

**AGENDA
OURAY CITY COUNCIL**

Tuesday, October 29, 2024 - 4:00 PM

Ouray Community Center, 320 6th Ave, Ouray, CO 81427

VIRTUAL OPTION - <https://zoom.us/j/8309524079>

Meeting ID: 830 9524 079 Passcode: 43112 Or dial: +1 346 248 7799

Ouray Planning Commission Special Meeting

- Changes to this agenda can be found on the bulletin board at City Hall
- Electronic copies of the Planning Commission Packet are available on the City website at www.cityofouray.com. A hard copy of the Packet is also available at the Administrative Office for interested citizens.
- Notice is hereby given that a majority or quorum of the City Council, Ouray Economic Development Committee, Beautification Committee, Tourism Advisory Committee, and/or Parks and Recreation Committee may be present at the above noticed Planning Commission meeting to discuss any or all of the matters on the agenda below for Council consideration

1. ADMINISTRATIVE

1.a. Call to Order

1.b. Roll Call

2. PUBLIC HEARING

2.a. Ouray Waterview Homes PUD Final Plat Application

Name of Applicant/Owner: Ouray Homes, LLC

Project Name: Ouray Waterview Homes

Project Type: Planned Unit Development (PUD)

Address: 251 Uncompahgre Street, Ouray, Colorado 81427

Parcel #: 451725113002

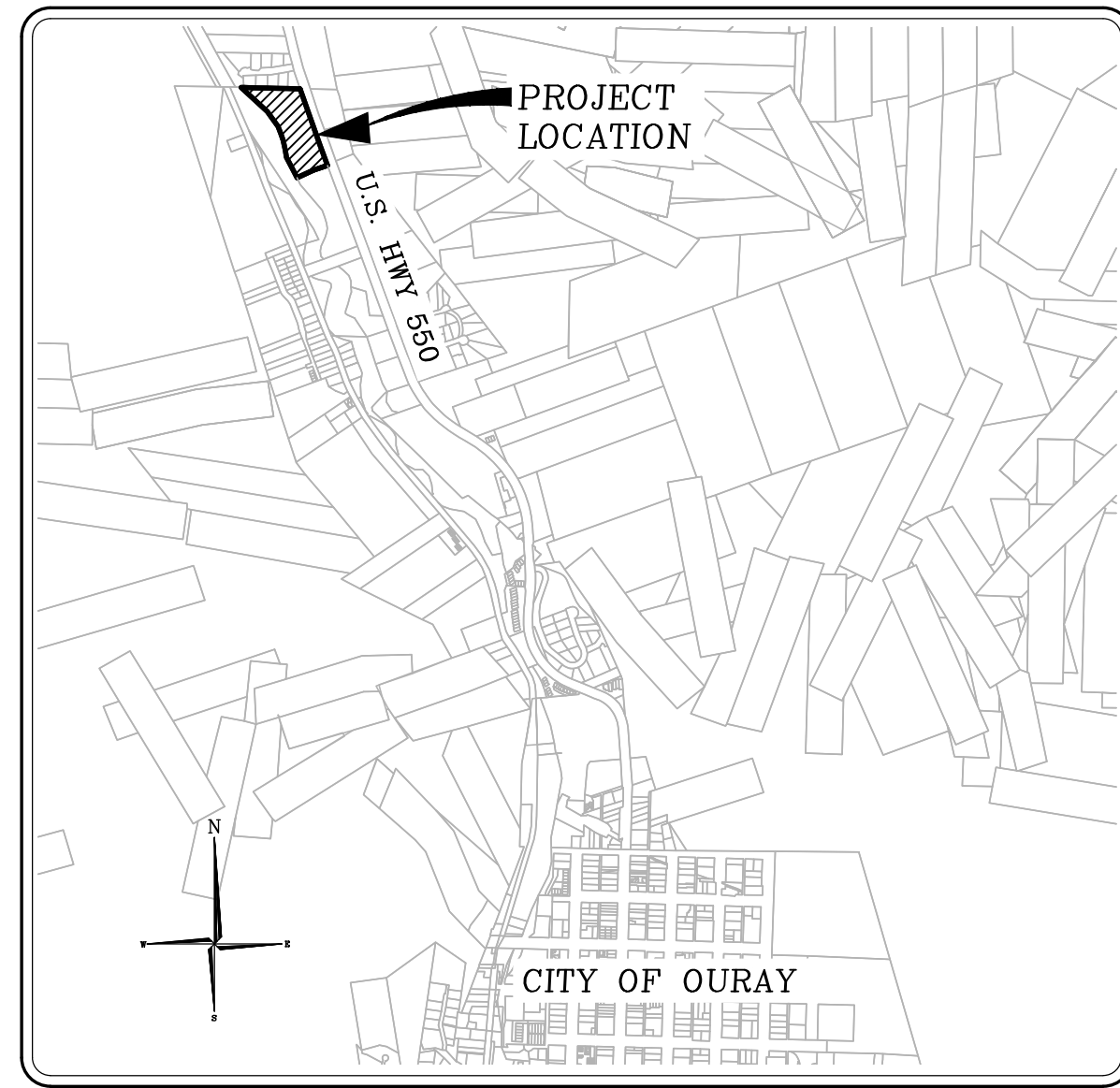
Legal Description: Ouray Waterview Subdivision Lot 2 Lot Split | City of Ouray; Lot: 2B S: 25 T: 44 R: 8

The Applicant has submitted a Subdivision – Final Plat Application for Phase 1 of the Ouray Waterview Homes Planned Unit Development (“Waterview PUD”), a project to construct 21 affordable, owner-occupied residential units via single-family homes, duplexes, and triplexes, including two (2) in-home childcare housing units on a 3.91-acre site located at 251 Uncompahgre Street in Ouray, CO. The applicant has submitted this Subdivision – Final Plat Application pursuant to Ouray Municipal Code Section 7-7-C-4 – Subdivision Development Regulations – Final Plat and Section 7-8 – Planned Unit Developments. Note: This Project is governed by the Ouray Land Use Code (Chapter 7 of the Ouray Municipal Code) adopted prior to November 16, 2023.

3. ACTION ITEM

3.a. Consideration of Ouray Waterview Homes PUD Final Plat Application

4. ADJOURNMENT



VICINITY MAP
SCALE: 1" = 1500'
CITY OF OURAY, COLORADO

OURAY WATERVIEW HOMES PUD

LOCATED IN THE CITY OF OURAY, COLORADO

GENERAL DEDICATIONS:

- These general dedications contained in the numbered paragraphs 1 and 4 below shall be effective only upon the final resolution of Ouray District Court Case No. 2024CV30020 and the recording of the order thereon:
- TRACT A, as shown hereon, is hereby dedicated to the City of Ouray as open space.
 - TRACT B, as shown hereon, is hereby dedicated to the City of Ouray as open space.
 - TRACT C (NAMICHI WAY), as shown hereon, is hereby dedicated to the City of Ouray for purpose of public right of way.
 - TRACT D, as shown hereon, is hereby dedicated to the City of Ouray for the purpose of ingress and egress, installation, operation, maintenance, reconstruction, replacement, improvement and removal of stormwater detention facilities.
 - The ten (10) foot wide utility easement, as shown hereon, is hereby dedicated to all public utilities, San Miguel Power Authority, and City of Ouray approved private utilities, for the purpose of ingress and egress, installation, operation, maintenance, reconstruction, replacement, improvement and removal of underground electric distribution lines, telecommunications facilities, cable TV, gas lines, water lines and sewer lines, together with their related equipment.

NOTICE:

- Phase 1 of this subdivision is subject to the City of Ouray and Ouray Homes, LLC Development Agreement, effective January 16, 2024.
- Each lot owner is subject to the DEED RESTRICTION AND COVENANT AGREEMENT FOR OURAY WATERVIEW HOMES PUD recorded at Reception Number _____ and to the OURAY WATERVIEW HOMES AFFORDABLE HOUSING REGULATIONS AND GUIDELINES recorded at Reception Number _____ as may be amended.
- PERMANENT OR TEMPORARY STRUCTURES, INCLUDING FENCES AND SHEDS ARE PROHIBITED WITHIN ANY EASEMENT SHOWN HEREON UNLESS APPROVED IN WRITING BY THE CITY OF OURAY BUILDING INSPECTOR AND PUBLIC WORKS DEPARTMENT PRIOR TO INSTALLATION.
- No Accessory Dwelling Unit (ADU) may be constructed without City approval.

CERTIFICATE OF SURVEYOR:

I hereby state that this survey and plat were prepared from field notes of an actual survey performed by me or under my direct responsibility, supervision and checking, and from documents recorded in the Office of the Ouray County, Colorado, Clerk and Recorder, and that, in my professional opinion, they are true and correct to the best of my knowledge, belief and information based on the standards of care of Professional Land Surveyors practicing in the State of Colorado. This survey is not a warranty or warranty, either expressed or implied.

Robert L. [Signature] Date _____
Colorado Registration No. 38007



TITLE COMPANY'S CERTIFICATE

I, _____, a _____ representing _____, certify that I have examined title to the described land dedication to the City of Ouray, Colorado, and that the parties executing the dedication are the owners thereof in fee simple, and the dedicated land is free and clear of all liens and encumbrances except as provided for in title commitment number _____ dated _____.

Name _____

Title _____

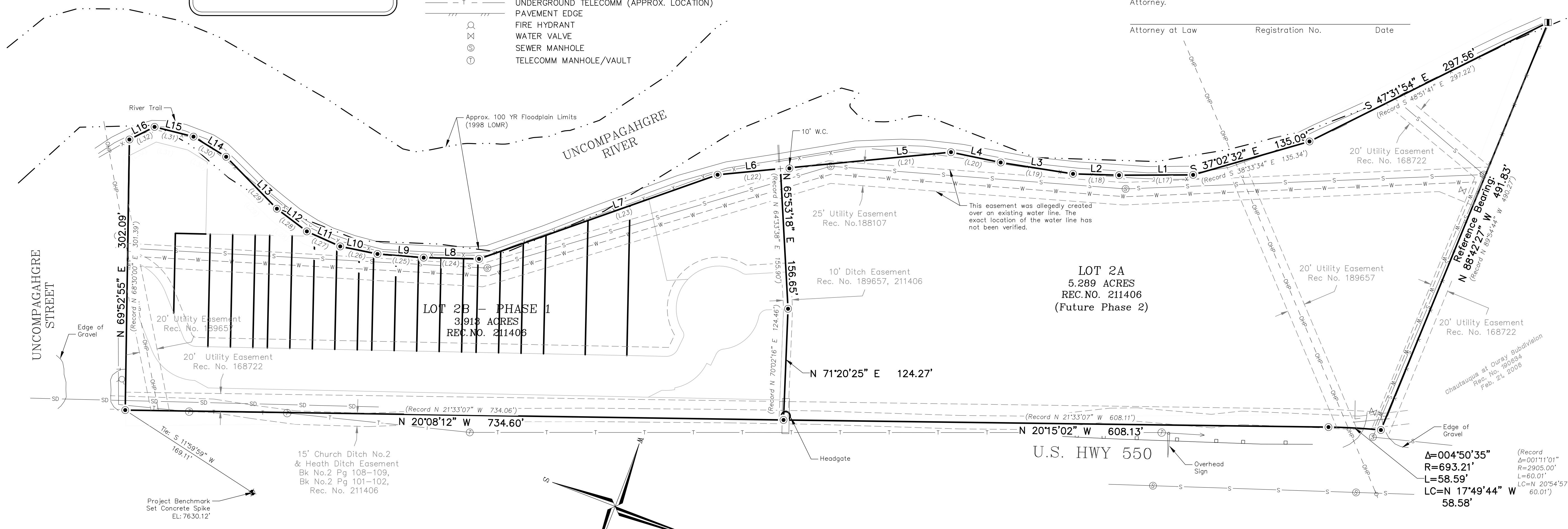
Executed this _____ day of _____, 2024

LAND USE TABLE	
# RESIDENTIAL LOTS	= 22 LOTS
AVG. LOT SIZE	= 0.09 AC.
LOT ACREAGE	= 2.01 AC.
RIGHT OF WAY	= 0.90 AC.
OPEN SPACE	= 0.66 AC.
STORMWATER DETENTION	= 0.34 AC.
TOTAL ACREAGE	= 3.91 AC.

LEGEND	
---	WATER MAIN
-S-	SEWER MAIN
-SD-	STORM CULVERT
----	IRRIGATION DITCH
-OHP-	OVERHEAD POWER
-T-	UNDERGROUND TELECOMM (APPROX. LOCATION)
----	PAVEMENT EDGE
⊕	FIRE HYDRANT
⊗	WATER VALVE
⊙	SEWER MANHOLE
⊕	TELECOMM MANHOLE/VAULT

LINE TABLE (Measured)		
LINE	BEARING	LENGTH
L1	S 21°13'26" E	82.66'
L2	S 19°21'34" E	51.36'
L3	S 12°02'10" E	81.76'
L4	S 09°17'05" E	56.63'
L5	S 26°31'41" E	191.18'
L6	S 26°31'41" E	70.43'
L7	S 40°26'50" E	282.29'
L8	S 19°40'08" E	61.84'
L9	S 16°28'18" E	51.69'
L10	S 09°30'25" E	42.39'
L11	S 03°14'35" W	40.85'
L12	S 16°05'14" W	41.95'
L13	S 24°42'22" W	81.04'
L14	S 10°39'07" W	42.85'
L15	S 06°55'10" E	44.78'
L16	S 47°43'14" E	31.39'

LINE TABLE (Record RN 211406)		
LINE	BEARING	LENGTH
(L17)	S 22°39'59" E	82.71'
(L18)	S 20°42'17" E	51.32'
(L19)	S 13°19'50" E	81.90'
(L20)	S 10°44'19" E	56.48'
(L21)	S 27°54'14" E	191.35'
(L22)	S 27°54'14" E	70.30'
(L23)	S 41°47'36" E	282.57'
(L24)	S 21°03'43" E	61.53'
(L25)	S 17°54'59" E	52.32'
(L26)	S 10°43'03" E	41.78'
(L27)	S 01°43'43" W	40.66'
(L28)	S 14°50'16" W	42.16'
(L29)	S 23°21'17" W	81.17'
(L30)	S 09°21'24" W	42.88'
(L31)	S 08°16'18" E	44.77'
(L32)	S 49°46'10" E	31.49'



CERTIFICATE OF OWNERS
KNOW ALL MEN BY THESE PRESENTS:
That Ouray Homes, LLC, whose address is P.O. Box 4222, Telluride, Colorado, 81434, being the legal and record owner of LOT 2B of the OURAY WATERVIEW SUBDIVISION LOT 2 LOT SPLIT, as recorded in the Office of the Ouray County, Colorado, Clerk and Recorder under Reception Number 211406;

Has caused the same to be subdivided and replatted under the name OURAY WATERVIEW HOMES PUD.

THIS PLAT IS HEREBY EXECUTED BY THE FOLLOWING PARTIES:
OURAY HOMES, LLC.

By _____
Paul Major, Manager

STATE OF _____ :
COUNTY OF _____ : SS:

The foregoing instrument was acknowledged before me by Paul Major, Manager, Ouray Homes, LLC, on this _____ day of _____, 2024, for the aforementioned purposes.

My Commission Expires _____ Notary Public

ATTORNEY'S CERTIFICATE
I, _____, an attorney at law duly licensed to practice before the courts of record of Colorado, do hereby certify that I have examined the title to all land herein platted and that title to such lands in the dedications and owners, and that the property dedicated hereon has been dedicated free and clear of all liens and encumbrances, except as follows:

Dated this _____ day of _____, 2024

By _____
Attorney at Law

APPROVAL OF PLANNING COMMISSION:
Approved by the City of Ouray Planning Commission this _____ day of _____ A.D., 20____

Chairperson _____

APPROVAL OF CITY COUNCIL:
Approved by the Ouray City Council this _____ day of _____ A.D., 20____

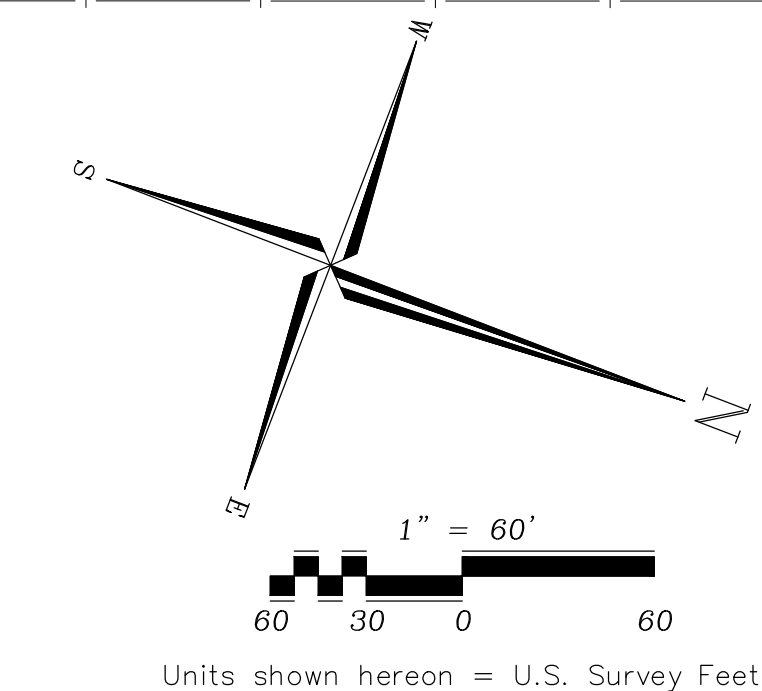
Mayor _____

APPROVAL OF CITY ATTORNEY:
Approved for recording this _____ day of _____ A.D., 20____ by _____, City Attorney.

Attorney at Law _____ Registration No. _____ Date _____

NOTICE:
According to the laws of the State of Colorado, any legal action based upon any defect in this survey must commence within three years after such defect was first discovered. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

DESCRIPTION OF MONUMENTS	
⊕	Set 5/8" x 24" rebar with a 1-1/2" aluminum cap stamped PLS 38007
⊙	Found 5/8" rebar with a 2" aluminum cap stamped PLS 31160
⊕	Found 5/8" rebar with a 1-1/2" aluminum cap stamped PLS 10738
+	Position for Corner - Monument Not Found or Set



Bearings are based on the north line of LOT 2A, OURAY WATERVIEW SUBDIVISION LOT 2 LOT SPLIT, Rec. No. 211406. The ends of said line having been monumented as shown hereon. (Assumed reference bearing = N 88°42'27" W)

STATE OF COLORADO)
OURAY COUNTY) SS
I hereby state that this instrument was filed for record at _____ o'clock _____ M _____ 20____ and duly filed.
Reception Number _____ Fee \$ _____
By _____ Recorder Deputy

ENGINEERING + SURVEYING INC
126 ROCK POINT DRIVE
PO BOX 97
DURANGO, COLORADO 81302
970.247.1705

OURAY WATERVIEW HOMES PUD

CITY OF OURAY, COLORADO

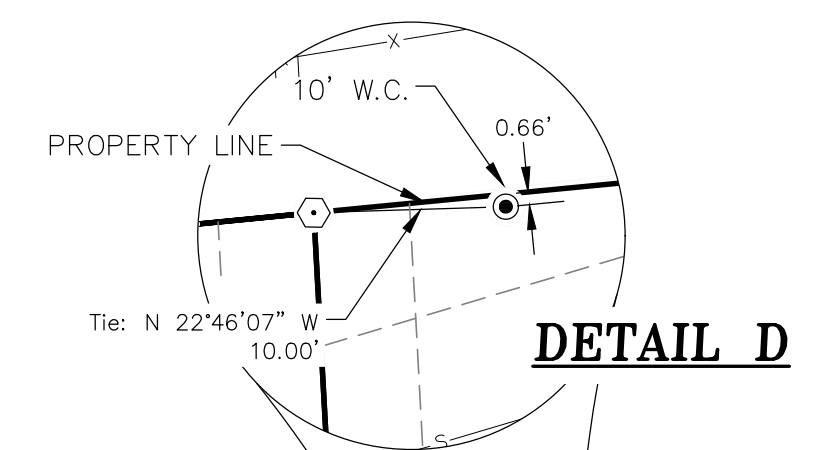
PREPARED BY: _____ RA/SM CHECKED BY: _____ RT
PROJECT NO. 21-116 SCALE: 1"=60' DATE: 10/28/2024

SHEET
1
OF
2

Goff Engineering & Surveying, Inc. expressly reserves the common law copyright and other property rights in these plans. These plans are not to be changed or copied in any form or manner whatsoever nor are they to be assigned to any third party without first obtaining written permission and consent of Goff Engineering & Surveying, Inc. ©

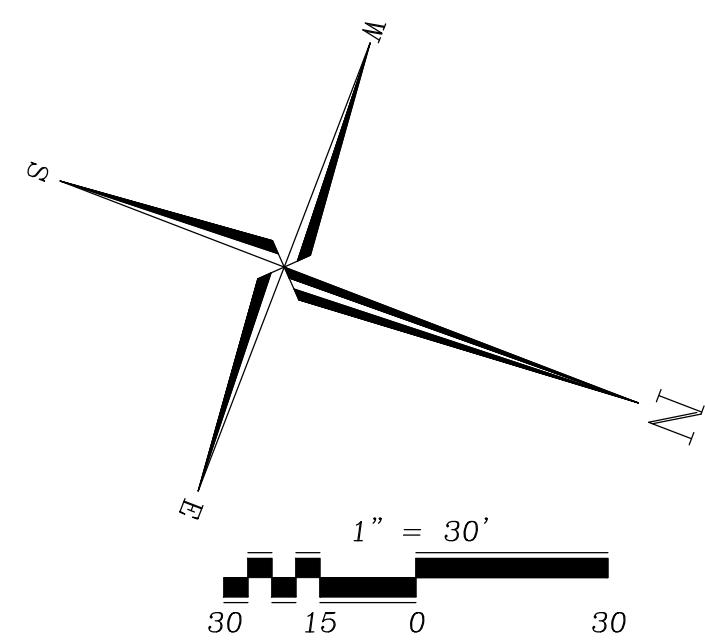
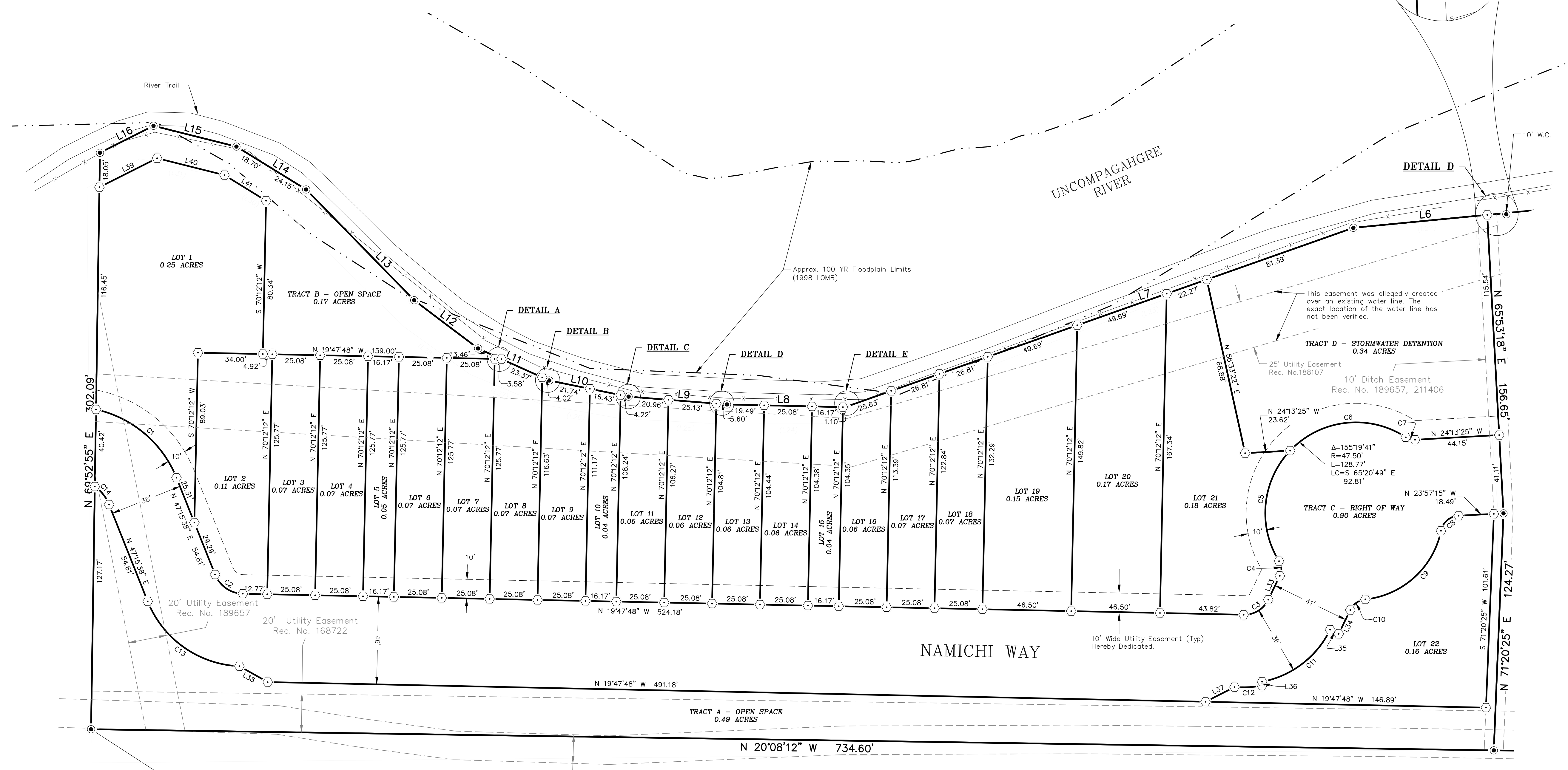
OURAY WATERVIEW HOMES PUD

LOCATED IN THE CITY OF OURAY, COLORADO

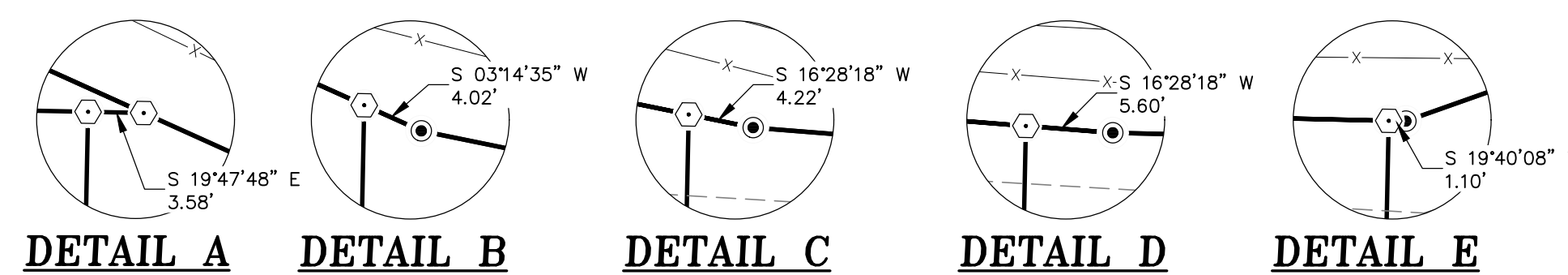


LINE	BEARING	LENGTH
L6	S 26°31'41\" E	70.43'
L7	S 40°26'50\" E	282.29'
L8	S 19°40'08\" E	61.84'
L9	S 16°28'18\" E	51.69'
L10	S 09°30'25\" E	42.39'
L11	S 03°14'35\" W	40.85'
L12	S 16°05'14\" W	41.95'
L13	S 24°42'22\" W	81.04'
L14	S 10°39'07\" W	42.85'
L15	S 06°55'10\" W	44.78'
L16	S 47°43'14\" E	31.39'
L33	N 85°07'12\" W	13.88'
L34	N 85°07'12\" W	13.88'
L35	N 04°52'48\" E	5.00'
L36	S 70°12'12\" W	2.04'
L37	N 47°52'09\" W	17.00'
L38	N 08°16'33\" E	17.02'
L39	N 47°43'14\" W	33.81'
L40	N 06°55'10\" W	36.36'
L41	N 10°39'07\" E	25.63'

CURVE	DELTA	RADIUS	LENGTH	CHORD	LENGTH
C1	55°28'06\"	59.39	57.50	S 19°19'29\" W	55.28'
C2	67°03'26\"	16.00	18.73	N 13°43'55\" E	17.68'
C3	65°19'24\"	14.00	15.96	N 52°27'30\" W	15.11'
C4	57°53'28\"	8.00	8.08	S 65°56'04\" W	7.74'
C5	75°31'30\"	47.50	62.61	N 74°45'06\" E	58.18'
C6	79°48'11\"	47.50	66.16	N 27°35'04\" W	60.94'
C7	36°32'27\"	8.00	5.10	N 5°57'11\" W	5.02'
C8	74°57'07\"	10.00	13.08	S 61°41'58\" E	12.17'
C9	71°56'48\"	45.50	57.13	N 63°12'08\" W	53.45'
C10	57°53'28\"	10.00	10.10	S 56°10'28\" E	9.68'
C11	53°19'27\"	50.00	46.53	N 58°27'28\" W	44.87'
C12	11°31'53\"	52.00	10.47	N 25°33'44\" W	10.45'
C13	65°58'38\"	54.00	62.18	N 14°16'20\" E	58.80'
C14	33°17'29\"	21.00	12.20	N 30°36'54\" E	12.03'



Bearings are based on the north line of LOT 2A, OURAY WATERVIEW SUBDIVISION LOT 2 LOT SPLIT, Rec. No. 211406. The ends of said line having been monumented as shown hereon. (Assumed reference bearing = N 88°42'27\" W)



PRELIMINARY
FOR REVIEW

<p>GOFF ENGINEERING + SURVEYING INC 126 ROCK POINT DRIVE PO BOX 97 DURANGO, COLORADO 81302 970.247.1705</p>	<p>OURAY WATERVIEW HOMES PUD</p>		<p>SHEET 2 OF 2</p>
	<p>CITY OF OURAY, COLORADO</p>		
<p>PREPARED BY: RA/SM PROJECT NO. 21-116</p>	<p>CHECKED BY: RT SCALE: 1"=30' DATE: 10/28/2024</p>		

Goff Engineering & Surveying, Inc. expressly reserves the common law copyright and other property rights in these plans. These plans are not to be changed or copied in any form or manner whatsoever nor are they to be assigned to any third party without first obtaining written permission and consent of Goff Engineering & Surveying, Inc. ©

Community Development Department

320 6th Avenue | P.O. Box 468 Ouray, CO 81427
 buildinginspector@cityofouray.com | 970-325-7063



MASTER LAND USE APPLICATION FORM

Please submit the completed Master Land Use Application, any required submittals, and required fee to the Community Development Department for review.

APPLICATION SELECTION		
<i>Please select (✓) which type(s) of application you are applying for and reference the corresponding application fee.</i>		
LAND USE APPLICATION TYPE	OURAY MUNICIPAL CODE REFERENCE	REQUIRED FEE
<input type="checkbox"/> Site Development Permit (SDP)	§7-4	<i>Fee based on City's Adopted Fee Schedule</i>
<input type="checkbox"/> Conditional Use Permit	§7-5-F	
<input type="checkbox"/> Variance Request	§7-5-G	
<input type="checkbox"/> Rezone	§7-5-I	
<input type="checkbox"/> Planned Unit Development (PUD) <i>via subdivision</i>	§7-8	
<input type="checkbox"/> Condominiumization <i>via subdivision</i>	§7-10	
<input type="checkbox"/> Subdivision – Sketch Plan	§7-7-C-2	
<input type="checkbox"/> Subdivision – Preliminary Plat	§7-7-C-3	
<input checked="" type="checkbox"/> Subdivision – Final Plat	§7-7-C-4	
<input type="checkbox"/> Lot Split	§7-7-C-5	
<input type="checkbox"/> Replat	§7-7-C-6	
<input type="checkbox"/> Plat Amendment	§7-7-C-7	
<input type="checkbox"/> Minor Subdivision	§7-7-C-8	
<input type="checkbox"/> Mobile Home/RV Park	§7-5-J-3	
<input type="checkbox"/> Other:		

CONTACT INFORMATION	
Applicant Name: <u>Ouray Homes, LLC - Paul Major, Manager</u>	
Address: <u>PO Box 4222</u> City/State/ZIP: <u>Telluride, CO 81435</u>	
Phone: <u>970-209-2880</u>	Email: <u>Paul@ruralhomesproject.co</u>
Property Owner(s): <u>Ouray Homes, LLC</u>	
Address: <u>PO Box 4222</u> City/State/ZIP: <u>Telluride, CO 81435</u>	
Phone: <u>970-209-2880</u>	Email: <u>Paul@ruralhomesproject.co</u>
Contact (if different than Applicant): _____	
Address: _____ City/State/ZIP: _____	
Phone: _____	Email: _____

PROJECT INFORMATION	
Project Title: <u>Ouray Waterview Homes PUD Final Plat - Phase 1</u>	
Site Address: <u>250 and 251 Uncompahgre Street, Ouray</u>	
Parcel Number(s): <u>4517-251-13-003</u>	
Zoning District: <input checked="" type="checkbox"/> One <input type="checkbox"/> R-1 <input type="checkbox"/> R-2 <input type="checkbox"/> C-1 <input checked="" type="checkbox"/> C-2 <input type="checkbox"/> PUD	
Proposed Use: <u>Affordable Housing</u>	Existing Use: <u>Vacant</u>
Proposed Site Area (combined sq. ft.): <u>3.91 acres - Phase 1</u>	

(Continued on back)

Existing Building sq. ft.: 0	Proposed Building sq. ft.: 21 Units
# of Existing Lots: 2	# of Proposed Lots: 21 (Phase 1)
Project Description (brief): __Phase 1 of the Waterview View Homes PUD Affordable Housing Development as approved by City Council in the summer of 2023. This Final Plat is for 21 homes and is in substantial conformity with the Preliminary Plat. _____	
Is the property subject to natural/geologic hazards? (e.g. flooding, landslides, rockfall, debris flow)	() Yes (X) No (✓) One
If yes , briefly describe:	

SUBMITTAL REQUIREMENTS*	
<i>Required for ALL Land Use Application types.</i>	
X	Completed Land Use Application (herein)
X	Appropriate fees (outlined above; checks paid to the City of Ouray)
	Detailed Site Plan(s): X 1) Electronic copy/PDF(s) submitted via email/flash drive to Community Development Department X 2) 24"x 36" hard copies submitted to Community Development Department (<i>only if requested/required</i>)
X	Project Narrative including purpose, goals, end-result, current conditions, etc. of proposed land use application (via electronic or hard copy submitted to Community Development Department)
X	Any required information, material(s), and/or report(s). <i>See referenced Ouray Municipal Code section(s), above, for additional/supplemental required information and processes.</i> (via electronic or hard copy submitted to Community Development Department)
X	Evidence of ownership or written notarized consent of legal owner(s). <i>Corporations or similar entities must provide written documentation on who is authorized to represent and act on behalf of the organization.</i> (via electronic or hard copy submitted to Community Development Department)
* INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED	

Per Ouray Municipal Code Section 7-3-B, Fees: *The applicant is responsible for all costs incurred by the City which may include legal fees, postage, notice and publication costs, other professional services or charges by outside agencies for the review and processing of the applicant's request. The Applicant will be invoiced of such charges for payment within 30 days of mailing. Invoices not paid prior to the final decision meeting or action as requested, may cause the matter to be delayed to a subsequent date/time or the application could be denied. Please review the full statement in the Code regarding payment of fees.*

CERTIFICATION	
By affixing my signature hereto, I certify under penalty of perjury that the information furnished herein is true and correct to the best of my knowledge and that I am the owner of the premises where the work is to be performed or am acting as the owner's authorized agent. I further agree to hold harmless the City of Ouray as to any claim (including costs, expenses and attorney's fees incurred in the investigation of such claim) which may be made by any person, including the undersigned, and filed against the City of Ouray, but only where such claim arises out of the reliance of the City, including its officers and employees, upon the accuracy of the information provided to the City as a part of this application.	
Applicant's Signature: (Required) <i>Paul Major</i>	Date: 10/1/2024
Property Owner's Signature: (Required) <i>Paul Major</i>	Date: 10/1/2024
Agent's Signature: (If you are acting as an owner's agent, you must provide Authorization of Agent form)	Date:

**Ouray Waterview Homes PUD
Phase 1 Final Plat
Project Narrative
September 26, 2024
Revised October 17, 2024**

CONTACTS

Owner/Applicant

Ouray Homes, LLC
Paul Major, Manager
P.O. Box 4222
Telluride, CO 81435
paul@ruralhomesproject.co
(970) 209-2880

Planning Consulting

Burkhart Planning & Permitting, LLC
Dan Burkhart, AICP
17 Lizard Head Dr.
Durango, CO 81301
burkhartplanning@gmail.com
(970) 946-4916

Project Engineers and Surveyors

Goff Engineering and Surveying, Inc.
Rob Harries, PE
126 Rock Point Dr., Suite A
Durango, CO 81301
rharries@goffengineering.com
(970) 247-1705

SUBJECT PROPERTIES

Current Addresses

250 & 251 Uncompahgre Street
Ouray, CO 81427

Legal Description

LOTS 2A AND 2B, OURAY WATERVIEW
SUBDIVISION LOT 2 SPLIT, ACCORDING
TO THE PLAT THEREOF RECORDED
JANUARY 6, 2014 UNDER RECEPTION NO.
211406, COUNTY OF OURAY, STATE OF
COLORADO.

Acreage

3.91 Acres

Parent Parcel APN(s)

4517-251-13-003

PROJECT DESCRIPTION

Ouray Homes, LLC is pleased to submit a Final Plat Application to subdivide Phase 1 of Ouray Waterview Planned Unit Development, approved by the Ouray City Council in the summer of 2023. Phase 1 consists of 21 homes – two single-family, four duplexes, three triplexes, and two single-family with child care spaces. Home construction and infrastructure installation is nearing completion and substantially conforms with the approved preliminary plans. It is anticipated that all required improvements for Phase 1 will be installed by October 18, 2024, followed by Final Plat recording, certificate of occupancy issuance, and sale of the homes to the new, income-qualified residents.

CITY COUNCIL PRELIMINARY PLAT REQUIREMENTS

City Council applied nine conditions of approval to the preliminary plat application via the June 20, 2023, Staff Report and May 18, 2023, Staff Memo, which affect the Final Plat application. Six of the conditions

were met prior to construction commencement. The three outstanding conditions of approval are as follows, with a status update in *italics*:

6. Applicant must draft a Development Improvements Agreement for the associated infrastructure, standards, timelines, and improvements for this project.
 - a. Agreement must be approved by the City Attorney, City Administrator and associated bodies and executed accordingly.
 - b. Agreement must be mutually-executed prior to filing a Final Plat as part of the Building Permit process once proposed infrastructure is finalized.

All associated infrastructure and improvements for Phase 1, except for some landscaping in the public right of way, will be complete prior to the Final Plat recording. Therefore, a Development Improvements Agreement is not required.

8. Final Plat must reiterate the plat notes and easement descriptions included in the Waterview Lot 2 Lot Split Plat (Reception No. 211406) by reference.

The Final Plat, as submitted, reiterates the pertinent plat notes and easement descriptions included in the Waterview Lot Split Plat (RN 211406) by reference.

9. Once preliminary plat approval has been granted from the Ouray City Council, the Applicant must work with the City to coordinate a joint meeting with the City Council, City Attorney, City Administrator, and Planning Commission to discuss terms and responsibility [sic] of the deed restrictions associated with this project.

The resolution to approve the final Ouray Waterview Homes Deed Restriction Covenant and Guidelines were executed by the City of Ouray and Ouray Homes, LLC on February 9, 2024. These documents will be recorded and cross-referenced concurrently with the Final Plat.

DEVELOPMENT AGREEMENT REQUIREMENTS

The City of Ouray and Ouray Homes, LLC entered a Development Agreement on January 16, 2023, whereby specific Final Plat requirements were agreed upon and applicable to Phase 1. The specific Final Plat requirements have been met as follows:

A plat notice is included: **NOTICE: PHASE 1 IS OF THIS SUBDIVISION IS SUBJECT TO THE CITY OF OURAY AND OURAY HOMES, LLC DEVELOPMENT AGREEMENT EFFECTIVE JANUARY 16, 2024.**

The Final Plat depicts all utility easements around the perimeter of the property and across Lots 1 through 21, Tract D, as well as all ditch easements along with the addition of a pedestrian access easement to the river trail, all of which will be dedicated to the City via the Final Plat at Final Plat recording.

As required, a plat notice on the final plat states in bold: **“PERMANENT OR TEMPORARY STRUCTURES, INCLUDING FENCES AND SHEDS ARE PROHIBITED WITHIN ANY EASEMENT SHOW HEREON UNLESS APPROVED IN WRITING BY THE CITY OF OURAY BUILDING INSPECTOR AND PUBLIC WORKS DEPARTMENT PRIOR TO INSTALLATION.**

Updated title work is included with this application, representing no real property boundary and/or easement disputes concerning the property.

A revised landscape plan was submitted to the City on July 26, 2024, and is included with this application. City Staff has reviewed and commented on the landscape plan. Landscaping and fencing for the lots depicted in the plan will be installed starting in early October 2024. Some landscaping elements for the City-owned properties will be completed by June 2025 due to winter conditions.

Ouray Homes has met all design standards and improvements for roads, sidewalks, sidewalk curb-and-gutters, and stormwater, water, and wastewater systems.

The Final Plat contains dedication language to convey ownership of the open space to the City of Ouray for Tract A - Open Space, Tract B - Open Space, Tract D - Stormwater Detention Pond, and the north corridor river trail access.

Garages have been constructed as depicted on the preliminary plan.

The Final Plat contains a plat notice referencing that each unit owner is subject to a deed restriction and covenant agreement as depicted in Exhibit D of the Development Agreement (Deed Restrictions and Covenants) and recorded with each unit purchased and Affordable Housing Regulations and Guidelines as depicted in Exhibit E of the Development Agreement (Guidelines). Said deed restriction is a covenant that runs with the title to the land for 100 years and shall survive any foreclosure on the respective Lots unless the restrictions are otherwise released or modified as provided for in the recorded deed restriction and covenant for each Lot. A plat notice has been added to the Final Plat that states:

Each lot owner is subject to the DEED RESTRICTION AND COVENANT AGREEMENT FOR OURAY WATERVIEW HOMES PUD recorded at Reception Number _____, and the OURAY WATERVIEW HOMES AFFORDABLE HOUSING REGULATIONS AND GUIDELINES recorded at Reception Number _____, as may be amended.

OURAY LAND USE CODE FINAL PLAT REQUIREMENTS

The Final Plat, as submitted, meets the requirements of Ouray Land Use Code Section 7-7-D-3 passed April 3, 2023, as may differ based upon the approved PUD. The Final Plat substantially conforms with the preliminary plat.

Attachments:

City of Ouray Master Land Use Application Form

Draft Final Plat Dated 2024-10-16

Preliminary Plat Staff Report

Preliminary Plat Staff Memo

Deed Restriction and Covenant Agreement for Ouray Waterview Homes PUD

Ouray Waterview Homes Affordable Housing Regulations and Guidelines

Title Work

Landscaping Plan

Property Deed

320 6th Avenue
 PO Box 468
 Ouray, Colorado 81427



970.325.7211
 Fax 970.325.7212
 www.cityofouray.com

TO: Ouray City Council
FROM: Lily Oswald, Community Development Director
DATE: May 25, 2023
FOR: June 20, 2023
SUBJECT: Waterview PUD – Preliminary Plat Application Staff Report

PROJECT GEOGRAPHY

Table 1. Project Geography

Application Summary	This Preliminary Plat Planned Unit Development (PUD) is for residential development on two (2) vacant lots north of the Biota Building. The general intent of the PUD is to develop 65 affordable, owner-occupied residential units via single-family homes, duplexes, and triplexes with (3) in-unit home childcare opportunities in the first phase. <i>This PUD is proposed in two (2) phases of development to align with the City’s Waste Water Treatment Facility upgrade – both phases are included in the Sketch Plan application. This application is proposed from Rural Homes, LLC, and refers to this project as the “Waterview PUD.”</i>	
Address	250 Uncompahgre Street	
Parcel Number(s)	451725113001 and 451725113002	
Legal Description	Subd: Ouray Waterview Subdivision Lot 2 Lot Split Lot: 2A S: 25 T: 44 R: 8; and Subd: Ouray Waterview Subdivision Lot 2 Lot Split Lot: 2B S: 25 T: 44 R: 8	
Applicant/Owner	Paul Major (on behalf of Ouray Homes LLC)	
Zoning	C-2 – Commercial Industrial (north of Skyrocket)	
Existing Use	Vacant	
Proposed Use	New construction of various dwelling unit types in two phases via PUD	
Site Size	9.21 acres	
Adjacent Land Uses		
North:	R-2; Single-Family Residential (Chautauqua Lane)	
South:	C-2; Industrial (Biota Building)	
East:	C-2; Vacant	
West:	Uncompahgre River	
Located Within National or Local Historic District Boundary	No	
Located Within Commercial Historic Boundary	No	

Table 2. Zone District Dimensional Requirements (C-2, north of Skyrocket Creek)

Requirement	Zone District Standards	Proposed/Existing
Minimum Lot Area	7,100 sq.ft.	See Exhibit C of lot sizes by unit type Average proposed lot: 3,833 sq.ft.
Maximum Density	3,550 sq.ft./D.U., 1,183 sq.ft./L.U.	Total lot size: 401,188 sq. ft./3,550 = 113 total dwelling units allowed Proposed: 65 dwelling units (roughly 7 DUs/acre)
Minimum Setbacks		<i>TBD with Building Permit</i>
Maximum Floor Area	15,000 sq.ft.	<i>TBD with Building Permit</i> See Exhibit C for Unit Type by Square Feet for both phases = Avg. floor area: 1,299 sq.ft.
Maximum Site Coverage	40% for residential use 50% for mixed use 60% for commercial use	Will not exceed 40%
Maximum Building Impervious Surface Site Coverage	80% for any use	Will not exceed 80%
Maximum Height	35 ft.	27' 6"
Parking	Two (2) Spaces per Residential Unit	Two (2) Spaces per Single-Family Dwelling Units, Duplex Units, and "end" Triplex Units Three (3) Spaces per Single-Family Dwelling Unit with in-unit childcare One (1) Space per "middle" Triplex Units Twenty-four (24) additional on-street parking spaces provided
PUD Open Space Coverage	20%	23% (See Exhibit F)

BACKGROUND

The Applicant received Sketch Plan approval for the property at a Planning Commission meeting on March 21, 2023. The Applicant submitted a Preliminary Plat application for the Planned Unit Development (PUD) per Ouray Municipal Code process. This PUD is for residential development on two (2) vacant lots north of the Biota Building. The general intent of the PUD is to develop 65 affordable, owner-occupied residential units via single-family homes, duplexes, and triplexes with (3) in-unit home childcare opportunities in the Phase 1 (see Exhibits G, I & J). These units will be deed restricted in perpetuity. The Preliminary Plat application proposes a new internal road to access the northernmost proposed lots and landscaped connections to the existing River Trail (located in Phase 1 and Phase 2) as well as Open Space tracts dedicated to the City.

The goals, timeline, design and intent remains the same as the Waterview PUD Sketch Plan application as presented during the January 10, 2023 and March 21, 2023 Planning Commission hearings.

The Ouray City Council has supported the pursuit of grant funding through HB21-1271 (administered through the Colorado Department of Local Affairs) to fund public infrastructure and to keep this project as affordable as possible. The City was notified of a grant award of \$1,050,000 to help fund infrastructure for this project. This funding must be used by April of 2024.

Foundation to PUD Variations

The Planned Unit Development (“PUD”) regulations in the Ouray Municipal Code (“OMC”) §7-8 establish the following Statement of Objectives of Development (“PUD Objective”):

“The intent of this section is to promote the Planned Unit Development Act of 1972 and encourage innovative developments with unique and valued community attributes. PUDs allow for consideration of development proposals that differ from required development improvements identified in the OMC. PUDs offer different options to the applicant when planning and obtaining City approval for their development. PUDs allow flexibility with respect to dimensional requirements and increased densities under certain conditions or circumstances. PUDs encourage conservation of a site’s natural characteristics, innovative residential, commercial and industrial development plans which will result in a more efficient use of open space and provide affordable housing for year around residents.”

OMC §7-8-D establishes the following applicable dimensional requirements and densities:

The dimensional requirements for various PUD items may differ from what is required in the OMC if the City Council determines such deviations will promote the public health, safety and welfare.

The proposed variations to the code as a result of this PUD are summarized in Table 3 below:

Table 3. Requested PUD Variations

OMC Section	OMC Standard Requirement	Requested PUD Variation
7-5-E-4-d-iii-1	<i>Single Family Dwellings shall be not less than 24 feet in width and 32 feet in length.</i>	Some units proposed: Width: 16 feet per specifications of factory partner (compliant with building codes)
7-5-E-4-f-i	<i>Two off-street parking spaces per dwelling unit.</i>	Proposed: 2 parking spaces per single-family dwelling unit, duplex unit, and end-triplex unit; 3 parking spaces per in-unit childcare single-family dwelling unit; 1 parking space per middle-triplex unit; 24 additional off-street parking spaces in proposed internal road.
7-5-D	<i>Minimum Lot Area - (C-2) north of Skyrocket: 7,100 square feet</i>	(See Exhibit C for proposed lots and sizes) Average proposed lot size: 3,833 square feet
7-5-D	<i>Minimum Side Setback - (C-2) north of Skyrocket: 5 feet</i>	Duplex and Triplex dwelling units will have proper fire separation to meet state and local building codes; however, these shared party walls will result in 0-foot side setbacks in these lots.

Process to Create a PUD

The Planning Commission is a recommending body for the Preliminary Plat phase of PUD applications. The City Council must make final PUD decision(s) during the consideration of Preliminary and Final Plat phases.

OMC §7-8-E: Procedures, states “PUDs shall be reviewed in accordance with the same procedures for review of subdivisions as found in Subsection 7-7-C” and “preliminary and final PUD plan shall comply with all requirements for a preliminary and final subdivision plat, **to the extent applicable.**”

The procedures for reviewing a PUD include the following Subdivision steps:

1. **Sketch PUD** with Planning Commission review and determination pursuant to the Subdivision Sketch Plan in OMC §7-7-C-2.
2. **Preliminary PUD** with Planning Commission review and recommendation to the City Council for determination pursuant to the Subdivision Preliminary Plat in OMC §7-7-C-3.
3. **Final PUD** with Planning Commission review and recommendation to the City Council for determination pursuant to the Subdivision Final Plat in OMC §7-7-C-4.

CRITERIA FOR DECISION

1. OMC §7-8-B establishes the following primary PUD criteria for decision:
 - A. A PUD shall be in general conformity with the City Community Plan
 - B. A PUD shall be consistent with the PUD Objective
 - C. Compliance with the Colorado Planned Unit Development Act of 1972
 - D. A PUD shall have a minimum of 1 unit or lot
2. OMC §7-7-D-2 establishes the Requirements and Data on Preliminary Plats.
3. OMC §7-7-E establishes typical Subdivision Design Standards.

STAFF ANALYSIS: PUD CRITERIA FOR DECISION

1. A. General Conformity with the Ouray Community Plan

Staff finds this PUD proposal aligns with numerous goals and strategies of the Ouray Community Plan 2021. The proposed development aims to provide homes for affordable housing AMI levels appropriate to serve the greater Ouray community and to diversify the housing available in Ouray as well as provide attainable housing solutions for year-round local residents and employees. Some applicable goals and strategies from the Community Plan are outlined below.

- Housing Goal H-1-A: “assure attainable housing is permanently affordable utilizing deed restrictions or other available tools” (Ouray Community Plan, pg. 16).
- Housing Goal H-1-B: “consider amending the LUC and the city adopted building regulations to provide robust incentives for the development of attainable housing in the community” (pg. 16).
- Housing Goal H-1-B-vi: “allowing for homes with a high density on one or more lots, including reducing lot sizes, frontages and setbacks to facilitate small home development” (pg. 16).
- Housing Goal H-1-E: “support and encourage attainable rental and for-sale housing throughout the community in a variety of unit types and densities in all the city zoning districts, live-work units, small homes, multi-family developments, dormitory or ‘POD’ style units, and other unit types that provide for attainable housing” (pg. 17).
- Housing Goal H-1-G: “explore public/private partnerships to provide attainable housing” (pg. 17).
- Housing Goal H-1-I: “support, encourage and require new development to provide a variety of bedroom mixes, unit sizes, dwelling types, rental and ownership structures, and attainability limits that are based on an updated community housing needs assessment” (pg. 17).
- Housing Goal H-1-Q: “strive to provide attainable housing for 50% of the local workforce in the city” (pg. 18).
- Housing Goal H-1-R: “evaluate annexations and PUDs to provide attainable housing” (pg. 18).
- Housing Goal H-2: “cooperate and work with the Town of Ridgway, Ouray County, DOLA, the development community, and other entities to plan and develop attainable housing” (pg. 18).
- Housing Goal H-3-D: “promote energy efficient and ‘green building’ techniques to reduce household energy consumption, utility bills, and help maintain long-term affordability in new housing” (pg. 19).
- Housing Goal H-3-F: “strive to provide housing located in close proximity to existing or planned infrastructure, services, intermodal transit connections, sidewalks, trails and employment” (pg. 19).
- Life Long Learning Goal LL-3-A: “support incentives or programs to provide affordable daycare facilities throughout the city, such as land donations, fee and tap waivers, streamlined review processes, zoning allowances, or the formation or expansion of non-profits that provide childcare” (pg. 21).
- Community Health Goal CH-1-C: “promote, develop, improve and maintain city recreational assets for active living, such as hiking at Box Canyon Park, walking the Uncompahgre River Walk Trail, hiking on the Perimeter Trail or swimming, water aerobics and the gym at the Hot Springs Pool” (pg. 26).
- Land Use Goal LU-1-A-iv-b: “consider allowing for the reduced lot size only if a primary dwelling unit or an ADU is provided that is deed restricted to provide housing to employees working within the geographic boundary of Ouray County” (pg. 32).
- Land Use Goal LU-1-A-xv: “encourage attainable housing to be provided in existing RV parks, light industrial, commercial and other properties through LUC and other incentives” (pg. 34).
- Economic Development Goal ED-2-L: “encourage and incentivize the provision of attainable housing; childcare; desired community amenities; connectivity and a high quality of life to drive economic resiliency” (pg. 51).
- Energy Goal RE-6: “encourage and support other alternative energy uses in the city, including solar, wind,

ground source heat pumps and biomass energy production” (pg. 74).

- The Future Land Use Map illustrates this site as **Mixed Land Use** (pg. 40). Mixed Land Use is oriented for “*multi-family dwellings with limited commercial uses, to be determined*” (pg. 42). Description/Character include:
 - *Provide incentives to maximize housing units, such as height increases via PUD, increases in density, scale and mass, and site coverage, and reduced parking.*
 - *Consider requiring a certain percentage of deed restricted housing units in exchange for incentives to ensure long-term affordability.*
 - *Allow limited and service commercial uses provided significant housing is provided.*
 - *Enhance and embrace River Park corridor and overall trail connectivity (pg. 42).*

1. B. Consistency with the PUD Objective

Key elements of the PUD objective include:

- Encourage innovative developments with unique and valued community attributes.
- Allow for consideration of development proposals that differ from required development improvements identified in the OMC.
- Offer different options to the applicant when planning and obtaining City approval for their development.
- Allow flexibility with respect to dimensional requirements and increased densities under certain conditions or circumstances.

“PUDs encourage conservation of a site’s natural characteristics, innovative residential, commercial and industrial development plans which will result in a more efficient use of open space and provide affordable housing for year-round residents” (OMC §7-8-A). Staff finds the Applicant is seeking to create an innovative use of space as a PUD on the currently vacant lot. The PUD process provides an opportunity for the Applicant to seek flexibility with the dimensional standards in order to provide long-term attainable housing solutions and effective use of space, both of which are primary goals of the community under the adopted Plan.

1. C. Compliance with the Colorado PUD Act

The key requirements of the Colorado PUD Act have been incorporated into the PUD section of the OMC. A development improvements agreement will be drafted by the Applicant and executed by the City as part of the Building Permit process and prior to the Final Plat phase of the PUD to ensure infrastructure installation, maintenance, building standards, engineering standards, etc. are met and coordinated throughout the development process. This document will additionally ensure the infrastructure development remains compliant with the Colorado PUD Act.

1. D. Minimum Density

The minimum density of one unit or lot has been met.

STAFF ANALYSIS: REQUIRED DATA ON PRELIMINARY PLATS (OMC §7-7-D-2)

The data and information outlined in §7-7-D-2 for Preliminary Plats has been met for this application among the various items submitted (see Exhibits A, D, E, & F). The information contained in this section ranges from a scale, north arrow, location of lot lines, elevation contours, and utility plans.

The final site grading plan, proposed sewer and water lines connections, storm drainage systems, the location, pipe sizes, valves, discharge points, and access points will be coordinated with the City’s Public Works Department at a preconstruction meeting prior to the Final Plat application.

STAFF ANALYSIS: TYPICAL SUBDIVISION DESIGN STANDARDS (OMC §7-7-E)

General Design Standards:

As discussed above, this project is in general conformance with the goals and strategies identified in the 2021 Ouray Community Plan and the future land use map contained in the Community Plan. This project is designed as a phased approach in an effort to not over-burden the City’s infrastructure capacity. This project was designed with phased density to complement the surrounding subdivision/land uses and surrounding open spaces. This project maintains access, layout, and terms identified for the variety of berm/utility/ditch easements located on the site. This project gives consideration to the preservation and connection of open spaces and the Uncompahgre River and trail.

Streets and Circulation:

The prior-plotted Uncompahgre Street will serve as immediate access from Highway 550 to this site. The Applicant proposes improving a section of Uncompahgre Street to match the improvement of the proposed new internal street for the project and will work with the City on this improvement. The continuation of Uncompahgre Street west of what is proposed in this project will be a future discussion for the City Council.

The new, proposed internal street, “Waterview Street” features 2 driving lanes, a parallel parking area adjacent to Lots 3 through 21, curbs, and 5-foot sidewalks on both sides (see Exhibit D).

The proposed internal street meets City Infrastructure Standards and has been coordinated with the City Public Works, County EMS, Fire Department, and School District to ensure proper access and width.

There is an additional emergency access identified between Lots 43 and 44 (“Tract G”) which will be closed to public use, but available to the City Public Works Department, Fire Department, and County EMS for emergency access.

Staff note: “Waterview Street” may have to be renamed in future submittals and as a condition of this preliminary plat (see Exhibit B).

Lots:

The project proposes 65 lots for residential unit development and various tracts for dedication to the City and easement holders. The depth and width of the proposed lots range in size, and provide for off-street parking and multi-family dwelling unit access where applicable (see Exhibit A). All of the proposed lots are considered accessible and developable. Phase 2 lots feature northern lots larger in size, with greater rear setbacks to provide a landscape buffer between the Waterview PUD and the Chautauqua subdivision.

Water, Fire Protection and Sewer Systems:

Utility infrastructure is available and present. The project proposes connections to the existing water and sewer lines to meet code requirements and infrastructure standards. *Water and sewer connections will continue to be coordinated with the Public Works Department.* Unless otherwise agreed upon by the City Council, the applicant shall also be required to pay tap investment fees for all water and sewer tap connections as proposed in the preliminary plat.

The Preliminary Plat documents were distributed to the Ouray County EMS, Ouray Fire Department, Public Works Department, and Ouray School for review and consideration of proposed connections, easements, fire hydrants, and drainage. Comments received have been compiled in Exhibit K.

Drainage, Hazard Mitigation, and Snow Storage:

This site has minimal slope and existing hazards. This site is not directly located within an identified Flood Hazard Area. Although hazard mitigation drainage will be minimal for this project, the Applicant had a Geotechnical Engineering Study completed for the proposed development to help guide foundation setting, grading, retention areas, and drainage to best serve the future residents of this PUD (see Exhibit L).

Since this project does include additional paved roads and infrastructure, snow storage areas will be coordinated with the Public Works department to ensure the open space tracts and remainder of Uncompahgre Street area can host the snow accumulation for the PUD.

Plat Notes and Monuments:

Final Plat notes shall be reviewed and revised as necessary by City Council and the Planning Commission during the Final Plat phase. Monuments are present from the original Waterview Subdivision plat (Reception No. 211406, see Exhibit H). Additional monuments will be placed according to code as part of this project’s infrastructure.

The dedicated Tracts and areas as shown on the submitted Preliminary Plat documents will be considered by the City Council and applicable agencies to ensure proper mitigation and responsibilities are coordinated and agreed upon.

Parks, Trails, Open Space, Recreation Facilities, Common Areas:

This project proposes areas for public open space and connections to the Uncompahgre River Trail (see Exhibit E).

The common areas and open spaces included in this application are dedicated to the City of Ouray, which will have to be discussed further by the City Council.

The Applicant amended the original Sketch Plan application of this project to enhance the landscape corridor of the eastern side of the lot, near Highway 550, as recommended by the Planning Commission.

This project proposes 5-foot wide, ADA-compliant sidewalks within the PUD as part of the greater ROW design.

The park dedication requirement per subsection 14-g. is less than 2 acres, which does not meet the minimum area for a city park. Therefore, the code would require the applicant to pay a fee-in-lieu of \$1,203.00 per new lot (65 new lots proposed x \$1,203 = \$78,195) prior to the recording the Final Plat. *Staff recommends waiving the public park fee-in-lieu as permitted by section 14.i.ii. of the code due to the goals of this affordable housing project, the PUD meets the Open Space coverage requirements of the code, and because the project proposes installation of connections to recreational areas and public park areas. This fee may be reduced by City Council consideration and approval.*

PUBLIC NOTICE

Public noticing requirements per the OMC have been met for this Preliminary Plat application. Public notice was posted at City Hall on May 24, 2023, published in the Plaindealer on June 1, 2023, and posted on the property on June 2, 2023. No public comments were directed to the Planning Commission for their May 23, 2023 hearing; one (1) public comment has been received by staff for the Preliminary Plat application for City Council (see Exhibit M).

STAFF RECOMMENDATION

OMC §7-7-C-3 establishes the following Subdivision Process for Preliminary Plats:

“d. City staff will prepare a report detailing their review findings and include any reports from review professionals. The report shall provide development information and detail compliance with all applicable City requirements, regulations or standards.

g. The City Council shall consider the preliminary plat and supporting documentation, the City staff report and the Planning Commission recommendation within 30 days. The City Council shall approve, conditionally approve, or deny the preliminary plat within 30 days of considering the application.”

The Waterview PUD Preliminary Plat was reviewed with the City’s adopted municipal code, applicable community adopted plans and ordinances, the Ouray Community Plan, Public Works Department, Ouray County EMS, and Ouray Fire Department. As outlined in the above Staff Analyses, this application meets the standard design and plat requirements for the Preliminary Plat phase.

Staff recommends the City Council carefully consider the attached Exhibits, the project’s goals, and this staff report. After hearing the staff report and any testimony at the hearing, the Council should discuss the PUD and Preliminary Plat Criteria for Decision and general conformance with the Community Plan. Staff finds this project meets many goals and actions outlined in the Ouray Community Plan, meets the goals set forth in the OMC, and has met the standards set out by the OMC while requesting deviations from the C-2 dimensional standards, *as an anticipated part of the PUD process.*

The Planning Commission recommended approval of the Waterview PUD Preliminary Plat during their hearing on May 23, 2023 with the following conditions of approval:

- Approve the deviations to the OMC standards outlined in Table 3 of this report
- Satisfy the comments outlined in the Staff Comment Memo prior to filing a Final Plat (Exhibit B)

Attachments:

Exhibit A:	Waterview Affordable Housing Subdivision – Preliminary Plat Draft
Exhibit B:	Preliminary Plat Staff Comment Memorandum
Exhibit C:	Waterview PUD – Lot & Unit Summary Tables
Exhibit D:	Waterview PUD – Engineered Plans
Exhibit E:	Waterview PUD – Landscape Plan
Exhibit F:	Waterview PUD – Example Land Use & Coverage (Phase 1)
Exhibit G:	Ouray County 2023 AMI Levels (60% - 120% AMI) by Household Size
Exhibit H:	Waterview Lot 2 Lot Split Plat (Reception No. 211406)
Exhibit I:	Waterview PUD – Updated Sketch Plan Application Narrative
Exhibit J:	Waterview PUD – Original Applicant Narrative and Project Information
Exhibit K:	Interdepartmental Comments Received
Exhibit L:	Geotechnical Engineering Study Proposed Waterview Development (Lambert)
Exhibit M:	Public Comments Received (Chautauqua HOA)

P.O. Box 468
320 Sixth Avenue
Ouray, Colorado 81427



970.325.7211
Fax 970.325.7212
www.cityofouray.com

MEMORANDUM

TO: Paul Major, on behalf of Ouray Homes LLC (“Applicant”)
FROM: Lily Oswald, City of Ouray Community Development Director (“Staff”)
DATE: May 18, 2023
SUBJECT: Waterview PUD – Preliminary Plat Application Staff Review Comments

This memorandum provides initial staff comments to the Waterview PUD Preliminary Plat application, received by the City of Ouray on May 1, 2023. This memorandum serves as initial comments to the submitted materials for the Waterview Preliminary Plat PUD and does not represent exhaustive City comments or conditions to this application.

1. Ouray County has a Waterview Lane, Waterview Court, and Waterview Cove. Staff has coordinated with the County’s Road and Bridge Department and EMS and has concerns of the duplicative nature of the proposed “Waterview Street” and recommends changing this street name.
 - a. *Applicant must coordinate final proposed street name prior to final plat filing, installation of street signage, or official addressing.*
 - b. *If amended, all construction documents, plats, and related materials must reflect the updated street name.*
2. Correct all titles of documents to reflect “City of Ouray” not “Town of Ouray.”
 - a. *Example: engineered construction cover sheet.*
3. Correct all documents to reflect “Uncompahgre Street” and “Uncompahgre River” where mislabeled.
 - a. *Example: engineered construction sheets.*
4. All construction document and future submittals must match layout and design of the submitted “Waterview Affordable Housing Subdivision” Preliminary Plat.
 - a. *Phase 2 lot numbers must be corrected in future submittals. Example: engineered construction documents display incorrect phase 2 lot numbers.*
5. Applicant must coordinate a preconstruction meeting with the City of Ouray Public Works Department, City Administrator, Community Development Department, and Fire Department to ensure installation of infrastructure is a concerted effort which aligns with all departmental timelines, capacities, and standards.
 - a. *Access to City and private utilities along the west side of proposed lots 49 through 65 and 2 through 21 must be maintained with no structures developed along the 25-foot utility easement as shown (Reception No. 188107 and 211406).*
6. Applicant must draft a Development Improvements Agreement for the associated infrastructure, standards, timelines, and improvements for this project.
 - a. *Agreement must be approved by the City Attorney, City Administrator and associated bodies and executed accordingly.*
 - b. *Agreement must be mutually-executed prior to filing a Final Plat as part of the Building Permit process once proposed infrastructure is finalized.*

7. Applicant must receive written approval or an access permit from the Colorado Department of Transportation for any access to Highway 550 directly from subject lot and for any new street serving the subdivision that intersects said highway prior to filing a Final Plat application.
8. Final Plat must reiterate the plat notes and easement descriptions included in the Waterview Lot 2 Lot Split Plat (Reception No. 211406) by reference.
9. Once preliminary plat approval has been granted from the Ouray City Council, the Applicant must work with the City to coordinate a joint meeting with the City Council, City Attorney, City Administrator, and Planning Commission to discuss terms and responsibility of the deed restrictions associated with this project.

DEED RESTRICTION AND COVENANT AGREEMENT
FOR OURAY WATERVIEW HOMES PUD
City of Ouray
Affordable Housing Ownership, Occupancy and Resale

THIS DEED RESTRICTION AND COVENANT AGREEMENT is entered into this _____ day of _____, 202__ (“Effective Date”) by [INSERT NAME OF PURCHASER], (“Declarant”) for the benefit of and enforceable by **OURAY HOMES, LLC**, a Colorado limited liability company with its principal place of business being 220 E. Colorado Ave., Ste 106 Telluride CO 81435, (the Grantor), and each the **CITY OF OURAY**, a Colorado home rule municipal corporation with its principal place of business being 320 6th Ave, Ouray, Colorado, 81427, and **RURAL HOMES, LLC**, a Colorado not for profit limited liability company with its principal place of business being 220 E. Colorado Ave., Ste 106 Telluride CO 81435 (together, the “Beneficiaries”). The Declarant, Grantor, and Beneficiaries are sometimes referred to herein individually as “Party” and collectively as the “Parties.”

Property Subject to Deed Restriction. The following real property (the “Housing Unit”) is hereby made subject to these Covenants:

(INSERT LOT LEGAL HERE)
County of Ouray
State of Colorado.

Commonly known as **(INSERT STREET ADDRESS HERE)**
This Housing Unit has a maximum AMI of _____%.
This Housing Unit has _____ # bedrooms and _____ # bathrooms.
The Original Purchase Price: _____.

RECITALS

WHEREAS, the Declarant is the Owner of the Housing Unit; and

WHEREAS, the Declarant on behalf of itself, its heirs, executors, administrators, representatives, successors, and assigns, upon purchase or receipt of the Housing Unit, desires and agrees to comply with this DEED RESTRICTION AND COVENANT AGREEMENT (“Covenant”) and the OURAY WATERVIEW HOMES AFFORDABLE HOUSING REGULATIONS AND GUIDELINES (“Guidelines”), recorded at Reception No. _____ in the Ouray Clerk and Recorder’s office, as amended from time to time, and is incorporated herein by reference, and agrees to the restriction in the use of the Housing Unit; and

WHEREAS Grantor owns the real property being sold to Declarant and is a subsidiary of Rural Homes, LLC. It is anticipated that at some future time, Ouray Homes, LLC will no longer exist and that Rural Homes, LLC will remain beneficiaries and parties to this Covenant, along with Declarant and the City of Ouray.

WHEREAS, under this Covenant the Declarant and Beneficiaries intend, declare, and agree that the regulatory and restrictive covenants set forth herein governing the use of the Housing Unit described and provided for herein shall be and are covenants running with the land and are intended to be and shall be binding upon the Declarant and Beneficiaries; and

WHEREAS, this Covenant is intended to provide housing and assist in keeping it affordable for residents, and families, who work at a physical location primarily within the Ouray County boundary, and chose to be part of the greater Ouray County community; and

WHEREAS, Declarant understands that this property has been subsidized by the government and charitable organizations and acknowledges that it has received adequate and valuable consideration in exchange for the imposition of this Covenant upon the Housing Unit.

COVENANT

NOW, THEREFORE, in consideration of the foregoing material Recitals, the mutual covenants, restrictions, and equitable servitudes stated herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby represent and agree as follows:

1. **Covenant Runs with the Land.** These Covenants shall run with title to the Housing Unit, for benefit of, and enforceable by, each Beneficiary and their successors and assigns, and this Covenant shall bind the Beneficiaries and all subsequent Owners and Occupants of the Housing Unit. Declarant, each subsequent Owner, and any Occupant, upon acceptance of a deed or lease to the Housing Unit, shall be personally obligated hereunder for the full and complete performance and observance of all covenants, conditions, and restrictions contained herein during the period of ownership or an Occupant's tenancy. Every Transfer or lease of the Housing Unit, for any purposes, shall be deemed to include and incorporate by reference, the covenants contained in this Covenant. The Beneficiaries shall hold their interest as tenants in common, except that no Beneficiary may sell, transfer or assign their interest in the Covenant without the express written permission of the other Beneficiary, and no Beneficiary shall agree to relieve any Owner or Qualified Occupant of their obligations under the Covenant without the express written consent of the other Beneficiary. If one of the Beneficiaries ceases to exist, that Beneficiary's interest in the Covenant shall be deemed to be assigned to the remaining Beneficiary.
 - 1.1 **Term.** The "Term" of this Covenant shall commence on the Effective Date and shall continue until _____ ("Expiration Date"). Said term of one hundred (100) years shall reset upon every Transfer.
 - 1.2 **Administration and Enforcement.** This Covenant shall be administered by the City of Ouray, its duly authorized designee, or by an entity hired by the City of Ouray. This Covenant shall be enforceable by the City of Ouray, its duly authorized designee, or the Beneficiaries, by any appropriate legal or equitable action, including but not limited to specific performance, injunction, abatement or eviction of non-complying Housing Unit Owner(s) or Occupant(s), or such other remedies and penalties as may be specified in this Covenant, including but not limited to the Schedule of Violations and Fines found in the Guidelines.
 - 1.3 **Updated Covenants.** Upon every Transfer, the transferee shall execute the most recent Covenant that has been approved by the City of Ouray at the time of Transfer.
 - 1.4 **Replacement of Prior Agreement.** If applicable, this Covenant shall supersede and replace in its entirety that certain Deed Restriction and Covenant recorded in the official records of the _____ County Clerk and Recorder on [RECORDING DATE] at Reception No. [RECORDING #].

2. **Definitions.** The Parties acknowledge and agree that the definitions contained in the OURAY WATERVIEW HOMES AFFORDABLE HOUSING REGULATIONS AND GUIDELINES (“Guidelines”) apply to this Covenant and further agree that each definition: (a) forms a portion of the basis of this Covenant; and (b) is incorporated in this Covenant. As used in this Covenant, Guidelines shall mean the most current Guidelines in effect at the time of closing on a sale or transfer of the Housing Unit or at the commencement date of a lease or other occupation agreement, as same may be amended from time to time, or its successor document.

3. **Ownership, Use, Occupancy, Rentals, and Qualification.**

3.1 **Ownership.** The ownership of the Housing Unit is hereby, and shall henceforth be, limited exclusively to Qualified Owner(s) as defined in the Guidelines. If the Housing Unit is owned without compliance with this Covenant, the City of Ouray or Beneficiaries shall have the right to enforcement and the remedies set forth herein, including but not limited to the rights under Section 11.

3.2 **Use and Occupancy.** The use and occupancy of Housing Unit is hereby, and shall henceforth be, limited exclusively to Qualified Owners or Qualified Occupant(s), and their Immediate Families.

3.2.1 **Home Occupation.** The Housing Unit may be used in conjunction with a Home Occupation by the Qualified Household or Qualified Occupants residing in the Housing Unit subject to the provisions of the Guidelines and local land use restrictions.

3.2.2 **Guests.** Guests who occupy the Housing Unit for less than thirty days during a rolling twelve (12) month basis are exempt from qualification requirements.

3.3 **Initial Qualification.** Qualified Entity Owners: Business Owners, Local Governments, and Special Districts are exempt from the Initial Qualifications in 3.3.1 but shall comply with all Occupancy Qualification and Rental Standards required by the Covenant and Guidelines.

3.3.1 **Qualified Owner:** To be eligible to purchase the Housing Unit, at least one member of the Household who is an Owner must be a Qualified Employee and meet Section 3.3.1.a, below, and all Household members must meet Section 3.3.1 b- f ., below, and as further defined in the Guidelines:

3.3.1.a. Meet the Minimum Work Standard physically within the Ouray County boundary for the twelve (12) months prior to purchase or provide evidence to the City of Ouray that Applicant will meet the Minimum Work Standard physically within the Ouray County boundary for the twelve (12) months following the purchase; and

3.3.1.b. Must meet the Earned Income Standard or has provided evidence to the City of Ouray that Applicant will meet the Earned Income Standard within the next twelve (12) months following the purchase; and

3.3.1.c. Must not own any interest in other Improved Residential Property(s) located within a one-hundred and fifty (150) mile radius from the Housing Unit.

- 3.3.1.d. Must not have a Net Worth that exceeds three (3) times the Initial Sales Price of the Housing Unit; and
- 3.3.1.e. Must meet the income restrictions applicable to the Housing Unit based on the Area Median Income (AMI) percentage limit and the Housing Unit designation in the legal description, and as set forth in the Guidelines to be recorded at time of sale; and
- 3.3.1.f. Shall occupy the Housing Unit as their sole and exclusive primary residence.
- 3.3.1.g. Qualified Entity Owners may own no more than two (2) Housing Units at one time, unless negotiated otherwise in the original development agreement, and make them available via sale or long-term rental to Qualified Occupants pursuant to this Covenant without the Qualified Entity Owner itself meeting the above-listed requirements. Qualified Entity Owner shall not occupy or use the Unit for such Owner's own use or leave the Housing Unit vacant for more than three months in any twelve (12) month period. Any occupancy of a Unit pursuant to Section 3.4. shall meet all Household Size requirements.
- 3.3.1.h. Businesses who are in the business of residential property management, residential property rentals, mobile home park ownership or rental and/or residential property ownership may not be certified as a Business Owner.
- 3.3.1.i. A reasonable accommodation and exception may be requested from City of Ouray for any of these qualifications.

3.3.2 Qualified Occupant: To be eligible to rent the entire Housing Unit or a room in a Housing Unit, the Qualified Occupant:

- 3.3.2.a. Shall meet the above-listed requirements of Section 3.3.1a-f.
- 3.3.2.b. A reasonable accommodation and exception may be requested from the City of Ouray for any of these qualifications.

3.4 Rental of Property. Short-term rental of the Housing Unit is prohibited. Long-term rentals may be approved as follows:

- 3.4.1 Qualified Entity Owner Units: Long-term rental is allowed subject to the provisions of the Guidelines and the terms and provisions of this Covenant. Units, owned by the Qualified Entity Owner may be rented to Qualified Occupants for a term of no less than six (6) months. All rentals must comply with the current Guidelines.
- 3.4.2 All other Housing Units: Owner may not, except with prior written approval of the City of Ouray, and subject to the City of Ouray 's conditions of approval, rent an entire Housing Unit for any period of time. If approved, a rental shall be for no less than one (1) month. All rentals must comply with the current Guidelines.
- 3.4.3 Roommates: The Qualified Owner may share occupancy of a Housing Unit with non-owners on a rental basis provided Qualified Owner continues to occupy Housing Unit as

his/her sole and primary residence and meets the obligations contained in this Covenant. A roommate must be certified as a Qualified Tenant Household. Short-term rentals of any kind are strictly prohibited.

3.4.4 Copy of Lease: The Housing Unit Owner shall provide to the City of Ouray a fully executed copy of the Lease or other occupancy agreement no later than seven (7) days after it is fully executed.

3.4.5 No Indemnification or Waiver of Immunity: Nothing herein shall be construed to require any of the Beneficiaries to protect or indemnify the Owner against any losses attributable to a rental including, but not limited to, non-payment of rent or damages to a Housing Unit; nor to require any of the Beneficiaries to obtain a Qualified Occupant for the Owner in the event that none is found by the Owner. In addition, nothing herein shall be construed as a waiver by any of the Beneficiaries' governmental immunity, if applicable, provided by the Colorado Governmental Immunity Act or other applicable law.

3.5 Continued Qualification Compliance. All Qualified Owners and Qualified Occupants, including multiple owners, must maintain compliance with all applicable requirements and shall maintain Qualified Household status on an on-going basis. Failure of any Owner or Occupant to do so shall constitute a violation. Any Owner or Occupant of a Housing Unit is required to comply with annual or biennial deed restriction monitoring certifying to the City of Ouray that they are in compliance with the requirements of this Covenant.

3.5.1 Continuing Compliance Standards to maintain Qualified Household status:

3.5.1.a At least one member of the Household must be a Qualified Employee who meets the Minimum Work Standards physically within the Ouray County.

3.5.1.b The Qualified Household shall meet the Earned Income Standard.

3.5.1.c The Qualified Household shall always occupy the Housing Unit as their Primary Residence during the ownership or rental of a Housing Unit and for at least eight (8) of every twelve (12) months on a rolling twelve (12) month basis.

3.5.1.d Household Net Worth shall not exceed three (3) times the Initial Sales Price of the Housing Unit.

3.5.1.e Household Net Income shall no longer be considered for continuing qualification for Owners.

3.5.1.f Tenant Household's Net Income will be considered for Tenant's continuing qualification and Tenant must continue to meet the AMI tier standard for the Housing Unit.

3.5.1.g Household is prohibited from ownership of other Improved Residential Property located within a one-hundred fifty (150) mile radius from the Housing Unit, see Section 5, and as further described in the Guidelines.

4. **Restriction on Debt.** Declarant shall not incur any debt or promissory note secured by a deed of trust or other security instrument that encumbers the Housing Unit in excess of the Original Purchase Price.
5. **Ownership Interest in Other Residential Property.** At the time of application, a Household may own other improved or unimproved residential or commercial property, however, all Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit must be listed immediately for sale and sold for fair market value within one year of taking title to the Housing Unit. In the event said other Improved Residential Property has not been sold by the Owner within twelve (12) months of its listing as required hereunder, then the Owner shall immediately list the Housing Unit for sale, pursuant to Section 7.1. a Qualified Entity Owner, qualified under Section 3.3.1 g-i, is exempt from this restriction.
6. **Income and Household Size Restrictions.** The applicable Income Eligibility Tier, which defines household income and household size restrictions, in compliance with this Covenant and as set forth in the Guidelines, Appendix A, will apply to Declarant, Qualified Occupants and future purchasers. If Declarant's Household size falls below the minimum required, Declarant shall rent a room to a Qualified Tenant pursuant to §3.4, above.
7. **Transfer of Property:** Transfers of the Housing Unit are subject to this section unless excepted under Section 7.2, below.
 - 7.1 **Requirements.** Declarant may sell the Housing Unit to a Qualified Owner, pursuant to the Guidelines, to the terms and provisions of this Covenant, and to the following:
 - 7.1.1 **Notice of Intent to Sell:** Declarant or Owner must deliver a written notice of its intent to sell the Housing Unit ("Notice of Intent to Sell") to the Beneficiaries prior to offering the Housing Unit for sale.
 - 7.1.2 **Right of First Refusal:** The Right of First Refusal to purchase shall first be provided to Beneficiaries pursuant to the Guidelines and Section 7.4, below.
 - 7.1.3 **Qualification of Prospective Buyer:** To proceed to the closing of the sale of the Housing Unit ("Closing"), the City of Ouray must have first certified in writing that the prospective buyer is a Qualified Owner pursuant to the Guidelines and to the terms and provisions of this Covenant.
 - 7.1.4 **Void Transfer:** In the event the Housing Unit is sold and/or transferred without compliance with this Covenant, such sale and/or transfer shall be wholly null and void and shall confer no title whatsoever upon the purported buyer.
 - 7.1.5 **Date of Notice:** For purposes of this Covenant, "date of Owner's Notice of Intent to Sell" shall be the date on which written Notice of Intent to Sell is delivered to the City of Ouray.
 - 7.1.6 **Administration Fees:** At the time of purchase, Declarant must pay any Covenant administration fees due according to the Guidelines. Such fees shall be paid by Declarant to the City of Ouray out of Declarant's proceeds of the sale of the Housing Unit and may not be added to the price of the Housing Unit or passed onto the buyer.

7.1.7 City of Ouray Made Whole: No transfer of a Housing Unit shall occur unless and until each encumbrance, debt or liability owed by the Declarant to any of the Beneficiaries is fully satisfied, including any fees and violation fines.

7.2 **Transfer Exception**. If reviewed and approved in writing by the City of Ouray prior to transfer, the following occurrences are exceptions to the definition of Transfer, provided that the new Owner, other than an estate, shall use the Housing Unit as their principal residence:

7.2.1 A transfer resulting from the death of a Qualified Owner where the transfer is to the spouse or domestic partner or co-owner, who is also a Qualified Owner.

7.2.2 A transfer resulting from the death of an Owner through a bequest or by intestate succession to a child of Qualified Owner who is certified as a Qualified Owner.

7.2.3 A transfer resulting from a decree of dissolution of marriage or legal separation or from a settlement incidental to such a decree by which a transfer is made to a spouse who is also a Qualified Owner.

7.3 **Maximum Sale Price**. The Original Purchase Price (“OPP”) of the Housing Unit shall be the basis for calculating the Maximum Sale Price (“MSP”) in accordance with this Covenant and the Guidelines in effect at the time of listing the Housing Unit for re-sale.

7.3.1 The Housing Unit shall meet the Minimum Resale Standards, defined in Section 7.3.4, below, to sell at MSP.

7.3.2 The MSP of a Housing Unit shall be limited to be no more than the following calculation:

The MSP may not exceed the sum of: (i) the OPP paid by the Owner for the Housing Unit, plus: (ii) an increase of three percent (3%) of such OPP per year compounded annually (prorated at the rate of 0.25 percent for each whole month, but not compounded annually) from the date of the Owner's purchase of the Housing Unit to the date of the Owner's Notice of Intent to Sell the Housing Unit; plus (iii) an amount equal to any special improvement district assessments, if applicable and not transferable, paid by the Seller during the Seller's ownership of the Housing Unit; (iv) the cost of Permitted Capital Improvements made to the Housing Unit by the Owner as set forth in Section 7.3.3, less the amount required to bring the Housing Unit up to the Minimum Resale Standards, if any.

7.3.3 **Permitted Capital Improvements**: The amount of Permitted Capital Improvements allowed to be added to the MSP shall not exceed ten per cent (10%) of the original purchase price provided that:

7.3.3.a. Improvements are pre-approved by City of Ouray prior to commencement of any work or installation, and

7.3.3.b Proof of homeowners’ association, if any, approval is provided to HA prior to commencement of work, and.

7.3.3.c Improvements are properly permitted and inspected by the local Building Official, if applicable.

7.3.3.b. Improvements are documented by Declarant and submitted to City of Ouray within three months of completion.

- 7.3.3.c. The depreciation of Permitted Capital Improvements calculated from the schedule in the Marshall Swift Residential Handbook or any other approved handbook in effect at the time of calculation of MSP, shall be subtracted from the cost of the improvement; and
- 7.3.3.d. Any other reasonable costs allowed by City of Ouray pursuant to the Guidelines in effect on the date of Owner's Notice of Intent to Sell may be added to the MSP.
- 7.3.3.e. The 10% limitation on Permitted Capital Improvements shall reset every ten (10) years of continued ownership of the Housing Unit.

7.3.4 **Minimum Resale Standards**: Pursuant to the Guidelines, Section 6.8.2, each Owner shall be responsible for ensuring that at the Transfer of his or her Housing Unit, the same is clean, the appliances are in working order, and that there are no health or safety violations regarding the Housing Unit. Seller's Property Disclosure form and Seller's Listing Checklist shall be completed and submitted prior to listing a unit for sale.

7.3.4.a If a Housing Unit does not meet Minimum Resale Standards, the City of Ouray may, at its discretion, require that the cost of necessary repairs be deducted from the closing sale price, or that Seller place into escrow the funds necessary to ensure satisfactory repairs. Any escrow balance remaining after necessary repairs are satisfactorily made shall be returned to Seller.

7.3.5 **Assumption of Costs**: No Declarant shall permit any prospective purchaser to assume any or all of the Declarant's closing costs. No Declarant shall accept anything of value from a prospective purchaser except for the MSP before, during or after closing of the transfer of the Housing Unit.

7.3.6 **Caveat**: Nothing in this Covenant represents or guarantees that the Housing Unit will be re-sold at an amount equal to the MSP. Depending upon conditions affecting the real estate market, the Housing Unit may be re-sold for less than the MSP.

7.4 Beneficiaries Right to Acquire Ownership. The initial Declarant and each subsequent Owner shall not transfer any Housing Unit without first offering the same to each of the Beneficiaries for purchase. Each of the Beneficiaries shall have a right to purchase the Housing Unit as follows:

7.4.1 Upon Owner's Notice of Intent to Sell as set forth in Section 7.1.1, or upon exercise of Notice of Election to Require Sale as defined in Section 10.3, or if an Owner receives any offer to purchase or tenders any offer of sale for the Housing Unit, either of the Beneficiaries, or their successors, shall have the Right of First Refusal to purchase ("ROFR") the Housing Unit for the offered sales price or MSP. This ROFR shall be triggered at each submittal of a Notice of Intent to Sell.

7.4.2 Each of the Beneficiaries shall exercise its ROFR by executing a written and binding commitment to purchase ("Notice of Purchase") the Housing Unit to Owner and the other Beneficiaries within thirty (30) days after each of the Beneficiaries receives written Notice of Intent to Sell by Owner. A Party exercising the ROFR shall deposit a non-refundable deposit of 5% of the MSP in escrow for the benefit of the Seller contemporaneously with the exercise of said right. The commitment to buy shall set a closing date within sixty (60) days of delivery of Notice of Purchase.

- 7.4.3 Each of the Beneficiaries shall have the right to inspect the Housing Unit prior to exercising its ROFR.
- 7.4.4 In the event more than one Beneficiary wishes to exercise the ROFR, the priority shall first go to the Grantor, then to the City of Ouray, and then to the Rural Homes, LLC or their successors in interest, if applicable.
- 7.4.5 In the event the Beneficiaries do not execute a written and binding commitment to purchase the Unit within said thirty (30) day period, this ROFR shall expire.
- 7.4.6 The ROFR shall be in full force and effect from the date of initial sale in perpetuity. Any sale or attempted transfer of the Housing Unit effected without first giving each of the Beneficiaries the right of first refusal described above shall be wholly null and void and shall confer no title whatsoever upon the purported buyer.

8. **No Creation of Additional Unit.** In no event shall Declarant create an additional “Dwelling Unit” as defined in the applicable OLUC, in or as part of the Housing Unit unless authorized by the City of Ouray in writing and allowed by the zone district and subject to all local building and planning codes and permissions.

9. **No Alteration of Housing Unit.** The Housing Unit shall not be altered, demolished, partially demolished, released from these covenants, or relocated, unless and except in compliance with the Guidelines and the applicable OLUC provisions in effect at the time of the application for alteration, demolition, release, or relocation.

10. **Foreclosure**

10.1 **Default.** It shall be a breach of this Covenant for Declarant to default in the payments or other obligations due or to be performed under a promissory note secured by deed of trust encumbering a Housing Unit. The Declarant hereby agrees to notify the Beneficiaries, in writing, of any notification Declarant receives from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a deed of trust, as described herein, within five (5) calendar days of Declarant's notification from lender, or its assigns, of said default or past due payments.

10.2 **Right to Cure Default.**

10.2.1 Upon receipt of notice as provided herein, each of the Beneficiaries shall have the right, in its sole discretion, to cure the default or any portion thereof (“Curing Party”). In such event, the Declarant shall be personally liable to the Curing Party for past due payments made by the Curing Party, together with interest thereon at the rate specified in the promissory note secured by the deed of trust, plus one (1) percent, and all actual expenses the Curing Party incurred in curing the default.

10.2.2 In the event the Declarant does not repay the Curing Party within sixty (60) days of notice that the Curing Party has cured the Declarant’s default, the Declarant agrees that the Curing Party shall be entitled to a lien against the Housing Unit to secure payment of such amounts. Such a lien may be evidenced by a notice of lien setting the amounts due and rate of interest accruing thereon, and such notice of lien may be recorded in the real property records of Town, until such lien is paid and discharged. The Curing Party shall

have the additional right to bring an action to foreclose on the Housing Unit for the payment of the lien set forth in Section 12.6.

10.3 Right to Require Sale.

10.3.1 Upon default of Declarant, each of the Beneficiaries shall have the right to require Declarant to sell the Housing Unit to avoid the commencement of any adverse proceedings against the Housing Unit by providing Declarant written notice of City of Ouray’s decision to exercise such right (“Notice of Election to Require Sale”).

10.3.2 Upon receipt of a Notice of Election to Require Sale by any Qualified Holders, as defined in C.R.S. § 38-38-100.3(20), or mortgage brokers licensed by the Colorado Division of Real Estate pursuant to C.R.S. § 12-61-901 et. seq., Declarant shall immediately offer the Housing Unit for sale according to the provisions of Section 7.

10.4 Non-Qualified Owner in Event of Foreclosure. In the event of a foreclosure on a promissory note secured by a first deed of trust on the Housing Unit or the acceptance by the holder of such note and deed of trust (“Holder”) is issued a public trustee’s deed for the Housing Unit or records a deed in lieu of foreclosure for the Housing Unit, this Covenant shall remain in full force and effect and Holder shall be considered a non-Qualified Owner.

11. Obligation to Maintain Homeowner’s Insurance. Deed-restricted housing with public and private subsidies means that the cost to build homes is greater than the sales price. Owners shall obtain full replacement cost coverage through an insurance provider licensed with and compliant with the Colorado Department of Regulatory Agencies which will repair or replace the home in the event of damage or destruction.

11.1 Request for Insurance Coverage Certificate. Owner may be required to verify compliance with §11, above at any time and is required to respond within seven (7) days.

11.2 Failure to maintain adequate Homeowner’s Insurance shall be considered a material breach of this Covenant.

12. Default/Breach

12.1 Right to Inspect. In the event the City of Ouray has or the Beneficiaries have reasonable cause to believe a Declarant is violating the provisions of this Covenant, that entity, through its authorized representatives, may inspect the Housing Unit between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday, after providing the Declarant with no less than twenty-four (24) hours written notice; Declarant has the right to be present.

12.2 Notice of Violation. The City of Ouray shall send a Notice of Violation (“NOV”) to the Declarant detailing the nature of the violation and allowing the Declarant fourteen (14) days to determine the merits of the allegations, or to correct the violation. The NOV shall advise the alleged violator of the fines associated with each alleged violation as required by the Schedule of Violations and Fines, Appendix E of the Guidelines, and any additional opportunity to cure before the fines or consequences escalate. In the event the Declarant disagrees with the allegation of violation of the Covenant or the Guidelines, the Declarant may request, in writing, a hearing before the City of Ouray or its designated hearing officer, who shall have absolute discretion to determine the appropriate action to be taken to either remedy the violation or to require Declarant to sell the

Housing Unit. If the Declarant does not request a hearing and the violation is not cured within the fourteen-day period, the Declarant and/or Occupant shall be considered in violation of this Covenant, and fines shall continue to accrue until the violation is cured or the maximum fine has been reached. Failure to request a hearing shall constitute the failure to exhaust administrative remedies for the purpose of judicial review.

- 12.3 Hearing Before the City of Ouray.** Whenever this Covenant provides for a hearing before the City of Ouray, such hearing shall be scheduled by the City of Ouray within twenty-one (21) days of the date of receipt of a written request for a hearing. At any such hearing, the Declarant or other aggrieved party may be represented by counsel and may present evidence on the issues to be determined at the hearing. An electronic record of the hearing shall be made, and the decision of the City of Ouray shall be a final decision, subject to judicial review.
- 12.4 Reservation of Remedies.** There is hereby reserved to the parties hereto any and all remedies provided by law for breach of this Covenant or any of its terms. In the event the Parties resort to litigation with respect to any or all provisions of this Covenant, the prevailing party shall be awarded its damages, expenses, and costs, including reasonable attorney's fees.
- 12.5 Sale Without Compliance.** In the event the Housing Unit is sold and/or conveyed without compliance with the terms of this Covenant, such sale and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported buyer. Each and every conveyance of the Housing Unit, for all purposes, shall be deemed to include and incorporate by this reference the covenants herein contained, even without reference therein to this Covenant.
- 12.6 Failure to Cure.** In the event a Declarant fails to cure any breach of this Covenant, each of the Beneficiaries may resort to any and all available legal or equitable actions, including but not limited to specific performance of this Covenant, a mandatory injunction requiring the sale of the Housing Unit by Declarant, and/or an injunction against future sale(s) in violation of this Covenant.
- 12.7 Violation Fixes Resale Price.** In the event of a breach of any of the terms or conditions contained herein by Declarant, his or her heirs, successors or assigns, the Declarant's MSP of the Property shall, upon the date of such breach as determined by the City of Ouray, automatically cease to increase as set out in Section 7.3 and shall remain fixed until the date of cure of said breach.

13. General Provisions

- 13.1 Enforcement of Covenant.** This Covenant shall constitute covenants running with the land and Housing Unit as a burden thereon, for the benefit of each of the Beneficiaries and/or its respective successors and assigns, as applicable, and who may enforce the covenants and compel compliance therewith. Enforcement by any appropriate legal action may include, but is not limited to specific performance injunction, reversion, damages, or eviction of noncomplying Declarants and/or Occupants.
- 13.2 Equal Housing Opportunity.** Pursuant to the Fair Housing Act and public policy, the City of Ouray shall not discriminate on the basis of race, creed, color, sex, national origin, familial status, disability, sexual orientation, or gender identity in the lease, sale, use or occupancy of the Housing Unit.

- 13.3 **Waiver of Exemptions.** Every Declarant, by taking title to a Housing Unit, shall be deemed to have subordinated to this Covenant any and all right of homestead and any other exemption in, or with respect to, such Housing Unit under state or federal law presently existing or hereafter enacted.
- 13.4 **Notices.** Any notice, consent, approval, or request which is required to be given by any party hereunder shall be given by personal delivery, by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to the address provided herein or to the address of the Declarant. The Declarant shall advise the Housing Agency of any change in address, in writing. Mailing requirements may be waived by consent of the Parties and acknowledgment of delivery by email or regular mail.

To Beneficiaries: City Administrator
City of Ouray
320 6th Avenue
PO Box 468
Ouray, CO 81427
Telephone: 970-325-7078
Email:

Rural Homes, LLC and Ouray Homes, LLC
PO Box 4222
Telluride, CO 81435
Telephone: 970-728-8717
Email:

To Declarant: INSERT VALID MAILING and EMAIL ADDRESS

- 13.5 **Severability.** Whenever possible, each provision of this Covenant and any other related document shall be interpreted in such manner as to be valid under applicable law; but if any provision of this Covenant shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition, without invalidating the remaining provisions of this Covenant.
- 13.6 **Choice of Law and Venue.** This Covenant and each related document is governed and construed in accordance with the laws of the State of Colorado and action shall be commenced in Ouray County, Colorado.
- 13.7 **Successors.** Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors, and assigns of the parties.
- 13.8 **Further Actions.** Declarants and subsequent owners agree that they shall be personally liable for their participation in any of the transactions contemplated herein and that they will execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Covenant or any agreement or document relating hereto or entered into in connection herewith.

- 13.9 **Gender and Number.** Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.
- 13.10 **Modifications.** Any modifications of this Covenant shall be effective only when made by a duly executed instrument by the City of Ouray and Declarant, with the written consent of each of the Beneficiaries, and recorded with the Clerk and Recorder of Ouray County. At no time shall this Covenant be revoked.
- 13.11 **Attorney Fees.** In the event any of the Parties resorts to litigation with respect to any of the provisions of this Covenant, the prevailing Party shall be entitled to recover damages and costs, including reasonable attorney fees.

EXECUTED, this __ day of _____ 20__.

CITY OF OURAY

[NAME, Mayor

Attest

[NAME], Clerk

RURAL HOMES, LLC

By: _____
Paul Major, Manager

State of Colorado)
) ss.
County of _____)

The foregoing Deed Restriction and Covenant for Ouray Waterview Homes PUD has been acknowledged before me this _____ day of _____, 20__, by _____ Paul Major, Manager of RURAL HOMES, LLC.

Witness my hand and official seal.
My commission expires:

Notary Public

DECLARANT

[NAME]

State of Colorado)
) ss.
County of _____)

The foregoing Deed Restriction and Covenant for Ouray Waterview Homes PUD has been acknowledged before me this _____ day of _____, 20 __, by [NAME].

Witness my hand and official seal.
My commission expires:

Notary Public

OURAY WATERVIEW HOMES
AFFORDABLE HOUSING REGULATIONS AND GUIDELINES

Approved by the Colorado Attorney General and DOLA
and Adopted by the City of Ouray on January 16, 2024, as Exhibit E to the CITY OF OURAY
DEVELOPMENT AGREEMENT, OURAY HOMES, LLC

WELCOME

Rural Homes, LLC, (“RH”) is a Colorado not for profit limited liability corporation whose mission is to empower rural communities by creating a replicable model and equitable process for the development, sale and occupancy of the highest quality homes which remain affordable for working low- to moderate- income local residents, thereby improving people’s health and well-being and the community’s economic resilience.

GENERAL POLICY GOALS: The general goal of the Ouray Waterview Homes PUD neighborhood is to provide high quality homes that will remain affordable for working residents and their families who make a living primarily from employment located within Ouray County whose income and assets are below certain targeted limits, and who choose to be part of the local community. This is accomplished by regulating and restricting occupancy and sale of the Housing Units covered by these Ouray Waterview Homes Affordable Housing Regulations and Guidelines (“Guidelines”) to “Qualified Households” as defined herein.

Qualified Households must meet specific economic means tests that may include both Household Income and Household Net Assets. Such tests of economic means are intended to promote diversity within the target community.

The Housing Units covered by these Guidelines are subject to price limitations for sale, resale and/or rental. These limitations are intended to insure affordability for the current Household and for the long-term affordability of the Housing Unit.

These Guidelines are intended to provide for clear, fair, and consistent administration of the Deed Restriction and Covenant Agreement (referred to as “Covenant” or “Deed Restriction”), recorded with each Housing Unit (also referred to as Unit) purchase or Transfer. It is recognized that there are individual Households and Housing Units that may not fit clearly within the specific provisions of the Guidelines but still meet these general policy goals. For these cases, Exception and Appeal processes have been established (Section 11).

The City of Ouray Housing Committee hereafter referred to as Committee, is authorized to adopt specific policy directives as necessary to clarify and aid in the application and enforcement of the Deed Restriction and amend these guidelines as necessary. Any policy directives shall be adopted by Committee at a properly noticed public meeting.

Table of Contents

1.	Definitions	Page 4
2.	Purpose and Applicability	Page 13
3.	Household Qualification and Eligibility	Page 13
4.	Initial Household Application Process	Page 16
5.	Continuing Household Qualification and Compliance Verification	Page 16
6.	Sale and Resale of Housing Units	Page 18
7.	Rental Procedures	Page 21
8.	Deed Restriction Covenant	Page 22
9.	Lenders and Loans	Page 24
10.	Ownership Lotteries	Page 24
11.	Exceptions, Appeals and Grievances	Page 27
12.	Administrative Procedures	Page 31

Appendices

A.	Income Eligibility Tiers & Area Median Income (AMI) Limits	Page 33
B.	Initial Sales Price & Maximum Rental Prices	Page 34
C.	Lottery Point System Criteria	Page 35
D.	Fee Schedule	Page 36
E.	Schedule of Violations and Fines	Page 37

1. DEFINITIONS

Definitions of terms and phrases contained within the Deed Restriction and Guidelines:

- 1.1 ACCESSORY DWELLING UNIT (ADU) - a detached (separate or disconnected from) subordinate building or structure, the use of which is incidental to that of the principal building or primary dwelling, and which is located on the same lot or parcel with the principal building or dwelling.
- 1.2 ADMINISTRATOR – Person or entity that may be hired by the City of Ouray to administer or enforce the Deed Restriction Covenant and Guidelines.
- 1.3 APPEAL - the process used when an Applicant believes after final decision of the Administrator concerning the application of the Deed Restriction and Covenant for a Housing Unit, that the criteria has been applied to him or her incorrectly.
- 1.4 APPLICANT - a Household that submits the required application either for qualification as a Buyer or a Renter who submits a request for an Exception.
- 1.5 AREA MEDIAN INCOME (AMI) - a statistical number based on Household Size and Income for residents of the county in Colorado in which the Housing Unit is located and that is used in these Guidelines as a basis for the Income Eligibility Tiers applied to specific Housing Units. The Committee shall update the AMI once per year based upon an analysis of the best available data for Ouray County Household Incomes. Data sources and methods for this analysis are documented in Appendix A.
- 1.6 ASSETS - anything owned by an individual that has economic, commercial or exchange value. Assets consist of specific property or claims against others, in contrast to obligations due others. Assets include both liquid and non-liquid assets. Liquid Assets include cash in savings, checking or other forms of bank accounts and stocks, bonds or other instruments that can readily be converted to cash. Non-liquid Assets are those items not easily converted to cash.

The most recent assessed value as provided by the County assessor’s office where the real property is located will be used to determine the value any real estate holdings, regardless of setoffs by encumbrances, liens or mortgages, costs of sale or holding, or percent of ownership interest. Assets shall include funds or property held in a living trust or any similar entity or interest, where the person has management rights or the ability to apply the assets to the payment of debts. Assets in a qualified retirement plan and intangible assets, including but not limited to, a patent, brand, trademark, or copyright, will not be included in the asset calculations for each income category. Household Net Assets equals gross Household Assets less gross Household Liabilities.

NOTE: A one-time gift of up to 30% of the Original Purchase Price used exclusively as a down payment for the purchase of a Housing Unit may be considered a net asset, and not as Unearned Income for the purposes of initial qualification.

- 1.7 **BEDROOM** - an area designed to be used for sleeping purposes that shall contain a closet, access to a bathroom and meets applicable Building Code requirements for light, ventilation, sanitation, and egress.
- 1.8 **BUSINESS OWNER** - a person or entity that owns or operates a business located in and serving Ouray County, with a local workforce working in the County who has been certified by the Committee or Beneficiaries to own a Housing Unit and who has agreed to the rental restrictions set forth in the Covenant and these Guidelines.

NOTE: Businesses who are in the business of residential property management, residential property rentals, mobile home park ownership or rental and/or residential property ownership may not be certified as a Business Owner.

- 1.9 **BUYER** - a person or entity who is buying a Housing Unit.
- 1.10 **CAPITAL IMPROVEMENTS AND PERMITTED CAPITAL IMPROVEMENTS** - any fixture, construction or installation that is erected, constructed, or installed as a permanent improvement to real property or non-recurring expenses for physical improvements that provide a long-term upgrade or improvement to the Housing Unit, not to include ordinary repair and maintenance. A Permitted Capital Improvement is a Capital Improvement that has been approved by the Committee prior to erection and shall NOT include luxury items, upgrades for esthetic or personal preference, landscaping, or cost associated with ordinary repair, replacement, and maintenance. For example, installing a stained-glass window in place of a functioning clear glass window would be considered a luxury item.

Permitted Capital Improvements are established for determining Maximum Sales Price as the terms are defined in Section 6.11.

- 1.11 **CITY OF OURAY HOUSING COMMITTEE (“Committee”)** – the governing body appointed by the City of Ouray Council who shall administer and enforce the Deed Restriction and Covenant and Guidelines, including qualifying owners, enforcement, and making any exceptions.
- 1.12 **COMMERCIAL PROPERTY** - real property which is used for any of the following uses: Commercial; Industrial; Lodging Business and Short-term Rental as defined in the Ouray Land Use Code; and Agricultural Land.
- 1.13 **CO-SIGNER** - a joint signatory on a promissory note whose obligations are the same as those of the primary borrower. If the primary borrower does not repay the loan, the co-signer accepts responsibility for the debt. A Co-signer shall not occupy the Housing Unit unless qualified by the Committee.

- 1.14 **COUNTY** – Ouray County, Colorado.

- 1.15 DECLARANT - the person or entity who is purchasing the Housing Unit and who executes the Deed Restriction and Covenant upon purchase or Transfer.
- 1.16 DEED RESTRICTION - a restrictive covenant prepared by Committee in coordination with RH and entered into between Committee, RH, and the Declarant identifying and burdening the conditions of use, occupancy and sale which shall not be altered by any party without the written consent of all parties, also referred to as Covenant.
- 1.17 DESIGNEE - a person or entity that may be authorized to act by the City of Ouray.
- 1.18 DISABLED PERSON – see Individual with a Disability.
- 1.19 DOWN PAYMENT - the cash payment made by the purchaser toward the purchase price of the Housing Unit.
- 1.20 EARNED INCOME STANDARD - the total Household Earned Income which must be at least 75% of the total Household Income. Unearned Income cannot exceed 25% of total Household Income. See INCOME for more information.
- 1.21 ELDERLY - a person who is at least 65 years of age.
- 1.22 ELIGIBILITY – the qualification requirements applied to a Household based on the specific Housing Unit the Household intends to occupy.
- 1.23 EMPLOYEE - a person who is self-employed or is working for another person or entity and is compensated for such work on an hourly, weekly, monthly or commission basis or any combination of such compensation.
- 1.24 ESSENTIAL RESPONSE PERSONNEL- those persons required to report to their designated work location to ensure the operation of essential functions during an emergency. Qualified Essential Response Personnel are employees (on call 12 hours/day, a minimum of 8 times per month or its equivalent) of a community-based organization, within the Ouray County boundaries that provide on-scene assistance and personal care to victims. Community-based organizations include but are not limited to the Fire Department, Search & Rescue, Police, Marshal, and Sheriff’s Departments, Emergency Medical Services, Social Services, and Emergency Dispatch.
- 1.25 EXCEPTION, REQUEST FOR - the process used when the Applicant understands and acknowledges the Covenant and Guidelines criteria and believes that there exists a legitimate and compelling reason why the Applicant should be excused from such criteria or allowed a modification of the criteria.
- 1.26 FAIR MARKET VALUE - the price at which bona fide, non-distress sale has been consummated for assets of like type, quality, and quantity in a particular market.

- 1.27 FAMILY – see Immediate Family.
- 1.28 FEE SIMPLE ESTATE - the maximum possible estate that one can possess in real property, complete and absolute ownership of indefinite duration, freely transferable, and inheritable.
- 1.29 FINANCIAL STATEMENT – a document detailing all personal assets, liabilities, and net assets (the difference between the value of the gross assets minus its liabilities) as of a certain date.
- 1.30 FIRST MORTGAGE - a deed of trust or mortgage that is recorded which is generally senior to any other deeds of trust or liens against a property, except for tax liens, primary or initially used to secure a loan for the purchase of real property by a Declarant.
- 1.31 FREE-MARKET PROPERTY - a property that is not restricted by any Deed Restriction or covenant regarding price or terms of sale.
- 1.32 FULL-TIME EMPLOYEE - a person who works a minimum of 1,200 hours per year by working no less than eight (8) of every twelve (12) months on a rolling twelve (12) month basis AND during the qualifying eight (8) months must work at least forty (40) hours per month.
- 1.33 GOVERNMENT PERSONNEL - any Full-time Employees of a federal, state, or County agency, or any local government, including law enforcement agencies.
- 1.34 GRIEVANCE - any dispute that Seller, Buyer, Owner, or Applicant may have with Committee with respect to an action or failure to act in accordance with the individual's rights, duties, welfare, or status. Unfavorable decisions regarding exemptions and Exceptions are not grievances.
- 1.35 GUEST - a person with whom a Household shares the same living quarters who has no proprietary interest including no leasehold interest in the Housing Unit, who is not on the title to the unit, who does not provide financial assistance to the Household, and whose stay is limited to less than thirty (30) days during a rolling 12-month period.
- 1.36 GUIDELINES -these Ouray Waterview Homes Affordable Housing Regulations and Guidelines, containing the operational regulations adopted by RH and the Committee, as amended from time to time, that setting forth the definitions, standards and procedures that further define and detail the Ouray Waterview Homes Covenant and are applied to specific Housing Units therein.
- 1.37 HEALTH CARE PERSONNEL - any Full-time Employees, who is licensed or otherwise authorized by the State of Colorado to provide health care services and who is employed as such by a nonprofit institution within Ouray County.
- 1.38 HOME OCCUPATION –any commercial use within a dwelling unit, an enclosed garage, or accessory building that is carried on by the inhabitants of the property and that complies with the Ouray Land Use Code, as amended from time to time.

- 1.39 HOUSEHOLD - one or more persons who live together, or intend to live together, in a Housing Unit as a single housekeeping entity.
- 1.40 HOUSING UNIT - a residential unit that is subject to the Covenant and Guidelines and any additional covenants that run with the land.
- 1.41 IMMEDIATE FAMILY - the Qualified Employee and the spouse of the Qualified Employee and their siblings, the parents and/or offspring of the Qualified Employee and the spouse of the Qualified Employee, all of whom may be related either biologically, by marriage, by civil union, or by legal adoption, regardless of age. Immediate Family also includes: a minor child for whom the Qualified Employee or the spouse of the Qualified Employee is the biological parent, legal guardian or legal representative over. Such children shall be treated as minor children of Qualified Employee or the spouse of the Qualified Employee and have the same Immediate Family status, regardless of age.
- 1.42 IMPROVED RESIDENTIAL PROPERTY - property that contains at least one (1) dwelling unit as defined in the Ouray Land Use Code.
- 1.43 INCOME
- a. Earned Income-
 - i. Income derived from one’s own labor or through active participation on a regular, continuous, and substantial basis in a business and including retirement funds from deferred income earned from employment, Social Security benefits, alimony, and child support; and
 - ii. Net income derived from a business after reasonable deductions for expenses, depreciation, taxes, and similar allowances.
 - iii. For Qualified Elderly, retirement and/or pension income, regardless of origin, is considered Earned Income.
 - b. Household Income - combined Gross Income of all individuals in the Household.
 - c. Unearned Income - income derived from investments, rental property, trusts, inheritance, etc. and any other passive activity.
 - d. Gross Income - the total of all income from whatever source before deductions.
- 1.44 INCOME ELIGIBILITY TIER -the specification and limits of Household Income that applies to a particular Housing Unit.
- 1.45 INDIVIDUAL WITH A DISABILITY- has the same meaning as set forth in the federal “Americans with Disabilities Act of 1990”, 42 U.S.C. § 12131, and its related amendments and implementing regulation, as amended, which currently defines a person with a disability as "any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment." See Mobility Disabled Person for more information.

- 1.46 INITIAL SALES PRICE - the sale price for a Housing Unit that is recorded as the Original Purchase Price (OPP) of that Housing Unit at the time the original Deed Restriction for the Housing Unit is executed and recorded in the Ouray County Clerk and Recorder's Office.
- 1.47 JOINT TENANCY - ownership of real estate between two or more parties who have been named in one conveyance as joint tenants. Upon the death of one tenant, the surviving joint tenant(s) have rights of survivorship.
- 1.48. LANDLORD - the owner of the Housing Unit, who, in an exchange for rent, leases the entire Housing Unit or a room in the Housing Unit to another individual known as the Tenant.
- 1.49 LEASE - a written agreement between an Owner/Landlord and a Tenant/Tenant Household that creates a Leasehold Interest.
- 1.50 LEASEHOLD INTEREST - a less than Fee Simple Estate that a Tenant possesses in real property.
- 1.51 LEAVE OF ABSENCE - an Exception from the requirement that a Qualified Household maintain the Housing Unit as its primary place of residence granted according to the Exception Procedure in Section 5.2.4.1.
- 1.52 LIABILITIES - the total amount owed to other persons including loans, liens, accounts payable, and other financial obligations as defined by generally accepted accounting practice.
- 1.53 LONG-TERM RENTAL -the rental of a Housing Unit for any period equal to or greater than six consecutive months.
- 1.54 LUXURY ITEMS - non-essential appliances, fixtures, or upgrades to a Housing Unit.
- 1.55 MAXIMUM SALE PRICE (MSP) - the maximum purchase price that can be paid by any purchaser of a Housing Unit. The MSP is not a guaranteed price, but merely the highest price an Owner may obtain for the sale of a Housing Unit. The Owner's MSP is determined as defined in Section 8.2.3 and according to the Covenant covering the Housing Unit.
- 1.56 MINIMUM WORK STANDARD - work by a person for no less than 1,200 hours per year by working physically within the Ouray County boundaries no less than eight (8) of every twelve (12) months on a rolling twelve (12) month basis AND during the qualifying eight (8) months must work at least forty (40) hours per month.
- 1.57 MOBILITY DISABLED PERSON - a person who is an Individual with a Disability and who suffers from a long-term limitation in independent, purposeful physical movement of the body or of one or more extremities.

- 1.58 MORTGAGEE - any bank, savings and loan association, or any other institutional lender that is licensed to engage in the business of providing purchase money mortgage financing for residential real property and that is the beneficiary of a deed of trust or the mortgagee under a mortgage encumbering the Housing Unit.
- 1.59 NET WORTH - the estimated sum of the assets of the Qualified Owner and/or Qualified Occupant and/or Qualified Household less liabilities, the term is synonymous with Net Assets.
- 1.60 NOTICE OF VIOLATION – a formal written notice from the Committee or its Designee to a Housing Unit Owner, Occupant, or Tenant who may be in violation of provisions of the Deed Restriction for the Housing Unit and/or of the provisions of the Guidelines.
- 1.61 OCCUPANT - any person who occupies the Housing Unit as his or her Primary Residence but who has no ownership interest in the Housing Unit.
- 1.62 ORIGINAL PURCHASE PRICE (OPP) - the sale price for a Housing Unit that is recorded at the time the Covenant for the Housing Unit is executed and recorded in the Ouray County Clerk and Recorder’s Office.
- 1.63 OURAY LAND USE CODE (“OLUC”) – a section of the primary municipal code that has been promulgated by the City of Ouray, Colorado.
- 1.64 OWNER - an individual(s) who has a legal right to the Housing Unit by deed, tenancy in common, joint tenancy, or tenancy in the entirety or other relationship; an individual who may have a proprietary interest in the Housing Unit, and may include any subsequent buyer, heir, devisee, transferee, grantee, or holder of title, or any portion of title, to the Housing Unit.
- 1.65 PURCHASE PRICE - all consideration paid by the Buyer to the Seller for a Housing Unit.
- 1.66 PREQUALIFICATION - a borrower’s tentative written mortgage approval from a lender.
- 1.67 PRIMARY RESIDENCE - the sole and exclusive place of residence.
- 1.68 PRIORITY - the order in which Housing Units are offered to Applicant Households based on the applicable selection procedure (e.g., a lottery, waiting list). Priority is created by RH and the Committee and not all Housing Units are subject to Priority.
- 1.69 PROPERTY - includes all real estate of any kind, improved or unimproved, including but not limited to land, commercial property, investment property, and residential property.
- 1.70 QUALIFICATION - the minimum standards of employment, residency and/or net assets that are applied to a Qualified Household according to the Covenant covering the Housing Unit and as defined in Sections 3 and 5.

- 1.71 QUALIFIED EMPLOYEE - an Employee who meets the Minimum Work Standard, is certified by the Committee, and who maintains compliance pursuant to the Covenant and Guidelines.
- 1.72 QUALIFIED ENTITY OWNER - an Owner who is a Business Owner, Local Government, School District, or Special District located in and serving Ouray County, with a local workforce working in the School District, who has been certified as Qualified by the Committee to own a Housing Unit and who has agreed to the rental restrictions set forth in the Deed Restriction and these Guidelines.
- 1.73 QUALIFIED HOUSEHOLD - all Owners and Occupants who meet the requirements of Sections 3 and 5 who are certified to own and/or occupy the Housing Unit according to the terms and conditions of the Deed Restriction and Guidelines and who maintain compliance pursuant to the Covenant and Guidelines.
- 1.74 QUALIFIED OCCUPANT - a person who meets the requirements of Sections 3 and 5 to occupy the Housing Unit, who is certified, and who maintains compliance pursuant to the Covenant and Guidelines. Entity Owners shall not be considered Qualified Occupants.
- 1.75 QUALIFIED OWNER - a person who meets the requirements of Sections 3 and 5 at the time that they take initial ownership interest or transfer of interest in a Housing Unit, is certified, and who maintains compliance pursuant to the Covenant and Guidelines. Entity Owners may be considered Qualified Owners subject to the Covenant and Guidelines.
- 1.76 RIGHT OF FIRST REFUSAL- a provision in a lease or other agreement that gives a potentially interested party the right to buy a property before the seller negotiates any other offers.
- 1.77 SALE -the exchange of a Housing Unit for an agreed amount of money in a single transaction in which title to the Housing Unit is transferred to a new Qualified Household.
- 1.78 SELF-EMPLOYED - a person who carries on a trade or business as a sole proprietor or independent contractor who is working for oneself as a freelancer rather than for an employer including part-time business or a member of a partnership that carries on a trade or business.
- 1.79 SELLER - a person or entity who owns and is selling a Housing Unit.
- 1.80 SELLER’S LISTING CHECKLIST - the list of items required to be in good order as defined in the “Minimum Standards” required for a sale at Maximum Sale Price (Section 6.8).
- 1.81 SELLER’S PROPERTY DISCLOSURE - the residential form approved by the Colorado Real Estate Commission and customarily required in transactions involving the purchase and sale of residential real estate in the State of Colorado.

- 1.82 SCHOOL DISTRICT – the Ouray School District R-1 and/or the Ridgway R-2 School District.
- 1.83 SCHOOL DISTRICT PERSONNEL - any Full-time Employee, including independent contractors of the School District, who provides health, educational, administrative, social, psychological, custodial, food service, transportation, law enforcement, or childcare services.
- 1.84 SHORT-TERM RENTAL - the use of a Housing Unit, or any part thereof, for remuneration, for less than six (6) consecutive calendar months.
- 1.85 SPECIAL DISTRICT- is a quasi-municipal corporation and political subdivision of the State of Colorado formed to provide necessary public services that the county or municipality cannot otherwise provide. The formation and operation of a special district is governed by Title 32 of the Colorado Revised Statutes and other applicable laws.
- 1.86 TENANT - a person who has the temporary use and occupancy as a Long-Term Rental of a Housing Unit owned by another subject to these Guidelines.
- 1.87 TRANSFER - the act of an Owner, or of the law, by which the title to the Housing Unit is wholly or partially transferred to another; including but not limited to the sale, assignment voluntary or involuntary transfer, or transfer by operation of law (whether by deed, beneficiary deed, contract of sale, gift, devise, bequest, trustee’s sale, deed in lieu of foreclosure, or otherwise) of any interest in the Housing Unit, including but not limited to a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, a leasehold interest or any interest evidenced by a land contract by which possession of the Housing Unit is transferred and Owner retains title, except that, this definition does not include any transfer of an interest by the Committee or RH.
- 1.88 UNIMPROVED RESIDENTIAL PROPERTY -- vacant property, which is restricted solely to residential uses, and uses accessory thereto, as defined in the applicable Land Use Code.

2. PURPOSE AND APPLICABILITY

The purpose of the Guidelines is to provide a comprehensive and consistent set of provisions that apply to housing created by RH and the Committee.

Every sale or rental of a Housing Unit shall be subject to the Deed Restriction and Guidelines in effect at the time of sale or rental. Owners and Tenants are subject to the Guidelines in effect at the time of sale and purchase and as amended during their ownership or lease.

Violations of these Guidelines are violations of the Deed Restriction and are subject to the penalties adopted for such violations in addition to remedies provided herein.

These Guidelines are considered regulations to control and enforce the applicable Deed Restriction and have the force and effect of law and can be enforced by the Committee or its authorized agents and/or representatives or RH. These rules have binding effect on all individuals and courts.

3. HOUSEHOLD QUALIFICATION and ELIGIBILITY

A Qualified Owner or a Qualified Household must maintain its Qualification continuously so long as it owns, rents, or occupies the Housing Unit.

3.1 Household Initial Qualification. Qualified Owners and Qualified Households must meet each of the following requirements for initial purchase or occupancy as described below in the following sections:

- 3.1.1 Minimum Work Standard
- 3.1.2 Earned Income Standard
- 3.1.3 Residency Standard
- 3.1.4 Property Ownership Standard
- 3.1.5 Net Assets Standard

3.1.1 Minimum Work Standard.

3.1.1.1 Qualified Employee. At least one member of the Household who is an Owner shall be a Qualified Employee who must demonstrate and verify 1,200 hours of employment physically performed within the Ouray County boundaries for a minimum of forty (40) hours per month for at least eight (8) of the previous twelve (12) months immediately prior to submission of an application or provide verifiable intent to physically perform 1,200 hours of work in the Ouray county boundaries within twelve (12) months of application at a minimum of forty (40) hours per month for eight (8) of the next twelve (12) months.

3.1.1.2 Exemptions. Those who have been determined by Committee to be Qualified Elderly or Qualified Individual with a Disability as defined below, prior to application for ownership or rental, as well as Immediate Family and Dependents of a Qualified Employee are exempt from the required employment hours.

3.1.1.2.a Qualified Individual with a Disability – Those persons with a disability may apply to be Qualified Individual with a Disability by providing a verifiable history of employment meeting the Minimum Work Standard on a rolling twelve (12) month basis for at least five (5) of the seven (7) years within the County immediately prior to application for Qualified Individual with a Disability as defined. Note: Persons with a disability who cannot meet this exemption standard may request an Exception under §11.1.3

3.1.1.2.b Qualified Elderly – Those who are 65 years or older may apply to be Qualified Elderly by providing a verifiable history of employment meeting the Minimum Work Standard on a rolling twelve (12) month basis for at

least five (5) of the seven (7) years within the County, immediately prior to application for Qualified Elderly as defined.

3.1.1.2.c Exception - Employees who are employed by a business operating within in the Ouray County boundaries with a workforce physically located within the County and who may be required to perform tasks outside the County boundaries, may apply for an Administrative Exception to the “physically performed” requirement, §11.1.3.

3.1.2 Earned Income Standard.

3.1.2.1 Total Household Earned Income must be at least 75% of the total Household Income. Unearned Income cannot exceed 25% of total Household Income.

3.1.2.2 Households must qualify for the AMI standard associated with the Housing Unit and show proof of Income not to exceed the income range allowed for the Housing Unit.

3.1.2.2.a For purposes of Initial Qualification under this standard for Applicants who do meet the local Minimum Work Standard, the Committee shall examine historical data. Historical data is a hybrid of previous year's tax returns and current year-to-date employer payment information that creates a total income for the twelve-month period immediately prior to the application submittal. All other income received or earned in the same twelve-month period is included in the income total.

3.1.2.2.b For purposes of Initial Qualification under this standard for Applicants who do **not** meet the local Minimum Work Standard and who provide verifiable intent to work, the Committee shall use prospective information and income related to the applicant's employment in the School District going forward. The start date of the “intent to work” shall begin the twelve-month period of analysis, including anticipated income from all sources.

3.1.2.3 Applicant representations of Gross Income are subject to verification and evaluation of reasonableness by Committee.

3.1.2.4 The following are exempt from the Earned Income Standard:

3.1.2.4.a Those who are Qualified Individual with a Disability per the provisions of Section 3.1.1.2.a; and

3.1.2.4.b. Those who are Qualified Elderly per the provisions of Section 3.1.1.2.b.

3.1.3 Residency Standard. Applicants purchasing a Housing Unit are not subject to a prior residency requirement but must intend to, and in fact, occupy the Housing Unit as their sole and Primary Residence.

3.1.4 Property Ownership Standard.

3.1.4.1 At the time of application, a Household may own other improved or unimproved residential or commercial property, however, Applicant must enter into an Intent to Sell Agreement for all Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit. Further all Improved Residential Property must be listed for sale within seven days of taking title to the Housing Unit and sold for fair market value within one year of taking title to the Housing Unit.

3.1.4.2 Households that desire to acquire Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit after taking ownership of a Housing Unit must apply for and be granted an Exception prior to taking ownership of the additional property.

3.1.4.3 Households that desire to retain Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit after taking ownership of a Housing Unit must apply for and be granted an Exception before purchasing the Housing Unit.

3.1.5 Net Assets Standard.

3.1.5.1 Total Household Net Assets shall not exceed three (3) times the Original Purchase Price (“OPP”) of the Housing Unit. All Household members’ shares of business assets, including real estate, shall be included in determination of the Household Net Assets.

3.1.5.2 Disposition of Assets. Any member of a Household who has assigned, conveyed, transferred, or otherwise disposed of property or other assets within the last two (2) years without fair consideration in order to meet the net asset limitation or the property ownership limitation shall be ineligible to purchase a Housing Unit.

3.2. Household Eligibility Criteria.

3.2.1 Income Eligibility Tiers. Households must meet Income Eligibility Tiers in addition to the Household Initial Qualification criteria. Eligibility criteria may differ between units that are targeted to different Tiers, as defined in Appendix A, and as designated in the Covenant.

The existence of more than one Eligibility Tier does not guarantee that the Committee will construct or otherwise make available housing in that Tier.

3.2.2 Household Size. The total number of people in a Household shall not be less than the following Minimum Household Sizes or exceed the Maximum Household Sizes:

Unit Type:*	Minimum Household Size:	Maximum Household Size
Studio / 1 Bedroom	1 person	3 persons
2 Bedroom	1 person	4 persons
3 Bedroom	2 persons	6 persons
4 Bedroom	3 persons	8 persons

*this chart does not guarantee houses will be built or available in all listed types.

3.2.2.a If Declarant’s Household Size falls below the minimum size required, Declarant shall rent a room to a Qualified Tenant pursuant to the Covenant and Guidelines.

3.3 Qualified Entity Owners. Qualified Entity Owners shall be exempt from the Initial Qualification Standards and Eligibility Criteria. Tenants of all Qualified Entity Owner Housing Units shall meet the requirements above as required by Section 7.

4. INITIAL HOUSEHOLD APPLICATION PROCESS

4.1 Application Process. Applications for qualification shall be made to Committee. Committee may request any combination of documentation reasonably related to proof of income, assets, and employment. Household shall sign a release of information so that Committee may obtain such information. Committee will require a sworn statement of the facts contained in the application including at least the following certifications:

4.1.1 That the facts contained in the application are true and correct to the best of the Applicant’s knowledge; that the Applicant has been given the standard application information packet by Committee; and

4.1.2 That the Applicant, on the basis of the application presented, believes that the Household qualifies to occupy the Housing Unit in question according to the Deed Restriction, these Guidelines and all other applicable procedures, rules, and regulations.

4.1.3 Any material misstatement of fact or deliberate fraud by the Household in connection with any information supplied to Committee shall be cause for immediate expulsion from the application process and/or forced sale or vacation of the Housing Unit.

4.1.4 Qualified Entity Owners. Qualified Entity Owners shall have a streamlined application process which may vary among entity type.

4.2 Homeowners Associations. The Housing Unit is not currently subject to a homeowner’s association (“HOA”). However, HOAs and related dues are authorized in Colorado under Colorado Revised Statutes §38-33.3-101 et seq. If an HOA is formed and applicable, all Owners of Housing Units are required to timely remit payment of HOA dues. It is the Household’s responsibility to be aware of any HOA dues or interest charges.

5. CONTINUING HOUSEHOLD QUALIFICATION AND COMPLIANCE VERIFICATION

5.1 Maintaining Qualified Household Status. Committee requires Households, including all occupants of Housing Units, to maintain Qualified Household status on an on-going basis.

5.1.1 Changes to Households. Changes to Qualified Households impact ongoing qualifications and may jeopardize qualification, such as a pending separation or divorce, the death of a Household member, or departure of a Household member, and the addition of Immediate Family members. All changes to the Household shall be reported to Committee within thirty (30) days of said change. Committee will make every effort to maintain stable housing for Households in transition but shall require the Household to come into compliance within a reasonable period prior to issuing a Notice of Violation.

5.1.2 Compliance Checks. In order to verify compliance with Deed Restrictions and the Guidelines, Committee will conduct regular Compliance Checks and may initiate them to investigate complaints or reports of non-compliance. Any on-site Housing Unit inspection is subject to a twenty-four (24) hour notice requirement.

5.1.3 Verification of Qualification. Committee shall require Households to verify that they remain a Qualified Household within twenty-one (21) days of a written notice of Compliance Check or a penalty will be assessed (see Appendix E). A sworn statement of the facts required for maintaining Qualified Status shall be required as detailed in Section 4 for initial Compliance Check submissions.

5.2 Qualified Household Continuing Requirements. Verification of the following shall be required:

5.2.1 Continuing Minimum Work Standard.

5.2.1.1 At least one member of the Household must be a Qualified Employee who meets the Minimum Work Standards.

5.2.1.2 Qualified Elderly, Qualified Individual with a Disability and Immediate Family of Qualified Employees are exempt from the continuing Minimum Work Standard.

5.2.2 Continuing Earned Income Standard.

5.2.2.1 Household shall meet the Earned Income Standard, Section 3.1.2.1.

5.2.3 Continuing Net Income Standard.

5.2.3.1 Household Net Income shall not be considered for ongoing qualification for Owners.

5.2.3.2 Tenant Households shall continue to meet the Earned Income Eligibility Tier as designated by Appendix A.

5.2.4 Continuing Residency Standard. Qualified Households shall occupy the Housing Unit for at least eight (8) of every twelve (12) months on a rolling twelve (12) month basis.

5.2.4.1 Leave of Absence. In the event a Household wishes to not occupy the unit for more than four (4) months, the Household may apply to Committee for a Leave of Absence for a term not to exceed two (2) years. The Household must provide clear and convincing evidence showing both a bona fide reason for leaving and a commitment to re-occupy the Housing Unit. Committee shall condition the granting of the Leave of Absence on the Household offering the Housing Unit for rent to a Qualified Household, during the period of the requested leave. Committee may include conditions on the Leave of Absence, as it deems necessary. Applications for a Leave of Absence shall be made to Committee according to the Exceptions Procedure in Section 11.1. Short-term rental and rental terms of six months or less of Housing Units are otherwise prohibited.

5.2.5 Ownership of Improved Residential Property. Household is prohibited from ownership of other Improved Residential Property located within a one-hundred and fifty (150) mile radius from the Housing Unit unless the Committee approves an Exception, see Section 11.1.

5.2.6 Household Net Assets. Household Net Assets shall not exceed three (3) times the Maximum Sales Price of the Unit.

5.2.7 Household Size. Minimum and Maximum Household Size are on-going requirements. See Section 3.2.2.

5.3 Qualified Entity Owners. Qualified Entity Owners shall be subject to verification of Qualification of Entity Status. Tenants of all Qualified Entity Owner Housing Units shall meet all continuing requirements of the Covenant and Guidelines. Failure to do either or both is a material breach of the Covenant.

6. SALE AND RESALE OF HOUSING UNITS

The initial sale of all Housing Units shall be in accordance with applicable lottery, wait list or other selection procedures as determined by the Committee.

6.1 Notification Required.

6.1.1 Written notice to Committee shall be required for any pending change in financing or ownership of a Housing Unit. Failure to timely notify Committee is considered a serious breach of the Deed Restriction and violation of the Guidelines and shall be subject to a Notification Required Penalty (see Appendix E) for each day the failure to notify persists.

6.1.2 Notice of Intent to Sell a Housing Unit must be given at least sixty (60) days prior to the sale of the unit on notice forms available from Committee.

6.1.3 Notice of transfer of any interest in a Housing Unit must be given at least thirty (30) days prior to the transfer and will require the execution of a new Deed Restriction.

6.1.4 Notice of refinancing of a Housing Unit must be given at least thirty (30) days prior to closing of the loan.

6.2 Consult with Committee. Sellers are advised to consult with Committee prior to offering a Housing Unit for sale, in order to obtain the most current information about applicable Guidelines and processes, and to verify the Maximum Sale Price and other applicable provisions of the Deed Restriction concerning the Sale.

6.3 Independent Legal Counsel. All Sellers and Buyers of Housing Units are advised to consult independent legal counsel regarding the examination of title and all contracts, agreements, and title documents. The retention of such counsel, or related services, shall be at Buyer's and Seller's own expense.

6.4 Title Company. Committee advises Buyers to use a local title company and escrow agent with experience in closings of Housing Units to close the sale transaction. The title documents involved in the closing of Housing Units are unique and technical. Mistakes in the closing documents are easily made and difficult to correct. Seller shall authorize Committee to review the conveyance documents prior to closing.

6.5 Sales Fee. After the initial sale, at the closing of the sale, the Buyer, will pay to Committee a fee equal to 1% of the sales price. Committee may instruct the title company to pay such fees out of the funds held in escrow at closing. The sales fee is waived for the sale from the developer to the first purchaser. Committee may also waive the fee, or a portion thereof, in its sole discretion, to promote affordable housing. Fees due to Committee shall be paid regardless of any action or services that the Buyer or Seller may undertake or acquire.

6.6 Beneficiaries with the Right to Acquire Ownership. Upon Owner’s Notice of Intent to Sell, or upon exercise of Notice of Election to Require Sale as defined in the Covenant, Section 10.3, or if an Owner receives any offer to purchase or tenders any offer of sale for the Housing Unit either of the Beneficiaries, or their successors, shall be notified within five (5) days of such event and have the Right of First Refusal (ROFR) to purchase the Housing Unit for the Maximum Sale Price or at the offered sales price outlined in the Covenant, Section 7.3.

6.6.1 Sale between Owner and an Immediate Family Member shall be excluded from the Beneficiaries’ ROFR in 6.6, above.

6.7 Resale Options. Sellers of Housing Units have the following options for advertisement and marketing of their units:

6.7.1 Seller may advertise, market, and sell a Unit directly, or list the Unit with a real estate broker licensed to do business in the State of Colorado provided that:

6.7.1.1 The Buyer meets the Qualified Household requirements of Section 3;
and

6.7.1.2 In all events the Committee will assist the Seller as it is able.

6.8 Maximum Sales Price.

6.8.1 Maximum Sale Price as Only Exchange of Value. The Maximum Sale Price of the Housing Unit shall be calculated according to its Deed Restriction. In no case shall any Housing Unit be sold for more than the Maximum Sale Price. The contracted sale price shall be the only exchange of value between parties to any sale of the Housing Unit. Both Buyer and Seller must execute a sworn statement affirming that the contracted sale price is the only exchange of value in the sale. Any exchange of value outside the contract sale price shall invalidate the sale in addition to being a violation of applicable provisions of Colorado law that provide for additional civil and criminal remedies.

6.8.2 Minimum Standards for Maximum Sale Price. The Owner, Buyer, and Committee should work together in addressing repairs necessary to bring a Housing Unit to Minimum Standards for Maximum Sale Price. Owners and Buyers shall use the following checklist of Minimum Standards for a sale at Maximum Sale Price (Seller’s Listing Checklist), including but not limited to:

- Clean, odor-free interior;
- Carpets steam-cleaned within seven (7) days of closing;
- Surface scratches, marks, holes in doors, floors, walls, woodwork, cabinets, counter tops, other than normal wear and tear, repaired;
- Walls in good repair and paint-ready;
- Windows and window locks in good repair;
- Broken windowpanes replaced;

- Window screens in place and in good repair;
- Doors and door locks in good repair; keys for all locks must be delivered at closing;
- Light fixtures, outlets, switches secure and in working order;
- Plumbing in good repair with no leaks;
- Tile grout in good repair and clean;
- Roof in good repair with no leaks (if home is a single-family) including an expected remaining life of ten years; and
- Safety hazards resolved.

6.9 Mitigation of Repairs.

6.9.1 Committee shall conduct a walk-through of the Housing Unit for purposes of verifying the Seller’s Listing Checklist and identifying necessary repairs pursuant to Section 6.8. The Seller shall make identified repairs to bring the unit to Minimum Standards for Maximum Sale Price prior to closing.

6.9.2 If a unit does not meet the Minimum Standards, Committee may, at its discretion, require:

- 6.9.2.1 That the cost of necessary repairs be deducted from the closing sale price; or
- 6.9.2.2 That a credit be required from the Seller to the Buyer; or
- 6.9.2.3 That the Seller places into escrow the funds necessary to ensure satisfactory repairs, the balance of which, after necessary repairs, shall be returned to the Seller.

6.9.3 Buyer is strongly encouraged to hire, at its own expense, a licensed inspector to conduct a thorough inspection of the Housing Unit.

6.10. Disclosure of Relevant Contracts and Information.

6.10.1 Both Buyer and Seller of any Housing Unit must sign a release of information allowing Committee to obtain copies of all documents relevant to the sale and must disclose all relevant information known to them. All financial information shall remain confidential except as noted in Section 12.1.

6.10.2 Relevant documents include but are not limited to:

- 6.10.2.1 The sales contract for the Housing Unit;
- 6.10.2.2 The Buyer’s application for financing and related documentation; and
- 6.10.2.3 Title and escrow documents related to the sale.

6.10.3 Sellers must inform Buyers of any proposed or pending increases in homeowner association dues, as well as any proposed or pending assessments, if any.

6.11 Permitted Capital Improvements. Permitted Capital Improvements, as defined in Section 1.9 provide a long-term upgrade or improvement to the Housing Unit. Permitted Capital Improvements shall NOT include luxury items, upgrades for esthetic or personal preference, landscaping, or cost associated with ordinary repair, replacement, and maintenance.

Ordinary Repair and Maintenance including roof repair and replacement, siding repair and replacement, driveway repair and replacement, and other similar maintenance cost are not considered Capital Improvements. Labor costs provided by the Owner may be authorized for up to 50% of the Permitted Capital Improvements upon approval by the Committee.

It is the Owner's responsibility to secure any approval necessary from the Housing Unit's homeowners association and Committee prior to undertaking any Capital Improvements.

6.11.1 ADUs and Capital Improvements. The new construction of an ADU, where permissible, will not be included in the Capital Improvement calculation for the Housing Unit. It will, however, impact the MSP based on criteria established by the Committee.

7. RENTAL PROCEDURES

There are two types of Rental Procedures. One for the rental of the entire Housing Unit and one for a partial rental.

7.1 Entire Housing Unit.

7.1.1 Owner Occupied Units: Owners of Housing Units may, in some instances, be permitted to rent their entire Housing Unit. Households interested in renting the entire Housing Unit shall apply to and be qualified by the Committee under the standards delineated in Section 3. HOUSEHOLD QUALIFICATION, ELIGIBILITY AND PRIORITY.

7.1.2 Qualified Entity Owner Units: Qualified Entity Owners are required to rent their Housing Units and all applicants interested in renting the Housing Unit shall apply to and be qualified by the Committee under the standards delineated in Section 3. HOUSEHOLD QUALIFICATION, ELIGIBILITY AND PRIORITY. Qualified Entity Owners must fulfill the Minimum Household Size and not exceed the Maximum Household Size (Section 3.2.2 Chart). Qualified Entity Owners may rent to unrelated/non-Household applicants and treat each as a separate Household for purposes of qualification as described in 7.2 Room Rental, below.

7.1.3 All other rules and regulations apply to Qualified Entity Owners Housing Units.

7.2 Room Rental. For purposes of qualification for room rental in an Owner-occupied Unit, each room rental shall be considered independently, and Tenant Household's income and assets shall not be included in the Owner's Household for income and asset qualification purposes. However, rental income shall be considered Unearned Income for the Owner/Landlord.

Tenant Household requirements for room rentals:

7.2.1 At least one member of the Tenant Household, who is not part of the Immediate Family of the Owner, must be a Qualified Employee; and

7.2.2 Tenant Households shall meet the Minimum Work, Earned Income, Residency, Property Ownership and Net Assets Standards; and

7.2.3 Tenant household Income Eligibility shall be determined by the Housing Unit's Income Eligibility Tier (see Appendix A) at time of initial tenancy.

7.3 **General Provisions for all Rentals.** In this section, Tenant refers to Households that rent an entire Unit and Tenant Households renting a room in a Unit.

7.3.1 Tenant shall meet the Income Eligibility Criteria designated by the Housing Unit's Income Eligibility Tier (see Appendix A).

7.3.2 Maximum Rental Rate per Housing Unit is set by the Committee and shall not exceed the rental rate for the same number of bedrooms designated by the Housing Unit's Income Eligibility Tier (see Appendix A).

7.3.3 Maximum Rental Rate per room is set by the Committee and shall not exceed studio/one-bedroom rental rate designated by the Housing Unit's Income Eligibility Tier (see Appendix A).

7.3.4 Tenant Qualification shall be certified by Committee prior to tenancy and/or the signing of a Lease.

7.3.5 Tenant Qualification shall be recertified by Committee yearly at Lease renewal and any time there is a change in Household/Tenant Household.

7.3.6 Landlords must obtain proof of qualification from Tenant prior to occupancy.

7.3.7 Rental of Housing Units must be memorialized by a written Lease.

7.3.8 Leases must be for a minimum of six (6) consecutive months and for a maximum of twelve (12) months. Rentals of less than six (6) months are prohibited.

7.3.9 Landlords shall provide a copy of the fully executed Lease with Tenant to Committee within seven (7) days of its execution.

7.3.10 Executed copies of Leases shall be on file with Committee at all times during the period in which rental of the Housing Unit is required or has been approved.

7.3.11 A sublease to a Qualified Employee is allowed upon approval of the Owner and of Committee.

8. DEED RESTRICTION COVENANT

8.1 Deed Restriction Applied with Each Transfer. A Deed Restriction shall be applied prior to or concurrent with each Sale or Transfer of a Housing Unit. Original executed and recorded documents will be maintained by Committee. Provisions herein further defining the Deed Restriction are a summary of significant policies and should not be considered the complete authority. Sellers and Buyers are advised to consult the Deed Restriction for the Housing Unit for complete specific language, which is the final authority for that Housing Unit.

8.2 Specifications of the Deed Restriction.

8.2.1 The Original Purchase Price (“OPP”). Each Housing Unit Sale generates a new OPP and necessitates execution of a new Deed Restriction.

8.2.1 The designated Income Eligibility Tier for the Housing Unit.

8.2.3 The method of calculation of the allowed Maximum Sale Price (“MSP”). MSP shall be the OPP specified in the Deed Restriction plus an increase in price of three percent (3%) per year from the date of purchase to the date of Owner’s Notice of Intent to Sell (compounded annually and prorated at the rate of .25 percent per each whole month of any part of a year);

PLUS, the costs of any public improvements for which assessments were imposed by a government entity since the recording date of the Deed Restriction; PLUS, the costs of Permitted Capital Improvements, not to exceed ten percent (10%) of the OPP, provided that:

8.2.3.1 Improvements are pre-approved by Committee prior to commencement of any work or installation to be considered in the calculation of the MSP.

8.2.3.2 Proof of homeowner’s association approval, if any, must be provided to Committee prior to commencement of work.

8.2.3.3 Improvements must be properly permitted and inspected by the City Building Official, if applicable.

8.2.3.4 LESS the Depreciation on Permitted Capital Improvements; PLUS, any other reasonable costs allowed by Committee pursuant to Guidelines in effect on the date of Owner’s Notice of Intent to Sell.

8.3 Home Occupations. The Housing Unit may be used in a Home Occupation if:

8.3.1 Home Occupation complies with applicable land use regulations;

8.3.2 HOA approval of the specific Home Occupation, if applicable;

8.3.3 The business holds a current business license, if applicable; and

8.3.4 The business holds current sales and excise tax licenses, if applicable.

8.4 **No Guarantee of MSP.** Neither Committee nor the Beneficiaries make any guarantees of the owner's ability to sell the housing unit for its MSP or rent the housing unit for its maximum rental rate.

8.5 **Violation of Deed Restriction.** Violation of any of the covenants, conditions and terms of the Deed Restriction shall also be a violation of these Guidelines whether or not a corollary provision exists.

8.6 **Deed Restriction Binding.** The Deed Restriction shall be binding on all Owners, successors and assigns including any holder of a deed in lieu of foreclosure.

8.7 **Recording of Deed Restriction.** The Deed Restriction and any amendments thereto must be recorded in the property records of the County. The original executed and recorded documents must be delivered to Committee.

8.8 **Deed Restrictions may not be transferred off the Housing Unit.**

8.9 **All Deed Restrictions must be prepared by** Committee. No modification or amendment to the Deed Restriction shall be effective unless agreed to in writing by Committee and other Parties.

9. LENDERS AND LOANS

9.1 **Purpose.** RH intends to meet the following goals in the facilitation of individual mortgage financing for Housing Units:

9.1.1 Protect the public investment and regulatory integrity of RH in the short and long term;

9.1.2 Minimize financial and other risks to Committee and RH by prohibiting excessive debt or other obligations from being secured by Housing Units;

9.1.3 Minimize the chance that Owners will create a financial risk for Committee through creation of debt or other secured obligations against their Housing Unit; and

9.1.4 Increase the potential financing opportunities for Applicants and Owners.

9.2 **Lenders and Mortgages.** Borrowers are restricted to either conventional or government guaranteed mortgages with a fixed rate from commercial banking and lending institutions authorized to engage in mortgage lending practices in the State of Colorado. All other mortgages will require an Exception from Committee prior to purchase of a Housing Unit.

9.3 Total Debt. Prior to and continuing after closing on a Housing Unit, Owners shall not incur debt, judgments, liens, or other obligations secured by the Housing Unit and in no event shall any obligation secured by the Housing Unit exceed the total Original Purchase Price of the unit. This limitation shall apply also to any refinance of existing debt secured by the Housing Unit. Owners must notify Committee prior to finalizing any refinancing of the Housing Unit. Failure to notify Committee shall be subject to a penalty (see Appendix E).

9.4 Co-Borrower or Co-Signor. Co-borrowers or Co-signors who are not part of the Qualified Household must apply and be approved through the Exception Procedure (Section 11). Approved Co-borrowers and Co-signors shall be required to sign a separate agreement to sell the Housing Unit in the event the Qualified Owner becomes an Unqualified Owner, is in default under its Deed Restriction or the Guidelines or is otherwise required to sell the Housing Unit. Such Co-signors and co-borrowers shall not occupy the Housing Unit unless qualified by Committee.

10. OWNERSHIP LOTTERIES

The purpose of these Lotteries is to create a fair and orderly process for offering Units for sale to qualifying Households and give purchase priority to those identified in the Lottery Point System Criteria, Appendix C.

10.1 Ownership Lottery Procedure.

10.1.1 Committee shall establish a procedure for ownership lotteries for initial sales of RH as subject to these Guidelines and may establish ownership lotteries for subsequent sales as necessary.

10.1.2 Committee shall open an ownership lottery as follows:

10.1.2.1 Notice of the date, time, and location at which applications will be taken shall be published as a Legal Notice in a newspaper of general circulation in the region. Such notice shall be published at least twenty-one (21) days prior to the close of the application period, which application period shall be a minimum of fourteen (14) days.

10.1.2.2 Application and information materials shall be available at the time of publication of the Legal Notice at locations and web sites announced in the Notice.

10.1.3 Lottery Application Process and Applicant Responsibilities.

10.1.3.1 Complete lottery application.

10.1.3.2 Households interested in purchasing a Housing Unit must submit an application to the Committee or its Designee. All members of a Household over

eighteen years of age must submit the required information necessary to determine qualification and eligibility.

10.1.3.3 A Household must submit a letter from a mortgage lender, stating the Household's ability to pre-qualify for a mortgage.

10.1.3.4 In order to participate in a lottery, Households must sign the sworn statement described in Section 4.

10.1.3.5 If a Household cannot sign the sworn statement, or if a Household does not provide Committee with information required to process the application, then it will not be eligible to be entered into the lottery.

10.1.3.6 Committee shall rely on the sworn statement of the Applicant as to the completeness and accuracy of the application for the purpose of determining eligibility to participate in a lottery.

10.2 Lottery Order.

10.2.1 Committee shall only accept lottery applications during the time period specified in the Legal Notice. Mailed applications shall be considered received in the proper time period if postmarked at least two (2) days prior to the last day of the application period and received within two (2) business days after the application period closes. Committee shall not be responsible for delays in the delivery of mail beyond two (2) business days after the application period closes. Incomplete applications shall not be processed for qualification.

10.2.2 The lottery shall be executed in two rounds; First Round for all Applicants who qualify without an Exception and Second Round for all Applicants who have requested and received an Exception(s).

10.2.3 All Applicants deemed Qualified Households shall automatically qualify for entry in the lottery and placed in First Round. Any household lacking one or more of the Qualification and Eligibility Criteria will be placed on a separate list for unqualified Applicants (as further explained in Section 10.3.3.6) and placed in Second Round.

10.2.2.1 Exception requests submitted pursuant to Section 9.2 (Lending) shall not preclude Applicant from classification as a Qualified Household for purposes of the Lottery.

10.2.4 Qualified Applicants shall qualify for additional entries in the lottery according to the criteria as outlined in Appendix C or according to criteria established by RH.

10.2.5 The Lottery Point System Criteria may be modified as necessary by Committee.

10.3 Lotteries are subject to the following guidelines:

10.3.1 A lottery must be conducted in a duly noticed public meeting of the Committee.

10.3.2 An independent County resident with no direct stake in the lottery outcome shall be invited to draw the Applicant names after every applicant's approved entry has been verified as included in the lottery drawing by the Committee prior to drawing any names.

10.3.3 Once an Applicant's name is drawn, any further instances of that Applicant's name drawn are recorded but ignored in establishing the order of Applicants.

10.3.4 The results of the lottery shall be posted and certified by the resident drawing the names as soon as practically possible after the drawing.

10.3.5 The order in which Applicant names are drawn in the lottery shall determine the order in which Applicants are contacted to purchase the Housing Units offered in the lottery and for which they qualify (except for handicapped-accessible units as noted in Section 10.3.3.7).

10.3.6 These procedures will also be followed to establish the order of the unqualified Applicants. Unqualified Applicants will not be offered a Unit until all Qualified Applicants have been offered a Unit to purchase based on their preference, AMI designation and availability of Units. In addition, prior to being offered a Unit, the unqualified Applicant must have been provided an Exception per Section 11.1. These Applicants shall be placed in an "unqualified pool" for the Second Round lottery and shall be selected following the Qualified Applicants according to Sections 10.3.1- 10.3.5, above.

10.3.7 First priority for ADA handicapped accessible units shall be given to Mobility Disabled Households that submit a lottery application based on the lottery order of all Mobility Disabled Households. If there are no Mobility Disabled Households that submit a lottery application for an available handicapped accessible Unit, the Unit will be available for purchase based on the lottery order by all lottery Applicants who are Qualified Households.

10.3.8 Any material misstatement of fact or deliberate fraud by the Household in connection with any information supplied by the Household to the Committee shall be cause for disqualification from lottery, fined pursuant to the Schedule of Violations and Fines and the Household will be prohibited from reapplying for any future ownership lottery for one year.

11. EXCEPTIONS, APPEALS AND GRIEVANCES.

All applications for Exceptions and Appeals and all Grievances shall be reviewed on a case-by-case basis as provided for as follows.

11.1. Request for Exception.

11.1.1 Request must be presented in writing to Committee on forms available from Committee, and must include a fully completed Request for Exception Form, including:

11.1.1.1 The particular ground(s) upon which the Exception is based; and

11.1.1.2 The action or remedy requested; and

11.1.1.3 The name, mailing and electronic addresses and telephone number of the exception Applicant and similar information of exception Applicant's representative, if any; and

11.1.1.4 Exception fee payment (see Appendix E).

11.1.2 Process. All requests for Exceptions will be reviewed by Committee for completeness and handled administratively ("Administrative Exceptions").

11.1.2.1 Prior to consideration, Committee shall prepare a written report analyzing the impact of the Exception on the Housing Program. Committee shall distribute a copy of the report to the Applicant requesting the Exception and shall make the report available to the public.

11.1.3 Standards for Review of Exception Applications. Applicants desiring an Exception must demonstrate, and the Committee must find:

11.1.3.1 That the Exception meets the general RH policy goals; and

11.1.3.2 That the Exception meets one or more of the following review standards:

11.1.3.2.a Promotes greater affordability through decreasing the long-term operating and maintenance costs of the Housing Unit in question; enabling the Exception Applicant to take advantage of a financing opportunity that would not be available without the Exception; and/or, protecting the long-term affordability of the Housing Unit through a price control or other similar means.

11.1.3.2.b Promotes or recognizes the long-term commitment of the Exception Applicant to residency, employment, and community involvement within the County in which the Housing Unit is located or provides housing for a critical community need.

11.1.3.2.c Provides increased livability or durability in materials, finishes, fixtures or appliances or useful increased square footage (which shall not include "luxuries").

11.1.3.2.d Creates living space for an additional member of the Household while maintaining the Income Tier for the Housing Unit

11.1.3.2.e Enables a Household to own and occupy a Housing Unit more suitable to the Household's needs; or

11.1.3.2.f. Enables the Household to respond to life circumstances that arise beyond the reasonable control of the Household (such as need to care for an Elderly or Household member who is Individual with a Disability).

11.1.4 Exceptions shall not be granted:

11.1.4.1 To Applicants who have been issued a Notice of Violation and who remain in violation of provisions of applicable Deed Restriction or of the Guidelines.

11.1.4.2 To an Unqualified Household to purchase a Housing Unit if there is a Qualified Household that can purchase the same Housing Unit. However, if the Owner has shown a bona fide advertisement effort which shall be no less than forty-five (45) days in duration and no Qualified Household presents itself, an Exception may be considered for the Unqualified Household.

11.1.4.3 To increase the total debt against the Housing Unit in excess of the OPP.

11.1.4.4 To Households whose Net Assets exceed three times the Maximum Sales Price of the Housing Unit.

11.1.4.5 To Households whose income is in excess of 120% AMI.

11.2. Appeal Procedure.

11.2.1 Appeal Form & Process: Any Appeal from a final decision by the Administrator must be presented in writing to Committee on forms available from Committee and no later than twenty-one (21) days after the date of the decision or determination that is being appealed.

11.2.2 Appeals must include:

11.2.2.1 Verification that appellant has fully completed the application process;

11.2.2.2 The particular ground(s) upon which the Appeal is based;

11.2.2.3 The action or remedy requested;

11.2.2.4 The name, address, telephone number of the appellant and similar information of appellant’s representative, if any; and

11.2.2.5 Appeal fee payment (see Appendix E).

11.2.3 Process.

11.2.3.1 Time Deadlines: All Appeals will be reviewed by Committee for completeness within twenty-one (21) days from receipt of complete Appeal packet. The Committee shall address the Appeal at the next scheduled Committee meeting.

11.2.3.2 Rights of Parties.

11.2.3.2.a The appellant shall be afforded a fair hearing before the Committee, providing the basic safeguards of due process, including notice and an opportunity to be heard in a timely, reasonable manner.

11.2.3.2.b The Committee may continue the hearing to a future date.

11.2.3.2.c The Appellant and Committee shall have the opportunity to examine all documents, records and regulations of Committee and Appellant that are relevant to the hearing.

11.2.3.2.d Appellant shall be responsible for all photocopying expenses.

11.2.3.2.e If the appellant fails to appear at the hearing, without providing twenty-four (24) hour notice to the Committee, the Committee shall make a determination based upon the evidence submitted.

11.2.2.3 Hearing Process.

11.2.2.3.a The hearing shall be conducted by a designated member of the Committee, the “Hearing Officer”.

11.2.2.3.b The hearing shall be recorded.

11.2.2.3.c Oral or documentary evidence may be received without strict compliance with the Colorado Rules of Evidence.

11.2.2.3.d Based on the hearing, the Committee will provide a written decision with findings for a final determination within twenty-one (21) days after the completion of the hearing.

11.2.2.4 Binding Determination. The final determination of the Committee shall be binding, and Committee shall take all actions necessary to carry out the decision.

11.3 Grievance Procedure.

11.3.1 Any grievance must be presented in writing to Committee and include:

- 11.3.1.1 The particular ground(s) upon which the grievance is based;
- 11.3.1.2 The action or remedy requested;
- 11.3.1.3 The name, address, telephone number of the complainant and similar information of complainant's representative, if any; and
- 11.3.1.4 Grievance fee (see Appendix E).

11.3.2 Process.

11.3.2.1 The Committee shall address the grievance at the next regularly scheduled Committee meeting.

11.3.2.2 The complainant shall be afforded a fair hearing providing the basic safeguards of due process, including notice and an opportunity to be heard in a timely, reasonable manner.

11.3.2.3 Committee may continue the hearing to a future date.

11.3.2.4 The complainant and Committee shall have the opportunity to examine all documents, records and regulations of Committee that are relevant to the hearing.

11.3.2.5 Complainant shall be responsible for all photocopying expenses.

11.3.2.6 Any document not made available after written request may not be relied upon at the hearing.

11.3.2.7 Complainant has the right to be represented by counsel.

11.3.2.8 If the complainant fails to appear at the hearing, the Committee may make a determination to postpone the hearing or make a determination based upon the evidence submitted.

11.3.3 Hearing.

11.3.3.1 The hearing shall be conducted by a designated member of the Committee, the “Hearing Officer”.

11.3.3.2 The hearing shall be recorded. Oral or documentary evidence may be received without strict compliance with the Colorado Rules of Evidence.

11.3.3.3 The right to cross-examine shall be at the discretion of the Hearing Officer and may be regulated by the Hearing Officer as it deems necessary for a fair hearing.

11.3.3.4 Based on the records of the hearing, the Committee will provide a written decision with findings to support the final determination.

11.3.4 **Binding Determination**. The final determination of the Committee shall be binding, and Committee shall take all actions necessary to carry out the decision.

12. ADMINISTRATIVE PROCEDURES

12.1. **Confidentiality**. All personal and financial information provided to Committee will be kept strictly confidential, except as follows:

12.1.1 Signed contracts between the Applicant or Household and Committee or RH, including but not limited to Contracts to Purchase a Housing Unit, Deed Restrictions, any document to be recorded with the sale of the Housing Unit along with the Deed Restriction, and any document that would customarily be a matter of public record in the property records of the applicable jurisdiction;

12.1.2 The names and lottery positions of all persons who have participated in any ownership lottery held per Section 10;

12.1.3 Any other information that a court of competent jurisdiction orders must be released under the Freedom of Information Act or the Colorado Open Records Act;

12.1.4 Personal and private information necessary for an independent audit of Committee records, provided such person or entity provides authorization;

12.1.5 Personal and private information to the extent Committee determines the information is necessary for its deliberation of a request for an Exception or for consideration during a violation hearing;

12.1.6 Committee may require third-party verification for all self-employed Applicants at initial qualification and during compliance checks; and

12.1.7 Committee may employ outside accounting expertise to evaluate the reasonability of an Applicant's or Household's representations of Income and Assets. The expense for outside services shall be borne by the Applicant or Household.

12.2 Fair Housing Standards. Committee shall administer this policy in compliance with all applicable fair housing standards, including but not limited to the Fair Housing Act. These standards prohibit discrimination in housing based on age, race, color, religion, sex, or sexual identity, familial status, national origin, and handicapped or disabled status. In addition to any remedies available in the applicable law, any dispute between an Applicant and Committee regarding these standards may be filed as a Grievance (see Section 11.3).

12.3 Reasonable Accommodation. Committee shall administer this policy in compliance with all reasonable accommodation standards, including but not limited to the Americans with Disabilities Act. Persons requiring reasonable accommodation for their disability shall give Committee at least 48-hours' notice of such need so that appropriate arrangements can be made (for example: providing sign language services for a hearing-impaired person).

12.4 Assignment of Administrative Responsibilities. Committee shall have the right to contract with any qualified person or entity for the purpose of administering these Guidelines. The contract for administration shall provide for oversight by the Committee, including access to applicable records and the ability to conduct an independent audit of administrative procedures.

12.5 Administrative Exceptions.

12.5.1 The Administrator may grant Administrative Exceptions subject to the following conditions:

12.5.1.1 All Administrative Exception approvals shall be approved at the next Committee regular meeting immediately following approval; and

12.5.1.2 Administrative Exceptions shall be granted in a fair and consistent manner by Administrator with approval by the Committee.

12.5.2 Administrative Exceptions are limited to the following requests:

12.5.2.1 Extension of time to meet compliance for a Household that has a medical event impacting their ability to work.

12.5.2.2 Extension of time to meet compliance for a Household that has a family emergency impacting their ability fulfill the qualification requirements.

12.5.2.3 Use of a co-borrower or Co-signor for unconventional lending after legal review of documents to be recorded.

12.5.2.4 Permission to own other Improved Residential Property, within a 150-mile radius, when the other property consists of a cabin-like structure outside of a town

or municipal boundary, with limited seasonal access and limited amenities, also referred to as a “cow camp” or “hunter’s camp”.

DISCLAIMER: RH and Committee expressly disclaim all warranties, express or implied, including without limitation fitness for a particular purpose with respect to the provision of Housing Units. RH and Committee do not represent, warrant, or promise to construct, finance, or otherwise produce, in whole or in part, any Housing Units pursuant to these guidelines or under any other programs. No Applicant may rely upon any promise implied or expressed that Housing Units shall be constructed, financed, or otherwise produced, in whole or in part, by the RH and Committee. In no event shall the RH and Committee be liable to any Applicant for any direct, indirect, incidental, punitive, or consequential damage of any kind whatsoever, including without limitation lost profits, lost sales, lost business, lost opportunity, lost information, lost or wasted time. None of the information contained in these Guidelines constitutes an offer to sell or the solicitation of an offer to buy a Housing Unit.

APPENDIX A: INCOME ELIGIBILITY TIERS & AREA MEDIAN INCOME AND INCOME LIMITS

Area Median Income is currently determined by using the figures published by US Department of Housing and Urban Development (“HUD”) for each county in Colorado and adopted by Colorado Housing and Finance Authority (“CHFA”). They are published at: www.chfainfo.com/arh/asset/rent-income-limits

Committee shall update the schedule below after CHFA adopts the most recent HUD figures.

Based on this procedure, the Area Median Incomes for County as of 2022 are:

Table 1. County Area Median Income (AMI*) Eligibility

	Household Size					
	1 person	2 persons	3 persons	4 persons	5 persons	6 persons
100% Area Median Income	\$62,100	\$70,900	\$79,800	\$88,600	\$95,700	\$102,800

*This is the AMI calculation pursuant to the Housing Guidelines.

Qualification is based on Household size, NOT unit size. The following table provides a guide for determining Household Income Eligibility. See Section 3.2.2 for Minimum Household Size requirements.

Household Size	1 Person	2 Persons	3 Persons	4 Persons
60% AMI	\$37,260	\$42,540	\$47,880	\$53,160
80% AMI	\$49,680	\$56,720	\$63,840	\$70,880
100% AMI	\$62,100	\$70,900	\$79,800	\$88,600
120% AMI	\$74,520	\$85,080	\$95,760	\$106,320

Income Eligibility Tiers

- Tier 1 Income – Household Income shall not exceed sixty percent (60%) of AMI for County.
- Tier 2 Income – Household Income shall not exceed eighty percent (80%) of AMI for County.
- Tier 3 Income – Household income shall not exceed one hundred percent (100%) of AMI for County.
- Tier 4 Income- Household income shall not exceed one hundred and twenty percent (120%) of AMI for County.
- Sale prices for units are based on Tier affordability targets for County, as adjusted for the number of bedrooms per unit, and can be found in Appendix B.

APPENDIX B: INITIAL SALE PRICES AND MAXIMUM RENTAL PRICES

TBD once the Ouray Waterview Homes details are finalized, and the determination of unit size by bedroom, unit tier designation and sales price has been made which will include Initial Sale Price Standards, Initial Sale Prices shall be calculated by RH to ensure affordability by the target Tier group both now and in the future and Rental Prices.

APPENDIX C: LOTTERY POINT SYSTEM CRITERIA

1. INITIAL LOTTERY ENTRY:

Completed lottery applications shall be processed for qualification of a Household. All lottery Applicants certified as Qualified Households shall be eligible for one (1) entry into the lottery.

2. ADDITIONAL LOTTERY ENTRIES:

In an effort to weight Applicants based on criteria deemed to further the intent of RH, points toward additional lottery entries are given to Households meeting the criteria outlined below.

2.1 One (1) additional entry is awarded to Households that have a member who is employed as one or more of the following types of employment, as further defined herein:

2.1.1 School District Personnel;

2.1.2 Health Care Personnel;

2.1.3 Government Personnel: and/or

2.1.4 Essential Response Personnel.

2.2 The maximum number of entries allowed is two (2).

2.3 Individual Household members may have different point rankings. The Household shall be evaluated for eligibility for this additional entry in the lottery based on the individual with the greatest number of points.

3. UNQUALIFIED APPLICANTS:

3.1 All lottery Applicants who did not qualify but have been provided an Exception per Section 11.1. or given a standard exception by the Lottery Administrator shall be eligible for one (1) entry in the Second Round lottery.

3.2 All lottery Applicants who did not qualify but have been provided an Exception per Section 11.1. and currently live within the Ouray County boundaries shall be eligible for three (3) entries in the Second Round lottery.

3.3 All lottery Applicants who did not qualify but have been provided an Exception per Section 11.1. and currently work a minimum of twenty (20) hours per week physically within the Ouray County boundaries shall be eligible for three (3) entries in the Second Round lottery.

3.4 All lottery Applicants who did not qualify but have been provided an Exception per Section 11.1. and currently live within the Ouray County boundaries and work a minimum of twenty (20) hours per week physically within the Ouray County boundaries shall be eligible for five (5) entries in the Second Round lottery.

3.5 Certified Entity Owner Applicants shall be eligible for three (3) entries in the lottery, except that all Entity Owner Applicants who did not qualify with a Local Work Force but have been provided an Exception per Section 11.1 shall be eligible for one (1) entry in the Second Round lottery.

3.6 The maximum number of entries allowed in the Second Round lottery is five (5).

APPENDIX D: FEE SCHEDULE

Fees:

Application Fee	\$25.00
Appeal Fee	\$50.00
Exception Fee	\$50.00
Grievance Fee	\$50.00
Inspection Fee	\$100.00
Sales Fee	Buyer will pay Committee a fee equal to 1% of the sales price. Committee may instruct the title company to pay such fees out of the funds held in escrow at closing.

This Appendix D may be amended from time to time by Committee.

Appendix E: Schedule of Violations and Fines*

The City of Ouray declares that violations of these Ouray Waterview Homes Affordable Housing Regulations and Guidelines is unlawful, and violations are subject to the following fines which may be amended from time to time. Every day any violation shall continue, shall constitute a separate offense.

	Violation	Fine per day	Maximum Fine
1	Failure to submit accurate and all documentation required to establish continued compliance by original deadline set by Committee.	\$20.00	\$140.00
2	Failure to submit accurate and all documentation required to establish continued compliance by second deadline set by Committee.	\$25.00	\$350.00
3	Failure to submit accurate and all documentation required to establish continued compliance by third deadline set by Committee.	\$30.00	\$1,000.00
4	Failure to maintain eligibility (generally).	\$20.00	\$5,000.00
5	Failure to occupy unit as sole and exclusive place of residence.	\$20.00	\$5,000.00
6	Failure to work full-time as required by Deed Restriction and/or Guidelines.	\$20.00	\$2,000.00
7	Purchasing and/or owning other Improved Residential Property within a 150-mile radius and without an exception while owning a RH Housing Unit.	\$20.00	\$2,000.00
8	Rental of all or part of a unit in violation of the Deed Restriction, Guidelines, and/or the OLUC.	\$25.00	\$5,000.00
9	Non-approved use of Unit for other than residential purposes.	\$100.00	\$5,000.00
10	Non-approved use of Unit as income-producing property.	\$100.00	\$5,000.00
11	Creating an additional dwelling unit as defined in the City of Ouray LUC without Committee permission.	\$100.00	\$5,000.00
12	Failure to obtain approved Leave of Absence (LOA).	\$20.00	\$2,000.00
13	Submitting false/inaccurate information (per offense).	-	\$750.00
14	All other violations not specifically named.	\$20.00	\$2,000.00

*Owner shall be given 7 days from notice of potential fines prior to the assessment of fines.
 *Fines shall be due and payable to the Committee within thirty (30) days of imposition and invoicing.
 *Violation and Fine Schedule will be reviewed and updated every five years or sooner as determined by Committee



Customer Distribution



Prevent fraud - Please call a member of our closing team for wire transfer instructions or to initiate a wire transfer. Note that our wiring instructions will never change.

Order Number: **OUB85009679-2**

Date: **09/27/2024**

Property Address: **TBD NAMICHI WAY, OURAY, CO 81427**

For Closing Assistance

Krista Ficco
PO BOX 276
RIDGWAY, CO 81432
218 SHERMAN
(970) 626-7000 (Work)
(877) 346-4104 (Work Fax)
kficco@ltgc.com
Contact License: CO497677
Company License: CO44565

Closing Processor

Mekayla Balsdon
PO BOX 276
RIDGWAY, CO 81432
218 SHERMAN
(970) 626-3157 (Work)
(877) 346-4104 (Work Fax)
mbalsdon@ltgc.com
Contact License: CO497677
Company License: CO44565

For Title Assistance

Land Title Ouray County Title
Team
PO BOX 276
RIDGWAY, CO 81432
218 SHERMAN
(970) 626-7001 (Work)
(877) 375-5025 (Work Fax)
ourayresponse@ltgc.com

Buyer/Borrower

ASHLEY N. FELLIN
Delivered via: Electronic Mail

Seller/Owner

OURAY HOMES, LLC, A COLORADO LIMITED
LIABILITY COMPANY
Delivered via: Electronic Mail



Estimate of Title Fees

Order Number: OUB85009679-2

Date: 09/27/2024

Property Address: TBD NAMICHI WAY, OURAY, CO 81427

Seller(s): OURAY HOMES, LLC, A COLORADO LIMITED LIABILITY COMPANY

Buyer(s): ASHLEY N. FELLIN

Thank you for putting your trust in Land Title. Below is the estimate of title fees for the transaction. The final fees will be collected at closing. Visit ltgc.com to learn more about Land Title.

Estimate of Title Insurance Fees	
Owner's Extended Coverage Policy - ALTA Owner's Policy 07-30-21 (For Residential Land) Builder/Developer Rate	\$824.00
"ALTA" Loan Policy 07-30-21 Bundled Purchase Loan Rate	\$498.00
Endorsement ALTA 8.1	\$0.00
Endorsement ALTA 9	\$0.00
Tax Certificate	\$27.00
TOTAL	\$1,349.00

Note: The documents linked in this commitment should be reviewed carefully. These documents, such as covenants conditions and restrictions, may affect the title, ownership and use of the property. You may wish to engage legal assistance in order to fully understand and be aware of the implications of the documents on your property.

Chain of Title Documents:

[Ouray county recorded 04/28/2022 under reception no. 231962](#)

[Ouray county recorded 07/22/2020 under reception no. 225776](#)

ALTA COMMITMENT
Old Republic National Title Insurance Company
Schedule A

Order Number: QUB85009679-2

Property Address:

TBD NAMICHI WAY, OURAY, CO 81427

1. Commitment Date:

09/19/2024 at 5:00 P.M.

2. Policy to be Issued and Proposed Insured:

Owner's Extended Coverage Policy - ALTA Owner's Policy 07-30-21 (For Residential Land) Builder/Developer Rate \$399,000.00

Proposed Insured:
ASHLEY N. FELLIN

"ALTA" Loan Policy 07-30-21 Bundled Purchase Loan Rate \$398,000.00

Proposed Insured:
A LENDER TO BE DETERMINED, ITS SUCCESSORS AND/OR ASSIGNS

3. The estate or interest in the land described or referred to in this Commitment and covered herein is:

FEE SIMPLE

4. The Title is, at the Commitment Date, vested in:

OURAY HOMES, LLC, A COLORADO LIMITED LIABILITY COMPANY

5. The Land is described as follows:

NOTE: THE FOLLOWING LEGAL DESCRIPTION IS PRELIMINARY AND IS SUBJECT TO CHANGE UPON COMPLIANCE WITH THE REQUIREMENTS UNDER SCHEDULE B-1, HEREIN.

LOT 4, WATERVIEW AFFORDABLE HOUSING SUBDIVISION OF LOT 2A & 2B OF OURAY WATERVIEW SUBDIVISION LOT 2 LOT SPLIT, ACCORDING TO THE PLAT THEREOF RECORDED ____ UNDER RECEPTION NO. ____, COUNTY OF OURAY, STATE OF COLORADO.

This page is only a part of a 2021 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.



Copyright 2021 American Land Title Association. All rights reserved.

The use of this Form is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

ALTA COMMITMENT

Old Republic National Title Insurance Company

Schedule B, Part I

(Requirements)

Order Number: OUB85009679-2

All of the following Requirements must be met:

This proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.

Pay the agreed amount for the estate or interest to be insured.

Pay the premiums, fees, and charges for the Policy to the Company.

Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

NOTE: THE ISSUANCE OF THE POLICIES AND/OR ENDORSEMENTS REFERENCED IN THIS COMMITMENT ARE SUBJECT TO THE APPROVAL OF THE UNDERWRITER OF SAID POLICIES AND/OR ENDORSEMENTS. THIS COMMITMENT MAY BE REVISED AS REQUIRED BY THE UNDERWRITER TO ISSUE THE POLICIES AND/OR ENDORSEMENTS REQUESTED. THIS NOTE WILL BE DELETED UPON THE RECEIPT OF SAID APPROVAL.

1. TERMINATION OF MEMORANDUM OF AGREEMENT RECORDED APRIL 28, 2022 UNDER RECEPTION NO. [231965](#).
2. PARTIAL RELEASE OF DEED OF TRUST DATED APRIL 19, 2022 FROM OURAY HOMES, LLC, A COLORADO LIMITED LIABILITY COMPANY TO THE PUBLIC TRUSTEE OF OURAY COUNTY FOR THE USE OF STATE OF COLORADO TO SECURE THE SUM OF \$1,900,000.00 RECORDED APRIL 28, 2022, UNDER RECEPTION NO. [231964](#).
3. PARTIAL RELEASE OF DEED OF TRUST DATED APRIL 19, 2022 FROM OURAY HOMES, LLC, A COLORADO LIMITED LIABILITY COMPANY TO THE PUBLIC TRUSTEE OF OURAY COUNTY FOR THE USE OF STATE OF COLORADO TO SECURE THE SUM OF \$1,900,000.00 RECORDED AUGUST 03, 2022, UNDER RECEPTION NO. [232745](#).
4. RECORD DULY EXECUTED AND ACKNOWLEDGED PLAT OF WATERVIEW AFFORDABLE HOUSING SUBDIVISION OF LOT 2A & 2B OF OURAY WATERVIEW SUBDIVISION LOT 2 LOT SPLIT.

NOTE: A COPY OF SAID PLAT MUST BE SUBMITTED TO LAND TITLE GUARANTEE COMPANY PRIOR TO RECORDATION. UPON RECEIPT AND REVIEW FURTHER REQUIREMENTS AND/OR EXCEPTIONS MAY BE NECESSARY.

5. PROVIDE LAND TITLE GUARANTEE COMPANY WITH A CURRENT IMPROVEMENT LOCATION CERTIFICATE OF SUBJECT PROPERTY. THIS REQUIREMENT IS NECESSARY TO DELETE STANDARD EXCEPTIONS 1-3 AND MUST DISCLOSE THE LOCATION OF FENCE LINES ALONG THE SUBJECT PROPERTY BOUNDARIES, IF ANY. (IF NO FENCE IMPROVEMENTS EXIST ALONG THE PROPERTY PERIMETERS, THE CERTIFICATE MUST AFFIRMATIVELY STATE SUCH). UPON REVIEW, ADDITIONAL REQUIREMENTS AND/OR EXCEPTIONS MAY BE NECESSARY.

NOTE: ANY MATTERS DISCLOSED BY SAID IMPROVEMENT LOCATION CERTIFICATE WILL BE REFLECTED ON SAID POLICY(S) TO BE ISSUED HEREUNDER.

NOTE: LAND TITLE IS NOT RESPONSIBLE FOR ORDERING SAID IMPROVEMENT LOCATION CERTIFICATE.

6. SATISFACTORY EVIDENCE OF COMPLIANCE, ISSUED BY THE APPROPRIATE AUTHORITY, WITH THE TERMS OF THE AFFORDABLE HOUSING AND INCOME ELIGIBILITY COVENANTS, CONDITIONS AND RESTRICTIONS, AS SET FORTH IN THE CONTRACT TO BUY AND SELL REAL ESTATE.
7. RECORDATION OF THE PARTY WALL AGREEMENT, SUBJECT TO REVIEW.
8. LAND TITLE GUARANTEE COMPANY REQUIRES A COPY OF THE CERTIFICATE OF OCCUPANCY PRIOR TO CLOSING.

ALTA COMMITMENT

Old Republic National Title Insurance Company

Schedule B, Part I

(Requirements)

Order Number: OUB85009679-2

All of the following Requirements must be met:

9. WRITTEN CONFIRMATION THAT THE INFORMATION CONTAINED IN STATEMENT OF AUTHORITY FOR OURAY HOMES, LLC, A COLORADO LIMITED LIABILITY COMPANY RECORDED APRIL 28, 2022 UNDER RECEPTION NO. 231961 IS CURRENT.

NOTE: SAID INSTRUMENT DISCLOSES PAUL MAJOR AS THE MANAGER OF RURAL HOMES, LLC, MEMBER OF OURAY HOMES, LLC, A COLORADO LIMITED LIABILITY COMPANY AUTHORIZED TO EXECUTE INSTRUMENTS CONVEYING, ENCUMBERING OR OTHERWISE AFFECTING TITLE TO REAL PROPERTY ON BEHALF OF SAID ENTITY. IF THIS INFORMATION IS NOT ACCURATE, A CURRENT STATEMENT OF AUTHORITY MUST BE RECORDED.

10. SPECIAL WARRANTY DEED FROM OURAY HOMES, LLC, A COLORADO LIMITED LIABILITY COMPANY TO ASHLEY N. FELLIN CONVEYING SUBJECT PROPERTY.
11. DEED OF TRUST FROM ASHLEY N. FELLIN TO THE PUBLIC TRUSTEE OF OURAY COUNTY FOR THE USE OF A LENDER TO BE DETERMINED TO SECURE THE SUM OF \$398,000.00.

REQUIREMENTS TO DELETE THE PRE-PRINTED EXCEPTIONS IN THE OWNER'S POLICY TO BE ISSUED:

A. UPON RECEIPT BY THE COMPANY OF A SATISFACTORY FINAL AFFIDAVIT AND AGREEMENT FROM THE SELLER AND PROPOSED INSURED, AND A IMPROVEMENT LOCATION CERTIFICATE OF THE LAND, ITEMS 1-4 OF THE PRE-PRINTED EXCEPTIONS WILL BE DELETED. ANY ADVERSE MATTERS DISCLOSED BY THE FINAL AFFIDAVIT AND AGREEMENT AND IMPROVEMENT LOCATION CERTIFICATE WILL BE ADDED AS EXCEPTIONS.

B. IF LAND TITLE GUARANTEE COMPANY CONDUCTS THE CLOSING OF THE CONTEMPLATED TRANSACTIONS AND RECORDS THE DOCUMENTS IN CONNECTION THEREWITH, ITEM 5 OF THE PRE-PRINTED EXCEPTIONS WILL BE DELETED.

C. UPON RECEIPT OF PROOF OF PAYMENT OF ALL PRIOR YEARS' TAXES AND ASSESSMENTS, ITEM 6 OF THE PRE-PRINTED EXCEPTIONS WILL BE AMENDED TO READ:

TAXES AND ASSESSMENTS FOR THE YEAR 2024 AND SUBSEQUENT YEARS.

NOTE: ITEMS 1-3 OF THE PRE-PRINTED EXCEPTIONS ARE HEREBY DELETED FROM THE MORTGAGEE'S POLICY. ITEM 4 OF THE PRE-PRINTED EXCEPTIONS WILL BE DELETED UPON RECEIPT OF A SATISFACTORY LIEN AFFIDAVIT.

NOTE: ALL PARTIES WILL BE REQUIRED TO SIGN THE LIEN AFFIDAVIT AT CLOSING.

ALTA COMMITMENT
Old Republic National Title Insurance Company
Schedule B, Part II
(Exceptions)

Order Number: [OUB85009679-2](#)

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

1. Any facts, rights, interests, or claims thereof, not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
2. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date of the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.
6. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
7. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water.

The Owner's Extended Coverage Policy will automatically increase coverage by 10 percent on each of the first five anniversaries of the policy date, at no additional charge.

8. RESERVATIONS AND EXCEPTIONS CONTAINED IN UNITED STATES PATENT RECORDED JANUARY 09, 1880 IN BOOK 8 AT PAGE [81](#); AND IN PATENT RECORDED SEPTEMBER 27, 1907 IN BOOK 37 AT PAGE [148](#). AND IN PATENT RECORDED FEBRUARY 4, 1969 IN BOOK 178 AT PAGE [60](#); AND IN PATENT RECORDED FEBRUARY 4, 1969 IN BOOK 178 AT PAGE [65](#).
9. EASEMENTS AND RIGHTS OF WAY TO CONSTRUCT, MAINTAIN AND OPERATE A RAILROAD TRACT AS CONTAINED IN INSTRUMENT RECORDED FEBRUARY 28, 1900 IN BOOK 74 AT PAGE [189](#).
10. EASEMENTS AND RIGHTS OF WAY AS GRANTED TO THE CITY OF OURAY IN INSTRUMENT RECORDED DECEMBER 4, 1923 IN BOOK 114 AT PAGE [71](#).
11. EASEMENTS AND RIGHTS OF WAY FOR ROAD AND STREET PURPOSES GRANTED TO CITY OF OURAY IN INSTRUMENT RECORDED DECEMBER 4, 1923 IN BOOK 114 AT PAGE [71](#).
12. EASEMENTS FOR INGRESS/EGRESS TO THE UNCOMPAGRE RIVER AS CONTAINED IN INSTRUMENT RECORDED OCTOBER 10, 1972 IN BOOK 183 AT PAGE [906](#).
13. TERMS, CONDITIONS AND PROVISIONS OF DEED TO THE CITY OF OURAY RECORDED JULY 09, 1997 AT RECEPTION NO. [164632](#).

ALTA COMMITMENT
Old Republic National Title Insurance Company
Schedule B, Part II
(Exceptions)

Order Number: QUB85009679-2

14. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF J & E SUBDIVISION RECORDED JANUARY 14, 1999 UNDER RECEPTION NO. [168722](#); AND ON THE PLAT OF OURAY WATERVIEW SUBDIVISION RECORDED OCTOBER 27, 2005 UNDER RECEPTION NO. [189657](#); AND ON THE PLAT OF OURAY WATERVIEW SUBDIVISION LOT 2 LOT SPLIT RECORDED JANUARY 6, 2014 UNDER RECEPTION NO. [211406](#).
15. TERMS, CONDITIONS AND PROVISIONS OF DEED OF EASEMENT RECORDED MAY 23, 2005 AT RECEPTION NO. [188107](#).
16. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF UTILITY EASEMENT RECORDED JUNE 02, 2000 AT RECEPTION NO. [172403](#).
17. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN COLORADO DEPARTMENT OF LOCAL AFFAIRS USE COVENANT AND REGULATORY AGREEMENT RECORDED APRIL 28, 2022 UNDER RECEPTION NO. [231963](#).
18. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN COLORADO DEPARTMENT OF LOCAL AFFAIRS USE COVENANT AND REGULATORY AGREEMENT RECORDED AUGUST 3, 2022 UNDER RECEPTION NO. [232746](#).
19. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN DEVELOPMENT AGREEMENT RECORDED FEBRUARY 29, 2024 UNDER RECEPTION NO. [236627](#).
20. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF WATERVIEW AFFORDABLE HOUSING SUBDIVISION OF LOT 2A & 2B OF OURAY WATERVIEW SUBDIVISION LOT 2 LOT SPLIT RECORDED _____ UNDER RECEPTION NO. _____.
21. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN PARTY WALL AGREEMENT RECORDED _____ UNDER RECEPTION NO. _____.
22. ANY QUESTION, DISPUTE OR ADVERSE CLAIMS AS TO ANY LOSS OR GAIN OF LAND AS A RESULT OF ANY CHANGE IN THE RIVER BED LOCATION BY NATURAL OR OTHER THAN NATURAL CAUSES, OR ALTERATION THROUGH ANY CAUSE, NATURAL OR UNNATURAL, OF THE CENTER THREAD, BANK, CHANNEL OR FLOW OF WATERS IN THE UNCOMPAHGRE RIVER LYING WITHIN SUBJECT LAND; AND ANY QUESTION AS TO THE LOCATION OF SUCH CENTER THREAD, BED, BANK OR CHANNEL AS A LEGAL DESCRIPTION MONUMENT OR MARKER FOR PURPOSES OF DESCRIBING OR LOCATING SUBJECT LANDS.
23. ANY AND ALL RIGHTS OF THIRD PARTIES RELATING TO CHURCH DITCH NO. 2, HEATH DITCH AND THE UNNAMED DITCH WHICH TRAVERSE SUBJECT PROPERTY, INCLUDING BUT NOT LIMITED TO DITCH MAINTENANCE AND ACCESS RIGHTS TO LANDS ADJOINING THE DITCH, AS DISCLOSED BY IMPROVEMENT LOCATION CERTIFICATE STORED IN LAND TITLE'S SYSTEM AS IMAGE [25240017](#).
24. ALL MATTERS DISCLOSED ON IMPROVEMENT LOCATION CERTIFICATE BY MONADNOCK MINERAL SERVICES, LLC , JOB NO. J2020-43, CERTIFIED JULY 9, 2020, AND STORED IN LAND TITLE'S SYSTEM AS IMAGE [25240017](#).
25. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN CITY OF OURAY DEVELOPMENT AGREEMENT RECORDED FEBRUARY 29, 2024 UNDER RECEPTION NO. [236627](#).



ALTA Commitment For Title Insurance

issued by Old Republic National Title Insurance Company

NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON. .

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, Old Republic National Title Insurance Company, a Minnesota corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of insurance and the name of the Proposed Insured. If all of the Schedule B, Part I—Requirements have not been met within 6 months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

COMMITMENT CONDITIONS

1. DEFINITIONS

- (a) "Discriminatory Covenant": Any covenant, condition, restriction, or limitation that is unenforceable under applicable law because it illegally discriminates against a class of individuals based on personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.
- (b) "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.
- (c) "Land": The land described in item 5 of Schedule A and affixed improvements located on that land that by State law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (d) "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.
- (e) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (f) "Proposed Amount of Insurance": Each dollar amount specified in Schedule A as the Proposed Amount of Insurance of each Policy to be issued pursuant to this Commitment.
- (g) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (h) "Public Records": The recording or filing system established under State statutes in effect at the Commitment Date under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge. The term "Public Records" does not include any other recording or filing system, including any pertaining to environmental remediation or protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters.
- (i) "State": The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.
- (j) "Title": The estate or interest in the Land identified in Item 3 of Schedule A.

2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I—Requirements; and
- (f) Schedule B, Part II—Exceptions; and
- (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - i. comply with the Schedule B, Part I—Requirements;
 - ii. eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
 - iii. acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company is not liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company is only liable under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability does not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Condition 5(a) or the Proposed Amount of Insurance.
- (e) The Company is not liable for the content of the Transaction Identification Data, if any.
- (f) The Company is not obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.

(g) The Company's liability is further limited by the terms and provisions of the Policy to be issued to the Proposed Insured.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT. CHOICE OF LAW AND CHOICE OF FORUM

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction
- (c) This Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. CLAIMS PROCEDURES

This Commitment incorporates by reference all Conditions for making a claim in the Policy to be issued to the Proposed Insured. Commitment Condition 9 does not modify the limitations of liability in Commitment Conditions 5 and 6.

10. CLASS ACTION

ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS COMMITMENT, INCLUDING ANY SERVICE OR OTHER MATTER IN CONNECTION WITH ISSUING THIS COMMITMENT, ANY BREACH OF A COMMITMENT PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THE TRANSACTION GIVING RISE TO THIS COMMITMENT, MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS OR REPRESENTATIVE PROCEEDING. ANY POLICY ISSUED PURSUANT TO THIS COMMITMENT WILL CONTAIN A CLASS ACTION CONDITION.

11. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Amount of insurance is \$2,000,000 or less may be arbitrated at the election of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>

IN WITNESS WHEREOF, Old Republic National Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A to be valid when countersigned by a validating officer or other authorized signatory.

Issued by:
Land Title Guarantee Company
3033 East First Avenue Suite 600
Denver, Colorado 80206
303-321-1880

Craig B. Rants, Senior Vice President



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
1408 North Westshore Blvd., Suite 900, Tampa, Florida 33607
(612) 371-1111 www.oldrepublictitle.com

By President
Attest Secretary

This page is only a part of a 2021 ALTA® Commitment for Title Insurance issued by Old Republic National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2021 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



Land Title Guarantee Company Disclosure Statements

Note: Pursuant to CRS 10-11-122, notice is hereby given that:

- (A) The Subject real property may be located in a special taxing district.
- (B) A certificate of taxes due listing each taxing jurisdiction will be obtained from the county treasurer of the county in which the real property is located or that county treasurer's authorized agent unless the proposed insured provides written instructions to the contrary. (for an Owner's Policy of Title Insurance pertaining to a sale of residential real property).
- (C) The information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

Note: Effective September 1, 1997, CRS 30-10-406 requires that all documents received for recording or filing in the clerk and recorder's office shall contain a top margin of at least one inch and a left, right and bottom margin of at least one half of an inch. The clerk and recorder may refuse to record or file any document that does not conform, except that, the requirement for the top margin shall not apply to documents using forms on which space is provided for recording or filing information at the top margin of the document.

Note: Colorado Division of Insurance Regulations 8-1-2 requires that "Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed". Provided that Land Title Guarantee Company conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception number 5 will not appear on the Owner's Title Policy and the Lenders Policy when issued.

Note: Affirmative mechanic's lien protection for the Owner may be available (typically by deletion of Exception no. 4 of Schedule B, Section 2 of the Commitment from the Owner's Policy to be issued) upon compliance with the following conditions:

- (A) The land described in Schedule A of this commitment must be a single family residence which includes a condominium or townhouse unit.
- (B) No labor or materials have been furnished by mechanics or material-men for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months.
- (C) The Company must receive an appropriate affidavit indemnifying the Company against un-filed mechanic's and material-men's liens.
- (D) The Company must receive payment of the appropriate premium.
- (E) If there has been construction, improvements or major repairs undertaken on the property to be purchased within six months prior to the Date of Commitment, the requirements to obtain coverage for unrecorded liens will include: disclosure of certain construction information; financial information as to the seller, the builder and or the contractor; payment of the appropriate premium fully executed Indemnity Agreements satisfactory to the company, and, any additional requirements as may be necessary after an examination of the aforesaid information by the Company.

No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay.

Note: Pursuant to CRS 10-11-123, notice is hereby given:

This notice applies to owner's policy commitments disclosing that a mineral estate has been severed from the surface estate, in Schedule B-2.

- (A) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
- (B) That such mineral estate may include the right to enter and use the property without the surface owner's permission.

Note: Pursuant to CRS 10-1-128(6)(a), It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

Note: Pursuant to Colorado Division of Insurance Regulations 8-1-3, notice is hereby given of the availability of a closing protection letter for the lender, purchaser, lessee or seller in connection with this transaction.

Note: Pursuant to CRS 24-21-514.5, Colorado notaries may remotely notarize real estate deeds and other documents using real-time audio-video communication technology. You may choose not to use remote notarization for any document.



Joint Notice of Privacy Policy of Land Title Guarantee Company Land Title Insurance Corporation and Old Republic National Title Insurance Company

This Statement is provided to you as a customer of Land Title Guarantee Company as agent for Land Title Insurance Corporation and Old Republic National Title Insurance Company.

We want you to know that we recognize and respect your privacy expectations and the requirements of federal and state privacy laws. Information security is one of our highest priorities. We recognize that maintaining your trust and confidence is the bedrock of our business. We maintain and regularly review internal and external safeguards against unauthorized access to your non-public personal information ("Personal Information").

In the course of our business, we may collect Personal Information about you from:

- applications or other forms we receive from you, including communications sent through TMX, our web-based transaction management system;
 - your transactions with, or from the services being performed by us, our affiliates, or others;
 - a consumer reporting agency, if such information is provided to us in connection with your transaction;
- and
- The public records maintained by governmental entities that we obtain either directly from those entities, or from our affiliates and non-affiliates.

Our policies regarding the protection of the confidentiality and security of your Personal Information are as follows:

- We restrict access to all Personal Information about you to those employees who need to know that information in order to provide products and services to you.
- We may share your Personal Information with affiliated contractors or service providers who provide services in the course of our business, but only to the extent necessary for these providers to perform their services and to provide these services to you as may be required by your transaction.
- We maintain physical, electronic and procedural safeguards that comply with federal standards to protect your Personal Information from unauthorized access or intrusion.
- Employees who violate our strict policies and procedures regarding privacy are subject to disciplinary action.
- We regularly assess security standards and procedures to protect against unauthorized access to Personal Information.

WE DO NOT DISCLOSE ANY PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT STATED ABOVE OR PERMITTED BY LAW.

Consistent with applicable privacy laws, there are some situations in which Personal Information may be disclosed. We may disclose your Personal Information when you direct or give us permission; when we are required by law to do so, for example, if we are served a subpoena; or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

Our policy regarding dispute resolution is as follows: Any controversy or claim arising out of or relating to our privacy policy, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration

Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

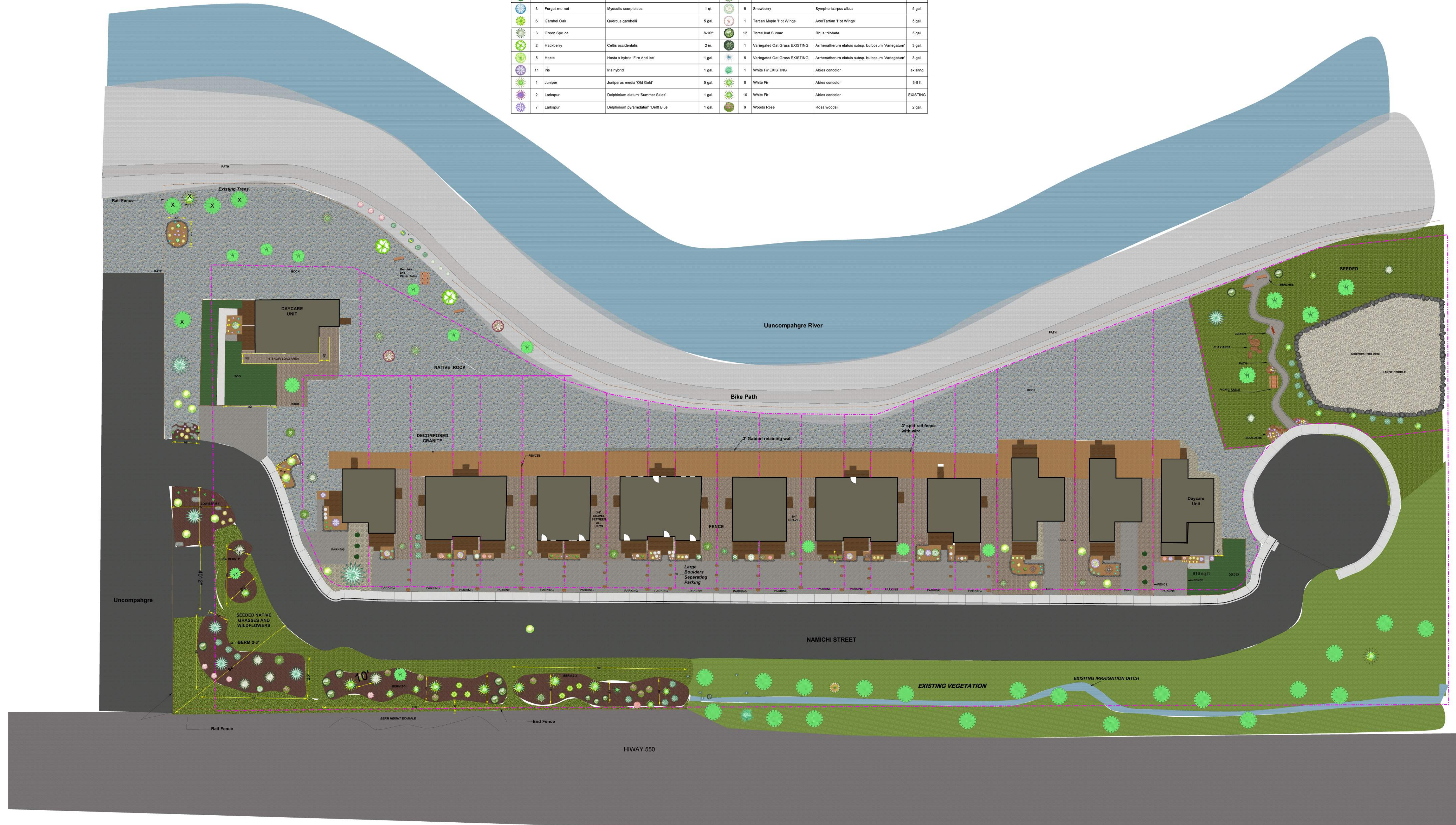
**RIVERVIEW TOWNHOMES
HIWAY 550
OURAY CO**

Judith Vanderwist
Montrose Landscape Design
21 N Cascade
Montrose CO 81401
jvanderwist@gmail.com
805-424-1897 Cell

August 26, 2024
SCALE: 1"=30'
**PHASE ONE
LANDSCAPE PLAN
REVISED (CITY)**



Plant Legend									
Symbol	Qty	Common	Botanical	Size	Symbol	Qty	Common	Botanical	Size
[Symbol]	4	Alpine Currant	Ribes alpinum 'Green Mound'	5 gal	[Symbol]	4	Lilac	Syringa vulgaris 'Pink Elizabeth'	5 gal
[Symbol]	1	American Mountain Ash	Sorbus americana	2 IN	[Symbol]	8	Lilac	Syringa vulgaris 'Purple'	5 gal
[Symbol]	7	Bearberry	Arctostaphylos uva-ursi	1 gal	[Symbol]	4	Mountain Ash	Sorbus americana	2 IN
[Symbol]	19	Black Eyed Susan	Rudbeckia hirta	1 gal	[Symbol]	1	Narrowleaf Cottonwood	Populus deltoides	2 in
[Symbol]	3	Black Lace Elderberry	Sambucus nigra 'Eve'	5 gal	[Symbol]	10	Narrowleaf Cottonwood	Populus deltoides	2 in
[Symbol]	3	Bladder Flower	Gallardia x grandiflora	1 gal	[Symbol]	16	On-eye Daisy	Chrysanthemum leucanthemum 'Vulgar'	1 gal
[Symbol]	3	Bleeding Heart	Dicentra formosa 'Pink'	1 gal	[Symbol]	13	Peony	Paeonia lactiflora	2 gal
[Symbol]	23	Bloodwing Dogwood	Cornus sanguinea	5 gal	[Symbol]	5	Ponderosa Pine	Pinus ponderosa	8-15'
[Symbol]	10	Blue Flax	Linum perenne	1 qt	[Symbol]	11	Poppy	Papaver nudicaule variety	1 qt
[Symbol]	7	Blue Spruce	Picea pungens	8 1/2-12 ft	[Symbol]	13	Purple Coneflower	Echinacea purpurea	1 gal
[Symbol]	3	Candytuft	Iberis sempervirens 'Wisser Zwerg'	1 gal	[Symbol]	14	Quaking Aspen	Populus tremuloides	10-20ft
[Symbol]	2	Chokecherry	Prunus virginiana 'Sucker Punch'	1 1/2 in	[Symbol]	4	Red Leaf Rose	Rosa glauca	5 gal
[Symbol]	24	Cottonwood Existing	Populus deltoides	EXISTING	[Symbol]	3	Red Maple, Rocky Mountain Maple	Acer glabrum	2 in
[Symbol]	2	Creeping mahonia	Mahonia repens	1 gal	[Symbol]	1	River Birch existing	Betula nigra	5 gal
[Symbol]	9	Creeping Phlox	Phlox subulata	1 gal	[Symbol]	10	Rocky Mountain Juniper	Juniperus scopulorum 'Wichita Blue'	6-8ft
[Symbol]	21	Daylily Variety	Hemerocallis x hybrid	1 gal	[Symbol]	8	Sand Cherry	Prunus besseyi	5 gal
[Symbol]	3	Daylily	Hemerocallis x hybrida 'Stella De Oro'	1 gal	[Symbol]	5	Servicberry	Ametanther canadensis 'Autumn Brilliance'	5 gal
[Symbol]	2	Dwarf Mugo Pine	Pinus mugo 'Sherwood Compact'	5 gal	[Symbol]	7	Shrub Rose	Rosa subiflora	5 gal
[Symbol]	2	Dwarf Mugo Pine	Pinus mugo 'Sherwood Compact'	5 gal	[Symbol]	18	Snow In Summer	Ceratium tomentosum	1 qt
[Symbol]	3	Forget-me-not	Myosotis scorpioides	1 qt	[Symbol]	5	Snowberry	Symphoricarpos albus	5 gal
[Symbol]	6	Gambel Oak	Quercus gambelii	5 gal	[Symbol]	1	Tartan Maple 'Hot Wings'	Acer/Tartan Hot Wings	5 gal
[Symbol]	3	Green Spruce	8-10ft	5-10ft	[Symbol]	12	Three leaf Sumac	Rhus trilobata	5 gal
[Symbol]	2	Hackberry	Celtis occidentalis	2 in	[Symbol]	1	Variegated Oak Grass EXISTING	Ammanntherium elatius subsp. bulbosum 'Variegatum'	3 gal
[Symbol]	5	Hosta	Hosta x hybrid 'Fire And Ice'	1 gal	[Symbol]	5	Variegated Oak Grass EXISTING	Ammanntherium elatius subsp. bulbosum 'Variegatum'	3 gal
[Symbol]	11	Iris	Iris hybrid	1 gal	[Symbol]	1	White Fir EXISTING	Abies concolor	existing
[Symbol]	1	Juniper	Juniperus media 'Dix Gold'	5 gal	[Symbol]	8	White Fir	Abies concolor	6-8 ft
[Symbol]	2	Larkspur	Delphinium elatum 'Summer Skies'	1 gal	[Symbol]	10	White Fir	Abies concolor	EXISTING
[Symbol]	7	Larkspur	Delphinium pyramidatum 'Delt Blue'	1 gal	[Symbol]	9	Woods Rose	Rosa woodsii	2 gal



When Recorded Return to:
COLORADO DIVISION OF HOUSING
ATTENTION: D Horton
1313 SHERMAN STREET, ROOM 320
DENVER, CO 80203

DOH Contract #H2HIF31743
CMS Contract #174380

DEED OF TRUST

This Deed of Trust is made this 19 day of APRIL, 2022 by and between OURAY HOMES, LLC, a Colorado limited liability corporation (hereinafter called "Grantor"), whose address is P.O. Box 4222, Telluride, CO 81435, and the Public Trustee of the County of Ouray County, Colorado (hereinafter called "Trustee") for the benefit of the STATE OF COLORADO, by and through the Department of Local Affairs, for the benefit of the Division of Housing (hereinafter called "Beneficiary"), whose address is 1313 Sherman Street, Room 320, Denver, Colorado 80203.

The Grantor, in consideration of the debt hereinafter described, has granted, bargained, sold, transferred, assigned and conveyed, and by these presents does grant, bargain, sell, transfer, assign and convey to the Trustee in trust with power of sale all of that certain property located in Ouray County, Colorado, and described in Attachment A attached hereto (the "Property"), together with (i) all of the buildings, structures and other improvements now standing or at any time hereafter constructed or placed on the Property; (ii) all fixtures of any kind or nature owned by Grantor, including without limitation, electrical, plumbing, heating, ventilating, air conditioning and sprinkling equipment and systems, water and power systems, engines and machinery, boilers, furnaces, and communication systems (to the extent constituting fixtures) located on or in, or used or intended to be used in connection with the Property or any building, structure or improvement now or hereafter located thereon, (iii) all hereditaments, easements, appurtenances, any and all water or water rights, ditch and ditch rights, and reservoir or storage rights appertaining to the Property, whether now or hereafter adjudicated rents, issues, profits, condemnation awards, option payments and mineral rights now or hereafter owned by Grantor and belonging or in any way pertaining to the Property or any building, structure or improvement now or hereafter located thereon, and (iv) the proceeds of any of the above (all of the foregoing, together with any additional property from time to time added to the foregoing, are hereinafter referred to as the "Mortgaged Property").

This conveyance is made in trust, however, in consideration of and to secure (a) all sums advanced by Beneficiary to Grantor under that certain Promissory Note of even date herewith, as it may be amended, payable to the order of Beneficiary in the original principal amount of One Million, Nine Hundred Thousand and 00/100 Dollars (\$1,900,00.00 (the "Note"), and to secure Grantor's obligation to pay interest at the rate of interest set forth in the Note, all of which sums are payable as provided therein, with final payment or performance due on June 1, 2026, if not sooner (b) prompt and complete performance and compliance with all covenants and conditions to be performed by Grantor under Loan Agreement #H2HIF31743 and CMS # 174380 made by and between Grantor and Beneficiary (the "Loan Contract"); (c) the payment of all other sums with interest thereon as may be advanced or expended by the Beneficiary in accordance with this Deed of Trust or any other instrument or agreement now or hereafter securing the indebtedness evidenced by the Note, including attorney fees, costs and expenses incurred by Beneficiary as provided for herein (the indebtedness evidenced by the Note and all such other sums are hereinafter collectively

referred to as the “Indebtedness”); and (d) the performance of all the covenants and agreements of the Grantor contained herein.

This Deed of Trust is given upon the express condition that if all of the Indebtedness is paid to Beneficiary, then, this Deed of Trust and the estate hereby granted shall cease and become void and shall be released of record at the expense of the Grantor; otherwise this Deed of Trust shall be and remain in full force and effect.

The Grantor represents, warrants and covenants to and with the Beneficiary and the Trustee that it is the lawful owner of the Property in fee simple and has good right and full power and authority under all applicable provisions of law and under its articles of incorporation to execute this Deed of Trust and to convey the Mortgaged Property pursuant hereto; that the Mortgaged Property is free from all monetary liens and charges, except as listed in Attachment B attached hereto; and the Grantor will warrant and defend the lien and priority of this Deed of Trust against all claims and demands of all persons whomsoever, whether now existing or hereafter arising, not listed in Attachment B, and that no claims or liens are outstanding or threatened against the Mortgaged Property arising out of any oil or hazardous waste or materials legislation. The covenants and warranties of this paragraph shall survive foreclosure of the Deed of Trust and shall run with the land.

The Grantor further covenants and agrees with the Beneficiary and the Trustee as follows:

1. Note, Application of Payments. Grantor will duly and punctually pay any and all amounts due and payable under the Note in accordance with the terms of the Note and all other Indebtedness, when and as due and payable. The provisions of the Note are hereby incorporated by reference into this Deed of Trust as if fully set forth at length herein. All payments received by the Beneficiary from the Grantor under the Note or this Deed of Trust shall be applied by the Beneficiary in such order of application as the Beneficiary deems appropriate.

2. Payment of Taxes, Assessments and Other Charges. The Grantor shall pay before a penalty might attach for nonpayment thereof, all taxes and assessments and all other charges whatsoever levied upon or assessed or placed against the Mortgaged Property, except that assessments may be paid in installments so long as no fine or penalty is added to any installment for the nonpayment thereof. The Grantor shall likewise pay any and all governmental levies or assessments of any kind which create, may create or appear to create a lien upon the Mortgaged Property, or any part thereof. In the event of any legislative action or judicial decision after the date of this Deed of Trust, imposing upon the Beneficiary the obligation to pay any such taxes, assessments or other charges, or deducting the amount secured by this Deed of Trust from the value of the Mortgaged Property for the purpose of taxation, or changing in any way the laws now in force for the taxation of mortgages, deeds of trust or debts secured thereby, or the manner of the operation of any such taxes so as to affect the interests of the Beneficiary, then, and in such event, the Grantor shall bear and pay the full amount of such taxes, assessments or other charges

3. Liens. The Grantor shall not create, incur or suffer to exist any monetary lien, or charge on the Mortgaged Property or any part thereof, other than the lien of current real estate taxes

and installments of special assessments with respect to which no penalty is yet payable, and any permitted monetary lien listed in Attachment B hereto.

4. Mechanics' Liens. Grantor shall pay, when due, the claims of all persons supplying labor, materials or equipment to or in connection with the Mortgaged Property, and Grantor will keep the Mortgaged Property free and clear of all liens and claims of liens by contractors, subcontractors, mechanics, laborers, materialmen and other such persons arising out of the work, construction, development, operation or maintenance of the Mortgaged Property (collectively, "Mechanic's Lien(s)"). If any suit or proceeding shall be brought to foreclose or enforce any such Mechanic's Lien, Grantor shall, at its sole cost and expense, promptly pay, satisfy and discharge any final judgment entered therein, and if Grantor fails to do so, then Beneficiary, at its option, may do so.

5. Compliance with Laws. Grantor shall comply with all present and future statutes, laws, rules, orders, regulations and ordinances, and any easements, protective covenants or other private restrictions affecting the Mortgaged Property, any part thereof or the use thereof; including, without limitation, laws, ordinances, rules or regulations relating to hazardous wastes, hazardous materials, or oil.

6. Payment of Utility Charges. Grantor shall pay all charges (exclusive of charges which are the obligations of tenants to pay) made by utility companies, whether public or private, for electricity, gas, heat, water, or sewer, furnished or used in connection with the Mortgaged Property or any part thereof, and will, upon written request of Beneficiary, furnish proper receipts evidencing such payment.

7. Insurance.

(a) Risks to be Insured. The Grantor, at its sole cost and expense, will maintain insurance of the following character:

(i) Insurance on the buildings and other improvements now existing or hereafter erected on the Property and on the fixtures and personal property included in the Mortgaged Property against loss by fire, other hazards covered by the so-called "all-risk" form of policy and such other perils as Beneficiary shall from time to time require with respect to properties of the nature and in the geographical area of the Mortgaged Properties, and to be in an amount at least equal to the replacement cost value of the Mortgaged Property. Grantor will at its sole cost and expense, from time to time and at any time, at the request of Beneficiary provide Beneficiary with evidence satisfactory to Beneficiary of the replacement cost of the Mortgaged Property.

(ii) If the Property or any part thereof is at any time located in a designated official flood hazard area, flood insurance insuring the buildings and improvements now existing or hereafter erected on the Property and the personal property used in the operation thereof in an amount equal to the lesser of the amount required in paragraph (a)(i) or the maximum limit of coverage made available with respect to such buildings and improvements and personal property under applicable federal laws and the regulations issued thereunder.

(iii) Commercial general liability insurance protecting against claims arising from any accident or occurrence in or upon the Mortgaged Property, in such amounts as Beneficiary may from time to time require, but in no event less than the amounts set forth in the Loan Contract, with the State of Colorado named as an additional insured.

(b) Policy Provisions. All insurance policies and renewals thereof maintained by Grantor pursuant to subparagraphs (a)(i) and (ii) above shall be written by an insurance carrier satisfactory to Beneficiary, contain a standard mortgagee clause and other endorsements in favor of and in form and content acceptable to Beneficiary, contain an agreement that the policy will not be amended, modified or canceled by either party except after 30 days' prior written notice to Beneficiary, contain a waiver of subrogation endorsement when required by Beneficiary and be satisfactory to Beneficiary in all other respects.

(c) Assignment of Policy. If the Mortgaged Property is sold at a foreclosure sale or if the Beneficiary shall acquire title to the Mortgaged Property, the Beneficiary shall have all of the right, title and interest of the Grantor in and to all insurance policies required under subparagraphs (a)(i) and (a)(ii) hereof and the unearned premiums thereon and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

(d) Delivery of Policy. The Grantor will deliver to the Beneficiary an original certificate evidencing the insurance which is required under subparagraphs (a)(i), (a)(ii), and (a)(iii), and the Grantor shall promptly furnish to the Beneficiary copies of all renewal notices. Prior to the expiration date of a required policy, the Grantor shall deliver to the Beneficiary a copy of a renewal policy in form satisfactory to the Beneficiary.

(e) Application of Insurance Proceeds. Subject to the rights of any lender with a superior interest under a recorded Deed of Trust or similar document or instrument, if any, all sums paid under any insurance policy required in subsections (a)(i) and (ii) shall be paid to the Beneficiary after application of such proceeds to prior lienholders, if any, to the extent of the indebtedness secured by their liens, if any. Beneficiary shall apply such amounts (after first deducting therefrom its expenses incurred in collecting the same including but not limited to reasonable attorneys' fees) to the restoration of the Mortgaged Property pursuant to such conditions as the Beneficiary shall in its reasonable discretion require, unless the senior lien holder has applied such proceeds solely to the payment of its lien, in which case Beneficiary may do likewise. No application of insurance proceeds shall extend or postpone the due dates of the installments payable under the Note or change the amount of such installments.

8. Preservation and Maintenance of Mortgaged Property; Indemnity. The Grantor (i) shall keep the Mortgaged Property in safe and good repair and condition; (ii) shall, upon damage to or destruction of the Mortgaged Property or any part thereof by fire or other casualty, restore, repair, replace or rebuild the Mortgaged Property that is damaged or destroyed to the condition it was in immediately prior to such damage or destruction, whether or not any insurance proceeds are available or sufficient for such purpose; (iii) shall not commit waste of the Mortgaged Property, and (iv) shall not remove any of the fixtures included in the Mortgaged Property unless the same is promptly replaced with property of at least equal value and utility, and this Deed of Trust becomes a valid first lien on such property.

9. Inspection. The Grantor shall permit the Beneficiary or its agents to enter upon the Mortgaged Property at all reasonable times for the purposes of inspecting the Mortgaged Property or any part thereof, subject to the rights of any tenants under their leases. The Beneficiary shall, however, have no duty to make such inspection.

10. Protection of the Beneficiary's Security. Subject to the rights of any lender with a superior interest under any prior recorded Deed of Trust or similar document or instrument, if any, if the Grantor fails to perform or comply with any of the covenants and agreements contained in this Deed of Trust or if any action or proceeding is commenced which affects the Mortgaged Property or the interest of the Trustee or the Beneficiary therein, or the title thereto, then the Beneficiary, at the Beneficiary's option, may perform such covenants and agreements, defend against and/or investigate such action or proceeding, and/or take such other action as the Beneficiary deems necessary to protect its interests in the exercise of its judgment, including without limitation, advancing funds for the payment of taxes, levies or insurance costs with respect to the Mortgaged Property or to protect the Mortgaged Property from waste, damage or abuse. The Beneficiary shall be the sole judge as to the legality, validity and priority of any claim, lien, encumbrance, tax, assessment, charge and premium paid by it and shall be the sole judge of the amount necessary to be paid in satisfaction thereof. The Beneficiary is hereby given the irrevocable power of attorney (which power is coupled with an interest) to enter upon the Mortgaged Property as the Grantor's agent in the Grantor's name to perform any and all covenants and agreements to be performed by the Grantor as herein provided. Any amounts or expenses disbursed or incurred by the Beneficiary pursuant to this paragraph, or to otherwise enforce any provisions of this Deed of Trust, to preserve any of the rights, powers or privileges of the Beneficiary granted or created hereby, or otherwise in order to protect the Mortgaged Property from waste, damage, or abuse, including, without limitation, reasonable attorney's fees (including fees and costs incurred in any appeal), with interest thereon as hereinafter stated, shall become additional Indebtedness secured by this Deed of Trust with same effect and priority as if disbursed on or before the date this Deed of Trust is recorded. Unless Grantors and the Beneficiary agree in writing to other terms of repayment, such amounts shall be due and payable upon ten days' written notice from the Beneficiary, and shall bear interest from the date of disbursement at the default rate of interest payable on the Note, unless collection of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected under applicable law. The Beneficiary shall, at its option, be subrogated to the lien of any mortgage or other lien discharged in whole or in part by the Indebtedness or by the Beneficiary under the provisions hereof, and any such subrogation rights shall be additional and cumulative security for this Deed of Trust. Nothing contained in this paragraph shall require the Beneficiary to incur any expense or do any act hereunder, and the Beneficiary shall not be liable to the Grantor for any damages or claims arising out of action taken by the Beneficiary pursuant to this paragraph.

11. Condemnation. Subject to the rights of any lender with a superior interest under a recorded Deed of Trust or similar document or instrument, if any, and the obligations of Grantor thereunder, if any, the Grantor hereby irrevocably assigns to the Beneficiary any award or payment up to the amount of the Grantor's Indebtedness under the Note which becomes payable by reason of any taking of the Mortgaged Property, or any part thereof, whether directly or indirectly or temporarily or permanently, in or by condemnation or other eminent domain proceedings or the settlement thereof (hereinafter called "Taking"). All awards or payments

payable as a result of a Taking shall be paid to the Beneficiary (in order of the priority of liens encumbering the Mortgaged Property), which after first deducting the Beneficiary's expenses incurred in the collection thereof shall be applied to the repair or restoration of the Mortgaged Property, pursuant to such conditions as the Beneficiary in its reasonable discretion may require unless the senior lien holder has applied same solely to payment of its lien, in which case Beneficiary may do likewise. No application of any Taking award or payment to repayment of Indebtedness shall postpone the due dates of the payments due under the Note or change the amount of such payments.

12. No Secondary Financing. The Grantor shall not create or permit to be created any subordinate lien on the Mortgaged Property or any part thereof for borrowed money without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld.

13. Transfers. Grantor will not, without the prior written consent of Beneficiary having been first obtained, and which such consent shall not be unreasonably withheld, sell, assign, transfer, convey, or otherwise dispose of or alienate all or part of the Mortgaged Property, or any interest of Grantor therein, other than the sale of obsolete or worn-out furnishings or equipment (collectively a "Transfer"). For purposes of this Deed of Trust, Transfer includes the dissolution of Grantor or the sale, transfer, conveyance, mortgage or other disposition of all or any portion of a controlling or beneficial interest in the Grantor.

14. Security Interest. This Deed of Trust shall constitute a security agreement with respect to (and the Grantor hereby grants the Trustee and the Beneficiary a security interest in) all fixtures and personal property of the Grantor included in the Mortgaged Property as more specifically described in the granting clause above. The Grantor will from time to time, at the request of the Beneficiary, execute any and all financing statements or other documents covering such fixtures or personal property (in a form satisfactory to the Beneficiary) which the Beneficiary may consider necessary or appropriate to confirm, evidence or perfect the Trustee's and/or the Beneficiary's security interest.

15. Events of Default. Each of the following occurrences shall constitute an event of default hereunder (herein called an "Event of Default"):

(a) The Grantor shall fail to pay any portion of the Indebtedness when due or payable.

(b) The Grantor shall fail duly to perform or observe any of the covenants or agreements contained in the Loan Contract or in this Deed of Trust.

(c) A Transfer shall occur without the written consent of Beneficiary having been first obtained as provided in paragraph 13.

(d) A judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien on, issued or levied against, the Mortgaged Property or any part thereof and shall not be released, vacated, or fully bonded within thirty (30) days after its entry, issue, or levy and Beneficiary's written notice and demand therefor.

(e) The Grantor shall sell or convey the Mortgaged Property or any interest therein.

(f) The Grantor shall be generally unable to pay its debts as they become due, or shall make an assignment for the benefit of creditors; or the Grantor shall apply for or consent to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such a receiver, trustee or similar officer shall be appointed without the application or consent of the Grantor, and such appointment shall continue undischarged for a period of ninety (90) days; or the Grantor shall institute (by petition, application, answer or otherwise) any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution, liquidation or similar proceedings under the laws of any jurisdiction; or any such proceeding shall be instituted against the Grantor; or the Grantor shall terminate or dissolve.

(g) Any representation of the Grantor made herein or made by the Grantor or any employee of the Grantor in any submission or document delivered by or on behalf of the Grantor in connection with the Indebtedness shall prove to be materially untrue, or (ii) a default or an "Event of Default," however defined, shall occur under any other document or instrument now or hereafter securing repayment of the Note or issued in connection therewith, or evidencing or securing a loan made by any other lender with regard to the Mortgaged Property.

16. Power of Sale, Remedies. If an Event of Default shall occur hereunder, the Grantor hereby authorizes and empowers the Trustee and/or the Beneficiary as follows:

(a) The Beneficiary may by written notice to Grantor declare all Indebtedness to be immediately due and payable and the same shall be immediately due and payable without further notice or demand of any kind.

(b) The Beneficiary is authorized and empowered, without further notice, to file a written Notice of Election and Demand for Sale with Trustee, as provided by law, who shall upon receipt of such notice cause a copy of the same to be recorded in the Office of the Clerk and Recorder of the County of Ouray, it being then lawful for said Trustee to foreclose, and the Trustee shall foreclose this Deed of Trust. The Trustee shall apply the proceeds of the sale in the following order: (i) to all reasonable costs and expenses of the sale, including, without limitation, reasonable Trustee's and attorney's fees and costs of evidence of title, (ii) to the Indebtedness, and (iii) the excess, if any, to the person or persons legally entitled thereto.

(c) If any of the Indebtedness hereby secured shall become due and payable, the Trustee or the Beneficiary shall have the right and power to proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction, or for the appointment of a receiver pending any foreclosure hereunder or the sale of the Mortgaged Property under the order of a court or courts of competent jurisdiction or under executory or other legal process, or for the enforcement of any other appropriate legal or equitable remedy. The Grantor agrees, to the full extent that it lawfully may, that in case one or more of the defaults hereunder shall have occurred and shall not have been remedied, then, and in every such case, the

Beneficiary shall have the right and power to enter into and upon and take possession of all or any part of the Mortgaged Property in the possession of the Grantor, its successors or assigns, or its or their agents or servants, and may exclude the Grantor, its successors or assigns, and all persons claiming under the Grantor (other than tenants under leases approved by Beneficiary), and its or their agents or servants, wholly or partly therefrom; and, holding the same, the Beneficiary may use, administer, manage, operate and control the Mortgaged Property and conduct the business thereof to the same extent as the Grantor, its successors or assigns, might at the time do and may exercise all rights and powers of the Grantor, in the name, place and stead of the Grantor, or otherwise as the Beneficiary shall deem best; and in the exercise of any of the foregoing rights and powers the Beneficiary shall not be liable to the Grantor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of the Beneficiary.

(d) The Beneficiary shall have and may exercise with respect to all fixtures and personal property which are part of the Mortgaged Property, all the rights and remedies accorded upon default to a secured party under the Uniform Commercial Code, as in effect in the State of Colorado. If notice to the Grantor of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to the Grantor (in the manner specified in paragraph 19) at least 10 calendar days prior to the date of intended disposition.

(e) To the fullest extent permitted by law, the Beneficiary may request, and the Grantor agrees that the Beneficiary shall as a matter of right be entitled to, the appointment of a receiver or receivers for all or any part of the Mortgaged Property, whether such receivership be incident to a proposed sale of the Mortgaged Property or otherwise, and the Grantor does hereby consent to the appointment of such receiver or receivers without notice to the Grantor and Grantor further agrees not to oppose any application therefor by the Beneficiary.

(f) The Grantor shall pay on demand all costs and expenses incurred by the Beneficiary in exercising such rights and remedies, and in the collection of the Indebtedness or foreclosure of this Deed of Trust, including without limitation, reasonable attorneys' fees, costs and legal expenses. All such costs expenses, with interest thereon as hereinafter stated, shall become additional Indebtedness of the Grantor secured by this Deed of Trust with same effect and priority as if disbursed on or before the date this Deed of Trust is recorded. Unless the Grantor and the Beneficiary agree in writing to other terms of repayment, such amounts shall bear interest from the date of disbursement at the default rate of interest payable on the Note, unless collection from the Grantor of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from the Grantor under applicable law.

17. Forbearance Not a Waiver; Rights and Remedies Cumulative. No delay by the Trustee or the Beneficiary in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy, and no waiver by the Trustee or the Beneficiary of any particular provision of this Deed of Trust shall be deemed effective unless in writing signed by the party making such waiver. All such rights and remedies provided for herein or which the Trustee or the Beneficiary, or the holder of the Note may have otherwise, at law or in equity, shall be distinct, separate and cumulative and may be exercised

concurrently, independently or successively in any order whatsoever, and as often as the occasion therefor arises.

18. Successors and Assigns Bound; Number; Gender; Agents; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to the benefit of, the respective successors and assigns of the Beneficiary and the Grantor; provided, however, that this paragraph shall not limit the effect of paragraph 15(f). References herein to the Grantor or the Beneficiary are deemed to include such successors and assigns. Wherever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall apply to all genders. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

19. Notice. Any notice from the Beneficiary or the Trustee to the Grantor, or from the Grantor to the Beneficiary, under this Deed of Trust shall be deemed to have been given by the party giving the notice and received by the Grantor or the Beneficiary, as the case may be, when mailed by certified mail, return receipt requested, or by overnight express mail or courier service, to the addresses of the Grantor or the Beneficiary, as the case may be, set out in the first paragraph of this Deed of Trust.

20. Governing Law; Severability. This Deed of Trust shall be governed by the substantive laws of the State of Colorado. In the event that any provision or clause of this Deed of Trust conflicts with applicable law or the application thereof under any particular circumstance to any particular person or entity conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provisions or the applicability of such provisions to other persons or entities or to such persons or entities under other circumstances and to this end the provisions of the Deed of Trust are declared to be severable.

21. Waiver of Marshalling. The Grantor, any party who consents to this Deed of Trust and any party who now or hereafter acquires a lien on the Mortgaged Property and who has actual or constructive notice of this Deed of Trust, hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

22. Environmental Matters. Grantor covenants and represents that, to the best of its knowledge, there are no Hazardous Materials (as hereinafter defined) generated, released, incorporated, stored, buried or deposited over, beneath, in or upon the Property, nor will there be, for so long as any of the Indebtedness secured hereby remains outstanding. For purposes of this Deed of Trust, "Hazardous Materials" shall mean and include any flammable explosives, petroleum (including crude oil) or any fraction thereof, radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of toxic or hazardous substances, wastes, or materials under any federal or applicable state or local laws, ordinances or regulations dealing with or otherwise pertaining to toxic or hazardous substances, wastes or materials. Such laws, ordinances and regulations are hereinafter collectively referred to as the "Hazardous Materials Laws."

Grantor shall be solely responsible for, and shall indemnify and hold harmless Beneficiary, its directors, officers, employees, agents, successors and assigns from and against, any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence (whether prior to or during the term of the loan or otherwise and regardless of by whom caused, whether by Grantor or any predecessor in title or any owner of land adjacent to the Mortgaged Property or any other third party, or any employee, agent, contractor or subcontractor of Grantor or any predecessor in title or any such adjacent land owner or any third person) of Hazardous Materials in, on, under or about the Mortgaged Property.

23. Further Assurances. At any time and from time to time until payment in full of the Indebtedness, Grantor will, at the request of the Beneficiary, promptly execute and deliver to the Beneficiary such additional instruments as may be reasonably required further to evidence the lien of this Deed of Trust and further to protect the security interest of the Beneficiary with respect to the Mortgaged Property.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Grantor has caused this Deed of Trust to be duly executed as of the day and year first above written.

OURAY HOMES, LLC, A COLORADO LIMITED LIABILITY CORPORATION

By: [Signature]
Paul Major, Manager

STATE OF Colorado)
) ss.
COUNTY OF San Miguel)

The foregoing instrument was acknowledged before me this 19th day of April, 2022 by Paul Major, as Manager of Ouray Homes LLC

Witness my hand and official seal.

My commission expires: June 9th, 2025

[Signature]
Notary Public

MARIANA LEONIDOVNA CANTIR
Notary Public
State of Colorado
Notary ID # 20174019166
My Commission Expires 06-09-2025

**ATTACHMENT A
TO DEED OF TRUST
Legal Description**

LOTS 2A AND 2B, OURAY WATERVIEW SUBDIVISION LOT 2 SPLIT, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 6, 2014 UNDER RECEPTION NO. 211406, COUNTY OF OURAY, STATE OF COLORADO

**ATTACHMENT B
TO DEED OF TRUST**

The following monetary liens and charges in order of priority:

1. This Deed of Trust

Indemnification Agreement

Effective November 4, 2024, Ouray Homes, LLC, a Colorado limited liability company (“Ouray Homes”) and the City of Ouray, a Colorado home rule municipality (the “City”), agree (“Agreement”) as follows.

1. **Background.** Ouray Homes owns real property known as the Ouray Waterview Subdivision Lot 2 Lot Split (the “Property”). Two ditches traverse the Property- the Heath Ditch and an unnamed ditch referred to as the “Return Ditch.” Ouray Homes is building an affordable housing development on the Property referred to as the “Waterview Homes Development.” The City has granted final plat approval for Phase 1 of the Waterview Homes Development.

Ouray Homes and the City are plaintiffs in Case No. 24CV30020 filed in the Ouray County District Court on October 22, 2024. The case involves a dispute with Little Switzerland, LLC (“Little Switzerland”) who is a property owner to the south of the Waterview Homes Development. Ouray Homes and the City are seeking a declaratory judgment approving the proposed modifications to the Return Ditch and determining the future use and related obligations of the Heath Ditch and the Return Ditch. The dispute relates to the scope of Little Switzerland’s easement for the Return Ditch, future maintenance obligations for the Return Ditch, and ongoing financial and insurance liability obligations for the Heath Ditch and the Return Ditch.

The purpose of this Agreement is to recognize that Ouray Homes is responsible for litigating and defending any claims that may arise in Case No. 24CV30020 against individual homeowners in the Waterview Homes Development and assure the City that Ouray Homes will defend, indemnify, and hold harmless those homeowners if there is an attempt to name them as parties and/or if they are named as parties in Case No. 24CV30020.

2. **Indemnity.** Ouray Homes shall fully indemnify, hold harmless, and defend the individual homeowners in the Waterview Homes Development permitted by Colorado law, from all Claims (as defined in section 2.a) involving the Heath Ditch and the Return Ditch that arise as part of Case No. 24CV30020.

a. **Definition of a Claim.** “Claim” means any obligation to pay money or perform or not perform actions that relate to pending Case No. 24CV30020.

b. **Third-Party Beneficiaries.** Ouray Homes and the City hereby acknowledge and agree that the individual homeowners in the Waterview Homes Development are expressly intended third-party beneficiaries to this Agreement.

3. **Limitations and Exclusions to Indemnity.** Ouray Homes shall not indemnify the City or any homeowner(s) for any actions and/or obligations involving the Heath Ditch or the Return Ditch that do not relate to the Claims or arise from pending Case No. 24CV30020.

4. Notification, Defense, and Settlement of Claims.

- a. **Notice.** The City agrees to promptly notify Ouray Homes in writing of any Claims against individual homeowners asserted or threatened to be asserted as part of Case No. 24CV30020.
- b. **Defense.** After Ouray Homes is notified of a Claim against any individual homeowner(s), Ouray Homes shall assume defense of the Claim at its expense. Ouray Homes shall notify the City and the homeowner(s) of this assumption in writing. Ouray Homes shall pay the expenses of the defense and not assume the defense if there is a conflict of interest between Ouray Homes and the homeowner(s).
- c. **Settlement.** Neither Ouray Homes nor the City shall settle a Claim without the written consent of the other party. Neither Ouray Homes nor the City shall unreasonably withhold this consent.

5. General Provisions.

- a. **Termination.** This Agreement shall automatically terminate upon the final resolution of all Claims in Case No. 24CV30020 by judgment, order, and/or settlement.
- b. **Binding Effect.** Ouray Homes shall cause any successor to Ouray Homes to assume this Agreement in a manner that binds the successor to perform in the same manner and to the same extent Ouray Homes would be required to perform.
- c. **Notice.** All notices and other communications related to this Agreement must be in writing and may be delivered either by email, by the United States Postal Service, or by a nationally recognized delivery service with the date of the Notice being the date of delivery to the following addresses:

Ouray Homes
P.O. Box 4222
Telluride, CO 81435
email: paul@ruralhomesproject.co with a copy to smryan@hollandhart.com

City Administrator
P.O. Box 468
Ouray, CO 81427
with copy to cviner@cvinerlaw.com

- d. **Interpretation.** This Agreement is governed by Colorado law, excluding any choice of law rules. The courts in Ouray County, Colorado have exclusive jurisdiction over any dispute relating to this Agreement, and the prevailing party or parties will be entitled to recover attorney's fees in addition to any other relief. This Agreement is the fully integrated agreement of Ouray Homes and the City concerning the subject matter and supersedes and merges all previous negotiations, commitments, understandings, and

agreements relating to the subject matter. No supplement or modification of this Agreement will bind the parties unless executed in writing by Ouray Homes and the City. No waiver or invalidation of any provision of this Agreement will affect any other provision. If any provision is unenforceable because of the provision's scope, the scope shall be reduced to make the provision enforceable. This Agreement may be signed by electronic means and in counterparts, each of which constitutes an original, and all of which together constitute a single agreement.

IN WITNESS WHEREOF, the City and Ouray Homes have signed this agreement effective the day and year first written above

OURAY HOMES, LLC

By: _____
Paul Major, Manager

CITY OF OURAY

By: _____
Ethan Funk, Mayor

Attest:

By: _____
Melissa M. Drake, Clerk

PARTY WALL AGREEMENT

This Party Wall Agreement (the “Agreement”) is made and entered into as of the _____ day of _____, 202__, by and between _____, whose address is _____, and _____, whose address is _____. These parties are referred to herein individually as a “Party” and together as the “Parties”. The terms Party or Parties shall include the Parties hereto and their respective heirs, successors and assigns.

RECITALS

- A. _____ is the owner of the improved property legally described as follows: _____.
This property has a street address of _____.
- B. _____ is the owner of the improved property legally described as follows: _____.
This property has a street address of _____.
- C. These two properties share a common wall or walls that form the property line of their respective properties. (the “Party Wall”)
- D. The Parties desire to define and described their respective obligations with respect to the Party Wall, and establish rules for the use, repair, maintenance and modification of the Party Wall which will be binding on the Parties and their successors in interest.

AGREEMENT

1. **Ownership.** The Party Wall is and shall be shared and jointly owned by the Parties.
2. **Definition.** The Party Wall includes the support joists, crossbeams, studs, structural members, insulation, utility lines, pipes, conduits, and other improvements located in the Party Wall. The Party Wall does not include the interior finished surface of the Party Wall.
3. **Modification.** The Parties’ use of the Party Wall shall not injure any component of the Party Wall. One Party may not materially modify a Party Wall without the prior written consent of the other Party, and compliance with all covenants, restrictions and applicable building codes and requirements.
4. **Maintenance and Repair.** The cost of repair and maintenance of the interior finished surface of the Party Wall shall be the sole expense of the Party that owns the interior space. If a Party needs or desires to repair, rebuild, or maintain the whole or any other part of a Party Wall, the repairing, rebuilding, or maintenance expense shall be borne equally by both Parties. Any repairing or rebuilding shall be on the same location, and of the same size, as the original Party

Wall or portion thereof, and of the same or similar material as that used in the original Party Wall or portion thereof.

5. Insurance. Each party shall maintain at all times insurance coverage insuring against:

a. Loss or damage by fire and extended coverage perils in an amount not less than the full replacement value of the townhome.

b. Liability for bodily injury and property damage in the aggregate limit of not less than \$500,000.00 per occurrence arising from the use and ownership of the townhome.

To the extent that damage to a Party Wall is covered by insurance, the full insurance proceeds shall be used and applied to the extent necessary to repair, restore, or replace the Party Wall. Any insurance proceeds not necessary for such repair, restoration or replacement shall belong solely to the owner of the insurance policy under which such payment was made.

6. Non-exclusive Easement. In the exercise of each Party's right and responsibility for the maintenance, repair, and rebuilding of a Party Wall, each Party shall have, and is hereby granted, a perpetual and reciprocal non-exclusive easement in and across the other Party's Property as necessary to effectuate such repair, rebuilding, or maintenance.

7. Access to interior of Party Wall. After reasonable written notice to the other Party, each Party shall have the right to break through the Party Wall for the purpose of repairing or restoring sewer, water, or other utilities located within the Party Wall, subject, however, to the obligation to restore the Party Wall to its previous cosmetic and structural condition.

8. Negligent or Intentional Damage to Party Wall. In the event that the Party Wall or any portion thereof is destroyed or damaged due to the negligence or intentional act or omission of a Party, for which the Party is legally liable under applicable rules of law regarding liability for property damage due to negligence or intentional acts or omissions, that Party shall be solely responsible for the cost of repairing the Party Wall.

9. Failure to Pay for Damages or Repair. If a Party fails or refuses to pay its share of any cost of the repair, rebuilding, or maintenance of the Party Wall, within thirty (30) days after written demand by the Party, the other Party may cause the Party Wall to be repaired, rebuilt, or maintained. The other Party shall be entitled to assess and collect one-half of the costs against and from the non-paying party. One-half of the costs shall become and remain a lien against the non-paying Party's Property, upon which interest shall accrue at the rate of eighteen percent (18%) per annum, until fully paid. The paying Party may file a statement of lien against the non-paying Party's property, provided that a copy of the lien statement must be served upon the non-paying Party by certified or registered mail at the address of the non-paying Party's property 20 days before recording of the lien statement. Foreclosure of the lien granted herein shall be in the same manner as foreclosure of a mortgage under Colorado law. The Parties waive all claims to

a homestead exemption in an such foreclosure action.

10. Term of this Agreement. This Agreement shall continue in perpetuity and shall constitute an easement and covenant running with and appurtenant to each Property, provided, however, that nothing herein shall be construed as a conveyance by a Party of such Party's rights in the fee ownership of that Party's Property. This Agreement shall bind, and inure to the benefit of, each Party hereto, and that Party's respective heirs, personal representatives, successors and assigns.

11. Governing Law and Venue. The laws of the State of Colorado shall control the interpretation of this Agreement. Any litigation brought to enforce the provisions of this Agreement or to foreclose the lien herein granted shall be brought in a court of competent jurisdiction in the County in which the Properties are located, and the prevailing Party in such litigation shall recover from the other Party the reasonable attorney fees and costs incurred by the prevailing Party in such action.

This Agreement is entered into and effective as of the date first written above.

IN WITNESS WHEREOF, the Parties have signed their names hereto as of the date first written above.

Name:

Name:

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public



Staff Report – Ouray Waterview Homes Planned Unit Development, Phase 1 – Final Plat Application

Prepared for: October 29, 2024 Planning Commission Special Meeting/Public Hearing

Prepared by: Kristen Clothier, Community Development Director

Project: Ouray Waterview Homes Planned Unit Development, Phase 1

Address: 251 Uncompahgre Street

Parcel Number: 451725113002

Legal Description: Ouray Waterview Subdivision Lot 2, Lot Split, Lot: 2B S: 25 T: 44 R: 8

Applicant/Owner: Paul Major, Manager, on behalf of Ouray Homes, LLC

Zoning: C-2 – Commercial Industrial (north of Skyrocket)

Parcel/Site Size: 3.91 acres (Lot 2B)

PROJECT DESCRIPTION AND STATUS UPDATE – OURAY WATERVIEW HOMES PHASE 1

Ouray Homes, LLC (“Applicant”) submitted a Final Plat Application for Phase 1 of the Ouray Waterview Homes Planned Unit Development on October 3, 2024. The Applicant submitted a revised Final Plat Application on October 17, 2024 (see Exhibits B-I). The Applicant submitted a further revised Final Plat on October 28, 2024 (see Exhibit A).

Ouray Waterview Homes – Phase 1 consists of 21 homes: two single-family units, four duplexes, three triplexes, and two single-family units with child care spaces (“Project”). The 21 units will be deed-restricted per the “Deed Restriction and Covenant Agreement for Ouray Waterview Homes” attached as Exhibit E.

Home construction and infrastructure installation for the Project is nearing completion. The former City Administrator, Interim City Administrator, City Attorney, Community Development Director, Public Works Director, and Interim Building Inspector have worked closely with the Applicant’s team during all stages of the development process to ensure that the Project is executed per the Preliminary Plat, Development Agreement, and Approved Plans.

Recommendation for approval of the Final Plat by the Planning Commission and subsequent approval of the Final Plat by City Council will allow the City’s Community Development Department to issue Certificates of Occupancy for the homes, as home construction is finished and once State oversight inspections, State final electrical inspections, and City final inspections by the Interim Building Inspector are completed. This will allow the sale of the new homes to area residents earning at or below 120% area median income (AMI) to proceed beginning in November 2024.

PROCESS FOR PLANNED UNIT DEVELOPMENT FINAL PLAT REVIEW AND APPROVAL

The Applicant has submitted this Final Plat Application pursuant to Ouray Municipal Code §7-7-C-4: Subdivision Development Regulations–Final Plat and §7-8: Planned Unit Developments. This Project is governed by the Ouray Municipal Code (“OMC”) adopted prior to November 16, 2023.

OMC §7-8-E: Procedures states “PUDs shall be reviewed in accordance with the same procedures for review of subdivisions as found in Subsection 7-7-C” and the “preliminary and final PUD plan shall comply with all requirements for a preliminary and final subdivision plat, to the extent applicable.”

The Planning Commission is a recommending body for the Final Plat phase of PUD applications. The City Council must make final decision(s) during the consideration of the Final Plat and must approve the Final Plat.

The procedures for reviewing of a Planned Unit Development include the following steps:

1. SKETCH PUD with Planning Commission review and determination pursuant to the Subdivision Sketch Plan in OMC §7-7-C-2.

The Applicant received Sketch Plan approval at a Planning Commission meeting on March 21, 2023.

2. PRELIMINARY PUD with Planning Commission review and recommendation to the City Council for determination pursuant to the Subdivision Preliminary Plat in OMC §7-7-C-3.

The Applicant submitted a Preliminary Plat application for the Project per the OMC process. The Preliminary PUD was for residential development on two (2) vacant lots north of the Biota Building. The general intent of the Ouray Waterview Homes PUD overall was to develop 65 affordable, owner-occupied residential units, including multiple in-home childcare units. The Preliminary Plat application proposed a new internal road to access the northernmost proposed lots, landscaped connections to the existing River Trail, and open space tracts dedicated to the City. The Ouray Waterview Homes PUD was proposed in two (2) phases of development to align with the City's Waste Water Treatment Facility upgrade.

The Preliminary Plat review and approval process for the Ouray Waterview Homes PUD involved a thorough review of the Project for conformity with OMC Chapter 7 (Land Use Code), including the PUD regulations in OMC §7-8 which establish the following Statement of Objectives of Development ("PUD Objective"):

"The intent of this Section is to promote the Planned Unit Development Act of 1972 and encourage innovative developments with unique and valued community attributes. PUDs allow for consideration of development proposals that differ from required development improvements identified in the OMC. PUDs offer different options to the applicant when planning and obtaining City approval for their development. PUDs allow flexibility with respect to dimensional requirements and increased densities under certain conditions or circumstances. PUDs encourage conservation of a site's natural characteristics, innovative residential, commercial and industrial development plans which will result in a more efficient use of open space, and provide affordable housing for year round residents."

The Planning Commission recommended approval of the Ouray Waterview Homes PUD Preliminary Plat on May 23, 2023 with the following conditions of approval:

- Approve the deviations to the OMC standards outlined in Table 3 of the 5/25/23 Staff Report.
- Satisfy the comments outlined in the 5/18/23 Staff Memo prior to filing a Final Plat.

The Preliminary PUD was approved by City Council on June 20, 2024. City Council applied nine conditions of approval to the Preliminary Plat Application which affect the Final Plat Application, via the 6/20/23 Staff Report and 5/18/23 Staff Memo, included as Exhibits C and D for reference. It was noted in the 5/18/23 Staff Memo that it did not represent exhaustive City comments or conditions to this application. Further requirements and conditions were put in place subsequently as part of the Development Agreement; see below for details.

3. FINAL PUD with Planning Commission review and recommendation to the City Council for determination pursuant to the Subdivision Final Plat in OMC §7-7-C-4.

As noted above, the Applicant submitted: a Final Plat Application on 10/3/24; a revised Final Plat Application on 10/17/24 (see Exhibits B-I); and a further revised Final Plat on 10/28/24 (see Exhibit A).

The Planning Commission will review and make a recommendation to the City Council at a special meeting/public hearing scheduled for October 29, 2024. Public noticing requirements for the Planning Commission public hearing on the Final Plat have been met per the OMC. City Council will then review and make a determination at the November 4, 2024 City Council Regular Meeting.

OMC §7-7-B-1-b of the Subdivision Regulations states: "All final plats required by this Section shall be filed and recorded following approval by City Council and after any conditions have been met."

CRITERIA FOR DECISION – FINAL PLAT FOR OURAY WATERVIEW HOMES PUD

1. **OMC §7-8-B establishes the following primary PUD criteria for decision:**
 - A. A PUD shall be in general conformity with the City Community Plan
 - B. A PUD shall be consistent with the PUD Objective
 - C. Compliance with the Colorado Planned Unit Development Act of 1972
 - D. A PUD shall have a minimum of 1 unit or lot
2. **OMC §7-7-D-3 establishes the Requirements and Data on Final Plats.**
3. **OMC §7-7-E establishes typical Subdivision Design Standards.**

During the Preliminary Plat review process, the Project was found to be in conformance with the criteria for decision-making per OMC §7-7 and OMC §7-8. In brief, this Project: is in general conformance with the goals and strategies identified in the 2021 Ouray Community Plan and the future land use map contained in the Community Plan; is designed as a phased approach in an effort to not over-burden the City’s infrastructure capacity; gives consideration to the preservation and connection of open spaces and the Uncompahgre River and trail; is designed with phased density to complement the surrounding land uses and open spaces; maintains access, layout, and terms identified for the variety of berm/utility/ditch easements located on the site; and aims to provide homes for affordable housing AMI levels appropriate to serve the greater Ouray community and to diversify the housing available in Ouray as well as provide attainable housing solutions for year-round local residents and employees.

“PUDs encourage conservation of a site’s natural characteristics, innovative residential, commercial and industrial development plans which will result in a more efficient use of open space and provide affordable housing for year-round residents” (OMC §7-8-A). During the Preliminary Plat process, the Project was found to be consistent with key elements of the PUD objective, including by encouraging innovative developments with unique and valued community attributes; allowing for consideration of development proposals that differ from required development improvements identified in the OMC; offering different options to the applicant when planning and obtaining City approval for their development; and allowing flexibility with respect to dimensional requirements and increased densities under certain conditions or circumstances.

This staff report incorporates the findings and conditions outlined in the previous Staff Reports and Memoranda for the Preliminary Plat review and approval process by reference; see Exhibits C and D. Below is a staff analysis of conformity with OMC §7-7-D-3, followed by a summary and staff analysis of the status of the relevant conditions/requirements affecting the Final Plat Application for this Project, as guidance for Planning Commission review.

STAFF REVIEW AND ANALYSIS – REQUIREMENTS FOR FINAL PLATS (OMC §7-7-D-3)

The Final Plat submitted is for Phase 1 of Ouray Waterview Homes. OMC §7-7-D-3 states: “The final plat may constitute the entire approved preliminary plat or any logical portion of the approved preliminary plat proposed for final plat review and subject to development and recording. The final plat shall conform with the approved preliminary plat and shall include all changes and additions as required by the City Council.”

The data and information requirements outlined in OMC §7-7-D-3 for Final Plats, as may differ based upon the approved PUD, have been met for this application among the various items submitted (see Exhibits A through I).

Staff confirms that the Final Plat substantially conforms with the Preliminary Plat. Staff further reviewed the “plat notes and restrictions as appropriate to implement compliance with this Section and all conditions of approval” per OMC §7-7-D-3-n and has included further findings and conditions of Final Plat approval in the staff analyses below.

STAFF REVIEW AND ANALYSIS – CITY COUNCIL FINAL PLAT REQUIREMENTS

City Council applied nine conditions of approval to the Preliminary Plat Application which affect the Final Plat Application, via the 6/20/23 Staff Report and 5/18/23 Staff Memo, included as Exhibits C and D for reference.

	Condition	Update	Status
1	<p>Ouray County has a Waterview Lane, Waterview Court, and Waterview Cove. Staff has coordinated with the County’s Road and Bridge Department and EMS and has concerns of the duplicative nature of the proposed “Waterview Street” and recommends changing this street name.</p> <p>a. Applicant must coordinate final proposed street name prior to final plat filing, installation of street signage, or official addressing.</p> <p>b. If amended, all construction documents, plats, and related materials must reflect the updated street name.</p>	<p>The Applicant proposes to rename the street within Phase 1 to “Namichi Way,” subject to review by the Planning Commission and final approval by the City Council.</p> <p>If the street name is amended, all construction documents, plats, and related materials must reflect the updated street name.</p>	<p>City Council must approve new street name during review of Final Plat Application.</p>
2	<p>Correct all titles of documents to reflect “City of Ouray” not “Town of Ouray.”</p>	<p>Condition met prior to construction commencement.</p>	<p>Complete</p>
3	<p>Correct all documents to reflect “Uncompahgre Street” and “Uncompahgre River” where mislabeled.</p>	<p>Condition met prior to construction commencement.</p>	<p>Complete</p>
4	<p>All construction document and future submittals must match layout and design of the submitted “Waterview Affordable Housing Subdivision” Preliminary Plat.</p>	<p>Condition met.</p>	<p>Complete</p>
5	<p>Applicant must coordinate a preconstruction meeting with the City of Ouray Public Works Department, City Administrator, Community Development Department, and Fire Department to ensure installation of infrastructure is a concerted effort which aligns with all departmental timelines, capacities, and standards.</p> <p>a. Access to City and private utilities along the west side of proposed lots 49 through 65 and 2 through 21 must be maintained with no structures developed along the 25-foot utility easement as shown (Reception No. 188107 and 211406).</p>	<p>Condition met prior to construction commencement/during Phase 1 construction, including coordination of water and sewer connections with the Public Works Department.</p> <p>Note: The Preliminary Plat documents were distributed to the Ouray County EMS, Ouray Fire Department, Public Works Department, and Ouray School for review and consideration of proposed connections, easements, fire hydrants, and drainage.</p>	<p>Complete</p>
6	<p>Applicant must draft a Development Improvements Agreement for the associated infrastructure, standards, timelines, and improvements for this project.</p> <p>a. Agreement must be approved by the City Attorney, City Administrator and associated bodies and executed accordingly.</p> <p>b. Agreement must be mutually-executed prior to filing a Final Plat as part of the Building Permit process once proposed infrastructure is finalized.</p>	<p>The Applicant states that all associated infrastructure and improvements for Phase 1, except for some landscaping in the public right of way, will be complete prior to the Final Plat recording. Therefore, a Development Improvements Agreement is not required.</p> <p>Staff finds that there are sufficient outstanding items and recommends that a Development Improvements Agreement be required to ensure the completion of all Project deliverables by June 30, 2025.</p>	<p>The Applicant will draft a Development Improvements Agreement which must be approved prior to City issuance of Certificates of Occupancy.</p>
7	<p>Applicant must receive written approval or an access permit from the Colorado Department of Transportation for any access to Highway 550 directly from subject lot and for any new street</p>	<p>Condition met.</p>	<p>Complete</p>

	serving the subdivision that intersects said highway prior to filing a Final Plat application.		
8	Final Plat must reiterate the plat notes and easement descriptions included in the Waterview Lot 2 Lot Split Plat (Reception No. 211406) by reference.	The Final Plat, as submitted, reiterates the pertinent plat notes and easement descriptions.	Complete
9	Once preliminary plat approval has been granted from the City Council, the Applicant must work with the City to coordinate a joint meeting with the City Council, City Attorney, City Administrator, and Planning Commission to discuss terms and responsibilities of the deed restrictions associated with this project.	The resolution to approve the final Ouray Waterview Homes Deed Restriction Covenant and Guidelines was executed by the City of Ouray and Ouray Homes, LLC on February 9, 2024. These documents will be recorded and cross-referenced concurrently with the Final Plat.	Complete; to be recorded with the Final Plat.

STAFF REVIEW AND ANALYSIS – DEVELOPMENT AGREEMENT FINAL PLAT REQUIREMENTS

The City of Ouray and Ouray Homes, LLC entered into a Development Agreement on January 16, 2024, whereby specific Final Plat requirements were agreed upon and applicable only to Phase 1 of the Project. A status update on the specific Final Plat requirements outlined in the Development Agreement is provided below.

Development Agreement Requirement	Update	Status
<p><u>Agreement for Phase One Only</u></p> <p>The Final Plat is required to include a plat notice indicating that the Development Agreement only applies to Phase 1. The Final Plat must clearly delineate Phase 1 of the Project (Lot 2B, 21 Units).</p>	<p>A plat notice is included on the Final Plat: NOTICE: PHASE 1 OF THIS SUBDIVISION IS SUBJECT TO THE CITY OF OURAY AND OURAY HOMES, LLC DEVELOPMENT AGREEMENT EFFECTIVE JANUARY 16, 2024.</p> <p>Phase 1 is also clearly delineated on the Final Plat, including clear depiction of the 21 units that comprise Phase 1.</p>	Complete
<p><u>Utility, Ditch, and Trail Easements</u></p> <p>The Final Plat shall clearly depict all utility easements around the perimeter of the property, and across Lots 1 through 21, Tract D, as well as all ditch easements, as shown on the preliminary plat, along with the addition of a north corridor river trail access easement, all of which shall be dedicated to the City.</p> <p>The Development Agreement provides required Final Plat notice language pertaining to permanent or temporary structures.</p>	<p>The Final Plat depicts all utility easements around the perimeter of the property and across Lots 1 through 21, Tract D, as well as all ditch easements, all of which will be dedicated to the City in accordance with the General Dedications set forth on the Final Plat.</p> <p>Land that will be dedicated to the City via the Final Plat at Final Plat recording is clearly delineated.</p> <p>As required, a plat notice on the final plat states in bold: “PERMANENT OR TEMPORARY STRUCTURES, INCLUDING FENCES AND SHEDS ARE PROHIBITED WITHIN ANY EASEMENT SHOW HEREON UNLESS APPROVED IN WRITING BY THE CITY OF OURAY BUILDING INSPECTOR AND PUBLIC WORKS DEPARTMENT PRIOR TO INSTALLATION.”</p>	Complete
<p><u>Property Boundary and Easements</u></p> <p>As a condition of Final Plat approval, Ouray Homes shall represent and warrant that there are no real property boundary and/or easement disputes concerning the Property.</p>	<p>There is a dispute concerning a return ditch used for overflow from the Heath Ditch. Ouray Homes has agreed to indemnify, hold harmless, and defend any homeowners from any liability concerning the return ditch until the dispute is resolved in accordance with the Indemnification Agreement attached as Exhibit J.</p>	City Council to approve

<p><u>Landscaping</u></p> <p>Ouray Homes was required to submit a complete Landscape Plan for approval by City Council no later than July 30, 2024, to include:</p> <p>a. <u>Homeowner Lots</u></p> <ol style="list-style-type: none"> 1. Lot Landscaping (gravel walkway to the front porch from each Lot’s car parking area, planted flower bed planter adjacent to the porch, native natural grass seeded for remaining yard areas), one street tree or several low-lying shrubs planted per Lot (no more than one street tree for every 35 feet in space if other improvements or driveways would necessitate street trees to be planted closer together. 2. Construction of 6’ privacy fences for separation of duplex and tri-plex backyard area, sufficient to screen the adjoining party-wall neighbor and provide backyard privacy for each unit. 3. Construct outdoor fencing for the home-based childcare homes that meet State licensing codes. 4. To the extent money set aside by Ouray Homes is not used, this money shall be applied to the landscape implementation outlined in the section below and shall be in addition to contributions set forth herein. <p>b. <u>Open Space, Detention Ponds, and Riverwalk Buffer</u></p> <ol style="list-style-type: none"> 1. Drip irrigation system to water trees and shrubs. 2. Open space seeded with native natural grass seed, planted with low-lying shrubs, and trees consistent with the adjoining parcels. 3. Storm water detention pond seeded with native natural grass seed. 4. The 550 Highway green space section planted with shrubs and trees. 5. Installation of a visual buffer between Riverwalk Corridor and adjacent homeowner properties consisting of a 3-foot-high split rail fence wherever the Riverwalk Corridor and adjacent Waterview property intersects, and a steep drop off of a grade of more than 5’ along the entire length with a series of planted shrubs. 6. The trail to the river shall be wide 	<p>A preliminary Landscape Plan was submitted to Staff for review prior to the deadline. A site visit with Ouray Homes representatives and City staff (City Administrator, Community Development Director, Public Works Director, and Parks and Recreation Director) took place to discuss various options and finalize the Landscape Plan. Staff provided further feedback subsequently prior to Landscape Plan finalization.</p> <p>Staff updated City Council on the Landscape Plan, including the receipt of EIAF More Housing Now grant funding towards public infrastructure associated with the Project, including to expand landscape elements (vegetated buffers, pocket parks, etc.) on the Project site.</p> <p>A revised Landscape Plan was submitted to the City on July 26, 2024, and was included with the Final Plat application submittal (see Exhibit H).</p> <p>Landscaping and fencing for the Phase 1 Lots began to be installed starting in early October 2024. All landscaping of the private Lots either has been completed except for the following which will be completed by mid-November 2024:</p> <ul style="list-style-type: none"> • Granite patio installation in property backyards and associated landscaping. • Completion of outdoor fencing, including for home-based childcare homes. <p>Landscaping elements for the City-owned properties (subsection b) will be completed by June 30, 2025 due to impending winter weather conditions, noting that the fencing between the Riverwalk Corridor and the adjacent homeowner properties will be completed by mid-November.</p>	<p>Landscaping associated with homeowner lots (a.) is complete or to be completed by mid-November 2024.</p> <p>Landscaping associated with open space, detention ponds, and Riverwalk buffer on land to be dedicated to the City of Ouray (b.) to be completed by June 30, 2025. These items are included in the Development Improvements Agreement.</p>
---	---	--

<p>enough and contain sufficient gravel, grading, and compaction such that foot and bicycle traffic can pass safely, and the surface will last over time.</p>		
<p><u>Infrastructure Improvements</u></p> <p>Ouray homes shall meet all design standards and improvements, for roads sidewalks, sidewalk curbs and gutters, and stormwater, water, and wastewater systems. Ouray Homes is responsible for the installation and expense of all improvements. The Preliminary Plat application included 5-foot wide, ADA-compliant sidewalks within the PUD as part of the greater ROW design.</p>	<p>Uncompahgre Street serves as immediate access from Highway 550 to the Project’s internal street which meets City Infrastructure Standards and has been coordinated with the City Public Works Department, County EMS, Fire Department, and School District to ensure proper access and width.</p> <p>The final site grading plan, proposed sewer and water lines connections, storm drainage systems, the location, pipe sizes, valves, discharge points, and access points were coordinated with the City’s Public Works Department.</p> <p>Ouray Homes has met all design standards and improvements for roads, sidewalks, sidewalk curb and gutters, as well as stormwater, water, and wastewater systems.</p>	<p>Complete</p>
<p><u>Dedication of Open Space on Property to the City</u></p> <p>The Final Plat shall contain dedication language to convey ownership to the City of Ouray for purposes of open space land use requirements: Tract A, Tract B, Tract D, and the north corridor river trail access.</p>	<p>The Final Plat contains dedication language to convey ownership of the open space to the City of Ouray for Tract B and Tract C. The general dedications contained in the numbered paragraphs 1 and 4 on the Final Plat shall be effective only upon the final resolution of Ouray District Court Case No. 2024CV30020 and the recording of the order thereon.</p>	<p>Partially Complete; Additional Dedications to Take Place Subsequent to Final Plat Approval</p>
<p><u>Garages</u></p> <p>Garages for the units shall be constructed as depicted on the Preliminary Plat.</p>	<p>Garages have been constructed as depicted on the approved preliminary plan set.</p>	<p>Complete</p>
<p><u>Accessory Dwelling Units (ADUs)</u></p> <p>A plat notice on the Final Plat shall state that no ADUs can be constructed without City approval.</p>	<p>This required plat notice is included on the Final Plat pertaining to ADUs.</p>	<p>Complete</p>
<p><u>Bond</u></p> <p>Prior to a permit being issued, a performance bond shall be submitted to the City in accordance with OMC §13-3-F-6.</p>	<p>This Bond is associated with the Development Improvements Agreement which must be in place prior to issuance of Certificates of Occupancy. City Council will determine the specifics to meet this requirement during Final Plat review.</p>	<p>Associated with the Development Improvements Agreement</p>
<p><u>Deed Restricted Housing</u></p> <p>The Final Plat shall contain a plat notice referencing that each unit owner is subject to a deed restriction and covenant agreement as depicted in Exhibit E and recorded with each unit purchased and Affordable Housing Regulations and Guidelines as depicted in Exhibit F. Said deed restriction shall be a covenant that runs with the title to the land in perpetuity and not expire and shall survive any foreclosure on the respective Lots, unless</p>	<p>The Final Plat contains a plat notice referencing that each unit owner is subject to a deed restriction and covenant agreement as depicted in Exhibit D of the Development Agreement (Deed Restrictions and Covenants) and recorded with each unit purchased and Affordable Housing Regulations and Guidelines as depicted in Exhibit E of the Development Agreement (Guidelines).</p> <p>Each lot owner is subject to the DEED RESTRICTION AND COVENANT AGREEMENT FOR OURAY WATERVIEW HOMES PUD recorded at Reception Number _____, and</p>	<p>Complete</p>

the restrictions are otherwise released or modified as provided for in the recorded deed restriction and covenant for each Lot.	the OURAY WATERVIEW HOMES AFFORDABLE HOUSING REGULATIONS AND GUIDELINES recorded at Reception Number _____, as may be amended.	
<u>Monetary Contributions from Ouray Homes, LLC to Project</u> <ul style="list-style-type: none"> Landscaping of Homeowner Lots: \$50,000 Design and Construction of Open Space, Detention Ponds, and Riverwalk Buffer: \$30,000 	Ouray Homes, LLC has contributed these funds to the Project.	Complete

ADDITIONAL ITEMS FOR REVIEW

- The Preliminary Plat called for three units to contain in-home childcare. Ouray Homes, LLC decided to make sure that two in-home childcare operations were successful and evaluate the market for additional childcare needs prior to adding an additional in-home childcare unit. A third in-home childcare unit could potentially be included in Phase 2 of Ouray Waterview Homes, pending further consideration.
- Given that there will not be a Homeowners Association (HOA) associated with this Project, a Party Wall Agreement will be executed by each Unit Owner at the time they purchase a unit. The proposed Party Wall Agreement is attached as Exhibit K. It is pending City Council approval.

STAFF RECOMMENDATION

OMC §7-7-C-4 states: “City staff will prepare a report detailing their review findings and include any reports from review professionals. The report shall provide development information and detail compliance with all applicable City requirements, regulations or standards.”

Staff has confirmed that the completed work substantially conforms with the Preliminary Plat, Development Agreement, and Approved Plans for Phase 1 of Ouray Waterview Homes. The required submittals and proposed improvements comply with City requirements, regulations, and/or the City Standard Specifications for Infrastructure Construction as required by OMC Chapter 7.

Based on the review of the Final Plat application submittal (see attached Exhibits) and the findings contained in this Staff Report, Staff recommends that the Planning Commission recommend approval of the Final Plat to City Council, with Conditions as outlined below.

OMC §7-7-C-4-h states: “If conditions are placed on the approval of the Final Plat, the final plat should not be signed by City Staff or recorded until all Conditions are satisfied, except if the conditions are part of a Subdivision Improvements Agreement.” In this case, all Conditions will be included in the Development Improvements Agreement associated with this Project, thereby allowing the Final Plat to be recorded once approved by City Council. Once the Final Plat is recorded, Certificates of Occupancy can be issued for the homes in Phase 1.

This recommendation for approval is conditioned on:

- The Applicant drafting a Development Improvements Agreement for the outstanding infrastructure, landscaping, standards, timelines, and improvements associated with this Project. The Development Improvement Agreement must be approved by the City Attorney, City Administrator, and City Council and executed accordingly. The Development Improvement Agreement must be mutually-executed prior to issuing any Certificates of Occupancy for the 21 homeownership units. The Development Improvement Agreement shall include, but not be limited to, the completion of landscaping, rear granite patios, snow storage areas, and fencing elements for the homebuyer properties, home-based childcare homes, and properties to be dedicated to the City by June 30, 2025. City Council will make a determination on the bond requirement in accordance with OMC §13-3-F-6.

- City Council approval of the new street name during review of the Final Plat Application and subsequent updating of the street name on all construction documents, plats, and related materials to reflect the updated street name.
- City Council approval of the Landscape Plan attached as Exhibit H.
- City Council acceptance of the dedication of Tract A and Tract C as shown on the Final Plat attached as Exhibit A.
- City Council approval of the Indemnification Agreement attached as Exhibit J.
- City Council approval of the Party Wall Agreement attached as Exhibit K.

PLANNING COMMISSION ACTION

The Planning Commission shall recommend approval, conditional approval, or denial of the final plat.

ATTACHED EXHIBITS:

- Final Plat Application Submittal: Draft Final Plat Dated 2024-10-28
- Final Plat Application Submittal: City of Ouray Master Land Use Application Form
- Final Plat Application Submittal: Preliminary Plat Staff Report
- Final Plat Application Submittal: Preliminary Plat Staff Memo
- Final Plat Application Submittal: Deed Restriction and Covenant Agreement for Ouray Waterview Homes PUD
- Final Plat Application Submittal: Ouray Waterview Homes Affordable Housing Regulations and Guidelines
- Final Plat Application Submittal: Title Work
- Final Plat Application Submittal: Landscaping Plan
- Final Plat Application Submittal: Property Deed
- Indemnification Agreement
- Party Wall Agreement