



CITY COUNCIL WORK SESSION

448 E. 1st Street, Room 190 Salida, Colorado 81201

Monday, November 30, 2020 - 6:00 PM

AGENDA

Please register for the City Council Work Session

<https://attendee.gotowebinar.com/register/3339757082352927504>

After registering, you will receive a confirmation email containing information about joining the webinar.

To watch live meetings: https://c.streamhoster.com/embed/media/W6sdC9/xAllQfSsmm0/vpfQhcsApYv_5?preview=1

DISCUSSION ITEMS

1. Joint Planning Work Session
 - CCCF Adaptive Housing PD Conceptual Review
 - Holman Court PD and Subdivision Conceptual Review
2. Dark Sky Presentation
3. Chaffee Recreation Plan Update
4. Campaign Finance Ordinance 2020-12 Discussion



CITY COUNCIL WORK SESSION MEMO

MEETING DATE: November 30th, 2020

AGENDA ITEM: Joint Work Session/Conceptual Review with Planning Commission:
Chaffee County Community Foundation Adaptive Housing Planned
Development Proposal

FROM: Bill Almquist, Planner

DISCUSSION:

Planned Developments are Major Impact Reviews and require conceptual review with City Council and Planning Commission members, a public hearing and recommendation by the Planning Commission, and a final decision by City Council.

The Chaffee County Community Foundation and the Chaffee Housing Authority are proposing a mixed-use development at the corner of Highway 291 and W. Third Street. The development would consist of 4 “adaptive” apartments, 4 studio apartments, and 10 one-bedroom apartments, along with nonprofit and community space—all located within four separate buildings. The “adaptive” apartments would each contain between 4-8 beds, a full kitchen, and a bathroom.

The subject property constitutes .46 acres and is located within the Commercial (C-1) zone district with the Hwy 291 Established Commercial overlay. The PD is requested for deviations to allowable density and required parking. Given the lot area, a total of up to 7 dwelling units would be allowed on the site (8 if Inclusionary Housing Requirements were applied). The development proposes a total of 18 units of varying sizes and forms. Given the makeup of commercial space, multi-family dwellings, etc., a minimum of 22 parking spaces would generally be required by code. The development proposes 13 parking spaces. No other deviations from what is allowed by code have been identified at this point.

Access onto Highway 291 will require approval from CDOT. According to the applicant, CDOT would prefer a shared access with the neighboring business to the west, but access would likely be granted regardless, albeit perhaps with the resulting reduction of one of the proposed parking spaces.

The applicant has provided an information packet with additional information (including draft site plan and elevations) for your review. Staff would appreciate the input of City Council and Planning Commission on the proposed project. Thank you.

Attachment

Information Packet for Proposed Housing Project – CCCF and Chaffee Housing Authority



Salida Housing Project



November, 2020

Dear City Council members & Planning Commissioners,

It is with great enthusiasm that we submit this innovative and community-focused project for your consideration during your joint work session. As you can see from our included materials, this project is focused on meeting local housing needs using local funding. You'll see the term 'adaptable' often throughout the development concept documents. We have started using this term very intentionally to refer to that goal of the project – to be financed and designed in such a way to continually adapt to meet evolving housing and community needs.

The population we are aiming to serve span the housing needs continuum from less than 30% of Area Median Income (AMI) to 120% of AMI, with a target average AMI of 80% or less. However, key to this concept is the ability ensure rents are maintained at 30% of the tenant's income, rather than a set AMI limit. Examples of tenants we are actively cultivating are Americorps volunteers, nonprofit clients, employees of nearby businesses like Heart of the Rockies Regional Medical Center and Pure Greens.

In addition to our short prepared presentation which we will share in the meeting with you, we wanted to provide the attached documents to ensure deeper context around the various aspects of this development. We plan to focus on community engagement, and elevate the sense of community ownership throughout this process (see community engagement overview attached)

Enclosed:

- Community engagement strategy overview
- Planned Development initial code analysis including Commercial District Overlay, parking requirements, and how this development jives with the current C-1 Zoning of the property.
- A detailed schedule of comparison between the existing C-1 Zoning and our proposed development
- 8.5x11" version of the site plan
- 8.5x11" isometric view
- 8.5x11" North elevation
- Concept overview
- Summary of development & operational pro-forma summary

Thank you for your leadership in the Salida and Chaffee community, and thank you for your consideration of this Planned Development.

Sincerely,

Joseph Teipel
Executive Director
Chaffee County Community Foundation
joseph@chaffeecommunity.org
(719) 204-5071

Robert Grether
Architect
bkgrether@outlook.com
(719) 530-1788

Becky Gray
Director
Chaffee Housing Authority
bgray@chaffeecounty.org
(719) 530-2590





Salida Housing Project

Chaffee County
Community Foundation

Community Engagement Strategy Summary

Given the key partners involved already in this project, as well as the explicit goal of being as community controlled as possible, community engagement is the primary method of refining and finalizing this development concept. This engagement seeks to make partners of a variety of different sorts. Broadly speaking, we are developing partners in the following ways.

Jane Whitmer's Legacy & Community Impact Partners

- CHA and CCCF are convening stakeholders like Family and Youth Initiatives, as well as close friends and family of Jane Whitmer on December 2nd to dive into the topic of how the naming of this project and its component parts and buildings can elevate Jane's legacy, love of community, and of service to families and youth.
- A small group of committed community members and donors will be working to co-design the capital campaign together with CCCF and CHA while ensuring alignment with Jane's legacy, community needs, and project intent.

Nonprofit Partners

- Already CHA and CCCF have convened more than 15 nonprofit organizations around this development concept to learn how the housing and commercial aspects of this property can serve their needs and the needs of their clients.
- These nonprofits are co-creating and co-designing a co-working and incubation space in the commercial building that will serve to strengthen the capacity of the nonprofit sector in Chaffee as a whole.

Employer Partners

- Already CHA and CCCF have presented to more than 8 Chaffee employers representing well over 10% of all Chaffee's workforce about this concept and how it could serve their employees.
- CHA and CCCF are co-designing ways with these employers that they can participate financially in this project in order to ensure the housing built serves the workforce most in need.

Neighbor Partners

- CHA and CCCF have already made an initial attempt to connect with adjacent neighbors and will continue this effort throughout the 4th quarter of 2020. Initial responses have been overwhelmingly positive.
- Weekly 45-minute 'check-in' Zoom calls will be started in January where any community member can join to learn about the project intent and status.



Adaptive Housing at Grand Ave; Considerations for the Planned Development

The “purpose of a planned development (PD) is to encourage innovation and flexibility in the development of land so as to promote variety in the type, design and layout of buildings; improve the integration, character and quality of land uses; promote the more efficient use of land and infrastructure while achieving compatibility of land uses; achieve economy in the delivery and maintenance of public services, and promote the preservation of open space and natural and scenic areas.¹”

This proposed project is aligned with the purpose and objectives of the City of Salida’s Inclusionary Housing policies, and should be treated as an inclusionary housing development².

Ownership and Maintenance: This Planned Development is a collaboration between the Chaffee County Community Foundation (CCCF) and the Chaffee Housing Authority (CHA) and will result in a unique housing project that will ultimately be the catalyst for future projects. CCCF will maintain ownership of the land, and CHA will own and manage the buildings on the land using a ground lease model. The ground lease payments will be held by CCCF to be used for future property or project acquisition. The CHA will be responsible for property management, including both tenant management and grounds maintenance.

Density: The land use zone underlying this planned development is C-1, which would allow for seven (7) housing units. The proposed development includes eighteen (18) housing units, and a 1,375 square foot commercial building, in four (4) one and two-story buildings, which are consistent with the scale of other buildings in the surrounding neighborhood. The proposed development covers only 42% of the lot, which is significantly lower than the allowable 60%. The housing types vary, and include studio, one, and two-bedroom units.

Parking: The proposed housing project includes a total of 13 parking stalls, dedicated space for secure bicycle storage, and will be included in future Chaffee Shuttle routes. Following the requirements for inclusionary housing, this development would be required to have one parking space per unit, for a total of eighteen (18) residential parking spaces. The commercial building will be a community building, requiring four (4) spaces, for a total of twenty-two (22) parking spaces. However, this project proposes 13 spaces as sufficient based on the following factors:

- The anticipated tenants for this development include many factions that often do not have vehicles, including the Southwest Conservation Corp, Americorps Volunteers, and

¹ Sec. 16-7-10. - Purpose and objectives.

² Sec. 16-13-10. - Purpose and objectives.

other seasonal workers. Due to the demographics of the tenants, and historical experiences with these groups, fewer parking spaces are necessary.

- The parking lot is shared parking; residential users will use their cars to go to work during the day, making spaces available for the commercial use which will need the parking primarily during that time.
- The project includes covered bicycle storage for ten (10) bicycles along with four storage units that would accommodate another four (4) bicycles, for a total of fourteen (14).
- The project is located in an area that is highly walkable, adjacent to the trail network, and approximately one-half mile from the services and amenities located downtown.
- Chaffee Shuttle has expressed interest in including a shuttle stop on the property or an adjacent street, further mitigating the need for parking.

State Highway 291 Overlay: Given the location, this project falls under the requirements for Established Commercial and is surrounded on all sides by C-1 zoning. The following is an analysis of this project's compliance with the SH 291 Overlay for Commercial.

This project does meet the setback requirements of C-1 zoning required by the Overlay, subject to interpretation of its 3rd Street frontage as a side yard setback.

The project does not meet the parking standard of Section 16-8-80 but does provide for shared parking as recommended in the Overlay, and as outlined above.

The project will require CDOT approval for access from SH 291 into the parking lot, and the proposed access point is as far away as possible from the intersection with 3rd Street. CDOT may require access to be shared with the property to the West if the property owner is willing to cooperate. It is not feasible to access the parcel from 3rd Street, given the frontage of only forty-one (41) feet; any driveway on 3rd street would be too close to the intersection to be considered safe. Access off of 3rd street would also preclude having a corner building which is consistent with a positive initial entry image envisioned by the Overlay District.

The project will meet the Architectural Standards requiring two materials for the exteriors.

The uses of the commercial building will comply with Table 16-D.

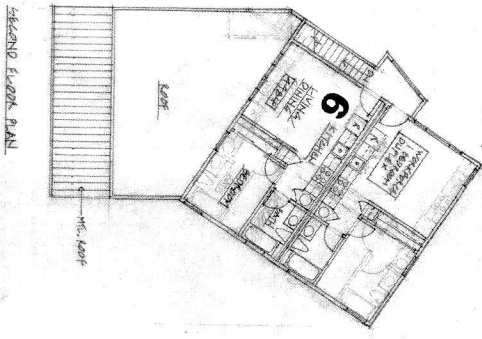
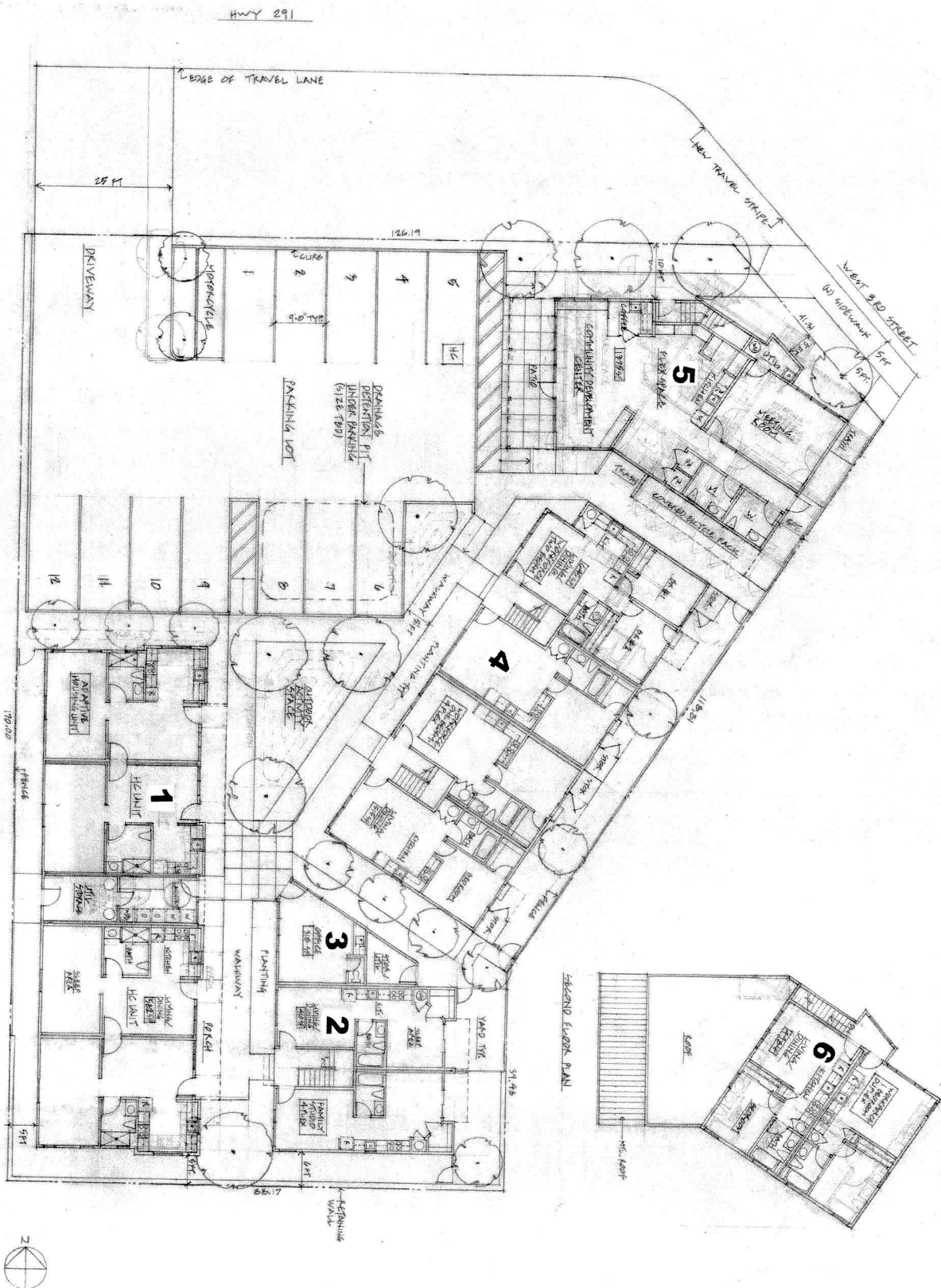
Landscaping: The proposed project provides for 23% of the property to be landscaped, which is more than double the requirement in the C-1 zone, which is at 10%. The 23% landscaping coverage does not include the pathways which make up another 10% of the property and provide the important pedestrian environment. The landscaping features a central open space through the middle of the project with benches and a small outdoor activity area. In addition, the project proposes twenty-one (21) trees, which is nearly three times as many as required by

the code at one tree for every 300 square feet of the required 10% landscape area, which would be 7 trees.

Drainage: The Crabtree Group, Inc. has reviewed the site plan and indicated that the drainage can be best handled by providing a detention pit under the parking lot which is the low point on the property. The design is only conceptual at this point and would require final engineering.

Code Analysis of Proposed Planned Development

	C-1 Zoning		Planned Development	Differences		Highway 291 Overlay	Planned Development	Differences	
	Allowed	Required	Proposed	Over	Under	Commercial	Proposed	Over	Under
Minumum Lot Size		5,625	19,820	14,195					
Density: Minimum square foot per unit		2,800	1,101		1,699				
Minimum lot frontage		37.5	126.19	88.69					
Maximum lot coverage	60%		42%		18%				
Maximum lot coverage, including parking	90%		67%		23%				
Minimum landscape areas (excluding pathways)		10%	23%	13%					
Minimum side setback		5	Varies, 5 minum		Varies	5	Varies, 5 minum		Varies
Minimum rear setback		5	6	1		5	6	1	
Minimum front setback		10	10	0	0	10	10	0	
Maximum building height	35		25		10				
Parking		18 (IH)	13, active transportation			5 Shared access encouraged	shared parking with commercial		
Highway Access						Per CDOT access			
Pedestrian Access						5' sidewalk			
						4' parkway			
Exterior Materials						2 or more materials			
Multifamily Housing						Conditional Use			



SITE PLAN
1/8" = 1'-0"

SECOND LOOK PLAN



REV	DATE	DESCRIPTION
1	11-12-20	11-12-20
2	11-12-20	11-12-20
3	11-12-20	11-12-20
4	11-12-20	11-12-20
5	11-12-20	11-12-20
6	11-12-20	11-12-20
7	11-12-20	11-12-20
8	11-12-20	11-12-20
9	11-12-20	11-12-20
10	11-12-20	11-12-20
11	11-12-20	11-12-20
12	11-12-20	11-12-20

SALIDA HOUSING PROJECT

TITLE:
SITE PLAN &
FLOOR PLANS

DATE: 11-12-20

PROJECT: SALIDA HOUSING PROJECT

PROJECT NO: 2020-001

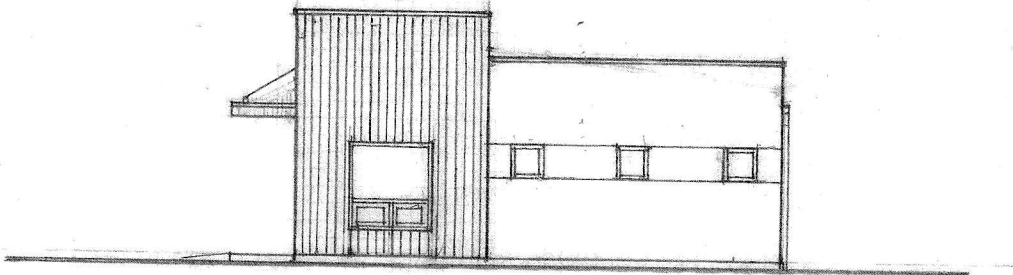
PROJECT ADDRESS: 502 OURAY AVENUE, SALIDA, CO 81201

PROJECT OWNER: SALIDA HOUSING PROJECT

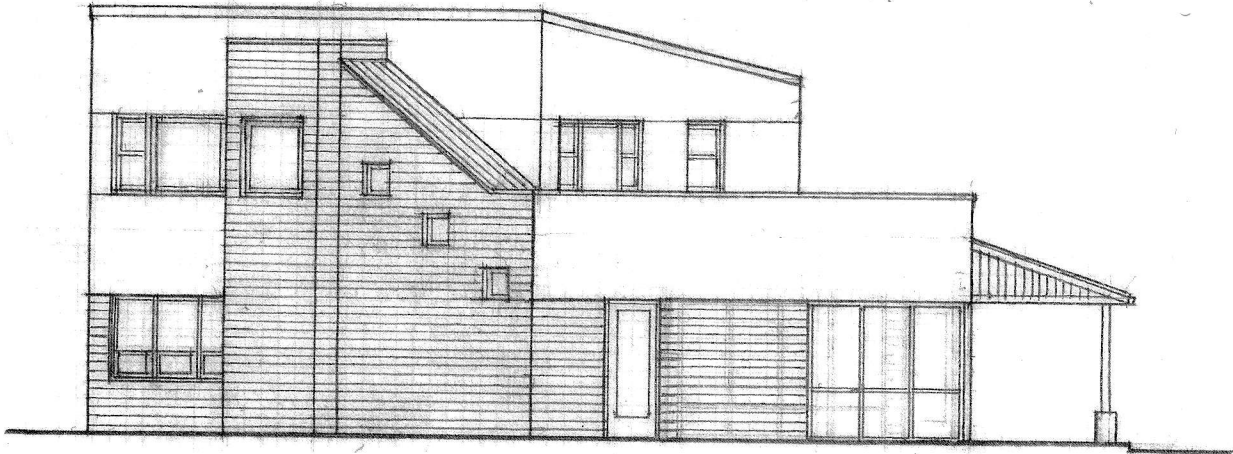
PROJECT ARCHITECT: ROBERT GRETHER ARCHITECT

PROJECT ENGINEER: BKGRETH@OUTLOOK.COM

ROBERT GRETHER ARCHITECT
502 OURAY AVENUE, SALIDA, CO 81201
CELL: 719-530-1788
EMAIL: BKGRETH@OUTLOOK.COM



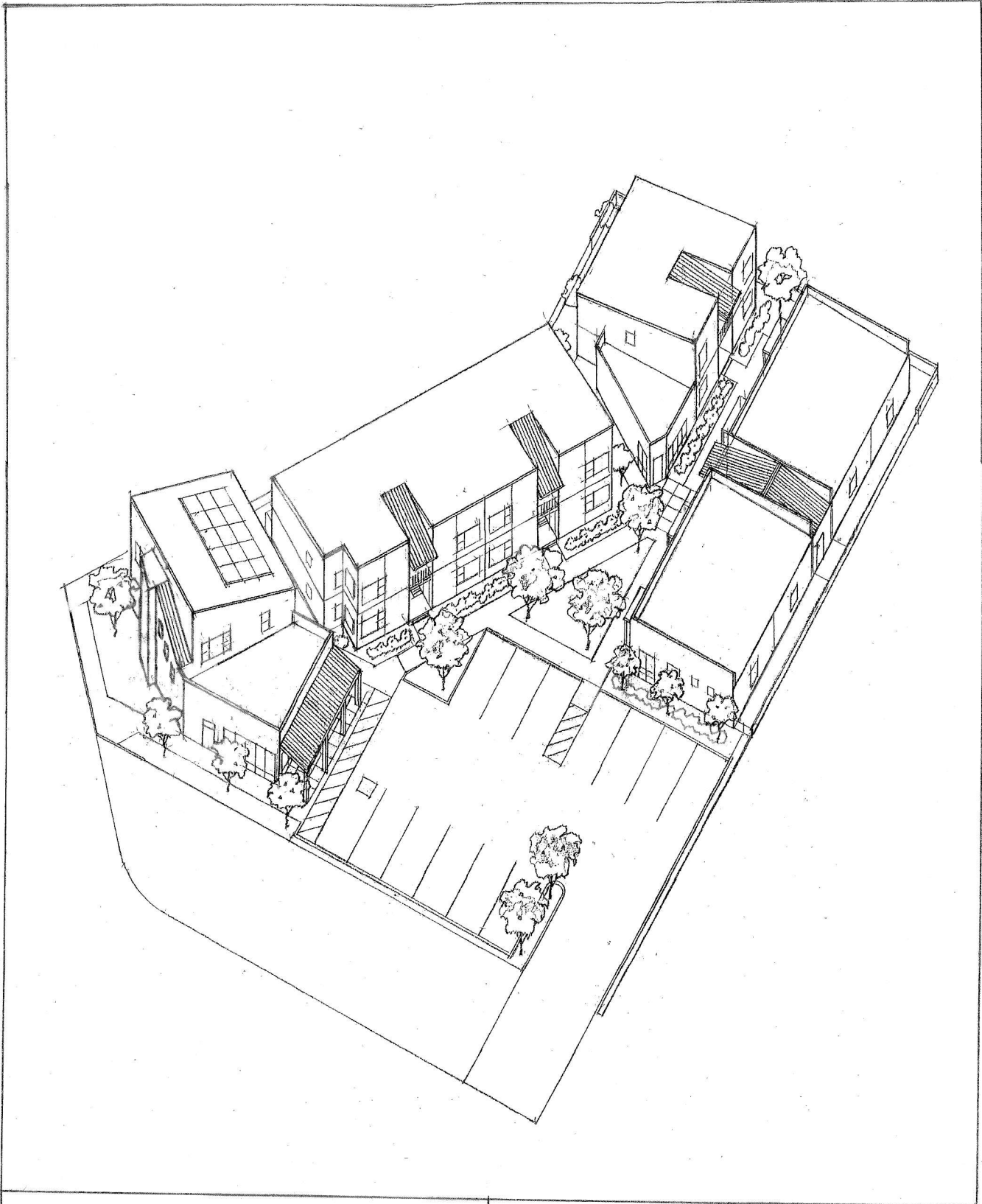
NORTH ELEVATION ADAPTIVE UNITS



NORTH ELEVATION COMMERCIAL BUILDING

SALIDA HOUSING PROJECT

ROBERT GREETHER, ARCHITECT
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SALIDA HOUSING PROJECT

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The Jane Whitmer Legacy at Grand Ave

A collaborative development between the Chaffee County Community Foundation and the Chaffee Housing Authority



The Vision

Chaffee County is a special place built around an incredible landscape and close-knit community. Yet our valley faces myriad challenges, and principal among these challenges is access to housing for the diverse and growing workforce, families, and individuals who strive to call this place home. The Chaffee County Community Foundation (CCCF) together with the Chaffee Housing Authority (CHA) propose an innovative adaptive housing project near the heart of downtown Salida at the intersection of 3rd & Highway 291.

At a Glance



Total cost	\$3,393,185
Acquisition & Due Dil.....	\$279,900
Soft Costs & Project Mgt.....	\$461,303
Contingencies & Reserves.....	\$356,254
Hard Costs.....	\$2,295,728

Sources	\$3,393,185
Grants.....	\$505,000
Campaign.....	\$300,000
Employer Contributions....	\$300,000
Debt.....	\$2,288,185



What is 'adaptive' housing??

Adaptive housing is designed to meet the local needs of real people in Chaffee. Flexibility and diversity of options is key. Building bunk-style apartments alongside small studio & 1-bedrooms allows the project to adapt to the community's needs over time.

- 4 Adaptive apartments each with four to eight beds, full kitchen, and bathroom. For nightly or seasonal needs.
- 4 Studio apartments. Safe, short-term space for families or individuals in transition.
- 8, one-bed, and 2, two-bed apartments. For Chaffee employers' and their employees' needs.
- Nonprofit & community space. Job training, social enterprise, community building, meeting & co-working.

	<u>Year 1</u>	<u>Year 5</u>	<u>Year 10</u>
Gross Revenue	\$256,455	\$293,345	\$307,683
Operating Expenses	(\$105,650)	(\$121,400)	(\$141,754)
Debt Service	(\$131,090)	(\$131,090)	(\$131,090)
Debt Coverage	1.15	1.20	1.27



The Jane Whitmer Legacy at Grand Ave

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The Jane Whitmer Legacy

This property development will not only serve diverse and acute community needs, it also incorporates the vision and passions of Jane Whitmer, and will memorialize her legacy. Before Jane passed away in mid-2019, she had envisioned a development much like this on this very same property, which she owned with her husband, Ron Ferris. Jane's spirit, love, and deep legacy of care for children and families will live on through bringing her dream to fruition.

The Partners

The following local partners are supporting, funding, or will be actively participating in the programming of this development. This list is constantly growing and evolving - add your name to the list!

- Robert Grether, architect
- John Diesslin
- Molly Grether Fund
- The Don & Pam Dubin Charitable Fund
- Ron Ferris
- The Colorado Health Foundation
- Chaffee County Hospitality INC
- CO Housing & Finance Authority

The Leaders



The Chaffee County Community Foundation (CCCF) is an independent 501c3 nonprofit who acts as a catalyst to inspire positive change through the power of philanthropy to enrich the lives of all people in Chaffee County. As a community foundation, CCCF seeks to aggregate and streamline financial resources to leverage for the common good.

- ✓ **Land acquisition & Ownership**
- ✓ **Partnership Development**
- ✓ **Philanthropic fundraising & planning**



The Chaffee Housing Authority (CHA) was formed October, 2020, as a multi-jurisdictional entity governed by an appointed board with representatives from the County, City of Salida, and Town of Buena Vista. CHA is dedicated to addressing affordable and attainable housing for all of Chaffee County residents.

- ✓ **Housing owner & manager**
- ✓ **Planning leader & pre-development**
- ✓ **Entitlement & municipal liaison**



The Jane Whitmer Legacy at Grand Ave

A collaborative development between the Chaffee County Community Foundation and the Chaffee Housing Authority



Item 1.

The Funding

This development will be paid for using a blended capital stack that will mix philanthropy (donations and grants), state Department of Housing loans, and traditional debt.

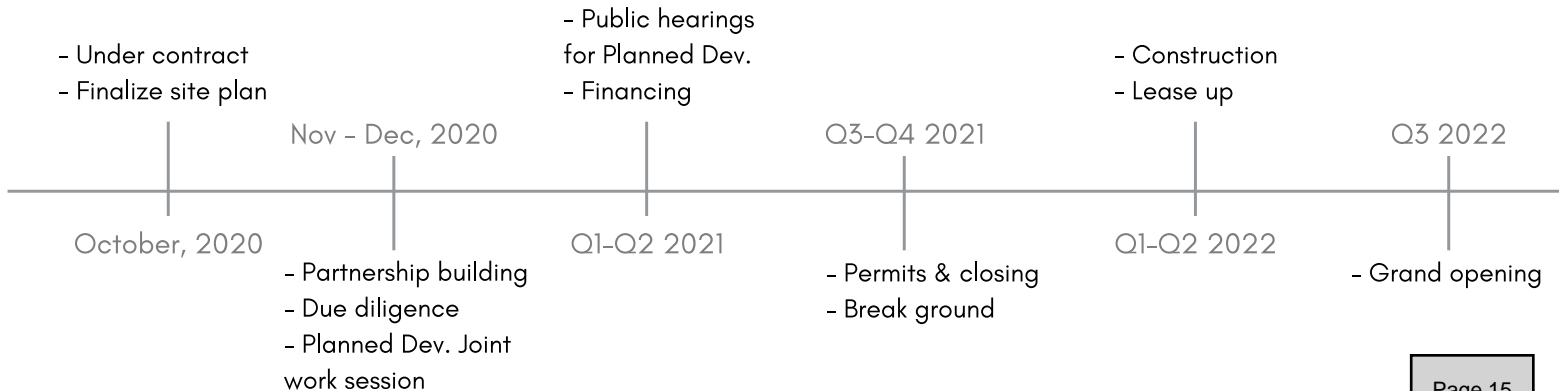
The following guiding principles will, to the extent possible, determine the ideal mix of funding sources:

1. Leverage to the greatest extent **philanthropic sources** in order to ensure maximum flexibility and financial sustainability of the project in the long term.
2. Choose local sources of funding wherever possible in order to **maximize local control**, of both construction and programming of the housing and commercial components. This local control will allow the project to adapt over time to evolving local needs.

	DOLA – Division of Housing		Local Employer
Funding Amount	\$15,000 per unit	\$20-30,000/unit	\$30,000 or Master Lease
Tenant Income Requirement	Can earn up to \$30,000	Can earn up to \$15,000	No income requirement
Tenant Selection Criteria	First come, first served	First come, first served	Employees of contributing employer have priority on waiting list
Rent Limits	Studio = \$536.00 1 BR = \$722.00	Studio = \$375.00 1 BR = \$401.00	Rents held at 30% of tenant income

While many state and federal resources exist for funding affordable housing, the **tradeoff** is that the resulting development **lacks flexibility** and must comply with rigid tenant eligibility requirements, income limits, and rent limits. This project seeks to ensure the housing that is built can adapt over time to **serve Salida and Chaffee**, and not be limited by state or federal requirements.

The Timing



Adaptive Housing at Grand Ave

Project Financial Summary

Item 1.

Development Budget

Acquisition & Due Diligence	279,900	Hard Cost per Unit*:	120,828
Soft Costs, Permitting, Fees	339,394	Total Cost per Unit*:	178,589
Project Management	121,909	Hard Cost per Total sq ft:	212
Hard Costs***	2,295,728	Total Cost per Total sq ft:	313
Contingencies	221,254		
FFE & Reserves	135,000		
	3,393,185		

Sources

Philanthropy	1,100,000	Philanthropy per Unit*:	57,895
Grants	500,000	Debt per Unit*:	120,431
Donation Campaign	300,000		
Employer Contributions	300,000		
Chaffee Housing Authority	5,000		
Permanent Debt	2,288,185	67%	
	3,393,185		

Annual Revenue

	Yr 1	Yr 5	Yr 10	Yr 15
Adaptive Units	60,000	65,199	68,386	75,504
Studios	36,000	39,120	41,032	45,302
1-Bedrooms	101,153	109,918	115,290	127,290
2-Bedrooms	32,400	35,208	36,928	40,772
Commercial	20,400	22,168	23,251	25,671
Utilities & Laundry	20,000	21,733	22,795	25,168
Gross Revenue**	256,455	293,345	307,683	339,707

Annual Expenses

Housing Management Personnel	33,450	37,648	43,645	50,596
Maintenance & CAM	31,200	35,116	40,709	47,193
Insurance	15,000	16,883	19,572	22,689
Ground Lease	20,000	25,000	30,000	35,000
Other/misc.	6,000	6,753	7,829	9,076
Operating Expenses	105,650	121,400	141,754	164,553

Debt Service	\$131,090	\$131,090	\$131,090	\$131,090
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Retained Earnings	19,715	26,188	34,839	44,064
Debt Coverage Ratio	1.15	1.20	1.27	1.34

* Commercial space is counted as a unit; laundry and management office are not counted as units

** Including 5% vacancy cost assumption

*** Construction estimates provided by Diesslin Structures Inc. on 10/20/20



CITY COUNCIL WORK SESSION MEMO

MEETING DATE: November 30th, 2020

AGENDA ITEM: Joint Work Session/Conceptual Review with Planning Commission:
“Holman Court” PD and Major Subdivision

FROM: Bill Almquist, Planner

DISCUSSION:

Planned Developments are Major Impact Reviews and require conceptual review with City Council and Planning Commission members, a public hearing and recommendation by the Planning Commission, and a final decision by City Council.

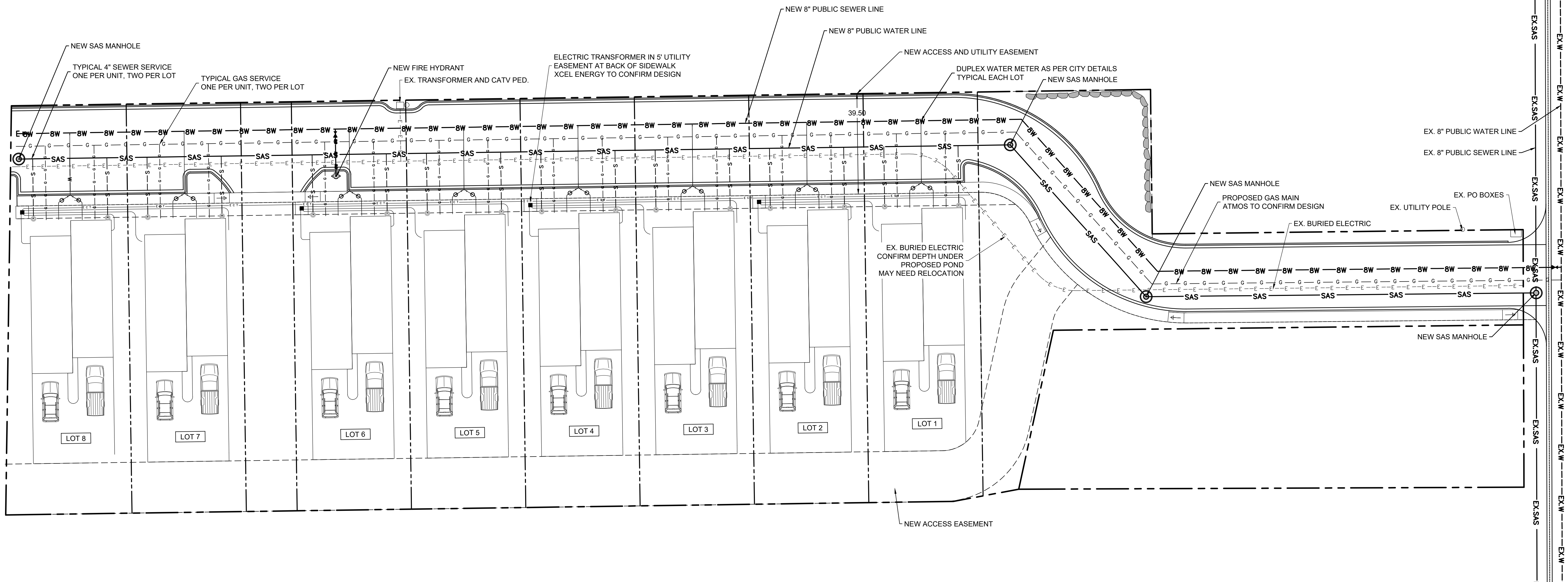
Holman Court LLC (David LaRoche and Mark Lee, Representatives) have submitted information regarding a proposed Planned Development and Major Subdivision located on a 1.72 ac. (74,780 SF) parcel just west of Holman Ave, between 1604 Holman Ave. and 1646 Holman Ave. The property is described as “Lot 2 of Ambrose Subdivision” and is zoned Medium-Density Residential (R-2).

The development, titled “Holman Court,” proposes a total of 16 units (8 duplexes) on 8 lots (each approx. 7,245 SF), along with two private tracts providing shared access to/through the development and also stormwater detention. All of the lots would include frontage on a private shared drive that also serves as access to the adjacent lot to the west (1642 Holman Ave), which is outside of city limits. The applicant intends to deed-restrict two of the units as affordable housing at or below 80% AMI. The development includes a Fire-approved turn-around towards the western edge, as well as a private alley behind the units. It appears that all dimensional and parking requirements can be met by the development, and the Planned Development is only required due to the proposal to front all lots off of the private drive (otherwise, only one unit could technically be allowed due to the length of frontage on Holman Ave).

The applicant has provided a site development plan for your review. Staff would appreciate the input of City Council and Planning Commission on the proposed project. Thank you.

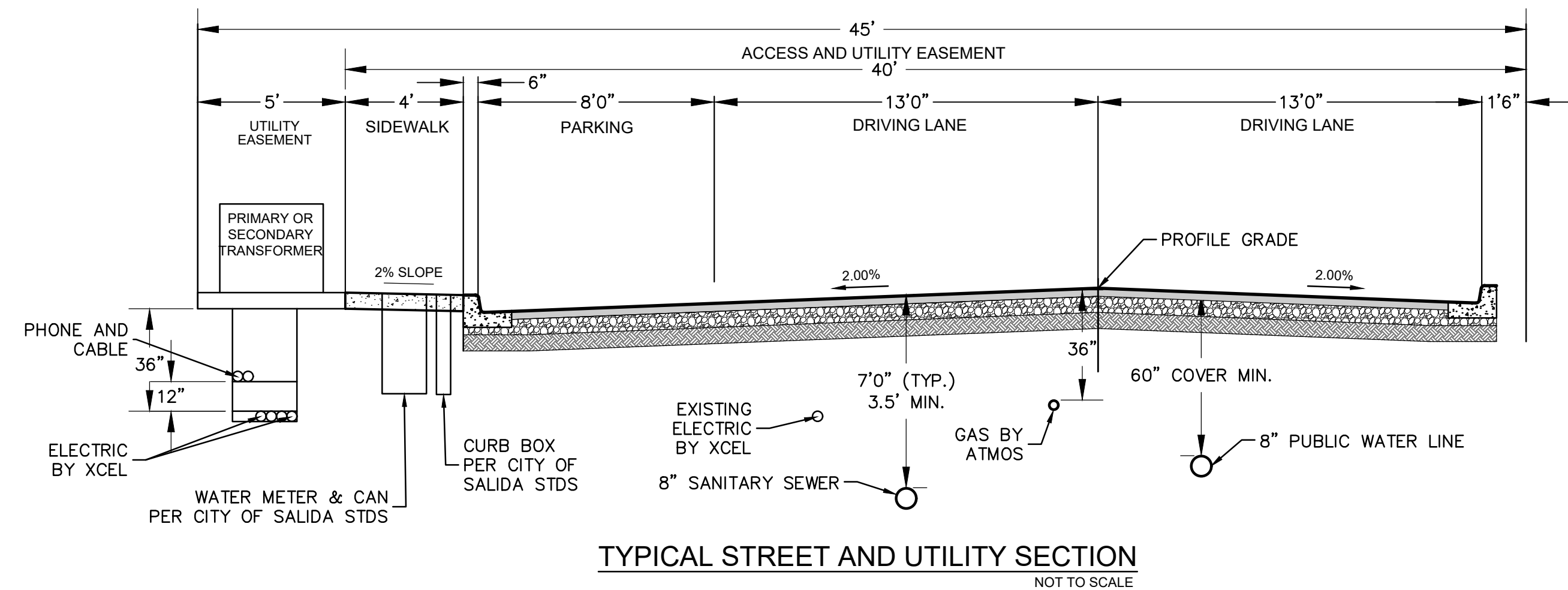
Attachment

Site Development Plan for Holman Court PD and Major Subdivision

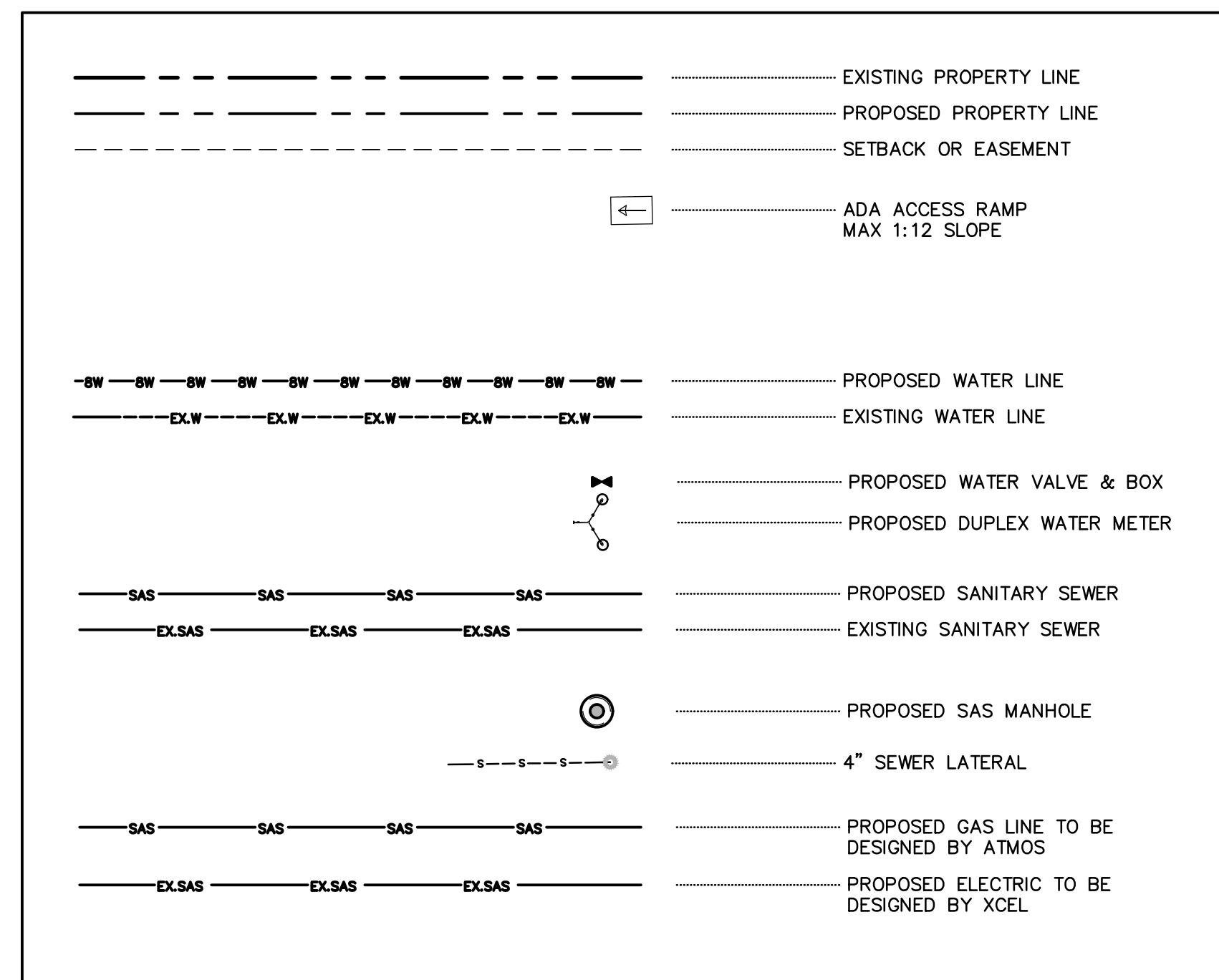


GENERAL NOTES

- 1. ALL METES AND BOUNDS ARE BASED ON THE MEASURED VALUES FROM THE AMBROSE PLAT, RECEPTION NUMBER 350696



LEGEND



RECORD DRAWINGS

THIS RECORD DOCUMENT HAS BEEN PREPARED BASED ON THE BEST AVAILABLE INFORMATION AS PROVIDED BY OTHERS. WALKER ENGINEERING CERTIFIES THAT THE INFORMATION SHOWN IS A REASONABLE DOCUMENTATION OF THE FINAL CONSTRUCTION.

MOREY E. WALKER, P.E. 32033 DATE

Civil Engineering • Water Resources • Traffic Engineering
W. E. Walker Engineering
 905 Camino Sierra Vista, Santa Fe, NM 87505
 505-820-7990
 FAX 505-820-3539
 E-MAIL: civil@walkerengineering.net

No.	REVISION	BY	APP.	DATE

PROJECT:	DESIGNED BY:	A.P.F.
FILE:	DRAWN BY:	A.P.F.
DATE:	CHECKED BY:	M.E.W.
SCALE:	AS NOTED	

HOLMAN AVENUE
SUBDIVISION
 DEVELOPMENT PLAN

DEPARTMENT	DATE	REVIEW
WATER		
P.W. ENGINEERING		
TRAFFIC		
FIRE DEPARTMENT		
SOLID WASTE		
LANDSCAPE		
TRAILS/OPEN SPACE		
SUBDIVISION REVIEW		

SHEET NO. **C2**



MEMORANDUM

DATE: 11/24/20
FROM: Parks and Recreation
TO: Salida City Council
SUBJECT: Chaffee County Recreation Plan

Background Information:

As the Envision Chaffee County work continues, the aspect specifically focused on recreation has developed a council to ensure action on the information learned through research and a community survey. Various taskforces have been established to address the findings of the survey. The initiative is being led by Cindy Williams, she has requested to update the Salida City Council.

Topics include:

1. Introduction - What is the Chaffee Rec Plan and who is involved?
2. Info from the Chaffee County Recreation survey and the report card that it generated - especially as it pertains to the cities (growth rate, feedback about how much town assets matter, and info on town budgets/#visitors).
3. Share draft objectives - with a focus on those that are most relevant to municipalities
4. Invite feedback/discussion
5. Agree on some next step/s

Recommendations:

N/A



MEMORANDUM

TO: Mayor P.T. Wood, Salida City Council

FROM: Geoffrey Wilson, Asst. City Attorney
CC: Nina P. Williams, City Attorney

DATE: November 30, 2020

RE: **Complaint and hearing process for election complaints**

Introduction

The attached draft ordinance creates a process for reviewing and conducting hearings on complaints alleging violation of the campaign finance laws in City elections.

Prior to 2019, complaints alleging violations of Art XXVIII of the Colorado Constitution or the State Fair Campaign Practices Act (FCPA) in municipal elections were filed with the Secretary of State. During its 2019 regular session, the Colorado General Assembly enacted SB19-232, which changed this process, providing instead that “any complaint arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the ...municipality.” (codified at C.R.S. 1-45-111.7(9)(b))

The passage of SB19-232 has resulted in municipalities across Colorado adopting local complaint procedures, in order to address campaign finance complaints that may arise in their local elections. Many of these ordinances adopt a procedure similar to that set forth by the General Assembly in SB19-232 for processing such complaints in State elections.

Proposed Code Amendment

The proposed amendment to the City Code is modeled after the complaint process set forth in SB19-232 for complaints filed with the State, as well as various municipal ordinances implementing local complaint processes in the wake of the State legislation. This complaint process will address alleged violations of the campaign finance laws; complaints alleging violations of other election codes governing City elections will be pursued under those Codes, and applicable City ordinances. The proposed ordinance includes the following elements:

- Creates a detailed process for filing a complaint in writing, followed by initial review by the municipal clerk.
- Authority of the clerk to dismiss the complaint, provide an opportunity to cure deficiencies in the complaint, or set the complaint for a hearing.
- A process for the conduct of a hearing by an independent hearing officer.
- Authority of the hearing officer to impose penalties of at least twice the amount contributed, received or spent unlawfully, a daily civil penalty for delinquent filings, as well as other penalties.

CITY OF SALIDA, COLORADO
ORDINANCE NO. 12
 (Series of 2020)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, CONCERNING ELECTIONS, AND CREATING A NEW SECTION 2-1-60 OF THE SALIDA MUNICIPAL CODE TO CREATE A PROCESS FOR ADDRESSING COMPLAINTS ALLEGING CAMPAIGN FINANCE LAW VIOLATIONS IN CITY ELECTIONS

WHEREAS, the City of Salida, Colorado (“City”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to its statutory authority, the City, acting through its City Council (“Council”), is authorized to enact and update City ordinances as necessary to provide a process for addressing complaints alleging violation of campaign finance laws in municipal elections, and

WHEREAS, in its 2019 Regular Session, the Colorado General Assembly adopted SB19-232, which provides, among other things, that “any complaint arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the ...municipality”; and

WHEREAS, the 2019 legislation necessitates creation of a process by which the City may address complaints alleging violations of the campaign finance laws applicable in City elections, which update also presents an opportunity to clarify which laws govern City elections; and

WHEREAS, the City Council therefore now desires to amend the Salida Municipal Code to add a new section to Chapter 2, Article I, concerning Elections, entitled “Enforcement of third-party complaints” to create such a process and to comply with State law.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO:

Section 1. The City Council incorporates the foregoing recitals as conclusions, facts, determinations and findings by the City Council.

Section 2. A new Section 2-1-60 is hereby created and added to Chapter 2, Article I of the Salida Municipal Code, concerning Elections, to read as follows:

Sec. 2-1-60. – Enforcement of third-party complaints.

- (a) Any person who believes a violation of Article XXVIII of the Colorado Constitution, or the Fair Campaign Practices Act (Section 1-45-101 et seq., C.R.S.), as amended by this Code, has occurred related to a City election may file a written complaint with the City Clerk.

- (b) Complaints must be filed no later than ninety (90) calendar days after the complainant knew or should have known by the exercise of reasonable diligence of the alleged violation.
- (c) A written complaint filed with the City Clerk shall include the City Clerk's complaint cover sheet which must include the following information:
 - (1) The name, address, e-mail address, telephone number and signature of the complainant (if the complainant is represented by counsel, include the counsel's name, address, e-mail address, telephone number and signature along with the name, address, e-mail address, telephone number and signature of the complainant);
 - (2) The name and, if known, the telephone number and address of the respondent(s) (or each person alleged to have committed a violation);
 - (3) The particulars of the violation; and
 - (4) Optionally, documentation or other evidence supporting the allegation.
- (d) If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date if a complete copy is received within three (3) business days of notification from the City Clerk that the complaint was incomplete.
- (e) A complaint may be submitted by fax or electronic mail if a signed original is received by the City Clerk no later than three (3) business days thereafter.
- (f) Initial Review.
 - (1) The City Clerk will review the complaint to determine:
 - a. Whether the complaint was timely filed; and
 - b. Whether the complainant has specifically identified one or more violations of Article XXVIII of the Colorado Constitution OR the Fair Campaign Practices Act (Section 1-45-101 et seq., C.R.S.), as amended, or any rules adopted and promulgated by the City Clerk concerning campaign and political finance.
 - (2) Within ten (10) business days of receiving the complaint, the City Clerk must take one (1) or more of the following actions:
 - a. If the City Clerk determines that the complaint was not timely filed, or has not specifically identified one (1) or more violations of Article XXVIII of the Colorado Constitution OR the Fair Campaign Practices Act (Section 1-45-101 et seq., C.R.S.), as amended, the City Clerk will dismiss the complaint and notify the complainant and

respondent of the reasons for dismissal. The City Clerk's dismissal is a final decision, and subject to review under Rule 106, C.R.C.P.

- b. If the City Clerk determines that the complaint alleges one (1) or more curable violations as described in subsection (g), the City Clerk will notify the respondent(s) and provide an opportunity to cure as described in Subsection (g).
- c. If the City Clerk determines that the complaint alleges (1) one or more violations, and that the asserted violations may not be curable as described in Subsection (g), the City Clerk will take the actions set forth in Subsection (h).

(g) Curing violations.

- (1) Upon the City Clerk's determination that a complaint alleges a failure to file or otherwise disclose required information, or other curable violation of an obligation under Article XXVIII of the Colorado Constitution or the Fair Campaign Practices Act (C.R.S. 1-45-101 et seq.), the City Clerk will notify the respondent(s) by email, or by United States mail if email is unavailable, of the curable deficiencies alleged in the complaint.
- (2) Respondents shall have ten (10) business days from the date the notice is mailed to file an amendment to the relevant report or reports that cures any deficiencies specified in the notice.
- (3) After the period for cure, the City Clerk will determine, within five (5) business days, whether the respondent(s) cured the violation(s).
 - a. If the Clerk determines that respondent cured the violations, the Clerk shall dismiss the complaint and notify complainant and respondent of such dismissal.
 - b. If the Clerk determines that respondent failed to cure the violation, the clerk shall notify respondent of such determination, together with the fine or other penalty imposed.
 - c. The respondent shall have ten (10) business days from the date of the Clerk's notice of determination to either pay the fine and accept any penalty imposed or contest the violation by submitting to the Clerk a request for a hearing.
- (h) Upon receipt of a request for a hearing under subsection (g)(3)c., or upon the Clerk's determination that the complaint falls under subsection (f)(2)c., the City Clerk shall notify the City Administrator of the complaint, and the City Administrator, in consultation with the City Clerk and the City Attorney, shall refer the complaint to an independent hearing officer to hear and determine such complaint.

- (i) An informal hearing shall be scheduled as soon as practicable with due regard for the convenience and necessity of the parties but, unless an enlargement of time is granted as set forth in subsection (k), the hearing shall be held within fifteen (15) calendar days of referral of the complaint to the hearing officer.
- (j) Notice of the hearing and any applicable rules governing the hearing process shall be sent to the complainant and to the respondent(s), who shall also receive a copy of the entire complaint received by the City Clerk, within two (2) business days of the date of referral of the complete complaint to the hearing officer and may be delivered by electronic mail, or by United States mail if email is unavailable to the address of the complainant shown on the complaint form and to the respondent(s).
- (k) Upon written motion, the hearing officer may grant the subject of the complaint a continuance of the hearing of up to thirty (30) calendar days upon a showing of good cause.
- (l) Upon the request of either party, the hearing officer may issue an administrative subpoena requiring the attendance of a witness or party in relation to an alleged campaign finance violation, which shall be served on the party to whom it is directed by the requesting party pursuant to Rule 4 of the Colorado Rules of Civil Procedure. It shall be unlawful for a witness or party to fail to comply with such subpoena, and any person convicted of a violation hereof shall be punished in accordance with Chapter 1, Article IV of this Code, provided, however, that the municipal judge shall not have authority to impose any form of imprisonment for the same.
- (m) The hearing shall be electronically audibly recorded and held in substantial accordance with the provisions of Section 24-4-105, C.R.S., or such other rules as the City Clerk may have promulgated. The hearing may be held virtually, in the discretion of the hearing officer. At the hearing, the complainant and the respondent(s) shall be present and, in accordance with Section 24-4-105(7), C.R.S., the complainant shall have the burden of proof in similar manner as the proponent of an order.
- (n) Following hearing, the hearing officer shall issue a decision within seven (7) business days. The decision may be issued orally at the conclusion of the hearing or may be issued in writing, at the discretion of the hearing officer.
- (o) If the hearing officer determines after a hearing that a violation has occurred, the hearing officer's decision shall include any appropriate order, sanction or relief authorized hereunder and may include, without limitation, sanctions as follows:
 - (1) Impose a civil penalty of at least double and up to five (5) times the amount contributed, received or spent in violation of any contribution prohibition or limitation or in violation of a contribution reporting requirement.

- (2) Impose a civil penalty of twenty-five dollars (\$25.00) per day for each day that a statement or other information required to be filed pursuant to Article XXVIII of the Colorado Constitution or the Fair Campaign Practices Act (Section 1-45-101, et seq., C.R.S.), as amended by this Code, is not filed by the close of business on the day due.
- (3) Order disclosure of the source and amount of any undisclosed contributions or expenditures.
- (4) Order the return to the donor of any contribution made which was the subject of the violation.
- (p) The hearing officer's determination under subsections (n) and (o) is a final decision subject to review under Rule 106, C.R.C.P.
- (q) Candidates shall be personally liable for penalties imposed upon the candidate's committee.
- (r) Civil penalties may be collected in the similar manner as a municipal court judgment under this Code, including the use of a private collection agency.
- (s) In no event shall the City take any action, including referring the penalty debt to a collection agency as contemplated by subsection (r), but not including action of the collection agency, to collect civil penalties assessed hereunder after the date that is more than one (1) year from the date that the filing was due.
- (t) A party in any action brought pursuant to this Section shall be entitled to recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, if the hearing officer finds any of the following:
 - (1) The action, or any part thereof, lacked substantial justification;
 - (2) The action, or any part thereof, was interposed for delay or harassment; or
 - (3) That an attorney or party unnecessarily expanded the proceeding by other improper conduct, including but not limited to abuses of discovery procedures authorized by this Section.

Notwithstanding any other provision of this subsection, no attorney fees shall be awarded unless the hearing officer has first considered the provisions of Sections 13-17-102(5) and (6), C.R.S. As used herein, *lacked substantial justification* means substantially frivolous, substantially groundless or substantially vexatious.

Section 3. The provisions of this ordinance are severable and the invalidity of any section, phrase, clause or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING, on December 1, 2020, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation by the City Council on this ____ day of _____, 2020 and set for second reading and public hearing on the 15th day of December, 2020.

INTRODUCED ON SECOND READING FINALLY ADOPTED and ORDERED PUBLISHED IN FULL BY TITLE ONLY by the City Council on this 15th day of December, 2020.

City of Salida

Mayor P.T. Wood

ATTEST:

City Clerk/Deputy City Clerk