

# Project Narrative

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## Overview of Request:

Mr. Bryan Mullet and Ms. Tommie Belz are the owners of Lots A, B, C, and D, F.B.R. Townhomes Subdivision, located at 481 Whiting Road within the Kaibab Park Subdivision, Filing No. 1.

The F.B.R. Townhomes Final Plat was approved in 1995, creating Lots A and B (two townhome/duplex lots, labeled “Phase I” on the plat) while also creating Lot C, a 1,600 square foot building envelope which was slated for “Multi-Family” residential uses (“Phase II” on the plat), and common area (Lot D). Lot C was never developed; therefore, just two (2) residential units exist on Lots A and B.

The property owners desire to amend and re-subdivide the F.B.R. Townhomes Subdivision in its entirety to achieve the following:

1. Create four (4) separate residential lots (Lots 1, 2, 3, and 4) to replace Lots A, B, C, and D under the name and style of “Mullet Subdivision.” All lots will comply with the Town’s minimum lot size:

**Lot 1:** .1874 Acres (8,163 sq. ft.)

**Lot 2:** .0627 Acres (2,731 sq. ft.) \*

**Lot 3:** .0670 Acres (2,918 sq. ft.) \*

**Lot 4:** .1289 Acres (5,615 sq. ft.)  
.4460 Acres (19,428 sq. ft.)

\* New Lots 2 and 3 will replace Lots A and B (the existing townhome/duplex unit lots) from the original F.B.R. Townhomes Subdivision. Lots 2 and 3 combine to equal 5,649 sq. ft. lot, thus exceeding the minimum lot size for the R2 Zone District and *increasing* the combined area of former Lots A and B. This is typical of townhome or duplex lots where, prior to construction of the units and prior to subdivision along a party line, the parent parcel conforms to the minimum lot size in a zone district.

2. Eliminate common open space (Lot D Common Area).
3. Reconfigure the common lot line between the two existing townhome/duplex units to maintain the common party-wall line, while extending the lot lines to the west on their existing bearings to meet the westerly property boundary of the subdivision, thus increasing the size of both lots.
4. Reconfigure the lot line between former Lot B and former Lot C to eliminate the current Lot C property boundaries (Lot C was essentially platted as a building envelope) and to create a new property boundary separating new Lot 3 from new Lot 4. In doing so, the new common property boundary between new Lot 3 and new Lot 4 will shift to the north slightly to create an adequate setback distance between the new Lot 3 boundary and the existing (northern) dwelling unit located on new Lot 3; this will also ensure that an existing retaining wall associated with the townhome/duplex unit is maintained on new Lot 3.

5. Create a new non-exclusive Access, Utility, and Drainage Easement to follow and encompass the existing driveway. This easement has been sized to accommodate access, utility, and drainage improvements to serve all four lots if needed in the future. (See General Note “b” on the draft plat by Slagle Survey Services.)

**Note:** The Applicants intend to develop Lots 1 and 4 in the future, starting with a new single-family residential structure on Lot 4 for personal use. There is no established timetable for design and construction on Lot 4 until such time that this Minor Subdivision is successfully reviewed, approved, and recorded. Additionally, the existing conditions (i.e., the existing driveway and parking areas) serve the existing townhome/duplex units sufficiently. Therefore, no site-specific driveway, utility, or drainage improvements are proposed in association with this minor subdivision. However, the Access, Utility, and Drainage easement on the western portions of proposed Lots 1, 2, and 3 is being created to accommodate any future access and/or utility improvements deemed necessary at the time of site-specific development review and permitting for a new home on Lot 1 and/or Lot 4.

6. Create a non-exclusive 10-foot Utility Easement along the easterly property boundary of the subdivision while preserving an existing 10-foot Utility Easement located along the northerly property boundary as well as a 5-foot Utility Easement existing along the western boundary. (See General Note “a” on the draft plat by Slagle Survey Services.)
7. Create a new non-exclusive “Blanket Utility and Drainage” Easement covering those portions of Lot 1 to account for existing and future water, sewer, and other shallow utility lines. (See new General Note “c” on the draft plat dated 12/18/25 by Slagle Survey Services.)

### **Zoning Standards Per the Town of Eagle Land Use and Development Code:**

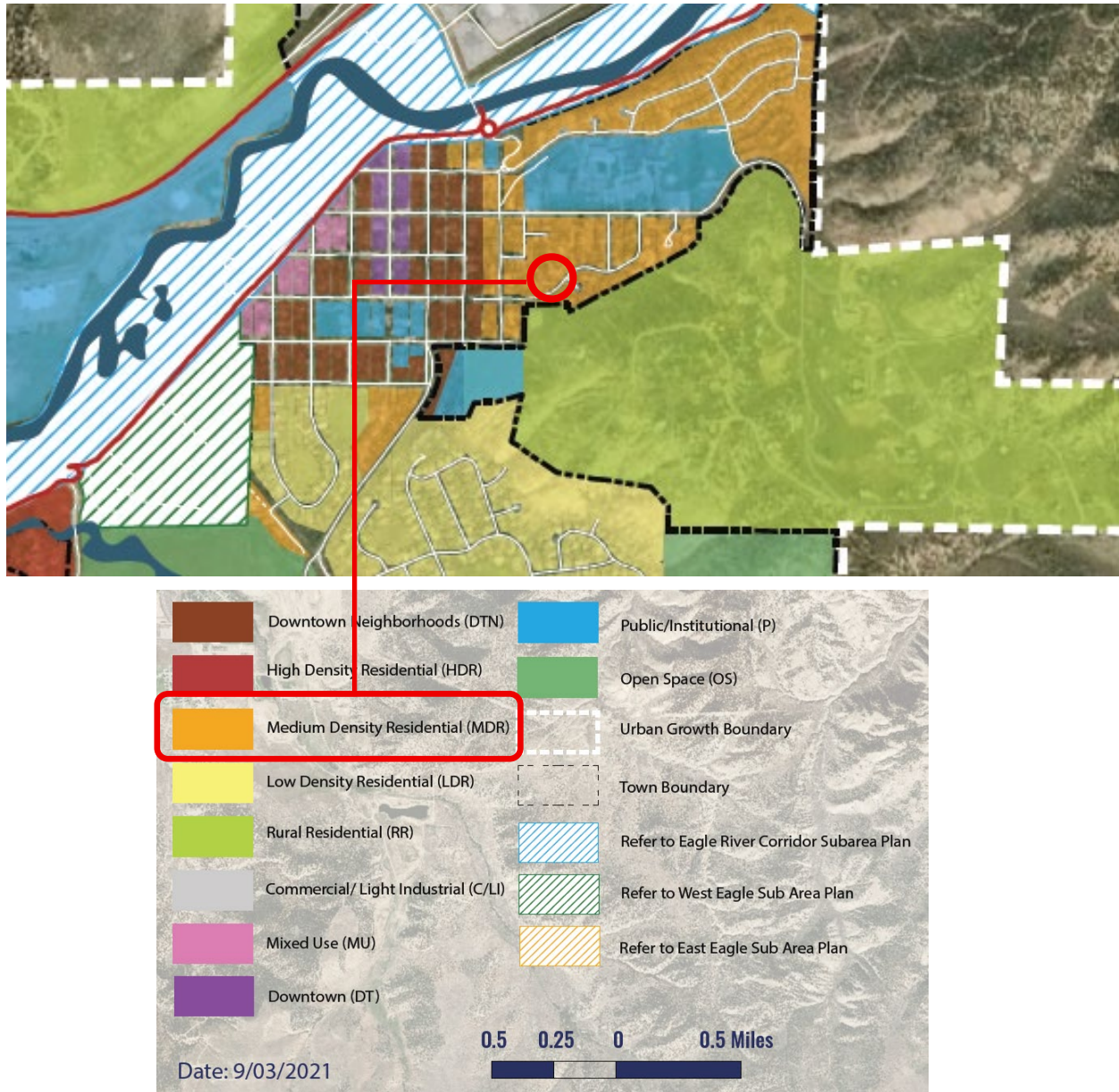
<b>Zoning:</b>	R2 – Residential Medium Density	Proposed
<b>Density Range:</b>	4-16 Dwelling Units per Acre	4-6 Units on .446 acres = 9-13 D.U./Acre
<b>Minimum Lot Size:</b>	5,000 square feet	5,000 square feet*
<b>Front Setback:</b>	10 feet	10 feet
<b>Side Setback:</b>	10 feet (5 feet interior lot lines)	10 feet
<b>Rear Setback:</b>	10 feet	10 feet

- \* New Lots 2 and 3 will replace Lots A and B (the existing townhome/duplex unit lots) from the original F.B.R. Townhomes Subdivision. Lots 2 and 3 combine to equal 5,649 sq. ft. lot, thus exceeding the minimum lot size for the R2 Zone District and *increasing* the combined area of former Lots A and B. This is typical of townhome or duplex lots where, prior to construction of the units and prior to subdivision along a party line, the parent parcel conforms to the minimum lot size in a zone district.

## Community Plan Future Land Use Designation:

The 2021 Town of Eagle – Elevate Eagle Comprehensive Plan sets forth overarching growth and development goals and policies aimed at ensuring the continuance and enhancement of community character and ensuring that – through new development and redevelopment – a diversity of housing types and density ranges are provided.

The subject property is designated on the Town’s Future Land Use Map (FLUM) as being appropriate for “Medium Density” uses:



The following descriptors are provided within the Comprehensive Plan:

**Medium Density:**

*“Single and multi-family neighborhoods built on a traditional development pattern, served by a highly connected street pattern, and interspersed with schools, public facilities, walkable neighborhood amenities, parks, and trails.”*

**Primary Use:**

- *Small lot, single-family units*
- *Duplexes/Triplexes*
- *Multi-family*
- *Townhomes*

The Mullet Minor Subdivision will create four (4) separate residential lots with two lots – Lot 1 and Lot 4 – allowing for additional single-family, duplex/triplex, or multi-family infill development in the future in full compliance with the Comprehensive Plan goals, policies, and future land use designations.

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# Minor Subdivision Requirements and Standards

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## Minor Subdivision – Section 4.17.100 C, LUDC

### 1. *Purpose and Definition:*

*The minor subdivision process is used to evaluate proposed subdivisions that will create few lots or involve minimal adjustments to approved final plats.*

#### **Response:**

The proposed Mullet Subdivision will create four (4) residential lots through the process of reconfiguring existing lots, and by eliminating and re-platting existing lot lines. The existing F.B.R. Townhomes Subdivision includes four lots (Lots A, B, C, and D); however, not all F.B.R. Townhome lots were slated for residential development (Lot D was platted as common area). The proposed Mullet Subdivision will create one (1) additional residential lot (Lot 1) using the common area previously allocated or created by Lot D, F.B.R. Townhomes Subdivision. Therefore, the Minor Subdivision process is appropriate to allow for the creation of a limited number of lots involving minimal adjustments to the previously approved F.B.R. Townhomes Final Plat.

### 2. *Applicability*

*The minor subdivision process shall apply to the one-time resubdivision of previously subdivided land that meets the following criteria:*

- a. Creation of no more than four residential lots or 10 condominium units within a single plat that does not require the development or dedication of any public or private improvements in addition to those already existing from the original subdivision;*
- b. Creation of condominiums or townhomes within an existing building that does not include land dedication; or*
- c. Creation of no more than four mixed-use or nonresidential lots that does not include development of or dedication of any public or private improvements in addition to those already existing from the original subdivision.*

#### **Response:**

The proposed Mullet Subdivision will create four (4) residential lots from previously subdivided property. The proposed lots do not require the development or dedication of any public or private improvements in addition to those already existing from the original subdivision. Additionally, the Mullet Subdivision will re-plat the existing townhome/duplex property boundaries and party wall line without requiring land dedication. Last, the Mullet Subdivision will not create mixed-use or non-residential lots or uses.



### **3. Review Procedures**

*Minor Subdivision applications shall meet the common review procedures in Table 4.17-13.*

#### **a. Review and Decision-Making**

*The Director shall review the application and make a determination per Section 4.17.040D.*

#### **b. Review Criteria**

*In reviewing a Minor Subdivision application, the Director shall consider the following criteria:*

##### **i. Comprehensive Plan**

*Whether the resulting development will be consistent with the Comprehensive Plan;*

##### **Response:**

The Elevate Eagle Comprehensive Plan (amended 2021) Future Land Use Map (FLUM) designates the subject property as appropriate for “Medium Density” residential uses in the future:

*“Single and multi-family neighborhoods built on a traditional development pattern, served by a highly connected street pattern, and interspersed with schools, public facilities, walkable neighborhood amenities, parks, and trails.”*

The primary uses identified for the Medium Density future land use designation include: Small lot, Single-Family Units; Duplexes/Triplexes; Multi-family; and Townhomes.

The proposed Mullet Subdivision will maintain two existing townhome/duplex units on new Lots 2 and 3, while allowing for the development of additional single-family, duplex, or multi-family residential units on new Lots 1 and 4 in the future. The Mullet Subdivision is an infill subdivision served by existing public infrastructure and it is within walking distance of public amenities such as parks, trails, schools, and other civic facilities.

Importantly, this subdivision proposal amends and subtly reimagines the former F.B.R. Townhome Subdivision by generally maintaining existing development patterns and lot configurations within the property, while improving the overall developability of those portions of the property by revising lot lines, by eliminating a constricting building envelope on former Lot C, and by creating one new parcel (Lot 1) allowing for additional medium density residential development in an area identified by the Town’s Comprehensive Plan as being appropriate for such use and density.

##### **ii. Land Use and Development Code (LUDC) Standards**

*Whether the approved lots will be consistent with the intent of the underlying zone district and the applicable standards of this LUDC.*

**Response:**

The Mullet Subdivision has been designed to ensure that new lot configurations meet the standards of the R2 Medium Density Zone District. Each lot created will comply with minimum lot size requirements\*; minimum setback requirements; and maximum lot coverage requirements while dedicating adequate easements to permit utility, access, and drainage improvements in the future. The shape, size, and configuration of proposed Lots 1-4 also will allow adequate space – on each lot – for private open areas such as yards and patios.

- \* New Lots 2 and 3 will replace Lots A and B (the existing townhome/duplex unit lots) from the original F.B.R. Townhomes Subdivision. Lots 2 and 3 combine to equal 5,649 sq. ft. lot, thus exceeding the minimum lot size for the R2 Zone District and *increasing* the combined area of former Lots A and B. This is typical of townhome or duplex lots where, prior to construction of the units and prior to subdivision along a party line, the parent parcel conforms to the minimum lot size in a zone district.

iii. ***Easements, Facilities, and Services***

*That the proposed lot changes:*

- (a) *Do not affect a recorded easement without approval from the easement holder; and*
- (b) *Will not limit the Town's ability to effectively provide facilities or services.*

**Response:**

The Mullet Subdivision has been designed to ensure that any recorded easements are not affected adversely to the detriment of the easement holder (in this case the Applicants); and to ensure that proposed easements provide the Applicants and utility and/or service providers the ability to construct necessary improvements to effectively and efficiently serve the property.

## **Chapter 4.10 Site Layout and Structure Design Standards:**

### ***C. Design Goals***

1. *Maintain or enhance the Town's historic small-town character and sense of place.*
2. *Promote walkable neighborhoods and an appropriate human scale in buildings and spaces.*
3. *Promote high quality design and construction creating outcomes that are compatible with existing neighborhoods and architecture.*
4. *Create comfortable and functional relationships between structures, spaces, and different use areas. Provide smooth transitions between areas of dissimilar use.*
5. *Ensure site development that responds appropriately to topography, drainage, existing vegetation, sensitive habitats, drainage, access, views, privacy, adjacent development, and opportunities for open space and solar exposure.*
6. *Provide adequate parking, ensure multimodal connectivity, and encourage the use of alternative transportation. Connect neighborhoods, transit stops and commercial destinations with clear, safe pedestrian and vehicular travel routes.*
7. *Promote environmental education and stewardship with energy and water efficient structures and landscapes.*

8. Reinforce the unique attributes of the Town's individual character areas. Enhance the vibrancy and viability of the Broadway District, Eagle Ranch, Grand Avenue, and the North Interstate commercial centers.

**Response:**

The Mullet Subdivision amends and reimagines the former F.B.R. Townhomes Subdivision in a subtle manner by generally maintaining existing development patterns while seeking to amend lot lines and to create one (1) additional building site in a portion of the Town that is effectively built out and which is served by existing public infrastructure.

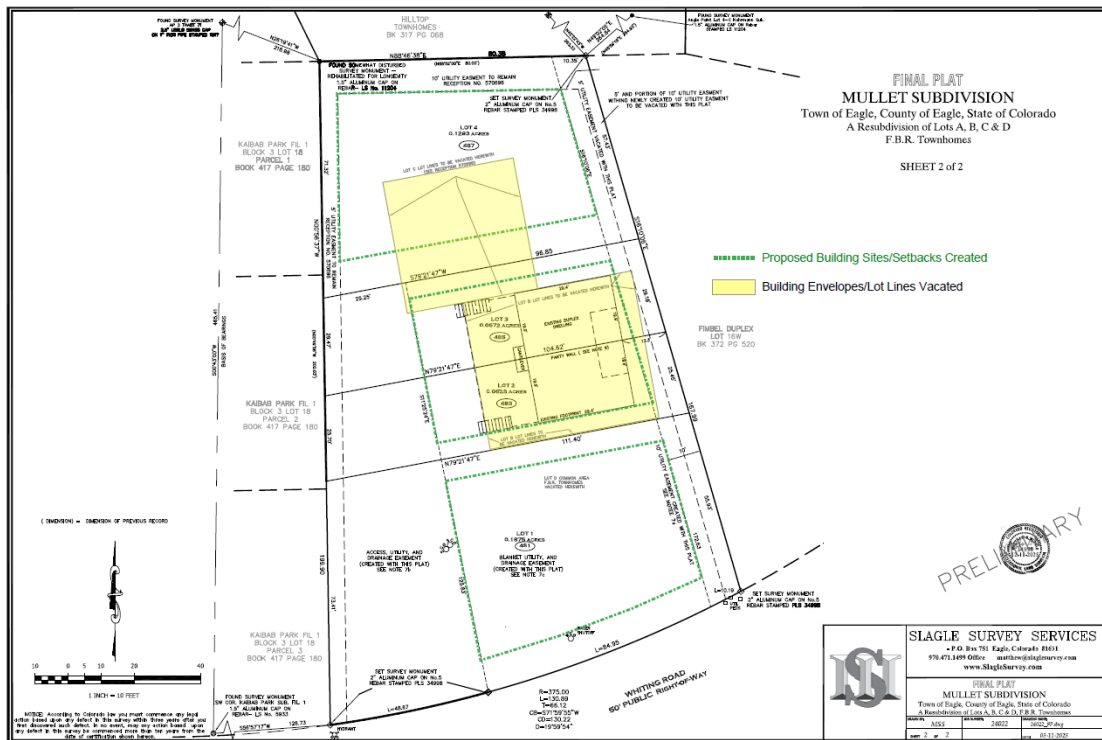


Figure 1: Draft Plat Showing Old Lots (to be vacated) and New Lots with Approximate Setback Lines Shown

The subdivision is intended to promote infill development in a manner that meets the design intent of the Town, by:

- Maintaining and enhancing the Town's historic small-town character and sense of place.
- Creating a new lot (Lot 1) that fronts along Whiting Road, thus furthering the established neighborhood block and development pattern.
- Promoting walkable neighborhoods and an appropriate human scale in buildings and spaces.
- Creating comfortable and functional relationships between structures, spaces, and different use areas.



- Ensuring site development that responds appropriately to topography, drainage, existing vegetation, sensitive habitats, drainage, access, views, privacy, adjacent development, and opportunities for open space and solar exposure.
- Providing adequate parking and placing development within walkable distance to services and amenities.

## **A. Site Design**

### **1. Access and Connectivity**

- Entrances, roads and driveways shall be designed to allow efficient access and wayfinding by emergency service and law enforcement personnel.*
- On single structure sites, primary access shall be from the alley, when an alley exists. In neighborhoods or streets without alleys, primary access shall then be from the street frontage facing the main entrance of the building.*
- On multi-building sites, a hierarchy of primary and secondary circulations routes shall be provided to direct vehicles, pedestrians, and cyclists to parking areas, building entrances and other site destinations. Multiple points of access shall be considered for larger projects to minimize traffic impacts and facilitate emergency access. Where possible, vehicular access points shall correlate with adjacent roadway intersections. Entrances and circulation routes shall be designed to maximize safety for pedestrians and cyclists.*
- For multi-building projects, pedestrian and bicycle connectivity shall be provided between the project and existing or planned off-site amenities such as regional trails, bus stops, retail destinations, and open space.*

### **Response:**

The Mullet Subdivision has direct existing access to a public street (Whiting Road). The westernmost edge of the existing driveway is located approximately 15 to 20 feet away from the closest adjacent property line.

The existing driveway has adequate site triangles and lines of sight at the intersection of the driveway and Whiting Road, and it allows for efficient access and wayfinding by emergency services and law enforcement personnel.



Figure 2: Existing driveway relative to southwestern property corner along Whiting Road. Separation between property corner and driveway is approximately 17 feet.



*Figure 3: View of Lot 1 Frontage on Whiting Road looking east.*

The former F.B.R. Townhomes Subdivision was approved to allow for multi-family development on multiple lots. Similarly, the proposed Mullet Subdivision – using essentially the same layout and design and based upon a common access point – is located in an area that does not have sidewalks, but which is located within walking distance to parks, trails, schools, civic facilities and the core area of the Town of Eagle.



*Figure 4: View of Lot 1 Frontage on Whiting Road looking west. Total frontage is 134 feet.*

## **2. Building and facilities Placement**

- a. Buildings shall be positioned on a property to avoid steep slopes, natural drainageways, natural hazards, wildlife habitat, utility easements, and defined view corridors. Structures shall be oriented parallel to topographic lines to the greatest degree possible, reducing the need for cut and fill.*
- b. Parking shall be located to allow short, efficient, and safe access from the parking area to entry points on the building.*
- c. Buildings shall be positioned to maximize the privacy of outdoor spaces, access to quality views, and opportunities for solar gain and solar energy applications.*
- d. Trash enclosures shall be positioned for easy access by service providers, screened from public view, and containers or enclosures shall be wildlife resistant. Electrical and other utility boxes and facilities must also be screen from public view.*

### **Response:**

The Mullet Subdivision is an infill subdivision which includes lot locations and configurations similar to the previously approved F.B.R. Townhome Subdivision. The previously developed property does contain some sloped areas – primarily along the front property boundary as it meets Whiting Road; along the western property boundary; and between existing lots B and C where a retaining wall exists – but does not contain any natural or human-made hazards. The lots to be created by this subdivision have been designed to permit compliance with the requirements of the R2 Zone District as well as parking, access, maneuverability, and other Town requirements.

## **A. Standards for Residential Development**

*Residential development shall meet the requirements of Section 4.10.030 and following provisions as applicable.*

### **2. Building Orientation**

*Single-family and duplex structure development on infill lots or new lots within an existing neighborhood shall comply with the following:*

- a. The orientation of the primary entrance and façade of the dwelling shall be consistent with the established pattern along the block face.*
- b. No residential structure shall be sited diagonally or otherwise skewed on the lot.*

**Response:**

There are two (2) existing townhome/duplex units situated on former Lots A and B. The proposed Mullet Subdivision will provide two additional building sites – one on new Lot 4, an existing, previously approved lot (formerly “Lot C” of the F.B.R. Townhomes Subdivision), and another on new Lot 1 (formerly “Lot D” of the F.B.R. Townhomes Subdivision) – with orientations that will be consistent with the established neighborhood block pattern.



Figure 5: Existing Townhome/Duplex Building on Existing Lots A & B

**6. Private Outdoor Space**

- a. In addition to complying with the required open space dedication requirement, private outdoor space shall be provided in compliance with this Section unless the site is located within 500 feet of an improved public park, plaza, or other open space and are connected by a continuous sidewalk that complies with the ADA.*
- b. Private outdoor space may be provided as the usable floor area of any patio, porch, balcony, deck, or enclosed yard accessible directly from a dwelling unit that is for the exclusive private use by the residents.*

**Response:**

The Mullet Subdivision will create residential lots that allow ample room for private outdoor space in the form of yards, patio, porch, balcony, or deck spaces. Additionally, the subdivision is located directly across Whiting Road from a public park.

**Chapter 4.12 Parking and Loading Standards**

***Section 4.12.040 – Required Off-Street Vehicle Parking***

***Table 4.12-1 Off Street Parking Standards:***

Unit Type	Required Parking
Dwelling Detached, Single Unit/Single-Family	
• Units with < 3 BRs	2 per DU
• Units with ≥ 3 BRs	3 per DU
Dwelling Attached, Two Units/Duplex	
• Units with < 3 BRs	2 per DU
• Units with ≥ 3 BRs	3 per DU



**Response:**

The existing townhome/duplex units located on new Lots 2 and 3 (formerly Lot A and Lot B F.B.R. Townhomes Subdivision) are each one (1) bedroom units. Therefore, each unit requires two (2) spaces. Each has a one-car garage in addition to parking in front of the respective unit (in front of each garage door) to provide a *minimum* of 2 spaces per unit. Additionally, there are parking spaces developed on the south side of existing Lot A (located on existing Lot C) which will be removed upon development of new Lot 1.



Figure 6: Existing overflow parking on existing Lot C to be removed.

There are no plans to develop new Lot 1 or Lot 4 at this time. However, both lots are sized to exceed the minimum square footage required in the R2 Zone District. It is reasonable, then, to expect that each lot will allow for the design of a residential structure with off-street parking to meet or exceed the minimum requirements. It is also reasonable to expect that future development on Lot 1 or Lot 4 could be designed – inclusive of access or parking easements – to permit overflow or guest parking for the benefit of all subdivision owners.

**4.12.070- Vehicle Parking Access, Location, and Design**

**A. Access**

*Access shall be provided as follows. Access ways shall be designed so as to reduce the number and proximity of access points along public streets.*

**1. All Lots and Uses**

- a.** *Minimum length of a driveway from the front of the garage door to the back of sidewalk shall be a minimum 30-feet, this shall only apply where a sidewalk is present.*
- b.** *Access ways on the same lot frontage shall be separated a minimum of 30 feet, measured linearly along the property line.*
  - i.** *Lots with 100 to 200 feet of frontage: the minimum access way separation shall be increased by one foot for every five feet of property length beyond 100 feet.*
  - ii.** *Lots exceeding 200 feet of frontage: access ways shall be separated by at least 50 feet.*
  - iii.** *Corner lot: access ways shall be located not closer than 50 feet to the intersecting street right-of-way line, or where lot frontage is less than 75 feet, the maximum distance possible from the intersecting public right-of-way line, as determined by the Director.*
- c.** *The intersection of an access way with a public street shall be located not closer than 15 feet to a side lot line, except that a common access way to two adjacent properties with combined width not exceeding 35 feet may be provided at the common lot line. This total amount provided from each lot may be adjusted below 15 feet provided the full required width is met.*
- d.** *Single-family dwellings and duplexes may stack parking spaces, except that unobstructed and direct access must be provided for a minimum of two spaces.*



**Response:**

There are no sidewalks along Whiting Road. Lot 1 will have approximately 134 feet of frontage along Whiting Road and, therefore, may be accessed in the future either directly from Whiting Road or from the shared “Access, Utility, and Drainage” easement to be created by the Mullet Subdivision plat. This amount of frontage will permit any new, individual driveway accessing residential development on new Lot 1 to meet the Town’s minimum separation requirements.

Additionally, the intersection of the existing driveway serving the subdivision is approximately 15 feet to 20 feet from the nearest side property line.

***B. Generally Applicable Parking Area Design Standards***

***1. Maneuvering***

*Projects that require parking areas with more than six parking spaces shall provide maneuvering areas that accommodate ingress and egress from the lot by forward motion of vehicles. A request may be made to the Director to allow parking for such projects with parking that backs out directly onto a street if an applicant can show this is a safe alternative.*

**Response:**

While the overall number of parking spaces for the Mullet Subdivision – once fully built-out – will likely exceed six parking spaces, it is anticipated that the size and configuration of the existing driveway, along with the individual design and construction of residential projects on proposed Lots 1 and 4 will permit ample maneuverability.

**Chapter 4.15 Subdivision Design and Improvement Standards**

***4.15.020 – Lot and Block Design and Access***

***B. Access***

- 1. Lots shall be designed to allow vehicular access from a public street, except that a maximum of 20 condominium units or 20 townhouse lots may front on a private access driveway at least 25 feet in width.*
- 2. Lot and block patterns shall allow for access onto a street from each lot. The use of an easement or alley for principal access to a lot shall be allowed where:*
  - a. Alleys currently exist, or*
  - b. Alleys are part of an overall project design, or*
  - c. An alley can be used to provide access in a manner that corresponds to surrounding site design and allows maneuvering that is safe for vehicles, pedestrians, and bicyclists.*
- 3. No more than one access point from an arterial or collector street shall be provided to any development unless the applicant provides professional documentation that additional access points would be significantly beneficial to the safety and operation of the street or that provision of only one access point would be detrimental to public safety. Requests for more than one access point shall be subject to approval by the Town Engineer.*

4. *Private access onto any public street shall be designed to permit user vehicles to enter and exit in forward drive, except for access from a single-family or duplex lot onto a local street.*
5. *Any development requiring access onto a State highway shall obtain a permit for such access from the Colorado Department of Transportation before the issuance of any Town development permit.*

**Response:**

Access to the F.B.R. Townhomes Subdivision Lots A, B, and C has historically been provided by a private access drive situated across, over, and through former “Lot D” common area. The proposed Mullet Subdivision will use the same, existing driveway to access new Lots 1, 2, 3, and 4, and a new “Access, Utility, and Drainage” easement across and over the western-most portions of Lots 1, 2, and 3 will be created by this plat to ensure that access for all lots is provided from Whiting Road, in perpetuity. Lot 1 will have the option to access directly from Whiting Road.

While access will be provided from each lot to a public street, the Applicant is of the understanding that Subsection 4.15.020(B)1 is being interpreted to require each lot to be designed to allow *direct* access to a public street (unless the access is for multi-family development). Although zoning would technically permit future multi-family development on new Lots 1 and 4, the Applicant is requesting a variance from Subdivision Design and Improvement Standards to allow relief from the strict interpretation and application of Subsection 4.15.020(B)1.

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# Variance Requirements and Standards

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## Variance from Section 4.15.020.B.1 – *Access*:

The Applicants are requesting a variance from Subdivision Design and Improvement Standards related to access. Section 4.15.020.B.1 – *Access* of the Town of Eagle Land Use and Development Code (LUDC) states:

*“Lots shall be designed to allow vehicular access from a public street, except that a maximum of 20 condominium units or 20 townhouse lots may front on a private access driveway at least 25 feet in width.”*

The current F.B.R. Townhome Subdivision, approved in 1995, includes three lots (Lots A, B, and C) with no direct frontage on Whiting Road but which are provided with access to a public street. However, the proposed Mullet Subdivision – which maintains a similar development pattern reliant on access to residential lots by way of a private access easement – will require a variance application from the strict interpretation and application of Section 4.15.020.B.1.

The current lot configuration for the F.B.R. Townhomes included four parcels – Lots A, B, C, and D – with Lots A and B dedicated to a townhome/duplex structure (existing) and a third lot – Lot C – dedicated to future residential, “multi-family” development. Lot D, historically, has been designated as common open space for the owners within the F.B.R. Townhome subdivision.

The current proposal to re-subdivide and amend the F.B.R. Townhome subdivision to create four (4) residential lots maintains essentially the same lot locations and configurations, with three notable changes:

- Former Lot C was effectively established as a building envelope surrounded by common area; the proposed reconfiguration of Lot C – to create new Lot 4 – will eliminate the building envelope and create a new residential lot in the same location – at the end of an existing access drive – where any permanent structures will be located using standards setbacks for the R-2 Zone District rather than a platted building envelope.
- The lot lines that formed Lots A and B (the existing duplex structure) will be extended to the west to meet the westernmost subdivision boundary line to create new Lots 2 and 3. New Lots 2 and 3 will be encumbered by a new access easement for the benefit of new Lots 1, 2, 3, and 4.
- Former Lot D – “Common Area” – within the F.B.R. Townhomes will be eliminated and a new Lot 1 will be created with just over 130 feet of frontage on Whiting Road.

Therefore, unless the Applicants were to forfeit their future development rights on Lots 2, 3, and 4; or unless the Applicants created a subdivision with circuitous lot line configurations to ensure that each lot technically had *frontage* on Whiting Road, there is no

practical, reasonable way to provide legal access to a public street from the proposed lots without the continued use of the existing driveway and a private access easement.

Last, it is worth noting that adjacent development patterns utilize comparable access and lot layout configurations. Kaibab Park Subdivision, Filing No. 1, Block 3, a Resubdivision of Lot 18 (Parcels 1-3, 491, 493, and 495 Whiting Road, respectively) directly adjacent to the Mullet Subdivision includes three residential lots, organized from south to north on a rectangular lot (former Lot 18), and accessed by a 22-foot-wide access easement aligned along the eastern boundary of the parcel. This is effectively the same situation that currently exists – and which is proposed – for the Mullet Subdivision.

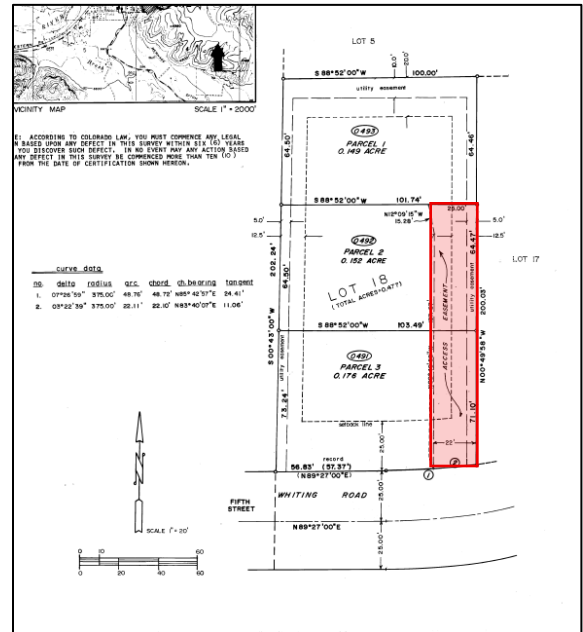


Figure 7: Excerpt from Kaibab Park Lot 18 Minor Subdivision Final Plat showing 22' private access easement.

## Variance Standards:

### F. Variance

#### 1. Purpose

*The variance process allows an applicant to request relief from the strict application of the regulations of this LUDC.*

#### 2. Applicability

- a. *An applicant may request a variance to applicable regulations that meet the requirements of the review criteria below.*
- b. *A variance may not be requested to allow a use in any zone district in which it is not listed as a permitted, conditional, or special use.*

#### 3. Review Procedure

*Variance applications shall meet the common review procedures identified in Table 4.17-9, with the following modifications:*

##### a. Application

- i. *An application for a variance shall be made on a form provided by the Town and signed by the applicant which clearly states the reasons for the request and how it complies with the conditions for variance.*
- ii. *An applicant may request a variance concurrently with an associated development permit*

application by submitting a request for variance as part of the overall application package.

**iii. Public Notice and Public Hearing Requirements**

The application shall be scheduled for a public hearing before the Planning and Zoning Commission and shall be noticed pursuant to Section 4.17.050.

**Response:**

The Applicants are requesting relief from the strict interpretation and application of Section 4.15.020.B.1 – Access, LUDC, as part of an application for a minor subdivision.

**b. Review Criteria and Decision**

To approve a variance, the Planning and Zoning Commission must find that all of the following criteria apply:

- i. The subject property has an exceptional shape, topography, building configuration, or other exceptional site condition that is not a general condition throughout the zone district;

**Response:**

The current F.B.R. Townhome Subdivision is similar to surrounding development patterns by way of the irregularity of the surrounding lot and block patterns that were established by the Kaibab Park Subdivision in the 1970's.

Several of the lots within the Kaibab Park Subdivision appear to have been sized and created with the intent to allow for re-subdivision and development of medium density (single-family, duplex, and multi-family) residential development using private access easements to allow for the development - in many instances - of smaller lots that do not front on a public street.

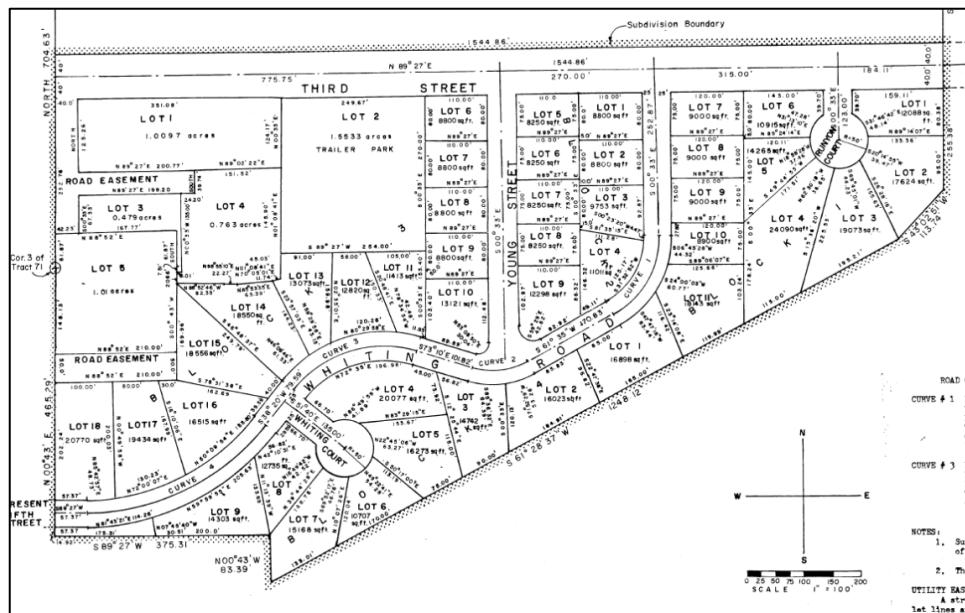


Figure 8: Excerpt of 1971 Kaibab Park Subdivision Filing No. 1 Final Plat.



The current F.B.R. Townhomes Subdivision – approved in 1995 – reflects this development pattern, as does the directly adjacent “Kaibab Park Lot 18, Block 3” minor subdivision. The proposed Mullet Subdivision maintains, for the most part, the established development pattern by reusing the existing access drive and easement configuration to access existing duplex development on proposed Lots 2 and 3 along with proposed Lot 4.

Perhaps the exceptional circumstance to be applied in this case - as a matter of allowing for the reasonable building-out of remaining, undeveloped lots - is due to the Town’s recent adoption of new regulations whereby the pre-existing lot and block configurations in the larger Kaibab Park Subdivision – some of which were predicated on the use of private access easements - do not permit total conformance with the strict interpretation and application of Section 4.15.020.B.1 – *Access*, LUDC.

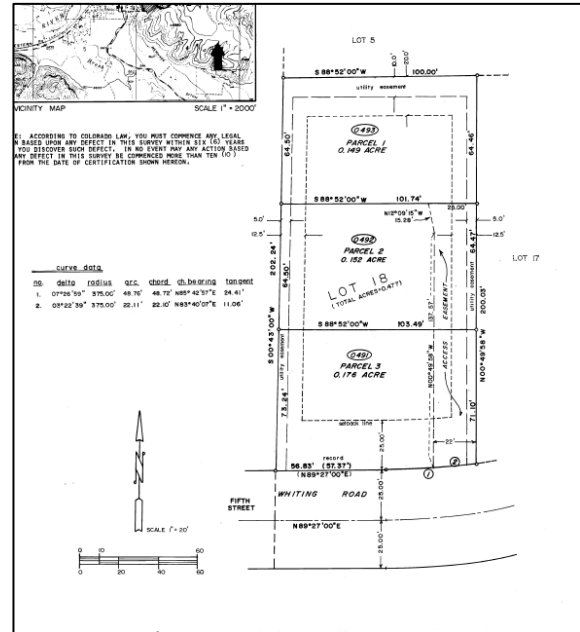


Figure 9: Excerpt from Kaibab Park Lot 18 Minor Subdivision Final Plat.

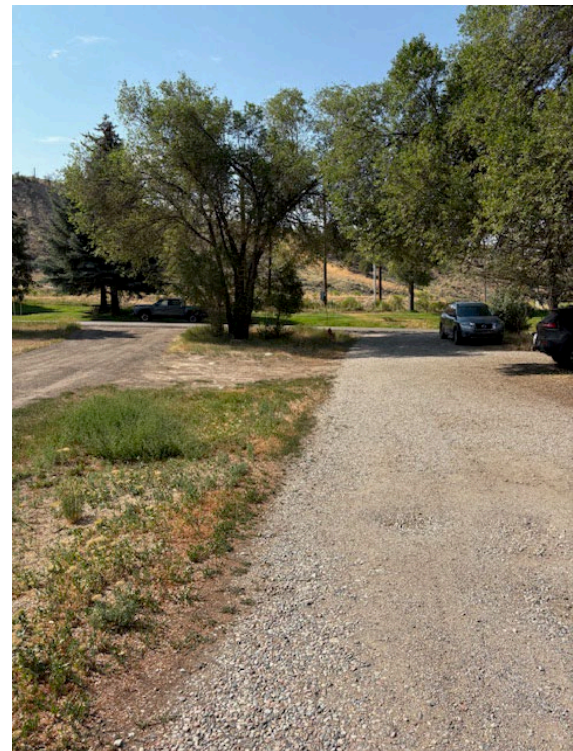


Figure 10: Existing private access drive at Kaibab Park Lot 18 (Looking South Toward Whiting Road).

- ii. The strict application of the LUDC standards for which a variance is sought would produce undue hardship;*

**Response:**

The current F.B.R. Townhome Subdivision includes three (3) lots (Lots A, B, and C) with no direct frontage on Whiting Road. Lot D (which fronts on Whiting Road) is currently platted as common area. The proposed Mullet Subdivision – which maintains a similar development pattern reliant on access to three residential lots (New Lots 2, 3, and 4) by way of a private access easement – will require a variance application from the strict interpretation and application of Section 4.15.020.B.1.

The current lot configuration for the F.B.R. Townhomes included four parcels – Lots A, B, C, and D – with Lots A and B dedicated to a townhome/duplex structure (existing) and a third lot – Lot C – designated as future, “Multi-Family” residential development. Lot D, historically, has been designated as common open space for the owners within the F.B.R. Townhome subdivision.

The Mullet Subdivision to create four (4) residential lots maintains essentially the same lot locations and configurations as the F.B.R. Townhome Subdivision, while adding one lot (Lot 1) where access could be gained directly from Whiting Road or from the proposed private access easement.

Therefore, unless the Applicants were to forfeit their future development rights on Lot 4 (or redevelopment rights on Lots 2 and 3); or unless the Applicants were to create a subdivision with circuitous lot line configurations for Lots 2, 3, and 4 to ensure that each lot *technically* had frontage on Whiting Road, there is no practical, reasonable way to provide legal access to a public street from the proposed lots without the continued use of a private access easement. This is an infill style land use application and situation and to apply the requirements of Section 4.15.020.B.1 – *Access*, strictly or literally, would create an undue, practical hardship not applied in a similar manner to neighboring properties.

- iii. The applicant's actions did not create the hardship;*

**Response:**

The Applicants did not create the hardship presented by the original Kaibab Park Subdivision or the F.B.R. Townhomes Subdivision which, effectively, established a development (lot and block) pattern which in some respects encouraged re-subdivision and, importantly, the use of private access easements to ensure legal access to public streets and rights-of-way from interior lots prior to the establishment of the LUDC and the provisions of Section 4.15.020.B.1 – *Access*.

The Applicants intend to continue and reasonably utilize the previously established land development patterns as an efficient and contextually appropriate approach to completing the full build-out of their property while generally improving upon the prior lot layout and design of the subdivision.

- iv. The variance requested does not harm the public and does not impair the intent or purposes of this LUDC, goals, and policies, including the specific regulation for which the variance is sought;*

**Response:**

Approval of this variance request will not harm the public, nor will it impair the intent or purposes of the LUDC. Permitting the continued use of an existing private access for the Mullet Subdivision - in effectively the same manner as has been used since approval and development of the F.B.R. Townhomes Subdivision in 1995 – will not negatively impact or preclude conformance with the Town's zoning standards, or the overall site, layout, and design standards such as minimum lot size, minimum setbacks, or maximum lot coverage.

Importantly, continued use of a private access easement allows for the full build-out of the subject property in keeping with the goals, policies and implementing actions of the Town of Eagle Comprehensive Plan and Future Land Use Map.

- v. The variance request demonstrates exceptional hardship not related to purposes of convenience or financial burden;*

**Response:**

As noted above, without relief from the strict, literal interpretation of Section 4.15.020.B.1 – *Access*, LUDC, the Applicants are presented with an exceptional, practical difficulty and hardship in seeking to re-subdivide their property and, therefore, achieve the full build-out potential of the formerly approved F.B.R. Townhomes Subdivision in a manner that allows for full conformance with other requirements of the LUDC as well as the overarching goals and policies of the Town of Eagle Comprehensive Plan.

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*vi. The variance request will not violate building or fire code requirements; and*

**Response:**

The variance request to permit the continued use of a private access easement will not violate building or fire code requirements. The F.B.R. Townhomes Subdivision was approved and partially developed using a private access driveway. The existing driveway functions to provide access to two duplex units on Lots A and B, F.B.R. Townhomes Subdivision.

The proposed Mullet Subdivision will maintain the same access location and general dimensions. The proposed Access, Utility, and Drainage easement that will be created by this plat was sized to accommodate the existing driveway alignment and conditions, maneuverability, emergency access, while allowing for access improvements in the future.

Specifically, the proposed Access, Utility, and Drainage easement is a minimum of 25 feet wide at its northernmost point (where the access easement touches proposed Lot 4) and just under 49 feet wide at the southernmost side along Whiting Road. By way of comparison, the access easement which services the adjacent Kaibab Park Lot 18, Block 3 subdivision directly to the west is 22 feet wide.

*vii. The variance is the minimum variance that will afford relief of the subject standards of the LUDC.*

**Response:**

This request for relief from the strict interpretation and application of Section 4.15.020.B.1 – *Access*, LUDC, is the minimum amount of relief sought for the efficient build-out of the previously approved F.B.R. Townhomes Subdivision.

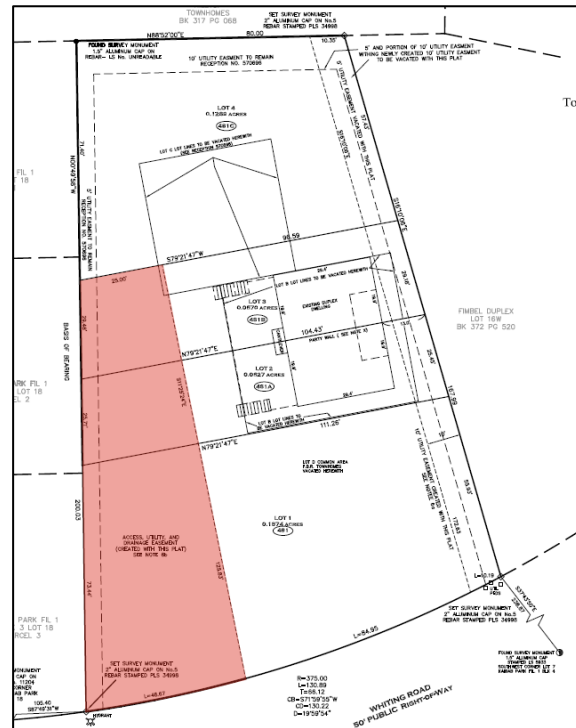


Figure 11: Except from Mullet Subdivision Final Plat highlighting the proposed Access, Utility, and Drainage easement.

The proposed Mullet Subdivision is, effectively, an amended final plat which maintains an existing land development pattern while seeking to amend and reimagine lot line configurations to create more buildable sites on new Lots 1 and 4. Granting this variance request will permit ongoing, legal access to, and use of, proposed Lots 2 and 3 (existing townhome/duplex structures), while providing access to a public street from proposed Lot 4.

Lot 1 will have frontage on Whiting Road and could either access directly from Whiting Road, or use the private Access, Utility, and Drainage easement for access and driveway orientation.