050 – Defensible Space – Zone 1 – Immediate Zone.

- A. *Zone 1 – Immediate Zone* (0–5 feet from buildings). The Immediate Zone, or Zone 1, extends from the exterior wall of any building (or the vertical plane beneath the outermost projection, such as eaves or decks) to a distance of five (5) feet and shall be designed to prevent direct flame contact and ignition from embers. The following standards apply:
1. *Allowed Ground Treatments and Hardscape.* Only non-combustible materials (e.g., gravel or rock), pavers, concrete, or stone are permitted.
 2. *Prohibited Plant Materials.* No new trees or shrubs may be planted. Except as provided under Ignition-Resistant Plantings below.
 3. *Ignition-Resistant Plantings (IRP).* Limited ignition-resistant plantings may be permitted within Zone 1 provided they meet the following criteria:
 - i. *Fuel characteristics.* Plants shall exhibit high moisture content, low resin or oil content, and slow growth rates.
 - ii. *Plant form.* Plantings shall consist of low-growing groundcovers, herbaceous perennials, or similar vegetation that is irrigated and maintained.
 - iii. *Spacing.* IRPs shall be installed in small, isolated, and well-spaced groupings, not in large or continuous masses. All plant materials shall be shown on plans at anticipated mature size. Plant spacing shall be reviewed as part of the application.
 - iv. *Groundcovers and turf.* Permitted irrigated or low-water groundcovers, including functional and approved non-functional turf, are not subject to spacing requirements and may be planted within Zone 1, provided they are maintained at a height of 4-inches or less.
 4. *Existing Vegetation.* Existing vegetation within five (5) feet of buildings shall be removed, except that existing mature trees may remain where branches are pruned to maintain required clearances from structures; see §4.11.070.
 5. *Decks and patios.*

- i. Decks shall comply with applicable codes; maintain a non-combustible surface extending 5 ft from deck edges, except where a deck abuts the exterior wall.
 - ii. Patios constructed of concrete, natural stone, or other fully non-combustible materials may be located within Zone 1 without an additional five-foot non-combustible buffer, provided all adjacent conditions meet the requirements of this Section.
- 6. *Storage of firewood.* Open storage of firewood is prohibited in this area. Storage within an ember-resistant, non-combustible container may be allowed when no feasible alternative exists.

Section 4.11.060 – Defensible Space – Zone 2 – Intermediate Zone.

- A. *Zone 2 – Intermediate Zone* (5+ feet from buildings). Zone 2 begins five (5) feet from the building (measured from the vertical plane beneath the outermost projection) and extends to the property line where less than thirty (30) feet is available. Landscape design in this zone shall minimize radiant heat, eliminate ladder fuels, resist ember ignition, and support low-water, climate-appropriate planting.
 - 1. Properties with more than 30' from buildings to the property line are generally still subject to the requirements below, but additional plant materials may be permitted, and planning of shrubs and perennials in separated clusters with non-combustible breaks is not required.
- B. *Plant Materials; General.*
 - 1. *Allowed:* deciduous trees and shrubs; irrigated low-growing perennials and groundcovers; other ignition-resistant species, and limited evergreen species for privacy or screening.
 - 2. *Prohibited:* highly resinous/oily plants (e.g., juniper).
- C. *Tree Location and Spacing.*
 - 1. *From buildings.* Maintain a minimum horizontal clearance of ten (10) feet between the outer edge of the mature canopy and any building.
 - 2. *Between new trees.* Maintain a minimum of ten (10) feet between mature canopies, except as allowed for grouped species.
 - 3. *Vertical separation.* Maintain a minimum of six (6) feet between shrub/groundcover tops and the lowest tree branches, or prune to no more than one-third (1/3) of total tree height, whichever results in less branch removal.
 - 4. *Groupings.* Grouped deciduous trees (e.g., aspen) are allowed when mature crowns remain outside the 0–10-foot zone from buildings and all separation requirements are

met. Grouped conifers may be allowed beyond 10 feet and must meet maintenance, spacing, and vertical separation requirements.

D. *Shrubs and Perennials.*

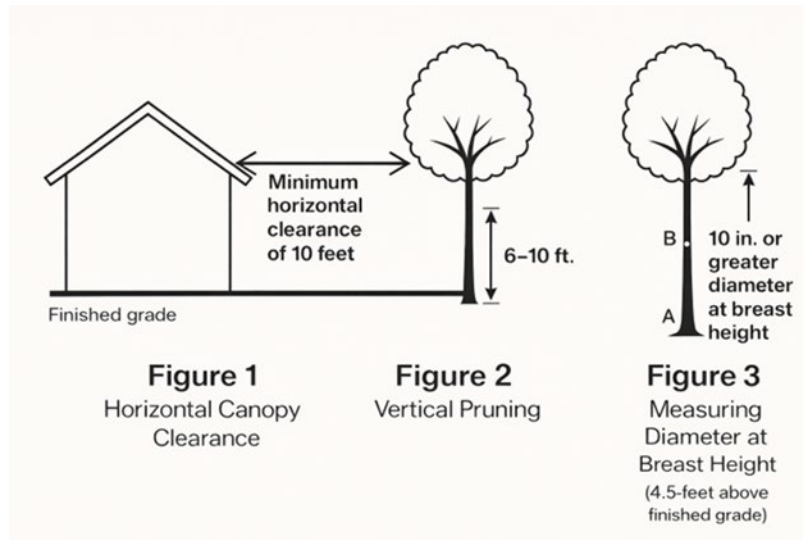
1. Plant in small, separated clusters with non-combustible breaks (e.g., rock/gravel bands or hardscape).
2. Near trees, keep mature plant height generally under three (3) feet within 5–15 feet of buildings; heights up to five (5) feet may be allowed 15–30 feet from buildings if vertical separation to tree branches is maintained.

Table 4.11-1: Allowed Elements by Wildfire Zone

Table 4.11-1: Allowed Elements by Wildfire Zone		
Element	Immediate (0–5 ft)	Intermediate (5+ ft)
Non-combustible mulch/hardscape	Required	Allowed
Organic mulch	Prohibited	10 ft from building; separated by ≥3 ft non-combustible on all sides
Turf (live or artificial)	Functional and allowed non-functional when mowed to no more than 4-inches tall	Functional and allowed non-functional; otherwise prohibited per §4.11.100 and state law
New trees	Prohibited	Prohibited within 10-ft of buildings
Ignition-resistant plantings	Allowed in limited numbers and small, separated clusters	Allowed in small - medium separated clusters
Planting beds/raised beds	Prohibited	Allowed if non-combustible construction and ≥5 ft from buildings / or a minimum of 10 ft from buildings when organic mulch is used in the planting bed

Section 4.11.070 – Existing Trees and Vegetation.

- A. *Existing Mature Trees.* Existing trees with a trunk diameter of ten (10) inches or greater, measured at 4.5 feet above finished grade (diameter at breast height), may remain subject to the following:



1. *Horizontal clearance from buildings.* Maintain a clearance of ten (10) feet between the existing tree and any building by pruning. Tree removal is not required when compliance can be achieved through pruning. Where a certified arborist determines that pruning to achieve the full clearance would compromise tree health or stability, the Director may approve lesser clearance with mitigation (e.g., additional hardscape or non-combustible breaks) or require removal with replacement in a different location.
 2. *Vertical pruning (ladder fuel reduction).* Prune lower branches to a minimum height of six (6) feet above finished grade, or to no more than one-third (1/3) of total tree height, whichever results in less branch removal. Vertical pruning is not required if there are no ladder fuels at the base of the tree or under branches.
- B. *Tree replacement requirements.*
1. Removed trees must be replaced with:
 - i. A tree providing similar functional characteristics (e.g., shade, understory, privacy), except that new highly oily or resinous plant material shall not be used; or
 - ii. A different species that improves biodiversity, subject to approval by the Director.

- iii. The Director may approve shrubs in place of trees where appropriate due to site conditions, utilities, or spacing constraints. Locations of replacements must be approved in writing by the Director and comply with this Chapter.
- C. *Preservation of existing vegetation.* Landscape plans shall preserve existing native vegetation and mature trees to the extent consistent with wildfire mitigation, utilities, and public safety.

Section 4.11.080 – Landscape Measurement Rules.

- A. Distances are measured horizontally from the nearest exterior wall of any building to the nearest point of the plant or canopy edge at anticipated mature size.
- B. Diameter at Breast Height (DBH) is measured 4.5 feet above finished grade on the upslope side of the tree.
- C. For projections (e.g., decks, porches, eaves), measurements begin at the vertical plane beneath the outermost projection.

Section 4.11.090 – General Landscaping Requirements.

- A. *Non-combustible mulch* (gravel/rock) is preferred throughout all zones.
 - 1. Organic mulch is not permitted within Zone 1.
 - 2. Within Zone 2, organic mulch may be used only when located a minimum of 10 feet from a building and in clearly defined areas that are fully surrounded by a minimum of three (3) feet of non-combustible surface on all sides. The Director may approve alternative treatments when the applicant demonstrates a clear functional benefit and provides adequate mitigation measures to reduce ignition risk.
- B. *Planting Beds.* Planting beds are not permitted within Zone 1. Within Zone 2, planting bed borders shall be constructed of non-combustible materials.
- C. *Trellises.* Trellises are permitted within Zone 2 when constructed of non-combustible or ignition-resistant materials and when required clearances are maintained.
- D. *Plant Selection and Hydrozones.* Plant selection shall emphasize low-water native mountain region vegetation and limit high-water species. Required landscapes shall be designed using hydrozones (grouping plants by water needs). Irrigation requirements for hydrozones are in §4.11.200.

Table 4.11-2: Landscape Materials – Minimum Requirements – Size and Spacing:

Table 4.11-2: Landscape Materials – Minimum Requirements – Size, Area, and Spacing		
Landscape Material	Size	Spacing
Evergreen Tree	1.5" Caliper	Tree placement should be planned to ensure the

Deciduous Tree	1.5" Caliper	mature canopy is no closer than 10 feet to the closest part of a building. Trees should be grouped based on water usage.
Shrubs	3-gallon	Shrubs shall be grouped based on water usage.
Perennials	2.5 Qt or 1-gallon	n/a
Annual flower bed	No minimum	Grouped based on water usage.
Low-water, low-ignition, or 'mountainscape' ground cover	No minimum	n/a
Earthen berm – approval required from Director, Town Engineer, or designee		
Combustible Mulch (e.g. shredded bark mulch)	No minimum	Prohibited within 10' of a building and fully surrounded by a minimum of three (3) feet of non-combustible surface on all sides
Hardscape material / noncombustible mulch (e.g. rock mulch such as river rock, pea gravel, or gravel)	No minimum	n/a
Ornamental Pavers / Natural flagstones	Not to exceed impervious requirements	
Pavers or Pavement – not to exceed impervious requirements.		
Landscape Boulders	No minimum	
Other features / seed are allowed as otherwise provided for.		

Section 4.11.100 – Functional and Nonfunctional Living Turf Grass and Artificial Turf.

A. *Applicability.* The installation of nonfunctional turf and nonfunctional artificial turf is prohibited as part of all new development or redevelopment for multi-family and common-interest communities, commercial, institutional, and industrial properties, medians, parking lots, rights-of-way, and transportation corridors. For single-family residential

properties, turf shall be limited to functional areas as defined below and as further specified in the Administrative Manual.

Table 4.11-3: Turf Installation Applicable based on Property Type

Table 4.11-3: Turf Installation Applicable based on Property Type		
Property Type	Turf Installation Allowance	Notes / Conditions
Single-family	Allowed only in functional areas	Must meet definition of “functional turf” and follow requirements in the Administrative Manual
Multi-family	Nonfunctional turf and nonfunctional artificial turf are prohibited	Applies to all new development or redevelopment
Common-interest communities	Nonfunctional turf and nonfunctional artificial turf are prohibited	New development or redevelopment
Institutional	Prohibited	New development or redevelopment
Commercial	Prohibited	New development or redevelopment
Industrial	Prohibited	New development or redevelopment
Medians, parking lots, rights-of-way, transportation corridors	Prohibited	New development or redevelopment
Slopes Steeper than 30%	Prohibited	New development or redevelopment

- B. *Functional Turf*. Turf located in recreational use areas or other spaces regularly used for civic, community, or recreational purposes (e.g., sports fields, playgrounds, picnic grounds, amphitheaters), and reasonable, limited portions of residential yards that provide functional use.

- C. *Nonfunctional Turf*. Turf areas not regularly used for civic, community, or recreational purposes, including but not limited to medians, parking lots, transportation corridors, and slopes steeper than thirty percent (30%).
 - 1. Warm season grasses, native, and climate adapted grasses for Colorado that require less supplemental water than cool season grasses may be used in nonfunctional areas along with a range of lower water use plants and shrubs that are native or adapted to Colorado's climate.
- D. *Species Limitations*. Use of cool season grasses (e.g., Kentucky bluegrass) is prohibited in nonfunctional areas and discouraged elsewhere unless part of an approved functional area.
- E. *Artificial Turf*. Artificial or synthetic turf is permitted only for playgrounds, mini-golf, kennels/dog relief areas designed with appropriate drainage and maintenance plans, or recreation fields; it is prohibited as a substitute for live landscaping elsewhere.

Section 4.11.200 – Irrigation.

- A. *Hydrozones*. Divide irrigated areas into hydrozones by plant water needs (low/medium/high). Each hydrozone shall include only plants with similar requirements; show hydrozones on irrigation plans, including estimated seasonal water needs.
- B. *Plant Water-Need Classification*. Label all plant materials as low, medium, or high water use; consider local climate, soils, wildfire resistance, disease/pest resistance, and long-term adaptability.
- C. *Soil Preparation*. Prior to irrigation installation, amend and prepare soil to support root development and moisture retention; for new landscaping, incorporate soil amendments to a depth of at least six (6) inches. Native seeded areas may be exempt.
- D. *System Layout and Operation*. Design systems to prevent overspray, runoff, water on impervious surfaces, and wind drift. Zones shall support plant grouping, sun exposure, slope, and soil type. Provide automatic controllers with weather or soil-moisture inputs, a master valve, and flow sensor. Provide isolation valves for hydrozones or distinct planting areas. Overhead spray irrigation is permitted only where appropriate (e.g., functional turf).
- E. *Scheduling and Water Waste Prevention*. Comply with Town watering schedules, restrictions, and drought measures. Adjust frequency/duration for establishment and long-term efficiency. Prohibit water runoff, overspray, pooling, and other water waste.
- F. *Temporary Establishment Watering (Optional)*. The Town may issue a Temporary Landscape Establishment Permit for initial plant establishment; permits are time-limited and do not apply during declared water emergencies.

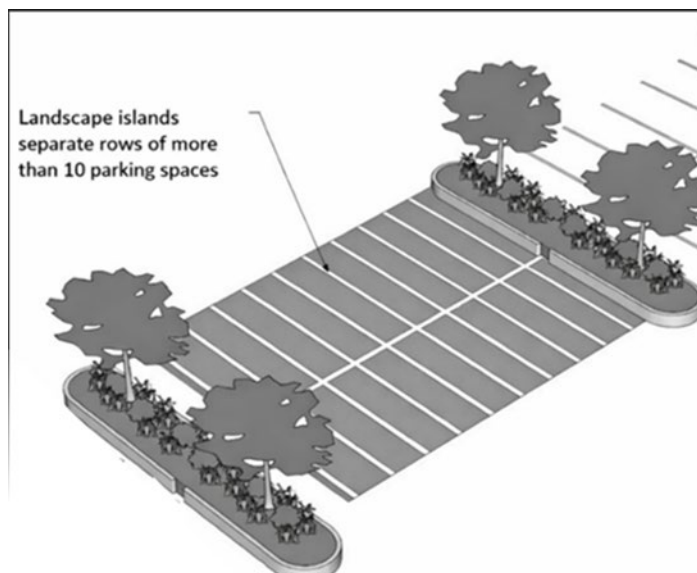
- G. *Maintenance and Verification.* Maintain systems in good repair. The Town may require post-installation inspection as part of certificate of occupancy to verify controller operation, valve/emitter function, absence of leaks/overspray, and seasonally appropriate scheduling.
- H. *Prohibited Practices.* Irrigation during rainfall or when soil moisture is sufficient; irrigation causing runoff to adjacent properties, sidewalks, streets, or drainageways; overhead spray in hydrozones of exclusively low-water native species or on slopes where runoff is likely.

Section 4.11.300 – Revegetation of Disturbed Native Land.

- A. *Applicability.* Applies only to areas with undisturbed native land on the property that are adjacent to Town-owned open space or Federal property; does not apply to former or current agricultural lands. Disturb only the area necessary for construction.
- B. *Requirements.* Disturbed areas not formally landscaped shall be mulched and revegetated with native seed or plant materials; install ≥ 3 inches of topsoil (use stockpiled site topsoil when possible). Slopes steeper than 3:1 shall receive biodegradable erosion-control blankets.
- C. Wildfire mitigation at native/open-space interfaces is permitted with Town approval.

Section 4.11.400 – Parking Lot Landscaping.

- A. *Applicability.* Applies to any off-street surface parking area with more than ten (10) spaces, including expansions that cumulatively exceed this threshold, except as otherwise provided in district-specific standards.



1. *Spacing and Preferred Configuration.* Provide a landscape island or linear planting area at least every ten (10) spaces in a row. All parking rows must end in a terminal

island. Where feasible, use linear planting strips to provide shared root zones; linear strips may count as multiple required islands when width standards are met.

2. *Minimum Planting Area Dimensions and Planting Requirements.*

- i. Interior planting islands containing trees shall be at least eight (8) feet wide and 300 square feet in area.
- ii. Islands without trees shall be at least six (6) feet wide.
- iii. Provide one shade-providing deciduous tree per ten (10) spaces. Trees shall be selected from the Town's approved lists or an applicant may demonstrate equivalency for species suitable for heat, drought, and parking lot conditions.

3. *Soil Condition and Green-Infrastructure Options.*

- i. Planting areas shall be constructed with uncompacted planting soil loosened to a minimum depth of 24 inches before planting. Where soils are highly compacted or disturbed, appropriate soil amendments shall be added as needed to achieve workable planting conditions. All planting areas must meet the requirements for Rootable Soil Volume, as defined, including continuity, depth, soil type, and maximum compaction level; where planting areas include trees, the planting soil must meet the depth and volume requirements for Rootable Soil Volume.
- ii. Rain gardens, bioswales, or other green-infrastructure areas may substitute for required interior landscape islands when they meet the minimum width requirements applicable to the island being replaced and include at least one deciduous shade tree. Green-infrastructure areas used as substitutions must be designed so that the shade tree can meet the Rootable Soil Volume requirement, as defined.

- 4. Nonfunctional turf grass (including artificial turf – both functional and nonfunctional) is prohibited within landscape islands.

Table 4.11-4: Parking-Lot Landscaping Summary

Table 4.11-4: Parking-Lot Landscaping Summary	
Standard	Minimum
Interior island width (with trees)	8 ft; 300 sf
Interior island width (no trees)	6 ft
Tree ratio	1 deciduous shade tree per 10 spaces

Island frequency	Every 10 spaces; terminal islands at row ends
Bioswale / rain garden	≥8 ft width + ≥1 deciduous shade tree
Turf in islands	Prohibited
Soil preparation	Loosen to ≥24 inches; amendments as required

- B. All parking lot landscaping shall be maintained in healthy condition at the expense of the property owner. Snow storage is not recommended in landscape islands.
- C. All parking lots serving nonresidential uses shall be separated from adjacent residential zone districts or uses by a minimum 42" high fence, wall, or landscaping approved by the Director and in conformance with the requirements of this Chapter and clear vision area standards pursuant to [Section 4.02.040.A](#).
- D. *EV Charging Equipment Clearance.* For purposes of vegetation clearance, EV charging equipment shall be treated as a building element; maintain a minimum clearance of ten (10) feet horizontally and vertically between vegetation at maturity and EV charging equipment. Final siting and installation of EV equipment is governed by applicable Building and Electrical Codes; landscape plans should avoid placing required islands where clearances cannot be maintained.
- E. *Parking lot drainage design.* Parking lot drainage shall not cross public sidewalks, be released onto adjacent property, or discharge into natural watercourses without suitable treatment. The surface of islands and divider strips may be concave to help channel surface runoff. Drainage systems shall incorporate water-quality treatment measures as approved by the Town Engineer.

Section 4.11.500 – Fencing.

- A. *Materials and Transitions.* Where a fence connects to a building, the first eight (8) feet from the building shall be constructed of non-combustible materials. Solid wood or composite fencing may resume beyond eight (8) feet, provided vegetation clearances in this chapter are maintained.
- B. *Breaks.* Perimeter fences shall provide breaks (non-combustible sections, gates, or clear zones) at intervals not to exceed 100 feet to reduce continuous fuel pathways.

- C. *Chain Link*. New chain link fences are prohibited in all zone districts except Industrial (IND). In the Commercial General (CG/CGE) districts, chain link may be allowed for specific uses with Director approval. Existing lawful chain link fences may remain.
- D. *Maximum Fence Heights*. Clear vision areas must be maintained pursuant to §4.02.040.A; any fencing located in such area shall be required to be reduced to comply. A building permit is required for any fence over six (6) feet in height. On residential lots or parcels within or adjacent to wildlife habitat, movement corridors, or open space parcels, fences are limited to 42 inches and should adhere to CPW’s ‘Fencing with Wildlife in Mind’ (or successor) to the extent practicable.

Table 4.11-5: Maximum Fence Heights

Table 4.11-5: Maximum Fence Heights			
	Residential Districts [1]		Nonresidential Districts [1]
	Interior Lot	Corner Lot	
Front Yard	42 in	42 in	42 in
Side Yard	6 ft	6 ft	8 ft
Rear Yard	6 ft	6 ft	8 ft
Notes: [1] Where fence height requirements in this table conflict with any use standards (e.g. childcare facilities) the requirements for the established use may control.			

Section 4.11.600 – Screening.

- A. *Purpose*. To completely hide stored materials from view of persons standing on the ground outside the storage area. Where no location is specified, assume a person standing on the ground 50 feet from the screening device on any side.
- B. *Rooftop Mechanical Equipment*. In conformance with Table 4.02-3 and Chapter 4.10, screen rooftop mechanical equipment from the view of a person standing on the property line across

an adjacent public street. Individual ‘capsule’ screening of units is prohibited; use grouped penthouse-style screening or parapet walls integral to the building architecture and reflective of Eagle’s historic past. When rooftop mechanical equipment and amenities are present, non-combustible screening integrated into the building architecture shall be required.

- C. *Storage, Recycling, Waste Collection, and Loading.* Site these areas to avoid conflicts with vehicular circulation (Chapter 4.10). Incorporate these functions into overall building and landscape design to screen from public streets using non-combustible materials compatible with the primary building. Where landscaping is used with non-combustible screening, keep the entire storage/waste area at least ten (10) feet from any habitable building. Trash storage for multi-family and nonresidential projects shall be within a building or enclosed by a six-foot solid enclosure of non-combustible materials similar or complementary to the primary building(s). Uncovered enclosures may be located in setbacks when height standards are met. Trash areas adjacent to public alleys may be allowed without screening, when it is necessary for access by the waste collector or when the width of the alley makes screening infeasible.
- D. *Utilities.* Utilities may be screened using non-combustible enclosures or ignition-resistant plantings meeting §4.11.050 and §4.11.060. Measure required distances from structures on the applicant’s property. With permission from the utility provider, non-combustible artistic expressions may be permitted.
- E. *Firewood.* See §4.11.050 for Zone 1 storage limitations; when outside Zone 1, firewood may be screened and covered with ember-resistant tarps, or within an ember-resistant, non-combustible container, if clearances are maintained.

Section 4.11.700 – Retaining Walls.

- A. *Materials.* Retaining walls must be constructed of non-combustible materials.
- B. *Permits.* Retaining walls over four (4) feet in height, measured from finished grade, require a building permit. Existing combustible retaining walls built prior to adoption of fire-wise regulations shall be replaced with non-combustible materials if more than 25% of the wall shows signs of failure or the Fire District or Building Official deems it unsafe.

Section 4.11.800 – Maintenance.

- A. Remove dead vegetation, dry leaves, needles, undergrowth, and other combustible debris regularly within the Immediate Zone to reduce the risk of structural ignition.
- B. Remove fine fuels (leaf litter, dead twigs) at least seasonally and before Red Flag events.
- C. Maintain required tree canopy, spacing, and vertical clearances at all times; prune as needed.

- D. Maintain walls, fences, and hedging in good condition and free from rot and debris.
- E. Landscaped areas shall be kept safe, clean, and attractive; keep areas free of trash, litter, weeds, and plants that are not an intentional part of the landscape. Replace dead or removed plant material with similar variety and minimum size required by this chapter within 45 days of the growing season or by an agreed-upon date when seasonal conditions prohibit earlier replacement.
- F. Fruit-bearing trees shall be picked and pruned as needed during the fruiting season to avoid attracting deer and bears.
- G. During drought or water rationing, prioritize maintaining plants closest to primary structures.
- H. Turf shall be mowed to four (4) inches or less within 5-ft of a building; riparian areas and water setbacks are exempt where mowing is prohibited.
- I. Outdoor irrigation fixtures shall be water-efficient, and watering limited to an amount sufficient to keep plant material alive and healthy and to comply with Town watering schedules.
- J. The adjacent property owner; whether an individual, corporation, or homeowner's association; is responsible for maintaining landscaping in public rights-of-way unless expressly designated for governmental maintenance.
- K. Property owners and occupants shall control noxious weeds as defined by the CSU Extension Office, the State of Colorado, the Town, or other recognized entity.

Section 4.11.900 – Alternative Compliance.

The Director may approve alternative compliance where an applicant demonstrates, through a plan sealed by a qualified professional (licensed landscape architect or certified arborist, as applicable), that an alternative design meets or exceeds the intent of this chapter for wildfire resilience, water efficiency, habitat value, and overall site function. Alternative compliance requests shall identify the specific standard(s) to be varied, provide technical justification, and include maintenance commitments to ensure long-term performance.



December 30, 2025

Town of Eagle
Planning Department
Sydney Dynek

Re: Colorado Wildfire Resiliency Code

To whom it may concern,

The Town of Eagle Planning Department reached out to Eagle Ranch regarding proposed or potential changes to the Colorado Wildland Urban Interface code. We appreciate the opportunity to share how the Eagle Ranch community has successfully addressed some of the issues along with where we need to improve. As a large development within the greater Eagle community, and currently containing approximately 175 vacant properties yet to be built on, updates to this code will certainly influence both existing and new homes.

In 2024, Eagle Ranch consolidated and updated the Design Guidelines which allowed us to revisit many of the issues discussed in the forthcoming Wildfire Resiliency Code.

Eagle Ranch is broken down into three neighborhoods, each with a slightly different character and corresponding specifics within the Design Guidelines (please see the attached map for reference). The Highlands neighborhood was initially identified as an area with a higher wildfire risk and therefore many of the Guidelines relating to the wildfire resiliency address this neighborhood directly.

Regarding Site and Landscaping: This is the area where Eagle Ranch's Design Guidelines (at least within the Highlands) are the strongest and most in line with the forthcoming code. The Home Ignition Zone, as mentioned in 501.2, was the referring document used to establish appropriate defensible zones around a home along with input from Eagle Valley Wildland. Given the lot sizes, the Guidelines primarily address Zone 1 and Zone 2, stating:

- *Zone 1 is the area up to 5' from the home. The area within Zone 1 is intended to prevent flames from coming in direct contact with the structure. As such, Eagle Ranch requires a continuous non-combustible inner border not less than 5' wide comprised of washed river cobble mulch placed over weed barrier under elevated decks, surrounding structures and associated landscaping is required.*

While previously required in the Highlands neighborhood, this requirement was extended to both the Uplands and Meadows neighborhoods during the 2024 Guidelines updates.

- *Zone 2 is the area from 5' to 30' from the home. The area within Zone 2 is intended to give an approaching fire less fuel, which will help reduce its intensity as it gets nearer to structures.*

The Guidelines state that no conifers should be planted within 10' of the home.

Conformity with both Zones 1 and 2 are only mandated in the Highlands neighborhood but are suggested to be followed in other neighborhood areas. In general, these defensible zones have been easily adopted and implemented on new construction, with very little pushback from owners and developers.

One landscape issue that would need updating to be compliant with the new code deals with fencing. Currently within the Design Guidelines there is no requirement that fencing within 8' of the structure must be non-combustible.

Regarding Structure Hardening: This is the area where the Eagle Ranch Design Guidelines are somewhat lacking relative to the forthcoming code. While some adjustments and updates need to be made, there are some

restrictions currently in place. For example:

- Within the Highlands neighborhood, Class A roofs are required.
- Additionally, while not spoken to in the Code, there is also a requirement in this neighborhood for a sprinklered fire suppression system. This requirement is echoed in the current Town of Eagle Building Code.

Currently within the Design Guidelines, there are no specific requirements relative to fire hardening for details like fascia, vents, soffits, or even siding materials. That said, with House Bill 24-1091 already in existence, the HOA and DRB are not opposed to approving fire hardened materials; however, at this time, using such materials are not a requirement. The following statement is reiterated through the Design Guidelines and applies to all neighborhoods:

Material substitutions may be approved by the DRB in cases where the alternative offers an increased level of wildfire protection but that do not significantly alter the architectural appearance.

One DRB concern is how to stay compliant with codes or laws requiring fire-hardened materials, while still maintaining the desired architectural character and aesthetics. Fortunately, there seems to be an increasing number of material options available to achieve this. To date, this concern has shown to be unfounded.

As the HOA and the Town contemplate the Wildfire Resiliency Code, there are some questions that arise. For example:

- How will Eagle Ranch be designated or classified relative to Wildfire risk? Will only portions of the development be classified as high risk, or will it be the whole area? Will the high-risk assessment be assigned to the entire Town of Eagle? How will the classification(s) affect how the code is applied?
- As cost of homes and construction in the community continue to rise, will conformity to the Wildfire Resiliency Code have nominal or significant cost implications?

On a related topic, Eagle Ranch has been working with Eagle Valley Wildland for several years. Tim Swaner was consulted during the Design Guideline updates and weighed in on the Wildfire Defensible Zones (among many other things). Through financial support from the HOA, Eagle Valley Wildland offers wildfire assessments and evaluations free to Eagle Ranch homeowners. As a result of fire mitigation actions taken within the development, Eagle Ranch was issued a Certificate of Recognition from the National Fire Protection Association for successfully completing the Firewise USA program. While this mitigation has an associated financial cost to it, being proactive on this subject seems well worth the investment to the HOA and our homeowners.

While the Eagle Ranch HOA and DRB have been proactive on several issues relating to wildfire safety, there is no doubt that as code changes, they will have to be reactive on others and adjust accordingly. We welcome the discussion with the Town of Eagle and hope that our input is helpful.

Thank you for your time and consideration on these matters.



Jason Berghauer
Eagle Ranch Assistant Community Manager



RE: TOE WUI Code Adoption Email and Attachment to be Memorialized in Public Comments

From Steve Stone <stone@dwelldmountain.com>

Date Tue 2/17/2026 4:34 PM

To Planning Department <Planning@townofeagle.org>

Cc Melissa Daruna <Melissa.Daruna@townofeagle.org>; Kyle Brotherton <kyle.brotherton@townofeagle.org>;
Jessica Lake <jessica.lake@townofeagle.org>; Sydney Dynek <sydney.dynek@townofeagle.org>

 1 attachment (311 KB)

WUI Comments for TOE 2.17.26.pdf;

CAUTION: This email is from an external source. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

In the attached document, I have attempted to outline the items that the town of Eagle staff addressed in their January 6th and January 20th memos to the planning commission. I have summarized the staff's recommendations and provided simple alternatives that I feel should be discussed and considered by planning and zoning, and ultimately by the town council, prior to the adoption of the new WUI code.

I've been a licensed General Contractor in Colorado for the past 25 years, primarily in residential construction, building throughout the state, including many municipalities and communities in Eagle County. I've lived in Eagle for the past decade and want to ensure that our community continues to develop responsibly. I feel that for the town to thrive, it is imperative that good decisions be made in the best interests of our population, thereby making the community more resilient, inclusive, and functional.

My overarching concern is that the unintended consequences of blanketly mapping the entire town as Class 2, adopting a complex code like California 7A, while adoption of Colorado's WUI Code is at its infancy, could have severe, unforeseen repercussions for Eagle's economy.

Sincerely,

Stephen Stone

Cell:303.875.6170

stone@dwelldmountain.com

The Dwell Company

P.O. Box 3488

33B Gamble St.

Eagle, CO 81631

My summary and comments are based on the January 6, 2026, Staff Memo. *It stated that the primary goal of the proposed updates is to align the Town of Eagle with **SB23-166**, requiring the adoption of wildfire resilience standards by **April 1, 2026**.*

1. Mapping

- **Summary:** The Town must adopt an official map designating areas subject to the Resilience Code.
- **Staff Recommendation:** Adopt the **Community Wildfire Protection Plan (CWPP) map**, which designates the entire town as being within the Wildland Urban Interface (WUI), and therefore places the whole Town of Eagle into a Class 2 designation. **This imposes the most stringent and expensive requirements on all new construction and significant renovations town-wide.**

This approach has several drawbacks:

- **Over-Classification of Risk:** Adopting the CWPP map ignores the State's assessment that most of the Town is classified as Class 1 (Low Risk). This imposes Class 2 standards on properties the State considers safe, including strict requirements for exterior walls, decking, and specialized windows.
- **Financial Impact:** Although staff cites a study suggesting only a 2–3% increase in construction costs, our analysis indicates a significantly higher increase. When evaluating the Staff Recommendation and the **“Construction Costs for Wildfire-Resistant Homes” prepared by The Headwaters Group, we identified an issue that was not considered and would have a significant impact on the Town of Eagle.** Please see additional information below.

“For purposes of this study and based on homeowner preferences for the Altadena area in southern California, a concrete pour-on-grade patio was assumed for all four home scenarios. A pour-on-grade patio eliminates consideration of a structural support system, including joists, beams, and columns that are required for an elevated decking assembly and are not included in this analysis.”

- Consider the number of elevated decks within the Town of Eagle that deviate from the conditions stated above (i.e., Eby Creek, Old Town, The Bluffs, The Terrace, and Eagle Ranch). This would dramatically affect the cost of restoring or replacing existing decks and building new decks.
- **Alternative to Consider:** The Town should adopt the **State Resilience Code** and utilize the **State Map**, which designates the majority of Eagle as **Class 1 (Low Risk)**.
 - Because **most of the Town is classified as Class 1 (Low Risk) according to the WUI Map provided by the State of Colorado, start by adopting the State Resilience Code Map.**

- The Town can always add addenda to the code, if necessary, but adopting the most stringent regulations to start with could have substantial implications for population growth, cost of housing, and other unforeseen impacts.

2. Building Code, Structure Hardening, and Class Designations

- **Summary:** The Town must select specific construction standards for "structure hardening" (e.g., fire-resistant roofs and vents). Class designation is extremely important when evaluating Building Codes and Structure Hardening.
 - Class 1 structure hardening, the Code language speaks to roofing, ventilation openings, and gutters and downspouts.
 - Class 2 structure hardening, the Code includes all requirements of Class 1 plus protection of eaves, exterior walls, underfloor enclosures, decking, appendages and projections, exterior glazing, exterior doors, vehicle access, perimeter gaps, and detached accessory structures.
- **Staff Recommendation:** Adopt 7A by reference into Title 13. Adopt 7A by reference to create consistent regional standards across Eagle County. This consistency provides the development community with clear, uniform materials lists and compliance expectations that apply throughout the Valley. During discussions with the Eagle County WUI Working Group, members emphasized the value of this regional uniformity for residents and developers working across multiple jurisdictions. In addition, adopting the same standards as nearby communities, such as Vail, which has successfully implemented 7A for several years, provides built-in peer support for staff as we begin administering these requirements.

This approach has several drawbacks:

- Determining a precise percentage cost increase for building a wildfire-resistant home in Eagle, CO, compared to Los Angeles County, is functionally impossible because the baseline construction requirements are fundamentally contradictory. **You would be comparing "apples to oranges" due to three compounding variables: the "Energy Baseline" skew, the "Foam vs. Fire" assembly conflict, and the "Mountain Logistics" premium.**
- While the "Headwaters Group's Data suggests a **2%–3%** cost increase for wildfire hardening (Chapter 7A) in isolation, applying this figure to Eagle is inaccurate. Eagle builders must satisfy the 2021 IECC's cold-climate mandates (Climate Zone 6) **simultaneously** with new wildfire codes, forcing the construction of a

significantly more complex, thicker, and expensive wall assembly than is required in Los Angeles (Climate Zone 9).

- Designates the whole town as **Class 2, which** has significant economic disadvantages, particularly given that the official State Map identifies the majority of Eagle as **Class 1 (Low Risk)**.
- **Excessive Cost for Low-Risk Areas:** Adopting 7A (or State Class 2) compels homeowners in low-risk areas to pay for high-risk protection.
- Under **Class 1 (State Code)**, a homeowner only needs to upgrade their **roof, underlayment, and vents** if replacing 25% or more.
- Under **7A / Class 2**, that same homeowner must also pay for fire-rated **exterior walls, tempered windows, non-combustible decks**, and expensive **doors** for new construction or maintenance and remodels to existing structures
- **Insurance & HOA Impact:** For townhome complexes and HOAs, the requirement to replace siding and decks with ignition-resistant materials (as required by 7A/Class 2) is exponentially more expensive than simply maintaining Class A roofs (Class 1). This could lead to skyrocketing HOA dues and insurance premiums covering the replacement cost of these materials.
- **Alternative to Consider:** Adopt the State Resilience Code. The State Resilience Code sets standards for Class 1 and Class 2 structure hardening based on the actual risk outlined in The State Map, developed by the DFPC and the Colorado State Forest Service (CSFS) at the direction of the Wildfire Resiliency Code Board.
 - **Economic/Practical Viability:** This is the most legally "safe" and economically viable path regarding compliance risk.
 - **Matches Regulation to Risk:** It respects the scientific data showing most of Eagle is **Class 1**. This ensures that most residents only pay for "ember hardening" (roofs/gutters), which addresses the most common ignition source without the massive expense of wall and deck retrofitting.
 - **Affordability:** By rejecting the blanket "Class 2" designation, the Town protects housing affordability. Renovations and new construction in the Town of Eagle avoid the premium costs of 7A-compliant materials.

- **Consistency and Reference:** For areas within the town that the State Map identifies as Class 2, it seems that incorporating the “[State Fire Marshal \(SFM\) Listed WUI Products Handbook](#)”, which lists materials that meet the requirements of California 7a for Class 2 designations, could be very useful to the town, builders, and developers. Though materials are very expensive, it provides a list of compliant materials to choose from. This would certainly expedite the design development process for architects and builders, as well as the TOE staff’s plan review and permitting. However, this document’s list of “approved materials” needs careful, detailed examination to identify and resolve any conflicts and to consider the cost implications. I have listed one example of each below for discussion.

1. The 2021 IECC requirement for **continuous insulation (ci)** in Eagle (Climate Zone 6) creates a specific challenge when adopting Chapter 7A. Many rigid foams used to meet the energy code are combustible. If you use rigid foam insulation on the exterior, it seems Chapter 7A effectively mandates additional protective measures. Would **Ignition-Resistant Cladding** itself suffice?
2. The Town of Eagle’s physical location, limited labor pool, and already extremely high material and labor costs make a static percentage cost estimate unreliable. It creates price variances that fluctuate, making a static percentage estimate unreliable.
3. **Material Availability:** Products listed in the **SFM WUI Handbook** are stocked in California. Sourcing these specific California-compliant SKUs in Colorado often requires special orders with long lead times and premiums.

3. Site and Area Requirements (Landscaping)

- **Summary:** Standards for landscaping and defensible space, such as the "Fire Free 5" (no flammable materials within five feet of a home).
- **Staff Recommendation:** It seems the Town Staff recommends that the Town Tailor specific **Land Use and Development Code (LUDC) amendments** to incorporate state code standards and Fire Free 5. Additionally, they are still working with Community Development and Public Works to finalize code language. Staff believes this change to the LUDC language will better support the long-term structural resilience of properties while ensuring alignment with the State Resilience Code.

Topics for discussion:

- **Creates a Conflict with the Town of Eagle's Existing Environmental Goals** regarding sustainability, water conservation, and community character.
- Adopting **Class 2/California 7A** landscaping and defensible space standards for a community that the State of Colorado officially designated as **Class 1 (Low Risk)** creates a significant disconnect between actual environmental hazard and regulatory burden.

WILDLAND URBAN INTERFACE (WUI)

CODE COST COMPARATIVE ANALYSIS

Colorado Wildfire Resiliency Code vs.
California Building Code Chapter 7A

Prepared for:
Town of Eagle Town Council

Prepared by:
Michael Hood

February 2026

EXECUTIVE SUMMARY

This comprehensive analysis compares the 2025 Colorado Wildfire Resiliency Code (CWRC) with California Building Code (CBC) Chapter 7A, examining structural requirements and estimated cost impacts across different regulatory scenarios. This report provides the Town of Eagle Town Council with detailed information to make informed decisions regarding wildfire resilience building codes.

Key Findings:

- **Colorado Class 1 (Low Fire Intensity):** Minimal cost impact of \$5,000-\$13,000 (1.0%-2.6% increase over baseline construction)
- **Colorado Class 2 (Moderate/High Fire Intensity):** Moderate cost impact of \$53,000-\$80,500 (10.7%-16.1% increase)
- **CBC Chapter 7A:** Highest cost impact of \$63,000-\$93,500 (12.6%-18.7% increase)
- Colorado's tiered, risk-based approach allows for cost-appropriate regulation based on actual fire risk
- Colorado Class 2 provides material flexibility while maintaining safety standards, resulting in lower costs than CBC Chapter 7A

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2. Key Structural Requirements
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1. CLASSIFICATION SYSTEMS

1.1 Colorado CWRC Classification

The Colorado Wildfire Resiliency Code employs a two-tier classification system:

- **Class 1 (Low Fire Intensity):** Based on flame lengths less than 2 feet, characterized by lower fuel loads and easier suppression
- **Class 2 (Moderate to High Fire Intensity):** Covers areas with flame lengths from 2 feet up to 30+ feet, indicating higher fuel loads and more difficult suppression conditions

This classification is tied to fire intensity metrics including flame length, fuel type, and suppression difficulty, allowing for risk-based regulation.

1.2 CBC Chapter 7A Classification

California Building Code Chapter 7A does not utilize a tiered class system. Instead, it applies uniformly to all designated Wildland-Urban Interface areas and Very High Fire Hazard Severity Zones. The approach is more prescriptive with less flexibility in material choices and construction methods.

2. KEY STRUCTURAL REQUIREMENTS

2.1 Roofing Requirements

Aspect	Colorado Class 1	Colorado Class 2	CBC Chapter 7A
Rating	Class A	Class A	Class A
Ember Protection	Required for tile/gaps	Required for tile/gaps	Required for tile/gaps
Valley Flashing	Metal over 36" underlayment	Metal over 36" underlayment	Similar requirements

Analysis: Roofing requirements are essentially equivalent across all three systems.

2.2 Eaves and Soffits

Colorado Class 1: No specific protection requirements for eaves and soffits.

Colorado Class 2: Requires noncombustible, ignition-resistant, or 1-hour rated materials. Fascia protection required on backside. Roof overhangs and exterior soffits beyond 4-foot projection from exterior wall must be 1-hour rated assemblies.

CBC Chapter 7A: Similar to Class 2 but more restrictive in material requirements only approved database materials allowed. Exterior finish materials typically must be non-combustible (fiber cement panels most common). **** Based on current interpretations, working with Town Staff for clarity.

2.3 Windows and Doors

Aspect	Colorado Class 1	Colorado Class 2	CBC Chapter 7A
Glazing	Not-Regulated	Tempered, multilayered, or 20-min rated	Typically requires tempered or multi-pane
Doors	Not-Regulated	Noncombustible, solid core 1¾", or 20-min rated	Similar to Class 2
Garage Doors	Not-Regulated	1/8" max gap; weather stripping	Similar to Class 2

Window Key Functional Differences Builder-grade Milgaud V250 to Chapter 7A.

1. Energy efficiency: Chapter 7A windows can reduce heating/cooling costs by 20-40%.
2. Comfort: Less condensation, reduced drafts, more consistent indoor temperatures
3. Durability: Better seals and materials mean longer lifespan
4. Cost: Chapter 7A windows typically cost 30-60% more upfront but provide long-term savings

IMPORTANT CONTEXT: The Code presented by Town of Eagle Staff excludes the one pane of tempered glass requirement from the CBC Chapter 7A.

Additionally the current energy code is restrictive to entry level/builder grade vinyl windows. The cost increase to go up from the most basic window package that meets this energy code to a more robust window that meets the requirements of Class 2 and CBC Chapter 7A. The variation is for a tempered, it is currently omitted from the proposed 7A code and carries a 7% cost increase to temper one pane of the window.

Additional costs for windows and doors: \$15,500-\$18,500

2.4 Exterior Walls - Critical Differences –

This section represents the most significant cost differential between the codes.

Colorado Class 1 - No Exterior Wall Requirements

The Colorado Wildfire Resiliency Code Class 1 (Low Fire Intensity) does **NOT** include any exterior wall material requirements. Standard building materials are permitted, including:

- Vinyl siding
- Wood siding (any species/treatment)
- Standard T1-11 plywood
- Hardboard/masonite
- Any material allowed by standard building code

Additional costs for exterior walls: \$0

CBC Chapter 7A - Strict Exterior Wall Requirements

California Chapter 7A requires one of the following wall assemblies:

Option 1 - Prescriptive Assembly (behind any cladding):

- 5/8" Type X gypsum sheathing on exterior side of framing, OR
- 1-hour fire-rated wall assembly (exterior fire exposure), OR
- Heavy timber construction (4" minimum), OR Log wall construction (6" minimum)

Option 2 - Tested Assembly:

- Pass SFM Standard 12-7A-1 (150 kW flame for 10 minutes), OR Pass ASTM E2707 test

Approved Exterior Cladding Materials:

Noncombustible (Always Compliant):

- Stucco/cement plaster
- Fiber-cement siding (James Hardie, Nichiha)
- Concrete/masonry/brick/stone
- Metal siding

Prohibited Materials:

- Standard vinyl siding
- Untreated wood (unless specifically listed)
- Standard engineered wood
- T1-11/OSB/Hardboard

Additional costs for exterior walls: \$19,000-\$25,500

2.5 Decking - Critical Differences - Start at 70. Double it for Class 2 and 7A.

This section represents another significant cost differential between the codes, particularly for properties with attached decks. **Decking requirements can add \$18,000-\$25,000 to construction costs under CBC Chapter 7A.**

Colorado Class 1 - No Decking Requirements

The Colorado Wildfire Resiliency Code Class 1 (Low Fire Intensity) does **NOT** regulate decking materials. Standard affordable construction materials are permitted, including:

- Standard pressure-treated pine (.40 retention level)
- Untreated cedar or redwood (standard residential grades)
- Basic composite decking (Trex Select, generic brands)
- Tropical hardwoods (Ipe, cumaru, tigerwood)

Typical Cost Range: \$21,000-\$30,000 for a standard 300 sq ft deck

Additional costs for decking: \$0

Colorado Class 2 - Moderate Requirements

Colorado Class 2 requires noncombustible, Class A rated, or ignition-resistant materials for decking. However, it includes a **Class B composite decking exception** which provides more material flexibility and lower costs than CBC Chapter 7A.

Acceptable Materials:

- Fire-retardant treated wood (FRTW) - exterior-rated
- Noncombustible materials (metal, concrete, porcelain tile)
- Class A rated composite decking (specific tested products)
- Class B composite decking (allowed exception - more product options)

Typical Cost Range: \$49,000-\$55,500 for a 300 sq ft deck

Additional costs for decking: \$18,000-\$25,500

CBC Chapter 7A - Strictest Requirements

California Chapter 7A has the most stringent decking requirements, applying to all decks within 10 feet of the building in Fire Hazard Severity Zones. **No Class B composite exception is allowed.**

Acceptable Materials:

- **Fire-Retardant Treated Wood (FRTW):** Must pass ASTM E84 (30-minute extended test) with flame spread ≤ 25 . Examples: Chemco FRX, Thermex-FR treated lumber.
- **Heavy Timber Construction:** Minimum 3-inch thick deck boards (Redwood Construction Common or better, Cedar 3 Common or better).

- **Composite Decking (Tested & Approved):** Must pass SFM Standard 12-7A-4 (Parts A & B) with heat release rate ≤ 25 kW/sq ft. Examples: Specific approved Trex, Fiberon, TimberTech/AZEK models. **Not all composite products qualify—must be specifically listed.**
- **Noncombustible Materials:** Metal decking, concrete, lightweight concrete, porcelain tile over approved substrate.

Additional Installation Requirements:

- Adjacent wall covering (within 10 feet) must be noncombustible or ignition-resistant
- Underside of deck projections must be protected per SFM Standard 12-7A-3
- Surface treatments (paints, stains, coatings) do not count as approved protection

Typical Cost Range: \$46,200-\$70,000 for a 300 sq ft deck

Additional costs for decking: \$25,200-\$40,000

Key Functional Differences - Decking Comparison

Feature	Colorado Class 2	CBC Chapter 7A
Fire testing required	Class A or B rating acceptable	Required (SFM 12-7A-4, ASTM E2632/E2726)
Class B exception	Allowed - more product options	Not allowed - Class A only
Heat release rate limit	Not specifically measured	≤ 25 kW/sq ft maximum
Product availability	More options due to Class B exception	Limited to specifically approved/listed products
Adjacent wall requirements	General exterior wall requirements apply	Walls within 10 ft must be noncombustible or ignition-resistant
Cost premium (300 sq ft deck)	+\$18,000-\$25,000	+\$25,200-\$40,000

Analysis: Colorado Class 2's allowance of Class B decking provides significant cost savings (40-60% less than Chapter 7A) while still maintaining fire safety standards. The Class B exception expands product availability and reduces material costs without compromising structural integrity or ignition resistance. CBC Chapter 7A's stricter requirements eliminate many cost-effective options and require specific product testing that limits market choices. Town Staff to consider matching Colorado Class 2 requirements in the proposed code for CBC Chapter 7A.

3. COST ANALYSIS SUMMARY

Assumptions:

- 1,500 sq ft single-family home
- Wood-frame construction
- Typical Colorado mountain
- Costs are incremental above baseline construction (No WUI code)
- Baseline construction cost approximately \$500,000
- 300 SF Deck.

3.1 Total Cost Comparison

Cost Category	No WUI Code	CO Class 1	CO Class 2	CBC Ch. 7A
Roofing	Baseline	+\$3,000-\$5,000	+\$3,000-\$5,000	+\$3,000-\$5,500
Exterior Walls	Baseline	+0	+\$19,000-\$25,500	+\$19,000-\$25,500
Eaves/Soffits *	Baseline	+\$0	+\$3,000-\$6,000	+\$4,000-\$7,000
Vents	Baseline	+\$1,000-\$2,000	+\$1,000-\$2,000	+\$1,000-\$2,000
Decking	Baseline	+\$0	+\$18,000-\$25,000	+\$25,200-\$40,000
Windows/Doors	Baseline	+\$0	+\$15,000-\$18,500	+\$15,000-\$18,500
Defensible Space (initial)	Baseline	+\$0-\$4,000	+\$0-\$4,000	+\$0-\$4,000
Design/Engineering	Baseline	+\$1,000-\$2,000	+\$2,500-\$5,000	+\$3,000-\$6,000
TOTAL INCREMENTAL COST	\$0	\$5,000-\$13,000	\$61,500-\$91,500	\$73,200-\$108,500
% Increase over Baseline	0%	1.00%-2.6%	12.3%-18.3%	14.6%-21.7%

Note: Assumes baseline construction cost of approximately \$500,000. No soffits over 4' projection. Soffits over 4' projection, would could twice as much as previously.

4. CURRENT DESIGNS AT HAYMEADOW

4.1 Design Philosophy

In conversations with Town Staff in preparing this report, we both agreed it made sense to provide some clarification on the current construction that has been completed and that is currently under construction at Haymeadow.

Although the Haymeadow property is not currently subject to a mandatory Wildland Urban Interface (WUI) building code, wildfire resilience has been a foundational design priority from the outset. Our homes are designed to significantly exceed Colorado Class 1 ignition-resistant construction standards. While we do not fully implement every requirement of Colorado Class 2 or California Building Code Chapter 7A, we have intentionally incorporated many enhanced structure-hardening measures that go beyond minimum local requirements.

Haymeadow's approach extends beyond individual home construction. What distinguishes the community is our ability to thoughtfully master plan at the neighborhood scale — incorporating defensible space, strategic buffering between homes and the foothills, fuel-modified landscape zones, and integrated infrastructure planning. We also have the capability to design emergency sprinkler systems and other mitigation strategies to help reduce long-term wildfire risk and improve overall community resilience.

At Haymeadow, wildfire mitigation is not simply a code compliance exercise — it is an integrated design philosophy that balances safety, landscape stewardship, and mountain living.

4.2 Past and Present Projects by WUI Impacts

7 Hermit Condos:

- Roof is class A rated with metal flashings.
- Eaves and Soffits: Would need to add Vulcan Vents or sim product, and provide a 1 hour rating all of the soffits over decks.
- All exterior wall finishes meet Colorado Class 2 and CBC Chapter 7A.
- Decks do not meet Colorado Class 2 or Chapter 7A.
- Doors and Windows – Meet the multi pane requirements, but do not have tempered panes.
- Defensible spaces would be cost neutral with reduced landscaping and increased rock mulch.

Mountain Peak Townhomes:

- Roof is class A rated with metal flashings.
- Eaves and Soffits: Have Vulcan Vents but would need to provide a 1 hour rating all of the soffits over decks.
- All exterior wall finishes meet Colorado Class 2 and CBC Chapter 7A.
- Decks do not meet Colorado Class 2 or Chapter 7A.
- Doors and Windows – Meet the multi pane requirements, but do not have tempered panes.
- Defensible spaces would be cost neutral with reduced landscaping and increased rock mulch.

Single Family Homes:

- Roof is class A rated with metal flashings.
- Eaves and Soffits: Have Vulcan Vents but would need to provide a 1 hour rating all of the soffits over decks. Also would need to change soffit material from stained pine to a non-combustible material.
- All exterior wall finishes meet Colorado Class 2 and CBC Chapter 7A.
- Decks do not meet Colorado Class 2 or Chapter 7A.
- Doors and Windows – Meet the multi pane requirements, but do not have tempered panes.
- Defensible spaces would be cost neutral with reduced landscaping and increased rock mulch.

5. SUMMARY

5.1 Key Advantages of Colorado Code

1. **Risk-Based Tiering:** Not all WUI areas require maximum protection. The Colorado code allows communities to apply appropriate standards based on actual fire risk, avoiding unnecessary costs in lower-risk areas.
2. **Material Flexibility:** Multiple compliance paths reduce costs while maintaining safety standards. For example, Class 2 allows fire-retardant wood as an alternative to noncombustible materials and permits Class B composite decking under certain conditions.
3. **Ground-Truthing Provision:** Section 304 of the Colorado code allows for site-specific adjustments based on actual conditions, providing flexibility while maintaining safety.
1. **Cost Efficiency:** CBC Chapter 7A typically costs \$11,700-\$47,000 more than Colorado Class 2, primarily due to more restrictive material requirements and less flexibility in compliance options.

5.2 Considerations for Jurisdictions

2. Colorado's tiered approach allows cost-appropriate regulation based on fire risk assessment.
3. Establish Minimum Class 1 Hazard Zone: Support a minimum of Class 1 Hazard Zone designation across all of Town. Only areas mapped as Class 2 would have the more stringent requirements, ensuring baseline protection while avoiding higher costs across the board.
4. Establish Minimum Class 1 Structure Hardening requirements.
5. Class 2's flexibility in material choices (fire-retardant wood, Class B decking exceptions) reduces costs while maintaining safety performance.
6. Defensible space provisions in Class 2 are more comprehensive than CBC Chapter 7A, potentially providing better overall protection through integrated landscape management.
7. If going Colorado code then, consider establishing a database of pre-approved materials to provide clarity to the development community and reduce review burden on staff.
8. If going CBC Chapter 7A then, consider modifying the proposed code specifically for decking to all Class B materials like the State of Colorado Class 2 code as this is one of the biggest cost impacts from State of Colorado Class to CBC Chapter 7A. staff.
9. Consider the effective date and how this impacts all of the applications that have been designed and submitted long before this has come forward.

6. FORMAL RECOMMENDATION

6.1 Forthcoming

Conclusion

The information gathered above is meant to provide a useful starting point for evaluating the Town of Eagle's approach to Wildland Urban Interface (WUI) code compliance and fire risk mitigation. Eagle's position within a high-risk WUI zone underscores the importance of getting this right, however, complexities remain unresolved.

The current information is not yet comprehensive enough to support a formal recommendation regarding WUI code updates, enforcement strategies, or potential amendments to the Town's existing regulatory framework. Key variables — including selection of map for affected parcels, review of draft language on staffs recommendation for adopting CBC Chapter 7A, and coordination with Eagle County fire officials.

Following the January 6th work session, we have met with Town Staff several times to continue advancing this work, and additional meetings are scheduled over the coming weeks. These conversations have been productive and are helping to shape a clearer understanding of the issues, but that process is still ongoing.

Until the outstanding information and stakeholder perspectives have been fully gathered and reviewed, it would be premature to endorse any specific policy direction. A formal recommendation will be issued once that work is complete. In the meantime, no options should be taken off the table, and we will continue the collaborative engagement with the fire officials, planning staff, and the development community to ensure that any future recommendation for WUI code action is both effective and well-informed.



COMMUNITY DEVELOPMENT DEPARTMENT PLANNING & ZONING STAFF REPORT AND CERTIFICATE OF RECOMMENDATION

MEETING DATE: March 17, 2026
PROJECT: 446 Broadway Mixed Use; Variance Request
FILE NUMBER(S): V26-01
REQUEST: Variance Request denial for a proposed mixed-use project located at 446 Broadway in the Broadway District. The proposed project will include 36 residential units, 3,500± square feet of ground-floor commercial space, and associated parking. The Variance Request is to seek a variance from required third and fourth floor step-backs.

APPLICANT(S): Jake and Justin Roach
OWNER(S): 446 Broadway, LLC
LOCATION: 446 Broadway Street
PROPERTY SIZE: 0.286± acres
ZONING: Broadway District (BD)
EXISTING LAND USE: Single Family Dwelling
PROPOSED LAND USE: Mixed-Use
STAFF: Kyle Brotherton, Interim Community Development Director

BACKGROUND

Location and Existing Conditions

The 0.286-acre property is situated on the northeast corner of Broadway and 5th Streets and is occupied by a single family dwelling and detached garage. The property is located within the Broadway District (BD).

The immediate area is developed with a mix of residential, commercial, and mixed-use uses, with the Eagle County Government building located to the south, across 5th Street, and Town Park located to the southwest, also across 5th Street.

Site History

The subject property was originally developed in 1931, according to the Eagle County Property Appraiser, and has remained as a single family dwelling since that time. The property was sold in March 2022 to the current owners, 446 Broadway, LLC. In March 2025, the property owners (applicants) submitted applications for a Minor Development Plan and a Lot Line Adjustment. The Minor Development Permit proposed to construct a mixed-use development consisting of 35 residential units, 3,600± square feet of ground floor commercial space, and associated parking. It also contemplated a rooftop area consisting of a bar, seating, and a pool and spa. The proposed lot line adjustment aimed to consolidate four historical lots into one lot.



LOCATION MAP



AERIAL MAP

The Minor Development Plan application was deemed incomplete twice; once on March 12, 2025, and a second time on March 21, 2025. On April 7, 2025, the application was deemed complete and sent out for a referral period of six weeks, with referral comments being due on May 23, 2025. Referral comments were sent to the applicants as they were received, with the final referral comments being sent on May 27, 2025.

A redesigned structure for the Minor Development Plan was resubmitted on January 20, 2026, along with a new application for a Variance Request, which is the item being considered for this agenda item.

VARIANCE REQUEST

While the Variance Request is the only item under consideration for this agenda item, the context of the overall development proposal is necessary to fully understand the request for the variance. The request is to seek a variance from the required 10-foot step-backs on the third and fourth floors as found in Section 4.10.050.C.1.b.iii, which are specific design standards for properties located within the Broadway District. The relevant LUDC language for Section 4.10.050.C.1.b.iii is detailed below.

Section 4.10.050 – Mixed-use and commercial structure and site design standards

C. Location specific Standards.

1. Broadway district.

b. Street level orientation and design.

iii. The first floor shall be placed at ground level and buildings shall be a maximum of three stories in height. A fourth story may be added for buildings with affordable housing, see Section 4.02.040. The third and fourth stories shall stepback from the street facing façade(s) of the building. The third story shall step back from the property line(s) (there may be two street frontages on a corner lot) by a minimum of ten feet. The fourth story shall step back from property lines(s) by a minimum of 20 feet. Developments that are not built to the zero setback shall only setback a proportional amount (example: for a building built-to a five-foot setback, the proportional minimum stepback would be five feet for the third story and 15 feet for the fourth story).

The overall proposal is to construct a mixed-use building consisting of 36 residential units consisting of a mix of studios, one-bedroom, and two-bedroom units; 3,500± square feet of ground floor commercial space; a rooftop bar and grill area and rooftop pool and spa; and associated off-street parking contained within a parking garage. This updated proposal varies slightly from the original in that one more residential unit is included but reduces the overall ground floor commercial space by approximately 100 square feet. Additionally, under this current proposal, the residential units are redesigned to be constructed utilizing a modular building method, which has necessitated the variance request due to the “stacking” of the modular units.

The original submission from March 2025 utilized a traditional construction method utilizing steel support columns, and this submission was able to fully meet the step-back requirements found in the Broadway Design standards section of the LUDC. Additional comments related to the Broadway District design standards noted that the ground floor windows were not 12 feet in height as required; that the primary façade materials did not appear to meet the 75% requirement; and that additional treatments could be made to fully meet the intent of certain provisions contained within the Broadway District design standards. Staff also recommended that the ground floor commercial units’ height be increased to allow for greater flexibility in commercial uses (i.e. changing from a retail use to a restaurant use), which was incorporated into the redesign of the project.

The applicants requested a meeting with staff in late July to discuss steps towards resubmittal, at which time it was made known that the applicants were considering switching to modular construction as it was likely to be less of a financial hurdle and could allow construction to be expedited once entitlements were approved. Staff relayed to the applicants that development proposals should be designed to meet the code and that a variance request could be made, but that all review criteria for a variance must be met in order for the variance to be approved.

Additional items were included with the variance request and detailed in the variance narrative; however, those items are not variance requests, and as such, are not being considered in this review. The additional items include an interpretation for rooftop amenities and how they relate to building height; adjustments to the Local Employment Residency Program (LERP) unit counts, which are typically negotiated and included within a development agreement; and a request for reduction in Town fees which is an item that will need to be considered and determined by the Town Council.



Original conceptual rendering, March 2025 (neo studio/Michael Noda)



Redesigned conceptual rendering, January 2026 (neo studio/Michael Noda)

ANALYSIS

The Variance Request under consideration is subject to the requirements of the Land Use and Development Code, specifically Section 4.17.080.F.3.b. This analysis will walk through the requirements for a Variance Request.

Land Use and Development Code

Section 4.17.080.F.3.b of the Town's Land Use and Development Code (LUDC) sets forth the review criteria, all of which must be met, for a variance to be approved. Included under each of the criteria are the applicant's responses to how each are being met.

Criterion 1:

Code language:

The subject property has an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district.

Applicant's response:

Exceptional Site Condition – Corner lot with dual frontages requiring separate step-back conditions at both Broadway and 5th Street.

Criterion 2:

Code language:

The strict application of the LUDC standards for which a variance is sought would produce undue hardship.

Applicant's response:

Undue Hardship – The required “wedding cake” massing conflicts with modular stacking efficiencies and eliminates functional, rentable square footage-undermining financial feasibility and structural uniformity. The required “wedding cake” massing also add unnecessary steel structural materials that adds both complexity and hardship to construction.

*Criterion 3:**Code language:*

The applicant's actions did not create the hardship.

Applicant's response:

Hardship Not Created by Applicant – Hardship arises from site geometry and the nature of modular construction, not from applicant actions.

*Criterion 4:**Code language:*

The variance requested does not harm the public and does not impair the intent or purposes of this LUDC, goals, and policies, including the specific regulation for which the variance is sought.

Applicant's response:

Pedestrian scale, street activation, and storefront rhythm remain fully preserved at the ground level, consistent with the BD district's walkable urban character.

*Criterion 5:**Code language:*

The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden.

Applicant's response:

Hardship Beyond Convenience – Step-back compliance would make modular construction structurally and economically unworkable.

*Criterion 6:**Code language:*

The variance request will not violate building or fire code requirements.

Applicant's response:

No Code Conflicts – No conflicts with building, fire, or public safety requirements.

*Criterion 7:**Code language:*

The variance is the minimum variance that will afford relief of the subject standards of the LUDC.

Applicant's response:

Minimum Variance Necessary – Relief is limited to vertical modulation and step-back configuration.

Staff Findings

The proposed Variance Request meets only two of the seven required variance criteria, Criteria 4 and 6. Staff finds that the impetus for the Variance Request is largely based on financial consideration and burden, which Criterion 5 explicitly prohibits. Staff's findings for each of the criteria are detailed below.

Criterion 1:

The subject property is roughly square in shape, has essentially a flat topography, and corner lots exist throughout the Broadway District. Additionally, the existing structure on the subject property is proposed to be demolished prior to development of the property. As such, this criterion is **not met** as there are no exceptional site conditions.

Criterion 2:

The initial submission, which used a more traditional construction method utilizing steel support columns, was able to accommodate the required step-backs found within the code. While it is likely more difficult to construct utilizing this method, the use of construction techniques or methods would not be considered an undue hardship; therefore, this criterion is **not met**.

Criterion 3:

As described under Criterion 1, the site is not considered to have an exceptional site condition. The proposed use of modular construction techniques, while likely financially more attainable, is a design choice and action by the applicant. As such, this criterion is **not met**.

Criterion 4:

The requested variance does not de-emphasize street-level storefronts, and the human-scale relation is still considered with this request. As such, this criterion is **met**.

Criterion 5:

While modular construction is becoming more popular, especially within the Western Slope, it is not the only type of construction that can be used. As stated in the applicant's response, the request is largely based on financial considerations, for which variances cannot be granted. As such, this criterion is **not met**.

Criterion 6:

The variance request generally does not conflict with building, fire, or public safety requirements. However, there could be additional costs for requirements related to fire suppression as the building moves above a certain height. As such, this criterion is **met**.

Criterion 7:

With the existing site conditions considered in total, the requested variance to bring the façade forward by 10 feet on both the third and fourth floors is viewed as more than a "minimum variance" needed. As such, this criterion is **not met**.

RECOMMENDATION

The Community Development Department, having reviewed all materials submitted by the applicant and the requirements of the Land Use and Development Code, recommends the following findings of fact and conclusions of law.

Recommended Findings of Fact

1. The 0.286-acre property is located on the northeast corner of Broadway and 5th Streets.
2. The subject property is located within the Broadway District.
3. The proposal is to construct a mixed-use development consisting of 36 total residential units, 3,500± of ground floor commercial space, rooftop amenities, and a parking garage.
4. The project requests a variance from step-back requirements for the third and fourth floors.
5. The variance request meets two of the required seven criteria necessary for approval of such variance.

Recommended Conclusions of Law

1. The variance request is not consistent with all required provisions of Section 4.17.080.F.3.b. of the Town's Land Use and Development Code.

Based on the above recommended findings of fact and conclusions of law, the Community Development Department recommends **DENIAL** of application V26-01.

PLANNING & ZONING RECOMMENDED MOTION

"I move to deny file number V26-01, Resolution 04, Series 2026, based on the testimony provided and the recommended findings of fact and conclusions of law as detailed in the staff report."

Prepared by Community Development Department:



Kyle Brotherton
Interim Community Development Director

ATTACHMENTS:

Resolution 04, Series 2025
Variance Narrative

**TOWN OF EAGLE, COLORADO
PLANNING AND ZONING COMMISSION
RESOLUTION NO. 04
(Series of 2026)**

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO DENYING A VARIANCE REQUEST FOR A MIXED-USE PROJECT LOCATED AT 446 BROADWAY

WHEREAS, 446 Broadway, LLC (“the Applicant”) owns the real property at 446 Broadway, Town of Eagle, Eagle County, Colorado (the “Property”);

WHEREAS, on January 20, 2026, the Applicant submitted with the Town an application for a Variance Request to request a variance from the step-back requirements contained within the Broadway District design standards for a mixed-use project Minor Development Permit Application (the “Variance Request Application”); and

WHEREAS, on March 17, 2026, the Planning and Zoning Commission held a properly noticed public hearing on the Application.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EAGLE, COLORADO AS FOLLOWS:

Section 1. Findings. The Planning and Zoning Commission finds that the Variance Request Application does not comply with all applicable provisions of the Eagle Municipal Code, and that denial of the Variance Request Application is in the best interest of the public health, safety, and welfare.

Section 2. Decision. Based on the foregoing findings, the Planning and Zoning Commission denies the Variance Request Application.

INTRODUCED, READ, PASSED AND ADOPTED ON March 17, 2026.

TOWN OF EAGLE, COLORADO

Matthew Hood, Chair

ATTEST:

Gram Dick, Administrative Technician

Variance Application Packet

Project: 446 Broadway, Eagle, Colorado

Applicant: 446 Broadway LLC

To: Town of Eagle Planning & Zoning Commission

Cover Letter Introduction

446 Broadway LLC respectfully submits this Variance Application for the proposed mixed-use development located at the corner of Broadway and 5th Street in Eagle, Colorado. The property lies within the Broadway District (BD), the vibrant downtown core designed to encourage pedestrian-oriented storefronts, upper-story housing, and active community uses.

The proposed development fully embraces these goals but requires three specific variances and /or clarification to be realized:

1. **Step-Back Requirements (Floors 3 & 4)** – Relief from the required 10-foot step-backs along Broadway and 5th Street at levels 3 and 4 to allow a stacked modular building form consistent with the updated architectural drawings. For visual purposes, review exhibit A for side-by-side comparison of step backs for 446 Broadway.
2. **Rooftop Amenity Height Clarification** – Confirmation that rooftop amenity features (pool, hot tub, trellis, pergola, deck, furnishings, bar, etc.) are non-permanent accessory elements and do not count against the project's 50-foot maximum building height.
3. **Inclusionary Housing (LERP) Adjustment** – Adjustment to the Local Employee Residency Program (LERP) requirement by reducing the 16 Resident-Occupied (RO) units to 13 RO units, while fully maintaining the 5 deed-restricted AMI units. When combined, the project still delivers a significant and meaningful deed-restricted housing contribution.
4. **Reduction in applicable Town fees**– 75% reduction in Town fees enabling a highly beneficial downtown project and supporting the substantial long-term sales tax and economic benefits generated for Eagle.

Each request is narrowly tailored, consistent with the intent of the Land Use & Development Code (LUDC), and necessary to deliver a project that enhances downtown Eagle's character, vibrancy, and walkability.

Variance Request 1: Step-Back Requirements (Floors 3 & 4)

Requested Relief

Relief from BD zoning requirements requiring 10-foot step-backs at the 3rd and 4th floors along both Broadway and 5th Street. The applicant requests:

- Implementation of the new step-back configuration at the 2nd floor consistent with the updated modular design, which is above and beyond the requirements for step-backs called out in the zoning for floor 2.
- Relief or modification of required step-backs on the 3rd floor consistent with the updated modular design.
- Relief or modification of required step-backs on the 4th floor consistent with the updated modular design.

Review Criteria Responses

- **Exceptional Site Condition**
Corner lot with dual frontages requiring separate step-back conditions at both Broadway and 5th Street.
- **Undue Hardship**
The required "wedding cake" massing conflicts with modular stacking efficiencies and eliminates functional, rentable square footage—undermining financial feasibility and structural uniformity. The required "wedding cake" massing also add unnecessary steel structural materials that adds both complexity and hardship to construction.
- **Hardship Not Created by Applicant**
Hardship arises from site geometry and the nature of modular construction, not from applicant actions.
- **No Harm / Intent Maintained**
Pedestrian scale, street activation, and storefront rhythm remain fully preserved at the ground level, consistent with the BD district's walkable urban character.
- **Hardship Beyond Convenience**
Step-back compliance would make modular construction structurally and economically unworkable.

- **No Code Conflicts**

No conflicts with building, fire, or public safety requirements.

- **Minimum Variance Necessary**

Relief is limited strictly to vertical modulation and step-back configuration.

Character Alignment

The stacked modular form aligns with contemporary mountain-town architectural patterns, avoids awkward terracing, and strengthens the visual continuity of the downtown district.

Variance Request 2: Rooftop Amenity Height Clarification

Requested Relief

Clarification that rooftop amenity features are excluded from maximum building height calculations. Features include:

- Pool & Spa (approx. 12'–40')
- Pool Spa decking and railing
- ADA-accessible walkway
- Lounge seating with furnishings and heaters
- Grills
- Countertops, sink, television, and tables
- Bolted trellis structure

Review Criteria Responses

- **Exceptional Site Condition**

The Town Code does not clarify whether rooftop amenities are counted toward the overall building height, creating regulatory ambiguity.

- **Undue Hardship**

Counting temporary rooftop elements as “building height” would eliminate the amenity altogether despite the structure itself remaining under the 50-foot limit.

- **Hardship Not Created by Applicant**

Hardship is caused solely by the Code’s silence, not by applicant actions.

- **No Harm / Intent Maintained**

The rooftop improves community vibrancy and offers public benefit through 50% of memberships being open to the public through private membership.

No paid services are provided at the rooftop.

Scale, mass, and shadow impacts remain unchanged.

- **Hardship Beyond Convenience**

Without this clarification, the project's community-facing amenity area cannot be delivered.

- **No Code Conflicts**

All features comply with ADA, life-safety, and fire code standards.

- **Minimum Variance Necessary**

Only accessory elements—not the building mass—are excluded.

Character Alignment

Rooftop amenities are common in Colorado. The amenity to a mountain-town mixed-use development promotes community gathering and vibrancy. The public-access membership component further strengthens the project's alignment with Eagle's downtown identity.

Visual Comparison

For visual purposes, review **exhibit A** below for side by side comparison of step backs for 446 Broadway.

Variance Request 3: Inclusionary Housing (LERP) Adjustment

Requested Relief

Under the LERP requirements for a 36-unit project, the Code requires:

- **5 AMI Units** (80% AMI)
- **16 Resident Occupied (RO) Units**
- **21 Total (60% of units)**

The applicant requests:

- Reduction of RO units from **16 → 12**
- Maintaining **5 AMI units**

- Total deed-restricted units provided: **17 units (47%+)**

Review Criteria Responses

- **Undue Hardship**

The 5 AMI + 16 RO mix presents financial infeasibility, significantly impacts unit layout efficiency, and threatens the project's ability to proceed.

- **Hardship Not Created by Applicant**

Hardship arises from applying uniform thresholds without considering the unique constraints of BD modular mid-rise construction.

- **No Harm / Intent Maintained**

The project still provides 17 deed-restricted units, a substantial workforce housing contribution that exceeds typical mixed-use development in Eagle.

- **No Code Conflicts**

Adjustment does not affect structural, safety, or public health codes.

- **Minimum Variance Necessary**

The reduction in RO units is a small deviation necessary to preserve project viability.

Character Alignment

This adjustment advances Eagle's workforce housing goals while ensuring efficient building operation, strong mixed-use integration, and long-term project sustainability.

Variance Request 4: Reduction of Town Fees (75% Fee Adjustment Request)

Requested Relief

The Applicant respectfully requests an **75% reduction** in applicable Town fees necessary for the development of the 446 Broadway project. This request applies to, but is not limited to, the following fee categories:

- Water Tap Fees
- Sewer Tap Fees
- Fire Impact Fees
- Public Safety Fees
- Street Impact Fees

- Exterior Energy Offset Program (EEOP) Fees
- General Impact Fees
- Building Permit Fees
- School Land Dedication Fees

The Applicant requests that the Planning & Zoning Commission and Town Council consider this reduction based on the substantial public benefits generated by the project and the significant economic impact associated with its completion.

Review Criteria Responses

- **Exceptional Site Condition / Community Benefit**
The proposed project delivers 17 deed-restricted units (47+% of building)—a level of affordability contribution that is unmatched in Eagle’s downtown core. Additionally, the project activates a long-vacant landmark corner that is essential to the Town’s BD district vision.
- **Undue Hardship**
Without a fee adjustment, the cumulative Town fees materially impact development feasibility, particularly with the deep affordability mix (AMI + RO) and the structural requirements of modular mid-rise construction. The financial burden could prevent the project from advancing to construction.
- **Hardship Not Created by the Applicant**
Challenges stem from rising construction costs, strict financing conditions for mixed-income housing, and the Town’s escalating impact and tap fee schedule—none of which are created by the applicant.
- **No Harm / Intent Maintained**
Granting a fee adjustment does not compromise life-safety, public infrastructure, or any Town standards. Instead, it enables the delivery of significant community benefits, including affordable housing, public-access rooftop amenities, commercial storefront activation, and infill development in the heart of downtown.
- **Hardship Beyond Convenience**
The fee reduction is not a convenience request; it is essential to the economic viability of a project delivering community benefits that far exceed any cons to the development.

- **No Code Conflicts**

Fee adjustments do not affect building, fire, environmental, or zoning compliance.

- **Minimum Variance Necessary**

The applicant seeks only the reduction needed to achieve financial feasibility while preserving all public-benefit components of the project.

Economic & Fiscal Impact Justification

If the 446 Broadway project is not constructed, the Town will forgo significant long-term revenue, including but not limited to:

- Sales tax revenue generated by approximately 10–120 new residents living in a walkable downtown environment with high local spending patterns.
- Sales tax revenue of new commercial space, generating ongoing taxable transactions.
- **Property tax growth and assessed valuation increases** from the redevelopment of an underutilized corner property within the boundaries of the DDA.
- **Indirect economic activity**, including job creation, increased restaurant and retail demand, and strengthening of the downtown business ecosystem.

These revenue streams far exceed the portion of fees requested for reduction and represent a recurring annual benefit to the Town.

Character Alignment

The fee adjustment supports the Town’s policy goals for:

- affordability
- infill development
- downtown activation
- walkability
- mixed-use vibrancy
- long-term fiscal sustainability

By enabling a project that delivers substantial public benefit and far exceeds minimum code requirements, the request aligns with the intent and vision of the Broadway District.

Tax Generation Comparison for Fee Reduction Request & Financial Feasibility

For feasibility purposes, review **exhibit B** below financial feasibility study of Fee Reduction Request.

Closing Statement

The Applicant respectfully requests approval of the following variances:

1. **Relief from step-back requirements** (Floors 3 & 4) to support modular construction and maintain appropriate downtown form, while adding a non-required step-back on floor 2.
2. **Clarification that rooftop** confirming amenity features do not count toward maximum building height.
3. **Adjustment of LERP requirements** from 21 units to 17 units, preserving both AMI and RO housing contributions.
4. **A 75% reduction in applicable Town fees**, enabling a highly beneficial downtown project and supporting the substantial long-term sales tax and economic benefits generated for Eagle.

Collectively, these variances allow the 446 Broadway development to be constructed efficiently, deliver meaningful public amenities, provide deep workforce housing, and maintain full alignment with the intent of the BD zoning district: a highly walkable, vibrant, mountain-town downtown core.

Respectfully submitted,
446 Broadway LLC

Exhibit A (Step Back Comparison)

Building renderings according to code: (Stick Frame Build from Q1 2025)



Building renderings for Step Back Variance: (Modular Build from Q1 2026)







Exhibit B (Tax Generation Comparison)

Tax Generation Comparison for Fee Reduction Request & Financial Feasibility

Fee Reduction Request & Financial Feasibility

Due to:

- Escalated construction costs
- Elevated interest rates
- Financing constraints
- Revenue limitations created by deed-restricted housing requirements

project is **not financially feasible without municipal fee relief.**

Request

The applicant is requesting a 75% reduction in Town permit and tap fees, equal to approximately \$675,000, to allow the project to proceed. Without approval, the project is at serious risk of not being constructed.

Fiscal Impact to the Town of Eagle (If Built)

1: Property Tax Revenue

- Existing annual property tax revenue estimated: \$3,500
- Projected annual property tax revenue estimated: \$45,000
 - **Incremental increase Estimated: \$41,500 per year**

2: Retail Sales Tax Revenue (Town Portion Only)

Projected annual on-site retail sales:

Retail Tenant Annual Sales

Retail #1 \$2,000,000

Retail #2 \$750,000

Retail #3 \$400,000

Total \$3,150,000

Using the Town of Eagle's 4.5% local sales tax rate, this generates approximately:

- **\$141,750 per year** in direct Town sales tax revenue

3: Resident Spending Sales Tax Revenue

- Approximately 100 adult residents
- Estimated taxable spending per adult: \$20,000 annually
- 50% local capture rate applied (conservative downtown assumption)

This results in:

- \$1,000,000 in annual local taxable spending
 - **\$45,000 per year** in Town sales tax revenue (4.5%)

Total Incremental Annual Revenue to the Town

<u>Source</u>	<u>Annual Revenue</u>
Property Tax Increase	\$41,500
Retail Sales Tax	\$141,750
Resident Spending Sales Tax	\$45,000

Total Annual Revenue \$228,000

20-Year Fiscal Impact Total Revenue: \$4.5 million

This revenue does not exist today and is entirely attributable to the project.

Cost–Benefit Summary (Key Decision Logic)

- One-time fee reduction requested: \$675,000
- Annual recurring Town revenue: \$228,000
- Simple payback period: 3 years
- Post-payback revenue: \$4 million+ in net gain

After the initial payback period, **all future revenues represent pure net fiscal benefit** to the Town of Eagle.

Public Benefit & Policy Alignment

Approval of the fee reduction:

- Enables construction of 17 deed-restricted housing units
- Supports workforce stability and local employment
- Activates the downtown retail environment
- Expands the long-term tax base
- Reduces economic leakage to surrounding communities
- Requires no ongoing operational subsidy from the Town

This approach aligns housing policy, fiscal responsibility, and economic development objectives.

Consequences of Non-Approval

If the project is not constructed:

- The Town continues receiving approximately \$3,500 per year in property tax revenue
- No new housing is delivered
- No retail sales tax is generated
- No downtown activation occurs
- No workforce housing benefit is realized

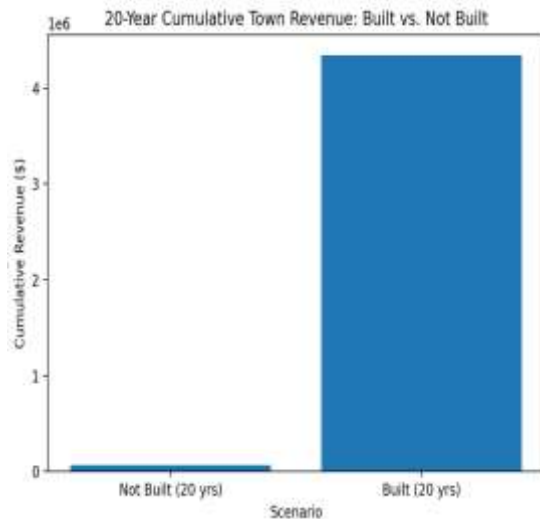
This represents a permanent lost opportunity for downtown Eagle.

Formal Request

The applicant respectfully requests that the Town grant a 75% reduction in development fees as a one-time, fiscally justified action that:

- Enables a high-impact downtown project
- Produces substantial long-term revenue
- Advances adopted housing and planning goals
- Delivers a clear net benefit to the community

Exhibit:



Municipal Fiscal Impact Model — Mixed-Use Multifamily (Built vs Not Built)			
Model date: 2026-01-11 Blue text = editable inputs			
1) One-time fees & property taxes			
Total permit & tap fees	\$900,000.00	Town Fees	
Requested fee relief (%)	75.0%	75% relief request	
Fee relief amount	\$675,000.00	Forgiven/waived portion	
Fees still paid to Town (after relief)	\$225,000.00	One-time revenue if project proceeds	
Current annual property tax (site today)	\$3,500.00	Estimated	
New annual property tax (projected)	\$43,500.00	Estimated	
Incremental property tax (Year 1)	\$40,000.00	New minus current	
2) On-site retail sales & sales tax			
Retail #1 annual sales	\$2,000,000.00	Estimated	
Retail #2 annual sales	\$750,000.00	Estimated	
Retail #3 annual sales	\$400,000.00	Estimated	
Total on-site retail sales (Year 1)	\$3,150,000.00	Sum of 3 tenants	
Combined sales tax rate (consumer rate)	9.4%	Eagle, CO combined sales tax rate (Town of Eagle website)	
Town share of sales tax (%)	47.9%	Town of Eagle local portion 4.5% / 9.4% combined	
Taxable share of retail sales (%)	100.0%	If any categories are exempt, reduce	
Effective sales tax rate to Town	4.50%	Combined rate x Town share	
On-site retail sales tax to Town (Year 1)	\$142,750.00	Retail sales x taxable share x effective rate	
3) Resident spending impact (100 adults downtown)			
Additional adult residents	100	Estimated	
Avg annual taxable spend per adult	\$20,000.00	\$20,000 per adult per year	
Capture rate: % of that spend occurring in	50.0%	Portion spent locally vs outside Town	
Resident taxable sales to OTHER local busi	\$1,000,000.00	Residents x spend x capture x % taxable share	
Sales tax to Town from resident spending	\$45,000.00	Resident taxable sales x effective rate	
4) Time horizon & growth (edit as needed)			
Analysis horizon (years)	20	Typical council/staff lookback	
Annual growth rate — property taxes	2.0%	Assumes reassessment/inflation	
Annual growth rate — retail sales	2.5%	Nominal growth in tenant sales	
Annual growth rate — resident spend	2.5%	Nominal growth in spending	
Discount rate for NPV (for payback)	5.0%	For present-value comparisons	

Kyle Brotherton

From: Dawn Koenig <dawnsunlight@hotmail.com>
Sent: Friday, March 13, 2026 11:51 AM
To: Planning Department; Planning and Zoning; Kyle Brotherton
Subject: Objection to 446 Broadway Variance Requests

CAUTION: This email is from an external source. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioners,

As a resident of the downtown area and a stakeholder in our community's growth, I want to see viable, well-designed projects succeed in the downtown area. A successful development at 446 Broadway could bring much-needed vibrancy to this prominent corner. However, for a project to truly "succeed," it must be able to stand on its own feet within the rules of our community.

I am writing to formally object to the variances and fee waivers requested for this project because they suggest a development that is fundamentally fragile and dependent on public subsidies and code-breaking exceptions.

1. The "Modular Hardship" is a Design Choice, Not a Legal Hardship The applicant claims that modular construction is incompatible with the Town's required 10-foot step-backs. This is a choice of convenience, not a hardship of the land.

- **Evidence:** The project at **1200 Capitol Street** is a modular build that fully complies with Town codes. Furthermore, **301 Broadway**—a nearly identical corner lot—is proceeding with a conventional build that respects all height and setback requirements.
- **Legal Standard:** Under **LUDC 4.17.110**, variances cannot be granted for self-created hardships. Modularity is a construction choice, not an "exceptional site condition" inherent to the property.

2. Tax Revenue is Not a Substitute for Impact Fees The applicant argues that future sales and property tax revenue should justify the waiver of their impact fees. This is a fiscal fallacy.

- **Capital vs. Operational:** Impact fees pay for the **immediate capital infrastructure** (fire trucks, water mains, road capacity) that this project will demand on day one. Tax revenue is meant for **ongoing operations** (salaries and maintenance).
- **The Subsidy:** Asking the Town to waive fees today in exchange for taxes tomorrow is asking current residents to provide an interest-free loan to a private developer. The Town cannot "spend" 2035 property taxes to buy a fire truck needed in 2026.

3. Dangerous Precedent & Administrative Fairness Granting these waivers sets a "Pandora's Box" precedent. If the Town establishes that codes are negotiable based on a developer's private "financial feasibility," every future developer will demand the same 75% discount. Furthermore, it is fundamentally unfair to the

developers of projects like **1200 Capitol** or **301 Broadway** who followed the rules and paid 100% of their fees. Picking "winners and losers" invites legal challenges and undermines the principle of equal protection.

4. Dilution of the Height Bonus Incentive The 4th-story bonus is an incentive specifically created for projects providing **60% or more** affordable housing. The developer is asking for the "Bonus" while providing only **47%** (17 units). The Town should not grant a density reward without receiving the full public benefit required by the code.

5. Transparency & The "Black Box" Pro Forma The developer's entire case rests on "financial infeasibility," yet the evidence—the pro forma—remains shielded from public scrutiny. We request that the Town commission, and publish, an independent, third-party audit of the project's financials. The public should not be expected to subsidize a private project based solely on the applicant's unverified assertions.

6. The Resident Occupied (RO) Price Paradox In Eagle's current 1.6% vacancy market, non-rent-capped RO units rent at market rates. The Town is being asked to waive hundreds of thousands of dollars in fees for "affordability" that offers no actual rent savings to the workers it claims to help.

Conclusion We all want this corner to be developed, but we should not sacrifice the integrity of our Land Use Code or our fiscal stability to save a project that is too fragile to pay its own way. If 301 Broadway and 1200 Capitol can succeed while following the law, 446 Broadway should be held to the same standard. I urge the Commission to recommend **denial** of these requests.

Respectfully,

Dawn Koenig

Kyle Brotherton

From: Kenny sexton <crosinpaths@hotmail.com>
Sent: Monday, March 16, 2026 5:12 PM
To: Kyle Brotherton
Subject: 446 Broadway / DR25-03/LLA25-01

You don't often get email from crosinpaths@hotmail.com. [Learn why this is important](#)

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To whom it may concern:

I am writing to object to the applicants' request for a variance for LERP and step-back requirements. The 4th floor "bonus" is an incentive to provide higher density that requires 60% affordable housing units and RO units. How is it an undue hardship when the 4th floor requirements were intended as an incentive? The following code is provided to support my opposition to the variance, specifically applicable language in **bold**.

Eagle Code Section 4.02.050, G.

G. Incentives 1. **Applicability Development projects that provide a total of 60 percent affordable housing units and RO units may qualify for the following incentives and adjustments.** Community Development staff will work with the applicant to identify a combination of incentives and adjustments that will accommodate the development on the site while resulting in the least detrimental impact to the neighborhood and adjoining properties. 2. Incentives In qualifying developments where affordable housing units will be constructed on-site, the following incentives shall apply: Eagle Land Use & Development Code 16 4.02.050. Inclusionary Housing Requirements for Affordable and Local Employee Residency (LERP) Chapter 4.02 Zone Districts: General Standards H. Character of Local Employee Residences a. By Town Council i. If the proposed development is for construction of all affordable housing units, a applicant may propose alternative adjustments to any numerical bulk or height standard required by the zone district provided the resulting development complies with the overall purpose of the district and the objectives of this Section. Approval of these adjustments is at the discretion of the Town Council and must be approved by the Town Council before the initial approval of the development. ii. An applicant may request one additional market-rate residential unit per affordable housing unit to the maximum density permitted by the comprehensive plan. For example, where a single-family detached unit is allowed, a duplex may be allowed. Density bonus requests shall be submitted to the Town Council for review and decision through a Section 4.17.080C, Major Development Plan request. b. By Director: i. Minimum lot setbacks or lot widths may be adjusted by up to 20 percent, not including riparian setbacks or buffers; ii. Maximum lot coverage may be increased by up to 20 percent; iii. Minimum lot size may be reduced by 20 percent; iv. Maximum height may be increased: (a) Original residential zone district limit of 35 feet may be increased to 40 feet; (b) **Structure height for buildings facing Broadway or in the CMU2 district may be increased by 1 story, not to exceed an additional 15 feet above the original maximum height, in compliance with the stepback requirements where applicable.** v. If a public park or open space is located within 1,320 feet and safely accessible to the development site, any required open space dedication or in-lieu fee, but not applicable impact fees, may be reduced by 50 percent.

Again, I am not in favor of the LERP and setback variances because I do not believe what is provided as an incentive is somehow now an undue hardship to the applicant. Thank you for the ability to comment.

Sincerely,

Kenneth Sexton
493 Whiting Rd
Eagle, CO 81631

COMMUNITY DEVELOPMENT

February 2026

Planning

LONG RANGE PLANNING

ReCode Eagle – The Land Use and Development Code (LUDC) – [link to code](#)

- Staff are reviewing and editing Chapter 4.17 Administration and Procedures to provide clarity to land use processes, correct omissions, resolve inconsistencies, and modify Section headings and references to be more searchable. When this revised chapter has been completed and adopted it will be a significant step towards a land use code that is process light and standards heavy – next steps would entail beefing up standards to better support the Comprehensive Plan and the lighter processes. Do to capacity constraints, staff is looking at options for phasing the changes to this chapter over the course of the year.
- Staff are also working on Miscellaneous Code Amendments for adoption first quarter 2026. These amendments are meant to be smaller changes to improve functionality, readability, and reduce conflict in the Code.

WUI Code

- Staff are actively participating in the countywide WUI Code update led by the Eagle County Wildfire Collaborative, working with Valley jurisdictions to ensure the Code reflects local conditions and implementation realities.
- The WUI Code (State Resilience Code) is intended to enhance wildfire resilience through fireresistant exterior building materials, defensible space standards (including Fire Free 5), and landscaping requirements that prioritize native, waterwise, and lowflammability vegetation.
- Staff have secured free technical assistance from Headwaters Economics and are participating in monthly meetings with a peer-cohort and consultant to support evaluation and potential adoption over the next six months.
- Staff, in coordination with the Eagle County Wildfire Collaborative and Headwaters Economics, presented the WUI process at the January 6 joint work session and are incorporating Planning Commission and Town Council feedback.

- To inform policy development and implementation, staff have met with:
 - Norris Design and Old Growth Tree Service to evaluate WUI impacts on landscaping, plant health, and best planting practices.
 - Public Works to assess right-of-way landscaping challenges, including snow storage and long term maintenance considerations.
- Staff are addressing identified issues through both code refinements and the development of community educational resources, with an emphasis on practical, cost-effective strategies that support property protection and long term resilience.
- The Eagle County Wildfire Collaborative will continue countywide outreach with HOAs and community groups to support coordinated WUI implementation.
- Code amendments to adopt Code language to be in compliance with the WUI Code will be provided at the March 3 Planning Commission hearing (for the LUDC amendments), the March 10 Town Council (for the first reading of the Building Code ordinance), and the March 24 Town Council meeting (for the LUDC amendments and the second reading of the Building Code ordinance).
- We also anticipate bringing targeted questions to upcoming meetings to better understand what community character through landscaping means in different parts of the community.

Administrative Manual

- Staff has been continuing to work on an administrative manual to clearly communicate land use processes to the public. Staff will be posting resources as they're completed, e.g. how the use permit process works, on the Town's website. As this project continues staff will be engaging stakeholder groups like the EVC for feedback to ensure this manual is user friendly and is meeting the community need.

LAND USE APPLICATIONS IN PROGRESS

For more information and to access project documents, visit the Town's [Active Land Use Applications Page](#).

Haymeadow RMF-4A/5 Major Development Permit

- The applicant has resubmitted in response to staff comments, staff are reviewing and will send out for the second round of referrals soon.

Red Mountain Ranch, Parcel 1

- Has submitted Preliminary Plan Review and Major Development Plan applications; applicant has provided additional materials, and staff is working towards bringing project through public hearing, scheduled for P&Z on March 17 and TC on March 24.

446 Broadway

- Has submitted a minor development permit application for a new mixed-use building. Developer's team has resubmitted with a new building design and variance application; variance request scheduled for P&Z on March 17.

1215 Chambers Avenue

- Applications for a lot line adjustment and a Major Development Permit.
- Referral comments have been sent to applicant, waiting for applicant to resubmit.

Henry Annexation

- Annexation and rezoning were approved at the December 9 Town Council meeting; minor subdivision informational notice sent; decision expected March 14 (administrative decision).

New Electric, 629 Sawatch Road – Minor Development Permit

- Applicant has resubmitted and second round of comments were sent March 6; awaiting for applicant's resubmittal and response to comments.

301 Broadway – Minor Development Permit

- Applicant resubmitted, referral comments have been sent to applicant.

481 Whiting – Variance and Minor Subdivision

- Variance hearing scheduled for P&Z March 17, with Minor Subdivision administrative approval conditioned upon variance approval and plat comments fully addressed.

Bluffs PUD Amendment

- The applicant is making revisions to ensure alignment with HOA covenants and design guidelines.

332 Grand Avenue – Major Development Permit

- Application materials have been submitted, deemed complete; working with applicant to determine if variance to be separated from development permit or both run concurrently.

291 Eby Creek Road – Minor Development Permit

- Application materials have been submitted and are out for review; referral comments sent to applicant March 2; awaiting resubmittal.

Capitol Flats – Preliminary Plat, Rezoning, and Right-of-Way Vacation

- Application materials have been submitted and project deemed complete 2.24; applications out for referral with comments due 4.23.

Administrative Approvals (Encroachment Permits, Sign Permits, Use Approvals)

- Currently reviewing 1 Sign Permit, 0 Encroachment Permit, and 0 Mobile Vending Permits.
 - 0 Sign Permits have been approved and issued so far this year.
 - 0 Encroachment permits have been approved and issued this year.
 - 1 Mobile Vending Permit has been approved and issued this year.

NOTABLE UPDATES

- Software: Staff have selected a new software system, and the vendor's contract is currently in legal review.
- This new system will replace several outdated programs, automate tasks that staff currently complete by hand, improve communication across departments, and provide a much easier-to-use public portal. These are improvements we simply cannot achieve with our current tools.
- Implementing the software will be a major project. Migrating years of existing data into the new system is a large and detailed process, and staff will also be spending substantial time on system setup and training. Because of this, we anticipate temporary delays in review timelines and reduced staff capacity during the transition.

- Once the system is fully in place, it will significantly improve our efficiency, customer service, and long-term operations. We are excited to move this project forward.
- Staff has met with members of the community on development proposals ranging from small administrative permits to larger development, subdivision, and annexation applications. There were no pre-application meetings in February; however, several community members have been reaching out with interest in developing, opening businesses, or adding additions to homes.
- Eddie Wilson, our former Chief Building Official, continues to provide limited support as we continue our search for the next Building Official. His continued involvement ensures a smooth transition and allows us to benefit from his extensive experience and knowledge.

UPCOMING ANTICIPATED APPLICATIONS

- 894 Chambers – Variance
- Haymeadow Final Plat – RMF-4/5
- Haymeadow Lot Line Adjustments – Filing 2 duplexes
- Haymeadow Townhome Plat – RMF-2A
- Haymeadow Resubdivision of RMF-3 in Filing 1
- Haymeadow Preliminary Plan

TRAINING/CONFERENCES:

- 2021 IECC residential and commercial overview, and overview of regional energy code amendments.
- Mountain Towns 2030 Regional Forum: Code Readiness for Colorado Mountain Communities.
- Rocky Mountain Leadership Program
- Rocky Mountain Land Use Institute Conference (RMLUI) – March 4-6 – tentative.

- GIS Conference / Training
- APA Colorado Conference

MAJOR CONSTRUCTION PROJECTS

Business Name	Location	Status
Hockett Gulch Phase II	16186 Hwy 6	Building permits issued for all buildings – one hot tub permit under review for new clubhouse
Haymeadow	91 Mountain Hope Circle	Building permit issued for 6 single family – 1 Single family in review – 1 SF fees waiting – 3 Townhouses w/ 1 postponed till spring and 2 permits issued
Habitat for Humanity	3 rd Street	TCOs complete – looking for CO's
Eagle County BMX	1700 Bull Pasture Rd	Permits expired?
1200 Capitol Project	1200 Capitol St	Building permit issued and construction underway.

Building

The figures below show general activity levels not broken down by permit type (building, plumbing, mechanical, etc.)

TYPE OF WORK PERFORMED	EOY 2024	EOY 2025	2026
Inspections (n/i Planning, Public Works)	1944	1742	148
Permits Processed	334	425	20

P&Z and Council Meeting Schedule

March 2026
March 3rd (Town Council Work Session) • Committees
March 3rd (Planning Commission) • LUDC26-01 Misc. Code Amendments
March 10th (Town Council) • GEFPD Presentation on Fire Fighting • LUDC26-01 Misc. Code Amendment
March 17th (Planning Commission) • DR25-01/PP25-01 – Red Mountain Ranch • 481 Whiting Variance (V25-01) • 446 Broadway Variance (V26-01) • LUDC26-02 WUI / Turf Amendments • Resolution – WUI Map
March 24th (Town Council) • Ordinance Reading 1– Adoption of WUI 7A into Title 13 • DR25-01/PP25-01 – Red Mountain Ranch
April 2026
April 7th (Work Session) • Long Range Planning Priorities
April 7th (Planning Commission)
April 14th (Town Council) • LUDC26-02 WUI / Turf Amendments

- | |
|---|
| <ul style="list-style-type: none">• Resolution – WUI Map• Ordinance Reading 2– Adoption of WUI 7A into Title 13 |
| April 21 st (Planning Commission) <ul style="list-style-type: none">• <i>(Tentative) DR25-08 Haymeadow RMF-4/5</i> |
| April 28 th (Town Council) |