



2016

# Minturn Council Meeting

Wednesday June 15, 2016

**Work Session:** **5:30pm**  
**(Town Center)**

**Regular Session:** **6:30pm**  
**(Town Center)**



## **Agenda**

**MEETING OF THE MINTURN TOWN COUNCIL**  
**Minturn Town Center, 302 Pine Street**  
**Minturn, CO 81645 • (970) 827-5645**

**Wednesday June 15, 2016**

**Work Session – 5:30pm**  
**Regular Session – 6:30pm**

**MAYOR – Matt Scherr**  
**MAYOR PRO TEM – Earle Bidez**

**COUNCIL MEMBERS:**

Terry Armistead  
Harvey Craig  
Sidney Harrington  
Sage Pierson  
John Widerman

When addressing the Council, please state your name and your address for the record prior to providing your comments. Please address the Council as a whole through the Mayor. All supporting documents are available for public review in the Town Offices – located at 302 Pine Street, Minturn CO 81645 – during regular business hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

### **Work Session – 5:30pm**

- Discussion of Growth on valley floor (1hr) Pg 4
  - Public outreach process
  - Use of facilitator
  - Schedule
  - Survey

### **Regular Session – 6:30pm**

**1. Call to Order**

- Roll Call
- Pledge of Allegiance

**2. Approval of Agenda**

- Items to be Pulled or Added

**3. Liquor Authority**

- Town of Minturn Independence Celebration Request for Special Event Permit; 800 Cemetery Rd.; Michelle Metteer, Town Economic Dev Coordinator – Metteer Pg 14

**4. Approval of Minutes**

- June 1, 2016 Pg 22

**5. Public comments on items, which are NOT on the agenda (5-minute time limit per person)**

**6. Special Presentations**

- Committee Reports

**PUBLIC HEARINGS AND ACTION ITEMS**

**7. Discussion/Action Item: Consideration of Resolution 07 – Series 2016 a Resolution approving Variance Request 16-01 at 386/392 Taylor St. – Hawkinson Pg 29**

**8. Discussion/Action Item: Consideration of a motion to approve the staffing of the various committees and boards – Metteer Pg 44**

**9. Discussion/Action Item: Consideration of a motion to approve an Authorization for Professional services by Newland Project Resources – Metteer Pg 9**

**COUNCIL AND STAFF REPORTS**

**10. Town Planner**

**11. Town Manager**

- Manager's Report Pg 46
- Action Report

**12. Town Council Comments**

**13. Town Attorney**

**EXECUTIVE SESSION**

**14. Executive Session: An executive Session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b)– Eagle River Properties v. Town of Minturn et al, and Minturn Realty Company Inc.**

## FUTURE AGENDA ITEMS

### **15. Next Meeting – July 6, 2016**

- Council and Planning Commission joint meeting – 7/6/16 worksession

### **16. Future Meetings:**

- Boneyard Management plan and conservation easement
- Work Session on housing
- Council retreat July 25, 2016 8:30am-3:00pm

### **17. Set Future Meeting Dates**

#### a) Council Meetings:

- July 6, 2016
- July 20, 2016
- August 3, 2016

### **18. Other Dates:**

### **19. Adjournment**

June 10, 2016

To: Town Council  
Fr: Willy Powell, Town Manager

Re: Discussion on Growth/Bolts Lake Area

The worksession will focus on the plan to seek community input for growth in the valley floor, primarily located in the Bolts Lake area. Since the last meeting the Battle Mountain Committee has met with Crave and Tom Newland to bring better focus to the process. Consensus of the committee is to keep the conversation very simple concerning if the community would like to see growth, primarily around Bolts Lake; what concerns they may have; and what element they favor in a well-planned subdivision. The committee favors using the services of Tom Newland to assist in the open houses and July 6 meeting.

The process includes the following.

- A postcard, sent immediately after the June 15 Council meeting, announcing a community survey pertaining to growth and upcoming open houses. See attached postcard draft and survey form.
- Holding two public open houses to discuss growth, primarily focusing on the Bolts Lake area. The Open houses are on June 29 and July 5, both from 5—7pm and at the Town Hall.
- Council meeting on July 6 to discuss outcomes of the survey and open houses.
- Webpage: [www.minturn.org/boltslakearea](http://www.minturn.org/boltslakearea)

Attachments

- Postcard language (not in final postcard form).
- Draft survey form.
- Themes of Battle Mountain Discussion
- Newland Project Resources Letter of Engagement

**COMMUNITY DISCUSSION  
FOR RESPONSIBLE GROWTH ON THE VALLEY FLOOR**

The Council has **declined to support the proposed land swap** between Battle Mountain Development and the United States Forest Service. With this in mind, we ask you to please **join us for a series of community open houses** to discuss Minturn's **vision of growth** on the valley floor and how developers can anticipate utilizing their privately owned land.

Discussions will begin with the review of the Bolts Lake area. This is an opportunity to determine what the community desires for economic growth and stability.

**Schedule for the vision of growth discussions:**

**Community Survey**

Available online at: [www.minturn.org/boltslakearea](http://www.minturn.org/boltslakearea)  
or surveys can be filled out at town hall.  
June 16 thru July 5

**Open Houses**

Wed, June 29, 5:00 – 7:00 pm, Minturn Town Hall  
Tues, July 5, 5:00 – 7:00 pm, Minturn Town Hall

**Council Meeting with discussion outcomes**

Wed, July 6, 6:30 pm, Minturn Town Hall

## Minturn Town Survey

**Minturn residents have expressed concerns regarding the direction of development in Minturn. Community discussions now need to take place concerning responsible, planned growth, as Minturn prepares for the future.**

**The Council has declined to support the proposed land swap between Battle Mountain Development and the United States Forest Service. With this in mind, we ask you to please join us for a series of community open houses to discuss Minturn's vision of growth on the valley floor and how developers can anticipate utilizing their privately owned land.**

**Discussions will begin with the review of the Bolts Lake area. This is an opportunity to determine what the community desires for economic growth and stability.**

**This survey is one effort by the Town Council to receive input and feedback from the residents of Minturn. Additional feedback will be gathered at the June 29 and July 5 Open Houses; 5:00 pm to 7:00 pm at Minturn Town Hall.**

**Thank you for taking this four-question survey. Final results will be posted at: [www.minturn.org/Boltslakearea](http://www.minturn.org/Boltslakearea) after July 5th.**

1. Are you a (check all that apply)

- Minturn Resident
- Minturn Property Owner
- Minturn Business Owner

2. Minturn has the opportunity to grow in the valley floor primarily in the Bolts Lake area. Are you open to the idea of growth in Minturn, primarily on the valley floor?

- Yes
- No

3. What would you list as your primary concerns regarding growth? Check all that apply.

- Density
- Traffic
- Parking
- Home values
- Wildlife
- Other (please specify)

4. What elements would you want to see included in potential development/growth?

- Open Space / Parks
- Streetscape
- Inter-connected trails and sidewalks
- Attainable Housing
- Other (please specify)

## **Themes of Battle Mountain Discussions**

### **Land Trade No Longer Pursued**

Battle Mountain has committed to not pursue land trade for Battle and Grouse Mountains. Town will not support these land trades.

### **Battle Mountain to Develop New Vision and Seek Community Input**

- Develop on Private Land.
- Overall density to be reduced by approximately 50%.
- Majority of density to be located at Bolts Lake area, not to exceed 700 unit.
- Limited density on Battle Mountain.

### **Process for Gaining Community Input**

- June 15 meeting to decide process for gaining public input
- Two open houses proposed for June 29 and July 5.
- Council to discuss results of open houses on July 6.

### **Opportunities**

- Development of Bolts Lake—augmentation, recreation, community facilities.
- Increase density to foster improved economic development.
- Impact fees associated with new development.
- New water plant.

### **Study Efforts**

- Traffic Study—what impact does increased density have on Main St.
- Water Plant—when is new plant constructed.
- Wastewater Plant—is the plant necessary or can effluent be processed in Avon.
- Bolts Lake—what is the proper sizing of reservoir.
- Wildlife critical winter areas and corridors.
- Attainable housing component.

### **Public Input**

- Does public want to see town grow, primarily in the valley floor.
- What concerns does public have.
- What elements do public want to have included in the project.

### **Revised Annexation Agreement**

- A revised annexation agreement is necessary, consistent with reduced density.



P.O. Box 4815  
417 Original Road,  
Basalt, CO 81621  
Phone/Fax: (970) 927-4645  
[tom@newlandprojectresources.com](mailto:tom@newlandprojectresources.com)

May 31, 2016

Willy Powell  
Town Manager  
Town of Minturn  
302 Pine Street  
Minturn, CO 81645  
[manager@minturn.org](mailto:manager@minturn.org)

RE: LETTER OF ENGAGEMENT TO PROVIDE PUBLIC INFORMATION SERVICES FOR  
THE TOWN REGARDING CRAVE DEVELOPMENT

Dear Willy:

Thank you for meeting with me the other day regarding this issue. Based on our discussion, it is my understanding that you are looking for someone to conduct a public information process for the town that will both inform interested residents and get their feedback regarding the project.

**EXPERIENCE:** Newland Project Resources, Inc. (NPRI) has extensive experience providing comprehensive public involvement and public information services for several large infrastructure projects on the west slope. Public information services provided by NPRI have included development and implementation of a Public Information Plan (PIP) for CDOT projects; conduct and document public meetings regarding projects; prepare and disseminate press releases and fliers; develop weekly newspaper ads; maintain project web pages; coordinate with local businesses; respond to, coordinate and resolve complaints; and coordinate the Access Control Plan with affected citizens.

Public involvement is one of the key elements in any community approval process. For some projects it is the most important task, leading to a solution that has buy-in from the affected stakeholders.

For more information on the services we provide, sample projects, and client recommendation, please go to our website: [www.newlandprojectresources.com](http://www.newlandprojectresources.com).

**SCOPE OF SERVICES:** Based on our discussion, it seems that at least two options exist for informing and involving the public regarding the Crave proposal:

- (1) **Public Meeting:** NPRI can conduct a public open house meeting on the proposal. A PowerPoint presentation to show information can be conducted as a part of the open house. Our overall goal for the public meetings is to present the information in an appealing and simple to understand fashion that will fully inform the participant of all aspects of the project. The meeting is also be used as a way to seek input from the public regarding the proposal.
- (2) **Visioning Session:** This exercise is intended to clarify the context for the proposal, explore the community and stakeholder values that will shape the plan being proposed, and document the principles and desired outcomes that will be considered as the project moves

forward. At the visioning workshop, a consensus is developed around what must be protected through this project and what must be enhanced. An alternative or particular design will not be identified; rather, the visioning session documents concepts and a vision that will guide the development of the project.

- (3) Another option which could be considered would be to develop a, "Opportunities and Constraints" map of the project site. This is a pre-planning document that can help the town better present what the community feels should be done (and what should not be done) with regards to the site and the development proposal. Typical constraints include environmental conditions such as floodplains and wetlands; culturally sensitive locations; and visually impactive areas. Opportunities include provision of services, proximity to services, public recreational possibilities, and linkages with other activity centers.

**PROJECT COSTS:** The rate for this service is \$225/hr., with a minimum billing of .25 hours. If an assistant is required the rate is \$75.00 per hour. Fees include work on all aspects of the project including but not limited to correspondence regarding the project and project direction, (e-mails, phone calls, letters and memorandums); travel to and from the project site; drafting, publication, submission, and delivery of reports, applications, assessments, studies and plans regarding the project; and attendance at meetings with the owner, sub consultants, contractors, elected/appointed officials and/or their staff. These costs do not include reimbursable expenses for the project, including printing costs, mailing/delivery fees, or other services that may be required. If sub-consultant work is undertaken by NPRI, the work will not be initiated without approval by you.

Payment for Newland Project Resources Inc. (NPRI) services will be made upon submission of monthly invoices enumerating the appropriate charges based on the hourly rate listed above.

NPRI is a fully insured "S" corporation licensed in the State of Colorado. In addition, NPRI carries Errors and Omissions Insurance in the amount of \$2,000,000 per claim and \$2,000,000 aggregate limit.

If you agree with the terms of this Letter of Engagement, please fill out the attached Authorization for Professional Services and return to PO Box 4815, Basalt, CO 81621 or e-mail to [terri@npri.co](mailto:terri@npri.co). Please contact me at 927-4645 or 618-9922 at any time regarding this project.

Sincerely,



Tom Newland, Principal

**AUTHORIZATION FOR PROFESSIONAL SERVICES  
BY NEWLAND PROJECT RESOURCES, INC.**

**Project Name:  
PROPOSAL TO PROVIDE PUBLIC INFORMATION SERVICES FOR THE TOWN  
REGARDING CRAVE DEVELOPMENT**

The services covered by this Authorization form shall be performed in accordance with the following provisions and the enclosed Newland Project Resources, Inc. (NPRI) proposal letter dated May 31, 2016 unless otherwise specified.

1. **Time Schedule:** NPRI will make every reasonable effort to complete all services that are specifically to be furnished under this agreement in a timely manner.
2. **Professional Standards:** NPRI shall be responsible, to the level of competency presently maintained by other practicing land use/permitting professionals in the same type of work in the Roaring Fork Valley for the professional and technical soundness, accuracy, and adequacy of all work furnished under this Authorization. NPRI makes no other warranty, expressed or implied.
3. **Termination:** Either CLIENT or NPRI may terminate this Authorization by giving twenty (20) days written notice to the other party. In such event, CLIENT shall forthwith pay NPRI in full for all work previously authorized and performed prior to the effective date of termination. If no notice of termination is given, relationships and obligations created by this Authorization shall be terminated upon completion of all applicable requirements of this Authorization.
4. **Legal Expenses:** In the event legal action is brought by CLIENT or NPRI against the other to enforce the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs and expenses as may be set by the court.
5. **Payment:** NPRI will issue Monthly invoices for all work performed under the terms of this agreement. Time accounting cuts off on the last day of the month (invoice date). Invoices will be sent out on or about the first day of the month. They will be sent to the CLIENT at the address indicated at the bottom of this Authorization form. **Invoices are due and payable on receipt.** Finance charges at 1 1/2% per month (18% Annual Rate) will be charged on all amounts which are over 30 days past due. CLIENT/Owner agrees to pay reasonable collection and attorney's fees in the event of nonpayment.
6. **Assignment of Agreement:** This agreement shall be binding on the heirs, successors and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other.
7. **Ownership of Documents:** All reports, plans, field data, field notes, calculations, estimates and other documents prepared by NPRI as instruments of service, shall remain the property of NPRI unless there are other contractual agreements.
8. **Limitation of Liability:** NPRI's liability to the CLIENT for any negligent act, error or omission is, in the aggregate, limited to an amount not to exceed the fee earned under this agreement, or \$50,000, whichever is greater.
9. **Sub-Contractors:** Sub-consultant work, if needed, will be directly to you, the Client.
10. **Reimbursable Expenses:** Reimbursable expenses will be charged at invoice amount.

CLIENT:

Billing Name and Address:  
(e-mail preferred)

Approved for CLIENT:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Jay Brunvand

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**From:** Michael J. Sawyer <mjs@mountainlawfirm.com>  
**Sent:** Tuesday, May 31, 2016 3:42 PM  
**To:** Willy Powell  
**Cc:** Jay Brunvand  
**Subject:** RE: Letter of Engagement for Services

Jay,

Please add this to the agenda and repost out front of the building and on the website. We only need 24 hours notice to act on it.

Michael

**Karp.Neu.Hanlon**<sup>PC</sup>  
ATTORNEYS AT LAW

Michael J. Sawyer  
201 14th Street, Suite 200, P.O. Drawer 2030, Glenwood Springs, CO 81602  
T: 970.945.2261 x117/F: 970.945.7336 [www.mountainlawfirm.com](http://www.mountainlawfirm.com)

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**From:** Willy Powell [mailto:manager@minturn.org]  
**Sent:** Tuesday, May 31, 2016 3:35 PM  
**To:** Earle Bidez; Harvey Craig; John Widerman; Matt Scherr; Sage Pierson; Sidney Harrington; Terry Armistead  
**Cc:** Michael J. Sawyer; Jay Brunvand  
**Subject:** FW: Letter of Engagement for Services

Council,

Mike Sawyer and I are requesting we add to the agenda, as Action/Discussion Item #12, the Letter of Engagement from Tom Newland, Newland Project Resources. Tom is the consultant CDOT used for the Glenwood Bridge project and comes well recommended.

Please see attached Tom Newland's proposal. You will see he has alternative approaches. I believe we could negotiate a better rate or cost per session. Mike Sawyer and I recommend we amend the agenda to discuss the contract, because if we advertise the BM meeting for June 15 and we are going to use Newland, then we need to know ASAP.

At the meeting, in open session, we need to discuss the following:

- Do we hire Newland.
- Do we keep with the schedule of June 15 or a later date. Remember we have public open house on June 7 for Main St. pedestrian planning.

- How many dates do we advertise for our postcard and other PR for the BM public outreach sessions. Do we want one really good session or multiple.
- Is the process that, after we have our session and developer hears from the public, then they come back with development ideas at a later meeting.

At a certain point, and not very long from here, the burden must be on the developer. We cannot shepherd the process too far when there is a quasi-judicial role to play, should the development move forward.

Willy

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**From:** Tom Newland [<mailto:tom@newlandprojectresources.com>]  
**Sent:** Tuesday, May 31, 2016 2:14 PM  
**To:** Willy Powell  
**Subject:** Letter of Engagement for Services

Hi Willy

Attached is a letter of engagement for my services. Let me know if you have any questions.

Thanks,



*Tom Newland, Newland Project Resources, Inc.  
PO Box 4825, 417 Original Road  
Basalt, CO 81621  
(970) 927-4645(o) (970) 618-9922(c)  
[tom@newlandprojectresources.com](mailto:tom@newlandprojectresources.com)*



**TOWN OF MINTURN**  
P.O. Box 309 (302 Pine Street)  
Minturn, Colorado 81645-0309  
970-827-5645 Fax: 970-827-5545  
treasurer@minturn.org

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**FROM THE DESK OF  
JAY BRUNVAND, TREASURER/FINANCE**

*MEMORANDUM*

**TO:** Mayor, and Council  
**FROM:** Jay Brunvand, Treasurer/Clerk  
**CC:**  
**DATE:** Wednesday, June 08, 2016  
**RE:** Special Event Permit – July 2, 2016

**SUMMARY:**

At tonight's meeting the Council is asked to approve a Special Event Permit for the Town of Minturn Independence Celebration event scheduled for Saturday July 2, 2016. The location of this permit request is Little Beach Park. The attached documentation indicates the compliance with the posting of the site and the event.

**PREVIOUS COUNCIL ACTION:**

None.

**STAFF RECOMMENDATION:**

Approve the request as presented with the detailed conditions.

**RECOMMENDED MOTION:**

I move to approve the proposed Special Event Permit to sell malt, vinous and spirituous liquor beverages to be located as defined in the attached application as presented with the following conditions:

- The application was received on June 2, 2016 and the Notice of Public Hearing on this matter was posted on the premises by the Town Treasurer on June 2, 2016 at least 10 days prior to the Council Meeting consideration.
- That the selling liquor in the manner currently proposed in the application is not in violation of the Minturn Municipal Code.
- Staff recommends at least one T.I.P.S, or equivalent certified server be present, and at least one person to check ID's be present at all times while alcoholic beverages are sold. We would like that those servers and certifications be identified to us in advance.
- Staff requests each entrance/exit and premises be monitored and secured to ensure no outside liquor is introduced to the event and that no liquor is removed from the premises.

**ATTACHMENTS:**

- Application

## APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

**IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT  
 AND ONE OF THE FOLLOWING (See back for details.)**

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> SOCIAL               | <input type="checkbox"/> ATHLETIC                              | <input type="checkbox"/> PHILANTHROPIC INSTITUTION           |
| <input type="checkbox"/> FRATERNAL            | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER    | <input type="checkbox"/> POLITICAL CANDIDATE                 |
| <input checked="" type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS FACILITIES |
| <input type="checkbox"/> POLITICAL            | <input type="checkbox"/> RELIGIOUS INSTITUTION                 |  |

<b>LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:</b>	<b>DO NOT WRITE IN THIS SPACE</b>
2110 <input checked="" type="checkbox"/> MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY	LIQUOR PERMIT NUMBER
2170 <input type="checkbox"/> FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY	

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE Town of Minturn	State Sales Tax Number (Required) 98-07290-0000
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2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE (include street, city/town and ZIP)  PO Box 309 Minturn, CO 81645	3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT (include street, city/town and ZIP)  800 Cemetery Rd Minturn, CO 81645
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NAME	DATE OF BIRTH	HOME ADDRESS (Street, City, State, ZIP)	PHONE NUMBER
4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE Michelle Metteer	4/7/74	2100 Old Trail Rd, Avon, CO 81645	970-343-9122
5. EVENT MANAGER Michelle Metteer	4/7/74	2100 Old Trail Rd, Avon, CO 81645	970-343-9122
6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES HOW MANY DAYS? <u>2</u>		7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM? _____	

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED?  Yes  No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Date	Date	Date	Date
July 2, 2016				
Hours From 4:00 p.m. To 9:00 p.m.	Hours From .m. To .m.			

**OATH OF APPLICANT**

*I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.*

SIGNATURE	TITLE Economic Development Coordinator	DATE 6/02/16
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**REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)**

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

**THEREFORE, THIS APPLICATION IS APPROVED.**

LOCAL LICENSING AUTHORITY (CITY OR COUNTY) Town of Minturn	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY	TELEPHONE NUMBER OF CITY/COUNTY CLERK 970-827-5645
SIGNATURE	TITLE Mayor	DATE 6/15/16

**DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY**

LIABILITY INFORMATION			
License Account Number	Liability Date	State	TOTAL
		-750 (999)	\$ .

## APPLICATION INFORMATION AND CHECKLIST

### THE FOLLOWING SUPPORTING DOCUMENTS MUST BE ATTACHED TO THIS APPLICATION FOR A PERMIT TO BE ISSUED:

- N/A*  Appropriate fee.  
 Diagram of the area to be licensed (not larger than 8 1/2" X 11" reflecting bars, walls, partitions, ingress, egress and dimensions.

**Note:** If the event is to be held outside, please submit evidence of intended control, i.e., fencing, ropes, barriers, etc.

- Copy of deed, lease, or written permission of owner for use of the premises.  
*N/A*  Certificate of good corporate standing (NONPROFIT) issued by Secretary of State within last two years; or  
*N/A*  If not incorporated, a NONPROFIT charter; or  
*N/A*  If a political Candidate, attach copies of reports and statements that were filed with the Secretary of State.

APPLICATION MUST FIRST BE SUBMITTED TO THE LOCAL LICENSING AUTHORITY (CITY OR COUNTY) AT LEAST THIRTY (30) DAYS PRIOR TO THE EVENT.

THE PREMISES TO BE LICENSED MUST BE POSTED AT LEAST TEN (10) DAYS BEFORE A HEARING CAN BE HELD. (12-48-106 C.R.S.)

AN APPROVED APPLICATION MUST BE RECEIVED BY THE LIQUOR ENFORCEMENT DIVISION AT LEAST TEN (10) DAYS PRIOR TO THE EVENT.

CHECK PAYABLE TO THE COLORADO DEPARTMENT OF REVENUE

(12-48-102 C.R.S.)

A Special Event Permit issued under this article may be issued to an organization, whether or not presently licensed under Articles 46 and 47 of this title, which has been incorporated under the laws of this state for the purpose of a social, fraternal, patriotic, political or athletic nature, and not for pecuniary gain or which is a regularly chartered branch, lodge or chapter of a national organization or society organized for such purposes and being non profit in nature, or which is a regularly established religious or philanthropic institution, and to any political candidate who has filed the necessary reports and statements with the Secretary of State pursuant to Article 45 of Title 1, C.R.S. A Special Event permit may be issued to any municipality owning arts facilities at which productions or performances of an artistic or cultural nature are presented for use at such facilities.

If an event is cancelled, the application fees and the day(s) are forfeited.

# LITTLE BEACH PARK MINTURN, CO



TOWN OF MINTURN / PO BOX 309 / MINTURN, CO 81645  
(970) 827-5645 / INFO@MINTURN.ORG / WWW.MINTURN.ORG

# **NOTICE**

**PURSUANT TO THE LIQUOR LAWS  
OF COLORADO**

TOWN OF MINTURN  
302 PINE ST  
MINTURN, CO 81645

**HAS REQUESTED THE LICENSING  
OFFICIALS OF THE TOWN OF MINTURN  
TO GRANT A SPECIAL EVENT PERMIT  
LICENSE AT: LITTLE BEACH PARK**

801 CEMETERY RD, MINTURN

**HEARING ON APPLICATION TO BE HELD AT:  
MINTURN TOWN HALL**

**TIME AND DATE: 6:30 pm 6/15/16**

**DATE OF APPLICATION: 6/2, 2016**

**BY ORDER OF: MINTURN TOWN COUNCIL**

**OFFICERS:**

MINTURN TOWN HALL  
302 PINE ST  
MINTURN, CO 81645

ADDRESS OF THE PLACE AT WHICH PETITIONS OR REMITTANCES MAY BE FILED

\* \* \* \* \*

12/16/10

BUSINESS 8K

# NOTICE

PURSUANT TO THE LIQUOR LAWS

OF COLORADO

TOWN OF MINTURN

302 PINE ST

MINUTURN, CO 80445

HAS REQUESTED THE LICENSING  
OFFICIALS OF THE TOWN OF MINTURN  
TO GRANT A SPECIAL EVENT PERMIT  
LICENSE AT: LITTLE BEACH PARK  
801 CEMETERY RD, MINTURN

HEARING ON APPLICATION TO BE HELD AT:  
MINTURN TOWN HALL

TIME AND DATE: 6:30 pm 6/19/16

DATE OF APPLICATION: 6/2, 2016

BY ORDER OF: MINTURN TOWN COUNCIL

OFFICERS:  
MINTURN TOWN HALL  
302 PINE ST  
MINUTURN, CO 80445



TOWN OF MINTURN  
P.O. Box 309 (302 Pine Street)  
Minturn, Colorado 81645-0309  
970-827-5645 Fax: 970-827-5545  
treasurer@minturn.org

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**FROM THE DESK OF  
JAY BRUNVAND, CLERK/TREASURER/FINANCE**

*MEMORANDUM*

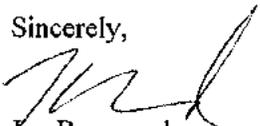
TO: Town of Minturn  
FROM: Jay Brunvand, Treasurer/Clerk  
CC:  
DATE: Wednesday, June 08, 2016  
RE: Special Event Liquor Permit

I am in receipt of your Special Event Permit application for an event to be held on July 2, 2016 at Little Beach as defined in your submitted application.

This location is a Town owned venue. In order to serve liquor you will need the Town's permission and approval of the event as back up detail for your permit application. Please consider this letter authorization from the Town of Minturn to utilize the venue as requested.

Please feel free to contact me in the event you have any questions.

Sincerely,

  
Jay Brunvand  
Town Clerk/Treasurer



TOWN OF MINTURN  
P.O. Box 309 (302 Pine Street)  
Minturn, Colorado 81645-0309  
970-827-5645 Fax: 970-827-5545  
treasurer@minturn.org

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**FROM THE DESK OF  
JAY BRUNVAND, CLERK/TREASURER/FINANCE**

*MEMORANDUM*

TO: Phillip Cusick, ECSO-Minturn  
Mike Sawyer, Town Attorney  
FROM: Jay Brunvand, Treasurer/Clerk  
CC:  
DATE: Wednesday, June 08, 2016  
RE: Special Event Permit

I am in receipt of a Special Event Permit submitted by the Town of Minturn for an event at Little Beach Park on Saturday July 2, 2016. Could you please conduct your review and report back in writing your findings? Because this event is for the Town and because it is run by Michelle I don't have any concerns, rather I would like a separate set of eyes to make sure I didn't miss anything. I will be available to work with you in the event you have any questions.

I have scheduled this for Council review on June 15<sup>th</sup>. Note, because this is a Special Event Permit, only the Town approves the application, the State is informed of the event but they do not approve the application as is done with a Liquor License application.

Please feel free to contact me in the event you have any questions.

Sincerely,

Jay Brunvand  
Town Clerk/Treasurer



## **Official Minutes**

**MEETING OF THE MINTURN TOWN COUNCIL**  
**Minturn Town Center, 302 Pine Street**  
**Minturn, CO 81645 • (970) 827-5645**

**Wednesday June 1, 2016**

**Work Session – 5:00pm**  
**Regular Session – 6:30pm**

**MAYOR – Matt Scherr**  
**MAYOR PRO TEM – Earle Bidez**

**COUNCIL MEMBERS:**

Terry Armistead  
Harvey Craig  
Sidney Harrington  
Sage Pierson  
John Widerman

These minutes are formally submitted to the Town of Minturn Town Council for approval as the official written record of the proceedings at the identified Council Meeting. Additionally, all Council meetings are tape-recorded and are available to the public for listening at the Town Center Offices from 8:30am – 2:00 pm, Monday through Friday, by contacting the Town Clerk at 970/827-5645 302 Pine St. Minturn, CO 81645.

### **Work Session – 5:00pm**

- Review of 2015 Audited Financial Statements – Brunvand
- Review of Council Committees – Powell
  - A complete committee member list is attached to these minutes.

### **Regular Session – 6:30pm**

#### **1. Call to Order**

The meeting was called to order by Mayor Scherr at 6:32pm.

- Roll Call

Those present included: Mayor Matt Scherr and Town Council members, Harvey Craig, Terry Armistead, Earle Bidez, Sidney Harrington, and Sage Pierson. Note: John Widerman was excused absent.

Staff present: Town Manager Willy Powell, Treasurer/Clerk Jay Brunvand, Deputy Clerk/Econ Michelle Metteer, Town Planner Janet Hawkinson, and Town Attorney, Michael Sawyer.

- Pledge of Allegiance

## **2. Approval of Agenda**

- Items to be Pulled or Added

Motion by Earle B., second by Terry A., to approve the agenda as presented. Motion passed 6-0. Note: John Widerman was excused absent.

## **3. Liquor License**

- Modification of Premises Minturn Country Club 131 Main St, Joe Honnessy Owner/Pres– Brunvand

Council convened as the Liquor Authority.

Jay B. presented the issues and recommended approval of the modification to allow outdoor seating.

Public Hearing opened.

Shelley Bellm, 472 Pine St, stated this would negatively affect the parking.

Public Hearing closed.

Willy P. detailed the parking in the area and noted the agreement existing from two meetings ago. Janet H. noted the area proposed is not in valid parking spaces.

Sage P. stated this is a question for the liquor license not the parking; they are two separate issue.

Motion by Sidney H., second by Sage P., to approve the Modification of Premises Minturn Country Club 131 Main St, Joe Honnessy Owner/Pres. as presented. Motion passed 6-0. Note: John Widerman was excused absent.

Council adjourned the Liquor Authority.

## **4. Approval of Minutes**

- May 18, 2016

Motion by Earle B., second by Harvey C., to approve the minutes of May 18, 2016 as presented. Motion passed 6-0. Note: John Widerman was excused absent.

## **5. Public comments on items, which are NOT on the agenda (5-minute time limit per person)**

- CMC Town Scholarships Update

Ms. Diana Scherr, representing Colorado Mountain College, updated the Council on the uses the Minturn CMC Scholarship has provided. Ms. Scherr presented a picture of Ms. Emily Martinez receiving her diploma.

Ms. Emily Martinez, 1151 Main St, received scholarships from the Minturn Education Fund and from CMC. She read a letter of thanks for the support she has received.

Ms. Shelley Bellm, Minturn Education Fund, outlined the opportunities available for Minturn citizens. Scholarships were awarded for 2016 to three Minturn high school seniors.

Terry A, updated the community on the Summer Concert series. The schedule is on the Town website and on various other social media.

Earle B. announced the land swap between the Battle Mountain Resort and the United States Forest Service has been dropped by BMR, the Town will not be asked to support it, and it will not move forward. In lieu of this BMR and the Council will be moving forward with other plans to develop on the existing BMR land.

## **6. Special Presentations**

- Main Street Pedestrian Planning special presentation – Powell/Stofus

Ms. Michelle Hanson from Stofus Engineering. This program is based on a grant that will engineer pedestrian transportation routes from Toledo Ave to Maloit Park Road. This presentation was an effort to bring the Council and the community abreast of the process and the opportunities.

An Open House style evening meeting will be held on June 7, 2016 4-7pm at the Minturn Town Hall. The public is encouraged to attend with their questions. In addition, individual property owners can schedule one on one meetings on June 29 and 30. This will allow those property owners to see how their specific property will be affected.

Willy P. noted this project is for engineering only. The town will be looking for funding options to implement the study but this has not been obtained as yet. Discussion ensued as to the pros and cons of the various options presented.

- Committee Reports

Terry A. and John W. went to the Climate Action Committee. This committee studies local and county wide solutions to sustainable living options. She updated the meeting on the proposed plan.

**PUBLIC HEARINGS AND ACTION ITEMS**

**7. Discussion/Action Item: Acceptance of the 2015 Fiscal Audit – Brunvand**

Motion by Terry A., second by Harvey C., to accept the Fiscal Year 2015 Annual Audit as presented. Motion passed 6-0. Note: John Widerman was excused absent.

**8. Discussion/Action Item: Consideration of Resolution 07 – Series 2016 a Resolution approving Variance Request 16-01 at 386/392 Taylor St. - Hawkinson**

Janet H. outlined the variance and requested it be continued to the June 15 Council Meeting.

Motion by Earle B., second by Sage P., to continue Resolution 07 – Series 2016 a Resolution approving Variance Request 16-01 at 386/392 Taylor St. to the June 15, 2016 meeting. Motion passed 6-0. Note: John Widerman was excused absent.

**9. Discussion/Action Item: Consideration of Resolution 14 – Series 2016 a Resolution approving Land Use Application Conditional Use Permit 16-02 1011 Main St – Hawkinson**

Terry A. recused herself from the table due to a conflict of interest and left the room. Her family is the developer and contractor of this project.

Janet H. outlined the project and the need for the Conditional Use.

Mr. Jeff Armistead, Contractor and Developer, outlined the project and answered any questions.

Willy P. noted the shared driveway; the project has a easement for a shared driveway to access both properties. Discussion ensued on the concern that commercial property is being moved to residential. To have all residential in the town does not bode well for the future uses and needs.

No public comment.

Motion by Harvey C., second by Sage P., to approve Resolution 14 – Series 2016 a Resolution approving Land Use Application Conditional Use Permit 16-02 1011 Main St as presented. Motion passed 6-0. Note: John Widerman was excused absent.

At this time, Terry A. resumed her seat at the table

**10. Discussion/Action Item: Consideration of Resolution 15 – Series 2016 a Resolution approving Land Use Application Temporary Use Permit 16-03 – Hawkinson**

Janet H. outlined the application. This is a request to erect a tent to sell excess stock from his formal store. His hope is to reduce his inventory and increase evening traffic in town.

Motion by Earle B., second by Terry A., to approve Resolution 15 – Series 2016 a Resolution approving Land Use Application Temporary Use Permit 16-03 as presented with the added condition the term not exceed 45days. Motion passed 6-0. Note: John Widerman was excused absent.

**11. Discussion/Action Item: Discussion/Action Item: Resolution 13 – Series 2016 a Resolution allocating Holy Cross Energy Community Enhancement funds – Brunvand**

Motion by Harvey C., second by Sidney H., to approve Resolution 13 – Series 2016 a Resolution allocating Holy Cross Energy Community Enhancement funds as presented. Motion passed 6-0. Note: John Widerman was excused absent.

**12. Discussion/Action Item: Consideration of a Letter of Engagement from Newland Project Resources – Powell/Sawyer**

This item was moved to the Manager’s Report

**COUNCIL AND STAFF REPORTS**

**13. Town Planner**

- Gourmet Cowboy Sign approval

**14. Town Manager**

- Manager’s Report

Willy P. noted the Entryway Project has exceeded the budget and the 10% contingency by slightly over 5%. This is due to several change orders that moved a fire hydrant, a boulder in Main Street that needed to be mitigated, and added a shutoff valve which corrected issues that are a result of past issues among others. Willy P. stated the project is still on track and he anticipates several other over runs.

**Rural Economic Development Program (REDI)**

I was mistaken in my report of the engineering costs to design the water line from Minturn to Dowd. The estimate is actually \$99,825 for the most difficult alignment. The first step is to do reconnaissance level study of three alternatives. It is likely the preferred alternative will have a lesser cost. Thus a 20% match will cost the town no more than \$20K.

I believe the \$1,000,000 water enterprise fund balance can be used to this kind of extraordinary expense. Because the deadline for the grant application is 5/31, staff submitted the application for the above mentioned amount

## **ICON TWO WEEK SCHEDULE**

The Entryway/100 Block Project is progressing. Within the next two weeks you will see the following: completion of sidewalks and the bulb-out, concrete and planters in the 1<sup>st</sup>-Minturn Country Club area, landscape installation, and re-paving. The project continues to be on schedule.

### **Main Street Engineering Project**

The first public meeting for the project is Council meeting tonight. See materials in packet.

The second public meeting is Tuesday, June 2 from 4—7pm. It is an open house format.

Notification postcards have been sent. Door hangers are being delivered May 26 and 27.

See attachments for very good initial survey results.

Willy P. discussed a potential Letter of Engagement from Newland Project Resources to assist the Town in project facilitation and management of the potential work on the Battle Mountain project ramping up. The consideration is to note to the public that the land trade is off the table and over (this point was stressed several times) and that BMR is desiring to begin development on their currently owned property on the valley floor. Discussion ensued as to the costs involved in this proposal both the hourly rate and the consideration of how many hours will be needed. The need to spend money to get the ball rolling to educate the public on the BMR plan through a grass roots community outreach program is money well spent. It was noted that BMR has said they have up to 90 days left of funding and the council agreed this put them in a corner and limited their time and the amount that can be accomplished.

Direction was to have staff meet with Newland Project Resources to develop thoughts and options to proceed that engages the public. To have Mr. Newland meet with Council thereafter if Staff feels it would be productive. No community postcard will be sent until after staff is able to meet with Newland to get their recommendation. It was further desired to receive from BMR a draft of MOU concepts they need to be successful as they proceed.

- Action Report

## **15. Town Council Comments**

Sidney H. stated she liked the article forwarded on the railyard development in Truckee, CA.

Saturday is the Town cleanup.

## **16. Town Attorney**

### **EXECUTIVE SESSION**

**17. Executive Session: An executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for**

**negotiations, and/or instructing negotiators under CRS Section 24-6-402(4)(e) and for the purpose of a conference with the Town attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b)– Battle Mountain**

No Executive Session was held.

## FUTURE AGENDA ITEMS

### 18. Next Meeting – June 15, 2016

### 19. Future Meetings:

- Boneyard Management plan and conservation easement
- Work Session on housing
- Council and Planning Commission joint meeting – 7/6/16 worksession
- Council retreat July 25, 2016 8:30am-3:00pm

### 20. Set Future Meeting Dates

#### a) Council Meetings:

- June 15, 2016
- July 6, 2016
- July 20, 2016

### 21. Other Dates:

- Town Cleanup Day – June 4, 2016
- Main Street Pedestrian Planning Open House – June 7, 2016

### 22. Adjournment

Motion by Earle B., second by Harvey C., to adjourn the meeting at 10:06pm. Motion passed 6-0. Note: John Widerman was excused absent.

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**Matt Scherr, Mayor**

**ATTEST:**

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**Jay Brunvand, Town Clerk**

**TOWN OF MINTURN, COLORADO  
RESOLUTION NO. 07 – SERIES 2016**

**A RESOLUTION APPROVING LAND USE APPLICATION  
VARIANCE 16-01**

WHEREAS, The Town of Minturn Town Council is commissioned with certain powers and duties contained in the Minturn Municipal Code Section 16-21-10 and

WHEREAS, public notice was given pursuant to Minturn Municipal Code Section 16-21-610, and

WHEREAS, on March 2, 2016, the Town Council held a public hearing on the application pursuant to Minturn Municipal Code Section 16-21-230, and

WHEREAS, pursuant to Minturn Municipal Code Section 16-1-20, the most appropriate use of land is allowed to be used with the variance, and

WHEREAS, pursuant to Minturn Municipal Code Section 16-21-30, the Town Council makes the following findings:

- There are exceptional conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;
- The exceptional conditions of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in unnecessary physical hardship inconsistent with the objectives of this chapter;
- The granting of the variance would not be materially injurious to properties or improvements in the vicinity and would not result in substantial impairment to the purposes of the zoning code;
- The most appropriate use of land is being granted with this variance

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO:

THAT the application for a Variance for 386 and 392 Taylor Avenue, Lot 7A Block C, File NO. VAR 16-01, be approved subject to the following conditions:

- The front yard setback for each lot shall be measured at a point between 10 feet and 8 feet from the property boundary adjoining Taylor Street depicted on Exhibit A.

**INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 15<sup>th</sup> day of June,  
2016**

TOWN OF MINTURN

By: \_\_\_\_\_  
Mayor

ATTEST

\_\_\_\_\_  
Town Clerk



# Planner Report

Town of Minturn  
302 Pine Street  
Minturn, Colorado  
81654  
970-827-5645

3/2/2016

J Hawkinson, Planning Director

**APPLICANT:** David Clapp - 970-390-3018

**REQUEST:** Variance for a front yard setback from 20' to 10' in the Game Creek Character Area

**LOCATION:** 386 & 392 Taylor Avenue, Lot 7A Block C, Lot 10A Block C

**APPLICATION SUBMITTED:** February 5, 2016

**PLANNING DIRECTOR RECOMMENDATION:**

To approve variance upon the conditions as listed and defined per code (see below).

**PLANNING COMMISSION APPROVAL:** June 8, 2016

**PUBLIC NOTICE:** Agenda posted at Town Hall and on website - certified letters sent to residents 250 feet from site - sign posted on site - 10 days in advance of hearings - mailing and postings for Final Subdivision Plat & Zoning Change on February 12, 2016

**AS PER CODE: SECTION 16-21-690**

**VARIANCE REQUEST & SITE ANALYSIS:**

**Requested Variance:** A front setback of 10 feet from the southwest corner of each property parallel with Taylor Avenue, so that new homes are parallel with the street and not at an angle with the street, allowing for on site parking, 2 garages and a shared driveway.  
To also create an improved street scape for Taylor Avenue & front yard landscaping.  
To also increase safety from the 18' blind area caused by the 5' + retaining wall that blocks views entering onto the street.

**GAME CREEK SETBACKS:** -20' front -5' side yards -10' rear -30' creek

**VARIANCE SECTION 16-21-690 (1) - see photos**

“Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance”

- No - there is no cost or inconvenience to applicant as the reason for seeking this variance

**VARIANCE SECTION 16-21-690 (1) ---see photos**

“In order to lessen **practical** difficulties..... inconsistencies with the objectives of this Chapter...result from strict or literal interpretation and enforcement, variances from certain regulations may be granted.”

**Do Extraordinary Conditions Applicable to the Site of the Variance create a situation in which the strict interpretation of the specified regulation result in practical difficulty inconsistent with the zoning code?**

**YES:**

- This is a “practical difficulty”
- The neighbors retaining wall 18’ in Taylor Street right of way has created a non-uniform front street - affecting the front street scape of 386 property
- The north neighbors height of retaining wall and construction 18’ into right of way result in a front setback for the 386 & 392 houses of 40 feet from Taylor Avenue.
- The objectives of the Chapter for front yard setbacks are to create a nice street scape with one house not being closer or blocked by another house - the practical difficulties from the neighboring property are inconsistent with the objectives of this Chapter
- A 10’ setback on these 2 properties enforce the objectives of this Chapter for creating better street scape, front yards and off-street as well as on -street parking

**VARIANCE SECTION 16-21-690 (2) (3): ---see photos**

**Are There Extraordinary Conditions Applicable to the Site of the Variance That Do Not Apply Generally to other Properties in the Same Zone:**

**YES:**

- the front property line does not run parallel with Taylor Avenue
- the north property built a raised driveway and retaining wall 18’ into the right of way of Taylor Avenue - the homes sit back off the road average 40’ up hill with a shared driveway
- these circumstances result in a front setback from the existing homes of 40’ from edge of pavement of Taylor Street - this has created parking problems, lack of front yard appeal and street appeal

**MINTURN CODE SECTION 16-1-20 (a) PURPOSE OF PROVISIONS:**

“This Chapter is drawn in accordance with the Minturn Community Plan and is intended to implement said Community Plan. The purpose of this Chapter is to encourage the most appropriate use of land, to preserve and promote the Town’s economy, heritage and small town qualities, and it is designed to promote the health, safety, welfare and convenience of the citizens of the Town by:”

- (2) “Providing suitable transitions between areas of different land uses;”
- (5) “Minimizing adverse impacts on landowners from incompatible neighboring developments and conserving the value of property”

**This Variance is in accordance with this code.**

February 11, 2016

To Whom It May Concern,

I, David Clapp, have applied for a variance through the Town of Minturn regarding the front setback at 386 and 392 Taylor Street, Lots 10A and 7A, Block C. Minturn, Colorado. There are two public meetings scheduled. The Planning Commission on February 24, 2016 and then Town Council on March 2, 2016. Both hearings are at the Minturn Town Hall. 302 Pine Street. Minturn, Colorado. Thank you.

David Clapp  
392 Taylor Street  
Minturn, CO 81645

February 11, 2016

Applying for this variance my intent is to have my property conform with Taylor Street and the Game Creek neighborhood, making the front of the property visually pleasing and functional. The property to the north has a retaining wall/driveway that encroaches 20 feet into Taylor Street. Couple this with my front property line at an angle not parallel to Taylor Street, the result being an actual setback of 45 feet. Currently the properties have structures that I eventually want to replace. 392 Taylor Street has an old "miner" house without a foundation in the front that I want to replace with a Garage with living space above. 386 Taylor Street currently is home to a trailer where I would like to build a duplex. I would like to move forward and start the planning process with the front setback not being the burden that it is now. I would also like to note that the front setback for the Game Creek neighborhood is twenty feet, which is inconsistent with other areas of Minturn. The previous five town planners have told me they don't know the reasoning behind this. Thank you.

David Clapp  
392 Taylor Street  
Minturn, CO 81645  
(970)-390-3018



# VARIANCE PERMIT APPLICATION

TOWN OF MINTURN PLANNING AND ZONING DEPARTMENT  
302 Pine Street - PO Box 309  
Minturn, CO 81645  
(p) 970-827-5645  
(f) 970-827-5545

Applicant: <u>David Clapp</u>	Address of: <u>386 + 392 Taylor Ave</u>
Signature: <u>[Signature]</u>	Requested Variance: <u>Lot 7A Block C, Lot 10A Block C</u>
Property Owner (if different from applicant): (an affidavit of authorization must be included)	(name) <u>MIXDBCLAPP@YAHOO.COM</u>
<u># 970-390-3018</u>	(signature) _____

Please respond to the following questions regarding the variance request

Please describe the nature of the requested variance: A front setback 10 feet from the south west corner of each property parallel with Taylor Avenue.

Are there exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone? (if yes, please elaborate) Yes, the front property line does not run parallel with Taylor Avenue. Coupled with a retaining wall successively 18 feet into Taylor Avenue after the North West property corner.

Do the exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning code? (if yes, please elaborate) Yes, these circumstances result in a front setback of 40 to 30 feet from Taylor Avenue.

The Planning Commission and Town Council are required to make the following findings before granting a variance:

1. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not apply generally to other properties in the same zone;
2. The exceptional or extraordinary circumstances of the site create a situation in which the strict, literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the zoning code;
3. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity and will not result in substantial impairment to the purposes of the zoning code;
4. There is no substantial impairment to the public that would result from the granting of the variance

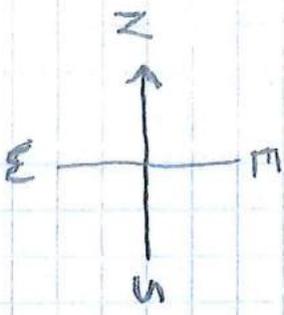
Town Use Only

Date received <u>8-10-15</u>	Planner <u>[Signature]</u>
Fee Paid <u>\$700.00</u>	Signature <u>[Signature]</u>

**PAID \$700.00 ON FEBRUARY 5, 2016**  
JA 35

▨ = 4 Feet sq.

36 x 36, 2 story  
wood frame,  
stucco dwelling,  
with foundation.



Lot 11, Block.

302 Taylor Avenue  
Lot 10 A, Block

308 Taylor Ave.  
Lot 7A, Block

Pictures 1 & 2

Retaining wall

Driveway

Retaining wall

Property line

Property line

Property line

Property setback 10'

Property setback 10'

34'

18'

Picture #3

Picture #4

Picture #6

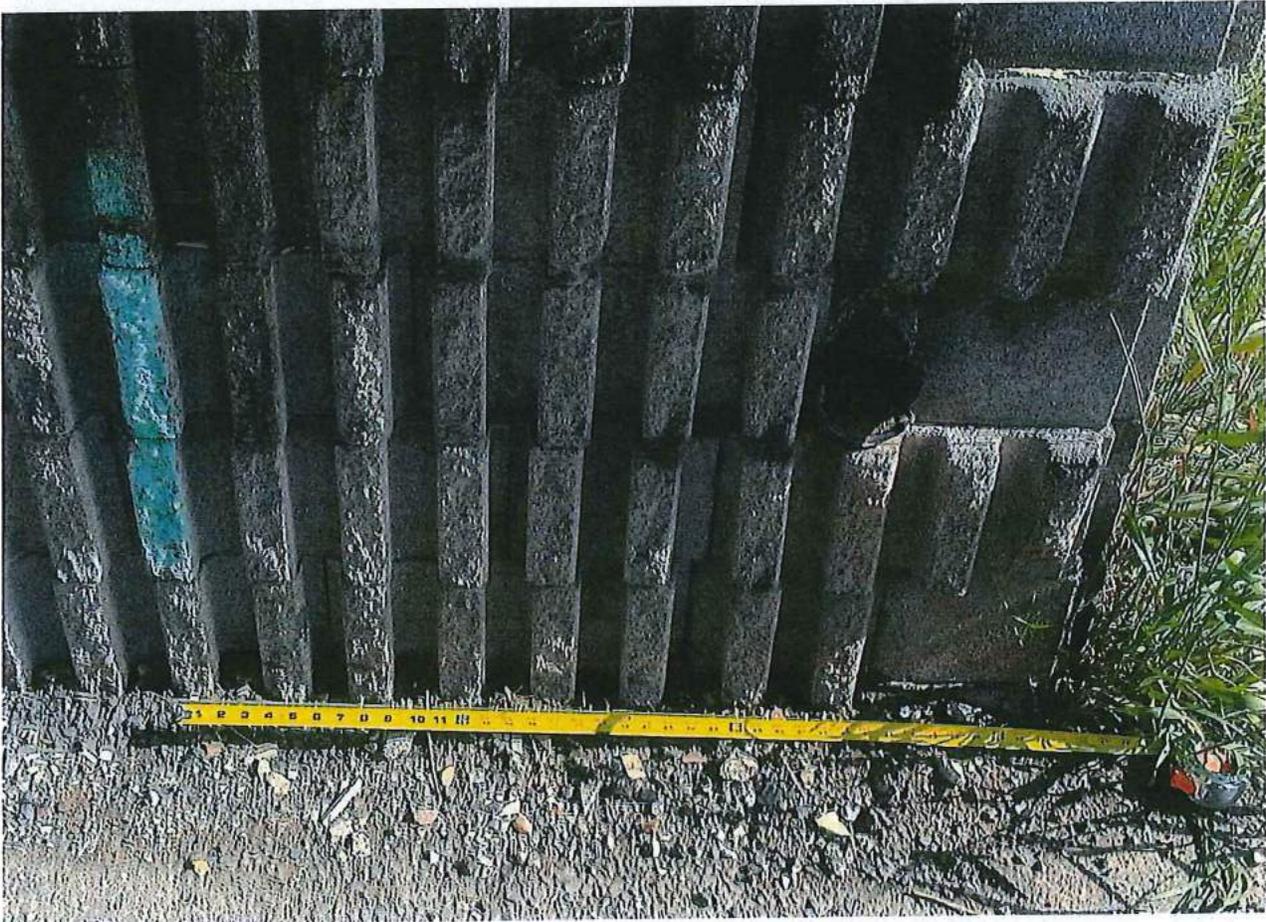
Functioning Taylor Avenue is 22 Feet wide paved.

Picture #5



#1

#1



#2

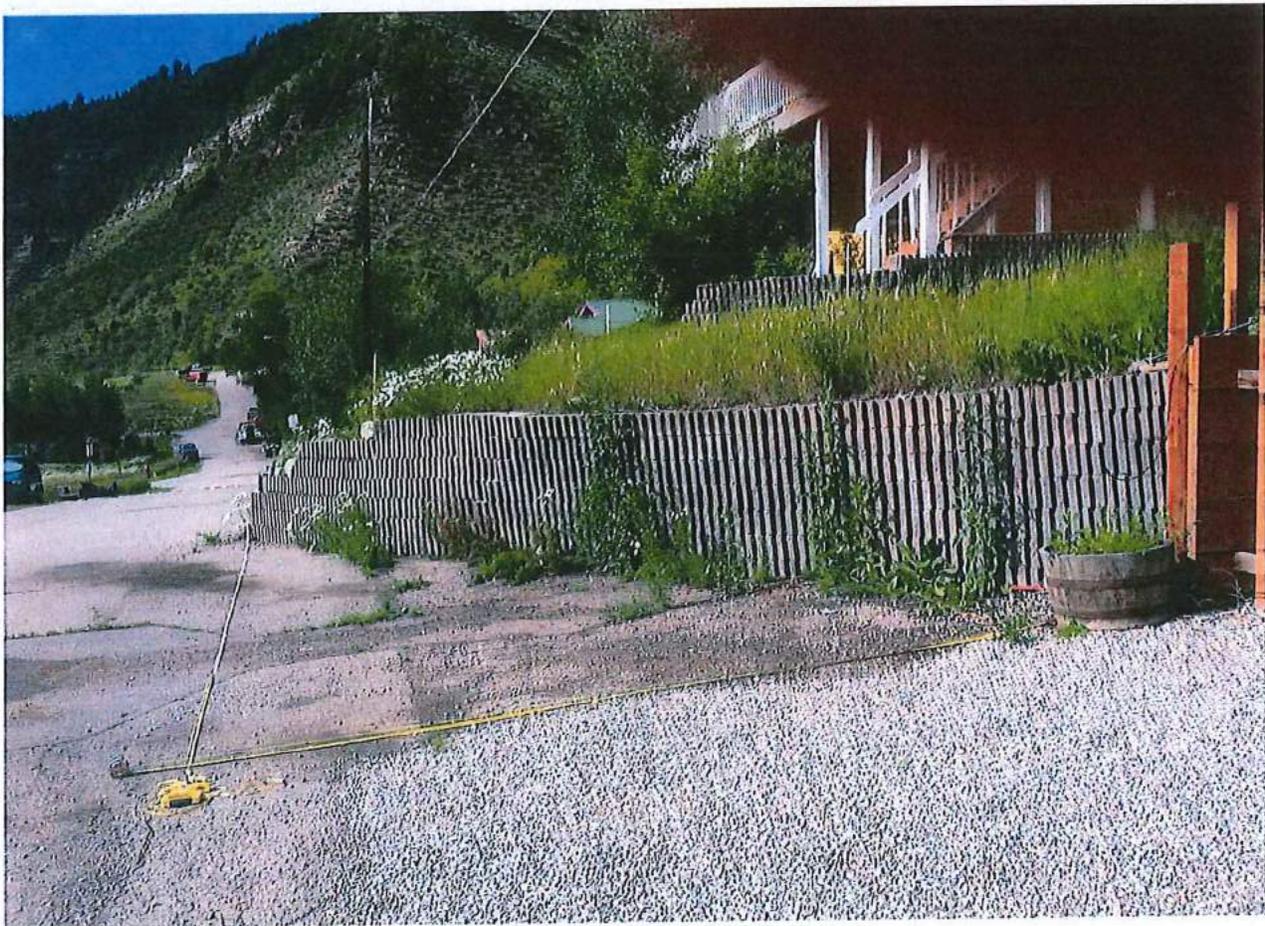
#2

#3



#3

#4



#4



#5

#5



#6

#6

# NOTICE LAND USE PROPOSAL

VARIANCE REQUEST FOR FRONT  
SETBACKS

**PUBLIC HEARINGS WILL BE HELD:**

Planning Commission: February 24, 2016 - 6:30pm

Town Council: March 2, 2016 - 6:30 pm

Minturn Town Hall - 302 Pine Street - Minturn

7015 1660 0000 6225 0454

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<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$ .49	
Total Postage and Fees \$ 3.94	
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Street and Apt. No., or PO Box No. <u>Box 67</u>	
City, State, ZIP+4® <u>Minturn, CO 81645</u>	

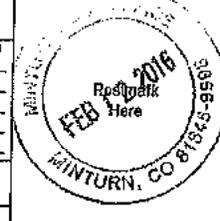
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$ .49	
Total Postage and Fees \$ 3.94	
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Street and Apt. No., or PO Box No. <u>Box 231</u>	
City, State, ZIP+4® <u>Minturn CO 81645</u>	

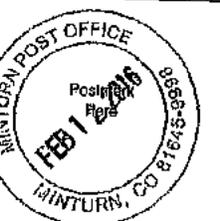
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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<input type="checkbox"/> Return Receipt (electronic) \$	
<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$ .49	
Total Postage and Fees \$ 3.94	
Sent To <u>Mark Rudiger</u>	
Street and Apt. No., or PO Box No. <u>1255 Balke St.</u>	
City, State, ZIP+4® <u>Denver, CO 80226-2421</u>	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$ .49	
Total Postage and Fees \$ 3.94	
Sent To <u>Crail Congdon</u>	
Street and Apt. No., or PO Box No. <u>1057 S Lincoln St.</u>	
City, State, ZIP+4® <u>Denver, CO 80210-3112</u>	

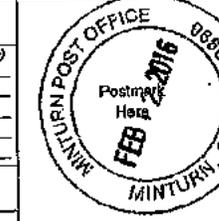
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7015 1660 0000 6225 0505

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**OFFICIAL USE**

Certified Mail Fee \$ 3.45	
Extra Services & Fees (check box, add fee as appropriate)	
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<input type="checkbox"/> Return Receipt (electronic) \$	
<input type="checkbox"/> Certified Mail Restricted Delivery \$	
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<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$ .49	
Total Postage and Fees \$ 3.94	
Sent To <u>Baca Family Revocable Living Trust</u>	
Street and Apt. No., or PO Box No. <u>Box 235</u>	
City, State, ZIP+4® <u>Minturn, CO 81645</u>	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7015 1660 0000 6225 0515

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Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy) \$	
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<input type="checkbox"/> Certified Mail Restricted Delivery \$	
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<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$ .49	
Total Postage and Fees \$ 3.94	
Sent To <u>Barbara + Martin O. Rubin</u>	
Street and Apt. No., or PO Box No. <u>8000 E. 6th Ave</u>	
City, State, ZIP+4® <u>Denver, CO 80230-7071</u>	

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Certified Mail Fee	\$ 3.45
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
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<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	\$ .49
Total Postage and Fees	\$ 3.94

Sent To: Helen + Emedardo ESPINOSA  
 Street and Apt. No., or PO Box No. Box 4498  
 City, State, ZIP+4® MINTURN, CO 81645

PS Form 3800, April 2015; PSN 7530-02-000-9047 See Reverse for Instructions



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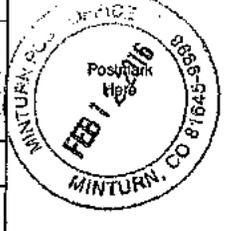
For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

**OFFICIAL USE**

Certified Mail Fee	\$ 3.45
Extra Services & Fees (check box, add fee as appropriate)	
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<input type="checkbox"/> Return Receipt (electronic)	\$ _____
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	\$ .49
Total Postage and Fees	\$ 3.94

Sent To: Lawrence E. + Kenneth W. Chadwick  
 Street and Apt. No., or PO Box No. Box 236  
 City, State, ZIP+4® Minturn, CO 81645

PS Form 3800, April 2015; PSN 7530-02-000-9047 See Reverse for Instructions





## Town Committees

### Non-Profit Entities Requiring Directors Appointed by Council

1. **Minturn Education Fund**

Representation: at least one and not more than two Council members are Directors—Terry Armistead, Shelley Bellm

Town Manager is Ex-Officio Director

Responsibilities: Manage funds and award scholarships

Time commitment: As needed, generally twice per year

2. **Minturn Fitness Center**

Representation: Council appoints 3 Directors (do not need to be Council members, but must be members of the community)—Sage Pierson, John Widerman, Johnnie Rosenthal

Responsibilities: Manage finances and operations of Fitness Center

Time Commitment: quarterly

### Representation to other Government Agencies

1. **NWCCOG/QQ**

Representation—One person, may be Council or staff member. May have different reps to COG and QQ.

Responsibilities:

COG: oversees budget and operations of NWCCOG—Matt Scherr, Earle Bidez

QQ: advises on water legislation and regional water issues—John Widerman, Harvey Craig

Time Commitment: quarterly meetings for COG, differing locations; QQ quarterly in Summit County

2. **ECO Transit**

Representation: one member and one alternate, may be Council or staff—Sage Pierson regular member, Sidney Harrington alternate

Responsibilities: advises County Commissioners on budget, operations, schedules, capital spending of bus system.

Time Commitment: Quarterly in Gypsum

### Representation to Membership Entities

1. **Colorado Association of Ski Town (CAST)**

Representation: regular and alternate members, generally Mayor and/or Manager—Matt Scherr, Willy Powell

Responsibilities: advocacy, trends, legislation affecting ski towns

Time Commitment: five meetings per year (overnight stay), different towns,

2. **Club 20**

Representation: regular and alternate members—Matt Scherr, Earle Bidez

Responsibilities: advocacy, education and legislation affecting western slope

Time Commitment: quarterly meetings in Grand Junction

3. **Channel 5 Public Access**

Representation: one regular member—Harvey Craig

Responsibilities: oversee operations and finances of Channel 5, advocacy of the station

Time Commitment: quarterly meetings

4. Climate Action Committee—John Widerman (summer), Terry Armistead (winter)

## **Council Advisory Sub-Committees**

### **Overview**

All committees below meet on as-needed basis. Council in past has appointed two Council members. Time commitments vary. Council can consider ad-hoc committees, for example, a committee formed for the TAP grant, and on an as-needed basis.

### **Battle Mountain Committee**

Function: Advise Council on Battle Mountain agreements, ongoing negotiations, and general discussions.

Time Commitment: Can be substantial

Appointees: Earle Bidez and Terry Armistead

### **Water Committee**

Function: Advise Council on Battle Mountain water, water court applications, infrastructure, and water rates.

Time Commitment: busy at times

Appointees: Earle Bidez and Harvey Craig

### **Dowd Junction Committee**

Function: Advises on: Forest Service processes, Request for Proposal to developers, ownership and regulatory control by Minturn

Time Commitment: considerable

Appointees: Matt Scherr and Sidney Harrington

### **Economic Development Committee**

Function: The Economic Development Advisory Committee (EDAC) works to strengthen and expand economic opportunities within and for the Town of Minturn, its residents, and its businesses. It achieves this primarily with the creation and management of Minturn's economic development strategic plan.

Time Commitment: Meets the third Monday of each month at 5:30 pm.

Appointees: Matt Scherr, Sage Pierson

TOWN OF MINTURN  
P.O. Box 309 ♦ 302 Pine Street  
Minturn, CO 81645  
Phone: 970-827-5645 Fax: 970-827-5545

William Powell  
Town Manager



Town Council  
Mayor – Matt Scherr  
Mayor Pro Tem – Earle Bidez  
Councilmember – Terry Armistead  
Councilmember – Harvey Craig  
Councilmember – Sidney Harrington  
Councilmember – Sage Pierson  
Councilmember – John Widerman

---

**MANAGER MEMORANDUM**  
**June 15, 2016**

**Main Street Engineering Project**

The first open house was held on July 7 from 4—7pm. Turnout for the meeting included approximately 30 residents. Almost all completed survey forms. Important in the forms was the preference between the four alternatives for Segment 2, South Minturn. The strong majority favored alternative D, which includes sidewalks and bike lanes on both sides of Main St. It is important the town designate the preferred alternative in Segment 2 as early as possible. Designation is needed to meet the overall engineering schedule and to give focus to the individual property owner meetings scheduled for June 29 and 30. Special attention is also being given to the area on both sides of the street where the Enclave accel/decel lanes exist. As mentioned at the previous meeting survey return participation is impressive. Staff has posted on the website answers to some of the more common questions contained in the surveys.

**Dowd Junction**

The town held the pre-proposal meeting on June 6, with two interested parties in attendance. I have more recently been in contact with two other interested parties and have asked they attend a second pre-proposal meeting the week of June 20. After the next pre-proposal date, I will set a submittal date for the RFQ.

We have passed an important milestone because the Forest Service has finally contracted for appraisals on the two Eagle, Chambers Ave. parcels with appraisals due mid-July. We have been waiting for initiation of the appraisals for about 8 months, but FS budgets were frozen until recently.

### **100 Block Construction**

Surface improvements are largely complete. Striping occurred on June 8 and 9. Landscape improvements are currently being installed.

We will be holding an executive session to review Minturn's Realty's renegeing of the License Agreement, signed April 19.

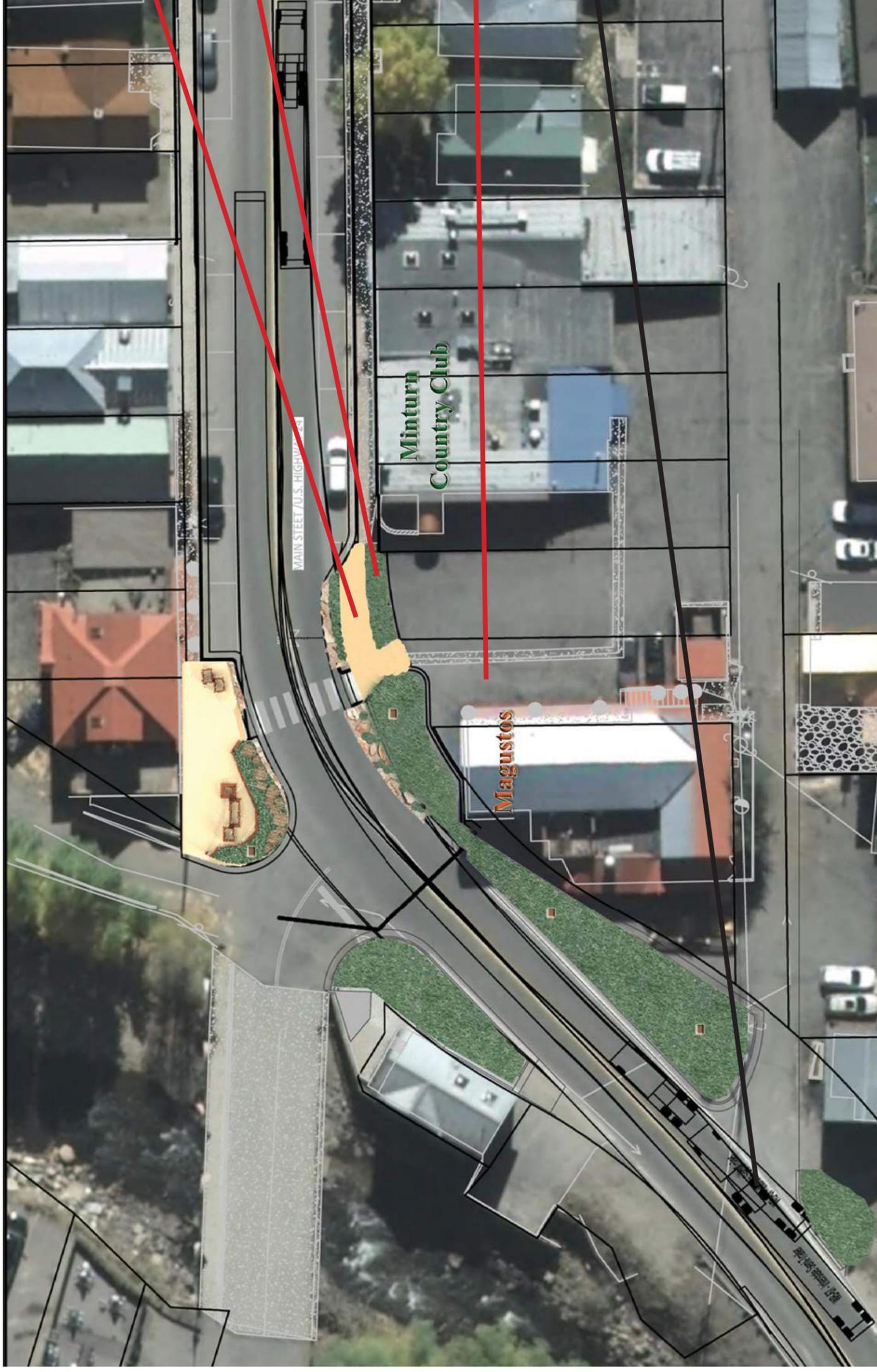
### **Dowd to Minturn Bike Trail**

The trail planning is at the preliminary stage. We recently had discussion with Ellie Caryl to continue the planning which will include the following elements, staking of the trail alignment, review of the alignment by FS, discussion of environmental submittals needed by FS, securing an easement through State Land Board property (across from Vail Boneyard property), and a cost estimate for remaining planning/engineering work.

# Landscape Plan 1 - \*all landscape on Town property & CDOT Right of Way

*\*this plan submitted in the CDOT permit application 3/2016*

*this plan 1 and plan 2 (next page) shown to Minturn Realty - they chose Plan 2 in April 2016*



- CDOT right of way
- Landscape grass buffer and curb between sidewalk and parking lot - SAFETY - border - transition zone
- Town Property
- Semi-truck travel radius

May 1, 2016

Entrance Landscape  
Plan I - original  
plan concept

Minturn Entry Landscape  
 Construction Documents

Town of Minturn  
 309 Pine Street  
 PO Box 302  
 Minturn, CO 81645  
 970-827-5645 e3



Created By:  
 Janet Hawkinson, MLAP  
 Minturn Planning Director  
 planner@minturn.org

**Landscape Plan 2 - \*enhance business entrances: Minturn Realty Property, Town of Minturn Property & CDOT right-of-way**



May 1, 2016

*Proposed Plan 2*

Minturn Entry Landscape  
Construction Documents

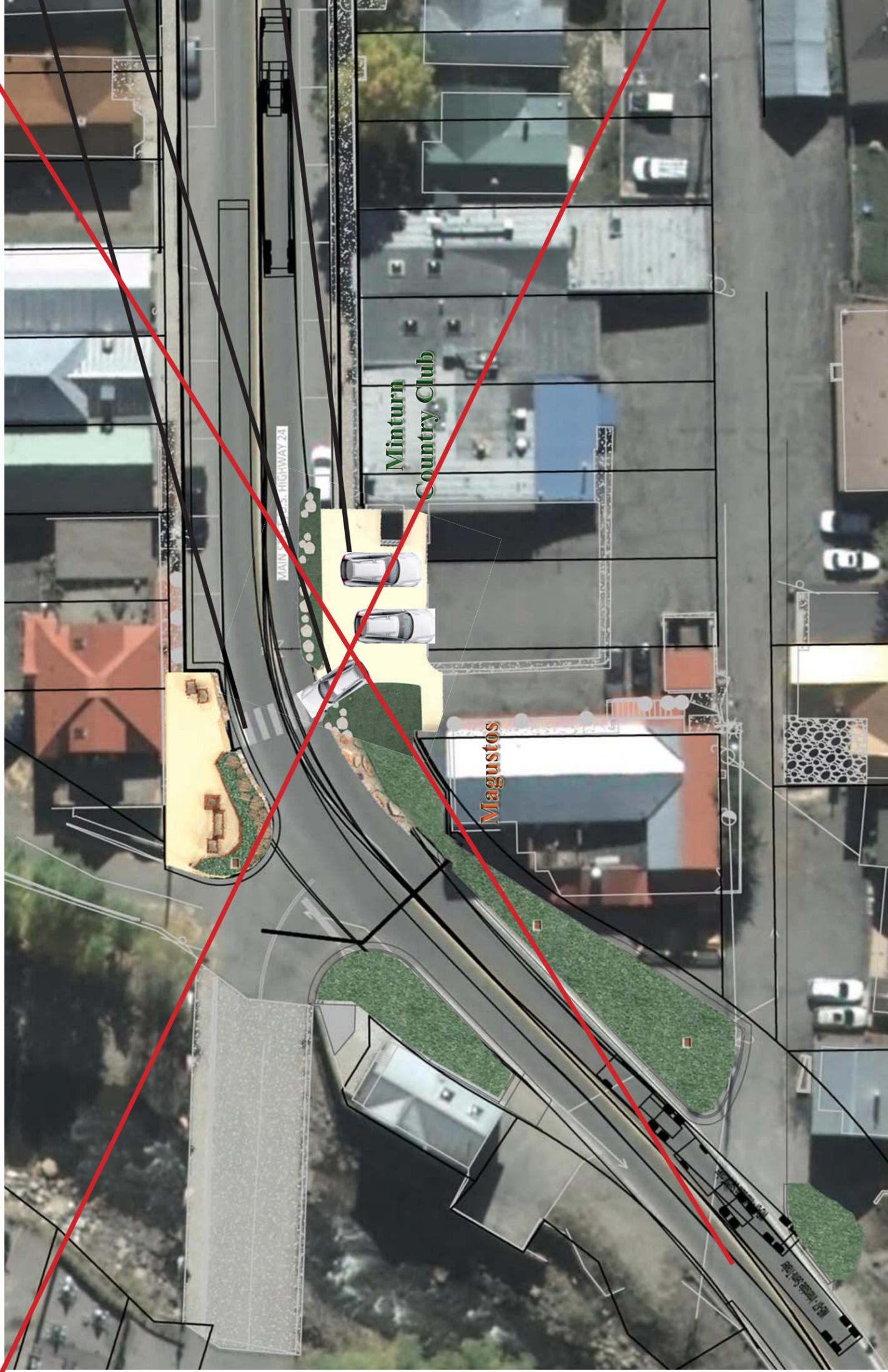
Town of Minturn  
309 Pine Street  
PO Box 302  
Minturn, CO 81645  
970-827-5645 e3

Created By:



Janet Hawkinson, MLAP  
Minturn Planning Director  
planner@minturn.org

**Never a Plan or Option:** All colored concrete is a **safety hazard to pedestrians** and does not meet Town Goal of Beautification or business street front



crosswalk is 9' wide

9' wide sidewalk entrance  
- a car can fit  
(standard parking space is 9' wide by 13' long)

where does sidewalk begin and parking lot end????

how are you going to keep cars off sidewalk???

why would the Town implement or pay for this plan?

The Town was going to do Plan 1 - SAFETY!! : traffic control - seperation between parking & sidewalks

+the Town implemented Plan 2 because of agreement with Minturn Realty

May 1, 2016

**NOT a Viable Plan**

Minturn Entry Landscape Construction Documents

Town of Minturn  
309 Pine Street  
PO Box 302  
Minturn, CO 81645  
970-827-5645 e3



Created By:

Janet Hawkinson, MLAP  
Minturn Planning Director  
planner@minturn.org

# Landscape Plan 1 - \*enhance business entrances on Minturn Realty Property - Town property & CDOT Right of Way

## Materials:

Topsoil to be provided by the Town of Minturn

Seed: Two areas seeded with:

\*Pawnee Butte Seed Company:  
Low-grow native blue grass - 50 lbs per seeding  
(includes seeding between flat rocks)

## Perennials:

\*25 quantity - size F15 perennials - "Ribbon Grass" -  
Phalaris arundinacea 'Picta'

\*50 Quantity - 1 gallon - Grass, Nolina microcarpa,  
'Grass Bear'

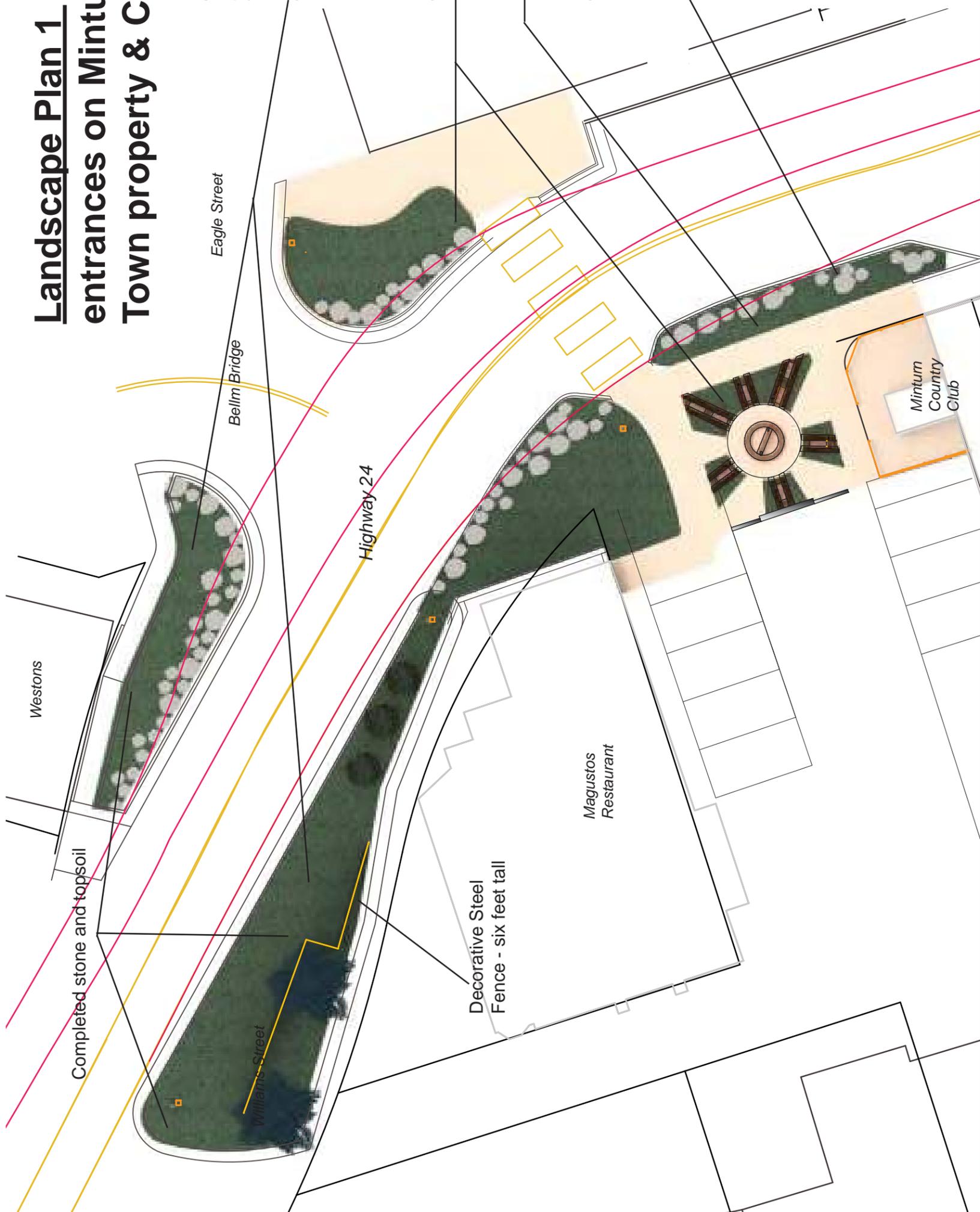
## Mulch:

seeded area to be mulched with shredded garden mulch  
Seed & mulch to be approved before applicaiton by the Town

## Granite Rock:

to be placed as per plan next to the mountable curbs and extending past the magenta colored line representing the mountable truck ramp. The rock is to be 3'-6' feet circumference and be minimum of 4" thick. Rocks to be set level with back of curb. A four inch space is between each stone and filled with topsoil to allow plant growth between stones.  
The stones are set on 4-6" of compacted roadbase.

\*Moss Rock is complete on north-east side of project (out lined in black) - stone to match this existing stone  
\*needs to be approved by Town before setting



Town of Minturn  
309 Pine Street  
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970-827-5645 e3



Created By:  
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Minturn Planning Director  
planner@minturn.org

## Minturn Entry Landscape Construction Documents

## Landscape Plan 2 - Entrance to Restaurants

May 1, 2016

## Landscape Plan for the Removable Planter Area:

Stamped Colored Concrete to be installed by Icon Construction  
- "Harvest Gold" from LaFarge

Removable Steel Flower Containers (orange rectangles)  
supplied and installed by the Town -  
\*Annual flowers for containers supplied by the landscape contractor

### Soil Preparation:

\*soil for the garden beds to be steril topsoil (bagged) with added compost of 1:5 ratio

Timbers set at ground level x 12" wide for borders and decoration - snow can be stored on them



### Planting Plan:

\*Perennials:

25 quantity - size F15 - "Ribbon Grass" - Phalaris arundinacea 'Picta'  
50 quantity - size 1 gallon - "Bear Grass" - Nolina microcarpa

\*Annual Flowers: (for containers - orange rectangles)  
varying colors and heights: 8 containers -  
3 feet long by 1 foot wide by 10-12 inches deep



## Landscape Area:

### Beautification for:

- Country Club
- Magustos

### Snow Storage:

- All Annual Planters to be removed
- Area can be utilized for snow as needed
- Area maintained by the Town

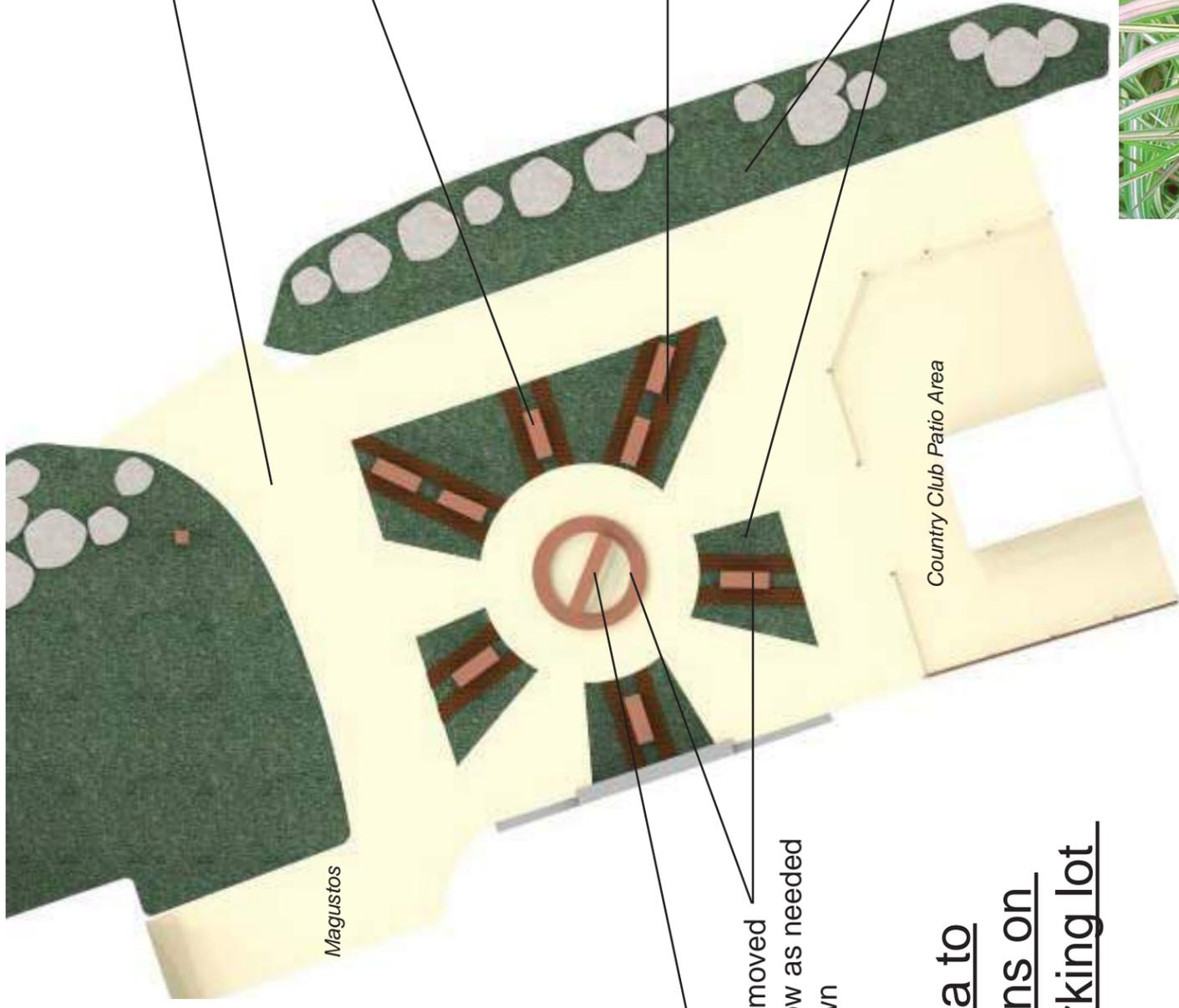
## \*\*\*Landscape area to

protect pedestrains on  
sidewalk from parking lot

- transition zone

creates area for Country

Club to have patio



May 1, 2016

Removable Planters  
Landscape Plan

Minturn Entry Landscape  
Construction Documents

Town of Minturn  
309 Pine Street  
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Created By:

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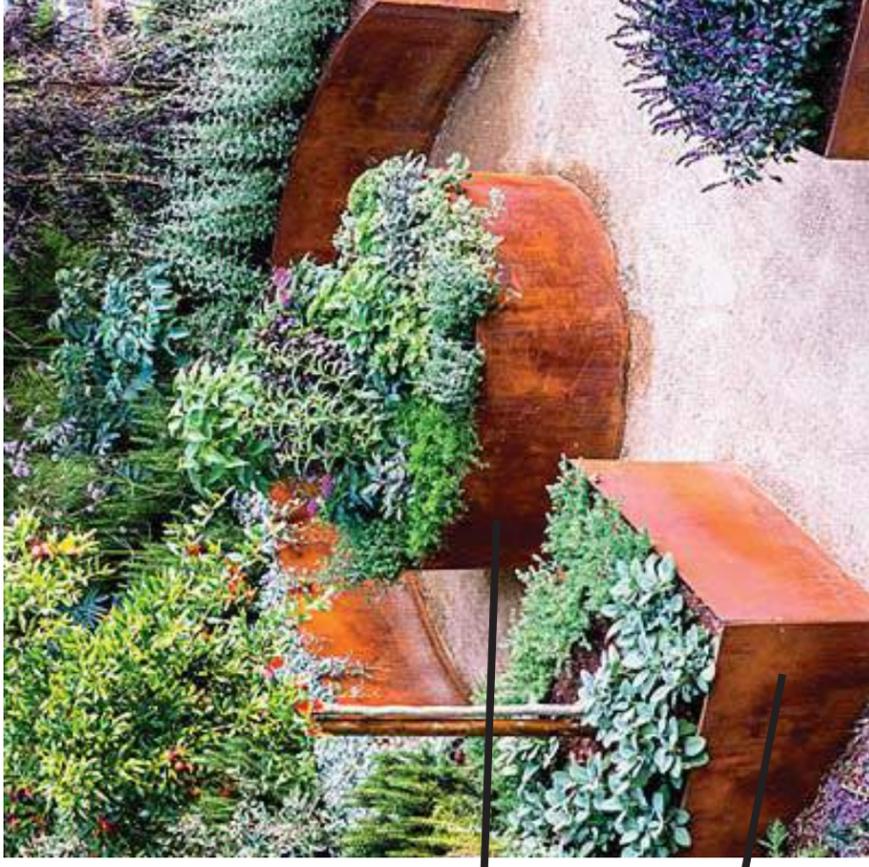
# Perspective of Restaurant Entrance Next to Patio

Minturn Country Club



*stamped colored concrete for walkway through removable planters*

# Example of the Removable Annual Flower Planters between sidewalk and parking lot



May 1, 2016

Removable Planters

Minturn Entry Landscape Construction Documents

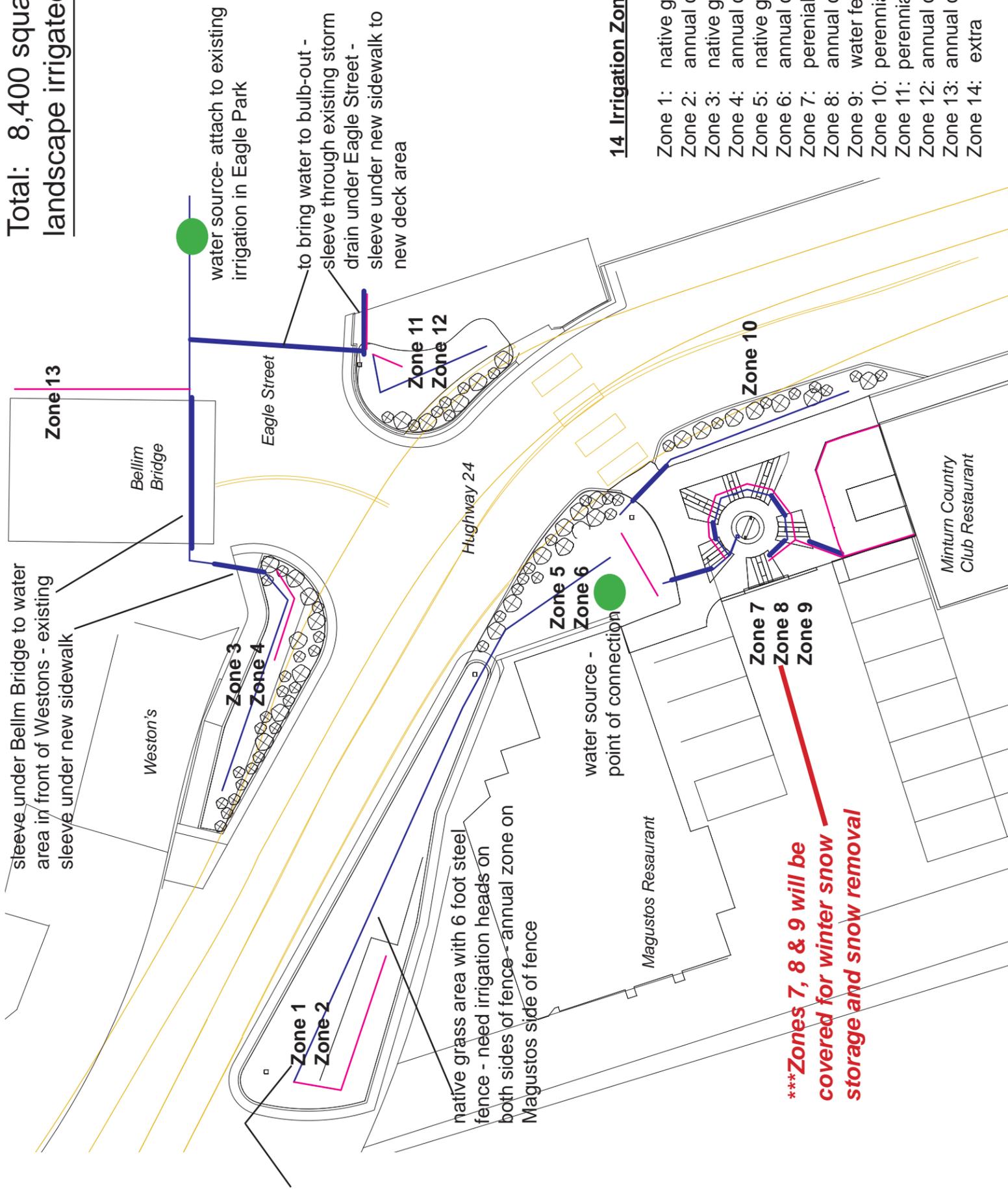
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970-827-5645 e3



Created By:

Janet Hawkinson, MLAP  
Minturn Planning Director  
planner@minturn.org

**Total: 8,400 square feet of landscape irrigated areas**



**14 Irrigation Zones:**

- Zone 1: native grass area - northwest
- Zone 2: annual containers on steel fence -south
- Zone 3: native grass area - north side
- Zone 4: annual containers in area - north side
- Zone 5: native grass area west
- Zone 6: annual containers
- Zone 7: perenial garden in center
- Zone 8: annual containers in center and to Country Club
- Zone 9: water feature
- Zone 10: perennial garden between curb and walk -west
- Zone 11: perennial garden bulb-out north east
- Zone 12: annual containers in bulb-out
- Zone 13: annual containers on bridge railing
- Zone 14: extra

**Irrigation Construction Detail**

- Irrigation sleeves to be 3" - three inch diameter
- Main Line is 1" - one inch
- Valve Boxes to be set outside of mountable truck curb and away discreet placement at bulb-out and water feature areas.

**Key**

- irrigation sleeve
- zones with pop-up heads to water native grasses & perennials
- annual flower zones to water annual flower containers "drip zone"
- water connections - one inch lines

**Seperate Zoning for Each Landscape Type:**

1. annual containers
2. perennial grasses
3. native 'seeded' grasses
4. water feature

**Irrigation is Design/Build:**

May 1, 2016

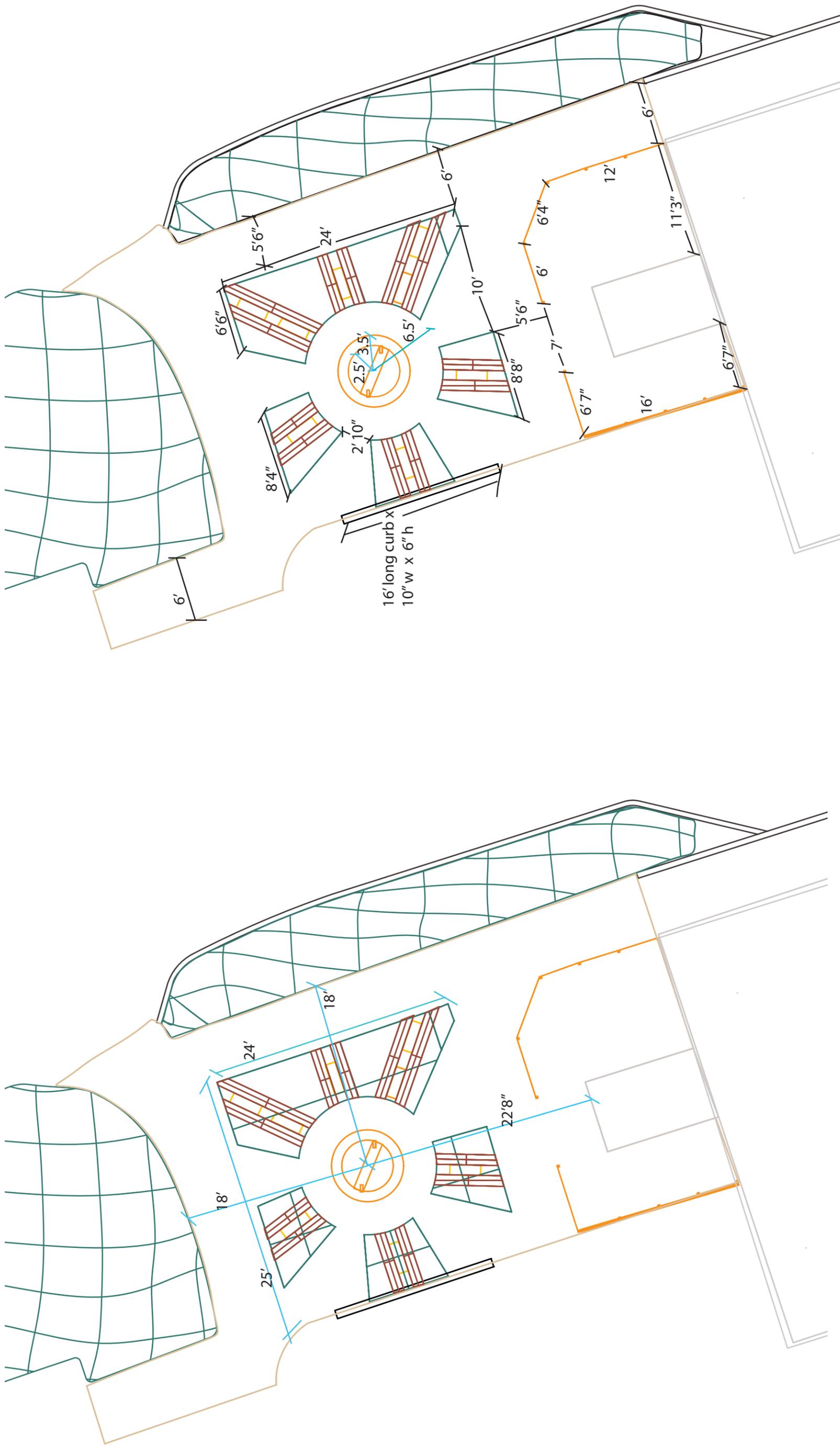
**Irrigation Plan**

**Minturn Entry Landscape Construction Documents**

Town of Minturn  
309 Pine Street  
PO Box 302  
Minturn, CO 81645  
970-827-5645 e3



Created By:  
Janet Hawkinson, MLAP  
Minturn Planning Director  
planner@minturn.org



## Stamped Concrete Construction Detail

May 1, 2016

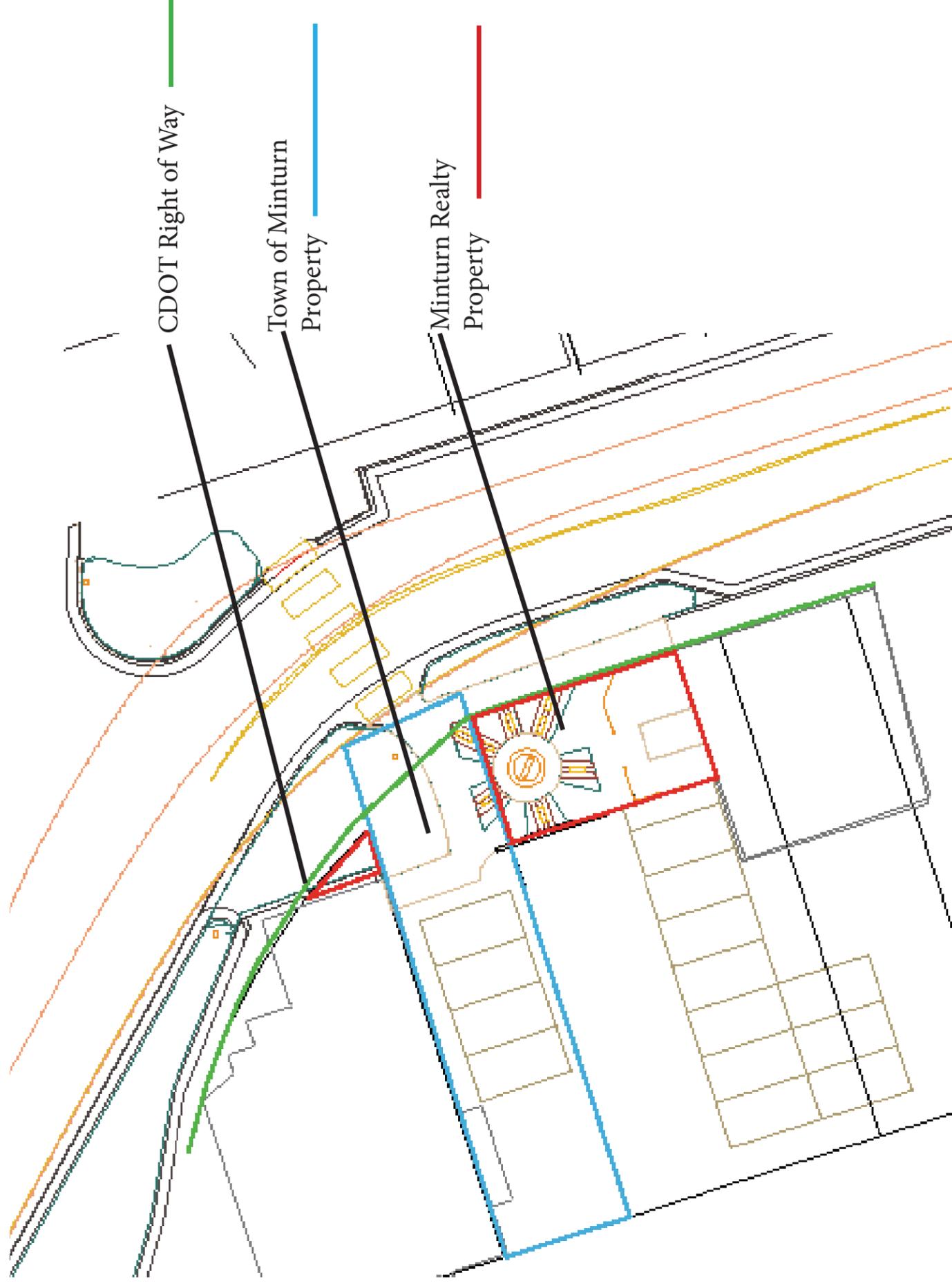
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970-827-5645 e3

Created By:



Janet Hawkinson, MLAP  
Minturn Planning Director  
planner@minturn.org

## Minturn Entry Landscape Construction Documents



May 1, 2016

Diagram for license agreement

Minturn Entry Landscape Construction Documents

Town of Minturn  
309 Pine Street  
PO Box 302  
Minturn, CO 81645  
970-827-5645 e3

Created By:



Janet Hawkinson, MLAP  
Minturn Planning Director  
planner@minturn.org

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") is made and entered into this 19 day of APRIL, 2016, by and between the Town of Minturn, Colorado, whose address is P.O. Box 309, Minturn, CO 81645 (the "Town") and Minturn Realty Company, Inc., whose address is P.O. Box 130, Minturn, CO 81645 ("Licensor") (collectively, the "Parties").

**WHEREAS**, the Colorado Department of Transportation ("CDOT") is the owner of certain rights-of-way in the vicinity of State Highway 24 and Main Street in the Town, more accurately depicted on **Exhibit A**, attached and incorporated by this reference; and

**WHEREAS**, the Town desires to place improvements along and within the CDOT rights-of-way, including the placement of planter boxes and vegetation, for the enhancement of the area; and

**WHEREAS**, Licensor is the owner of private property located along the CDOT right of way as depicted on Exhibit A; and

**WHEREAS**, the Town desires to place certain improvements upon Licensor's property for a limited term.

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

1. **Recitals.** The foregoing recitals are incorporated by reference herein.
2. **License.** Licensor hereby grants to the Town a revocable license over that portion of Licensor's property along State Highway 24 to place planter boxes and vegetation for the term of this Agreement. The license herein granted is limited to the placement of such improvements and the necessary and reasonable maintenance and care thereof. The Town agrees to work with Licensor to address Licensor's reasonable needs and desires regarding the improvements added under this Agreement. The Town further agrees to manage and maintain this license in a manner that neither overly burdens nor interferes with Licensor's business.
3. **Term.** Unless otherwise terminated pursuant to this Agreement, the license granted to the Town shall be for a period of ten (10) years, commencing on the date first written above. The license granted herein shall run with the land, to all of the Town's and Licensor's successors in interests, future owners of the property, tenants, and assignees. Following the initial ten (10) year term, this Agreement shall automatically renew for additional one (1) year terms on the anniversary date of this Agreement, unless an otherwise-approved plan for redevelopment, subject to Section 4, requires removal of such planter boxes and vegetation.

4. Revocability. Licensor, or Licensor's successor in interest, may revoke this Agreement if the improvements made hereunder conflict with an otherwise-approved-of redevelopment plan pertaining to Licensor's property. In such a case, the Town shall have up until ten (10) days prior to the commencement of construction activities to remove any and all improvements remaining on Licensor's property. The Town shall repair or replace asphalt or cement damaged in the course of the removal of the improvements.

5. Termination by Town. Licensor acknowledges that the license and necessary maintenance is subject to annual appropriation by the Town. The Town may, at its sole discretion, terminate the license granted hereunder without cause upon thirty (30) days written notice to Licensor. In the event the Town terminates the license for any reason, the Town will remove all improvements within forty-five (45) days.

6. Maintenance. The Town shall, at its sole expense, plant, water, trim, prune, clean, and otherwise maintain the planter boxes and vegetation in a neat, orderly, and generally attractive manner so as not to limit Licensor's lawful use of its property or cause undue hardship to the functioning of Licensor's business.

7. Removal. Upon termination or revocation of this Agreement, the Town shall remove the planter boxes, vegetation, and any accompanying fixtures at its sole expense.

8. Parking Impacts. The Town agrees that the implementation of the improvements under this Agreement will not require Licensor to alter or provide additional parking for the Mintum Realty Company property holdings. Licensor, Licensor's customers, and Licensor's tenants shall have use of the Town's parking lot without the assessment parking fees unless the Town's lot is closed to the general public for special use or event purposes.

9. Outdoor Seating. The Parties agree and acknowledge that no outside seating will be allowed for Magustos Pizza and Burger Bar on 1<sup>st</sup> Street at any time following the mutual execution of this Agreement.

10. No Adverse Possession. The Parties agree and acknowledge that the use of Licensor's property is permissive in nature, and the Town does not now have and shall not acquire in the future any rights to continued use of Licensor's property except for the limited license specifically granted by this Agreement.

11. Indemnification. To the extent permitted by law, the Town agrees to indemnify, defend, and hold harmless Licensor against any and all claims, liabilities, or demands whatsoever, including reasonable attorney fees related to or arising out of the Town's use of Licensor's property or arising out of or related to this Agreement, including claims by the Town.

12. Severability. Should any portion of this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in force and effect in order to most closely approximate the intent of the Parties before such portion was declared invalid.

13. Entire Agreement. This Agreement is the entire agreement of the Parties, and neither Party has relied on any promises or representations except as expressly described herein. This Agreement may only be modified by a writing signed by all Parties.

14. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. The District Court in and for Eagle County, Colorado shall be the exclusive venue for any dispute arising hereunder. In the event of such a dispute, the prevailing Party shall be entitled to reasonable costs and expenses, including attorney fees.

15. No Third Party Beneficiary. No third-party is an intended beneficiary to this Agreement. No other party, not being a signatory to this Agreement, may rely on or enforce the provisions of this Agreement.

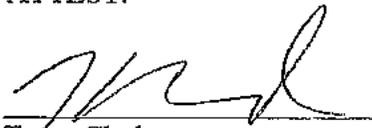
16. Successors. This Agreement shall be a covenant running with Licensor's property, shall be binding upon the Parties' successors and assigns, and shall be recorded in the Office of the Eagle County Clerk and Recorder's Office.

17. Agreement Costs. The Town agrees to pay for any and all costs associated with the drafting of this Agreement.

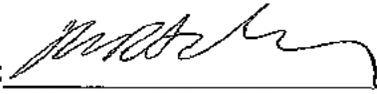
WHEREFORE, the Parties have executed this Agreement to be effective as of the date first written above.

TOWN OF MINTURN:

ATTEST:

  
Town Clerk



By: 

Matthew Scherr Mayor

Town of Minturn, Colorado  
2016 License Agreement  
Minturn Realty Company, Inc. Improvements

MINTURN REALTY COMPANY, INC.:

By: *Dwain M. Adair*

Title: SECRETARY

# Exhibit A

# Property Boundaries

