



Grand Lake Planning Commission

Wednesday, October 05, 2022 at 6:30 PM

Town Hall - 1026 Park Ave. * Participation In-Person Only*

*The Town of Grand Lake upholds the Six Pillars of Character:
Citizenship, Trustworthiness, Respect, Responsibility, Fairness and Caring*

AGENDA

1. Call to Order
2. Roll Call
3. Consideration to approve Meeting Minutes: [09-21-2022](#) Minutes
4. Unscheduled Citizen Participation
This time is reserved for members of the public to make a presentation to the Commission on items or issues that are not scheduled on the agenda. The Commission will not make any decisions on items presented during this time.
5. Conflicts of Interest
6. Items of Business
 - A. Review of Advisory Report for Amendment to Town Zoning Map - Lot 3-5, Block 1 Sunnyside Addition to Grand Lake
 - B. PUBLIC HEARING- Consideration to recommend vacating a portion of the Ellsworth Street right of way located adjacent to Lots 1-5 Cairns Addition to Grand Lake; more commonly referred to as 846 Lake Avenue.
7. Items for Discussion
8. Future Agenda Items
9. Adjourn Meeting

For live streaming (listening only) scan the QR code.
You will not be able to actively participate via the web streaming.



<https://zoom.us/j/96360206519?pwd=VHcwODFTNnQ2SWNOTDA1M2d5NFYwUT09>

You can also dial in using your phone. 1 (346) 248-7799

Meeting ID: 963 6020 6519

Access Code: 642153



Grand Lake Planning Commission

Wednesday, September 21, 2022 at 6:30 PM

Town Hall - 1026 Park Ave. * Participation In-Person Only*

*The Town of Grand Lake upholds the Six Pillars of Character:
Citizenship, Trustworthiness, Respect, Responsibility, Fairness and Caring*

AGENDA

1. Call to Order: 6:33pm

2. Roll Call

PRESENT

Chairman James Shockey
Vice Chairman Heather MacSllarrow via zoom
Commissioner John Murray
Commissioner Judy Burke
Commissioner Heather Bishop
Commissioner Christina Bergquist via zoom
Commissioner Greg Finch

3. Consideration to approve Meeting Minutes

8-17-22 Minutes

Motion made by Commissioner Murray, Seconded by Commissioner Finch.

Voting Yea: Vice Chairman MacSllarrow, Commissioner Murray, Commissioner Finch

Voting Abstaining: Chairman Shockey, Commissioner Burke, Commissioner Bishop, Commissioner Bergquist

Motion Passed 3:0:4

09-07-2022

Commissioner Murray requested that an addition of the comment made by Commissioner Bishop be added to the minutes from 8-17-2022 in which Commissioner Bishop stated "if legally possibly, she thinks Public Works could remain where it is currently located".

Motion made by Commissioner Finch, Seconded by Commissioner Murray.

Voting Yea: Commissioner Murray, Commissioner Burke, Commissioner Bishop, Commissioner Finch

Voting Abstaining: Chairman Shockey, Vice Chairman MacSllarrow, Commissioner Bergquist

Motion passed 4:0:3

4. Unscheduled Citizen Participation: none

5. Conflicts of Interest: none

Voting Nay: Chairman Shockey, Vice Chairman MacSllarrow, Commissioner Murray, Commissioner Burke,

6. Items of Business

- A. Consideration to Allow Uninhabited Temporary Storage Facilities on Property Located at Block 5, Lot 4-6, Town of Grand Lake, More Commonly Known as 1016 Grand Ave.

Director White stated the item of Business as written in the packet. Applicant Blake Barbiche spoke the process and how they padded the boardwalk to not damage it. Commissioner Burke asked if someone was going to remove the house on the back lot, and the applicant stated that two people are living in the house currently. After discussion the commission voted to allow the winterized food truck to remain on the otherwise vacant lot from Oct 15th, 2022 - June 1st, 2023.

Motion Passed 7:0

Motion made by Commissioner Finch, Seconded by Commissioner Murray.

Voting Yea: Chairman Shockey, Vice Chairman MacSarrow, Commissioner Murray, Commissioner Burke, Commissioner Bishop, Commissioner Bergquist, Commissioner Finch

7. Items for Discussion

- B. Advisory Report for Amendment to Town Zoning Map - Lot 3-5, Block 1 Sunnyside Addition to Grand Lake

Director White stated that the Sept 7th, 2022 Planning Commission discussed the property in question and was directed to draw up an advisory report. She stated that if there was more than simple edits to the Advisory Report, the amendment process would be delayed until the meetings were re-noticed and reviewed, Commissioner Murray asked if the Town Attorney had reviewed this Advisory Report. Director White stated that the attorney has reviewed the Advisory Report and it is acceptable and meets what is required for the amendment and meets the criteria that needs to be addressed for an Advisory Report. Natascha O'Flaherty announced that she was retained by the seller to appear on behalf of the Martell Corporation. she stated that she reached out to Director White at 8:30 that morning to clarify suggested changes and she had her assistance email the suggested changes to the planning commission at 3pm, she handed out a hard-copy. Chairman Shockey asked for a redline of the suggested changes, she stated that she would send one. After much discussion the planning commission decided to have the redline received by staff for review and present the topic at a future meeting. She stated that she just spoke with her client and if the commission and Town attorneys want to review the suggested edits that they are fine pushing this to another meeting, stating that she thinks, as written, it would not pass...even though you are saying you are for it, it doesn't address the facts that we discussed at the meeting at the 7th. Commissioner Fitch asked if the commission felt that the advisory report wouldn't pass as written. Commissioner Shockey stated that since he wasn't at the previous meeting, he would abstain, however he read the Advisory report and felt that there was no reason that the Board would not accept it as written, and if the attorney thought it was sufficient, then he is okay with it. Natascha spoke and said that she doesn't feel that the error was correctly identified in the advisory report and that the applicant is asking that we please consider the revised version and to please postpone the meeting with the Board. Director White asked Natscha if she was also Mr. Martell's attorney and that the applicant is Mr. Martell. She stated, no she was retained by Mr. Ludwig because of their contractual agreement to speak for Mr. Martell as to this application... retained to represent Martell's interest. Chairman Shockey asked if we have something from the applicant in writing requesting a continuance of this advisory report, or is this someone else

requesting this continuance? He then asked who made the application? answer: James Martell Inc. Max Ludwig then spoke that Mr. Martell and Mr. Ludwig have a verbal agreement that Mr. Ludwig would hire Natascha O'Flaherty to represent both Mr. Martell and Mr. Ludwig. Natascha stated that Mr. Martell was at the Sept. 7th Planning meeting and he consented that she would speak for him. Commissioner Bergquist stated that, from the Trustee perspective, that they have known the entire situation that Martell and Ludwig are in business together and we are making a mountain out of a molehill. She would like. Commissioner MacSarrow asked Commissioner Bergquist if she thought the Board would have any problem approving the Advisory report as written. Commissioner Bergquist said that she would like to defer to what Martell and Ludwig have brought in their suggested changes, and that as much clarification as can be made, should be. What Mrs. O'Flaherty brought forward is exactly what we need to look at, sign, and move forward. This information is critical, because it has been a confusing subject and we don't want this subject to come up again, so I agree with the three parties wanting to bring this forward. Chairman Shockey suggested that this be tabled until a new clean version be presented.

C. Accessory Dwelling Unit Municipal Code Discussion

Director White asked if there were any reasons, other than utilities, would the Town not allow a detached ADU. She pointed out that there are quite a few structures that are detached in the older part of town. Chairman Shockey said that he thinks that especially since the Town has alley's that could be used for access to ADU's. Commissioner Bishop said that ADU's would be a great idea, but there are a lot of questions that need to be answered. Commissioner Burke wants the commission to look at the impacts on the neighbors and make sure that they abide by the setbacks, parking requirements, multiple driveways, work force housing questions with deed restrictions, or rebates, code enforcement of the rules There was discussion about no nightly rental, there might be loud parties, but there might be loud parties with nightly rentals and attached ADU's, density, snow storage amounts.

Public comment from Natascha O'Flaherty stated that she agreed with Commissioner Burke that there may be unintended consequences, and gave an example of Granby and utility meters and shared meter violations. Public comment from Taylor Schleuter, planner for Grand County strongly supports detaching the ADU's and that the tragedy of the County is that large portions of the county go vacant most of the year and that owners may be more likely to rent out an ADU on their property, since they wouldn't want to rent out their vacation home. In the County, 400 sf is the minimum while the Town of Grand Lake, the minimum is 500sf minimum to 800 sf. Director White read from the code that the Town could allow a second water using unit with the same owner of the same property. Commissioner Bergquist asked what the ADU looks like, and what is the end goal of the ADU? There was discussion about noise control issues with attached, STR, and detached ADU. The Commissioners asked that the Town attorney draft an ordinance to update the code to change the definition of ADU to allow it to be detached. Commissioner Bergquist lost connection for the rest of the meeting.

8. Future Agenda Items

Commissioner Burke asked when the last zoning map was created. The 2020 Comp plan had a zoning map and it is located online. Commissioner Murray discussed that the fees for STR could be increased and extra bedroom fees to cap the number of STR's and the market would dictate how many units. Commissioner Bishop said limiting STR would stifle business, affecting tax base, then AH wouldn't be an issue because there would be less jobs and that the codes should be enforced. Commissioner Finch asked that the Commission vote on his absence on August 3rd, 2022.

Commissioner Burke moved to excuse Commissioner Finch due to a community service duty. **Motion passed 5:0:2**

Motion made by Commissioner Burke, Seconded by Vice Chairman MacSlarrow.

Voting Yea: Chairman Shockey, Vice Chairman MacSlarrow, Commissioner Murray, Commissioner Burke, Commissioner Bishop

Voting Abstaining: Commissioner Bergquist, Commissioner Finch

9. Adjourn Meeting: 7:50pm

Motion made by Commissioner Murray, Seconded by Commissioner Finch.

Voting Yea: Chairman Shockey, Vice Chairman MacSlarrow, Commissioner Murray, Commissioner Burke, Commissioner Bishop, Commissioner Finch

Voting Abstaining: Commissioner Bergquist

James Shockey, Chairman

ATTEST:

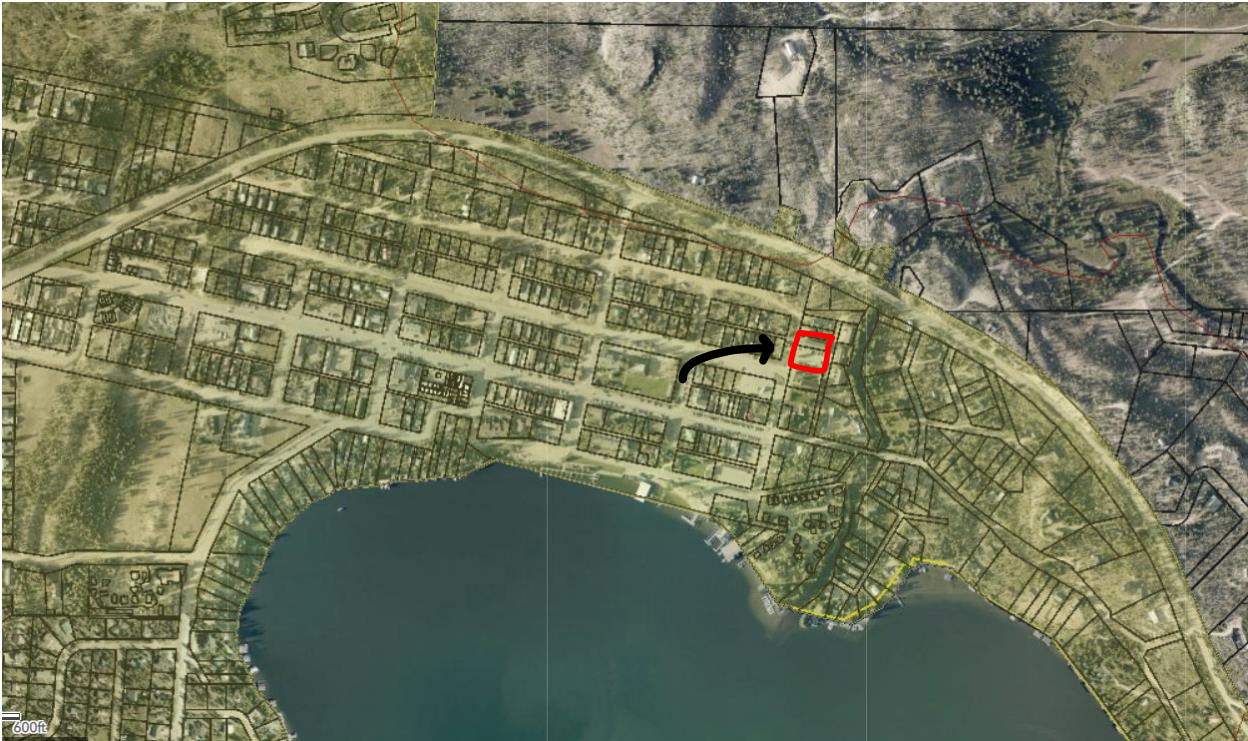
Alayna Carrell, Town Clerk



Date: October 10th, 2022

To: Chairman Shockey and Commission
From: Kim White, Community Development Director

RE: Advisory Report for Amendment to Zoning Map



Purpose:

To review the advisory report recommended by the Planning Commission on 9/7/2022 to amend the zoning of property located at 240 and 300 Hancock, from Multi-family Residential to Commercial Transitional.

Background:

This rezoning request was presented to the Planning Commission for its consideration on Sept 7th, 2022, at which time the Commission voted to recommend approval and asked staff to draft the required advisory report reflecting the Commission’s favorable consideration of the matter and recommending to the Board of Trustees that the requested rezoning be approved on the basis that it was rezoned in error in 2006.

Staff prepared the advisory report for the Commission’s review and approval at its meeting on September 21st, 2022. Shortly before the commencement of the meeting on September 21st, 2022, Ms. O’Flaherty, an attorney representing the interests of the applicant, submitted a proposed advisory report and requested that it be used in place of staff’s proposed report. As there was insufficient time for staff to review Ms. O’Flaherty’s comments before the meeting or to confer with the Town’s attorney, the Commission asked that (1) Ms. O’Flaherty provide a redline to staff, showing how her proposed



letter differed from staff's, and (2) that staff confer with the Town's attorney, consider Ms. O'Flaherty's suggested changes and bring a revised advisory report back to the Commission for its consideration at the October 5, 2022 meeting.

The revised advisory report that is in your packet is the result of those efforts. It includes revisions recommended by the Town attorney after considering Ms. O'Flaherty's redline. It does not include all of Ms. O'Flaherty's requested changes because the Town's attorney concluded that many of her comments were beyond the scope of the narrow rezoning issue that is before the Commission.

Staff recommends approval of the advisory report, as revised.

Municipal Code for Amending the Zoning Map:

12-2-34: Declaration of Policy and Standards for Rezoning.

For the purpose of establishing and maintaining sound, stable and desirable development within the Town of Grand Lake, the rezoning of land is to be discouraged and allowed only under certain circumstances as provided hereafter. This policy is based on the opinion of the Town Board of Trustees that the Town's Zoning Map is the result of a detailed and comprehensive appraisal of the Town's present and future needs regarding land use allocation and as such, should not be amended unless to correct a manifest error or because of changed or changing conditions in a particular area of the Town in general. Rezoning shall only be allowed if the applicant demonstrates by clear and convincing evidence that rezoning is necessary because of one (1) or more of the following reasons:

1. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Town's Comprehensive Plan.
2. The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or new approach to development.
3. The proposed rezoning is necessary in order to provide land for a community-related use which was not anticipated at the time of the adoption of the Town's Comprehensive Plan and that such rezoning will be consistent with the policies and goals of the Comprehensive Plan. This Declaration of Standards for Rezoning shall not control a rezoning which occurs incidental to a comprehensive revision of the Town's Zoning Map.

(C) Amendments to the Official Zoning Map. Any person petitioning for amendment to the Official Zoning Map shall submit an application the Planning Commission through the Building Administrator.

1. *Planning Commission Advisory Report.* Any proposed amendment on the Zoning Map, when initiated by individual petition, shall be referred to the Planning Commission for an advisory report thereon.

2. *Procedure Before Planning Commission.* Before giving an advisory report or initial recommendation on any proposed amendment to the zoning map, the Planning Commission shall first conduct a public meeting thereon. Prior to the public meeting, the applicant requesting amendment to the Official Map shall post his property with a sign, notifying the general public of the time and place of Planning Commission meeting at which said Application for Amendment shall be reviewed. Said sign shall be posted on the property frontage at intervals of approximately five



hundred feet (500') at least fifteen (15) days prior to the scheduled meeting date and shall recite the rezoning applied for.

3. Procedure Before Town Board of Trustees. After receiving the advisory report from the Planning Commission, the Town Board of Trustees shall hold a Public Hearing Before acting on the proposed amendment. Notice of the time and place of the Public Hearing before the Town Board of Trustees shall be given by Town Staff, by one (1) Publication of the same at least fifteen (15) days prior to the hearing, in a newspaper of general circulation in the Town of Grand Lake.

Staff Comments:

The applicant has submitted the required items for requesting a zoning amendment. The applicant has submitted a letter stating why this rezoning is necessary (Exhibit A). The application was received August 3rd, 2022, the applicant revised the letter and resubmitted it August 5th, 2022, Applicant posted said property August 20th, 2022 for notifying the general public of this Sept 7th, 2022 meeting for discussion of an advisory report. Once the Planning Commission creates the advisory report, it will be forwarded to the Board to be reviewed at a properly noticed Public Hearing where they will make their decision on the rezoning.

Commissioner Discussion:

Review the Advisory Report and direct Staff to submit it to the Board of Trustees for a decision to be made.



12-2-15 Regulations for Multiple Family Residential District—High Density—MHD.

The regulations set forth in this Section, or set forth elsewhere in this Article, when referred to in this Section, are the District Regulations in the RMH—Multiple Family Residential District—High Density.

(A) Uses Permitted by Right.

1. Single Family Dwelling Units, Multiple family dwelling units and timeshares and interval ownership estate units where no more than sixteen (16) shares per unit are allowed. A central reservation facility on site must be included in the project.
2. Home occupations.
3. Domestic animals, provided such animals are household pets and that kennels are not maintained.
4. Fences, hedges, and walls, provided such uses are located where they will not obstruct motorists' vision at street intersections.
5. Accessory buildings and uses customarily incident to the uses permitted in this district. A central reservation facility on the same site as timeshare multiple family development is an accessory use.
6. Nightly Rentals in the Single Family Residence only. Nightly Rentals will not be permitted in Accessory Dwelling Units (ADUs).
7. Historic structures.

(B) Conditional Uses.

1. Public Utilities.
2. Fire stations, police stations and telephone exchanges.
3. Water reservoirs, water storage tanks, water pumping stations, sewer lift stations and wireless towers.
4. The Commission may in addition prescribe any additional conditions regarding intensity or limitation of use, appearance, hours of operation, setbacks or required open space, or other such conditions which may be deemed necessary by the Planning Commission.
5. Nightly Rentals will be treated as a conditional use when an objection has been raised as to the use by right. See Section 12-2-31(B)4 Nightly Rental Conditional Use Permits.

(C) Zoning Standards. Except as provided in Section 12-2-27, the area regulations are as follows:

Standard Type	Measurement		
Minimum Lot Area	5,000 sq. ft. per dwelling*	5,000 sq. ft. for all conditional uses**	
Minimum Lot Frontage	50'*		
Minimum Floor Area	500 sq. ft. per single dwelling unit		
Maximum Floor Area	N/A		
Minimum Setback	Front 25'	Side 10'	Rear 10'
Maximum Height	35'		
Density	20 dwelling units per acre		

Open Space	50% minimum of total land area	45% maximum for improvements not included in open space definition	
*No minimum lot area or frontage required for townhomes			
**Unless otherwise specified by planning commission			

12-2-17 Regulations for Commercial Transitional District—CT.

The Regulations set forth in this Section, or set forth elsewhere in this Article, when referred to in this Section, are the District Regulations in the CT—Commercial Transitional District.

(A) *Uses Permitted by Right.*

1. Single Family Dwelling Units.
2. Neighborhood Businesses.
3. Day Nurseries or Child-Care Centers.
4. Private and Publicly-owned Parking Lots.
5. Not-for-Profit Clubs and Service Organizations.
6. Hotels, Motels, Condo/Hotels and Lodges.
7. Group homes for the elderly and indigent, limited to not more than eight (8) persons per home.
8. Multi-family attached rental units.
9. Bed and breakfast establishments.
10. Condominiums and Townhouses—Timeshare and interval estate units of more than sixteen (16) shares per unit are required to have a central reservation facility on site.
11. Mixed Residential with permitted Commercial Use within the same building or buildings on the lot.
12. Rental, repair, wholesaling, and storage in conjunction with any of the above non-residential uses, provided all such activity is clearly incidental and accessory to said uses, and further provided all such activity is conducted within a building.
13. Accessory buildings and uses normal and customary to the uses listed above.
14. Nightly Rentals. See Section 12-2-31(B)4 Nightly Rental Conditional Use Permits.
15. Residential units herein defined as: Multi-family attached rental units, condominiums, townhouse and condo/hotels are uses permitted by right with the following restrictions:
 - (a) The first story area measured from the frontage to fifty feet (50') into the lot shall be dedicated to commercial space.
 - (b) If any portion of the area described Section 12-2-17(A)15(a) is used for a hallway, elevator, stairwell access, or fire escape access, a minimum of thirty percent (30%) of the second story of the structure must be dedicated to commercial space. This area shall be located on the frontage side of the structure.

(Oc)

(c) The commercial space aspect of any structure must be constructed prior to or in conjunction with the residential units. A Certificate of Occupancy must be issued to the commercial space prior to or in conjunction with the residential units.

16. Historic structures.

(B) *Conditional Uses.*

1. Commercial establishments of the following and like nature: antiques; small appliances; furniture; gifts; hardware; sporting goods; stationery; and, variety shops;
2. Service establishments of the following and like nature: catering services; laundromats; medical clinics; funeral parlors and mortuaries;
3. Eating and drinking establishments;
4. Public utilities;
5. Water reservoirs, water storage tanks, water pumping stations, sewer lift stations and wireless towers.

(C) *Zoning Standards.* Except as provided in Section 12-2-27, the area regulations are as follows:

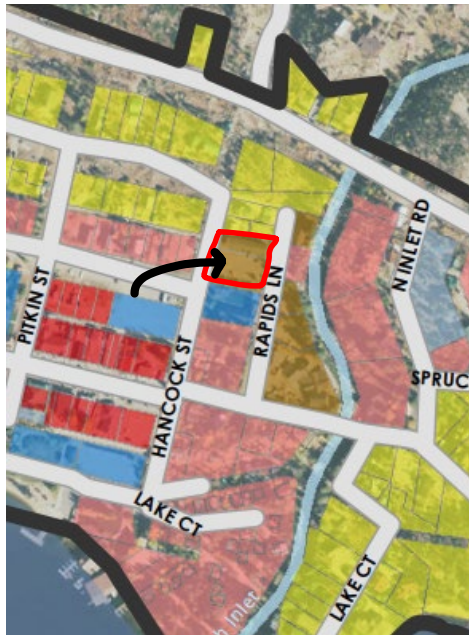
Standard Type	Measurement		
Minimum Lot Area	5,000 sq. ft.*		
Minimum Lot Frontage	50'*		
Minimum Floor Area	800 sq. ft. per single dwelling unit	500 sq. ft. per multi-family attached rental unit, lodge, condominium, townhome, and condo/hotel	Refer to Definitions Section for hotels and motels.
Maximum Floor Area	N/A		
Minimum Setback	Front 5'	Side 5'	Rear 20'
Maximum Height	35'		
Density	2 units per 5,000 sq. ft. lot		
Open Space	Governed by setbacks		
*No minimum lot area or frontage required for townhomes			



Date: September 21st, 2022

To: Grand Lake Mayor and Board of Trustees
From: Chairman Shockey and Planning Commission

RE: Advisory Report for Amendment to Zoning Map



- | | | | |
|--|------------------------------------|--|-----------------------------------|
| | Commercial | | Single Family Res - High Density |
| | Commercial Transitional | | Multi Family Res - Medium Density |
| | Resort | | Multi Family Res - High Density |
| | RV Park | | Public |
| | Planned Development | | Open Space |
| | Residential Estate | | |
| | Single Family Res - Medium Density | | |

At the September 7th, 2022 Planning Commission meeting, the Planning Commission heard the request of the owner Lots 3-5, Block 1 Sunnyside Addition to Grand Lake, more commonly known as 240 and 300 Hancock St. to amend the Town Zoning Map.

Prior to the 2006 Comprehensive Plan being adopted, the parcels were zoned commercial transitional. The owner of the property proposed a development in 2003 that required the property to be zoned as Multi-family Residential to allow for the condominium development. The development was never started and the property continued its use as a hotel.

The parcels directly to the east and west of lots 3-5, B11 are zoned Commercial Transitional, and the parcels to the north and south are zoned single family residential and public, respectively. Lots diagonally adjacent to the northeast and southeast are zoned Multi-family Residential.

A letter of support was read aloud from the HOA at 190 Rapids to recommend changing the zoning to Commercial Transitional. Another statement was read that listed the owners at 200 Hancock St., 1124 Mountain Ave, 236 Rapids Lane, and 240 Rapids Lane in favor of changing the zoning to Commercial Transitional.

Two owners in the Town of Grand Lake who self-describe as competitors of the hotel are in favor of the zoning change to commercial transitional.



According to the BOT minutes from 06/25/2007, the justification for changing the zoning of this area as follows:

The property proposed to be rezoned to Multiple Family Residential High Density is proposed as an anchor to the Commercial District. It is an area of the highest density in the Town and would support condominiums and townhomes along with single family. This area has already experienced this sort of growth and the Town feels this area is most appropriate because of the close proximity to the Commercial District. It will provide a definitive boundary to the Central Business District.

This same language could be used to state that a commercial transitional zone at the end of the commercial transitional street could act as a definitive boundary to the Central Business District.

The Municipal Code for Amending the Zoning Map (12-2-34) states that the rezoning of land is to be discouraged and allowed only under certain circumstances as provided hereafter... Rezoning shall only be allowed if the applicant demonstrates by clear and convincing evidence that rezoning is necessary because of one (1) or more of the following reasons:

1. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Town's Comprehensive Plan.
2. The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or new approach to development.
3. The proposed rezoning is necessary in order to provide land for a community-related use which was not anticipated at the time of the adoption of the Town's Comprehensive Plan and that such rezoning will be consistent with the policies and goals of the Comprehensive Plan. This Declaration of Standards for Rezoning shall not control a rezoning which occurs incidental to a comprehensive revision of the Town's Zoning Map.

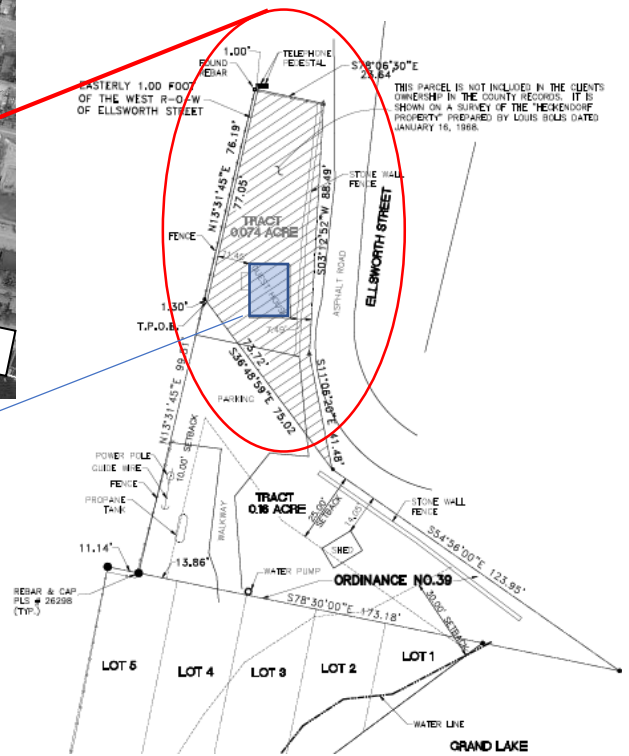
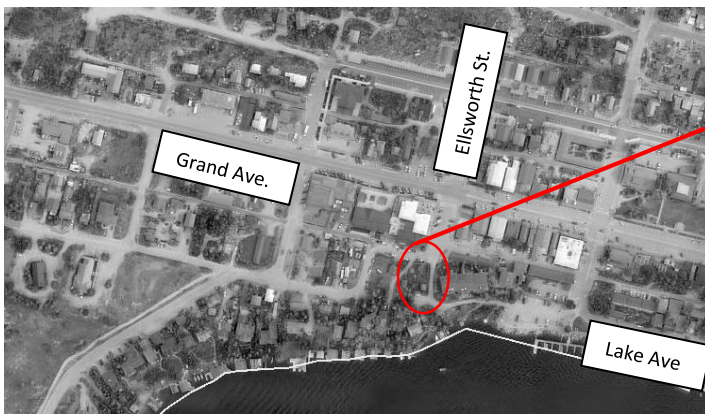
After considering the application, hearing testimony from the neighbors and public, and after reviewing the current zoning map which reflects the Town's Comprehensive Plan, the Planning Commission found clear and convincing evidence that the request falls under reason number 1, that the land was zoned in error in 2006 when the Town allowed the change from Commercial Transitional to Multi-family residential in order to accommodate a proposed development that did not get built. Specifically, the property was rezoned from Commercial Transitional to Multiple Family Residential High Density in error in 2006 based on the representations of the owner at the time that they intended to change the use of the property from hotel and nightly rentals to apartments, and the 2006 rezoning was granted on that basis. However, the property's use never changed to apartments and has been used continuously since then as for hotel and nightly rentals, making its rezoning to its previous status of Commercial Transitional appropriate.

The Planning Commission Advises that the Board of Trustees move to allow the amendment to the zoning map at Lots 3-5, Block 1, Sunnyside addition to Grand Lake.



Date: 10/05/2022
To: Chairman Shockey and Commissioners
From: Kimberly White, Community Development Director

Re: **PUBLIC HEARING-** Consideration to recommend vacating a portion of the Ellsworth Street right of way located adjacent to Lots 1-5 Cairns Addition to Grand Lake; more commonly referred to as 846 Lake Avenue.



Purpose:

The Town has received a vacation request application from Kirsten and Francis Heckendorf to vacate approximately a 0.075ac portion of the Town right of way upon which they currently hold an encroachment agreement for a cabin and a stone fence. This request requires Planning Commission recommendation and Board review.

P.O. BOX 99, GRAND LAKE, COLORADO 80447-0099
PH. 970/627-3435
FAX 970/627-9290
E-MAIL: town@townofgrandlake.com



Vacation plat overlaid onto Town map

Background:

In 1955, the Town adopted Ordinance 39 which vacated a portion of the Ellsworth Street right of way and Lake Avenue right of way (triangle parcel shaded in blue, known to be Tract 0.16 acres north of Lots 1-5, Cairns Addition to GL) for some existing improvements on Town property.

The Town adopted Ordinance 08-1980 which vacated a portion of the Ellsworth Street right of way and Lake Avenue right of way for the development of Eagles Landing.

The Town adopted Ordinance 18-2011 which granted an easement for some existing encroachments on the town right of way (hatched in black).

The 2016 decision not to vacate this portion of the right of way was due to the following reasons:

- The narrow width of right of way that would remain (estimated at less than 27’); and
- The Town uses that area for snow storage; and
- Utilities located in that area

P.O. BOX 99, GRAND LAKE, COLORADO 80447-0099
 PH. 970/627-3435
 FAX 970/627-9290
 E-MAIL: town@townofgrandlake.com



In September 2022, the applicant submitted an application seeking approval of vacation of a portion of the Ellsworth Street right of way adjoining the Property (the “Application”) more particularly describe in Exhibit A

Staff Discussion:

The applicant has provided all items required for an application as required by MC 11-2-10. Legal notice was placed in the local newspaper on September 12th, 2022 and 34 certified letters were sent to all neighbors within 200 feet of the property; 11 of which have not been received to date. Three written comments were received in favor of the vacation and they are attached below. No comments were received against the request. The Town previously received two (2) written comments from Three Lakes Water and Sanitation District and Mountain Parks Electric stating no objections to the request.

Upon review of the previous vacation request, Staff has found:

- The Town does not use this property for snow storage or other municipal uses
- The resolution includes utility easements
- The Town is not intending on investigating this road as a thoroughfare.
- The Town granted an easement and water usage for the property in question.

Municipal Code:

11-2-10 Vacation Request and Procedure.

On occasion, vacation of Town Streets or various easements may be warranted, due to peculiar circumstances or changes in the overall development patterns.

Procedure for request of vacation of a Municipal Rights-of-Way shall be done in accordance with C.R.S. § 43-2-303.

No street or part shall be vacated that will leave a parcel of land without access to a public road. All vacation requests must comply with Colorado Revised Statute.

- (A) *Application.* A Land Use Application form must be filled out and accompanied with the following:
 1. Appropriate Fee and/or deposit; and
 2. Signed Agreement for Services; and
 3. A plat and/or survey of the proposed vacation including the surrounding properties; and
 4. A letter explaining the justification for vacation; and
 5. Any other pertinent information required by Town Staff.
- (B) *Planning Commission Review.* Vacations shall be reviewed by the Planning Commission at a Public Hearing and make a recommendation to the Board of Trustees.

P.O. BOX 99, GRAND LAKE, COLORADO 80447-0099
 PH. 970/627-3435
 FAX 970/627-9290
 E-MAIL: town@townofgrandlake.com



1. Fifteen (15) days prior to the scheduled Public Hearing date, legal notice shall be placed in the local newspaper of general circulation advertising the time, date, and location of the Public Hearing.
 2. In addition, certified letters are to be mailed at least fifteen (15) days prior to the Public Hearing to all property owners within two hundred (200) feet of any portion of the property.
- (C) *Board of Trustees Review.* The Board of Trustees may vacate any Town street or any portion thereof after receiving a recommendation from the Planning Commission.

The Board of Trustees shall grant no vacation without first conducting a Public Hearing. The Board of Trustees will hold a Public Hearing within forty-five (45) days from receiving a recommendation from the Planning Commission.

1. Fifteen (15) days prior to the scheduled date, legal notice shall be placed in the local newspaper of general circulation advertising the time, date, and location of the Public Hearing.
2. In addition, certified letters are to be mailed at least fifteen (15) days prior to the Public Hearing to all property owners within two hundred (200) feet of any portion of the property.

Commission Discussion:

The Commission should conduct the Public Hearing as follows:

1. Open the Public Hearing
2. Allow Staff to present the matter
3. Allow for the Applicant to address the Commission
4. Take all public comment
5. Close the Public Hearing
6. Allow for Commission discussion
7. Take action as appropriate

Commission Action:

The Commission has the following options:

1. Recommend vacating of a portion of the Ellsworth Street right of way; or
2. Recommend denying the vacation request; or
3. Continue review of the request.

From: [Kirsten Heckendorf](#)
To: [Kim White](#)
Cc: [Hecky](#)
Subject: Vacation Application Letter Submission
Date: Friday, September 30, 2022 11:01:47 AM

Caution! This message was sent from outside your organization.

Town of Grand Lake
PO Box 99
Grand Lake, CO 40447
Letter for Justification for Vacation
September 30, 2022

To the Planning Department:

We are asking to have the property north- adjacent to 846 Lake Ave. vacated. The land has been used by the adjacent property since sometime in the 1930's and the guest cabin and rock wall have been in place since the mid-50s. The previous owner was granted an encroachment permit by the Town in 2011 that requires an indemnification coverage of \$1million. The land has not been used for Town purposes at minimum since the 1930's. In order to indemnify the town and insure the land, the guest house, and the home at 846 Lake Ave, we are forced into a surplus supply company that will not ever fully cover the main cabin alone. Please find the vacation plat attached, submitted the application for vacation with the fee for this request, and signed the services agreement.

Our plan is to fix up the guest cabin where it currently sits as well as the land it sits on and where a water tap was put in sometime during the 50's by the town.

Thank you in advance for your time.

Kirsten & Francis Heckendorf
846 Lake Avenue



Town of Grand Lake

Planning Department

• P.O. Box 99 • 1026 Park Avenue • Grand Lake, CO 80447
• Phone: 970-627-3435 • Fax: 970-627-9290
• Email: glplanning@townofgrandlake.com • Website: townofgrandlake.com

LAND USE REVIEW APPLICATION FORM

APPLICATION DEADLINE IS NOON, 21 DAYS PRIOR TO THE NEXT REGULARLY SCHEDULED MEETING

PROPERTY ~~at~~ north adjacent to ↓

- Street Address (or general location if not addressed): 846 Lake Ave 846 Lake Ave
- Legal Description: Lot 1-5 Block — Subdivision Cairns add
- Lot Area (in square feet or acres): 0.075
- Existing Use of Property: town row used as private lot with small house

TYPE OF REVIEW (circle one): • Rezoning • Subdivision • Minor Subdivision • Annexation • Planned Development • Conditional Use • Vacation – Public right-of-way • Amendments to approved Subdivision or PD • Other (explain below)

PROPOSAL

Description of Proposal (include proposed use and summarize number and size of units/buildings/lots, as applicable):

Vacate parcel as shown on attached plat.
Current + future use remains guest cabin
+ rock wall.

- Name of Development: _____
- Name of Applicant: Kirsten Heckenroth Email: kirsy573@msn.com
- Address: PO Box 178 / 846 Lake Ave Phone: 303.378.7507
- City: Grand Lake State: CO Zip: 80447 Fax: _____
- Contact Person (if not applicant): _____ Email: _____
- Address: _____ Phone: _____
- City: _____ State: _____ Zip: _____ Fax: _____

STAFF USE ONLY

Application Received By: K White Date / Time: 9/14/22

File Name: _____

Fee Paid: Amount: _____ Reimbursement Form Signed:



Mailed Certified, receipt requested

September 12, 2022

Dear Property Owners:

Grand Lake Planning Commission will hold a Public Hearing on Wednesday, October 5th, 2022 at 6:30 p.m. at the Grand Lake Town Hall, 1026 Park Avenue, to review the proposed vacation of a portion of public right of way located one block south of Grand on Lake Ave and Ellsworth St (fig 1). The Planning Commission will make a recommendation to the Board of Trustees, who will hold a Public Hearing on Monday, October 10th, 2022 at 6:00 p.m. to review the recommendation from the Planning Commission.

As an owner in the neighborhood of this property, you are cordially invited to attend the Public Hearings or to submit public comment. Public comments and participation are both encouraged and welcome, either virtually in person at the online public meeting, in writing to the Town of Grand Lake, P.O. Box 99, Grand Lake, CO 80447 or by e-mail to planner@toglco.com.

Sincerely,

Kimberly White

Community Development Director

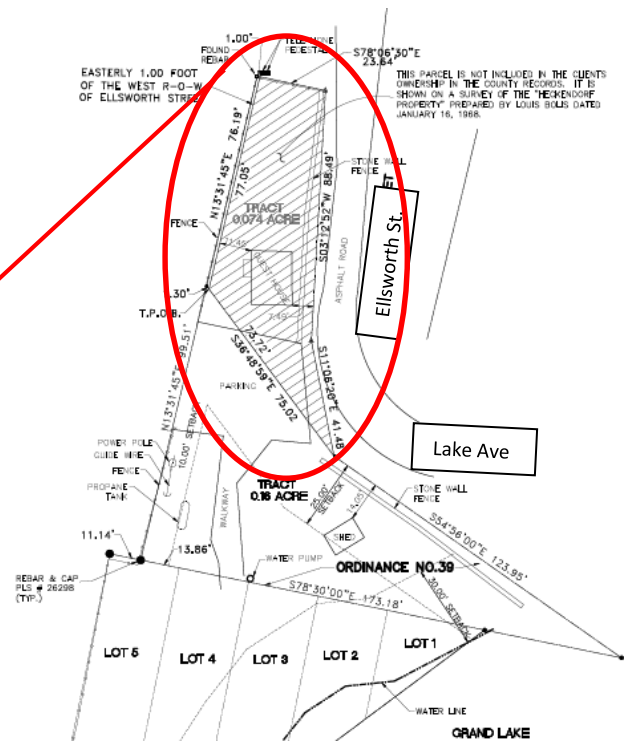
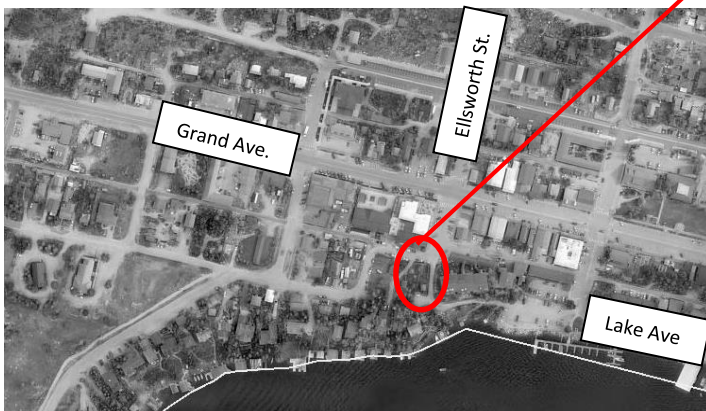


Fig. 1 Public ROW is shown as hatched area

P.O. BOX 99, GRAND LAKE, COLORADO 80447-0099
PH. 970/627-3435
FAX 970/627-9290
E-MAIL town@townofgrandlake.com

September 20, 2022

Board of Trustees
Town of Grand Lake
PO Box 99
Grand Lake, CO 80447

Email: planner@toglco.com



RE: Proposed Vacation of a Portion of Public Right of Way Located 1 Block South of Grand on Lake Ave and Ellsworth to be discussed at the Public Hearings in October, 2022.

Dear Board of Trustees:

This letter is in response to the certified notification we received on September 17, 2022. We are owners of property in Grand Lake, specifically Eagle's Landing Units 1 and 21, 420 Ellsworth, adjacent to a **Portion of Public Right of Way Located 1 Block South of Grand on Lake Ave and Ellsworth**. We support this vacation and transfer of ownership to Kirsten and Francis Heckendorf.

Thank you for keeping us informed on these matters.

Sincerely,

Susan Lausten  Dean Lausten 

4575 W Lakeridge Rd
Denver, CO 80219

Cc/ Kirsten Heckendorf

Sent via mail and email.

From: [Susan Waters](#)
To: [Kim White](#)
Subject: Vacation of a portion of public right of way located 1 block south of Grand on Lake Ave and Ellsworth
Date: Wednesday, September 21, 2022 7:31:43 PM

September 21, 2022

Board of Trustees
Town of Grand Lake
PO Box 99
Grand Lake, CO 80447

Dear Board of Trustees:

This is in response to the certified notification we received on September 17, 2022. We are owners of property in Grand Lake, specifically Eagle's Landing Unit #22, 420 Ellsworth, adjacent to a Portion of Public Right Of Way Located 1 Block South of Grand on Lake Ave and Ellsworth. We support this vacation and transfers of ownership to Francis and Kirsten Heckendorf.

Sincerely,

Susan Amole-Waters and Gary Waters

1037 S Harrison St, Denver, CO 80209

September 20, 2022

Board of Trustees
Town of Grand Lake
PO Box 99
Grand Lake, CO 80447

Email: planner@toglco.com

RE: Proposed Vacation of a Portion of Public Right of Way Located 1 Block South of Grand on Lake Ave and Ellsworth to be discussed at the Public Hearings in October 10, 2022.

Dear Board of Trustees:

This letter is in response to the certified notification we received on September 23, 2022. We are owners of property in Grand Lake, specifically 838 Lake Ave. adjacent to **a Portion of Public Right of Way Located 1 Block South of Grand on Lake Ave and Ellsworth.** We fully support this vacation and transfer of ownership to Kirsten and Francis Heckendorf

. We appreciate keeping us informed of decisions that affecting our property..

Sincerely,

Linda Davis 

Barclay Ivins Davis 

4575 W Lakeridge Rd
Denver, CO 80219

Cc/ Kirsten Heckendorf.

**TOWN OF GRAND LAKE
PLANNING COMMISSION
RESOLUTION NO. 12 - 2022**

**A RESOLUTION RECOMMENDING APPROVAL OF VACATION OF A PORTION OF THE
ELLSWORTH STREET RIGHT OF WAY WITHIN THE TOWN AND RESERVING CERTAIN UTILITY
EASEMENTS THEREON**

WHEREAS, Francis Heckendorf III and Kirsten Heckendorf (collectively the “Applicant”) is the owner of certain real property located within the Town of Grand Lake, more particularly described as follows:

Cairns Addition to Grand Lake, Lots 1-5 and a 0.16 AC Tract North of Lots 1-5 (the “Property”); and

WHEREAS, the Applicant has submitted an application seeking approval of vacation of a portion of the Ellsworth Street right of way adjoining the Property (the “Application”) more particularly describe in **Exhibit A** (the “Vacated ROW”), attached hereto and incorporated herein, pursuant to Section 11-2-10 of the Grand Lake Municipal Code (the “Town Code”); and

WHEREAS, section 31-15-702(1)(a)(I), C.R.S. grants the Board of Trustees the power to lay out, establish, open, alter, widen, extend, grade, pave or otherwise improve streets and vacate the same; and

WHEREAS, section 43-2-303(a), C.R.S. provides that a town may vacate by ordinance any roadway or part thereof located within the corporate limits of the town, subject to the provisions of the charter of such town, the state constitution, and the statutes of the state of Colorado; and

WHEREAS, the Board of Trustees intends to reserve a portion of Ellsworth Avenue on the West side of the dedicated Right of Way one foot in width with the intention that, upon vacation, title to the Property shall vest with the owners of the property located directly to the South of the Property; and

WHEREAS, Section 11-2-10 of the Town Code provides that the Planning Commission may recommend the vacation of Town Streets, easements, or right of way due to peculiar circumstances and in accordance with C.R.S. § 43-2-303; and

WHEREAS, the Town Board of Trustees (the “Board”) previously granted a perpetual easement to the Applicant for existing improvements located on the Ellsworth Street right of way by Ordinance 15-2011 which was subsequently repealed and replaced by Ordinance 18-2011 and Ordinance 05-2012; and

WHEREAS, the Applicant is currently unable to obtain proper property insurance for a structure that has been on the Property in excess of fifty years based on, inter alia, setback requirements and adjoining land ownership requirements; and

WHEREAS, the Town is not currently utilizing the Vacated ROW for any governmental purpose, and does not anticipate the need to utilize it in the foreseeable future for any governmental purpose; and

WHEREAS, vacating the Vacated ROW would not negatively alter the existing circumstances surrounding the Property, but would permit a resident of the Town to obtain insurance protecting a historic structure within the Town; and

WHEREAS, the Applicant has agreed to reimburse the Town for survey expenses incurred in connection with the Application; and

WHEREAS, following proper notice, the Application was presented to and considered by the Planning Commission at a Public Hearing at its regular meeting on October 5, 2022; and

WHEREAS, staff has recommended approval of the Application; and

WHEREAS, based on the Application, the representations of the Applicant to the Planning Commission and the comments of the public, the Planning Commission finds:

1. The Applicant has paid an appropriate fee and deposit.
2. The Applicant has not been required to sign an updated agreement for services for this Application based on the recommendation of staff.
3. The Applicant has provided a plat of the proposed vacation including the surrounding properties.
4. The Applicant has provided a letter explaining the justification for the vacation.
5. The Applicant has provided all pertinent information requested by Town staff.
6. The Planning Commission hearing was properly noticed, including certified letters being sent to all property owners within two hundred feet of any portion of the Property.
7. Vacating the Vacated ROW will not leave any adjoining land without an established public or private-access easement connecting the same with another established public road.
8. The Town shall reserve all existing easements and all easements for the continued use of existing sewer, gas, water, or similar pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone, and similar lines and appurtenances.

9. No private rights will be injured or endangered by this vacation, the public will not suffer loss or inconvenience by this vacation, and the Property is not presently needed for transportation purposes nor will it need to be used by the Town or the public; provided, however, the utility easement set forth in Section 8, above, shall be reserved.

NOW THEREFORE BE IT RESOLVED BY THE PLANNING COMMISSION OF THE TOWN OF GRAND LAKE, COLORADO AS FOLLOWS:

1. The Planning Commission recommends that the Application be approved by the Board of Trustees subject to the conditions set forth in Section 2., below.
2. The Planning Commission’s recommendation for approval is based on the Applicant satisfying the following conditions. Unless specified otherwise, such conditions should be satisfied before the matter is considered by the Board of Trustees:
 - a. Payment by Applicant of all legal, engineering and administrative fees incurred by the Town in connection with review, processing, consideration and approval of the Application.
 - b. Compliance by the Applicant with all representations made to the Planning Commission during all public hearings or meetings related to the Application

Severability: If any section, paragraph, sentence, clause, or phrase of this Resolution is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution. The Planning Commission declares that it would have passed this Resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Repeal: Existing resolutions or parts of resolutions covering the same matters as embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed

DULY MOVED, SECONDED, AND APPROVED BY THE PLANNING COMMISSION OF THE TOWN OF GRAND LAKE, COLORADO, THIS 5th DAY OF OCTOBER 2022.

Votes Approving:
 Votes Opposed:
 Absent:
 Abstained:

(SEAL)

PLANNING COMMISSION OF THE
TOWN OF GRAND LAKE

ATTEST:

Alayna Carrell

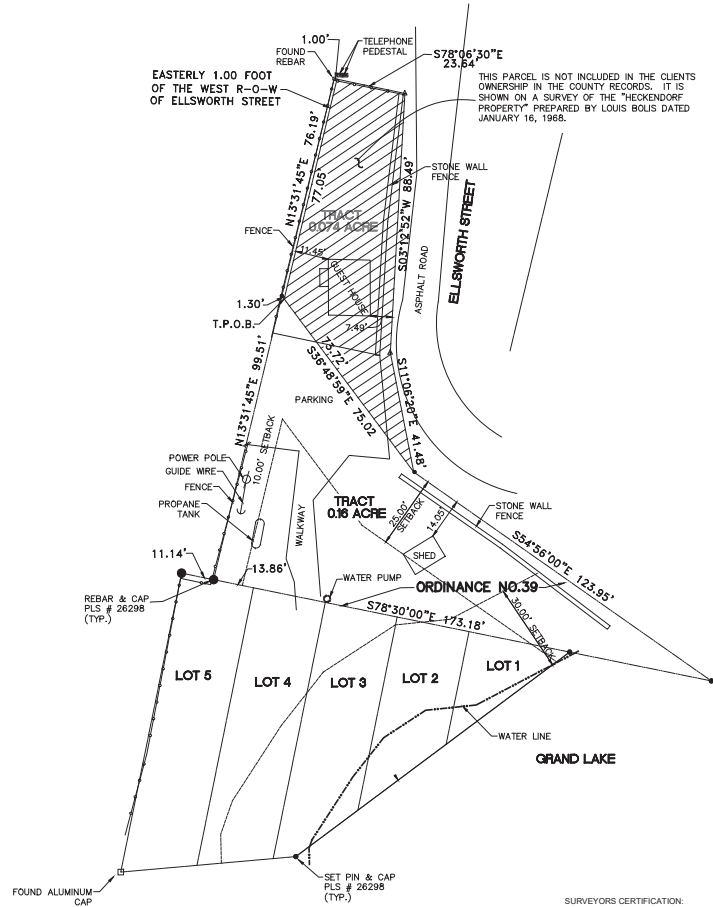
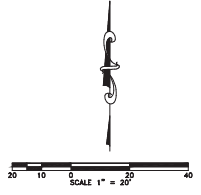
Town Clerk TOWN OF GRAND LAKE

James Shockey

Planning Commission Chairman

RIGHT OF WAY VACATION PLAT

A PORTION OF ELSWORTH AVENUE, TOWN OF GRAND LAKE, COUNTY OF GRAND, STATE OF COLORADO



- FOUND AS INDICATED
- REBAR & CAP PLS 26298
- △ CALCULATED CORNER

LEGAL DESCRIPTION
ELLSWORTH STREET VACATION

A PARCEL OF LAND SITUATED IN A PORTION OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 75 WEST, TOWN OF GRAND LAKE, COUNTY OF GRAND, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF ORDINANCE NO. 39 OF THE TOWN OF GRAND LAKE RECORDS, ALSO BEING A POINT ON THE WEST LINE OF THE ORIGINALLY PLATTED ELLSWORTH STREET RIGHT OF WAY; THENCE S36°48'59\"/>

SAID PARCEL CONTAINS 0.074 ACRES MORE OR LESS.

- NOTES:
- ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED ON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BE COMMENCED MORE THAN 10 YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
 - BASIS OF BEARING FOR THIS SURVEY IS THE WEST LINE OF THE PARCEL SHOWN AS ORDINANCE 39, OF THE TOWN OF GRAND LAKE RECORDS, HAVING A BEARING OF N13°31'45\"/>

SURVEYORS CERTIFICATION:
I, JERALD W. RICHMOND BEING A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, HEREBY CERTIFY THAT THIS RIGHT OF WAY VACATION PLAT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS BASED ON A FIELD SURVEY PERFORMED ON OCTOBER 5, 2012, AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

JERALD W. RICHMOND P.L.S. 26298
FOR AND ON BEHALF OF
DIAMONDBACK SURVEYING, LLC



MONUMENTED LAND SURVEY PLAT
DEPOSITING CERTIFICATE:
DEPOSITED THIS _____ DAY OF _____, 20____
A.D. AT _____ O'CLOCK _____ M., IN BOOK _____
OF THE COUNTY SURVEYOR'S LAND SURVEY/ RIGHT OF WAY
SURVEY RECORDS AT PAGE _____, RECEPTION NO. _____
BY: _____ COUNTY SURVEYOR

REVISION	DATE	BY

CLIENT INFO

DATE: XX/XX/YY | DRAWN BY: XXX

Diamondback Surveying, LLC
7804 FRASER RIVER CIRCLE
LITTLETON, CO 80125
Office: 303-918-7310