

## Variance Application Packet

**Project:** 446 Broadway, Eagle, Colorado

**Applicant:** 446 Broadway LLC

**To:** Town of Eagle Planning & Zoning Commission

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### Cover Letter Introduction

446 Broadway LLC respectfully submits this Variance Application for the proposed mixed-use development located at the corner of Broadway and 5th Street in Eagle, Colorado. The property lies within the Broadway District (BD), the vibrant downtown core designed to encourage pedestrian-oriented storefronts, upper-story housing, and active community uses.

The proposed development fully embraces these goals but requires three specific variances and /or clarification to be realized:

1. **Step-Back Requirements (Floors 3 & 4)** – Relief from the required 10-foot step-backs along Broadway and 5th Street at levels 3 and 4 to allow a stacked modular building form consistent with the updated architectural drawings. For visual purposes, review exhibit A for side-by-side comparison of step backs for 446 Broadway.
2. **Rooftop Amenity Height Clarification** – Confirmation that rooftop amenity features (pool, hot tub, trellis, pergola, deck, furnishings, bar, etc.) are non-permanent accessory elements and do not count against the project's 50-foot maximum building height.
3. **Inclusionary Housing (LERP) Adjustment** – Adjustment to the Local Employee Residency Program (LERP) requirement by reducing the 16 Resident-Occupied (RO) units to 13 RO units, while fully maintaining the 5 deed-restricted AMI units. When combined, the project still delivers a significant and meaningful deed-restricted housing contribution.
4. **Reduction in applicable Town fees**– 75% reduction in Town fees enabling a highly beneficial downtown project and supporting the substantial long-term sales tax and economic benefits generated for Eagle.

Each request is narrowly tailored, consistent with the intent of the Land Use & Development Code (LUDC), and necessary to deliver a project that enhances downtown Eagle's character, vibrancy, and walkability.

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## **Variance Request 1: Step-Back Requirements (Floors 3 & 4)**

### **Requested Relief**

Relief from BD zoning requirements requiring 10-foot step-backs at the 3rd and 4th floors along both Broadway and 5th Street. The applicant requests:

- Implementation of the new step-back configuration at the 2nd floor consistent with the updated modular design, which is above and beyond the requirements for step-backs called out in the zoning for floor 2.
- Relief or modification of required step-backs on the 3rd floor consistent with the updated modular design.
- Relief or modification of required step-backs on the 4th floor consistent with the updated modular design.

### **Review Criteria Responses**

- **Exceptional Site Condition**  
Corner lot with dual frontages requiring separate step-back conditions at both Broadway and 5<sup>th</sup> Street.
- **Undue Hardship**  
The required "wedding cake" massing conflicts with modular stacking efficiencies and eliminates functional, rentable square footage—undermining financial feasibility and structural uniformity. The required "wedding cake" massing also add unnecessary steel structural materials that adds both complexity and hardship to construction.
- **Hardship Not Created by Applicant**  
Hardship arises from site geometry and the nature of modular construction, not from applicant actions.
- **No Harm / Intent Maintained**  
Pedestrian scale, street activation, and storefront rhythm remain fully preserved at the ground level, consistent with the BD district's walkable urban character.
- **Hardship Beyond Convenience**  
Step-back compliance would make modular construction structurally and economically unworkable.

- **No Code Conflicts**

No conflicts with building, fire, or public safety requirements.

- **Minimum Variance Necessary**

Relief is limited strictly to vertical modulation and step-back configuration.

### **Character Alignment**

The stacked modular form aligns with contemporary mountain-town architectural patterns, avoids awkward terracing, and strengthens the visual continuity of the downtown district.

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### **Variance Request 2: Rooftop Amenity Height Clarification**

#### **Requested Relief**

Clarification that rooftop amenity features are excluded from maximum building height calculations. Features include:

- Pool & Spa (approx. 12'–40')
- Pool Spa decking and railing
- ADA-accessible walkway
- Lounge seating with furnishings and heaters
- Grills
- Countertops, sink, television, and tables
- Bolted trellis structure

#### **Review Criteria Responses**

- **Exceptional Site Condition**

The Town Code does not clarify whether rooftop amenities are counted toward the overall building height, creating regulatory ambiguity.

- **Undue Hardship**

Counting temporary rooftop elements as “building height” would eliminate the amenity altogether despite the structure itself remaining under the 50-foot limit.

- **Hardship Not Created by Applicant**

Hardship is caused solely by the Code’s silence, not by applicant actions.

- **No Harm / Intent Maintained**

The rooftop improves community vibrancy and offers public benefit through 50% of memberships being open to the public through private membership.

*No paid services are provided at the rooftop.*

Scale, mass, and shadow impacts remain unchanged.

- **Hardship Beyond Convenience**

Without this clarification, the project's community-facing amenity area cannot be delivered.

- **No Code Conflicts**

All features comply with ADA, life-safety, and fire code standards.

- **Minimum Variance Necessary**

Only accessory elements—not the building mass—are excluded.

### **Character Alignment**

Rooftop amenities are common in Colorado. The amenity to a mountain-town mixed-use development promotes community gathering and vibrancy. The public-access membership component further strengthens the project's alignment with Eagle's downtown identity.

### **Visual Comparison**

For visual purposes, review **exhibit A** below for side by side comparison of step backs for 446 Broadway.

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### **Variance Request 3: Inclusionary Housing (LERP) Adjustment**

#### **Requested Relief**

Under the LERP requirements for a 36-unit project, the Code requires:

- **5 AMI Units** (80% AMI)
- **16 Resident Occupied (RO) Units**
- **21 Total (60% of units)**

The applicant requests:

- Reduction of RO units from **16 → 12**
- Maintaining **5 AMI units**

- Total deed-restricted units provided: **17 units (47%+)**

### **Review Criteria Responses**

- **Undue Hardship**

The 5 AMI + 16 RO mix presents financial infeasibility, significantly impacts unit layout efficiency, and threatens the project's ability to proceed.

- **Hardship Not Created by Applicant**

Hardship arises from applying uniform thresholds without considering the unique constraints of BD modular mid-rise construction.

- **No Harm / Intent Maintained**

The project still provides 17 deed-restricted units, a substantial workforce housing contribution that exceeds typical mixed-use development in Eagle.

- **No Code Conflicts**

Adjustment does not affect structural, safety, or public health codes.

- **Minimum Variance Necessary**

The reduction in RO units is a small deviation necessary to preserve project viability.

### **Character Alignment**

This adjustment advances Eagle's workforce housing goals while ensuring efficient building operation, strong mixed-use integration, and long-term project sustainability.

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### **Variance Request 4: Reduction of Town Fees (75% Fee Adjustment Request)**

#### **Requested Relief**

The Applicant respectfully requests an **75% reduction** in applicable Town fees necessary for the development of the 446 Broadway project. This request applies to, but is not limited to, the following fee categories:

- Water Tap Fees
- Sewer Tap Fees
- Fire Impact Fees
- Public Safety Fees
- Street Impact Fees

- Exterior Energy Offset Program (EEOP) Fees
- General Impact Fees
- Building Permit Fees
- School Land Dedication Fees

The Applicant requests that the Planning & Zoning Commission and Town Council consider this reduction based on the substantial public benefits generated by the project and the significant economic impact associated with its completion.

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### **Review Criteria Responses**

- **Exceptional Site Condition / Community Benefit**

The proposed project delivers 17 deed-restricted units (47+% of building)—a level of affordability contribution that is unmatched in Eagle’s downtown core. Additionally, the project activates a long-vacant landmark corner that is essential to the Town’s BD district vision.

- **Undue Hardship**

Without a fee adjustment, the cumulative Town fees materially impact development feasibility, particularly with the deep affordability mix (AMI + RO) and the structural requirements of modular mid-rise construction. The financial burden could prevent the project from advancing to construction.

- **Hardship Not Created by the Applicant**

Challenges stem from rising construction costs, strict financing conditions for mixed-income housing, and the Town’s escalating impact and tap fee schedule—none of which are created by the applicant.

- **No Harm / Intent Maintained**

Granting a fee adjustment does not compromise life-safety, public infrastructure, or any Town standards. Instead, it enables the delivery of significant community benefits, including affordable housing, public-access rooftop amenities, commercial storefront activation, and infill development in the heart of downtown.

- **Hardship Beyond Convenience**

The fee reduction is not a convenience request; it is essential to the economic viability of a project delivering community benefits that far exceed any cons to the development.

- **No Code Conflicts**

Fee adjustments do not affect building, fire, environmental, or zoning compliance.

- **Minimum Variance Necessary**

The applicant seeks only the reduction needed to achieve financial feasibility while preserving all public-benefit components of the project.

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## **Economic & Fiscal Impact Justification**

If the 446 Broadway project is not constructed, the Town will forgo significant long-term revenue, including but not limited to:

- Sales tax revenue generated by approximately 10–120 new residents living in a walkable downtown environment with high local spending patterns.
- Sales tax revenue of new commercial space, generating ongoing taxable transactions.
- **Property tax growth and assessed valuation increases** from the redevelopment of an underutilized corner property within the boundaries of the DDA.
- **Indirect economic activity**, including job creation, increased restaurant and retail demand, and strengthening of the downtown business ecosystem.

These revenue streams far exceed the portion of fees requested for reduction and represent a recurring annual benefit to the Town.

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## **Character Alignment**

The fee adjustment supports the Town's policy goals for:

- affordability
- infill development
- downtown activation
- walkability
- mixed-use vibrancy
- long-term fiscal sustainability

By enabling a project that delivers substantial public benefit and far exceeds minimum code requirements, the request aligns with the intent and vision of the Broadway District.

### **Tax Generation Comparison for Fee Reduction Request & Financial Feasibility**

For feasibility purposes, review **exhibit B** below financial feasibility study of Fee Reduction Request.

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### **Closing Statement**

The Applicant respectfully requests approval of the following variances:

1. **Relief from step-back requirements** (Floors 3 & 4) to support modular construction and maintain appropriate downtown form, while adding a non-required step-back on floor 2.
2. **Clarification that rooftop** confirming amenity features do not count toward maximum building height.
3. **Adjustment of LERP requirements** from 21 units to 17 units, preserving both AMI and RO housing contributions.
4. **A 75% reduction in applicable Town fees**, enabling a highly beneficial downtown project and supporting the substantial long-term sales tax and economic benefits generated for Eagle.

Collectively, these variances allow the 446 Broadway development to be constructed efficiently, deliver meaningful public amenities, provide deep workforce housing, and maintain full alignment with the intent of the BD zoning district: a highly walkable, vibrant, mountain-town downtown core.

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**Respectfully submitted,**  
**446 Broadway LLC**

## Exhibit A (Step Back Comparison)

Building renderings according to code: (Stick Frame Build from Q1 2025)



Building renderings for Step Back Variance: (Modular Build from Q1 2026)







## Exhibit B (Tax Generation Comparison)

### Tax Generation Comparison for Fee Reduction Request & Financial Feasibility

#### **Fee Reduction Request & Financial Feasibility**

##### **Due to:**

- Escalated construction costs
- Elevated interest rates
- Financing constraints
- Revenue limitations created by deed-restricted housing requirements

project is **not financially feasible without municipal fee relief.**

##### **Request**

The applicant is requesting a 75% reduction in Town permit and tap fees, equal to approximately \$675,000, to allow the project to proceed. Without approval, the project is at serious risk of not being constructed.

##### **Fiscal Impact to the Town of Eagle (If Built)**

###### **1: Property Tax Revenue**

- Existing annual property tax revenue estimated: \$3,500
- Projected annual property tax revenue estimated: \$45,000
  - **Incremental increase Estimated: \$41,500 per year**

###### **2: Retail Sales Tax Revenue (Town Portion Only)**

Projected annual on-site retail sales:

Retail Tenant Annual Sales

Retail #1 \$2,000,000

Retail #2 \$750,000

Retail #3 \$400,000

Total \$3,150,000

Using the Town of Eagle's 4.5% local sales tax rate, this generates approximately:

- **\$141,750 per year** in direct Town sales tax revenue

###### **3: Resident Spending Sales Tax Revenue**

- Approximately 100 adult residents
- Estimated taxable spending per adult: \$20,000 annually
- 50% local capture rate applied (conservative downtown assumption)

This results in:

- \$1,000,000 in annual local taxable spending
  - **\$45,000 per year** in Town sales tax revenue (4.5%)

### **Total Incremental Annual Revenue to the Town**

<u>Source</u>	<u>Annual Revenue</u>
Property Tax Increase	\$41,500
Retail Sales Tax	\$141,750
Resident Spending Sales Tax	\$45,000

**Total Annual Revenue                      \$228,000**

**20-Year Fiscal Impact Total Revenue: \$4.5 million**

**This revenue does not exist today and is entirely attributable to the project.**

### **Cost–Benefit Summary (Key Decision Logic)**

- One-time fee reduction requested: \$675,000
- Annual recurring Town revenue:     \$228,000
- Simple payback period:                3 years
- Post-payback revenue:                 \$4 million+ in net gain

After the initial payback period, **all future revenues represent pure net fiscal benefit** to the Town of Eagle.

### **Public Benefit & Policy Alignment**

Approval of the fee reduction:

- Enables construction of 17 deed-restricted housing units
- Supports workforce stability and local employment
- Activates the downtown retail environment
- Expands the long-term tax base
- Reduces economic leakage to surrounding communities
- Requires no ongoing operational subsidy from the Town

This approach aligns housing policy, fiscal responsibility, and economic development objectives.

### **Consequences of Non-Approval**

If the project is not constructed:

- The Town continues receiving approximately \$3,500 per year in property tax revenue
- No new housing is delivered
- No retail sales tax is generated
- No downtown activation occurs
- No workforce housing benefit is realized

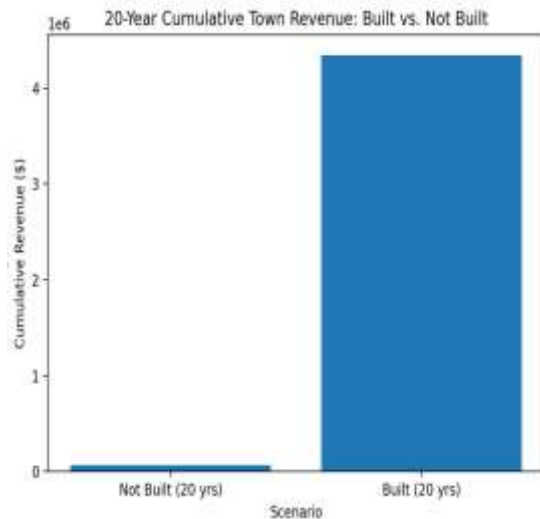
This represents a permanent lost opportunity for downtown Eagle.

## Formal Request

The applicant respectfully requests that the Town grant a 75% reduction in development fees as a one-time, fiscally justified action that:

- Enables a high-impact downtown project
- Produces substantial long-term revenue
- Advances adopted housing and planning goals
- Delivers a clear net benefit to the community

## Exhibit:



Municipal Fiscal Impact Model — Mixed-Use Multifamily (Built vs Not Built)			
Model date: 2026-01-11   Blue text = editable inputs			
1) One-time fees & property taxes			
Total permit & tap fees	\$900,000.00	Town Fees	
Requested fee relief (%)	75.0%	75% relief request	
Fee relief amount	\$675,000.00	Forgiven/waived portion	
Fees still paid to Town (after relief)	\$225,000.00	One-time revenue if project proceeds	
Current annual property tax (site today)	\$3,500.00	Estimated	
New annual property tax (projected)	\$43,500.00	Estimated	
Incremental property tax (Year 1)	\$40,000.00	New minus current	
2) On-site retail sales & sales tax			
Retail #1 annual sales	\$2,000,000.00	Estimated	
Retail #2 annual sales	\$750,000.00	Estimated	
Retail #3 annual sales	\$400,000.00	Estimated	
Total on-site retail sales (Year 1)	\$3,150,000.00	Sum of 3 tenants	
Combined sales tax rate (consumer rate)	9.4%	Eagle, CO combined sales tax rate (Town of Eagle website)	
Town share of sales tax (%)	47.9%	Town of Eagle local portion 4.5% / 9.4% combined	
Taxable share of retail sales (%)	100.0%	If any categories are exempt, reduce	
Effective sales tax rate to Town	4.50%	Combined rate x Town share	
On-site retail sales tax to Town (Year 1)	\$141,750.00	Retail sales x taxable share x effective rate	
3) Resident spending impact (100 adults downtown)			
Additional adult residents	100	Estimated	
Avg annual taxable spend per adult	\$20,000.00	\$20,000 per adult per year	
Capture rate: % of that spend occurring in	50.0%	Portion spent locally vs outside Town	
Resident taxable sales to OTHER local busi	\$1,000,000.00	Residents x spend x capture x taxable share	
Sales tax to Town from resident spending	\$45,000.00	Resident taxable sales x effective rate	
4) Time horizon & growth (edit as needed)			
Analysis horizon (years)	20	Typical council/staff lookback	
Annual growth rate — property taxes	2.0%	Assumes reassessment/inflation	
Annual growth rate — retail sales	2.5%	Nominal growth in tenant sales	
Annual growth rate — resident spend	2.5%	Nominal growth in spending	
Discount rate for NPV (for payback)	5.0%	For present-value comparisons	