



Grand Lake Planning Commission

Wednesday, November 15, 2023 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

[Minutes](#) 10-04-2023

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. QUASI JUDICIAL (PUBLIC HEARING): A Resolution Recommending Granting a Variance to Roadway Regulation 11-2-6 Allowing a Non-Conforming Driveway at 1204 West Portal Road

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://us06web.zoom.us/j/85942185849?pwd=Q0xDTHNlMVc4ejFlcmx3eGJ3bnpuZz09>

You can also dial in using your phone. 1 (719) 359- 4580

Meeting ID: 859 4218 5849

Access Code: 496153

James Shockey, Chairman

ATTEST:

Alayna Carrell, Town Clerk



Grand Lake Planning Commission

Wednesday, October 04, 2023 at 6:30 PM

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AGENDA

1. Call to Order: Meeting called to ordered 6:37

2. Roll Call: Absent: Commissioners Sobon and Bishop

Motion made by Commissioner Burke to approve the absence of Commissioners Sobon and Bishop, Seconded by Commissioner. Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Commissioner Finch. **Approved: 4:0**

3. Consideration to approve Meeting Minutes 08-16-2023 & Minutes 09-20-2023

Correction to 8/16 Commissioner Bishop voted against the 1204 West Portal Road item of business instead of Commissioner Finch

Motion made by Commissioner Murray, Seconded by Commissioner Burke. Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Commissioner Finch **Approved with correction: 4:0**

4. Unscheduled Citizen Participation: No unscheduled citizen participation.

5. Conflicts of Interest: No conflicts of interest.

6. Items of Business (*Correction: Originally listed as item of discussion, corrected to item of business during meeting*)

A. Recommendation to Allow Fence Over the Allowable Eight Foot Height at Cokers Corner Minor Sub also known as 1680 Sunnyside Dr.

Community Development Director White presented the item.

Tom Yurack, of 167 CR 4651, Grand Lake CO, spoke on behalf of the applicant regarding the construction of the fence.

Motion to deny request, noting that fence can not exceed 8 feet, made by Chairman Shockey, Seconded by Commissioner Burke. Voting Yea: Chairman Shockey, Commissioner Burke; Voting Nay: Commissioner Murray, Commissioner Finch. **Motion to deny approved. 2:2**

7. Future Agenda Items

The Commission would like to address the following items in the future:

- Absence of a vice chair
- Definition of fence in the municipal code

8. Adjourn Meeting: Meeting adjourned 7:25PM.

Motion made by Commissioner Finch, Seconded by Commissioner Burke.

Voting Yea: Chairman Shockey, Commissioner Murray, Commissioner Burke, Commissioner Finch

Approved 4:0.

ATTEST:

James Shockey, Chairman

Alayna Carrell, Town Clerk



Date: November 15th, 2023
To: Chairman Shockey and Commissioners
From: Kim White, Planning Department

RE: **QUASI JUDICIAL (PUBLIC HEARING):** A Resolution Recommending Granting A Variance To Roadway Regulation 11-2-6 Allowing A Non-Conforming Driveway At 1204 West Portal Road

Public Hearing Process

The public hearing should be conducted as follows:

- 1. Open the Public Hearing
- 2. Allow staff to present the matter
- 3. Allow the applicant to address the Commission
- 4. Take all public comment
- 5. Close the Public Hearing
- 6. Have Commission discuss amongst themselves
- 7. Commission make a motion

Location Map





Wall Height and Location Graphic

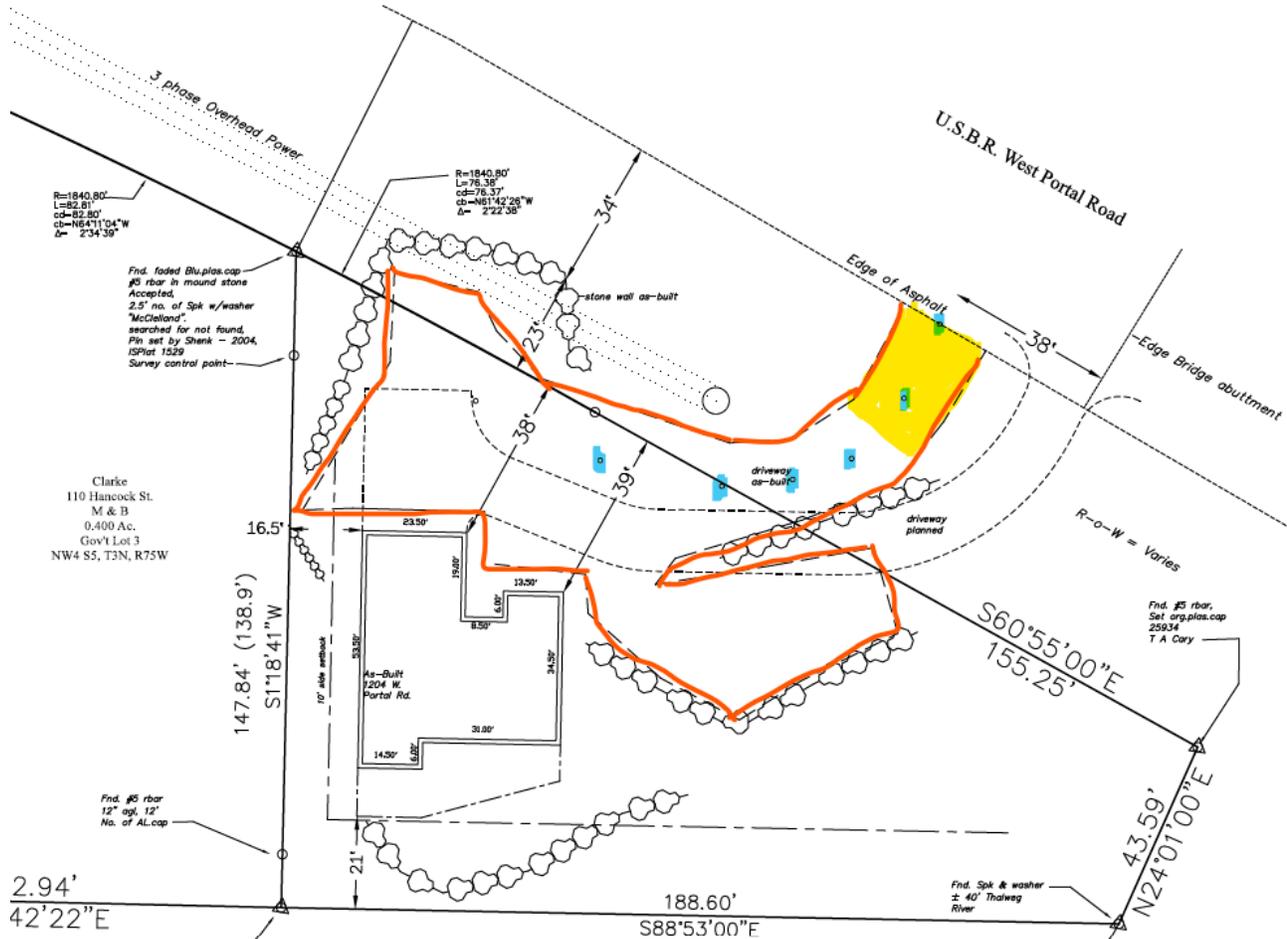


Figure 1- orange line is the existing conditions. Yellow highlight and Blue dots align with the yellow lines and blue dots in fig. 2 for reference points. Dashed line is the original driveway plan.

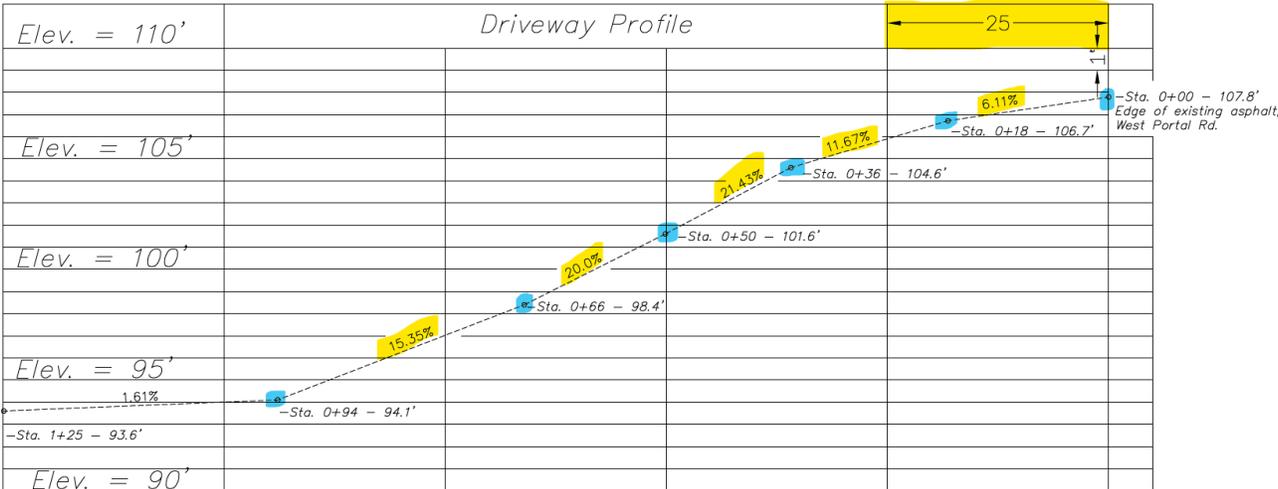


Figure 2



Purpose

The Town has received a variance request from Cynthia A. Biersdorfer and Keith Nichols to permit a driveway at a grade of over 10% after the first 25 feet, as well as over 4% for the first 25 feet. Per Municipal code 11-2-11, this request requires Planning Commission review and Board Approval.

Context

The property is located at 1204 West Portal Rd. The property is approximately 0.4 acres located adjacent to the Tonahutu Creek and zoned Single Family Residential High Density.

Background

At the August 16th, 2023 Planning Commission Hearing for a variance request to allow retaining walls higher than 6', it was shown that the grade of the driveway exceeded Town Standards of 10% after the first 25' of drive. The Planning Commission voted 5:1 to recommend the Board of Trustees to approve the retaining wall height, however an additional hearing for the steepness of the driveway was required. The applicant obtained exact grade topography and submitted a request for the variance on 10/13/2023. Public notice was sent to neighbors within 200' of the property and no one responded with positive or negative input. Electric, gas, sewer and water utilities were all contacted, and they do not have issue with these variances.

Municipal Code:

11-2-6 Private Drives, Emergency Access Requirements, and Criteria.

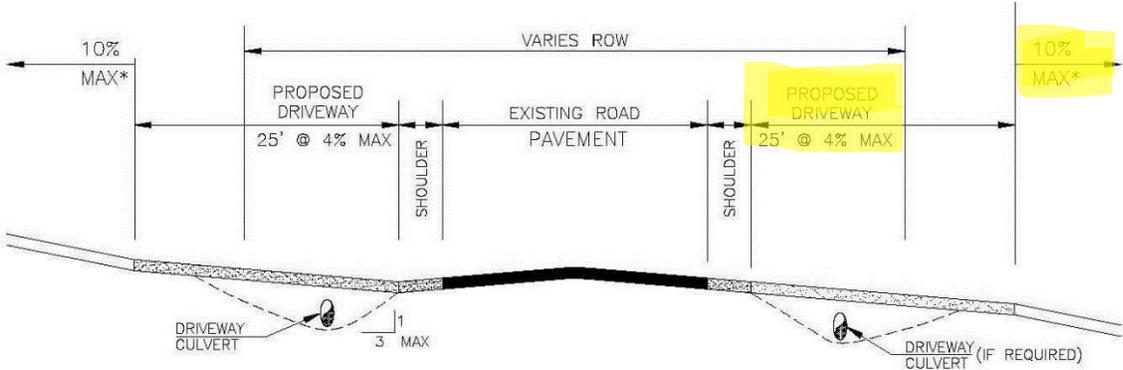
(A) *Criteria for Access Onto Town of Grand Lake Roadways.*

10. *Minimum Design Standards.*

(a) *Residential Driveways.*

6. *An access shall not exceed a four percent (4.0%) grade for the first twenty-five (25) feet, measured from the edge of the nearest drive lane. (See Figure 12.)*

Figure 12: Driveway Grade Criteria



***Heated driveways, maximum grade 12%**



11-2-11 Variance Request and Procedure.

If an applicant responsible to the Town for public improvements desires to design and construct such improvements in variance to criteria in these standards, each variance shall be identified in the initial submittal.

- (A) *Application. An application for a variance shall be filed with Town Staff no later than twenty-one (21) days prior to the next regularly-scheduled Planning Commission meeting...*
- (B) *Planning Commission Review. Variances from the Street Development Policies, Standards, and Specifications shall be reviewed by the Planning Commission at a Public Hearing and make a recommendation to the Board of Trustees.*
 - 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 shall grant no variance without first receiving a recommendation from the Planning Commission. The Board may opt to hold a Public Hearing before granting the variance.*

(D) *Hardships for Consideration. Variance requests will only be granted if the applicant can demonstrate all of the following:*

- 1. *That by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these Regulations;*
- 2. *That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations.*
- 3. *That the special conditions and circumstances do not result from the actions of the applicant;*
- 4. *That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;*
- 5. *That the granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of the Zone Plan and these Regulations.*

Staff Comments

After receiving the driveway elevation profile, Staff noted that, of the first 25 feet of the driveway, the first 18 feet of the driveway was at 6.11% and the remaining 7 feet was at 11.67%. The allowance for grade in the first 25 feet is 4%. Also, the driveway grade ranged up to 21.43% after the first 25 feet, while the code requires no more than 10% for unheated driveways (section 11-2-6 Figure 12 of the municipal code). The Planning Commission has already recommended approval for the excessive height of the retaining walls that are reinforcing the driveway and encroachment licenses for the boulders placed in the Town Right of Way are handled solely by the Board.

A public hearing was properly noticed in the Middle Park Times and the Town has received 13 of the 18 notices that were sent to neighboring properties within 200'. 1 comment was received in favor of the excessive grade, no negative comments were received.

The Applicant has submitted the topographic survey of the driveway as required.



Staff received all required items for the request:

1. Appropriate Fee and/or deposit; and
2. Signed Agreement for Services; and
3. A site plan and/or survey; and
4. The applicable Municipal Code Standard to be waived; and
5. A letter explaining the Hardships for Consideration associated with the variance request. (attached)

Commission Discussion

The Commission should discuss the findings of fact from the code 11-2-11 (D) (1-5), in order to make a decision/recommendation.

1. That by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these Regulations;
2. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations.
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;
5. That the granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of the Zone Plan and these Regulations.

Suggested Commission Motion

Motion to approve Resolution 10-2023, a variance to Municipal Code 11-2-6 to allow the grade of the driveway to remain at 6.11% and 11.67% in the first 25 feet and up to 21.43% after the first 25 feet at 1204 West Portal Rd.

OR

Motion to approve Resolution 10-2023, a variance to Municipal Code 11-2-6 to allow the grade of the driveway to remain at 6.11% and 11.67% in the first 25 feet and up to 21.43% after the first 25 feet at 1204 West Portal Rd. with the following conditions:

OR

Motion to Deny the Request for Variance.



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

gplanning@townofgrandlake.com • www.townofgrandlake.com

ZONING VARIANCE REQUEST APPLICATION

PROPERTY LOCATION:
 Street Address: 1204 W. Portal Road
 Legal Description: Lot _____ Block _____ Subdivision _____

PROPERTY OWNER INFORMATION:
 Name: Keith Nichols, Cindy Biersdorfer Email: Cindy.biersdorfer@dell.com
 Mailing Address: PO Box 2115 Grand Lake Phone: 303 881-5335
 City: Grand Lake State: CO Zip: 80447 Fax: N/A

APPLICANT INFORMATION: Is the Applicant the Property Owner? YES NO
 Name: _____ Email: _____
 Mailing Address: _____ Phone: _____
 City: _____ State: _____ Zip: _____ Fax: _____

CONTACT INFORMATION: Is the Contact Person the Applicant? YES NO
 Contact Person (if not Applicant): _____ Email: _____
 Mailing Address: _____ Phone: _____
 City: _____ State: _____ Zip: _____ Fax: _____

VARIANCE REQUEST (Brief Description): 11-2-10 B 10 driveway grade exceeds design standards

REQUIRED INFORMATION CHECKLIST:

- Site Plan (showing dimensions to existing and proposed features, locations of specific activities, proposed and existing signage, parking, ingress and egress points, traffic circulation, utilities, drainage features, and property lines)
- Explanation of Hardship (See Municipal Code for review criteria)
- Statement of Authority (If applicable. Required for representatives of entities and property owners.)
- Property Survey
- Agreement for Services Form
- Application Deposit (See Fee and Deposit schedule for amount)
- Additional Information (If applicable. Staff may require other helpful information for review.)

AFFIDAVIT:
 BY MY SIGNATURE, I attest that the information contained or attached to this application is true and correct to the best of my knowledge. I further understand that submission of false or misleading information shall be sufficient cause for the Special Use Permit to be revoked immediately without notice or hearing.

Print Name: Cindy Biersdorfer
 Signature: [Signature] Date: 10/13/2023

STAFF USE ONLY

Application Received By: _____ Date & Time: _____
 File Name: _____ Deposit: YES NO Amount: \$ _____
 Agreement for Services Form Signed? YES NO

Town of Grand Lake-Planning Dept

Legal Summary Subd: METES & BOUNDS 75 ALL PT OF LOTS 2,6,7 SEC 5 T3N R75W DESC AT B/266 P/5+3 .447 AC +/- LYING SOUTH OF TUNNEL RD AND WEST OF NORTH INLET LOCATED IN LOT 2, SECT 5 T3N R75W DESC IN B/266 P/462

Request: We are requesting approval and subsequent sign off for the driveway grade which currently exceeds 10%

Hardship description:

- 1) Topography of the lot does not allow for a lower grade. According to the builder, bridge guardrail was cut back as far as the town would allow. Driveway was placed according to where the guardrail was moved. If the driveway was placed closer to the bridge, concrete curb would have to be cut, dirt fill would be significant and a 40-50 ft retaining wall will be required.
- 2) Deprives us of rights available to others in the area. Precedence has been set all over town. Just a few doors down on Portal as well as Woodpecker Hill to name a few spots. Town surveyor commented he's surveyed driveways in town as much as 35% grades (attached letter).
- 3) Was not a result of actions taken by us. We were not aware the driveway was not positioned according to the plans until we requested our CoO. Town inspections did not call this out during the build process. Builder states he worked directly with the town to move the guardrail (see attached letter from the builder). The only issue we were aware of was the miss regarding the rail extension resulting in 10,000 cost overages to move the extended guard rail.
- 4) Does not grant us any special privileges denied to other (same as #2, precedence set)
- 5) Does not pose a detriment to others. The driveway is kept clear of snow and ice. There is plenty room on top if anyone is not comfortable driving it.

We have survived a full year, including a heavy snowfall winter without any issues. We are considering a permitted, heated, paved driveway once we have the funds.

Respectfully,
Cindy Biersdorfer
Keith R Nichols

Biersdorfer, Cindy

From: Thomas Cary <loosehorse56@gmail.com>
Sent: Thursday, August 17, 2023 5:38 PM
To: Biersdorfer, Cindy
Subject: ISPlat revised - 8/17/23
Attachments: GrandLake_Biersdorfer_1204Portal_ISPlat_Driveway grades.pdf

[EXTERNAL EMAIL]

Cindy_Keith,

I answered questions fro, Kim at Grand County by providing this up dated plat.

Don't forget this is the mountains. I see driveways of 35% all the time.

All emergency vehicle in this county are 4 wheel drive for a reason.

Note: I will gather info, next week or so, for a more precise profile of the driveway, and it will show that the entrance, level part at the Top, in compliant.

praying for softened Hearts in County gov't.
Peace is essential.

--
Thomas A. Cary
PLS 25934
970.724.2912 h
970.509.0185 c
Loosehorse56@gmail.com

Biersdorfer, Cindy

From: tim altavistabuilders.com <tim@altavistabuilders.com>
Sent: Friday, October 6, 2023 3:22 PM
To: Biersdorfer, Cindy
Subject: Driveway/ Rail issue

[EXTERNAL EMAIL]

Cindy,

I have looked back through email and pictures and don't have anything back that far. I had a computer crash in 2021 and lost a lot of stuff. Here is what happened as I recall.

Between the time we designed the site plan and the time we received building permit was 6-9 months. In that time, grand county installed the guardrail that blocked most of the front of your lot. When we met with road and bridge they were only willing to allow us to remove it so close to the bridge. That is why it ends where it does. Then you guys had to pay over 10k to have this redone. The driveway has to be where it is because the town would not let the rail be removed any closer to the bridge.

Sorry I lost those records. Hope this helps.

Tim Stegall
512.750.6219 call or text
www.AltavistaBuilders.com [[altavistabuilders.com](mailto:tim@altavistabuilders.com)]



**TOWN OF GRAND LAKE
PLANNING COMMISSION
RESOLUTION NO. 10-2023**

**A RESOLUTION RECOMMENDING GRANTING A VARIANCE TO ROADWAY
REGULATION 11-2-6 ALLOWING A NON-CONFORMING DRIVEWAY AT 1204
WEST PORTAL ROAD**

WHEREAS, Cynthia A. Biersdorfer and Keith Nichols (collectively the “Applicant”) are the property owners of 1204 West Portal Drive, Grand Lake, Colorado (hereinafter referred to as the “Property”); and

WHEREAS, the Town of Grand Lake (the “Town”) received a request for a variance (the “Application”) from the Applicants as required by Section 11-2-6 of the Grand Lake Municipal Code (the “Code”) which requires driveway grade not to exceed four percent (4%) in the first twenty-five feet (25’) nor to exceed ten percent (10%) thereafter; and

WHEREAS, the Applicants constructed a driveway in excess of four percent (4%) in the first twenty-five feet (25’) and in excess of ten percent (10%) thereafter (Exhibit A), which were not in the initial plans, but the contractor did not follow the plans; and

WHEREAS, a Public Hearing was properly noticed and all notices required by the Code were timely sent and the Town received no responses against the Applicants Application; and

WHEREAS, the Applicants submitted all appropriate fees and deposits and other code requirements as well as a letter explaining the hardships for considerations associated with the variance request; and,

WHEREAS, the Planning Commission has reviewed the Application pursuant to the standards set forth in the variance procedures of Town Code section 11-2-11(D)(1-5):

1. That by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these Regulations;
2. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these Regulations.
3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district;
5. That the granting of the variance does not pose a detriment to the public good and does not substantially impair the intent and purpose of the Zone Plan and these Regulations.

WHEREAS, the Planning Commission has reviewed the Application, considered Staff's recommendation as well as public comments and finds the elements required to approve a variance set forth above have been satisfied and the Application shall be recommended to the Grand Lake Board of Trustees for approval.

NOW THEREFORE BE IT RECOMMENDED BY THE PLANNING COMMISSION OF THE TOWN OF GRAND LAKE, COLORADO,

THAT, the Commission hereby forwards a favorable recommendation onto the Town Board of Trustees to grant the Application for a variance to driveway grade requirements required by Town Code Section 11-2-6 with the following recommended conditions of approval:

- 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

DULY MOVED, SECONDED AND ADOPTED BY THE PLANNING COMMISSION OF THE TOWN OF GRAND LAKE, COLORADO THIS 15TH DAY OF NOVEMBER, 2023.

(S E A L)

Votes Approving:
 Votes Opposed:
 Absent:
 Abstained:

ATTEST:

TOWN OF GRAND LAKE

Alayna Carrell
 Town Clerk

James Shockey
 Planning Commission Chairman

