



CITY OF IDAHO SPRINGS
1711 Miner Street
P.O. Box 907
Idaho Springs, CO 80452-0907
Telephone (303) 567-4421
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NOTICE AND AGENDA
Idaho Springs Planning Commission
1711 Miner Street, City Hall
Wednesday, December 6, 2023 – 6:00 p.m.

**PLANNING COMMISSION
REGULAR MEETING**
Wednesday, December 6th, 2023
6:00 PM

- ❖ Call to Order
- ❖ Roll Call
- ❖ Approval of Minutes from November 01, 2023
- ❖ Conflict of Interest
- ❖ Public Comment (on non-agenda items)
- ❖ New Business
 - A) Consideration of Boba Tea Shop Fee In Lieu Application
 - B) Smart Hotel Ordinance
 - C) Ordinance recommendation Virginia Canyon Road Alignment
- ❖ Adjournment

**PLANNING COMMISSION
WORK SESSION**
Wednesday December 6th, 2023

- ❖ Consideration of Food Truck Ordinance/Question of Locations
- ❖ Consideration of Animal Regulations
- ❖ Fee In Lieu Modification Discussion

**IN-PERSON AND REMOTE MEETING PUBLIC ATTENDANCE AND PARTICIPATION
INSTRUCTIONS**

The Public is able to view and hear this meeting remotely at the following address on the City's website:
<https://www.colorado.gov/pacific/idahosprings/city-council-live>

To provide public comment remotely please use the link below
<https://us02web.zoom.us/j/89171912558?pwd=cTNDRO8rL0NhQzdVcG4wZlo5cUY5dz09>

For in-person Unscheduled Public Comment, please sign-in at the entrance to the Council Chambers.

Each individual that is providing public comment is limited to three (3) minutes.



**PLANNING COMMISSION
MINUTES
November 1, 2023**

CALL TO ORDER

Chair Cindy Olson called the meeting to order at 6:00 p.m.

ROLL CALL

Commissioners present were Chair Cindy Olson, Don Reimer, Ursula Cruzalegui, Chuck Howard, Kent Slaymaker and Lisa Manifold. Staff present were City Administrator Andrew Marsh, Assistant City Administrator Jon Cain, Deputy City Clerk Wonder Martell, and Assistant City Attorney Nick Klein.

APPROVAL OF MINUTES

Commissioner Reimer moved to approve the minutes from June 14, 2023. Commissioner Slaymaker seconded. The motion was carried by unanimous voice vote.

CONFLICT OF INTEREST

PUBLIC COMMENT

Chair Olson asked the audience if there was any public comment regarding anything not on the agenda, and there was none.

NEW BUSINESS

1. PUBLIC HEARING: Final Development Plan (FDP) Application for 1501-1503 Colorado Blvd (Gem Motel)

Chair Olson opened the public hearing at 6:01 PM.

Assistant City Administrator Mr. Cain went over his staff report with the commission. Mr. Cain advised the commission that in recent years, the Property has been used as multi-family residential housing. On January 15, 2022, the duplex on the property was struck and damaged by a drunk driver. It has been vacant due to safety concerns since that time. The zoning on this property is Commercial 1 (C-1). Mr. Cain also brought up that The Applicant's provided site plan reveals a deficiency of one (1) parking space for the proposed use. To rectify this shortfall, the Applicant has two viable options: either furnish an additional parking space or participate in the recently introduced fee-in-lieu program, requiring a payment of \$20,000 for the 1 needed space. The applicant has applied for the fee-in-lieu program for the Planning Commission's consideration this evening. Approval by the Planning Commission, coupled with an agreement to fulfill the fee, are prerequisites for FDP approval. The Parking Fee in Lieu program is applicable to properties within the designated boundary. This area is generally outlined by Water St. to the South, Colorado Blvd. to the North, 13th Ave. to the West, and Riverside Dr. to the East (as depicted in ISMC Figure 21-134.1). The Property lies within the Program Boundary area. Mr. Cain mentioned that there was a concern brought up about storm water and that the suggested

route for that storm water is to go to Colorado Blvd and not to Center Alley. Interim City Planner Jonathan Cain brought up that there were comments submitted to the previous Idaho Springs City Planner back in December of 2022 that never made it into the packet, so staff has printed out the comments and put them on the dais for the commission to review. Mr. Cain asked Deputy City Clerk Ms. Martell to amend the public packet to include these comments from the applicant neighbor. City Staff recommends a condition of the applicant working with the Public Works department to have the drainage go to Colorado Blvd to the North. Mr. Cain advised the commission that City Staff finds that this project conforms with most of the requirements of the Idaho Springs Municipal Code and ***recommends FDP approval with conditions.***

APPLICANT TESTIMONY

Zeke Freeman (Architect on record) 23416 Navajo Road Indian Hills, CO

Mr. Freeman stated that he was trying to create a space for people to enjoy Idaho Springs. This project is to be a boutique hotel, with a café on the base level and 2 units on the base level also. There will be 6 units on the second level.

Craig Levy (Property Owner/Applicant) 22809 Nampeyo Road, Indian hills CO

Mr. Levy stated that he really wanted the design to fit in with Idaho Springs and to keep the historic feel of the city. Mr. Levy advised the commission that this property was destroyed, and he wants to make it the best for Idaho Springs.

Mr. Freeman added that access to the property will be through the Alley and that if the board looked at the plans with the parking layout they would see that there is snow storage as well as trash and some screening walls. There will be a fence line on the East side for privacy screening. There was also a traffic analysis completed and it was shown as adequate.

PUBLIC COMMENT

Heather Campbell 1521 Colorado Blvd, Idaho Springs CO

Ms. Campbell stated that she thought that it was “awesome” that the architect mentioned that he wanted to get to know his neighbors, and she stated that she could show in pictures what type of neighbor that they are. Ms. Campbell stated that she would start with the emotional part and end with the analytical. Ms. Campbell stated that the commission probably did not have time to review her concerns that she had submitted to the previous planner back in December of 2022. Ms. Campbell mentioned that the planner did not forward her concerns to the commission as she had requested at that time, in 2022, and that when she re-sent those concerns to the interim planner in May of 2023, they were again not sent to the commission for review. Now, this is the first time the commission has got to know about her concerns with this development. Ms. Campbell mentioned that she grew up in Idaho Springs and has owned her home for 17 years, and that it was the most beautiful property in town. That is not the case anymore and there seems to be no thought about the consequences that this development will have on her home, her peace, her sanctuary, and her retirement. Ms. Campbell also mentioned that these “neighbors” have been very clear on the type of neighbors that they are. Ms. Campbell brought out many large sized pictures to show the commission and the audience. There were pictures of 4-foot-high weeds that were only removed when the Fire Department notified the property owner of the fire hazard back around the Fourth of July. Ms. Campbell mentioned that the property still has broken windows. Ms. Campbell stated that she was done with the emotional part, and it was now time for the analytical part. This property has been used for residential purposes for at least the past 60 years, and maybe the past 80 years. Ms. Campbell mentioned that she remembers many tenants of that property and most of them worked in the downtown area. Ms. Campbell stated that we do not need another hotel, that there is a brand-new hotel opening up very soon less than 2 blocks away. Ms. Campbell ended her testimony with the statement “let’s not choose tourism over housing, we need housing and I have the most to lose”.

APPLICANT TESTIMONY TO ADDRESS ANY COMMENTS

Craig Levy came back to the podium to address Ms. Campbells comments. Mr. Levy stated that the highest and best use for this property is not residential and that there is a city ordinance that says after 6 months, that the residences cannot be rebuilt. Mr. Levy stated that the disrepair of the building was caused by the accident, and that we were lucky that no one was injured and that he was not allowed to repair the building per the city. Mr. Levy stated that he believes that he is putting the best use forward to improve the site.

Chair Olson closed the public hearing at 6:27 pm to go into commission deliberations.

COMMISSION DELIBERATION

Chair Olson stated that it was interesting that the Fee-In-lieu was being used and that this was the first time for this program to be used. Ms. Olson stated that the landscaping should be native plants. Ursula Cruzalegui stated that in the staff report, it was mentioned that this property could be designated as historic in the future, and asked if the applicant has any intent to have it designated?

Assistant City Attorney Nick Klein advised that in order to ask the applicant or staff any questions, that the public hearing should be re-opened. Once the hearing is closed, that is the time for the commission to discuss among themselves and not to question staff or the applicant. Ursula stated that she understood, and she would ask her other questions and wait to see if the commission needed to re-open the hearing after all of her questions. Ms. Cruzalegui mentioned that the staff report also mentioned that there was going to be parking for off-street loading and in her opinion that this is more of a café style versus a restaurant and questioned if off-street loading would be necessary. Ms. Cruzalegui also stated that she wished that the comments from the neighbor were received prior to today and if there was to be a hot tub on the third floor there would be some additional screening on that for privacy for the neighbor and that the architect should address any noise control concerns.

Commissioner Slaymaker also mentioned that he had questions on noise and privacy.

Commissioner Reimer mentioned that the question is Housing versus Commercial Hotel. Mr. Reimer stated that there was nothing that was affordable, and would a commercial hotel benefit the economy?

Commissioner Slaymaker replied that at this time, we are not losing any housing as the property is not in use.

Chair Olson stated that the Zoning is C1 which allows the property owner to do this and that's it's not the commissions place to tell him what he can or cannot do, what they need to look at is to make sure that all the conditions for this approval have been bet.

MOTION

Commissioner Cruzalegui moved to make a recommendation to City Council. After this motion Commissioners Slaymaker and Cruzalegui were still having discussion about potential additional conditions for this FDP. Assistant City Attorney Mr. Klein advised that if there was to be further discussion that Ms. Cruzalegui would need to withdraw her motion pending further conversation about additional conditions. Ms. Cruzalegui withdrew her motion pending discussion.

FURTHER DISCUSSION

Ms. Cruzalegui stated that she wanted more housing, and Mr. Slaymaker agreed but stated that they don't really have the authority to deny this because of what they personally want in the city. Mr. Slaymaker stated that it's not up to them to tell them what they can do, only to affirm that they have met the criteria for approval. Ms. Cruzalegui stated that page 7 mentions landscaping materials and one of the trees listed is not native to Colorado and is actually labeled as invasive. Ms. Cruzalegui requests that the applicant only uses native plants and none that are invasive.

MOTION

Commissioner Howard moved to recommend approval of the associated Fee-In-Lieu Application and **APPROVAL WITH CONDITIONS** of the Final Development Plan for the “Gem Motel” at 1503 Colorado Boulevard, the conditions being as follows:

Prior to the issuance of any permit related to the Plan, the following shall occur:

The applicant shall work with the department of Public Works to ensure that stormwater drainage on the site is sufficient and directed towards Colorado Boulevard and that all plants used for landscaping be native plants. Commissioner Slaymaker seconded and asked to amend the motion with an additional condition to include privacy screening on the third story on the East Side. Second was followed by an all-in favor roll call vote. Motion carries to City Council at the November 13th, 2023 regular meeting.

2. PUBLIC HEARING: Final Development Plan (FDP) for 320 Colo. Highway 103 (CCSD Transportation Maintenance Facility)

Chair Olson opened the public hearing at 6:55 PM.

Assistant City Attorney Nick Klein advised the commission that he would provide a bit of background on this topic. This project has been subject to some litigation between the School District and the City. This hearing is part of the settlement discussions to dismiss the legal citation. As part of the bargaining this hearing will be the only hearing, this will not be going to City Council for approval, it will go to council as an update. The decision of the Planning Commission is final. As a school district, there are some privileges carried and most are outside of the city’s control.

Interim City Planner Jon Cain went over his staff report. Mr. Cain advised the commission that in the packet there are two staff reports. One from the previous planner Mr. Chipman and one recent one from Mr. Cain. Mr. Cain stated that Mr. Chipman’s report shows the general review process, that the property is zoned C1, there is 5.72 acres of land in that parcel, however it’s really steep so there is most likely less buildable area than that. The focus on Mr. Chipman’s report listed 5 conditions for approval:

1. That the Petitioner provide a revised plat indicating the property acquired from CDOT resulting in compliance with the front yard setback. The garbage enclosure is required to meet the 1.5 times front yard setback.

2023 Staff Analysis: The Applicant has provided a quit claim deed between the Applicant and CDOT, demonstrating compliance with front yard setback requirements. The Applicant has also committed to providing a permanent easement for the main water line extension required for the property.

2. That a minor landscape plan be submitted that addresses the spirit of the landscape provisions found within Section 21-231, focusing on drought tolerant materials and practices.

2023 Staff Analysis: The School District has provided an erosion control plan to the City that generally meets the intents of Section 21-231 of the City Code. They have also committed to only using native plants in this process.

3. That a photometric plan be submitted to ensure that neighboring residential properties are not adversely affected.

2023 Staff Analysis: The School District has submitted a photometric plan. All neighboring residential properties are nearly 200 feet from the site and significantly lower in elevation. It appears that the photometric impact on neighboring properties from this facility is minimal.

4. The parking stalls shall comply with the minimum depth of eighteen (18) feet.

2023 Staff Analysis: Parking and Bus Stalls meet the necessary standards.

5. That the building design be amended to include additional architectural delineations on the north side of the building, parapet variations on the east side,

and demonstrate that the rooftop mechanical units are not visible from Colorado 103 or the neighboring residences.

2023 Staff Analysis: The building design, while lacking some requested architectural details, complies with the architectural guidelines for this location, with no visible rooftop mechanical units.

Mr. Cain advised the commission that the district has committed to using only native plants and drought tolerant materials. Mr. Cain also brought up that the elementary school will be at the facility and there will be an above ground fuel tank at the site to fuel the school buses. There is an outdated ordinance not allowing above ground fuel storage that was discussed by council a few weeks ago and they are looking to redo that ordinance to allow for above ground fuel storage. Mr. Cain stated that the school building does not require an FDP, it will only require a parking plan.

APPLICANT TESTIMONY

Jessica Blanford 5426 West 100th Place, Westminster, CO

Ms. Blanford stated that the facility is 4566 square feet, you will see skylights on the top of the facility and the building will be used for maintenance and will have two offices. The access will be the same, from Colorado Highway 103, and there is adequate parking for buses at the top of the drive.

Commissioner Reimer asked if there was to be additional security for the above ground fuel tank and if there were any vandalism concerns? Security concerns?

Mr. Blanford replied and advised commissioner Reimer that they are concerned as they have issue with catalytic converters being stolen also. Ms. Blanford stated that there will be fencing around the site, along with cameras. Commissioner Reimer asked if the fuel tank leaks is there a containment plan? Ms. Blanford stated yes and that they would be following the stated regulations on containment.

Mike Gass 345 8th Avenue, Idaho Springs, CO

Mr. Gass wanted to speak to the security question. Mr. Gass stated that there will be cameras, access cards, and that Mr. Reimers point is well accepted, and that safety is his number 1 concern.

Chair Olson asked Assistant City Attorney if there should be an additional condition on the fuel tank? Mr. Klein stated that would not be necessary.

PUBLIC COMMENT

There was no comment from the public.

APPLICANT TESTIMONY TO ADDRESS ANY COMMENTS

n/a there were no public comments on this application.

Chair Olson closed the public hearing at 7:11 pm

COMMISSION DELIBERATION

None

MOTION

Commissioner Slaymaker moved to **APPROVE** the Final Development Plan for the “Transportation Maintenance Facility” at 320 Colorado 103. Commissioner Howard seconded followed by an all-in favor roll call vote, FDP approved.

STAFF UPDATE

Interim City Planner Jon Cain introduced Maria to the commission. Mr. Cain stated that Maria is really interested in Historic preservation. Mr. Cain also advised the commission that a full-time planner had been hired and that he lives in Idaho Springs and will be starting on 11/29/2023. Mr.

Cain stated that he assumes that he will oversee the planner in the beginning just to work through all of the current projects and requests. Mr. Cain advised the commission that there are 4 annexation requests at the moment and at least two of them will be ready in probably January or February. Chair Olson requested that the annexations wait for the full-time planner, and she also asked about the ordinances for food trucks, animal regulations, and smart hotels. Mr. Cain stated that he would like to bring those to the commission in a work session in December of this year.

Mr. Cain also advised the commission that council was reviewing the ordinance for the Fee-In-Lieu and has asked planning commission to re-evaluate that ordinance. Mr. Cain also mentioned that the comp plan from 2017 needs to be updated and that update has been budgeted for in 2024. There is also the Innovative Housing program (IHOP). The name of the program at this time is A Clear Path Home. "I say yes" focus on what we want for our community, workforce housing will be coming to council at the November 27th council meeting, and that the city needs to adopt 1 strategy for affordable housing.

Commissioner Cruzalegui asked to see what we have so far in proposed ordinances, and Mr. Klein advised that yes, the commission could review them in a work session. Commissioner Cruzalegui brought up that the commission had been talking for over a year about ADU (Accessory Dwelling Units) and other potential housing opportunities, and will that be covered under the IHOP program, and will it really not be until June to have this completed? Mr. Cain replied and stated that yes, those items will be covered under the IHOP program and with the time it takes for ordinances to be passed and published, that yes it will be into the next year for sure. Commissioner Howard asked about the new Club Hotel, about what they were going to offer and about the almost finished apartments at 1800 Colorado Blvd (Gold Rush Center). Mr. Cain advised the commission that the Club Hotel was in fact almost done with their inspections and almost had their COA. Mr. Cain advised the commission that this hotel was a boutique hotel with a meeting center for potential events. Mr. Cain also advised the commission that the apartments at 1800 Colorado Blvd were also close to being done and that it would be used for workforce housing, not affordable housing specifically, but workforce housing.

ADJOURMENT

Chair Olson adjourned the meeting at 7:31 pm

TO: Planning Commission
CC: City Administrator Andrew Marsh
Community Development Planner Dylan Graves
FROM: Jonathan Cain | Assistant City Administrator
DATE: December 6, 2023
SUBJECT: Parking Fee-in-Lieu Application for Boba Please Tea Shop,
1639 Miner Street
ATTACHMENTS: Application and Property Owner Consent Documents



INTRODUCTION

The applicant (Grant Zuckel) has applied to the City's Voluntary Parking Fee In Lieu Program, as stipulated in Sec. 21-134 of the Idaho Springs Municipal Code (ISMC). They are seeking the Planning Commission's approval to utilize the Voluntary Fee-in-Lieu program for the one parking space required for their proposed business, Boba Please Tea Shop at 1639 Miner Street

EVALUATION AGAINST APPROVAL CRITERIA (ISMC SEC. 21-134 (E))

1. On-Site Parking Feasibility (Sec. 21-134 (E)(1))

Criterion Language: Whether the applicant demonstrates that all required parking cannot be reasonably located on-site due to site-specific physical constraints or site design requirements.

Analysis: The unit at 1639 Miner Street, intended for the new Boba Tea Shop, is undergoing a change of use from retail to restaurant. This transition necessitates compliance with the City's updated parking requirements (2018), which require that one parking space be provided on site for the new use.

The property has a small, unpaved parking area on its southeast corner, primarily used by residents and other tenants. The building's owner has not allocated the leasee a dedicated parking space in this lot for the tea shop.

Given that the applicant is leasing the unit and lacks the authority to modify the existing parking configuration, they are unable to meet the on-site parking requirement. Consequently, their recourse is to seek approval through the City's Parking Fee-in-lieu program.

In relation to the criteria for on-site parking feasibility as outlined in Sec. 21-134 (E)(1), **this application appears to align with criterion #1.** The applicant, as a lessee, faces constraints in altering the parking setup. The absence of a dedicated parking space for the Boba Tea Shop and the property owner's decision against paving the parking area further underscore the impracticality of providing the necessary parking on-site.

2. Impact on Historic Significance (Sec. 21-134 (E)(2))

Criterion Language: Whether the historic significance of existing buildings or other site features would be adversely affected to meet the parking requirement on site.

Analysis: It does not appear that the historic significance of the existing building or other site features would be adversely affected if parking space were provided on site. **This application does not appear to align with Criterion #2.**

3. Proximity to Public Parking/Transportation (Sec. 21-134 (E)(3))

Criterion Language: Whether the property is located in close proximity to permanent public parking or public transportation routes.

Analysis: The business is situated on the southern side of Miner Street, in immediate proximity to the City's public parking areas. Additionally, it is located three blocks east of a public transportation hub at Exit 240 off Interstate 70. Given its close proximity to these significant transportation and parking resources, **this application seems to align with Criterion #3.**

4. Land Use and Parking Needs (Sec. 21-134 (E)(4))

Criterion Language: Whether the characteristics of the proposed land use reduce the need for on-site parking.

Analysis: This business will function as a small tea shop. It will generally have 1 employee eligible for an employee parking permit. Given its small size and location, it is likely that it will attract mostly pedestrian traffic from Miner Street, with customers walking from nearby residential areas or City parking lots.

It appears that the application aligns with Criterion #4. Its operation model, focusing on minimal staffing and a pedestrian-centric customer base, indicates that the parking requirements may be similar to its previous use.

5. Impact on Public Health, Safety, Welfare (Sec. 21-134 (E)(5))

Criterion Language: Whether the public health, safety or welfare would be adversely affected by locating the required parking on the property.

Analysis: While adding parking on the property wouldn't harm public health, safety, or welfare, the applicant can't add parking spaces due to lack of property owner permission.

It appears that the application aligns with Criterion #5 by not adversely affecting the public health, safety or welfare.

FINANCIAL CONSIDERATIONS (ISMC SEC. 21-134 (C), (F), (G))

- **Fee Amount:** \$20,000
- **Payment Agreement/Plan:** Per Sec. 21-134 (F) and (G), an approved applicant for the Parking Fee-in-Lieu program is required to enter into a payment agreement with the City, which must be recorded. The ordinance also empowers the City Administrator to authorize a payment plan at their discretion. This plan may include annual installments over a period not exceeding ten years, and may encompass interest and other provisions, such as potential termination of the Certificate of Occupancy for nonpayment. This payment agreement will be determined collaboratively by the applicant and staff.

RECOMMENDATION & SUGGESTED MOTION

This application appears to conform to 3 of the 5 criteria for approval of a Parking Fee-In Lieu Application. As such, ***City Staff recommends approval*** of this Fee in Lieu Application for the Boba Please Tea Shop to be located at 1639 Miner Street.

Motion to [approve/deny] the application for the Voluntary Fee-In-Lieu Parking Program for the Boba Please Tea Shop to be located at 1639 Miner Street in the amount of \$20,000.



City of Idaho Springs
1711 Miner Street,
PO Box 907
Idaho Springs, CO, 80452
303.567.4421 | 303.567.4955 (f)

FOR STAFF USE ONLY

RECEIVED BY:

DATE:

Voluntary Parking Fee In Lieu Program

Pursuant to Idaho Springs Municipal Code Sec. 21-134, in lieu of the provision of creating physical parking spaces, an eligible applicant may request a substituted cash fee in lieu of provision of all or a portion of the otherwise required parking spaces.

The Parking Fee In Lieu Program is available to properties that are within the parking fee in lieu program boundary, generally defined by Water St. to the south, Colorado Blvd. to the north, 13th Ave. to the West, and Riverside Dr. to the East. Please refer to Idaho Springs Municipal Code Figure 21-134.1 for an exact program boundary.

Submission Requirements

1. Site Plan
2. Justification Report/Letter for the Request for Payment in Lieu of Off-Street Parking
3. Proof of Ownership and Owner Consent to Application

Decision Criteria

1. Whether the applicant demonstrates that all required parking cannot be reasonably located on-site due to site-specific physical constraints or site design requirements.
2. Whether the historic significance of existing buildings or other site features would be adversely affected to meet the parking requirement on site.
3. Whether the property is located in proximity to permanent public parking or public transportation routes.
4. Whether the characteristics of the proposed land use reduce the need for on-site parking.
5. Whether the public health, safety or welfare would be adversely affected by locating the required parking on the property.

Fee Amount (per space):

Restaurant or Retail Development: \$20,000

Office or Personal Service Development:

\$10,000 Residential Development: \$2,500

An approved applicant must enter into a payment agreement with the City which shall be recorded prior to the issuance of a building permit. The City Administrator is granted the authority to grant a request for a payment plan which may include annual installments, including interest, over a multiyear period not to exceed ten (10) years and which may include provisions for termination of the Certificate of Occupancy for the affected land use if timely payments are not made and such other remedies deemed adequate by the City to address nonpayment.

Applicant Information		
Name: Grant Zukel	Company: Boba Please	
Personal Address: 32779 Robinson Hill Rd, Golden CO 80403	Business Address: 1639 miner street idaho springs co.80452	
Phone Number:702 985 5378	Email Address:grant.zukel@gmail.com	
Business License Number:	RFE22909	
Applicant is:	☒ Business Owner	☐ Property Owner

Property Owner Information	
Name: Sam Hussari	Company: Miners Plaza LLC.
Building Address: 6045 West Alameda Ave Suite 103 Lakewood CO 80226	Personal Address: po box 261238 lakewood co 80226
Phone Number:(303) 888-6512	Email Address:samhussari3@gmail.com

Project Information
<i>Please provide details as to why an application for the Fee-In-Lieu Program is being submitted as well as information regarding how this project meets the decision criteria on page 1.</i>
I am writing to express our earnest request for the swift approval of our application for the Fee-In-Lieu program. We are eager to commence the operations of our Boba Tea/Juice bar, which would splendidly complement our already established business, The Banana Leaf, in Idaho Springs. Our motivation is not just personal gain but also contributing significantly to the local economy and community. However, our path is currently obstructed due to the city's paved parking spot guideline. Despite our willingness, the property we do not own, and unfortunately, the landlord has declined to make the necessary renovations to create a paved parking space behind the building. This scenario has left us in a difficult position, unable to meet the city's parking requirements, and consequently, halting our business's approval. Already being business owners in the town, our intent is to further enliven and enrich the community by introducing another vibrant establishment. The delay in receiving our business license is inadvertently leading to a loss of potential tax revenue and increased traffic to the town's end where our business is located. We believe that our new enterprise will not only augment the city's revenue but also enhance its cultural and social fabric by providing additional employment opportunities and a unique gathering place for the community. We humbly urge the respective authorities to consider our situation and grant approval for the Fee-In-Lieu program. By doing so, the city would be aiding in the flourishing of local businesses, subsequently bolstering economic growth and community development. We are committed to Idaho Springs and wish to contribute positively to its growth. Facing rejection, we may be forced to explore alternatives elsewhere, an action we would like to avoid for the mutual benefit of our business and the town.

Your understanding, cooperation, and prompt processing of our application would be greatly appreciated.

Signature:



Date:

09/25/2023

Miner's Plaza, LLC
P.O.Box 261238
Lakewood, Colorado 80226

10/03/2023

P.O.Box 907
Idaho Springs, Colorado 80452

Subject: Landlord Consent for Tenant
Application to Voluntary Parking Fee in Lieu
Program for Property at 1639 Miner St, Idaho
Springs, Colorado

To Whom It May Concern,

I, Sam Hussari, am the registered owner of the property located at 1639 Miner St, Idaho Springs, Colorado. I am writing to provide my full permission for my tenant, Grant Zukel dba Zukel Investment Group, Inc, to apply for participation in the Voluntary Parking Fee in Lieu Program for the aforementioned property,

as outlined in Idaho Springs Municipal Code Sec. 21-134.

I have been made aware of the conditions and guidelines of the Parking Fee in Lieu Program and fully support the application being made for the property under my ownership as long as the applying tenant continues to occupy the leased premises. I fully approve and support Grant Zukel dba Zukel Investment Group, Inc and their application to the City of Idaho Springs. My approval, however, does not constitute any contractual obligation on behalf of Miner's Plaza, LLC or It's owner. I understand that this program permits a substituted cash fee in lieu of the creation of physical parking spaces and that eligibility is confined within specific boundaries as designated by the city's municipal code.

I am providing this letter as part of the submission requirements, affirming my consent to the application and my cooperation in providing any additional documentation or information required as part of this process. I

am confident that this application complies with the outlined criteria, including site-specific physical constraints and the proximity to permanent public parking or public transportation routes.

Please consider this letter as formal documentation of my approval for Grant Zukel dba Zukel Investment Group, Inc to proceed with the application for the Voluntary Parking Fee in Lieu Program for 1639 Miner St, Idaho Springs, Colorado.

Should you require any further information or documentation, please do not hesitate to contact me via phone at (303)888-6512 or you can email me at samhussari3@gmail.com.

Thank you for considering this application.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Hussari". The signature is fluid and cursive, with a small mark above the final "i".

Sam Hussari, for Miner's Plaza, LLC

CITY OF IDAHO SPRINGS
Clear Creek County, Colorado

Ordinance No. 13, Series 2023

AN ORDINANCE AMENDING SECTIONS 21-15, 21-50, 21-93, AND 21-127 OF THE IDAHO SPRINGS MUNICIPAL CODE TO ESTBALISH UNSTAFFED HOTELS AS A PERMITTED USE WITHIN THE CITY

WHEREAS, the City of Idaho Springs, Colorado (the “City”), is a Colorado statutory municipality, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to Article 23 of Title 31, C.R.S., the City, acting through its City Council (the “Council”), is authorized to adopt rules and regulations governing the planning, zoning, and use of land within its territory; and

WHEREAS, pursuant to such authority, the Council previously adopted land development regulation regulations, codified as Chapter 21 of the Idaho Springs Municipal Code (“Code”); and

WHEREAS, the changes to the transient lodging industry over the past decade have changed the operational nature of hotels and the provision of lodging services; and

WHEREAS, the Council finds that it is desirable to add unstaffed hotels as a permitted use within the City to expand the availability of transient lodging options.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IDAHO SPRINGS, COLORADO, THAT:

Section 1. Section 5-22 of the Code concerning zoning definitions, is hereby amended as follows:

Sec. 21-15. - Definitions.

Travel trailer (camper). Any travel trailer, camper, coach, mounted tent, motor home or other habitable vehicle intended for and capable of temporary human occupancy as a dwelling, mounted on wheels and capable of being moved by its own power or pulled by another vehicle, used or intended to be used primarily for travel or recreational purposes; it does not include manufactured home.

Travel trailer park. Land or property utilized for or intended for use as temporary occupancy space for transient users of travel campers or trailers.

Unobstructed open space. An area of land at ground level upon which no structure may be erected or surface area utilized for vehicular movement or parking.

Unstaffed hotel. Any commercial building which contains a minimum of three (3) rooms and a maximum of eight (8) rooms intended or designed to be used, rented, or hired out to be

occupied for transient purposes, or which are occupied for sleeping purposes for guests. Unstaffed hotels contain a common check-in area, may or may not be staffed on-site, receive regularly scheduled maintenance and cleaning, and provide guests with a local representative in case of emergency.

Use. The purpose for which land or a structure thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

Section 2. Section 21-50 of the Code, concerning allowed uses by zone district, is amended to read as follows:

Sec. 21-50 - Allowed used by zone district.

Lodging Facilities	Bed and Breakfast	X	X	X			X	X	X	X	X	X
	Hotel, motel, <u>unstaffed hotel</u>						X	X	X	X	X	X

Section 3. Section 21-127, concerning required parking spaces for development, is amended to read as follows:

Sec. 21-127 - Parking space required.

Lodging Facilities	Bed and breakfast	2 spaces + 1 per guest bedroom
	Hotel, motel, tourist home	1 per guestroom plus 2 for staff and housekeeping
	<u>Unstaffed hotel</u>	<u>1 per guestroom</u>

Section 4. Section 21-93(K)(1)(k), concerning required development plan submittals, is amended to read as follows:

Sec. 21-93. - Description of required submittal materials.

(K) Site Plan. All site plans shall be prepared at twenty-four inches by thirty-six inches (24" x 36") with the long dimension being horizontal. Site Plans may be submitted electronically at the discretion of the City Administrator or their designee. Full sized copies may be requested by staff prior to public meetings. The Plans shall include the following information in the format described (as applicable):

(1) An information block which shall include the following information:

(k) For bed and breakfast, motel, hotel, and unstaffed hotel uses in the C-1, C-2, C-3, I-1 and L-I zoning districts: (1) Total number,

type and density per type of dwelling units. (2) Total bedrooms per each dwelling unit type. (3) Residential density (gross and net).

Section 5. Should any one or more sections or provisions of this Ordinance or of any Code provision enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 6. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code provision or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

INTRODUCED, READ AND ORDERED PUBLISHED at a Regular Meeting of the City Council of the City of Idaho Springs, Colorado, held on the ____ day of _____, 2023.

Chuck Harmon, Mayor

ATTESTED AND CERTIFIED:

Diane Breece, City Clerk

PASSED, ADOPTED AND APPROVED at a Regular Meeting of the City Council of the City of Idaho Springs, Colorado, held on the ____ day of _____, 2023.

Chuck Harmon, Mayor

ATTESTED AND CERTIFIED:

Diane Breece, City Clerk

CITY OF IDAHO SPRINGS
Clear Creek County, Colorado

Ordinance No. 10, Series 2023

**AN ORDINANCE ACCEPTING AND RECOGNIZING THE ALIGNMENT OF A
PORTION OF VIRGINIA CANYON ROAD**

WHEREAS, the City of Idaho Springs, Colorado (“City”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to Part 23 of Title 31, C.R.S., the City, acting by and through the Idaho Springs City Council (“Council”), possesses the authority to regulate the planning and zoning of the City generally, including but not limited to the authority to recognize and accept dedicated public streets, typically through the subdivision platting process; and

WHEREAS, the City has undertaken an improvement project concerning a portion of Virginia Canyon Road within the City and through that process has engaged in discussions with stakeholders and interested parties, which discussions have led to a desire to formalize and memorialize the current location and boundaries of that portion of Virginia Canyon Road, such that the boundaries may be definitively known and relied upon going forward; and

WHEREAS, the Council therefore desires to formally designate, accept and recognize the boundaries of Virginia Canyon Road in and around the area specified herein, by ordinance, as further set forth herein.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF IDAHO SPRINGS, COLORADO, AS FOLLOWS:**

Section 1. The above and foregoing recitals are expressly adopted as findings and determinations of the Council.

Section 2. Pursuant to C.R.S. § 31-23-217, the Idaho Springs City Council hereby formally accepts, designates and recognizes the boundaries of that portion of right-of-way known as Virginia Canyon Road described and illustrated in the attached **Exhibit A**, incorporated herein by this reference, for all legal purposes upon the effective date of this Ordinance and thereafter.

Section 3. Findings concerning voting. This Ordinance was approved by the Idaho Springs Planning Commission by a vote of ____ to ____, on December 6, 2023; this Ordinance was finally-approved, on second reading, by the Idaho Springs City Council by a vote of ____ to ____.

Section 4. Zoning Maps; Official Plats. City staff is hereby directed to make conforming amendments to all copies of the official City Zoning Map and all other official City-maintained plats and maps, as necessary, to reflect the location of Virginia Canyon Road specified herein, upon the effectiveness of this Ordinance.

Section 5. Recording of Ordinance. City staff is further directed to record this Ordinance and its Exhibits in the real property records of Clear Creek County, Colorado, upon the effectiveness of this Ordinance.

Section 6. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

Section 7. Should any one or more sections or provisions of this Ordinance or of Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provisions, the intention being that the various sections and provisions are severable.

INTRODUCED, READ AND ORDERED PUBLISHED at a Regular Meeting of the City Council of the City of Idaho Springs, Colorado, held on the 13th day of November, 2023.

Chuck Harmon, Mayor

ATTESTED AND CERTIFIED:

Diane Breece, City Clerk

PASSED, ADOPTED AND APPROVED, at a Regular Meeting of the City Council of the City of Idaho Springs, Colorado, held on the 11th day of December 2023.

Chuck Harmon, Mayor

ATTESTED AND CERTIFIED:

Diane Breece, City Clerk

EXHIBIT A

[Survey of Virginia Canyon Road]



LOCATION MAP NOT TO SCALE

PROPERTY DESCRIPTION

A portion of Block 4, Block 3, Block D and Block E of TOWN PLAT OF IDAHO SPRINGS recorded at Book 1, Page 15 on February 21, 1881 in the Clear Creek County Clerk's Office being a portion of the Southeast One-Quarter of Section 36, Township 3 South, Range 73 West of the 6th Principal Meridian, Clear Creek County, Colorado being more particularly described as follows:

BEGINNING at the Southeast corner of said BLOCK 4, TOWN PLAT OF IDAHO SPRINGS, being a calculated point of intersection of the westerly Right-of-Way line of Virginia Canon Road with the northerly Right-of-Way line of Virginia Street, **WHENCE** a found 1" Diameter Hexagonal Rebar on said northerly Right-of-Way Line of Virginia Street bears S84°49'01"E a distance of 254.89 feet and **WHENCE** a set Witness Corner on said westerly Right-of-Way line of Virginia Canon Road being a 1-1/2" Diameter Aluminum Washer with MagNail in Asphalt Road stamped "BHI RW WC 2 LS 33200" bears N00°35'37"W a distance of 2.00 feet;

THENCE N 00° 35' 37" W on said Westerly Right-of-Way line of said Virginia Canon Road a distance of 406.61 feet to a set 1-1/2" Diameter Aluminum Washer with a MagNail in Asphalt Road stamped "BHI RW LS 33200" and a point on the Easterly boundary line of LOT 15, said BLOCK E;

THENCE N 02° 22' 10" W on said westerly Right-of-Way line of Virginia Canon Road Right-of-Way a distance of 293.51 feet to the Northeast corner of Lot 29 said Block E monumented with a set 1-1/2" Diameter Aluminum Washer with a MagNail in Asphalt Road stamped "BHI RW LS 33200" and being on Line 38-39 Harrington Survey as shown on Improvement Survey Plat of Portion of Government Lot 3, Reception No. 271435 recorded in Book 881, Page 884 on January 24, 2014 in the Clear Creek County Clerk's Office;

THENCE N 87° 19' 56" E on said Line 38-39 Harrington Survey a distance of 17.22 feet to a point of intersection on the westerly boundary line of WILSON MINOR SUBDIVISION, Reception No. 245075 recorded in Book 775, Page 614 on June 21, 2007 in the Clear Creek County Clerk's Office;

THENCE S 06° 03' 45" E on said westerly line of WILSON MINOR SUBDIVISION a distance of 28.11 feet to the Southwest corner of said WILSON MINOR SUBDIVISION;

THENCE N 87° 35' 04" E on the southerly line of said WILSON MINOR SUBDIVISION a distance of 5.97 feet to the intersection with the easterly Right-of-Way line of Virginia Canon Road, **WHENCE** a set 1-1/2" Diameter Aluminum Cap on 5/8" Diameter Rebar Witness Corner stamped "BHI RW LS 33200" bears S 02° 22' 10" E a distance of 15.00 feet;

THENCE S 02° 22' 10" E on said easterly Right-of-Way line of Virginia Canon Road a distance of 265.94 feet to a set 1-1/2" Diameter Aluminum Cap on 5/8" Diameter Rebar stamped "BHI RW LS 33200" being a point on the westerly boundary line of Lot 14, said BLOCK D;

THENCE S00°33'37"E continuing on said easterly Right-of-Line of Virginia Canon Road a distance of 404.99 feet to a set 1 1/2" diameter aluminum cap on 5/8" diameter rebar stamped "BHI RW LS 33200 being at the Southwest corner of said Block 3;

THENCE S 84° 49' 06" W a distance of 25.08 feet to the **POINT OF BEGINNING**.

Parcel contains 0.397 Acres, More or Less.

NOTES

1. BASIS OF BEARINGS
Bearings are based on a gird bearing of N73°54'52"W from 3-1/4" Diameter CDOT Aluminum Cap set in concrete sidewalk stamped "CDOT MSM CP 7925" to 1-1/4" Diameter Orange Plastic Survey Cap set on No.6 Rebar stamped "BHI CONTROL". The survey data was obtained from a Global Positioning System (GPS) survey base on the Colorado High Accuracy Reference Network (CHARN).

2. UNIT OF MEASUREMENT
The unit of measurement used in this survey is U.S. Survey Feet.

3. STATUE OF LIMITATIONS
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.

4. TITLE COMMITMENT NOTE
This survey does not constitute a title search by Bohannan Huston, Inc. to determine ownership or easements of record. For all information regarding rights-of-way, Bohannan Huston, Inc. relied upon documents searched from Clear Creek County Clerk and Recorder's Office.

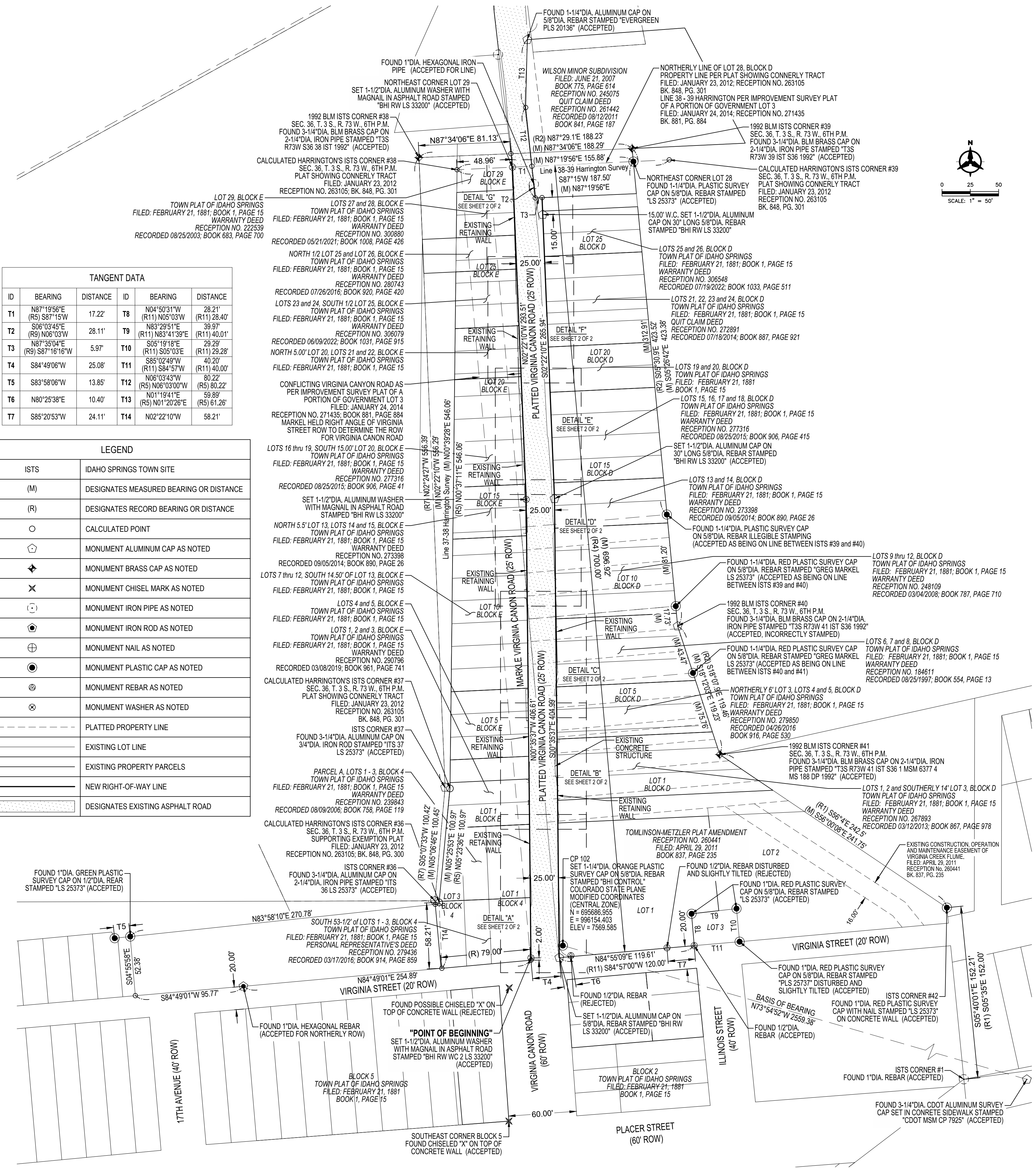
5. DATE OF SURVEY
The field work for this survey was completed on August 16, 2023 and also referenced the following plats:
Bureau of Land Management (BLM) Survey No. 332 Plat of The Idaho Springs Town Site accepted July 21, 1873 (Surveyed by Francis F. Brune U.S. Deputy Surveyor)
Town Plat of Idaho Springs filed for record on 2/21/1881 at 1:00 P.M. and recorded in Book No. 1 of Plats at Page 15 and certified by William Moor, Mayor of The Town of Idaho Springs.

Monuments were set with 3-1/4" Diameter Aluminum Cap on 30" Long No.6 Rebar and 1-1/2" Diameter Aluminum Washer with Magnail as shown hereon on August 1, 2023.

INDEXING STATEMENT

Deposited this _____ day of _____, 20____, at _____, in Book _____ of the County Surveyor's Land Survey / Right of Way Surveys at Page(s) _____ Reception No. _____.

County Surveyor / Deputy County Surveyor



LAND SURVEY PLAT VIRGINIA CANYON ROAD IDAHO SPRINGS PORTION OF BLOCKS D & E, TOWN PLAT OF IDAHO SPRINGS SECTION 36, TOWNSHIP 3 SOUTH, RANGE 73 WEST, 6TH P.M. CLEAR CREEK COUNTY, COLORADO SEPTEMBER, 2023

PLATS/DOCUMENTS REVIEWED FOR THIS SURVEY:

R1 = Bureau of Land Management (BLM) Survey No. 332 Plat of The Idaho Springs Town Site accepted July 21, 1873 (Surveyed by Francis F. Brune U.S. Deputy Surveyor)

R2 = BLM Dependent Resurvey of a Portion of Survey No. 332, Idaho Springs Town Site accepted June 25, 1993 (Executed by Gene R. Dollahide between 9/2/1992 & 9/21/1992)

R3 = Town Plat of Idaho Springs filed for record on 2/21/1881 at 1:00 p.m. and recorded in Book No. 1 of Plats at Page 15 and certified by William Moor, Mayor of The Town of Idaho Springs, as being a correct Plat of The Town of Idaho Springs and having been taken from the original plat as surveyed by Francis F. Brune U.S. Deputy Surveyor and that the courses and distances represents the boundaries thereof are the same as approved by the Surveyor General of Colorado July 21, 1873.

R4 = Town Plat of Idaho Springs Clear Creek County, Colorado recorded on July 11, 1873 (Book & Page are illegible). This plat does not show Canon Street northerly of Blocks 3 & 4.

R5 = Land Survey Plat supporting Exemption Plat recorded at Reception No. 188372 Portions of Government Lot 3, Section 36, T3S, R73W, 6th P.M. County of Clear Creek State of Colorado recorded at Reception No. 263105 on 1/23/2012 at 11:55 a.m., Book 848, Page 300 LSP, Page 2 of this plat is Chas L. Harrington's, Clear Creek County Surveyor, plat showing Connerly Tract.

R6 = Improvement Survey Plat Portions of Government Lot 3 Section 36, T3S, R73W, 6th P.M. County of Clear Creek, State of Colorado recorded at Reception No. 188372 on 4/27/1998 at 1:56 pm, Book 563, Page 815 Survey.

R7 = Improvement Survey Plat of a Portion of Government Lot 3 within Section 36, T3S, R73W, 6th P.M. County of Clear Creek, State of Colorado recorded at Reception No. 241435 on 1/24/2014 at 3:38 pm, book 881, page 884 lsp.

R8 = Map of Idaho Springs Colorado prepared from surveys by James Underhill Mining Engineer recorded at Reception No. 225709 on 1/27/2004 at 3:04 p.m., Book 697, Page 342 Plat.

R9 = Wilson Minor Subdivision Lots 27 and 28, Block D, City of Idaho Springs and Part of Government Lot 3, Section 36, Township 3 South, Range 73 West, of the 6th P.M., County of Clear Creek, State of Colorado recorded at Reception No. 245075 on 6/21/2007 at 2:01 p.m., Book 775, Page 614 Plat.

R10 = Deed recorded at Reception No. 14254, Book 265, Page 276 at 1:00 p.m. on 11/20/1959.

R11 = TOMLINSON-METZLER PLAT AMENDMENT Land Survey Plat A Re-subdivision of Lots 1-6, Block 3, and Lots 1-6, Block C Together with portions of Illinois Street as Vacated City of Idaho Springs, Colorado recorded at Reception No. 260441 at 11:27 AM on April 29, 2011.

FACTS:

- 1) 1873 BLM ISTS 37-38 N4°30'W 554' (Difference of 0°33' between 1873 BLM & Reception No. 225709) 1873 BLM ISTS 38-39 N88°30'E 187.52'.
- 2) Reception No. 225709 "Map of Idaho Springs Colorado" prepared from surveys by James Underhill Mining Engineer & relied upon by Markle shows ISTS 37-38 bearing of N5°03'W (Difference of 0°33' between 1873 BLM & Reception No. 225709).
- 3) Reception No. 263105, Sheet 1 of 2 does not show the 1992 BLM ISTS 36-37 or 37-38 bearings, does show the 1992 BLM ISTS 38-39 bearing of S87°31'46"W 188.42', Harrington's ISTS 36-37 bearing of S5°23'36"W 100.97', Harrington's ISTS 37-38 bearing of N00°37'11"E 546.06', and Harrington's ISTS 38-39 bearing of S87°15'00"W 187.50'.
- 4) Reception No. 263105, Sheet 2 of 2 shows Harrington's ISTS 36-37 bearing of S4°54'W 100.00', ISTS 37-38 bearing of S0°30'W 546.00', and ISTS 38-39 bearing of S87°15'W 187.50'.
- 5) Reception No. 271435 shows the 1992 BLM ISTS 36-37 bearing of S5°07'33"W 100.42', 1992 BLM ISTS 37-38 bearing of S02°24'27"W 556.33', 1992 BLM ISTS 38-39 bearing of N87°31'46"E, and Harrington's ISTS 36-37 bearing of S5°23'36"W 100.97', Harrington's ISTS 37-38 bearing of S00°37'11"W, and Harrington's ISTS 38-39 bearing of S87°15'00"W 187.50'.

REASONABLE ASSUMPTIONS:

- 1.) 1992 BLM Idaho Springs Townsite (ISTS) Line 37-38 is parallel to Virginia Canon Road ROW from ± midpoint of Lot 15, Block E northerly.
- 2.) Block E & Block 4 easterly lines record distance is 700' [(29 x 20' Block E) + 120' Block 4] from n'ty ROW of Virginia Street.
- 3.) Block D & Block 3 westerly lines plus ROW record distances is 700' [(28 x 20' Block D) + 20' ROW + 120' Block 3].
- 4.) N'ty line of Blocks D & E is Harrington's ISTS Line 38-39. (See Warranty Deed Rec. No. 222539, Bk 683, Pg 700)
- 5.) Old stone walls southerly of ± midpoint of Lot 15, Block E along the w'ty ROW of Virginia Canon Road best represent the intent of the parties for the ROW location (see Chief Justice Cooley Doctrine).

RIGHT-OF-WAY LOCATION THEORY:

Field measured distance from Harrington's Northeast Corner of Lot 29, Block E along the westerly ROW of Virginia Canon Road yields a distance of 699.30' which is very consistent with the calculated record distance of 700.00'.

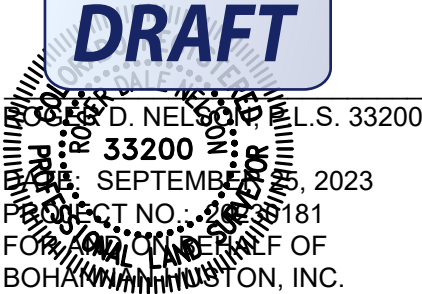
Holding the recovered BLM Monuments dated 1992 (1992 BLM) for Idaho Springs Townsite Corners 37 & 38 field surveyed by Bohannan Huston on 8/24/2022 and having a bearing of S2°22'10"E and considering the westerly Virginia Canon Road Right-of-Way from the calculated Northeast Corner of Lot 29, Block E (as surveyed & defined by Harrington) as being the most northerly end of the Virginia Canon Road westerly ROW and considering said westerly ROW to be parallel with the 1992 BLM ISTS 38-37 Line. Extending this bearing down to the approximate midpoint of Lot 15, Block E (intersect of westerly ROW solution described below), Stone & Concrete wall improvements on the westerly ROW of Virginia Canon Road align favorably with this interpretation.

Holding the calculated record distance of 79.00' along the northerly ROW of Virginia Street for the southerly terminus of the westerly ROW of Virginia Canon Road. The 79.00' is measured from the intersect of bearing S2°22'10"E (1992 BLM as surveyed bearing between ISTS Corners 38-37) from Harrington's ISTS Corner 36 with the northerly ROW of Virginia Street. The westerly ROW of Virginia Canon Road was then established using a bearing that best fits the long established stone walls along the westerly ROW of Virginia Canon Road and that bearing extended to intersect the solution derived for Virginia Canon Road ROW southerly of the Northeast Corner of Lot 29, Block E described above.

It is assumed that the southerly portion of Virginia Canon Road was surveyed using local control near the southerly end and the northerly portion of Virginia Canon Road was surveyed using local control near the northerly end yielding a bearing break in those Right-of-Way lines.

SURVEYOR'S CERTIFICATION

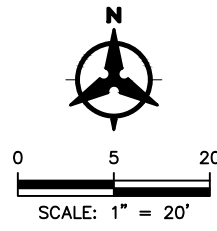
I, Roger D. Nelson, a licensed professional surveyor in the State of Colorado do hereby state that the survey (as defined in 12-25-202(6)(a), C.R.S.) and this resulting plat was made under my responsible charge and is in accordance with applicable standards of practice and that the monuments shown hereon actually exist and that this plat and the notes shown hereon accurately represents said survey to the best of my knowledge, information and belief. This statement is not a guaranty or warranty, either expressed or implied.



SHEET 1 OF 2

Bohannan Huston
Meridian One 9785 Maroon Circle, Suite 140
Englewood, CO 80112 (303) 799-5103

LAND SURVEY PLAT
VIRGINIA CANYON ROAD
IDAHO SPRINGS
PORTION OF BLOCKS D & E, TOWN PLAT OF IDAHO SPRINGS
SECTION 36, TOWNSHIP 3 SOUTH, RANGE 73 WEST, 6TH P.M.
CLEAR CREEK COUNTY, COLORADO
SEPTEMBER, 2023



TANGENT DATA					
ID	BEARING	DISTANCE	ID	BEARING	DISTANCE
T1	N87°19'56"E (R5) S87°15'W	17.22'	T8	N04°50'31"W (R11) N05°03'W	28.21' (R11) 28.40'
T2	S08°03'45"E (R5) N08°03'W	28.11'	T9	N83°29'51"E (R11) N83°41'39"E	39.97' (R11) 40.01'
T3	N87°35'04"E (R9) S87°16'16"W	5.97'	T10	S05°19'18"E (R11) S06°03'E	29.29' (R11) 29.28'
T4	S84°49'06"W	25.08'	T11	S85°02'49"W (R11) S84°57'W	40.20' (R11) 40.00'
T5	S83°58'06"W	13.85'	T12	N06°03'43"W (R5) N06°03'00"W	80.22' (R5) 80.22'
T6	N80°25'38"E	10.40'	T13	N01°19'41"E (R5) N01°20'26"E	59.89' (R5) 61.26'
T7	S85°20'53"W	24.11'	T14	N02°22'10"W	58.21'

LEGEND	
ISTS	IDAHO SPRINGS TOWN SITE
(M)	DESIGNATES MEASURED BEARING OR DISTANCE
(R)	DESIGNATES RECORD BEARING OR DISTANCE
○	CALCULATED POINT
⬢	MONUMENT ALUMINUM CAP AS NOTED
⬢	MONUMENT BRASS CAP AS NOTED
⬢	MONUMENT CHISEL MARK AS NOTED
⬢	MONUMENT IRON PIPE AS NOTED
⬢	MONUMENT IRON ROD AS NOTED
⬢	MONUMENT NAIL AS NOTED
⬢	MONUMENT PLASTIC CAP AS NOTED
⬢	MONUMENT REBAR AS NOTED
⬢	MONUMENT WASHER AS NOTED
---	PLATTED PROPERTY LINE
---	EXISTING LOT LINE
---	EXISTING PROPERTY PARCELS
---	NEW RIGHT-OF-WAY LINE
---	DESIGNATES EXISTING ASPHALT ROAD

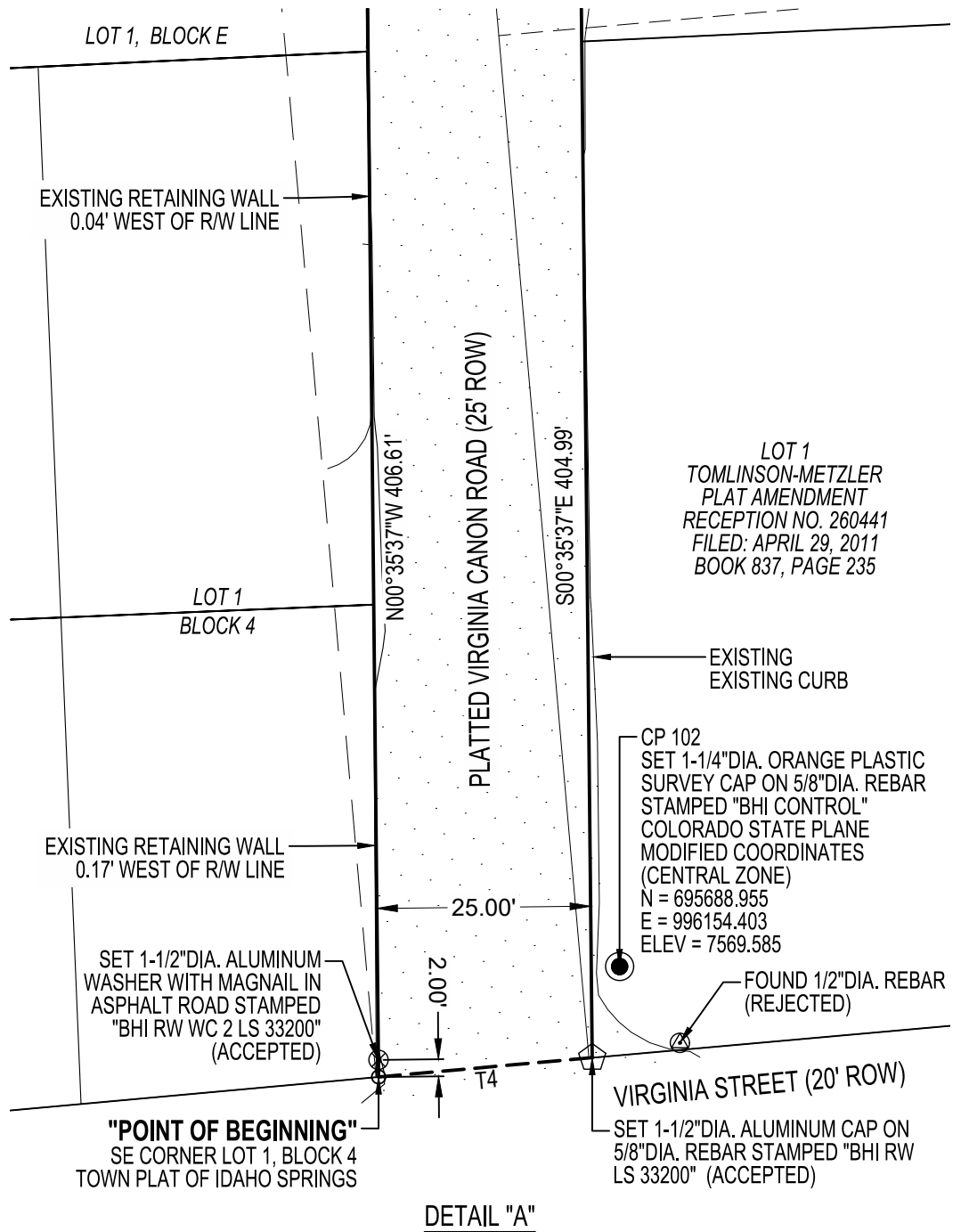
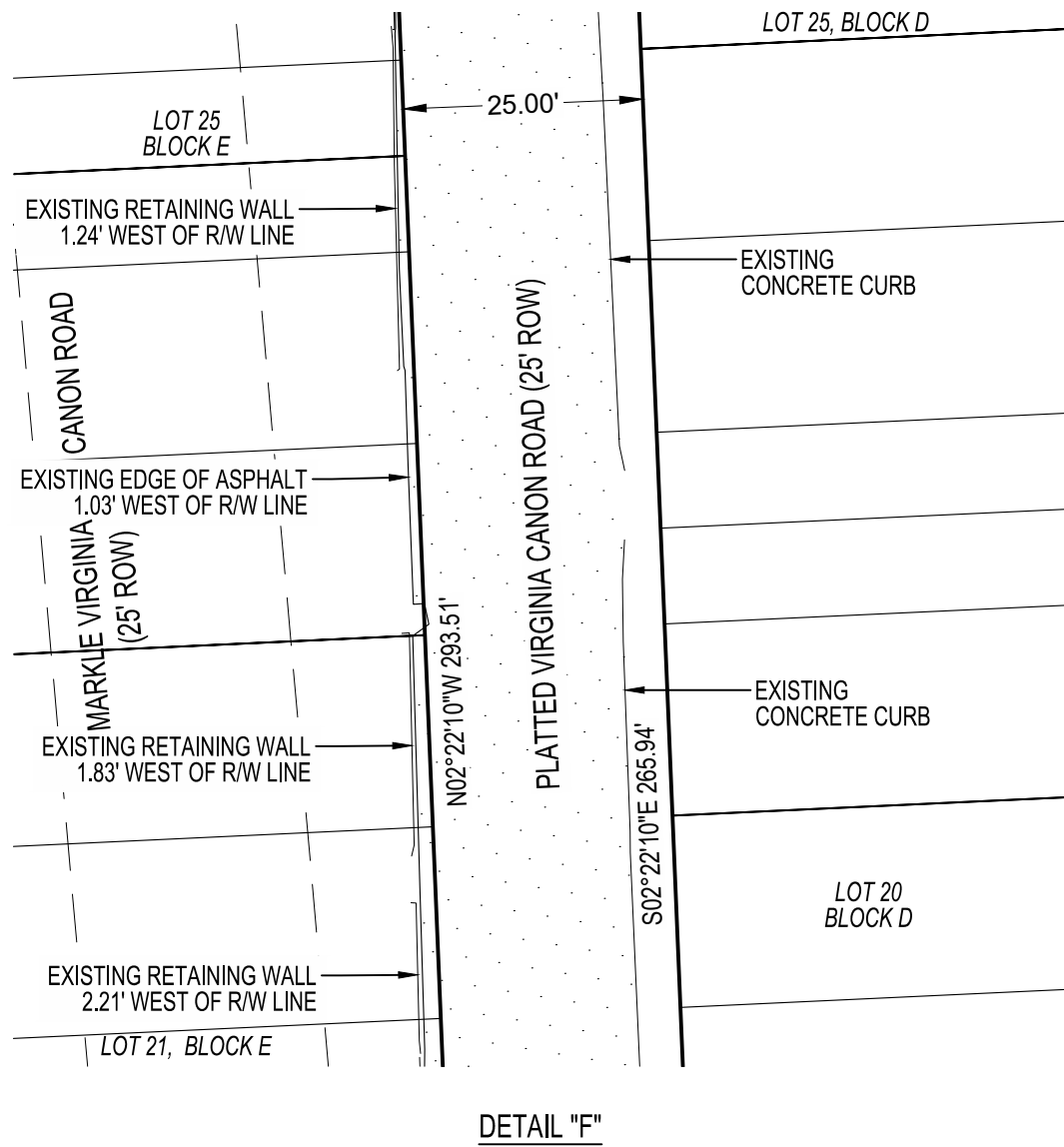
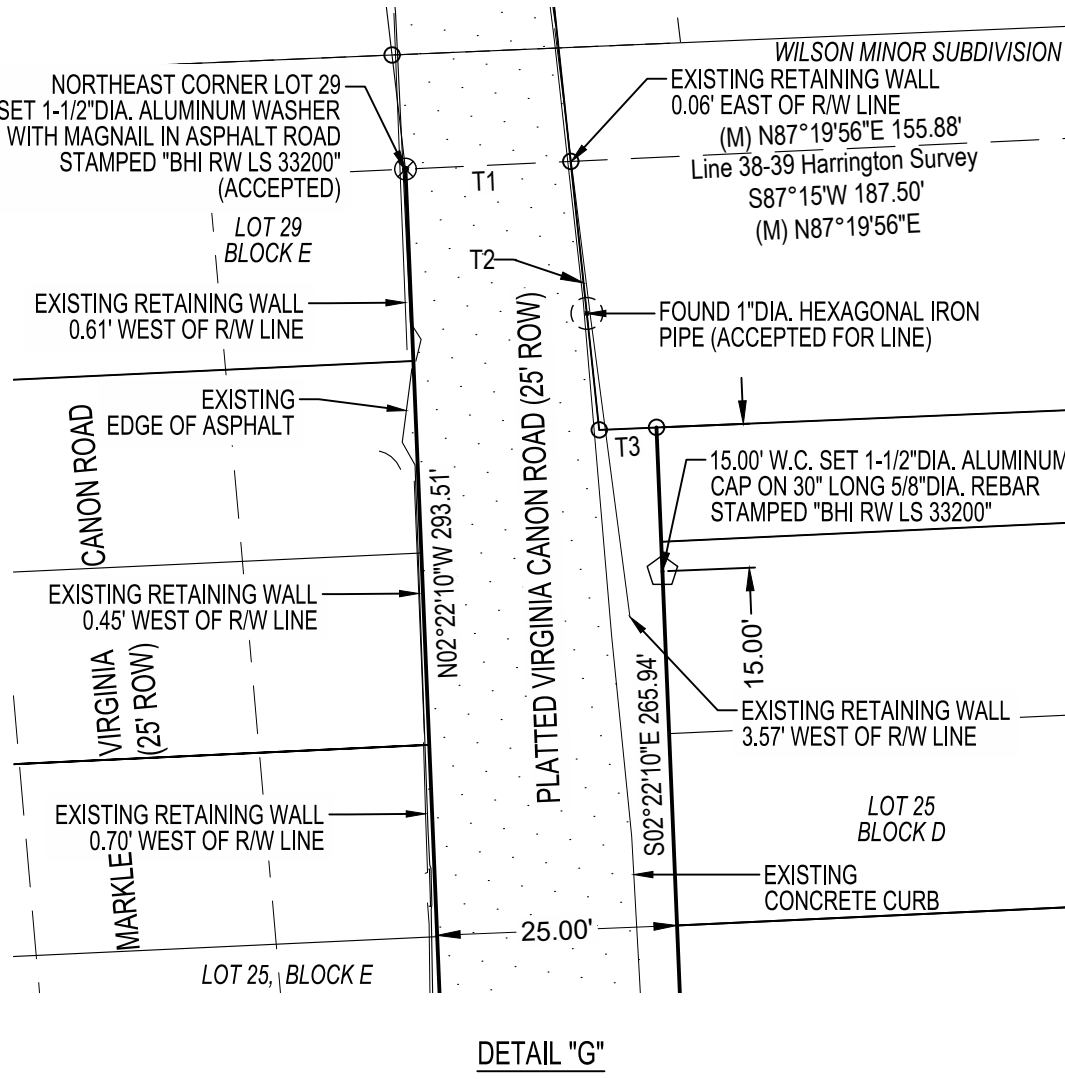
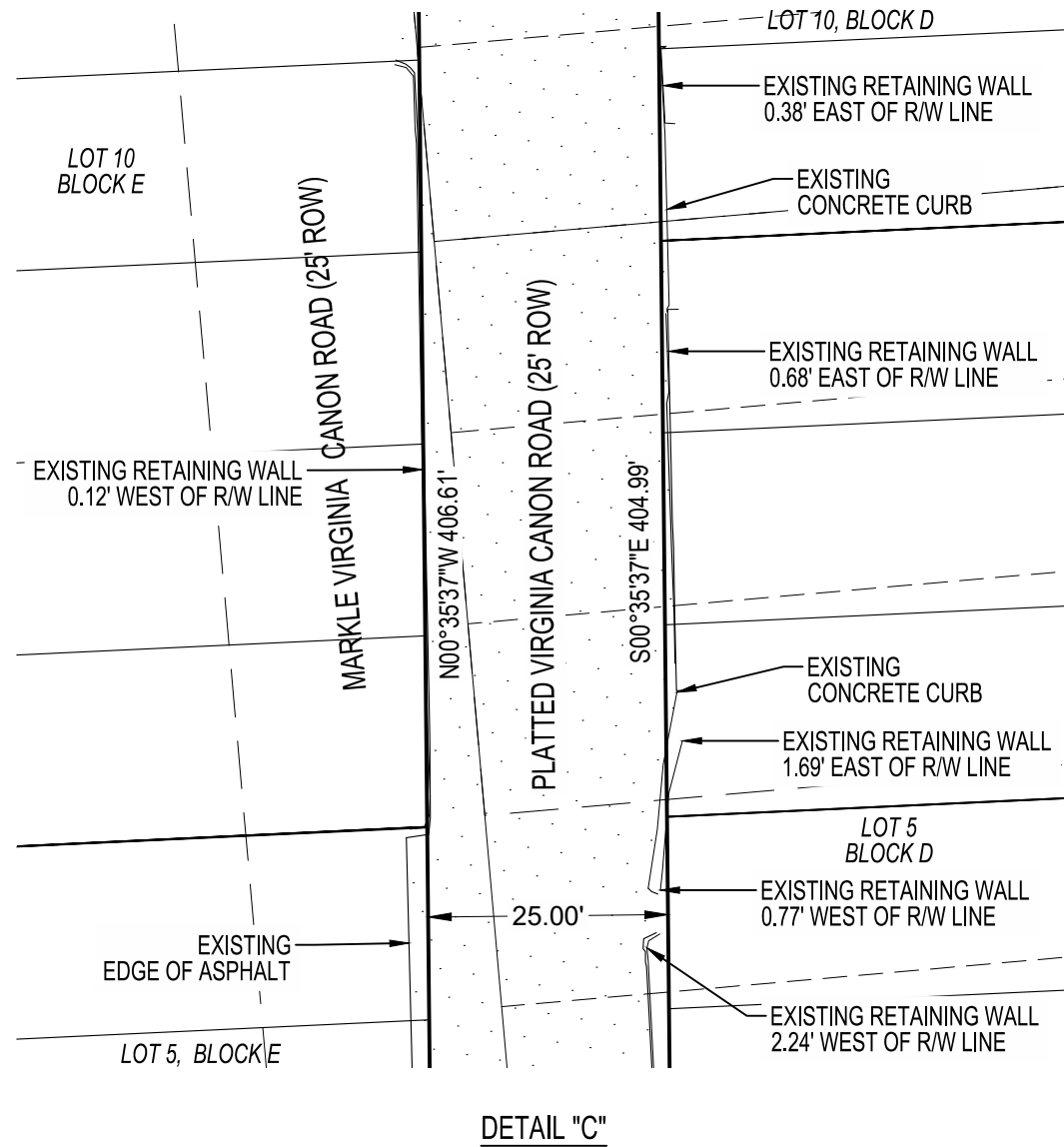
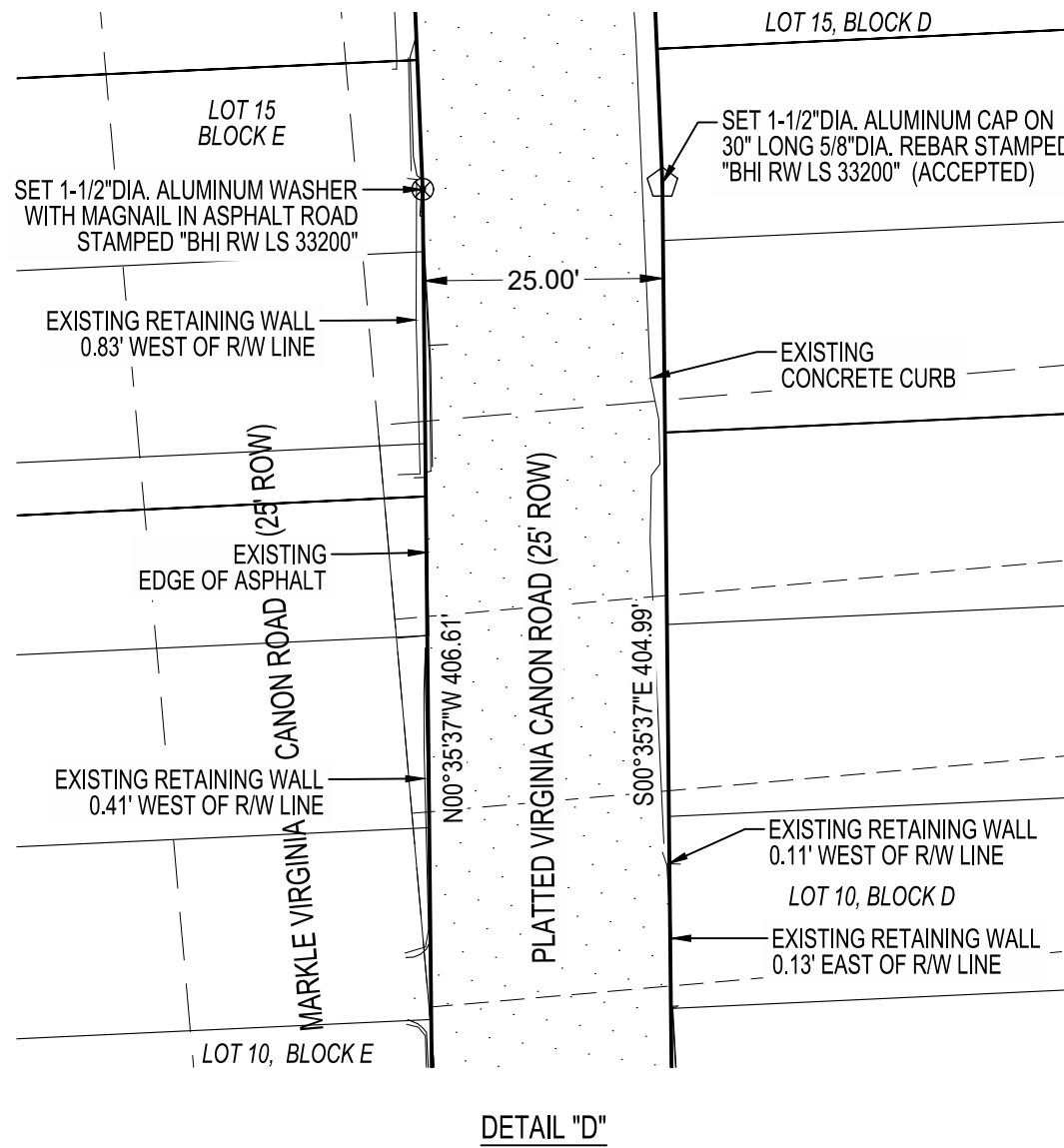
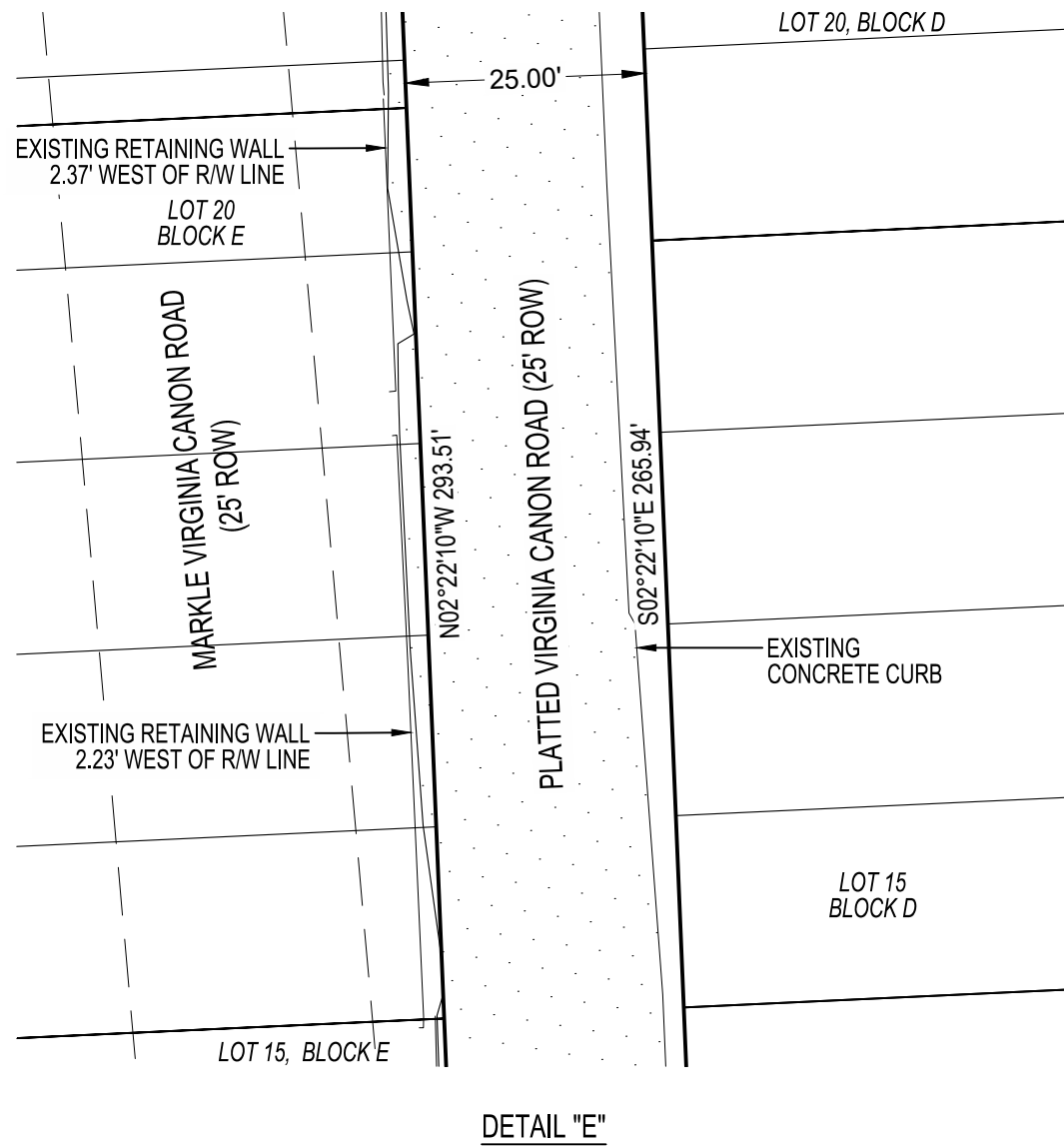
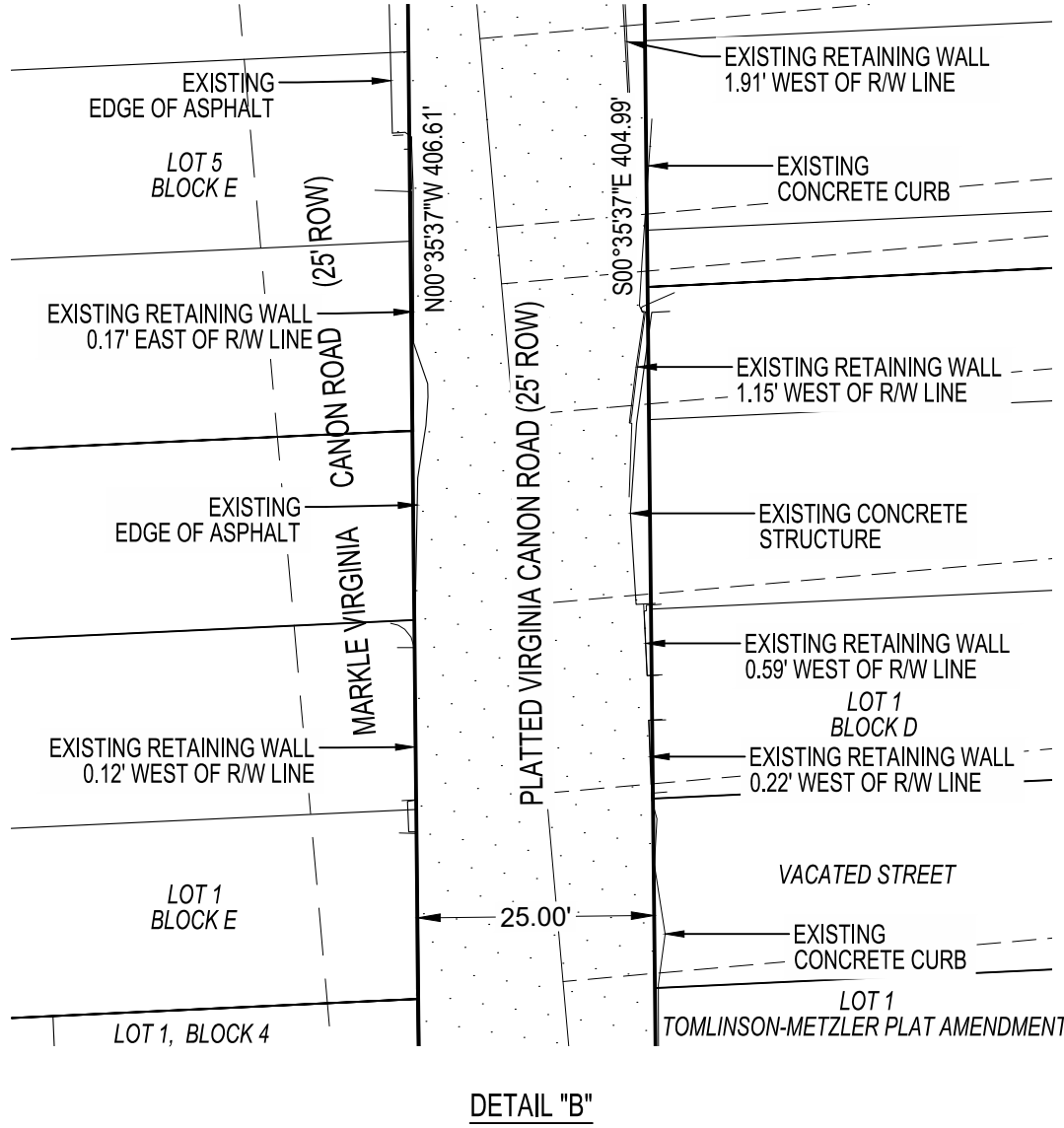
SURVEYOR'S CERTIFICATION

I, Roger D. Nelson, a licensed professional surveyor in the State of Colorado do hereby state that the survey (as defined in 12-25-202(6)(a), C.R.S.) and this resulting plat was made under my responsible charge and is in accordance with applicable standards of practice and that the monuments shown hereon actually exist and that this plat and the notes shown hereon accurately represents said survey to the best of my knowledge, information and belief. This statement is not a guaranty or warranty, either expressed or implied.

DRAFT
ROGER D. NELSON, S.L.S. 33200
SEPTEMBER 15, 2023
PROJECT NO. 2023-181
FOR THE TOWN OF IDAHO SPRINGS, CO.
BOHANNAN & HUSTON, INC.

SHEET 2 OF 2

Bohannon & Huston
Meridian One 9785 Maroon Circle, Suite 140
Englewood, CO 80112 (303) 799-5103



TO: Idaho Springs Planning Commission
CC: Assistant City Administrator Jonathan Cain
City Administrator Andrew Marsh
FROM: Wonder Martell, Deputy City Clerk
DATE: December 06, 2023
SUBJECT: Food Truck Regulations for ISMC
ATTACHMENTS: Suggested potential locations for food trucks



BACKGROUND

The City of Idaho Springs has had multiple requests for food truck licenses this year. The current regulations in the Idaho Springs municipal code regarding food trucks are more oriented to vendors and solicitors rather than food service vehicles. This has somewhat limited Staff's ability to regulate food trucks operating in the City.

On August 2nd, 2023 Planning Commission asked staff to try to locate some areas that could potentially be used by food trucks. These potential areas have been chosen as they are not close to any restaurant and would not take away from any parking requirements for any current business. Most of the spaces are in close proximity to one of the city parks or on the east end of Colorado Blvd. Vendors/Peddlers/Solicitors of any kind are currently not available to operate/be located in any Residentially zoned area, which is also why these areas have been chosen as they are in the Park zone and C2 zone.

Because of the usual parking spaces available on the east side of Colorado Blvd, and the distance between restaurant and operable business's in general, this area provides space to house food trucks as well as some additional room for a type of safety buffer available. This area would not take away from any current designated parking from any business and would also not block any current business on Colorado Blvd.

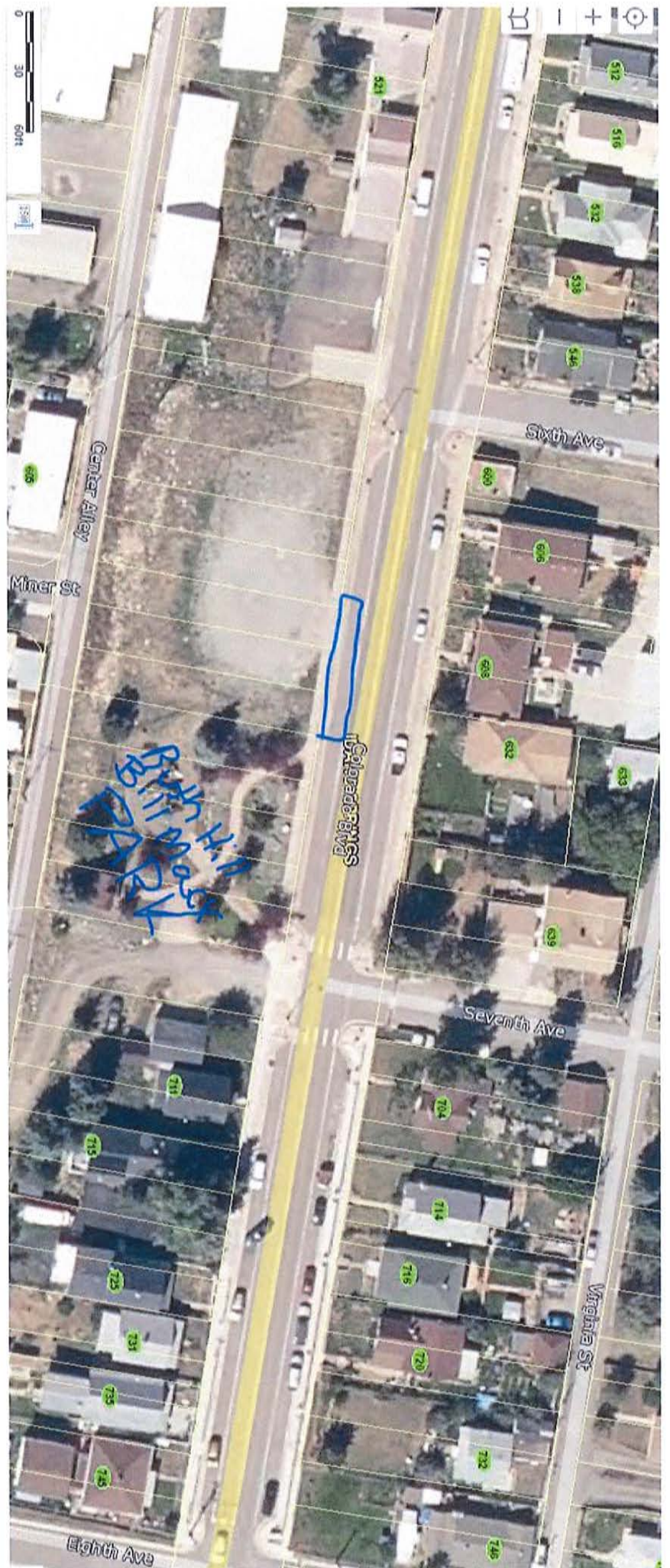
Request for Direction

Should there be particular, multiple food truck areas designated in the city?













TO: Idaho Springs Planning Commission
CC: Assistant City Administrator Jonathan Cain
City Administrator Andrew Marsh
FROM: Wonder Martell, Deputy City Clerk
DATE: December 06, 2023
SUBJECT: Animal Regulations ISMC
ATTACHMENTS: Examples of Animal regulations



BACKGROUND

There have been a few concerns brought to the city's attention in regards to the care, cleanliness and housing of domestic and farm animals within the city limits. City Police investigated the concern, and during the process identified that Chapter 10 – Animals of the ISMC does not provide much direction related to the keeping of domesticated animals such as pigs or goats and fowl (chickens, ducks, turkeys, etc.) on residential property. Many municipalities comparable to Idaho Springs do regulate the ownership of such animals within city limits. Some examples might be the minimum space required to "keep" an animal such as a pig, or regulations limiting the sex and number of chickens that can be kept on a property.

On July 10th, 2023 City council asked staff to locate some other municipalities animal regulations to possible integrate into the Idaho Springs Municipal Code to allow for outlined rules and regulations on the care and keeping of domesticated animals in the city. Council asked for that staff research specific municipalities to find these animal regulations. The municipalities that City Council have directed staff to research are Lakewood, Craig, Alma, Sterling, Ft. Morgan and Edgewater.

I have modified the current chapter on animal regulations and have a color code in the header of the attached document to show which codes the modifications came from. There have also been some inquiries on animal type home occupations (breeders) and the current code doesn't specify if that type of use is allowed or not allowed.

Request for Direction

Should the Idaho Springs Municipal Code (ISMA) Chapter 10 be amended to provide more or different regulations for keeping domesticated animals within the city limits?

Lakewood

Craig

Alma

Sterling

Edgewater

Current Idaho Springs Code

CHAPTER 10

Animals

ARTICLE I In General

Sec. 10-1. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Aggressive animal. Any animal that, without provocation, harasses persons by encroaching onto public property or the property of another from a vehicle or from the owner's or custodian's yard through or over a fence, or attacks, injures or kills another animal while off the owner's or custodian's property.

Animal. Any of a kingdom (*Animalia*) of living beings typically differing from plants in capacity or spontaneous movement and rapid motor response to stimulation; consistent therewith, any one (1) of the lower animals distinguished from man.

Animal owner. Any person who owns, keeps, harbors, possesses or otherwise has custody or control of any animal in the City, whether such person is a resident or nonresident of the City.

Animal owner's authorized agent or custodian. Any person who acts for or in the place of the animal owner by authority from the animal owner.

Cat. Any domesticated animal of the species *Felis domestica*.

Chicken coop means an enclosed and secured facility for housing chicken hens.

Dog. Any domesticated animal of the species *Canis familiaris* or other species of the family *Canis*.

Domesticated animal. Dogs, cats, rodents, birds, reptiles, fish, pot-bellied pigs weighing less than seventy (70) pounds and any other species of animal which is sold or retained as a household pet, but does not include skunks, nonhuman primates and other species of wild, exotic or carnivorous animals that may be further restricted in this Chapter.

Fowl. Any domesticated, feathered animal.

Guard dog. A dog disciplined, through special training, to protect persons or property by attacking or threatening to attack any person found within the area authorized to be patrolled by the dog.

Harboring. The activity of the occupant of any premises on which an animal is kept or to which an animal customarily returns daily for food and care which contributes to the animal's habit or tendency to stay at or return to such premises for care and sustenance.

Leash. A substantial chain, rope, cord or similar device sufficient to hold an animal in restraint and which is not more than six (6) feet in length.

Ordinance Control Officer. Any officer or employee of the City designated by the Police Chief or by his or her authorized representative to enforce the animal control provisions of this Chapter.

Rabies inoculation. The inoculation of an animal with a rabies vaccine approved by the Colorado Department of Public Health and Environment and administered by a licensed veterinarian.

Run means an enclosed and secured facility where chicken hens are able to move around more freely than within the chicken coop.

Running at large. Any animal, unless specifically excepted by this Chapter, not under the direct and competent control of the owner or the owner's authorized agent by means of a leash, except an animal on or within the owner's premises or the owner's motor vehicle; provided that, when such vehicle is parked, the animal shall be within the enclosed portion of such motor vehicle or tethered so as to restrain the animal within the confines of the motor vehicle.

Veterinarian. A person licensed by the State to practice veterinary medicine.

Vicious animal. Any animal that, without provocation, bites, snaps at or attacks humans or other domesticated animals on public or private property or in a terrorizing manner approaches any person in an apparent attitude of attack; provided, however, that an animal shall not be deemed a *vicious animal* by reason of having bitten or attacked the following:

- (1) Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept.
- (2) Any person engaged in the unlawful entry into or upon the animal owner's automobile or other vehicle wherein such animal is confined, or which is parked on the street immediately adjacent to the owner's property.
- (3) Any person engaged in attacking or molesting another person.
- (4) Any person engaged in attempting to stop an altercation between such animal and another animal.
- (5) Any person who deliberately and wantonly provokes such animal to bite or to attack such person, another person or another animal.
- (6) A chicken not on the chicken keeper's property

Sec. 10-2. Exemption for police dogs.

Police dogs owned by federal, state or local law enforcement agencies shall be deemed exempt from the provisions of this Chapter while being used in the performance of the functions and duties of said department.

Sec. 10-3. Cruelty to animals.

(A) In this Section, unless the context otherwise requires:

Abandon includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

Mistreatment includes every act or omission which causes, or unreasonably permits the continuation of, unnecessary or unjustifiable pain or suffering.

Neglect includes failure to provide food, water, protection from the elements, opportunity for exercise or other care normal, usual and proper for an animal's health and well-being. **Neglect includes but is not limited to overdrive, overload, overwork, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, allow to be housed in a manner that results in chronic or repeated physical harm, carry or confine in or upon any vehicles in a cruel or reckless manner, or otherwise mistreat or neglect any animal, or cause or procure it to be done, or having the charge or custody of any animal, fail to provide it with proper food, drink, or protection from the**

weather consistent with the species, breed, and type of animal involved, and every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable suffering or pain

- (B) A person commits cruelty to animals if, except as authorized by law, he or she knowingly or with criminal negligence overdrives, overloads, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, needlessly mutilates, needlessly kills, carries in or upon any vehicles in a cruel manner, or otherwise mistreats or neglects any animal or causes or procures it to be done, or, having the charge and custody of any animal, fails to provide it with proper food, drink or protection from the weather or abandons it. **Any neglect of an animal, that results in the death of that animal shall constitute cruelty.**
- (C) Cruelty to animals is a misdemeanor. In the case of any person incurring a second or subsequent conviction under the provisions of Subsection (B) above, a sentence of imprisonment within the minimum and maximum terms shall be mandatory and shall not be subject to suspension, nor shall such person be eligible for probation or parole for any part of such period. A plea of *nolo contendere* accepted by the Court shall be considered a conviction for the purposes of this Section.
- (D) Nothing in this Section shall be construed to prohibit any conduct authorized or permitted in Title 33, C.R.S., as amended.
- (E) It shall be the duty of the Ordinance Control Officer or any duly authorized police officer of the City to take up and impound any such animal that is found to be subject to cruel and inhumane treatment as defined in this Section.
- (F) It is no defense to prosecution under this Section that the defendant was, at the time of the offense, the owner of the animal, nor that the offense was committed upon private property.
- (G) In the case of any person who incurs a second or subsequent conviction under this Section for any offense occurring within two (2) years prior to the second offense, a sentence to pay a fine of three hundred dollars (\$300.00) shall be mandatory and shall not be subject to suspension, in addition to such sentence to confinement as the Court may impose.

Sec. 10-4. Poisoning animals prohibited.

It is unlawful for any person to poison any animal or fowl or to distribute poison in any manner whatever with the intent or for the purpose of poisoning any animal or fowl.

It shall be unlawful for any person knowingly to poison any domesticated animal or livestock, or to knowingly distribute or set out poison or any other toxicant anywhere within the city in any manner whatsoever that causes the poisoning of any such animal. The distribution or setting out of any poison, toxicant or poisoned meat or food, other than those specifically for insect, bat, rat, mouse or other rodent poisoning, shall be presumptive evidence of violation of this section. The poisoning of insects, bats, rats, mice and other rodents shall conform with all applicable state and federal laws.

Sec. 10-5. Animals in motor vehicles and enclosed spaces.

- (A) It is unlawful for any person to keep an animal in a motor vehicle or other enclosed space in which the animal's health or life is endangered by high temperature, low temperature or inadequate ventilation.
- (B) A police officer or code compliance officer may, after attempting to locate the owner or other person responsible for an animal determined to be kept in violation of subsection (A) hereof, remove the animal from the vehicle or other enclosed space using any reasonable means necessary, including the breaking of a window or a lock. The owner of an animal so removed by a police officer or code compliance officer shall be responsible for any professional costs incurred by the City to do so, such as the cost of a locksmith, mechanic, etc.
- (C) The City and any police officer or code compliance officer who removes an animal pursuant to subsection (B) of this Section shall not be liable for any damage resulting from the enforcement of this Section when such

damage is incurred as a result of an officer's good faith belief that an animal's health, life or safety is in imminent danger.

(D) It shall be unlawful for any person who has control of any animal to confine or transport such animal in such a way that the animal is exposed to extremes in temperature or weather conditions. For the purposes of this section, the operator of a motor vehicle shall be deemed to have control of any animals riding therein.

Sec. 10-6. Livestock and Fowl. Keeping of fowl and swine.

It shall be unlawful for any person to own or have custody of any livestock or fowl except in a zoning district where such use is permitted in accordance with the zoning ordinance. The keeping of any fowl, swine, goats, cattle, horses, or similar livestock other than cats and dogs within the Town is prohibited, other than as specifically set forth and allowed herein:

(A) The following requirements, restrictions, and standards shall apply to backyard chicken uses:

1. There shall be a maximum of four (4) hens allowed per property. No roosters or other fowl shall be allowed.
2. A chicken coop shall be located so that it has the least amount of impact to adjacent dwellings and properties. Therefore, a chicken coop shall only be located in a rear yard, have a rear yard setback of twenty (20) feet, and have a side setback of at least fifteen (15) feet. In addition to the rear and side yard setbacks, a chicken coop shall be located no closer than twenty (20) feet to any residential structure on adjacent properties.
3. The footprint of a chicken coop and enclosed run shall not exceed one hundred twenty (120) square feet. The maximum height of the chicken coop shall be six (6) feet high. Chicken coops and runs shall be completely enclosed with wire or other material to contain the chickens and prevent intrusion from wildlife and domesticated animals.
4. The chicken coop shall be of sound construction, be covered, predator resistant, properly ventilated, designed to be easily accessed, cleaned and maintained. Dilapidated, unsightly, or dangerous chicken coops or runs shall be removed or repaired when so ordered by the city.
5. Chicken coops and runs shall be maintained in a clean fashion and regularly cleaned to control dust, odor and waste so as to not constitute a nuisance, safety hazard, or health problem to surrounding properties. Odors and dust shall not be perceptible beyond the boundaries of the parcel.
6. The chicken coop and run must provide adequate ventilation and adequate sun and shade, and must be impermeable to rodents, wild birds and predators, including dogs and cats.
7. The chicken coop must consist of at least four (4) square feet for each chicken housed therein.
8. Chicken feed shall be kept within the residence or garage so that it can be secured from rodents and other wildlife.
9. During daylight hours, chickens shall have access to both the chicken coop and run. During non-daylight hours, chickens shall be secured within the chicken coop.

10. Chicken manure shall be removed and stored in a sealed container or removed from the property immediately. Spillage and leftover feed must be removed daily to prevent rodent propagation and odors.

11. Slaughtering or display of slaughtered chickens is prohibited.

12. It is the sole responsibility of the chicken keeper to ensure their chickens do not leave their property. The keeper of any chicken which is found to be off the property of the keeper shall be subject to the provisions of, and applicable penalties provided in, Sec. 10-6.

13. Fowl may be kept in a secure enclosure with a maximum of twelve fowl per two thousand five hundred (2,500) square feet of property provided that no more than thirty-six (36) fowl shall be kept on any single property or contiguous properties held in common ownership.

14. No fowl shall be kept in such a manner as to constitute a public or private nuisance. The premises on which any fowl is kept shall be maintained in a sanitary condition and shall comply with all applicable regulations of the City.

15. Nothing contained in this Section shall be construed to allow the commercial keeping or breeding of animals in any area of the City zoned residential under the provisions of Chapter 10 of this Code.

(B) Permit required. All backyard chicken uses and facilities shall require a permit from the city clerk's office prior to allowance of any chickens on the property. The permit shall be valid only for the person and location to which it is issued and is nontransferable. This permit shall only be issued after the backyard chicken application has been approved in accordance with this section and shall specify any terms or conditions of the permit. The applicant shall submit the application on the form provided by the community development director and shall pay the application fee as set by city council resolution. The community development director may require submittal of such additional information as is deemed necessary to demonstrate compliance with the requirements of this section. Any pre-existing keeping of chickens is illegal, and therefore must comply with this section or be removed.

(C) Revocation of permit. A backyard chicken permit may be revoked upon the conviction of the permit holder of a violation of any provision in this Chapter.

(D) In addition to revocation of a permit, any violation of this chicken ordinance may result in a charge or charges under this section and issued by any police officer and filed in the municipal court.

Sec. 10-7 Accumulation of Animals

The accumulation of animals substantially increases the likelihood of the mistreatment of animals, including starvation, neglect, cruelty and abandonment, as well as the noxious odors, health hazards and unsanitary condition of premises often accompanying such actions, as addressed in this title. Therefore:

(A) No person or household shall own or have custody of more than six (6) dogs and cats, in any combination, more than four (4) months of age. State-of-Colorado-licensed kennel facilities would be excluded.

(B) No person or household shall own or have custody of more than two (2) pot-bellied pigs more than four (4) months of age.

(C) In addition to the limits set forth above, no person or household shall own or have custody of more than fifteen (15) small animals such as rabbits, guinea pigs, hamsters or the like more than four (4) months of age, in any combination.

(D) From the date of passage of this ordinance, any person or household that has over the limit of animals set forth in subsections A, B and/or C of this section, shall be required to contact the city clerk advising him or her of the total number of animals and a description of each animal. The person or household shall not increase the total

number of animals beyond that total. Once the person or household reduces animals to the limit allowed, they shall not go over the limit again.

Sec. 10-8 Traps

It shall be unlawful for any person to set or cause to be set within the city any steel jaw leghold trap, snare or any trap other than a humane trap, as defined in section 6.04.120, for the purpose of capturing any animal, whether wild or domestic.

Sec. 10-9 Promotion of Fights

It shall be unlawful for any person to cause or encourage any animal to fight with another of its own species or with another of a different species. It shall be unlawful to maintain any place where animals are permitted to fight for exhibition, for wager or for sport. For the purposes of this section, a person encourages a fight between animals for the purpose of monetary gain if he or she is knowingly present at such a fight; possesses equipment used to train or condition animals for fighting; or knowingly allows any such fight to occur on any property owned or controlled by him or her. In addition to the penalties provided by this title, any police officer may impound any animal from public or private property for the animal's well-being.

Sec. 10-10. Reserved.

ARTICLE II Owner Responsibilities

Sec. 10-11. Identification required; exception.

- (A) It is unlawful for the owner or custodian of any domesticated animal within the City to fail to cause such animal to wear or bear at all times legible and current identification containing words, numbers or a combination thereof which enables the Ordinance Control Officer to readily ascertain, at a minimum, the name and current telephone number of the owner or custodian. Said identification may be in the form of a durable tag affixed to the collar or harness of such animal, a microchip surgically implanted into such animal or other similar type of identification.
- (B) This Section does not apply to transient or tourist animals, provided that they will be in the City less than thirty (30) days and that they are confined in a suitable enclosure or are under the control of the owner or custodian by a leash.

Sec. 10-12. Proof of rabies vaccination required.

- (A) The owner or custodian of any domesticated animal shall have such animal vaccinated against rabies by a licensed Colorado veterinarian unless there can be shown a written statement from a licensed Colorado veterinarian that such vaccination would be detrimental to the health of such animal.
- (B) Every owner or custodian shall maintain upon each animal a collar or harness to which its current rabies tag shall be attached.
- (C) An animal with a microchip surgically implanted containing the rabies vaccination information is exempt from the requirement of Subsection (B) above. It shall be the responsibility of the owner or custodian to provide proof of the information contained in the microchip.

Sec. 10-13. Running at large prohibited.

It is unlawful for any person to permit any animal or fowl to run at large within the City. Any animal found running at large may be taken up, impounded and disposed of by the Police Department in the manner provided by state law.

Sec. 10-14. Premises where animals kept to be clean.

It is unlawful for any person who keeps any animal within the City to permit the corral, barn, yard, pen or place wherein the animal is kept to become foul, noisome, putrid, malodorous, unwholesome, offensive or in any way dangerous or detrimental to human health, comfort or welfare; and any such place is hereby declared to be a nuisance and subject to abatement.

Sec. 10-15. Removal of dead animals.

When any animal dies in the City, it shall be the duty of the owner or custodian thereof to remove the body of such animal from the City. If such body is not removed within twenty-four (24) hours of the death, the body shall be deemed a nuisance and may be abated as such.

Sec. 10-16. Removal of excrement.

Persons who have in their custody or are the keepers of a dog, horse or other domesticated animal shall be responsible to clean and remove any solid substances excreted from such dog or horse onto any public street, sidewalk, alley or other public place and to remove the substance and deposit it in a receptacle or other depository so that it is not left lying on public streets, sidewalks, alleys or other public places. [It is hereby declared to be a nuisance and it shall be unlawful for any person to allow the accumulation of feces on any premises owned, occupied or controlled by such person in the city, to the extent that it creates an unsanitary, offensive or unhealthy condition. It shall be unlawful for any person to place animal feces in storm sewers or upon the property of another or to dispose of such feces in any manner except by depositing it in a toilet or a covered, fly-tight container normally used for garbage.](#)

Sec. 10-17. Disturbing the peace.

It is unlawful for the owner or custodian of any animal to permit such animal to disturb, molest, damage or destroy the property of others, or to permit a dog, by loud and persistent or habitual barking, to disturb any person or neighborhood; and the same is hereby declared to be a public nuisance.

Sec. 10-18. Aggressive behavior.

It is unlawful for any owner or custodian of an animal to permit or allow said animal to behave as an aggressive animal.

Sec. 10-19. Vicious animals to be confined.

It is unlawful for any owner or custodian of a vicious animal to permit the same to run at large. The police may take up and impound any such animal that is found running at large without notice to the owner or owner's agent.

Sec. 10-20. Animal bites; confinement.

- (A) The owner or custodian of any domesticated animal that has bitten any person so as to cause an abrasion of the skin shall immediately advise the Ordinance Control Officer of that fact. Any such animal shall be immediately confined for a period of ten (10) days or longer on the advice of the attending veterinarian or the County Health Department. Confined animals shall have no contact with the public, and it is unlawful for any person to remove any confined animal from the designated quarantine location. Confinement may be on the premises of the owner or custodian if deemed appropriate in the discretion of the Ordinance Control Officer, but must remain within the City for a minimum of ten (10) days. If not confined on the premises of the owner or custodian, confinement will be at the animal shelter, or in any veterinary hospital or boarding kennel within the City limits. Such confinement shall be at the expense of the owner or custodian. In the case of animals whose owner or custodian cannot be located, such confinement shall be at the animal shelter. Since they are not considered to be transmitters of the rabies virus, bites inflicted by rodents, rabbits, reptiles or fowl need not be reported to animal control.
- (B) The owner or custodian of any animal that has been reported as having inflicted a bite which caused an abrasion of the skin of any person shall, on demand of the Ordinance Control Officer, produce said animal for examination and confinement, as prescribed in this Section. If the owner or custodian of any such animal willfully or knowingly hides or refuses to produce the animal, each day of refusal to produce the animal shall constitute a separate and individual violation of this Chapter. It is unlawful to give away, sell or remove any such animal from the City or to destroy such animal before it can be properly confined by the Ordinance Control Officer.
- (C) When an animal under quarantine has been diagnosed by a licensed veterinarian as being rabid, the veterinarian making such diagnosis shall immediately notify the County Public Health Officer and advise him or her of any reports of human contact with said animal. If any animal under confinement dies while under observation, the Ordinance Control Officer or his or her agent shall immediately take action to obtain a pathological and inoculation examination of the animal. As soon as a diagnosis is made available, the Ordinance Control Officer shall notify the County Public Health Officer of any reports of human contact with the animal.

Sec. 10-21 Animal scattering trash

It is unlawful for any person owning or having charge of any animal to fail to prevent the animal from scavenging, scattering, tearing at or rummaging through trash, garbage or rubbish, whether such is in a receptacle or not, or from scattering or littering such trash, garbage or rubbish on or around any public or private property; provided, however, that it is a specific defense to a charge of violating this Section that the owner or person having charge of the animal immediately removed or cleaned up the trash, garbage or rubbish and disposed of it securely in a receptacle ordinarily used for trash, garbage or rubbish or in an otherwise lawful manner.

Sec. 10-22—10-30. Reserved.

ARTICLE III Impoundment

Sec. 10-31. Generally.

- (A) Authority. The Ordinance Control Officer or any duly authorized officer of the City shall cause all animals found to be running at large in violation of this Chapter to be taken up and impounded in such place as designated by the City Council, and such animals may be taken up without the necessity of filing a complaint.

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- (B) Any animal found within the City to be in violation of the requirements of this Chapter, except those animals temporarily within the City less than thirty (30) days, shall be impounded, and such animals may be taken up without the necessity of filing a complaint.

Sec. 10-32. Notice.

Upon any animal being impounded, a notice containing a description of the animal shall be posted at the City Hall and at the pound. If the owner or custodian of such animal is known, such notice shall be served upon the owner or custodian or by leaving such notice at his or her place of residence with a member of his or her family or with his or her landlord.

Sec. 10-33. Disposition of unredeemed animals; fee.

If the owner or custodian of an impounded animal does not appear and claim the same within three (3) days after the posting or serving of a notice as provided in Section 10-32, and pay an impoundment fee plus any additional fees, the Police Department shall dispose of the animal in a humane manner. The Municipal Court may impose and collect any such fees at the time of sentencing on municipal violations.

Sec. 10-34. Releasing animals from pound without authority prohibited.

It is unlawful for any person to release any dog or other animal from the pound unless such person has been authorized to do so. The Municipal Court is hereby empowered to charge any defendant under this Code the amount of any fees incurred as a result of impoundment or any other fees as part of the disposition or sentence in any case brought before such Court.

Sec. 10-35—10-40. Reserved.

Sterling has a lot of code as to actual offenses and what charges could be brought in regards to mistreatment of animals. I have what stuck out to me in the code below however I assume this part of any changes to our code be driven by PD and our prosecutor, but Sterling's code is below to give examples of the extent of the code and charges that can be brought per Sterling's operation.

Nothing in this section shall affect accepted animal husbandry practices utilized by any person in the care of companion or livestock animals or in the extermination of undesirable pests as defined in C.R.S. articles 7, 10, and 43 of title 35.

In case of any conflict between this section or C.R.S. 35-43-126, and the wildlife statutes of the state, said wildlife statutes shall control.

Nothing in this section shall affect animal care otherwise authorized by law.

Nothing in this section shall affect facilities licensed under the provisions of the federal Animal Welfare Act of 1970, 7 U.S.C. 2131 et seq., as amended.

Not every act that causes pain and suffering to animals is prohibited by this section. Where the end or object is reasonable and adequate, the act resulting in pain is, in the sense of the statute, necessary or justifiable, as where a surgical operation is performed to save life, or where the act is done to protect life or property, or to minister to some of the necessities of man.

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- (a) (1)A person commits cruelty to animals if he or she knowingly, recklessly, or with criminal negligence overdrives, overloads, overworks, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, allows to be housed in a manner that results in chronic or repeated serious physical harm, carries or confines in or upon any vehicles in a cruel or reckless manner, or otherwise mistreats or neglects any animal, or causes or procures it to be done, or, having the charge or custody of any animal, fails to provide it with proper food, drink, or protection from the weather consistent with the species, breed, and type of animal involved, or abandons an animal.
- (2)Any person who intentionally abandons a dog or cat commits the offense of cruelty to animals.
- (b) (1)A person commits cruelty to animals if he or she recklessly or with criminal negligence tortures, needlessly mutilates, or needlessly kills an animal.
- (2)A person commits aggravated cruelty to animals if he or she knowingly tortures, needlessly mutilates, or needlessly kills an animal.
- (c)As used in this section, unless the context otherwise requires. "Serious physical harm" means any of the following:
- (1)Any physical harm that carries a substantial risk of death;
- (2)Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming; or
- (3)Any physical harm that causes acute pain of a duration that results in substantial suffering.
- (d)A peace officer having authority to act under this section may take possession of and impound an animal that the peace officer has probable cause to believe is a victim of a violation of subsection (a) or (b) of this section or is a victim of a violation of C.R.S. 18-9-204, and as a result of the violation is endangered if it remains with the owner or custodian.
- (e)Cruelty to animals is a misdemeanor.
- (f)In addition to any other sentence imposed for a violation of this section, the court may order an offender to complete an anger management treatment program or any other appropriate treatment program.
- (g)The court shall order an evaluation to be conducted prior to sentencing to assist the court in determining an appropriate sentence. The person ordered to undergo an evaluation shall be required to pay the cost of the evaluation, unless the person qualifies for court-appointed counsel, then the cost will be paid by the city. If the evaluation results in a recommendation of treatment and if the court so finds, the person shall be ordered to complete an anger management treatment program or any other treatment program that the court may deem appropriate.
- (h)Upon successful completion of an anger management treatment program or any other treatment program deemed appropriate by the court, the court may suspend any fine imposed, except for a five hundred dollar (\$500.00) mandatory minimum fine which shall be imposed at the time of sentencing.
- (i)In addition to any other sentence imposed upon a person for a violation of any criminal law under this title, any person convicted of a second or subsequent conviction for any crime, the underlying factual basis of which has been found by the court to include an act of cruelty to animals, shall be required to pay a mandatory minimum fine of nine hundred ninety-nine dollars (\$999.00) and shall be required to complete an anger management treatment program or any other appropriate treatment program.
- (j)Nothing in this section shall preclude the court from ordering treatment in any appropriate case.

(k) This section does not apply to the treatment of pack or draft animals by negligently overdriving, overloading, or overworking them, or the treatment of livestock and other animals used in the farm or ranch production of food, fiber, or other agricultural products when such treatment is in accordance with accepted agricultural animal husbandry practices, the treatment of animals involved in activities regulated pursuant to C.R.S. article 60 of title 12, the treatment of animals involved in research if such research facility is operating under rules set forth by the state or federal government, the treatment of animals involved in rodeos, the treatment of dogs used for legal hunting activities, wildlife nuisances, or to statutes regulating activities concerning wildlife and predator control in the state, including trapping.

(l) It shall be an affirmative defense to a charge brought under this section involving injury or death to a dog that the dog was found running, worrying, or injuring sheep, cattle, or other livestock.

(m) Nothing in this section shall be construed to amend or in any manner change the authority of the wildlife commission, as established in C.R.S. title 33, or to prohibit any conduct therein authorized or permitted.

Sec. 4-15. - Backyard breeder.

Dog breeding license required: Any person, except for someone having a valid kennel license who breeds a female dog must obtain an animal breeding permit issued by the city or its animal control representative. The permit fee is two hundred fifty dollars (\$250.00). In order to prevent the overbreeding of animals, each permit authorizes the whelping of no more than one (1) litter per female dog in any twelve-month period and no more than one (1) litter per domestic household in any twelve-month period.

Exception: The fee may be waived if the owner provides as proof a certificate of surgical sterilization or spaying of the female dog within two (2) weeks of the breeding date or prior to whelping.

The penalty for violation of this section shall be a fine set by the court, which fine shall be a minimum of four hundred dollars (\$400.00) and a maximum of nine hundred ninety-nine dollars (\$999.00).

TO: Planning Commission
CC: City Administrator Andrew Marsh
Community Development Planner Dylan Graves
FROM: Jonathan Cain | Assistant City Administrator
DATE: December 6, 2023
SUBJECT: Revision and Alternative Analysis of Voluntary Parking Fee-in-Lieu Program (ISMC Sec. 21-134)
ATTACHMENTS: None



INTRODUCTION

This report proposes modifications to the Parking Fee-in-Lieu program (ISMC Sec. 21-134), aiming to align the fees with market rates and to introduce a flexible payment structure resembling a lease agreement.

BACKGROUND

The current ordinance allows with City approval property owners within specific areas to pay a fee-in-lieu instead of providing required parking spaces, a crucial element in urban planning, especially in areas like the Idaho Springs Historic District.

Examples of Other Municipal Programs

- **Coconut Grove, Florida:** Options for a one-time or monthly fee.
- **Town of Braintree, Massachusetts:** Annual fee per space.
- **Town of Oak Bluffs, Massachusetts:** Variable annual payments for different uses.
- **City of Northampton, Massachusetts:** One-time fee option.
- **Town of Ashburnham, Massachusetts:** Fees based on market value and construction costs.

COUNCIL DIRECTIVE

The City Council has expressed interest in receiving recommendations from the Planning Commission on revising the program to reflect market rates for parking spaces and moving towards a model that allows temporary occupancy, akin to a lease agreement. While the calculations are based on a benchmark cost of \$65,000 per parking space, the Council acknowledges the potential for adjusting fees lower for certain uses. This approach necessitates developing a formula that is responsive to market conditions and urban development needs.

Proposed Fee Structure and Alternatives (Example calculations based on current cost per parking space of \$65,000)

Option 1

Fees based on market rates, aiming to recover costs over 20 years through monthly payments.

Example calculation (based on a \$65,000 benchmark and 20 Year Payment):

$\$65,000/20 = \$3,250$ (annualized (actual payment may include fees))

$\$3,250/12 = \$270.83$ (monthly)

Option 2

Annual Payment Plan for Different Use Types. Annual fees adjusted for market rates and specific use types. Develop formula to attach to different uses to determine annual payment: \$3,250 for Restaurant/Retail Use, we could create a formula that would reduce this factor for Residential/Office Space Units or other uses.

Option 3

A combination of a one-time fee and annual/monthly fees renegotiated every 5 years based on market rates. Develop formula to attach to different uses to determine annual payment.

PLANNING COMMISSION'S ROLE

Your expertise is essential in assessing these options, especially in developing a formula that accommodates different use types and responds to market conditions.

LEGAL REVIEW

All recommended programs will be subject to legal review to ensure compliance with laws and regulations.

DISCUSSION POINTS

- Analysis of fee structures in relation to market rates and urban planning objectives.
- Formulation of a flexible fee structure that can accommodate different uses and market changes.
 - How often should annual rates be negotiated?
 - Should there be a formula to reduce the cost of a parking space for certain types of uses?
 - What percentage of the City's actual cost should be recovered from these fees for parking spaces?
 - How long should fee-in-lieu agreements last?
 - Should applicants be released from payments when they have paid the rate for parking spaces?
- Long-term impacts of each proposed payment system.

NEXT STEPS

Staff will take direction from Planning Commission and develop an ordinance for consideration in January by Planning Commission and ultimately City Council.