

**PLANNING AND ZONING COMMISSION ACTION ITEM  
STAFF SUMMARY  
SEPTEMBER 12, 2022 PLANNING AND ZONING COMMISSION SPECIAL MEETING**

**DATE:** September 9, 2022

**AGENDA ITEM NUMBER:** 7

**ACTION TO BE CONSIDERED:**

Consideration of Resolution No. PZ 05-22, Series of 2022. (PUBLIC HEARING)

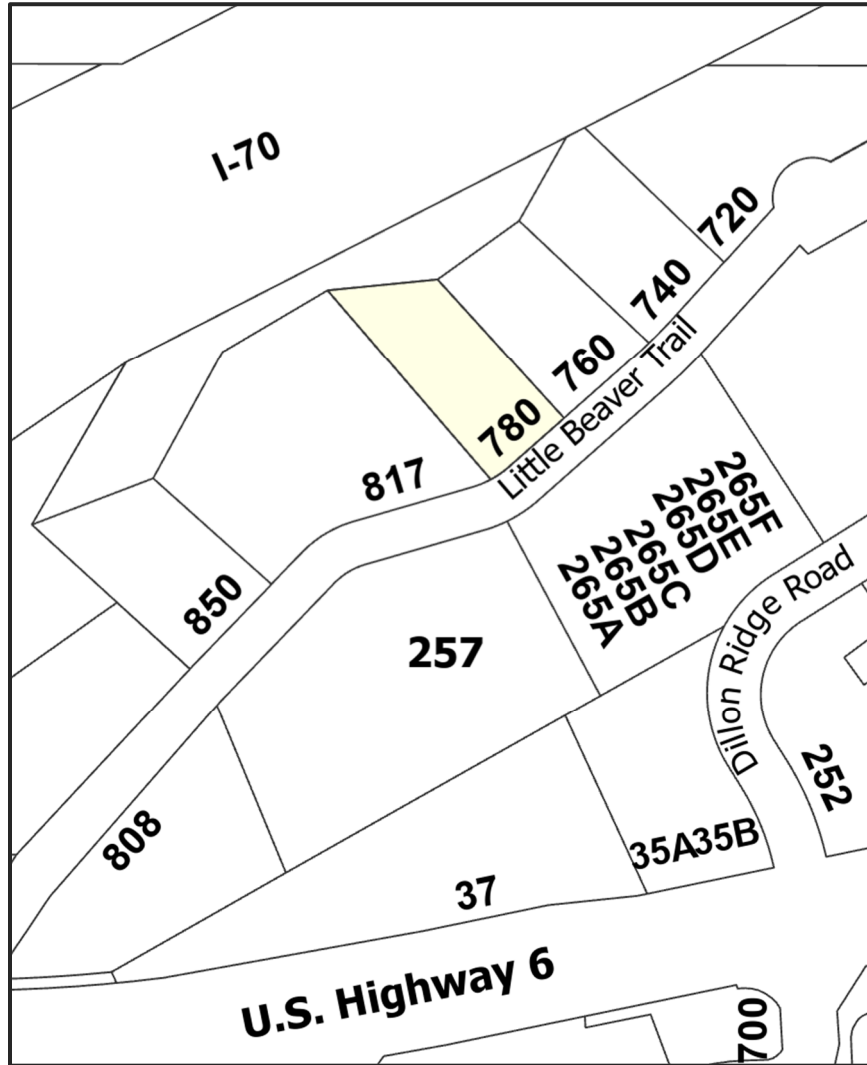
**A RESOLUTION, PURSUANT TO SECTION 31-23-301 OF THE  
COLORADO REVISED STATUTES, AMENDING RESOLUTION NO. PZ  
11-21, SERIES OF 2021, TO ENABLE AN INCREASE IN THE NUMBER  
OF DWELLING UNITS ON THE COUNTY-OWNED PROPERTY  
LOCATED AT 780 LITTLE BEAVER TRAIL**

**BACKGROUND / TIME FRAME:**

- May 27, 2021: Summit County Government and Town of Dillon staff held a preapplication conference to discuss zoning matters related to the County’s interest in purchasing 780 Little Beaver Trail for employee housing
- June 4, 2021: Summit County Government applied for the Statutory Exemption.
- July 7, 2021: Planning and Zoning Commission Public Hearing and Approval of Resolution PZ 11-21, Series of 2021
- August 23, 2022: Summit County Government applied for an Amendment to the Statutory Exemption approved by Resolution PZ 11-21, Series of 2021
- September 12, 2022: Planning and Zoning Commission Public Hearing

**SUMMARY:**

Summit County Government (the “County”) purchased real property located at 780 Little Beaver Trail, more specifically know as Lot 3, Ptarmigan Trail Estates Subdivision #1, (the “Property”) and the three-unit building located thereon (the “Building”). See *Figure 1* for the *Property Vicinity Map*. The County initially desired to use the Building in its current three-unit configuration as housing for employees of Summit Stage, the County, and, when appropriate, the Town of Dillon. Multi-family residential use is permitted in the Mixed Use (MU) zone district if developed in conjunction with a commercial use and does not exceed 80% of a building on a lot at any one time. Noteworthy is that at one point in time, a portion of the Building was occupied by a commercial, service-oriented business.



*Figure 1 Property Vicinity Map*

The current MU zoning of the Property does not permit the County’s proposed one hundred percent (100%) residential use. As such, in accordance with (Colorado Revised Statutes) § 31-23-301, C.R.S. (the “Statute”), requires that municipalities exempt from the operation of zoning ordinances “any building or structure as to which satisfactory proof is presented to the board of adjustment that the present or proposed situation of such building or structure is reasonably necessary for the convenience or welfare of the public”. Pursuant to Chapter 16, Article X of the Dillon Municipal Code, the Planning and Zoning Commission for the Town of Dillon (the “Planning Commission”) serves as the Board of Adjustment for the Town. The County thus applied for said Statutory Exemption in June 2021.

This exemption pursuant to Colorado Revised Statute § 31-23-301 requires the Planning and Zoning Commission to exempt a structure from applicable zoning provisions when an applicant has presented satisfactory proof that the proposed use of the structure is reasonably necessary for the convenience and welfare of the public. The Planning Commission reviewed and approved the

County's application for a statutory exemption for the continued use of the 3-unit structure as is in July 2021 through Resolution PZ 11-21, Series of 2021.

Once the County purchased the property and further explored implementing their housing plan in the structure, it became abundantly clear to them that the structure required interior renovations due to an inefficient layout with unit square foot areas far in excess of their employee's needs. While scoping renovations, it was also determined that an increase in the unit count makes the most sense. Accordingly, the County is requesting an Amendment to the Statutory Exemption currently in place for the Property to amend the permitted number of units of 100% residential beyond the limited three-units per Resolution PZ 11-21, Series of 2021.

Pursuant to the Statute, the County applied to the Planning Commission to exempt the Property from the provision of the Dillon Land Development Code ("Application") prohibiting the Building from being used as one hundred percent (100%) residential (the "Exemption"); provided that, the Exemption shall be personal to the County and shall not attach to the land. The County and Town find the following in support of this application:

- A. Housing for the local workforce has become increasingly out of reach.
- B. Housing inventory in Summit County is constrained by land shortages, labor shortages, high construction costs, the second homeowner market, and short-term rentals.
- C. Summit County was experiencing unprecedented business and employment growth before the onset of the COVID-19 pandemic.
- D. According to the Summit County Housing Needs Update, a 2020 study funded by the Summit Combined Housing Authority, Summit County will have a housing gap of approximately 2,000 units.
- E. In the aftermath of the COVID-19 pandemic, Summit County has experienced industry shifts brought on from remote working options that have exacerbated the housing shortage.
- F. The Summit Stage is an essential service in Summit County, and the Town is a partner in the governance, funding and operation of the Summit Stage.
- G. The Summit Stage is a free public transit service within the Town and Summit County generally, providing access to residential areas, town centers, retail areas, ski resorts, and medical centers, among other things.
- H. The Summit Stage operates the only ADA paratransit service in the County.
- I. Similar to many public entities and service industries in Summit County, the Summit Stage is struggling to retain employees.
- J. The lack of affordable housing is a major contributor to the workforce shortage and in particular the Summit Stage's difficulty in hiring employees.
- K. The County and Town face similar difficulties in hiring employees.
- L. The Property's current use is 100% multi-family residential; the neighboring property to the east is used as a group home; the neighboring property to the west is used as a retail marijuana store; and, the north side of the Property abuts Interstate 70.
- M. The three units of multi-family residential on the Property would not have a negative impact on the adjacent properties.

- N. Considering the critical need for workforce housing, the essential nature of the Summit Stage transit services, and the absence of any negative impact resulting from the requested exemption, the continued use of the entire Property for multi-family residential workforce housing is the highest and best use of the Property at the present time and reasonably necessary for the welfare of the community.
- O. Pursuant to D.M.C. § 16-3-170(6), the MU zone requires a front setback of twenty-five (25) feet.
- P. Based on County Building Department records, the structure was constructed, inspected and given a certificate of occupancy despite being located within seventeen feet from the front lot line.
- Q. Pursuant to D.M.C. § 16-4-80, “a nonconforming building may continue to be occupied”; the County has requested that the Planning Commission permit continued occupation of the existing nonconforming structure.
- R. A portion of the paved surface of Little Beaver Trail runs through the Property, and the County has granted to the Town a roadway easement for such portion as a condition of approval of the Application and approval of Resolution PZ 11-21, series of 2021.

These findings indicate that the proposed use of the Building as employee housing is reasonably necessary for the convenience or welfare of the public, and increasing the number of units in the structure in an effective and efficient manner through this application to Amend the previously approved Statutory Exemption furthers the convenience or welfare of the public.

It is the County’s intent to develop designs for the remodel and proposes submitting said proposal to the Town through the Planned Unit Development process for future review by the Commission and the Town Council through further public hearing processes.

Approval of this resolution maintains all provisions of Resolution PZ 11-21, Series of 2021, but relieves the limitation of the three residential units.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** Town staff recommends approval of Resolution PZ 05-22, Series of 2022 with conditions as presented in the resolution.

**MOTION FOR APPROVAL:**

I move we approve Resolution PZ No. 05-22, Series of 2022.

**ACTION REQUESTED:** Motion, Second, Roll Call Vote.

Resolutions require the affirmative vote of a majority of the members present.

**DEPARTMENT HEAD RESPONSIBLE:** Ned West, AICP, Sr. Town Planner

**Exhibit 'A'**  
**Summit County Government**  
**Application for Statutory Exemption**  
**August 23, 2022**



TRANSIT DEPARTMENT

970.668.0999 ph | 970.668.4165 f  
www.SummitStage.com

0222 County Shops Rd. | PO Box 2179  
Frisco, CO 80443

August 23, 2022

Planning and Zoning Commission  
Town Hall  
275 Lake Dillon Dr.  
PO Box 8  
Dillon, CO 80435

Re: Amendment to Resolution PZ 11-21.

Dear Planning and Zoning Commissioners and Town of Dillon Planning Department:

Summit County Government (the "County") has appropriated funds to renovate the property located at 780 Little Beaver Trail, legally described as Lot 3, Ptarmigan Trail Estates - Unit 1 (the "Property") as depicted on the Improvement Location Certificate attached as Exhibit A. The County hopes to allocate more housing opportunities for its Summit Stage employees at the Property by renovating the building to accommodate smaller units from its current configuration, which would result in an increase in the total dwelling units at the Property. The County is still in the initial phases of design and feasibility. The County intends to maintain the exemption in place for the entire occupancy of the Property as multi-family residential use.

In 2021, the Town of Dillon granted an exemption pursuant to C.R.S § 31-23-301 that permits the County to utilize the Property as 100% multifamily residential use. Resolution PZ 11-21 currently allows three units of housing for employees. As the need for housing Summit Stage employees increases, it has become more important to better utilize the space available at the Property. The existing facility has an inefficient layout, and the size of the available units far exceed the needs of most Summit Stage employees.

Accordingly, the County is requesting an amendment to the statutory exemption currently in place for the Property. A "County, or any other party, may obtain an exemption from a zoning ordinance if 'satisfactory proof is presented to the board of adjustment that the present or proposed situation of such building or structure is reasonably necessary for the convenience or welfare of the public.'" Bd. of Cty. Comm'rs of La Plata v. Bd. of Adjustment of City of Durango, 768 P.2d 1250, 1251 (Colo. App. 1988) (quoting C.R.S. § 31-23-301). An expansion to the current exemption regarding the permitted uses of the property is reasonable and necessary in light of the circumstances regarding the Property and ongoing housing crisis facing our community.

The County understands that renovations to the units will require approval through a Planned Unit Development ("PUD") process in collaboration with the Town of Dillon. The County is requesting an amendment to Resolution PZ 11-21 to allow for additional dwelling units at 780 Little Beaver Trail during the pendency of the PUD process.

In light of the lack of formal land use process for an exemption under C.R.S. § 31-23-301, please accept this letter and attachment as the County's application for statutory exemption. The County will be happy to provide any additional materials requested by the Commission or Department. Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott Vargo", is written over a horizontal line.

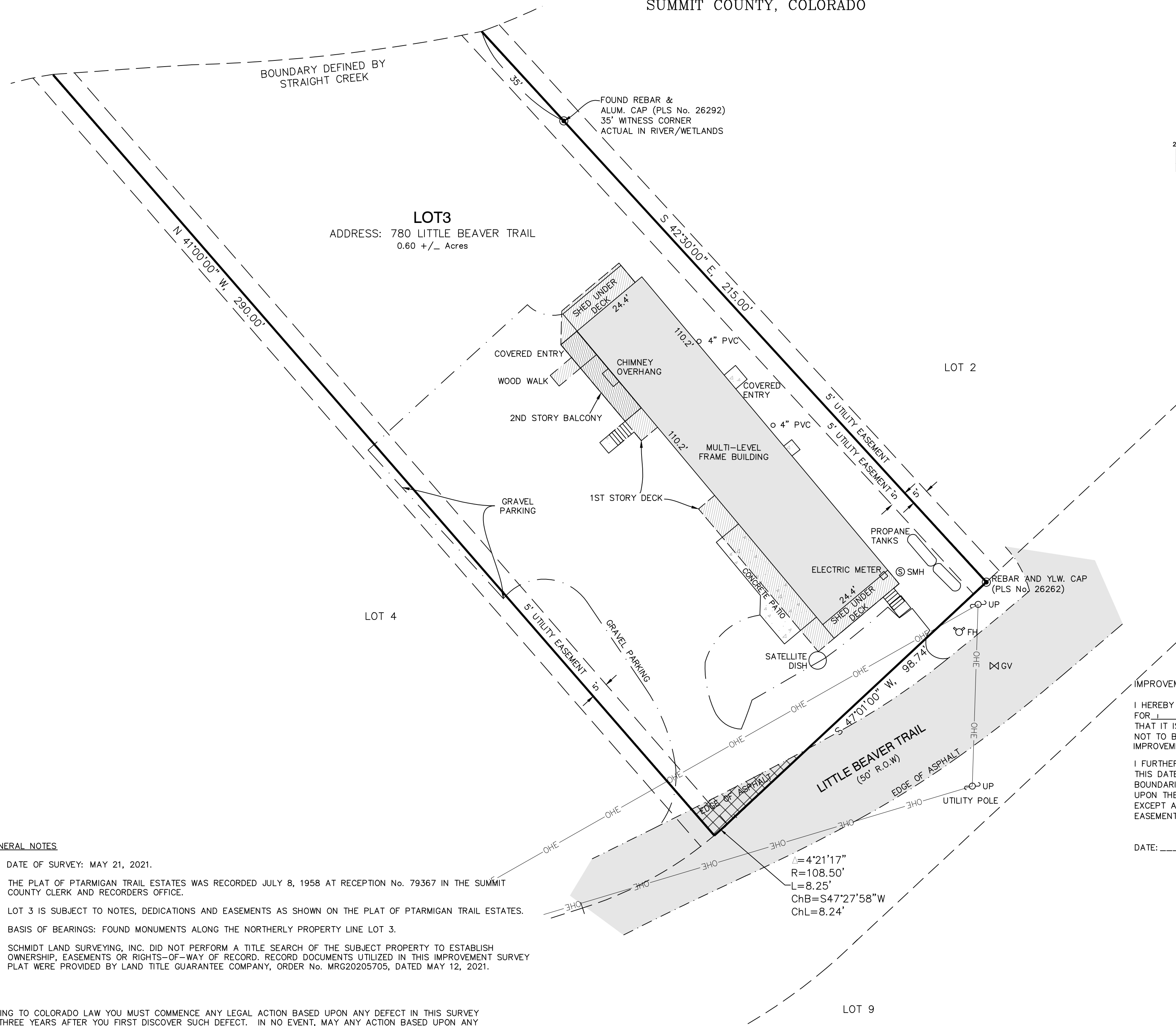
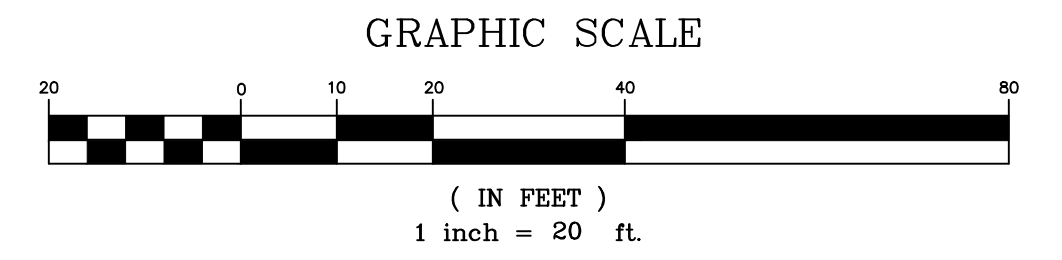
Scott Vargo  
County Manager

# **Exhibit A**

Improvement Location Certificate



IMPROVEMENT LOCATION CERTIFICATE  
**LOT 3, PTARMIGAN TRAIL ESTATES - UNIT 1**  
 SEC.7, T.5S., R.77W. OF THE 6TH P.M.  
 SUMMIT COUNTY, COLORADO



**LOT 3**  
 ADDRESS: 780 LITTLE BEAVER TRAIL  
 0.60 +/- Acres

LOT 2

LOT 4

**LITTLE BEAVER TRAIL**  
 (50' R.O.W.)

IMPROVEMENT LOCATION CERTIFICATE

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR CHARLES STORY & SUMMIT COUNTY GOVERNMENT, SCOTT VARGO THAT IT IS NOT A LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT, AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING OR OTHER FUTURE IMPROVEMENT LINES.

I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL ON THIS DATE, 5/21/21, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS UPON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS NOTED.

DATE: \_\_\_\_\_

*Elizabeth Schmidt*  
 ELIZABETH SCHMIDT  
 COLORADO P.L.S. NO. 37047



- GENERAL NOTES**
- 1 DATE OF SURVEY: MAY 21, 2021.
  - 2 THE PLAT OF PTARMIGAN TRAIL ESTATES WAS RECORDED JULY 8, 1958 AT RECEPTION No. 79367 IN THE SUMMIT COUNTY CLERK AND RECORDERS OFFICE.
  - 3 LOT 3 IS SUBJECT TO NOTES, DEDICATIONS AND EASEMENTS AS SHOWN ON THE PLAT OF PTARMIGAN TRAIL ESTATES.
  - 5 BASIS OF BEARINGS: FOUND MONUMENTS ALONG THE NORTHERLY PROPERTY LINE LOT 3.
  - 6 SCHMIDT LAND SURVEYING, INC. DID NOT PERFORM A TITLE SEARCH OF THE SUBJECT PROPERTY TO ESTABLISH OWNERSHIP, EASEMENTS OR RIGHTS-OF-WAY OF RECORD. RECORD DOCUMENTS UTILIZED IN THIS IMPROVEMENT SURVEY PLAT WERE PROVIDED BY LAND TITLE GUARANTEE COMPANY, ORDER No. MRG20205705, DATED MAY 12, 2021.

**NOTICE:**  
 ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

Drawn BNT/EKS	Dwg 2578ILC.dwg	Project 2578
Date 5/24/21	Scale 1" = 20'	Sheet 1 of 1

SCHMIDT

LAND SURVEYING, INC.

P.O. Box 5761

FRISCO, CO 80443 970-409-9963

Δ=4°21'17"  
 R=108.50'  
 L=8.25'  
 ChB=S47°27'58"W  
 ChL=8.24'

LOT 9

**RESOLUTION NO. PZ 05-22**  
**Series of 2022**

**A RESOLUTION, PURSUANT TO SECTION 31-23-301 OF THE COLORADO REVISED STATUTES, AMENDING RESOLUTION NO. PZ 11-21, SERIES OF 2021, TO ENABLE AN INCREASE IN THE NUMBER OF DWELLING UNITS ON THE COUNTY-OWNED PROPERTY LOCATED AT 780 LITTLE BEAVER TRAIL**

**WHEREAS**, Summit County (the “County”) is the owner of real property located at 780 Little Beaver Trail, Dillon, Colorado (the “Property”), and the building located thereon (the “Building”); and

**WHEREAS**, on July 7, 2021, pursuant to § 31-23-301, C.R.S., the Planning and Zoning Commission of the Town of Dillon (“Planning Commission”) adopted Resolution No. PZ 11-21, Series of 2021 (the “Resolution”), to exempt the Property from certain provisions of the Dillon Land Development Code (“Zoning Code”), which enabled the County to use the Building in its current configuration to provide three (3) units of housing for employees of the Summit Stage, a free public transit service providing access to public lands, lodging, town centers, retail areas, and medical centers within Summit County; and

**WHEREAS**, the County has been using the Building in its current three-unit configuration as housing for employees of Summit Stage since sometime after the adoption of the Resolution; and

**WHEREAS**, after recognizing a need for additional housing units for Summit Stage employees, the County appropriated funds to renovate the Building to increase in the total number of dwelling units without altering the Building footprint; and

**WHEREAS**, to enable the increase in dwelling units, the County has applied to the Planning Commission, pursuant to § 31-23-301, C.R.S., for an amendment to the exemption granted in the Resolution (the “Application”); and

**WHEREAS**, as grounds for the expanded exemption requested in the Application, the County cites the ongoing housing crisis facing the community, which crisis has been thoroughly studied and concluded by both the County and the Town; and

**WHEREAS**, the County has indicated to the Town that the renovation is still in the initial phases of design and feasibility, and thus the County has yet to identify the exact number of units it will propose for the Building; and

**WHEREAS**, the County has further indicated that it intends to carry out the multi-family residential use for the full term of the County’s occupancy of the Property, and acknowledges that renovations to the Building and units will require Town of Dillon approval under applicable provisions of the Zoning Code; and

**WHEREAS**, pursuant to Chapter 16, Article X of the Dillon Municipal Code, the Planning Commission serves as the Board of Adjustment for the Town; and

**WHEREAS**, following the required notice, the Planning Commission held a public hearing on the Application on September 12, 2022; and

**WHEREAS**, following the public hearing, the Planning Commission has made certain findings of fact regarding the Application and has determined that certain conditions which are reasonable and necessary to and relate to impacts created by the use should attach to the approval of the Application.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF DILLON, COLORADO, AS FOLLOWS:**

Section 1. Following the duly-noticed public hearing on September 12, 2022, the Planning Commission hereby finds that the Applicant has presented satisfactory proof that the proposed use of the Property and Building is reasonably necessary for the convenience and welfare of the public, for the following reasons:

- A. Housing for the local workforce has become increasingly out of reach.
- B. Housing inventory in Summit County is constrained by land shortages, labor shortages, high construction costs, the second homeowner market, and short-term rentals.
- C. According to the Summit County Housing Needs Update, a 2020 study funded by the Summit Combined Housing Authority, Summit County will have a housing gap of approximately 2,000 units.
- D. The Summit Stage is an essential service in Summit County, and the Town is a partner in the governance, funding and operation of the Summit Stage.
- E. The Summit Stage is a free public transit service within the Town and Summit County generally, providing access to residential areas, town centers, retail areas, ski resorts, and medical centers, among other things.
- F. In addition, the Summit Stage operates the only ADA paratransit service in the County.
- G. Similar to many public entities and service industries in Summit County, the Summit Stage is struggling to retain employees.
- H. The lack of affordable housing is a major contributor to the workforce shortage and in particular the Summit Stage's difficulty in hiring employees.

I. The Property's current use is 100% multi-family residential; the neighboring property to the east is used as a group home; the neighboring property to the west is used as a retail marijuana store; and, the north side of the Property abuts Interstate 70.

J. Increasing the number of dwelling units within the existing Building footprint will not have a negative impact on the adjacent properties.

K. Considering the critical need for workforce housing, the essential nature of the Summit Stage transit services, and the absence of a perceived negative impact resulting from the requested exemption, the continued use of the entire Property for multi-family residential workforce housing is the highest and best use of the Property at the present time and reasonably necessary for the welfare of the community.

L. Pursuant to D.M.C. § 16-3-170(6), the MU zone requires a front setback of twenty-five (25) feet.

M. Based on County Building Department records, the structure was constructed, inspected and given a certificate of occupancy despite being located within seventeen (17) feet from the front lot line.

N. Pursuant to D.M.C. § 16-4-80, "a nonconforming building may continue to be occupied," and the County has requested that the Planning Commission permit continued occupation of the existing nonconforming structure.

Section 2. Pursuant to § 31-23-301, C.R.S., the Planning Commission hereby approves the Application to amend the exemption granted in Resolution No. PZ 11-21, Series of 2021, to enable an increase in the total number of dwelling units permitted in the Building (the "Exemption"), with the following conditions:

A. The Exemption granted herein by the Planning Commission is personal to the County and shall terminate upon transfer of ownership of the Property to any other person or entity.

B. During the term of the Exemption, the Building may only be used as units of housing for employees and officers of the Summit Stage, County of Summit, and Town of Dillon (as appropriate), and for uses accessory thereto in accordance with applicable provisions of the Dillon Land Development Code ("Zoning Code").

C. Prior to undertaking any renovation to the Building to increase the number of dwelling units without altering the Building footprint, the County shall first obtain a Development Permit from the Town as required under the Zoning Code. Following Development Permit issuance, but before commencing the renovation, the County shall obtain a building permit from the Summit County Building Department.

D. Except as provided in *Condition C* above, during the term of the Exemption, the County shall make no changes, alterations, additions, or renovations that increase the degree of nonconformity with applicable provisions of the Zoning Code, unless approved by the Town of Dillon pursuant to the Planned Unit Development (PUD) procedures of the Zoning Code.

Section 3. Except as amended herein, Resolution No. PZ 11-21, Series of 2021, shall remain in full force and effect.

**APPROVED AND ADOPTED THIS 12th DAY OF SEPTEMBER, 2022,  
BY THE PLANNING AND ZONING COMMISSION OF THE TOWN OF  
DILLON, COLORADO.**

**PLANNING AND ZONING COMMISSION,  
TOWN OF DILLON**

By: \_\_\_\_\_  
Alison Johnston, Chairperson

ATTEST:

By: \_\_\_\_\_  
Michelle Haynes, Secretary to the Commission