



PUBLIC NOTICE
WOODLAND PARK PLANNING COMMISSION
Thursday, August 11, 2022, 6:30 P.M.
Council Chambers – 220 W. South Avenue
Woodland Park, Colorado
AGENDA

Zoom link from the calendar at the bottom of the front page of the City website (www.city-woodlandpark.org). Public input is important to the Planning Commission and comments are encouraged in writing in advance.

- 1. CALL TO ORDER & ROLL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVE MINUTES:** June 21, 2022
- 4. PUBLIC HEARINGS**
 - A. VAC2022-01** Vacate a portion of the 50' Public Right-Of-Way located on Lot 1A, The Homes at Brecken Heights (500 Becken Court) as requested by Mark McNab (Applicant and Property Owner) in the Multi-Family Suburban (MFS) zone. **(QJ)**
- 5. REPORTS**
- 6. ADJOURN**

For more information, please contact the Planning Department 719.687.5283

WOODLAND PARK PLANNING COMMISSION
SPECIAL MEETING MINUTES for June 21, 2022
Council Chambers, 220 W South Avenue, Woodland Park

This meeting was a hybrid meeting with in-person and virtual attendance. The Zoom meeting link was in the calendar on the City website front page. Public input was very important to the Planning Commission. Comments were encouraged in writing in advance of the meeting to be submitted by mail to the Planning Department at PO Box 9007, Woodland Park, CO, 80866 or email to kschminke@city-woodlandpark.org.

1. CALL TO ORDER & ROLL:

Commissioner Brown called the special meeting to order at 6:30 pm.

Present on Zoom	Commissioner Hartsfield
Present	Commissioner Lee Brown
Present	Commissioner Carrol Harvey
Present	Commissioner Kenneth Kennedy
Absent	Commissioner Larry Larsen
Present	Commissioner Shawn Nielsen

Staff Present: Planning Director Karen Schminke and Planner 1 David Burgess

Since Chair Hartsfield was not attending in-person, Vice-chair Brown served as acting Chair for the meeting.

2. PLEDGE OF ALLEGIANCE

3. APPROVE MINUTES: None.

4. PUBLIC HEARINGS

A. Continued from June 9, 2022: PUD/SPR2022-01: a request by N.E.S. Inc. (Applicant) on behalf of New Life Holding Corporation (Owner) and its affiliated operating nonprofit corporate entities, Andrew Wommack Ministries, Inc. (AWMI) and Charis Bible Colleges, Inc., to consider a PUD Amendment to 1) revise the dimensional standards to allow a height increase from 35-feet to 45-feet maximum for the student housing and 2) remove a past Condition of Approval that the temporary student housing be privatized through either a lease agreement or some other arrangement so that it can be separately taxed. The subject property is located at 800 Gospel Truth Way with a legal description of Lot 1, The Sanctuary, Woodland Park, Colorado and is zoned Planned Unit Development (PUD) for the purpose of developing a Planned Business Development (PBD). **(QJ)**

[Note: An associated Site Plan Review (SPR) application is concurrently under review and is not subject to public hearing.]

Vice-chair Brown noted that this matter is scheduled for a first reading by the City Council on July 21, 2022 and a public hearing on August 4, 2022. After a technical delay, Director Schminke presented the staff report reviewing the property location, project history, site plan, and architectural renderings for the proposed student housing.

As part of the project history Director Schminke explained the original PUD/PBD Final Development Plan (Ordinance No. 1162) and the Preliminary Plat from 2012 established the allowed uses, overall development layout, and dimensional standards for the uses. The PUD/PBD was amended to allow a parking garage in 2015. The original PUD/PBD allowed uses table includes student housing as does the amended PUD/PBD. Allowed uses are subject to administrative staff reviews (additional public hearings are not required) for Zoning Development Permits (ZDPs) and construction permitting. In this situation, the applicant is requesting an amendment to the PUD/PBD, thus a public hearing is required. She also reviewed the current approved dimensional standards for the student housing.

Next Director Schminke restated the applicant's two requests and then reviewed how the public notice requirements for the hearing had been met. She then noted the referral and review comments process, highlighting the concerns received from Northeast Teller County Fire Department as well as their recommendation for disapproval of the requested changes. The written public comment received was also noted with two written public comments included in the initial June 15th staff report, and a third written comment sent to the Planning Commission on June 21st.

Director Schminke then reviewed the applicant's first request in detail. The presentation included an overview of the City Municipal Code definition of height, and a comparison of how PUDs allow for flexibility compared to the typical maximum heights of 30' in residential zones and 35' in commercial zones. She noted the building height ranges (25' for an existing building to 60' for the proposed administration building; student housing at 3-story with a maximum height of 35'; and the parking garage and college building at 54' high) for the current PUD/PBD. For comparison, Our Lady of the Woods Catholic Church in the Central Business District and Trail Ridge Apartments in the Multi-Family Urban zone, both at 45' high, had received height variances through the Board of Adjustment. The Planning Commission and City Council establish building height in the PUD zone.

She then showed elevations for the north student housing on The Sanctuary campus with the buildings proposed to be set into a hillside that slopes to the north and east. Due to the sloping terrain, the front of the buildings appear to be 2-story with the back being 3-story. She also noted the existing mature forested area between the housing site and Trout Creek Road will help mitigate any visual impact from an increased building height.

Regarding approval criteria, Ms. Schminke noted that PUD/PBD standards had been met in 2012 when the PUD/PBD zone for The Sanctuary was established. Related to this request, the majority of the criteria listed in the City Code are not applicable, the proposal was found to comply with the Dimensional Standards criteria (§18.30.110) and Landscaping (§18.30.130).

For the first request, Staff recommended approval based on the findings contained in the staff report and as presented at public hearing, subject to the condition:

- 1) The tables on the cover sheet (Site Data, Land Use, and Parking) are revised so the information is presented in a format that is consistent with past approvals and the temporary student housing is listed in two parts to clarify the number of units and bedrooms being constructed in this phase and the number of units/bedrooms for a future phase.

Director Schminke then presented the second request, the removal of Condition of Approval #14, which states: "14. The applicant agrees that the housing on the development will be temporary student housing, not permanent housing, and the student housing will be privatized through either a lease arrangement or some other arrangement so that it can be separately taxed."

She explained the history of how this condition came to be by reviewing the minutes of the April 12, 2012 Planning Commission and the June 7, 2012 City Council meetings, in which the applicant did not object to Condition #14. City Council approved the rezoning of the property to PUD, the PUD/PBD final development plan with all 14 conditions, Ordinance No. 1162, Series 2012 to operate the Charis Bible College with religious/educational center, student housing, administrative building, and associated uses.

She then provided an overview of Planning Commission authority under Colorado land use and zoning law and the Federal law known as the Religious Land Use and Institutionalized Persons Act (RLUIPA). Regarding approval criteria, Ms. Schminke noted that PUD/PBD standards had been met in 2012 when the PUD/PBD zone for The Sanctuary was established. Related to this request, there are no standards to review, the criteria listed in the City Code are not applicable, and tax status is not within the City's land use controls or legal jurisdiction.

Director Schminke concluded her presentation by recommending the Planning Commission make a recommendation solely on Request #1. For Request #2, Staff recommends that the Planning Commission recommend that the City Council is the proper body to weigh in on this modification, including a consideration of the application of RLUIPA.

Director Schminke asked for questions from the Planning Commissioners. They asked for additional information from NETCo Fire Department Chief, Tyler Lambert, who was in attendance. Chief Lambert explained the 45' maximum height brings NETCo into an aerial response requiring four personnel. ISO (Insurance Services Office) would require three more personnel at \$88,000 each per year to cover the equipment necessary for the added structure height. NETCo is 98% funded by property taxes. Any increase in the number of residents also increases the personnel and equipment requirements of the Fire District. If Charis Bible College had their own private fire protection and security, that would possibly affect what NETCo would respond by agreement or MOU, but is ultimately up to the ISO as they rate the fire department and the property insurance premiums. ISO Ratings affect everyone in the area, as do increased response times because NETCo cooperates in mutual aid with GMF, Divide & Florissant volunteer fire districts. As for a Payment In Lieu of Taxes (PILT) agreement, Lambert estimated a PILT based on Charis Bible College itself of

\$80,000 a year, and for the proposed \$20,000,000 student housing, the estimated PILT would be about \$30,000/year.

The Planning Commission then had a short discussion on a number of points. Chair Hartsfield noted he felt a 40' variance would be adequate and the height variance would apply to all student housing on the property. The definition of "temporary student housing," both for the length of the (student) occupation and the type of building that the housing would consist of compared to "permanent student housing" was discussed. Commissioner Harvey noted that if Condition #14 stood and the student housing was privatized, Teller County would decide how to classify the student housing to be taxed.

Commissioner Brown invited the applicant to give their presentation.

Jon Romero with NES representing the Applicant, thanked the Planning Commission, and acknowledged proper notice of the meeting. He presented slides that introduced the Project Team, site location, project background including zoning, original 2012 PUD site plan which included student housing & parking requirement, and this proposal of 66 housing units (242 bedrooms) on 8 acres, a 45' building height, and 101 parking spaces (instead of 99 required). The 45' height allowance would carry over to all student housing. He noted that meetings were held with NETCo about access the 3rd floor. He feels that the application is consistent with past approvals, the traffic studies have been provided previously, wildfire mitigation studies were completed, and early meetings with NETCo addressed access to the proposed buildings.

Mr. Romero then turned the presentation over to Andrew Nussbaum of Nussbaum Speir Gleason, (address: 2 Cascade Avenue, Colorado Springs, Colorado, 80903) who presented the applicant's request to remove Condition #14. He stated that in their perspective, "This condition of approval is not seen as a condition that is consistent within the bounds of the Zoning and Subdivision Code for Criteria for Approval or other ordinances as identified in section 18.30-Planned Unit Development (PUD) District." He explained the history, quoted Condition 14, and noted the condition violates the law by considering Charis' religious character and tax-exempt status because:

- 1) Condition 14 has no place in the PUD process (Section 18.30). The original 13 conditions addressed the PUD itself, but tax revenue, the religious character of Charis, and the public benefit of the Ministry are non-relevant. Tax exemption appears in the finance section, which includes religious organizations such as Charis.
- 2) This would require Charis, a religious school, to privatize student housing. Condition 14 forces Charis "to give up these essentially religious qualities to a for-profit business that does not share Charis' religious identity or mission."
- 3) Charis and the Ministry are religious not-for-profit institutions exempt from property tax under the Colorado Constitution and state statute and Woodland Park City Code.

He then went on to explain three reasons why Charis actually did not agree to Condition 14 in 2012:

- 1) Condition 14 is legally unenforceable because it is against Colorado law (religious schools are exempt from property taxes).
- 2) Mr. Bozeman was a contractor and not a lawyer and received legal advice from the City Attorney that was incorrect about possibility and precedent. In 2012, the ministry agreed to look at possibilities, not to waive its rights. He explained RLUIPA and the First Amendment. In short, Condition 14 violates Charis' right to religious freedom. Charis is being substantially damaged as a result of the City's actions.
- 3) Finally, he concluded that Charis, a tax-exempt entity, and the ministry's impact on the City is not relevant to land use approval according to the Supreme Court of the United States and the Colorado Supreme Court.

He ended his prepared remarks and welcomed questions.

Commissioner Nielsen asked if there are any additional plans to help with some of Charis' growth, fire, and safety. Mr. Nussbaum said there is some dispute in terms of the data on the number of calls from Charis' records, but has no comment on mitigation efforts.

Commissioner Kennedy asked about the first half of Condition 14 which states the housing shall be temporary student housing, not permanent student housing. What does temporary mean and what is Nussbaum's view of it? Mr. Nussbaum said their focus has been primarily on the privatization and taxation piece. While not committing the Ministry to a definition, he believes it's along the lines of typical student housing for a college where it would be for a semester.

Commissioner Kennedy agreed, and asked if there were objections to the definition of normal student housing as opposed to other types of housing. Mr. Nussbaum would not commit the Ministry to any particular reading of "temporary" but that would be his reading of it.

Commissioner Harvey noted that Mr. Bozeman was not the head of construction; he was listed as the Operations Officer for Charis. She recalled that it was not the Planning Commission's original idea to privatize housing, they were more concerned with definitions of the types and uses of the proposed housing, and noted nearly every military base in the US now privatizes housing. She went on to provide recollection of the original entitlement process, saying that in October 2011, Mr. Bozeman gave the Planning Commissioners a tour of the beautiful property, and they talked about the concerns of wildfire mitigation, being a good neighbor to the Westwood Lakes (Teller County) residents where their water was coming from, and the Ministry's initiative to loop the water service to the hospital. It was Mr. Bozeman's suggestion to mitigate the loss of property tax, not to the City, but to the other taxing districts, that it might be possible to privatize the student housing. In October 2011, Mr. Gary Erickson, a Colorado Springs developer, briefed the Planning Commission saying that Mr. Wommack changed his mind about the student housing and that he wanted to privatize it. The recommendation from Mr. Erickson was a consortium would form their own

corporation and they would be responsible for this small set-aside for student housing in order for that piece of property to then pay property taxes under some land-zoning designation the county and state would figure out. She brought this up to share the history of the discussions with the Planning Commission, which was then passed on to the City Council.

Mr. Nussbaum responded that military bases are not an analogous scenario. He said that no private company can supply the kind of services the Ministry could within the student housing; therefore it's not workable or feasible. He read the Planning Commission minutes differently; noting the Ministry "considered" privatization in 2012. The Planning Commission required this condition of approval. Commissioner Harvey clarified that Mr. Bozeman recommended privatization. The Colorado Springs Indy quoted Mr. Wommack as wanting to be a good neighbor and agreed to privatization. Mr. Nussbaum said their position is clear and they disagree.

Commissioner Hartsfield commented that if Condition 14 is not appropriate, the concern he sees is if the Ministry has a proposal to mitigate the impact on the community. Mr. Nussbaum answered that the impact and benefit of the Ministry is totally irrelevant to the land use question presented tonight. The Commission is empowered to make land use decisions and both the Supreme Court and the Colorado Supreme Court have made clear that the public benefit or lack thereof of a not-for-profit entity has no relevance to land use. He gave the example that if the YMCA wants to build a new gym in Colorado Springs, they are tax-exempt and under law, they can't be asked how many fire calls they are going to get, it's not something that the City Council can consider. The Ministry is going to produce \$6.3 million in sales and use tax over the next decade. The City can determine how to administer its financial situation, including the fire district, but it's not relevant to the land use question. Commissioner Harvey disagreed, stating that fire protection and safety is related to land use. Mr. Nussbaum said the Colorado Legislature and the Colorado Constitution took away any Planning Commission power to consider tax revenue, and would be happy to show these provisions. How the City budgets its tax revenue is up to the City, but forcing a religious ministry to forego its religious character is not a relevant or lawful way to achieve that end. Commissioner Harvey added that the Planning Commission is not asking anyone to give up their religious beliefs in order to cover the fire service, but the ability of the fire district is impacted by a very large parcel of land with a very large number of people existing there.

Commissioners Brown, Kennedy, and Hartsfield clarified the reasoning behind the proposed 45' maximum is the three stories and the uncertainty of the topography. The applicant assumed that the original application asked for a 35' building height because of the 2012 code and at that time, there were no buildings on the property, so they probably thought that 35' would be workable for max height. Now architects generally assume 14' per story. Ms. Schminke said that heights are established at time of PUD designation. The plan does not break down the type of housing, just maximum heights and floor square footage. The vision plan was discussed and noted the visions have changed for both this and the Sturman Property.

Commissioner Brown called a 10-minute recess at 8:30 PM.

Commissioner Brown called the meeting back to order at 8:40 PM and opened the Public Comment period.

Public commenters who spoke in support of the PUD amendments were:

Yong Uhlig, 924 Stone Park Lane, Woodland Park
Gene Harris, 1642 Columbine Village Drive, Woodland Park
Maria Carpenter, 2238 Big Pines Avenue Lot 19, Woodland Park
Brenda Giaimo, 505 Forest Edge Road, Woodland Park
Karen Sherrill, 924 Stone Park Lane, Woodland Park
Aaron Helstrom, 4744 CR 33, Woodland Park
Althea Devenish, 808 Stone Park Lane, Woodland Park
Joe Swearengin, 116 W. Midland Avenue, Woodland Park
Tim Northrup, 120 Golden Court, Woodland Park
Osa Graves, 500 Forest Edge Circle, Woodland Park
Charles Graves, 500 Forest Edge Circle, Woodland Park
Kyle Garen, 784 Westwood Trace, Woodland Park
John Davis, 240 Eagle Pines Drive, Woodland Park
Patience Solane, 920 Stone Park Lane Apt. 301, Woodland Park
Virginia Torrinello, 1217 Stone Ridge Drive, Woodland Park
Jody Akers, 904 Stone Park Lane #306, Woodland Park
Linnea Mellinger, 232 Illini Drive, Woodland Park
Jill Stabenum, 175 Piney Point Lane, Woodland Park
Tanya Frey, 808 Stone Park Lane, Woodland Park
Shannon Lillard, 1135 Spring Valley Drive, Divide
Elias Stabenow, 175 Piney Point Lane, Woodland Park

Those speaking in support requested approval of both applicant requests. They expressed support for the height increase to 45' as it was a good option, the additional height would not be noticeable, and views would not be destroyed.

Regarding Condition #14, they supported removal of the condition since an error had been made in establishing it in 2012. The Commission was encouraged to follow the law regarding tax exemption and privatization will not work for this organization. It was also noted, no other college has to pay taxes to the town.

Some concern for the Fire Department was expressed, but there was a greater concern that the Planning Commission was overstepping. The mutual support between the Divide and NETco Fire departments was mentioned. Comments also encouraged that other tax system changes be sought to fund the fire department.

Other comments encouraged the Planning Commission to plan more homes.

Additionally, comments were presented regarding Andrew Wommack's good character and his desire to "take care of the community within his rights." There was also testimony as to the benefit of Charis' teaching how to love community

and country. Positive impacts of having the Charis students live and shop in Woodland Park were noted, including their contribution to the community through volunteer work.

Public commenters who spoke not in support of the PUD amendments were:

Steve Sorry, 88 Broken Wheel Place, Divide
Susan Geiger, 256 County Road 781, Woodland Park
Mac McVicker, 13719 Hedi Road, Woodland Park
Joe Fury, 565 Pembroke Drive, Woodland Park, via Zoom
Chris Amos, (possible address 2110 Lee Circle Road)

Comments included opposition to both requests and the original agreement should stand; concerns that the height change would apply to all housing, which would be significant in the southern units according to the topography on the USGS map for the area.

There were also concerns expressed that the college is seen as having an undue impact on the community and they encourage the college to agree to payment in lieu of taxes (PILT). It was also suggested Charis have its own fire and police services.

The applicant's representative, Jon Romero, then made the rebuttal. He said the USGS map is inaccurate, and that the south housing site is lower than and quite far away from Hwy 24. The north housing site is over 3,000 feet away from Trout Creek Road. The total acreage for the proposed student housing is approximately eight acres of the 146-acre tract.

The City Attorney, Nina Williams, provided some additional information to the Planning Commission explaining that the City is unwilling to concede at this point that there is a legal issue under RLUIPA and the First Amendment because any such argument has statute of limitations concerns. The applicant has asserted these claims regarding RLUIPA, which are outside the normal parameters of Planning Commission control and the authority under Title 18 of the Municipal Code. She recommended that City Council is the proper body to consider this particular modification, including a potential consideration under RLUIPA, as this topic is not to be considered under land use, approval, and regulations or Planning Commission's jurisdiction; and there is no "authority" to decide a tax exemption issue.

Commissioner Harvey clarified with the City Attorney that the statute of limitations has expired under RLUIPA and First Amendment claims. Commissioner Brown added that whether it has expired or not, the taxation issue does not fall under Planning Commission purview.

The Commission decided to discuss one request at a time. Because this is a PUD, dimensional standards deviation requests are heard by both the Planning Commission and City Council.

For the height variance, a discussion was held about the necessary maximum height and if that height would apply to any student housing proposed. Director Schminke clarified that the restriction would be applied to the two proposed

housing areas shown on the PUD/PBD plans. If the location of the future phase were changed, that would come back to the Planning Commission. Mr. Romero added that the 45' height would allow the gables to meet the architecture guidelines of Woodland Park and AWWMI, and would apply to all phases of student housing.

MOTION: Commissioner Kennedy moved, and Commissioner Nielsen seconded, that the Planning Commission recommend approval of an amendment to The Sanctuary's PUD/PBD Final Development Plan to change the dimensional standard for the Student Housing building height from a maximum height of 35 feet (3-story) to a maximum height of 45 feet (3-story) based on the findings contained in the staff report and as presented at public hearing, subject to the condition that:

1. The tables on the cover sheet (Site Data, Land Use, and Parking) are revised so the information is presented in a format that is consistent with past approvals and the temporary student housing is listed in two parts to clarify the number of units and bedrooms being constructed in this phase and the number of units/bedrooms for a future phase.

YES: Brown, Harvey, Kennedy and Nielsen. NO: Hartsfield.
Motion PASSES 4-1.

Chair Brown then opened Commission discussion on the second request. The taxation issue is not in the Planning Commission's purview, but there was discussion about the definition of temporary student housing as opposed to permanent housing. Mr. Nussbaum clarified that the applicant's request is to remove Condition #14 in its entirety, but he believes the intention is for the housing to be student housing.

MOTION: Commissioner Harvey moved, and Commissioner Hartsfield seconded, the Planning Commission recommends to City Council that the housing on the development should remain temporary student housing, not permanent housing, but that as it relates to the student housing being "privatized through either a lease arrangement or some other arrangement so that it can be separately taxed," and acting in part on the advice of the City Attorney, that the City Council is the proper body to assess this part of the requested modification, including consideration of the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) claims alleged by the applicant.

Further discussion was held; Commissioner Harvey said City Council should revisit PILT for the fire district. The City Attorney reminded the Commission that procedurally the Commission has to talk about the motion, amend the motion, or vote on the motion.

YES: Kennedy, Nielsen, Hartsfield, and Brown. NO: Harvey.
Motion PASSES 4-1.

5. REPORTS: No reports.

No meeting is scheduled for Thursday, June 23, 2022. The next Planning Commission Meeting is scheduled for July 14, 2022.

6. **ADJOURN:** The meeting was adjourned at 10:42 pm.

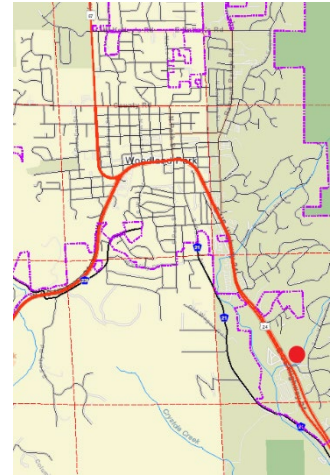
Approved this ____ day of _____, 2022 by

Ken Hartsfield, Chair

DRAFT

STAFF REPORT

PROJECT: VAC2022-01 Brecken Court ROW Vacation
APPLICANT: Brecken Heights LLC, Mark McNab
REQUEST: Vacate approximately 1,000 sq.ft. of right-of-way near the intersection of Morning Sun Drive and Brecken Court.
LOCATION: Lot 1A, The Homes at Brecken Heights. Closest major intersection is Morning Sun Drive and Highway 24.
ZONE: Multi-Family Residential Suburban (MFS) District
STAFF: Will Charles, Senior Planner



I. PROPOSAL

The Applicant is requesting a vacation of approximately 1,000 sq.ft. of Alpine Meadows Drive. Alpine Meadows Drive is a small portion of right-of-way that extends 85 feet out of Morning Sun Drive. The portion of right of way that the applicant is wanting to vacate would be the northeastern most portions of this right of way. The remaining portions of the Alpine Meadows Drive would be used in conjunction with Brecken Court Drive public right-of-way to service the future residences at The Homes at Brecken Heights and existing businesses.

The final plat for The Homes at Brecken Heights was approved by City Council at their April 1st, 2021 Meeting. As shown in the attached application, this small portion of right-of-way overlaps with lot 1A on the final plat. In order for the applicant to maintain the layout of homes proposed in their final plat, this portion of right-of-way would need to be vacated.

II. VACATION CRITERIA

This request is subject to Municipal Code (MC) chapter 12.08 Vacation of Public Rights-of-Way and the City's right to vacate public rights of way is specified as follows:

§12.08.030 City right to vacate

The City Council, by ordinance, may vacate any street, alley, easement or public right-of-way or part thereof located within the corporate limits of the city, subject to the provisions of the City Charter and the Constitution and statutes of the state.

This vacation request was reviewed and assessed to ensure compliance with the applicable sections of MC Chapter 12.08 as follows:

§12.08.010 Policy declaration

The City declares the following to be its general policy regarding vacation of streets, alleys, easements and public rights-of-way:

The vacation of streets, alleys, easements and public rights-of-way shall be considered based on its effect on utilities located in said rights-of-way, emergency services access, feasibility of

STAFF REPORT

road construction, access to lots abutting the vacation, area traffic patterns and adjacent landowners input.

Staff Analysis: The vacation complies with this policy. No adverse affects are expected from the granting of this vacation. This vacation overlaps a residential lot, and currently is unimproved land. The portions of the right-of-way that are improved, will still remain, and service the neighboring businesses.

§12.08.020 Vesting of title upon vacation

Whenever any roadway has been conveyed to, or acquired by, the city for use as a street, alley, easement or public right-of-way, and thereafter is vacated, title to the lands included within such street, alley, easement or public right-of-way or so much thereof as may be vacated shall vest, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues as follows:

- A. In the event that a street, alley, easement or public right-of-way, which constitutes the exterior boundary of a subdivision or other tract of land, is vacated, title to the street, alley, easement or public right-of-way shall vest in the owners of the land abutting the vacated street, alley, easement or public right-of-way, at the time the street, alley, easement or public right-of-way was acquired for public use, was a part of the subdivided land, or was a part of the adjacent land.*
- B. In the event that less than the entire width of a street, alley, easement or public right-of-way is vacated, title to the vacated portion shall vest in the owners of the land abutting such vacated portion.*
- C. In the event that a street, alley, easement or public right-of-way bounded by straight lines is vacated, title to the vacated street, alley, easement or public right-of-way shall vest in the owners of the abutting land, each abutting owner taking to the center of the street, alley, easement or public right-of-way, except as provided in subsections A and B of this section. In the event that the boundary lines of abutting lands do not intersect the roadway at a right angle, the land included within such roadway shall vest as provided in subsection D.*
- D. In all instances not specifically proved for, title to the vacated roadway shall vest in the owners of the abutting land, each abutting owner taking that portion of the vacated roadway to which his land or any part thereof is nearest in proximity.*
- E. No portion of a roadway upon vacation, shall accrue to an abutting roadway.*

Staff Analysis: This type of vacation falls under §12.08.020(B). The right of way would be vested to lot 1A of the Homes at Brecken Heights, which is the closest property.

§12.08.040 Vacation of roadway on boundary lines.

If a roadway constitutes the boundary lines of the city, it may be vacated only by joint action of the board of county commissioners and the city council.

Staff Analysis: This vacation is completely contained within the City, so this section does not apply.

STAFF REPORT

§12.08.050 Connecting public road required

No roadway or part thereof shall be vacated so as to leave any land adjoining the street, alley, easement or public right-of-way without an established public road connecting the land with another established public road.

Staff Analysis: If the vacation is approved, all portions of land will still be connected to public right-of-way. Additionally, all portions of rights-of-ways connected to these properties would have a connection to other established public roads.

§12.08.060 Reservation of land for utility uses

In the event of vacation of rights-of-way or easements may be reserved for the continued use of existing sewer, gas, water or similar pipelines and appurtenances, for ditches, canals, or drainage and appurtenances, and for electric, telephone and similar lines and appurtenances.

Staff Analysis: The approved final plat from 2021 lists utility and drainage easements around the west, south, and east portions of Lot 1A. These easements would remain in place if the vacation of ROW is approved. Additionally, the proposed right-of-way vacation was referred to staff departments, and outside agencies that service these utilities. No comments were received to indicate that the maintenance or continued use of these types of utilities would be impacted by the right-of-way vacation.

§12.08.070 Procedure for requesting a vacation

Any person desiring the vacation of any street, alley, easement or other public rights-of-way, located within the city, shall file with the city clerk the following at least thirty(30) days prior to the next regular scheduled planning commission meeting:

- A. A completed application form;*
- B. Plat and legal description of proposed vacation; plat shall be drawn by a registered land surveyor and shall be on eight and one-half inches by eleven-inch paper whenever possible;*
- C. A processing fee as established by city council;*
- D. The names and addresses of all adjacent property owners.*

Staff Analysis: A complete application meeting the above criteria has been submitted to staff, and is attached to this staff report.

§12.08.080 Hearing – Planning Commission and City Council action.

- A. The planning commission shall hold a public hearing on the vacation request. Notice of the public hearing shall be published in the official city newspaper at least seven days prior to the public hearing. The property proposed to be vacated shall be posted at least ten days prior to the public hearing and notices shall be sent to adjacent property owners at least ten days prior to the public hearing. The planning commission shall recommend approval or disapproval to the council, or table the request until the next regularly scheduled meeting.*

STAFF REPORT

- B. The planning commission shall make its written recommendations to the city council.*
- C. The city council shall conduct a public hearing concerning the proposed recommendations by the planning commission, which recommendation shall be part of the council records for such hearing. Notice of public hearing shall be published at least seven days prior to the public hearing, the notice for the city council public hearing may be done at the same time as the notice for the planning commission hearings.*

Staff Analysis: The Planning Commission public hearing is scheduled for August 11, 2022 and the City Council public hearing is scheduled for September 15, 2022. All public hearing notices have been published, mailed, and posted per Municipal Code requirements.

§12.08.090 Vacation to be accomplished by ordinance

After the public hearing, if the council elects to proceed with the vacation, the actual vacation of any property within the street, alley, easement or other public right-of-way within the city shall be accomplished by ordinance.

Staff Analysis: A draft ordinance has been created and is attached to this staff report.

§12.08.100 Recording of vacation ordinance

An ordinance for vacation of any street, alley, easement or public right-of-way, once duly passed and effective, shall be filed with the office of the county clerk and recorder for Teller County.

Staff Analysis: If passed, the ordinance will be recorded with Teller County.

§12.08.110 Reimbursement to City

In addition to the processing fee, the applicant shall reimburse the city for all publishing, posting, ordinance drafting and filing costs.

Staff Analysis: These are typical costs that all applicants are subject to, and are billed upon closing the file.

III. STAFF RECOMMENDATION

1. Staff recommends approval of VAC2022-01 to vacate approximately 1,000 sq.ft. of Alpine Meadows Drive ROW to Brecken Heights LLC to be included in Lot 1A of The Homes at Brecken Heights.

Attachments

- A. Application**
- B. Final Plat**
- C. Ordinance**

Planning Application Entry Form

Print Record



Go To Development Fees Receipt Form



ID

Permit Number 202206179

Project # EXT/Case # VAC2022-01

Development Case ☐

Date Received 6/23/2022

Date Routed 6/23/2022

Date Initial Permit Approved

*Date Permit Paid 6/23/2022

Open Permit Comments

Request to vacate a portion of Alpine Meadows Drive contained within Lot 1A, The Homes of Brecken Heights.

*NOTE: If Non-profit enter Date Approved in Date Permit Paid field for report

Project Type ZDP

Project Type Number 6

Project Classification VAC Public ROW

Non-Profit, Residential or Commercial Residential

NOTE: Above Field required only for SInS and TUPs

Project Name 500 Brecken Court - Vacate

Site Address Number 500

Site Address Name Brecken Court

Lot Number 1A

Block Number

Subdivision The Homes at Brecke

Filing #

Applicant Business Name Brecken Heights LLC

App First Name Mark

App Last Name McNab

App Phone Number 719-499-5168

PO Box 7662

Mailing Address Street #

Mailing Address Street Name

City Woodland Park

State CO

Zip Code 80863

Owner First Name Brecken Heights LLC

Owner Last Name

Zone Class MFS

Applicant Project Value \$0.00

Date CO Requested

Temp CO Auth Approved

Date Temp CO Expires

UTILITIES SECTION

Tap Allocation Date

Allocation Exp Date

Water Tap #

Sewer Tap #

Tap Paid Date

Tap Exp Date

Taps Refunded ☐

Inside/Outside User

Meter Installed ☐

Filed in Area

Planning Director's Office



VACATION OF A PUBLIC
RIGHT-OF-WAY
2022 Application Form
(Revised 1/1/2022)

VAC 2022-01
Project # 202206179
Fees:
ROW Vacation=\$944.00
(Plus publication and recording fees)

RECEIVED
6/23/22

1. Applicant Information (Include all property owners involved with the vacation request)

Property Owner (First and Last Name)	#1 Mark McNab Brecken Heights LLC	#2 City of Woodland Park
Mailing Address	PO Box 7662 80863 Woodland Park, CO	(Alpine Meadows Dr. 50' ROW - Public)
E-Mail Address	markmcnab@gmail.com	
Phone Numbers	719-499-5160	

2. Property Information

- a. Street Address 500 Brecken Ct., Woodland Park, CO 80863
b. Legal Description (Lot, Block, Subdivision) Lot 1A, The Homes at Brecken Heights
c. Zone District MFR

3. Vacation/Establish Easement Request Information

- a. Provide a General Description of the Area Requested to be Vacated/Established
A portion of Alpine Meadows Dr. contained within Lot 1A, The Homes at Brecken Heights
- b. Reason for Request The Alpine Meadows Dr. 50' Public Row is a formerly unused Row that now partially overlaps a private lot in the currently approved new development plan.*
- c. What Utilities or Drainage Facilities Exist in the Area? Gas, Electric, Storm Drain
- d. Will Any Lots Be Denied Street Access If This Vacation Is Approved?
Yes ☐ No ☒ If Yes, Please Describe _____

* The majority of the Row will remain while the overlapping area is requested to be vacated. The remaining portion of Alpine Meadows Dr. will be contained within the future Row of Brecken Court in The Homes at Brecken Heights

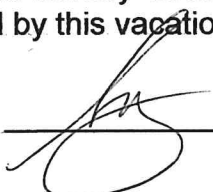
4. Submittal Requirements

The following information must be submitted with the application pursuant to Chapter 12.08 for the vacation of streets, alleys, easement, or other public rights of way.

Applicant Check	City Check	Submittal Requirements:
☒		Complete Application A completed application for a vacation upon forms supplied by the Planning Department.
☒		Application Fee As outlined on page one.
☒		Recording/Publication Fees Teller County Clerk and Recorder charges fees to record documents. You will be billed for these costs plus publication costs incurred by the Planning Department. <i>Recording fees: \$13.00 for the first page, \$5.00 for each page thereafter, plus \$2.00 e-file fee.</i>
☒		Adjoiners List (Required only for Vacation of Right of Way) A complete list of names and mailing addresses of all adjacent property owners within 150' of the subject property. <i>ON FILE</i>
☒		Proof Of Ownership Warranty deed or title policy. <i>ON FILE</i>
☒		Exhibit/Drawing An exhibit or drawing by a registered land surveyor showing the proposed easement or right of way vacation. The exhibit shall be drawn on 8 1/2" x 11" paper. A legal description of the subject property is also required.

5. Certification

I (we) do hereby declare and affirm that I (we) am (are) the owner(s) of the subject property(s) affected by this vacation request.

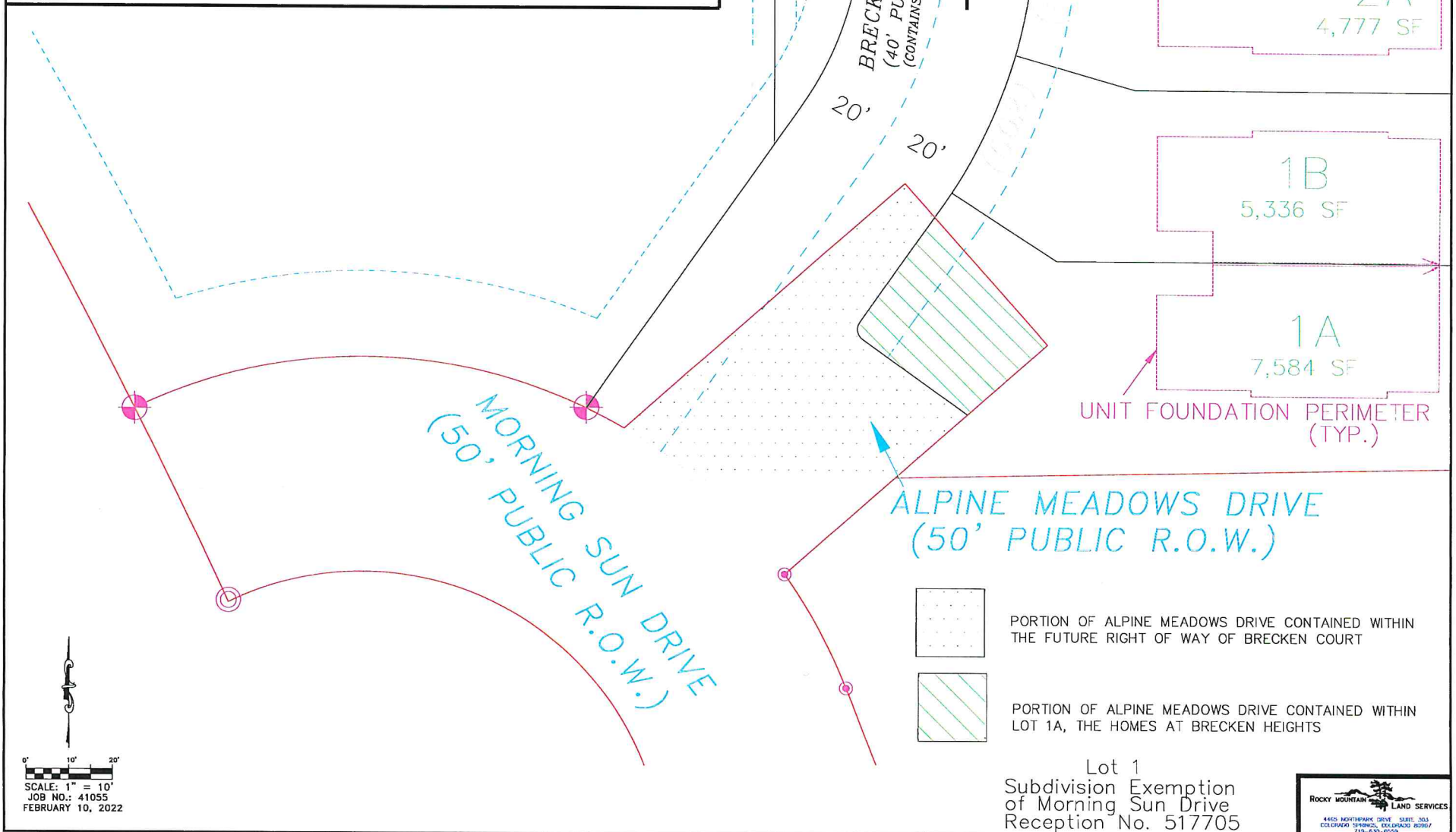
➡ Owner  Date 6-23-22

➡ Owner _____ Date _____

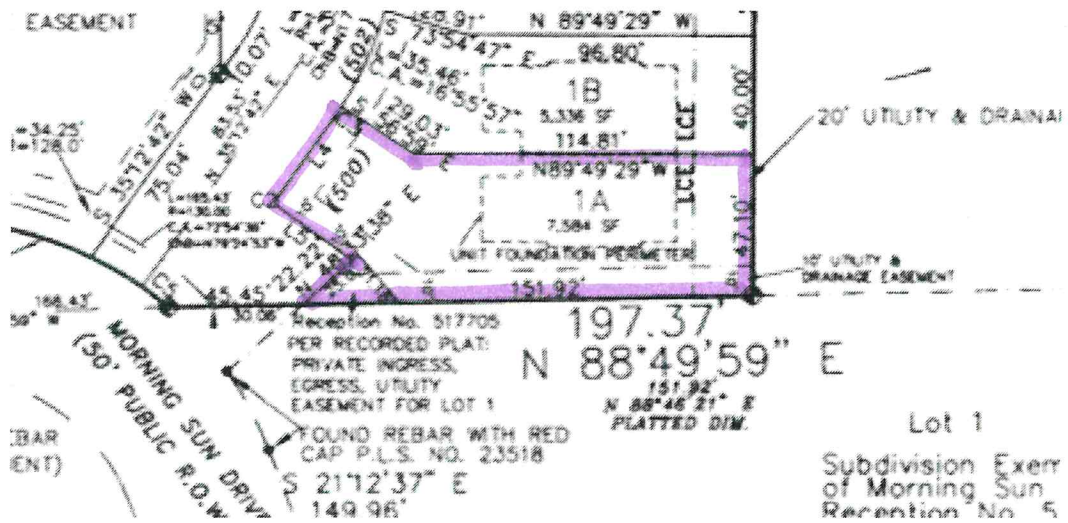
City Use Only	
1.	Submission _____, 20____, taken by _____
2.	Review and Approval from the Utility Service Companies IREA (electric) _____ Century Link (phone) _____ Black Hills (natural gas) _____ Baja (cable TV) _____
3.	Public Hearing Notices Posted On _____, 20____ Published on _____, 20____ Property Owner Notification _____, 20____

RIGHT OF WAY OVERLAP EXHIBIT THE HOMES AT BRECKEN HEIGHTS

A REPLAT OF LOT 1 AND LOT 4, BRECKEN HEIGHTS
TOGETHER WITH A PORTION OF ALPINE MEADOWS DRIVE
IN THE SOUTHWEST 1/4 SECTION 30, T 12 S, R 68 W OF THE 6th P.M.,
WOODLAND PARK, TELLER COUNTY, COLORADO



Lot 1 A





Teller County Government

The Official Site For Teller County, Colorado

Property Records Database

[Teller Home](#)
[County Offices](#)
[Contributing Offices](#)
[New Search](#)
[Mapping Application](#)
[Foreclosures](#)

Property Record Database

Account Information (provided by Assessor)

Account No R0057346

Parcel Id 6031.303040040

Notice of Value [A PDF of the 2021 Notice of Value](#)

Actual \$36,418

Assessed \$10,560

Tax Dist 60

Acct Type Vacant Land

School Dist RE-2

Acres 2.3500

Map No. 3031-30

Owner Name BRECKEN HEIGHTS LLC

Mailing PO BOX 7662

Address WOODLAND PARK, CO

808630210

Physical 19569 E US 24

Address

Area CATAMOUNT AREA

Brief Legal Desc L4 BRECKEN HEIGHTS



Brief Legal Description is not intended for use on legal documents

[Show Map](#)

[Show Sales Map](#) [Vacant Land Sales List](#)

Zoning Information (provided by City of Woodland Park for Questions call 719-687-5202)

Zoning

Land Information (provided by Assessor)

Land Type Abst Code Acres

Vacant 0100 2.3500

TOTAL 2.3500

Transfers (provided by Assessor)

[Vacant Land Sales List](#)**Sale Date Reception No Deed Type Sale Price**

05/04/2021 737814 Plat \$0

Property Tax History (provided by Treasurer). Delinquent taxes are not shown on this website.

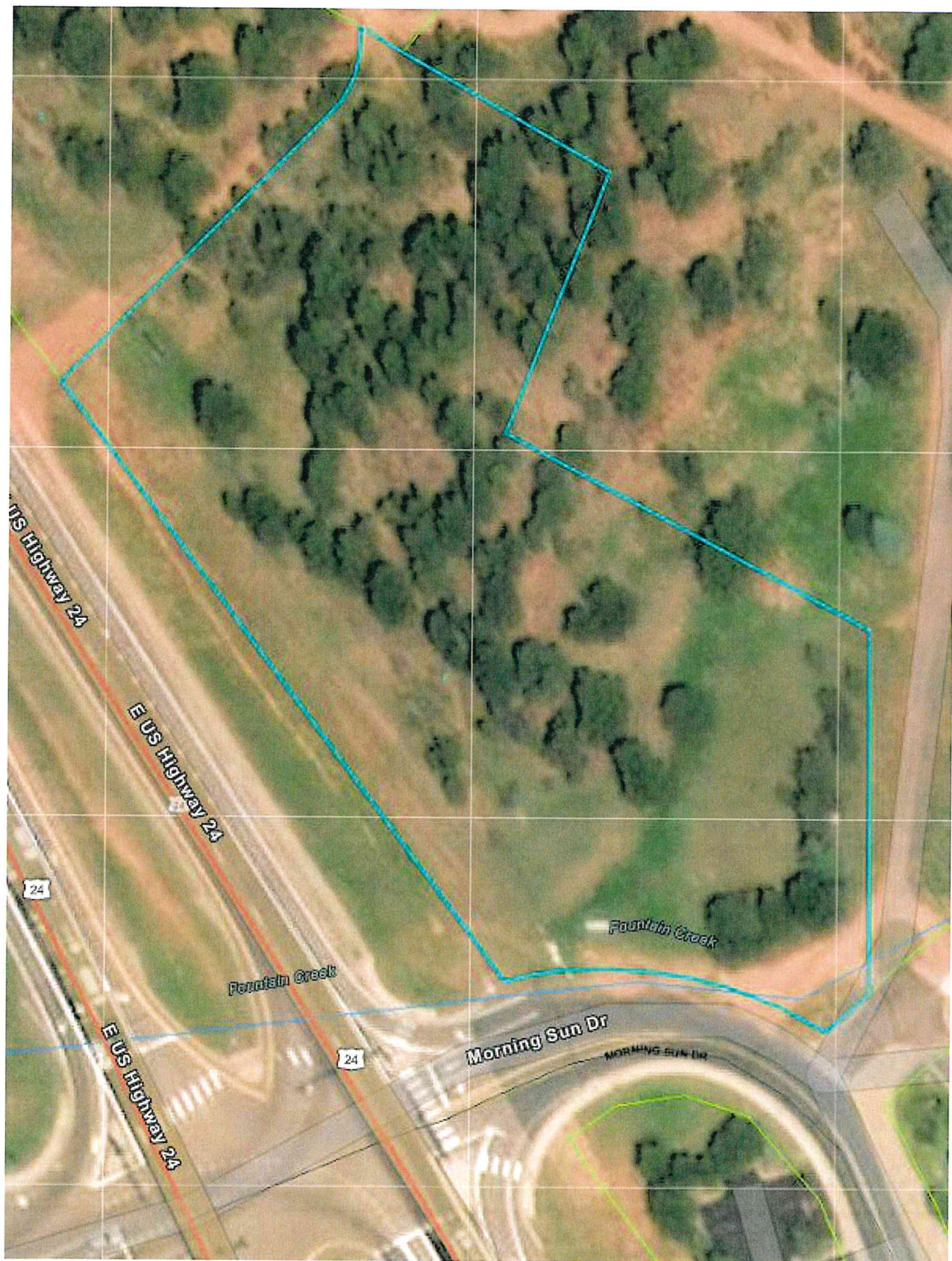
[Tax detail on Treasurers Web Site \(Note: Select Public User Login Button if prompted\).](#)

Tax Year	Tax Amount
2021	\$852.56

This information is updated daily and is as current and accurate as is practical, but it is not official. You may use this data at your own risk. If you have any questions about this data please call the Assessor's Office at (719)689-2941. Zoning Designations may not be accurate. Please call the Teller County Planning Department at (719)687-3048 for information on Zoning in Teller County

E-Mail suggestions or comments to [WebDeveloper](#)

06/23/2022 11:37:33 AM



THE HOMES AT BRECKEN HEIGHTS

A REPLAT OF LOT 1 AND LOT 4, BRECKEN HEIGHTS TOGETHER WITH A PORTION OF ALPINE MEADOWS DRIVE IN THE SOUTHWEST 1/4 SECTION 30, T 12 S, R 68 W OF THE 6th P.M., WOODLAND PARK, TELLER COUNTY, COLORADO

KNOW ALL MEN BY THESE PRESENTS:

THAT BRECKEN HEIGHTS LLC, A COLORADO LIMITED LIABILITY COMPANY, MARK McNAB, MEMBER, BEING THE OWNER OF THE FOLLOWING DESCRIBED TRACT OF LAND:

TO WIT:

LOT 1 AND LOT 4, "BRECKEN HEIGHTS" AS RECORDED UNDER RECEPTION NUMBER 737814 OF THE RECORDS OF THE TELLER COUNTY CLERK AND RECORDER, TOGETHER WITH A PORTION OF ALPINE MEADOWS DRIVE, IN "SUBDIVISION EXEMPTION PLAT OF MORNING SUN DRIVE" AS RECORDED UNDER RECEPTION NUMBER 517705 OF SAID COUNTY RECORDS LOCATED IN THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 30, TOWNSHIP 12 SOUTH, RANGE 68 WEST OF THE 6th P.M., IN THE CITY OF WOODLAND PARK, TELLER COUNTY, COLORADO, SAID TRACT CONTAINS 8.16 ACRES, MORE OR LESS.

DEDICATION:

THE ABOVE PARTY IN INTEREST HAS CAUSED SAID TRACT OF LAND TO BE SURVEYED AND PLATTED INTO LOTS AND EASEMENTS AS SHOWN ON THE ACCOMPANYING PLAT. THE UNDERSIGNED DOES HEREBY GRANT UNTO THE CITY OF WOODLAND PARK THOSE EASEMENTS AND AREAS FOR PUBLIC USE AS SHOWN ON THE PLAT. THE SOLE RIGHT AND AUTHORITY TO RELEASE, CONVEY OR QUIT CLAIM ALL OR ANY SUCH EASEMENTS AND AREAS FOR PUBLIC USE SHALL REMAIN EXCLUSIVELY VESTED IN THE CITY OF WOODLAND PARK. ALL EASEMENTS SHALL RETAIN THE RIGHT OF INGRESS AND EGRESS FOR CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS THEREIN. NO PERMANENT STRUCTURES EXCEPT FENCING UPON CITY APPROVAL SHALL BE ALLOWED ON ANY EASEMENT. NON-EXCLUSIVE UTILITY/DRAINAGE EASEMENTS LOCATED AS SHOWN HEREON ARE HEREBY GRANTED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF UTILITIES AND DRAINAGE FACILITIES, INCLUDING BUT NOT LIMITED TO STREET LIGHTS, ELECTRIC LINES, GAS LINES, CABLE TELEVISION LINES, FIBER OPTIC LINES AND TELEPHONE LINES, AS WELL AS THE PERPETUAL RIGHT FOR INGRESS AND EGRESS FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF SUCH LINES. THIS TRACT OF LAND AS HEREIN PLATTED SHALL BE KNOWN AS "THE HOMES AT BRECKEN HEIGHTS".

IN WITNESS WHEREOF:

THE AFOREMENTIONED, MARK McNAB, MEMBER OF BRECKEN HEIGHTS LLC, HAS EXECUTED THIS INSTRUMENT THIS 11 DAY OF APRIL, 2022, A.D.

Mark McNab
MARK McNAB, MEMBER

STATE OF COLORADO)
COUNTY OF TELLER)

THE ABOVE AND AFOREMENTIONED INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 11th DAY OF April, 2022, A.D., BY MARK McNAB, MEMBER OF BRECKEN HEIGHTS LLC.

WITNESS MY HAND AND OFFICIAL SEAL:



MY COMMISSION EXPIRES: September 12, 2023 *Diana Vachet*
NOTARY PUBLIC

SURVEYOR'S CERTIFICATION:

THE UNDERSIGNED REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, HEREBY CERTIFIES THAT THE ACCOMPANYING PLAT WAS SURVEYED AND DRAWN UNDER HIS SUPERVISION AND ACCURATELY SHOWS THE DESCRIBED TRACT OF LAND AND SUBDIVISION THEREOF, AND THAT THE REQUIREMENTS OF TITLE 38 OF THE COLORADO REVISED STATUTES, 1973 AS AMENDED, HAVE BEEN MET TO THE BEST OF HIS KNOWLEDGE AND BELIEF. THIS PLAT SUBSTANTIALLY DEPICTS THE LOCATION AND HORIZONTAL MEASUREMENTS OF EACH UNIT AND TOWNHOUSE LOT, LOT DESIGNATIONS, THE BUILDING LOCATIONS AND THE LOCATION OF PARKING AND STORAGE SPACES.

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 THE CERTIFICATION SHOWN HEREON.

Christopher Thompson
CHRISTOPHER THOMPSON
PROFESSIONAL LAND SURVEYOR NO. 19625
FOR AND ON BEHALF OF ROCKY MOUNTAIN LAND SERVICES
4465 NORTH PARK DRIVE, SUITE 303
COLORADO SPRINGS, COLORADO 80907
719-630-0559

April 8, 2022
DATE

CERTIFICATE OF APPROVAL:

I HEREBY CERTIFY THAT THE LAND DIVISION SHOWN IS IN ALL RESPECTS IN COMPLIANCE WITH TITLE 17 OF THE MUNICIPAL CODE OF THE CITY OF WOODLAND PARK, AND THAT THEREFORE THIS PLAT HAS BEEN APPROVED BY THE PLANNING DIRECTOR OF THE CITY OF WOODLAND PARK, SUBJECT TO ITS BEING RECORDED BY THE TELLER COUNTY CLERK AND RECORDER WITHIN SIXTY (60) DAYS OF THE DATE BELOW.

DATE 04/08/2022 *Stefan Schumacher*
PLANNING DIRECTOR

ATTEST: *Suzanne Leclercq*
CITY CLERK

COUNTY TREASURER:

ALL TAXES ASSESSED AND DUE ON THE PROPERTY DESCRIBED ABOVE HAVE BEEN PAID IN FULL. SIGNED THIS 11 DAY OF April, 2022, A.D.

Sharon Wilson
TELLER COUNTY TREASURER *Christ Weary*

NOTES:

- (1) NO BUILDING PERMITS SHALL BE ISSUED FOR BUILDING SITES WITHIN THIS PLAT UNTIL ALL REQUIRED FEES HAVE BEEN PAID AND ALL REQUIRED PUBLIC IMPROVEMENTS AND UTILITIES HAVE BEEN INSTALLED AS SPECIFIED BY THE CITY OF WOODLAND PARK OR, ALTERNATIVELY, UNTIL ACCEPTABLE ASSURANCES GUARANTEEING THE PAYMENT OF FEES AND THE COMPLETION OF ALL REQUIRED PUBLIC IMPROVEMENTS AND UTILITIES HAVE BEEN PLACED ON FILE WITH THE CITY OF WOODLAND PARK, COLORADO. ALL EXPENSES INVOLVED IN NECESSARY IMPROVEMENTS TO THE WATER SYSTEM, SANITARY SEWER SYSTEM, GAS SERVICE, ELECTRICAL SERVICE, DRAINAGE SYSTEM AND STREET SYSTEM SHALL BE FINANCED AND PAID FOR BY THE SUBDIVIDER, NOT THE CITY OF WOODLAND PARK. THE APPROVAL OF THIS PLAT MAY BE WITHDRAWN IF ALL CONDITIONS OF APPROVAL ARE NOT MET.
- (2) ALL OWNERS OF LAND WITHIN THIS SUBDIVISION ACQUIRE THEIR LAND SUBJECT TO THE OBLIGATION TO MAINTAIN THEIR LAND SO AS TO ELIMINATE DAMAGE OR EROSION ON THEIR LAND, ADJACENT LAND, OR TO THE PUBLIC ROADWAY OR ROADWAY ADJACENT TO THEIR LAND. EACH OWNER SHALL CONSULT WITH APPROPRIATE CITY OFFICIALS TO DETERMINE WHAT METHOD OF EROSION CONTROL WILL BE ACCEPTABLE. NO BUILDING PERMITS SHALL BE ISSUED UNLESS AND UNTIL ADEQUATE PROVISION HAS BEEN MADE FOR EROSION CONTROL. FURTHER CONTINUING COMPLIANCE WILL BE REQUIRED AFTER ISSUANCE OF A BUILDING PERMIT.
- (3) AT THE TIME THIS PLAT IS BEING APPROVED BY THE CITY OF WOODLAND PARK, THE GROWTH REPRESENTED BY ITS BUILD-OUT IS COMPATIBLE WITH THE CITY'S COMPREHENSIVE PLAN. THE CITY IS IN THE PROCESS OF DEVELOPING WATER SUPPLIES WHICH ARE SUFFICIENT TO SERVE THE CITY IN ACCORDANCE WITH THE COMPREHENSIVE PLAN. THE CITY OF WOODLAND PARK HAS APPROVED WATER TAP ALLOCATIONS FOR THIRTY TWO (32) MULTIFAMILY DWELLING UNITS PER CITY OF WOODLAND PARK RESOLUTION NO. 881, SERIES 2021.
- (4) ALL BEARINGS USED HEREIN ARE BASED ON AN ASSUMED BEARING BETWEEN A REBAR WITH YELLOW PLASTIC CAP STAMPED "PLS NO. 12043" AT THE NORTHWEST AND NORTHEAST CORNER OF LOT 2, BRECKEN HEIGHTS AS RECORDED UNDER RECEPTION NUMBER 737814 OF THE TELLER COUNTY RECORDS AS DEPICTED HEREON. THE ASSUMED PLATTED BEARING BETWEEN SAID MONUMENTS IS N 68° 32' 27" E.
- (5) THIS PLAT DOES NOT REPRESENT A TITLE SEARCH BY RMLS FOR EITHER OWNERSHIP OR EASEMENTS OF RECORD.
- (6) LANDOWNERS AND HOMEOWNERS ASSOCIATION AGREE TO INDEMNIFY AND HOLD HARMLESS FROM AND AGAINST ANY AND ALL LOSS, COST, DAMAGE, EXPENSE AND LIABILITY, INCLUDING ATTORNEY'S FEES AND EXPENSES THAT MAY BE INCURRED BY OR ASSERTED, CLAIMED OR CHARGED AGAINST THE CITY IN THE EVENT THAT CITY UTILITIES ARE LOCATED OUTSIDE OF EASEMENTS.
- (7) THE CITY SHALL HAVE THE RIGHT TO USE THE EASEMENTS FOR THE CONSTRUCTION, RECONSTRUCTION, USE, OPERATION, REPAIR, REPLACEMENT AND MAINTENANCE OF THE UTILITY FACILITIES. PROPERTY OWNER (OWNER) SHALL NOT CONSTRUCT OR CAUSE TO BE CONSTRUCTED ANY PERMANENT STRUCTURES, INCLUDING BUT NOT LIMITED TO BUILDINGS ON THE PREMISES. OWNER SHALL NOT CONSTRUCT OR CAUSE TO BE CONSTRUCTED ANY IMPROVEMENTS THAT RESTRICT ACCESS TO OR VISIBILITY OR OPERATION OF THE UTILITY FACILITIES. OWNER MAY CONSTRUCT SIDEWALKS, TRAILS, FENCES, DRIVEWAYS, LANDSCAPING AND OTHER SURFACE IMPROVEMENTS AT THE OWNER'S EXPENSE AND TO THE CITY'S SPECIFICATIONS. IF CITY DETERMINES IN ITS SOLE DISCRETION, THAT IT IS NECESSARY FOR CITY TO DISTURB OWNER'S SURFACE IMPROVEMENTS IN ORDER TO REPAIR OR MAINTAIN THE UTILITY FACILITIES, CITY'S RESPONSIBILITY SHALL BE LIMITED TO THE RE-COMPACTING OF ANY EXCAVATION, REPLACEMENT OF SURFACE GRAVEL AND GENERAL SURFACE CLEANUP. THE OWNER SHALL BE RESPONSIBLE FOR THE REPAIR AND/OR REPLACEMENT OF OWNER'S SURFACE IMPROVEMENTS WITHIN THE EASEMENT.
- (8) WILDFIRE MITIGATION SHALL BE AS DESCRIBED IN "BRECKEN HEIGHTS WILDFIRE MITIGATION PLAN" BY DAVID ROOT, FORESTER, CSFS ON AUGUST 11, 2020.
- (9) ALL PROPERTY OWNERS ARE RESPONSIBLE FOR MAINTAINING PROPER STORMWATER DRAINAGE IN AND THROUGH THEIR PROPERTY. PUBLIC DRAINAGE EASEMENTS AS SPECIFICALLY NOTED ON THE PLAT SHALL BE MAINTAINED BY INDIVIDUAL LOT OWNERS UNLESS OTHERWISE INDICATED. STRUCTURES, FENCES, MATERIALS, OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN DRAINAGE EASEMENTS.
- (10) ALL DISTANCES DEPICTED ON THIS PLAT ARE U.S. SURVEY FEET.
- (11) EACH TOWNHOUSE PROVIDED FOR IN THIS PLAT IS SERVED BY INDIVIDUAL WATER AND SEWER SERVICES FROM THE PUBLIC MAINS. EACH TOWNHOUSE OWNER SHALL OWN AND BE RESPONSIBLE FOR THE OPERATION, MAINTENANCE AND REPLACEMENT OF THE WATER SERVICE LINE FROM THE PROPERTY SHUT-OFF VALVE LOCATED NEAR THE UTILITY EASEMENT BOUNDARY TO THE TOWNHOUSE. EACH TOWNHOUSE OWNER SHALL OWN AND BE RESPONSIBLE FOR THE OPERATION, MAINTENANCE AND REPLACEMENT OF THE SEWER SERVICE LINE FROM THE TOWNHOUSE TO THE PUBLIC SEWER MAIN, INCLUDING THE TAPPING SADDLE. THE CITY RESERVES THE RIGHT OF INGRESS AND EGRESS AND MAINTENANCE IN PRIVATE UTILITY EASEMENTS, ACCESSWAYS, OR COMMON AREAS FOR THE PURPOSE OF METER READING AND SHUT-OFF FOR NON-PAYMENT.
- (12) THE THICKNESS OF THE COMMON WALLS BETWEEN OR SEPARATING THE INDIVIDUAL UNITS IS TWELVE INCHES (12").
- (13) GENERAL COMMON ELEMENTS (DENOED GCE) SHALL MEAN AND REFER TO ELEMENTS WHICH MAY BE USED BY THE INDIVIDUAL LOT OWNERS AND THE TOWNHOUSE OWNERS ASSOCIATION. LIMITED COMMON ELEMENTS (DENOED LCE) SHALL MEAN AND REFER TO THE YARD ELEMENTS WITHIN EACH INDIVIDUAL LOT AREA FOR THE EXCLUSIVE USE OF THE RESPECTIVE LOT/TOWNHOUSE OWNER AS DEFINED BY THE TOWNHOUSE COVENANTS REFERRED TO IN NOTE 14 BELOW.
- (14) THIS PROPERTY SHALL BE SUBJECT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE HOMES AT BRECKEN HEIGHTS TOWNHOMES AS RECORDED UNDER RECEPTION NUMBER 748856 OF THE RECORDS OF THE TELLER COUNTY, COLORADO CLERK AND RECORDER.
- (15) TRACTS A AND B ARE GENERAL COMMON ELEMENTS FOR THE PURPOSES OF DRAINAGE, UTILITIES AND OPEN SPACE TO BE OWNED AND MAINTAINED BY THE BRECKEN HEIGHTS TOWNHOUSE OWNERS ASSOCIATION. TRACT C IS A PRIVATE DRAINAGE DETENTION POND WITH STORM DRAINAGE FACILITIES CONTAINED THEREIN.
- (16) ANY IMPROVEMENTS WITHIN AN EASEMENT TO INCLUDE FENCES, SHEDS, LANDSCAPING AND CONCRETE AND ASPHALT SURFACE ENHANCEMENTS ARE THE RESPONSIBILITY OF THE PROPERTY OWNER AND/OR THE HOMEOWNERS ASSOCIATION.

FLOOD PLAIN CERTIFICATION:

ACCORDING TO NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP NUMBER 081910C2060 (EFFECTIVE DATE SEPTEMBER 25, 2009) THE SUBJECT PROPERTY IS LOCATED WITHIN ZONE X, AN AREA OF MINIMAL FLOOD HAZARD.

RECORDING:

STATE OF COLORADO)
COUNTY OF TELLER)

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT MY OFFICE AT 4 O'CLOCK P.M. THIS 11th DAY OF April, 2022, A.D., AND IS DULY RECORDED UNDER RECEPTION NUMBER 19444 OF THE RECORDS OF TELLER COUNTY, COLORADO.

BY: *Sharon Ashton* Deputy Clerk & Recorder
TELLER COUNTY CLERK AND RECORDER

**OWNER:**

BRECKEN HEIGHTS LLC
MARK McNAB, MANAGER
P.O. BOX 7662
WOODLAND PARK, CO 80863

DEVELOPER:

MBI CONTRACTORS, INC.
P.O. BOX 7662
WOODLAND PARK, CO 80863

SURVEYOR:

ROCKY MOUNTAIN LAND SERVICES
4465 NORTH PARK DRIVE SUITE 303
COLORADO SPRINGS, CO 80907
719-630-0559
JOB NO. 41055
DECEMBER 29, 2021

ROCKY MOUNTAIN LAND SERVICES
4465 NORTH PARK DRIVE SUITE 303
COLORADO SPRINGS, COLORADO 80907
719-630-0559

as platted:

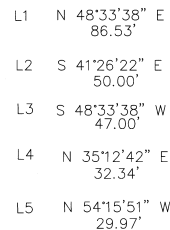


WOODLAND PARK, TELLER COUNTY, COLORADO

UNPLATTED

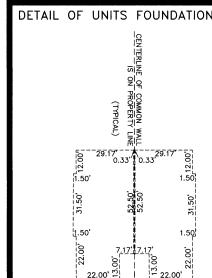
assumed basis of bearings
N 68°32'27" E
817.87

deed=N 68°42'09"
818.37



C5 L=31.16'
R=120.00
C.A.=14°52'48"
ChB=N53°02'49"

 FOUND REBAR WITH YELLOW CAP NO. 12043
 FOUND REBAR WITH YELLOW CAP NO. 30102
 FOUND REBAR WITH RED CAP NO. 23518
 FOUND REBAR WITH NO CAP
 FOUND REBAR WITH ALUMINUM CAP "C.D.O.H."
 SET REBAR WITH PLASTIC CAP STAMPED "RMLS NO. 19625"
(XXX) INDICATES ADDRESS
GCE INDICATES A GENERAL COMMON ELEMENT
LCE INDICATES A LIMITED COMMON ELEMENT
 INDICATES A PRIVATE INGRESS, EGRESS, UTILITY AND DRAINAGE EASEMENT




 ROCKY MOUNTAIN LAND SERVICES
 4465 NORTHPARK DRIVE, SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-630-0559

CITY OF WOODLAND PARK, COLORADO

ORDINANCE NO. 1406, SERIES 2022

AN ORDINANCE VACATING THAT PORTION OF RIGHT OF WAY OVERLAPPING
LOT 1A, THE HOMES AT BRECKEN COURT, WOODLAND PARK, TELLER
COUNTY, COLORADO.

WHEREAS, the City Council, after public hearing with notice as required by law, finds that it is in the best interest of the citizens of the City of Woodland Park to grant the requested vacation; and

WHEREAS, no land adjoining the public right-of-way requested to be vacated would be left, by reason of this vacation, without an established public road or public access easement connecting said land with another established public road.

NOW, THEREFORE, THE CITY OF WOODLAND PARK, COLORADO, ORDAINS:

That the Ordinance entitled "AN ORDINANCE VACATING THAT PORTION OF RIGHT OF WAY OVERLAPPING LOT 1A, THE HOMES AT BRECKEN COURT, WOODLAND PARK, TELLER COUNTY, COLORADO," be and is hereby adopted as follows:

Section 1. The portion of the right of way labeled Parcel A as shown in Exhibit A is hereby vacated by the City of Woodland Park.

Section 2. Title to the entirety of Parcel A, by agreement of all involved parties, shall vest with Lot 4, Block 6, Elm Heights.

Section 3. There is hereby reserved by and to the City all utility and drainage easements established under "The Homes at Brecken Heights" Plat filed with Teller County, Reception Number: 149444.

Section 4. This Ordinance shall be in full force and effect from and after its publication as required by law.

PASSED BY CITY COUNCIL ON SECOND AND FINAL READING FOLLOWING
PUBLIC HEARING THIS _____ DAY OF _____, 2022.

Mayor Pro-Tem Hilary LaBarre

ATTEST: _____
City Clerk Suzanne Leclercq

EXHIBIT A

RIGHT OF WAY OVERLAP EXHIBIT THE HOMES AT BRECKEN HEIGHTS

A REPLAT OF LOT 1 AND LOT 4, BRECKEN HEIGHTS
TOGETHER WITH A PORTION OF ALPINE MEADOWS DRIVE
IN THE SOUTHWEST 1/4 SECTION 30, T 12 S, R 68 W OF THE 6th P.M.,
WOODLAND PARK, TELLER COUNTY, COLORADO

