

AGENDA

CITY COUNCIL REGULAR MEETING

August 9, 2022

5:00 PM, City Council Chambers
427 Rio Grande Place



ZOOM

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join.

<https://us06web.zoom.us/j/86147029388?pwd=M21Cd0thenBpWUFXMTk4dENGQnhPZz09>

Passcode: 81611

Or join by phone:

US: +1 253 215 8782

Webinar: 861 4702 9388

Passcode: 81611

I. CALL TO ORDER

II. ROLL CALL

III. SCHEDULED PUBLIC APPEARANCES

IV. CITIZENS COMMENTS & PETITIONS

(Time for any citizen to address Council on issues NOT scheduled for a public hearing. Please limit your comments to 3 minutes)

V. SPECIAL ORDERS OF THE DAY

- a) Councilmembers' and Mayor's Comments
- b) Agenda Amendments
- c) City Manager's Comments
- d) Board Reports

VI. CONSENT CALENDAR

(These matters may be adopted together by a single motion)

- VIA. Resolution #095, Series of 2022 - Old Powerhouse Preservation Design Services Change Order
- Resolution #097, Series of 2022 - Old Powerhouse Preservation and Construction Manager as Advisor Add Service

VIB. Resolution #100, Series of 2022 - Calling for and Establishing the Date for the Coordinated Election and Authorizing the City Clerk to Execute the IGA with Pitkin County

VIC. Draft Minutes of July 26th, 2022

VII. NOTICE OF CALL-UP

VIII. FIRST READING OF ORDINANCES

IX. PUBLIC HEARINGS

IXA. Ordinance #15, Series of 2022 - 470 Rio Grande Place, Theater Aspen, Minor Amendment to a Planned Development Project Review Approval

X. ACTION ITEMS

XA. Resolution #096, Series of 2022 - 516 E. Hyman Ave. - Growth Management Review

XI. EXECUTIVE SESSION

Pursuant to C.R.S. Section 24-6-402 (4)(a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; (4)(b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions. (4)(e) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

The specific items of discussion involve the following:

The lease, transfer or acquisition of real property or property interests, contract negotiations, and communication with counsel regarding such subjects. Due to market forces, negotiation strategies and confidentiality demands of parties involved, and necessitated by the subject of the specific legal advice, which further disclosure would be a detriment to the City's strategic position, the exact properties cannot be disclosed.

XII. ADJOURNMENT

RESOLUTION #095
(Series of 2022)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, APPROVING A CHANGE ORDER BETWEEN THE CITY OF ASPEN AND **GILBERT SANCHEZ ARCHITECT PLLC** AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CHANGE ORDER ON BEHALF OF THE CITY OF ASPEN, COLORADO.

WHEREAS, there has been submitted to the City Council a change order for Old Powerhouse Preservation Design Services, between the City of Aspen and Gilbert Sanchez Architect PLLC, a true and accurate copy of which is attached hereto as Exhibit “A”;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,

That the City Council of the City of Aspen hereby approves that change order for, **\$37,900** between the City of Aspen and **Gilbert Sanchez Architect PLLC** a copy of which is annexed hereto and incorporated herein and does hereby authorize the City Manager to execute said agreement on behalf of the City of Aspen.

INTRODUCED, READ, AND ADOPTED by the City Council of the City of Aspen on the 9th day of August 2022.

Torre, Mayor

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held, August 9, 2022.

Nicole Henning, City Clerk



MEMORANDUM

TO: Mayor Torre and Aspen City Council

FROM: Evan Pletcher, Capital Asset Project Manager

THROUGH: Rob Schober, Capital Asset Director

MEMO DATE: August 1, 2022

MEETING DATE: August 9, 2022

RE: Resolution #095, 2022 Old Powerhouse Preservation Design Services Change Order
Resolution #097, 2022 Old Powerhouse Preservation and Construction Manager as Advisor Add Service

REQUEST OF COUNCIL:

Please approve Resolution #095, 2022 a change order with Gilbert Sanchez Architect for design services on the Old Powerhouse Preservation Project.

Please approve Resolution #097, 2022, an add service with Concept One Group for Construction Manager as Advisor services on the Old Powerhouse Preservation Project.

SUMMARY AND BACKGROUND:

The Old Powerhouse (OPH), located at 590 N Mill St, in Aspen CO is a building listed on Aspen's Inventory of Historic Landmark Sites and Structures. The building was originally a hydroelectric power plant fed by Hunter Creek, but the plant was shut down in the 1930's as the demand for mining electricity declined. The facility was used for storage until the 1970's when the City was approached with a proposal to turn the OPH into the Aspen Art Museum.

In 2015, the Aspen Art Museum vacated the facility, and it was assessed as part of the City's Facilities Master Plan (FMP). The plan detailed the recommended uses for and current condition of the OPH.

The FMP concluded that the site is .44 miles from the downtown core and therefore is not considered as having strong pedestrian access. The site is obscured by mature vegetation furthering the gap in public visibility. The site's historic building and existing parking would be considered at full build-out of the site and the floodplain restricts further development. The site is in a public zone district creating no issues for further public or civic use of the current building. The site is likely to generate significant public

opinion on the reuse of this historic structure as many different uses are possible on this site. Even though the site is surrounded by open space, it is still compatible for office space. The site has always been used publicly, generates traffic, and has no close neighbors.

At the direction of Council, staff opened an RFP process in search of a future tenant proposed use of the OPH. This process resulted in no applicant meeting all the criteria needed to execute a lease agreement. In 2016, Capital Asset performed a minor renovation to the interior space so it could serve as temporary office space for City Departments and ACRA while the long-term use of the space was determined.

The FMP indicated that the building's exterior needed comprehensive repairs, the roof was due for replacement, and the building's interior fixtures and finishes were at the end of their useful life. To bring the building up to current ADA compliance standards, an elevator would also need to be installed. Additionally, the building's mechanical, electrical, and plumbing systems needed an in-depth review and replacement.

As a result of the assessment, staff performed immediate repair needs to the building and opened an RFP in search of an architect to preserve and prepare the building for future use(s). In 2017, Gilbert Sanchez Architect was selected to lead the Architect/Design services for the OPH. The design team created a plan for the building and Gilbert submitted a conceptual design packet to the Building Department. The project was then put on hold so that Staff and Council could focus their efforts on construction of the new City Hall.

Upon completion of City Hall, the conversation about the future use of the OPH and Armory was revisited. In 2022, Council agreed with Staff that the best long-term use for the OPH was City office space. Staff was directed to take steps necessary to perform a comprehensive remodel of the facility for office use that was inline with the City's Verified Program. This plan was also to focus on preservation of the building's historic nature, activating the lawn space for public use. Additionally, moving City departments currently in the Main St. Cabin will free up space for additional affordable housing.

DISCUSSION:

Concept One Group was brought on board to assist Staff in the execution of the OPH remodel. The team reviewed the existing AIA contract documents with Gilbert Sanchez Architect and determined they were still applicable and valid. Staff requested an updated proposal from Gilbert and his team to modify and complete their existing design of the facility. Staff also requested an add service proposal from Concept One Group for Construction Management as Advisor to be added to their master agreement contract for the City Offices project as this is an extension of that project. This request is being made to fund the design and permitting phases of this project. A future request of Council will be made to fund the construction administration phase of this project for Architectural and CMa services before construction begins.

FINANCIAL IMPACTS:

- Spending authority for design and consulting services was approved for this project as part of the 2022 budget process \$350,000 allocated to design in 2022 with a lifetime design budget of \$420,000.
- This project will be funded by the Asset Management Plan Fund (000) in project 51420 – Old Powerhouse Preservation.
- The project was originally budgeted at \$3.5 million in 2016.
- Staff estimates an anticipated total project cost of \$4.445 million due to inflation.

A breakdown of design and construction manager as advisor costs is provided below:

Gilbert Sanchez Architect Existing Contract Amount - \$310,850

Change Order Amount - \$37,900

Gilbert Sanchez Architect New Contract Amount - \$348,750

Add Service for Concept One Group: \$105,160

A future request of Council will be made to fund the construction administration phase of this project for Architectural and CMA services before construction begins.

ENVIRONMENTAL IMPACTS:

The design team will closely evaluate the existing mechanical systems and building envelope in search of efficiencies to be gained in building operation and functionality. They will use knowledge gained from the pandemic and existing City office spaces to ensure they create a healthy and productive office environment.

ALTERNATIVES:

We could go to RFP for new architecture and CMA services. We would lose the depth of knowledge this team currently has, and we would have to spend the time required to go to RFP with historically limited response.

RECOMMENDATIONS:

Please approve Resolution #095, 2022 a change order with Gilbert Sanchez Architect for design services on the Old Powerhouse Preservation Project.

Please approve Resolution #097, 2022, an add service with Concept One Group for Construction Manager as Advisor services on the Old Powerhouse Preservation Project.

CITY MANAGER COMMENTS:

ATTACHMENTS:

Exhibit I: Resolution #095, 2022 - Gilbert Sanchez Architect Change Order

Exhibit II: Resolution #097, 2022 - Concept One Group Add Service

Exhibit III: Gilbert Sanchez Architect Changer Order #001

Exhibit IV: Concept One Group Add Service #003

Exhibit V: Facilities Master Plan OPH Section

RESOLUTION #097
(Series of 2022)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, APPROVING AN ADD SERVICE BETWEEN THE CITY OF ASPEN AND **CONCEPT ONE GROUP** AUTHORIZING THE CITY MANAGER TO EXECUTE SAID ADD SERVICE ON BEHALF OF THE CITY OF ASPEN, COLORADO.

WHEREAS, there has been submitted to the City Council an add service to the City Offices Project for Old Powerhouse Preservation Construction Management as Advisor services, between the City of Aspen and Concept One Group, a true and accurate copy of which is attached hereto as Exhibit “A”;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,

That the City Council of the City of Aspen hereby approves that add service for, **\$105,160** between the City of Aspen and **Concept One Group** a copy of which is annexed hereto and incorporated herein and does hereby authorize the City Manager to execute said agreement on behalf of the City of Aspen.

INTRODUCED, READ, AND ADOPTED by the City Council of the City of Aspen on the 9th day of August 2022.

Torre, Mayor

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held, August 9, 2022.

Nicole Henning, City Clerk

July 26, 2022

Mr. Rob Schober
Capital Asset Director
City of Aspen
130 South Galena Street
Aspen, CO 81611

CITY OF ASPEN – CITY OFFICES: GILBERT SANCHEZ ARCHITECT PLLC PROPOSAL

Dear Rob:

The purpose of this letter is to recommend the approval of the Gilbert Sanchez Architect PLLC Proposed Change Order to master contract agreement which was executed on February 13, 2017, under resolution 15.2017.

BACKGROUND

In 2017, the City started work on the City Offices project and changed direction to accommodate ACRA while City Offices was built. Now, Council has directed the team to go back to the original plan to make the Old Powerhouse the permanent space for additional City offices and a possible public meeting room. This proposal is to reset the schematic design to the Old Powerhouse through permit documents.

PROJECT COSTS

The cost of this proposed change order is \$37,000.00 for new schematic design process. Construction Administration will be handled in future change orders. As the design team understands the overall scope of the project there may be future design change orders.

Total Cost of Proposed Change Order: \$37,900

Best Regards,



Jack Wheeler
President
Concept One Group, Inc.

OLD POWERHOUSE REMODEL / PHASE III SUPPLEMENT TO THE AGREEMENT FOR ARCHITECTURAL SERVICES

C/O Jack Wheeler
Concept One Group
wheeler@conceptonegroup.com

Dear Jack,

This letter outlines revisions to the Architectural Services identified in our AIA B101-2007 Agreement dated February 13, 2017. These services have previously been modified at the request of the City of Aspen to accommodate the City's changing needs. Phase I (Temporary location of City offices on the second floor) and Phase II (Temporary location of ACRA on the first floor) were completed in 2017 and 2018. This document addresses the anticipated scope of work for the Schematic Design tasks for Phase III which is intended to accommodate long-term City of Aspen office use.

REVISIONS TO THE AGREEMENT

ARTICLE 1.1

Add the following:

Phase III Schematic Design Scope of Work:

1. Architect / Gilbert Sanchez Architect PLLC
 - a. Schematic Design
 - Space Programming
 - Floor Plans
 - Roof Plan
 - Elevations
 - Exterior Lighting Plan
 - Preliminary Finish Selections
 - Coordination of the Design Team
 - b. Pre-Application Conference with City of Aspen
 - c. HPC Application + Initial HPC Review
 - d. Three Progress Review Meetings w/ City Staff
 - e. City Council Review
2. Civil Engineering Services / TBD
 - a. Utilities
 - b. Stormwater Management
 - Site Plan Impacts
 - Landscape Coordination
 - Gutters + Downspouts
3. Preservation Consultant / Wiss Janey Elsner
 - a. Building Assessment
 - Masonry Preservation
 - Roof Assembly
 - Waterproofing

4. Structural Engineer / TBD
 - a. Schematic Design Narrative
 - Roof Assembly
 - Elevator
5. MEP Engineer / IMEG
 - a. Review Previous Reports
 - Boiler
 - Alternative Energy Opportunities
 - b. Schematic Design Narrative
 - Electrical
 - Mechanical
 - Plumbing
 - Fire Suppression
6. Landscape Architect / Bluegreen
 - a. Tree Removal Identification
 - b. Landscape Schematic Design
 - Site Plan Impacts
 - Civil Coordination
 - Gutters + Downspouts

ARTICLE 1.2

Add the following:

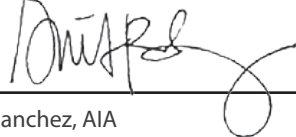
Documents for the Phase III Schematic Design tasks shall be completed by December 1, 2021. The date for HPC review is subject to the HPC calendar and remains to be determined.

ARTICLE 11.5

Add the following:

For Phase III Schematic Design work, see Exhibit E

By Architect:



Gilbert Sanchez, AIA
Principal, Gilbert Sanchez Architect PLLC

Date: 10/08/21

By Client:

Jack Wheeler
Concept One Group

Date:

EXHIBIT E

| Firm or Subconsultant | Role on Project | Fees | | Total | Comments |
|-----------------------|------------------------|----------|----------|----------|--|
| | | SD | Expenses | | |
| GSA | Architect | \$15,000 | \$500 | \$15,500 | |
| WJE | Preservation + Roofing | \$12,000 | \$500 | \$12,500 | |
| TBD | Civil Engineer | \$2,000 | \$300 | \$2,300 | It is anticipated that stormwater management for the project will be required. |
| TBD | Structural Engineer | \$1,500 | \$300 | \$1,800 | |
| IMEG | MEP Engineer | \$2,000 | \$1,000 | \$3,000 | Fire Protection (sprinkler + alarm) performance spec only |
| Bluegreen | Landscape Architect | \$2,500 | \$300 | \$2,800 | Work includes stormwater management solutions. |
| | | | | | |
| | | | | 0 | |
| | | | | 0 | |
| | | | | 0 | |
| Design Team Fee Total | | \$35,000 | \$2,900 | \$37,900 | |

ASA #03

ADDITIONAL SERVICES AUTHORIZATION

Project Name: City of Aspen – City Offices Project – Old Powerhouse Renovation
Owner: City of Aspen
Project Manager: Robert Schober, Capital Asset Project Manager
Project Address: 425 Rio Grande Place, Aspen CO 81611
Contract: Council Resolution 17-2019, 11 February 2019
Date: July 26, 2022

Owner and Concept One Group are parties to the above-referenced contract (“Contract”) and wish to amend the Contract as follows:

Concept One Group has been requested to perform and agrees to perform the following additional services for the project. The services outlined below are in addition to the services under the original agreement:

We are pleased to submit our revised fee proposal for Owner’s Representation and Program Management to assist you with the completion of the City of Aspen City Offices project, specifically the Old Powerhouse Renovation.

The scope of work for this project is defined in our master contract agreement, which was executed on February 11, 2019, under resolution 17-2019.

Jack Wheeler will continue to lead the project, assisted by Jess Robison and Jack Wheeler V. The following hourly rates apply:

Project Director: \$175
Senior Project Manager: \$150
Project Manager: \$135
Assistant Project Manager: \$100
Project Engineer: \$75

TOTAL additional not to exceed fee for additional services described above: \$100,160.00. Plus an estimate of reimbursable expenses totaling \$5,000.00, for a total additional request of \$105,160.00, outlined in the below fee worksheet. Phase 3 for construction administration will be contracted after design is complete.

Should the level of effort be considerably more than that estimated in the attached schedule, Concept One Group requests that the fee may be adjusted with owner to reflect the actual work performed.

Except as expressly amended or modified herein, the Contract shall remain unmodified and in full force and effect.

Owner:

Concept One Group:

Name: _____

Name: _____

Title: _____

Title: _____

| Project: Old Powerhouse | ESTIMATED HOURS PER MONTH | | | | |
|---|---------------------------|---------------------|----------------------|------------|------------------|
| | Phase 1 | Phase 2 | Phase 3 | Total | Fees |
| Project Director | 6 | 6 | 8 | 20 | \$4,000 |
| Senior Project Manager | 32 | 48 | 32 | 112 | \$19,600 |
| Assistant Project Manager | 16 | 16 | 32 | 64 | \$6,400 |
| Subtotal hours/level of effort | 54 | 70 | 72 | 196 | \$30,000 |
| FEE | | | | | |
| PROPOSED Monthly Billing | \$ 7,360.00 | \$ 9,760.00 | \$ 9,280.00 | | \$26,400 |
| Months per phase | 3 | 8 | 14 | | |
| Total per phase | \$ 22,080.00 | \$78,080 | \$ 129,920.00 | | \$230,080 |
| EXPENSES | | | | | |
| Reimbursable expenses, to be invoiced at cost plus 7% | \$ 2,500.00 | \$ 2,500.00 | \$ 2,500.00 | | \$7,500 |
| TOTAL | \$ 24,580.00 | \$ 80,580.00 | \$ 132,420.00 | | \$237,580 |



OLD POWER HOUSE

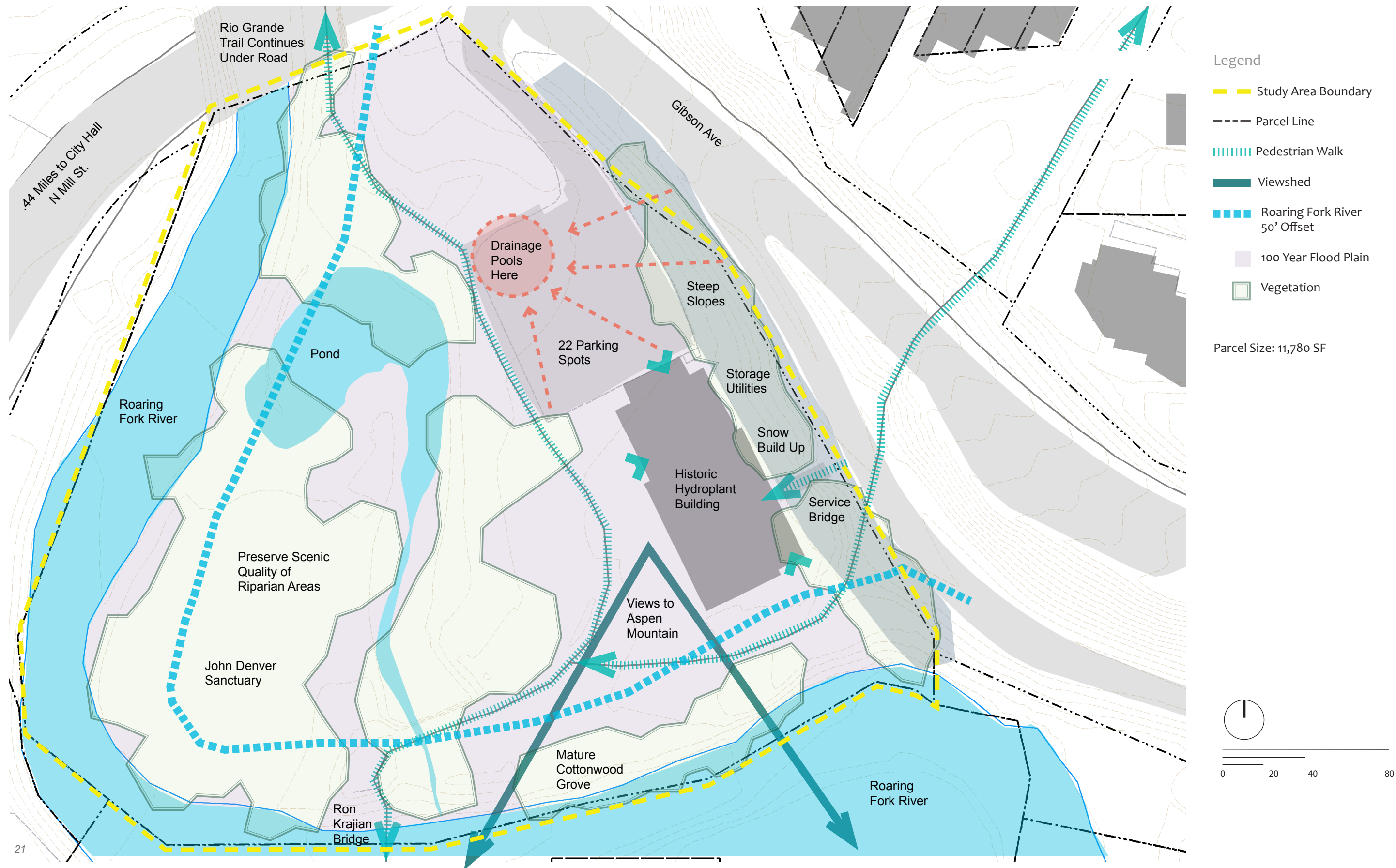


THE CITY OF ASPEN

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Site Assessment



Site Analysis

The historic Old Power House and site are located along the Roaring Fork River and North Mill Street. The building was originally a hydroelectric power plant fed by Hunter Creek, but the plant was shut down in the 1930's as the demand for mining electricity declined. The building was occupied with storage until the 1970's when the City was approached with a proposal to turn the building into the Aspen Art Museum. The Aspen Art Museum recently vacated the facility. No plans are in place for the future program and use of this building. The building is listed on Aspen's Inventory of Historic Landmark Sites and Structure and therefore would be subject to review by the Historic Preservation Commission.

Access and Parking – The site is accessible from North Mill Street with 21 parking spaces provided. Six feet of grade change separate the road way entrance from the parking lot. It can be difficult to navigate the small turning radii of the parking lot. Large trucks would not have access if the lot were occupied. A secondary access road along Gibson Avenue allows for art unloading currently to a reconstructed sevice bridge connecting the second story of the building.

Trails – The Rio Grande trail connects the site connecting pedestrians to the Rio Grande Park, John Denver Sanctuary to the Puppy Smith Street businesses area. This trail will be maintained and defines the limits of redevelopment area.

Drainage – The parking lot and building back up to a hillside connecting to Gibson Avenue. Occupants of the building describe standing water on the north and north-eastern side of the building which has flooded into the structure on a few occasions. Because the Roaring Fork River flows along the eastern edge of the property, fifty feet of the existing parcel are undevelopable. The majority of the site is within the 100' year floodplain.

Trees and Vegetation – The site vegetation is characterized by mature riparian vegetation including; cottonwoods, spruces, dogwoods, willows and other perennial riparian vegetation. An existing pond is located on the site further promoting this riparian growth. This pond and natural vegetation is described as part of the John Denver Sanctuary.

Zoning Review

R-30 PUD Zone District

The purpose of the Low-Density Residential (R-30) Zone District is to provide areas for long-term residential purposes, short term vacation rentals, and customary accessory uses. Recreational and institutional uses customarily found in proximity to residential uses are included as conditional uses. Lands in the Low-Density Residential (R-30) Zone District are typically located along river frontages in outlying areas of the City.

Permitted Uses include: Detached residential dwelling, duplex, home occupations, accessory buildings and uses and vacation rentals.

Conditional Uses include: Arts, cultural and civic uses, academic uses, agricultural uses, recreational uses, group home, and child care center.

Inventory of Historic Landmark Sites and Structures

- Since the site is listed on the Inventory of Historic Landmark Sites and Structures, a development application review would be subject to review by the Historical Preservation Commission (HPC). If the Community Development Director deems the development application to generate significant community interest, the application will be reviewed jointly by the Planning and Zoning Commission and the Historic Preservation Commission. The brick building dating back to the 1890s is classified as "Aspen Victorian." Any development would require approval of a development order and either a certificate of no negative effect or a certificate of appropriateness before any permits or work authorization.

- The historical nature of the site warrants other considerations:
- This lot is not required to meet the minimum lot area requirement of its zone district.
- Community Development Department may determine neighborhood outreach is required.
- Utility encroachments into the alleyways shall be minimized but may be allowed if the historic structure dictated such an encroachment.

Site Assessment

Conclusions

Access – The site is .44 miles from the downtown core and therefore is not considered as having strong pedestrian access. The site is obscured by mature vegetation furthering the gap in public visibility.

Build-out – The site's historic building and existing parking would be considered at full build-out of the site. The floodplain restricts further development. Redevelopment may be hampered by the current structure's historic designation.

Zoning – The site is in a public zone district creating no issues for further public or civic use of the current building.

Public View - The site is likely to generate significant public opinion on the reuse of this historic structure. Many different uses are possible on this site and will generate a competitive dialogue for how the site should be used.

Compatibility – Even though the site is surrounded by open space, it is still compatible for office space. The site has always been used publicly, generates traffic, and has no close neighbors.



Distance to Armory (City Hall)



Old Power House Entry



Old Power House as seen from west

Site Assessment



Parking Entrance from N Mill and Gibson Corner



Grade Change from Roads to Parking



Steep Slopes



Art Museum Entrance and Connection to Trail



Rio Grande Trail, Trees Against Building



Diane Lewy Memorial Amphitheatre



Snow Build-up



Service Bridge from Gibson



Utilities and Storage



Views of Aspen Mt. and Roaring Fork River



Rio Grande Trail through Open Space



John Denver Sanctuary

CITY OF ASPEN POWER HOUSE BUILDING
590 N. Mill Street, Aspen, Colorado

BUILDING ASSESSMENT

Overview: On April 2, 2014, a walk through at the facility was conducted with Jonathan Hagman (Aspen Art Museum), Scott Smith (CCA), Stan Humphries and Taylor Critchlow (AEC).



ARCHITECTURE

Facility Description:

- The original, rectangular-shaped building was constructed in the late 1880's as a hydroelectric facility on the Roaring Fork River. The original, one-story building was about 3,145 sq. ft. and was constructed of stone foundation walls, brick exterior walls, and a wood framed gable roof.
- In 1979 a rectangular, gable-roofed addition was added to the northwest end of the building. This addition consisted of about 5,220 sq. ft. of new first floor space, and a second floor above the original building's first floor, for a building total of about 8,365 sq. ft.
- A long shed roof dormer was also added at this time with clerestory windows, as well as a pedestrian walkway bridge which connects the second story of the building to Gibson Avenue on the north side.
- The new addition was constructed of a reinforced concrete (spread footing, stem wall and floor slab) foundation, wood framed brick veneer exterior walls and a steel roof truss/wood joist structured roof system (over the existing and new building areas).

Facility Assessment

EXTERIOR

- 1) The building exterior envelope consists of a galvanized, corrugated metal roof, wood fascia and plywood soffit, galvanized metal sheet siding (dormer walls), brick walls, wood (historic) windows, and metal/glass entry doors. The pedestrian bridge on the north side is constructed of glulam beams, wood joists and decking.
- 2) The bridge had a problem with damage from carpenter ants with the wood structure. Steel members were added to the glulam beams for additional support.
- 3) There are several roof leaks evident on the interior (see Image #1) in the entry vestibule and at the stair. Several roof snow fences have broken off due to sliding snow, as well as damage to mechanical roof penetrations on the north side (see Image #2).
- 4) There is no noticeable damage to the structural foundation or walls resulting in cracks or settling. The brick walls are in good shape considering the age of the historic building. Some of the brick areas could benefit from repointing (see Image #3) as well as several areas with cracks thru the bricks (see Image #4). It would probably be good to have a restoration company evaluate the historic building prior to a remodel.
- 5) The building's wooden surfaces were painted six years and are in need of new refinishing.
- 6) There is some moisture damage to the soffits of the bridge gable entry roof (see Image #5).
- 7) Building flashing and sealants need to be reviewed and in many cases repaired or replaced. Poorly constructed and weathered material connections have created gaps in the building envelope (see Image #6).

INTERIOR

- 1) The interior finishes consist of painted gyp. board ceilings and walls, wood, vinyl and carpet flooring.
- 2) The exterior original windows have been covered by interior walls and panels to prevent light entering exhibit areas.
- 3) The interior finishes are in average condition although most need to be replaced due to wear, especially in the toilet rooms (see Image #7).

RECOMMENDATIONS

- 1) A new roof (along with underlayment and sheathing) is needed to replace the existing metal roof. Roof drainage solutions need to be planned for (snow fences, heat tape, gutters, downspouts). The main entry has no protective overhang and the roof slopes toward the entry door. A gutter is in place but a safer solution would be advisable (see Image #8).
- 2) Much of the roof perimeter drains directly to the ground around the building with little water control. On the north side large amounts of snow pile up against the building walls. It would be good to control this drainage and direct it away from the building.
- 3) There is a make-shift storage shed on the northwest side of the building which is a visual distraction and should probably be removed (see Image #9).
- 4) The entry doors and metal windows should be replaced as they have exceeded their useful life and are not energy efficient.
- 5) Weatherization (flashing, sealants) should be implemented for the entire envelope.
- 6) New roof and wall insulation should be installed to comply with current energy codes. The roof structure should be evaluated resultant, additional snow loading.
- 7) The exterior, paintable surfaces should be repainted.
- 8) The walkway bridge on the north side should be evaluated for structural soundness and possibly replace the walking surface and railings (which don't comply with current building codes).
- 9) The site drainage should be studied as there is a problem with water ponding near the auto entry.
- 10) Interior walls and panels should be removed from the historic windows, windows refinished, and new insulative storm sashes added.
- 11) A public passenger elevator would be a good addition to the building to facilitate handicap accessibility.

IMAGE #7:**IMAGE #8:****IMAGE #9:**

Facility Assessment

IMAGE #1:



IMAGE #2:



IMAGE #3:



IMAGE #4:



IMAGE #5:



IMAGE #6:





Architectural Engineering Consultants, Inc.

Mechanical, Electrical, & Lighting Design Services

An Office with LEED™ Accredited Professionals

Observation Report

| | | | |
|-------------------|----------------------------------|-------------------|---------------------------|
| Observation Date: | 4/2/14 | Location: | Aspen Art Museum |
| Project: | Aspen Art Museum | Weather Cond.: | Mostly Cloudy, 40 degrees |
| Project No.: | 14019.00 | Time: | 11:00 am |
| Client: | CCA | Duration: | 1 hour |
| Prepared By: | Taylor Critchlow, Stan Humphries | Date of Issuance: | 4/25/14 |

Overview

On April 2, 2014 Taylor Critchlow and Stan Humphries provided a walkthrough of the existing Aspen Art Museum. They were accompanied by Scott Smith of Charles Cuniffe Architects, and Jonathan Hagman of the City of Aspen. The purpose of this walkthrough was to provide a general inventory and assessment of the existing MEP systems.

The Aspen Art Museum is located at 590 North Mill Street in Aspen, Colorado. The building was originally constructed in 1980. There are two levels to the building. The first level houses a large exhibit area, restrooms, storage, shop, and a small bookstore area. The second level consists of a smaller exhibit area and offices. The overall area of the building is approximately 8400 SF.

Mechanical Systems Assessment

The building is heated by a central boiler plant. This plant provides heating water to (2) large air handling units which provide forced air heating and cooling to the building. This plant also provides hot water to a few unit heaters in support areas. All of the equipment, with the exception of the gas-fired water heater, was installed during the original construction and is approximately 35 years old. All controls are stand-alone.

Boiler Plant

A single atmospheric (standard efficiency) boiler is located in the NW mechanical room. This boiler is 35 years old, and has outlived its useable life. While originally an 80% efficient device, time has likely reduced efficiency levels to the 60-70% range. This unit is common vented out the roof with a gas-fired water heater within the mechanical room.



Existing Boiler – Installed 1980

Facility Assessment



Common Venting Through Mech Room Ceiling

Heated water is distributed from this boiler with a single constant speed circulator, also past its useable life. All hydronic piping is uninsulated, even in unconditioned areas. This is inefficient, and is also against current energy codes. The boiler system does not have any redundancy, so a failure in the boiler or pump would cause a complete shutdown of the system.

Lower Level Gallery HVAC System

The gallery is served by a large and old commercial air handling system. The strict temperature and humidity requirements of the gallery led to the installation of a very energy intensive system which would not be well suited to alternative space usages.

A single air handling unit (Liebert Model UD199) is located in the second level mechanical room, and is from the original construction. At 16.5 tons cooling, it is significantly oversized for even the strict temperature requirements of the gallery. There is no outside air to the unit, which is against current code. The unit is past its useable life and should be removed during a future remodel.



Ducting and Diffusers in Lower Gallery



Air Handling Unit – Installed 1980

All ducting is uninsulated, and is routed to sidewall grilles in exposed ductwork in the ceiling of the gallery. There is a significant amount of duct leakage in the system. A single return grille exists on the sidewall above the Women's room. This grille transfers a lot of noise from the unit to the space. The lower level gallery air handler is connected to a remote condenser located to the East of the building. This condenser was irreparably damaged by a roaming bear many years ago. As such, it is only able to run at half capacity. This has not been an issue, as the original unit was well oversized. It has actually served to cut back on nuisance trips by limiting the instances of coil freeze ups. Like the air handler, this unit should be removed during a future remodel.

Facility Assessment

The system also includes a high-capacity commercial humidifier which was installed in 2007. This unit attempts to keep the space at 50% RH and runs constantly. It has been subject to a multitude of maintenance issues and should be removed during a future remodel.

Upper Level Gallery/Offices and Lower Support Areas HVAC System

These areas are served by a two-zone reheat air handling system located in the attic above the storage area. The air handler (McQuay Model 3JH00092) was installed during the original construction. Outside air is provided to the unit, but the dampers are broken and unable to be adjusted. All ducting is uninsulated, which is inefficient and against code in the attic spaces. This unit is past its useful life and should be removed during a future remodel.

The system also includes a high-capacity commercial humidifier which was installed in 2007. This unit attempts to keep the space at 50% RH and runs constantly. It has been subject to a multitude of maintenance issues and should be removed during a future remodel.

Upper Level Gallery/Offices and Lower Support Areas HVAC System

These areas are served by a two-zone reheat air handling system located in the attic above the storage area. The air handler (McQuay Model 3JH00092) was installed during the original construction. Outside air is provided to the unit, but the dampers are broken and unable to be adjusted. All ducting is uninsulated, which is inefficient and against code in the attic spaces. This unit is past its useful life and should be removed during a future remodel.



Air Handling Unit – Installed 1980



Two-Zone Reheat System with Uninsulated Ducts



Gallery Humidifier – Installed 2007



Gas Meter Location in Front of Building

Facility Assessment



1½" Water Entry Assembly (PRV, BFP, Meter)

Electrical Distribution and Incoming Service – Assessment

The building has an exterior utility transformer located nearby at the north side of the building. The transformer is directly in line for ice and snow being shed from the roof. A large dent at the top of the transformer is evidence that heavy ice has fallen in the past.

The incoming service is routed into the building underground to the main electrical room at the west end of the building, approximately 200 feet. The incoming service is two sets of 300 MCM aluminum, 120/208V 3P, 4W. This would be equivalent to 460 amps.

At the main electrical room the service is routed through a utility CT cabinet for metering. After the CT cabinet the service enters a 400 amp main disconnect. At the main lugs of that disconnect an additional service is tapped to a 200 amp 2nd main disconnect, fused at 150 amps that serves the chiller for the building. The 400 amp main disconnect is fused at 300 amps which then feeds the two main distribution panels for the building.

There is a sub panel from the two main distribution panels that feeds the exterior heat trace.

The distribution panels for the building are all full with no spare space for additional circuits. These panels would be considered loaded with little spare capacity. Storage is stacked up against the electrical panels.

Electrical Recommendations:

1. At the exterior transformer location, heat trace and snow fencing should be installed to prevent potential ice falling on the transformer. See photo below.
2. Remove storage from the electrical area to maintain national electric code clearances and fire code requirements.
3. If significant remodel is planned, reworking the electrical service would be recommended. Rework of the electrical distribution would include:
 - a. Set new main distribution panel at exterior of the building to distribute power to interior distribution panels.
 - b. Plan new distribution panels as required for new loads.



Exterior transformer exposed to potential ice damage



Interior Incoming service and main disconnect

Facility Assessment

Power and Circuit Recommendations:

1. Add surge suppression to main building service to supplement the individual surge suppression at each desk. We're working with Jeff Pendarvis to provide an overall plan for surge suppression; we'll provide that information in a separate report.
2. If a substantial renovation is planned, include in the planning to reset existing receptacles to ADA requirements. This would be primarily raising the mounting height of the receptacles to the standard 18" above finished floor.



Main service area cluttered with storage



Distribution Panel

Branch Circuit Distribution and Power Receptacles – Assessment

Branch circuits for lighting and receptacles are primarily distributed from the main distribution panels located at the electrical room. No surge suppression is installed at the main incoming service. Back up UPS and surge suppression is provided at each desk. Overall there is sufficient power distributed throughout the building for receptacles. At the art display areas receptacles are mounted unusually low which would not meet ADA requirements.



Receptacles at art display areas mounted unusually low

Lighting and Lighting Controls – Assessment and Recommendations

Exterior lighting is nonexistent at the main entrance. Additional exterior lighting is provided by acorn style pole mounted lights at sidewalks and parking area. Exterior lighting is controlled via timeclock/photocell. All exterior lights were noted as “non-cut off type” which means there was significant glare and light pollution coming from the lights.

Exit and egress signage throughout the building is sufficient. Exit and egress lighting is battery backup units located throughout the building. No exterior egress lighting was noted.

Interior lighting throughout the building consisted of the following types of lights:

- Substantial specialty incandescent/halogen track lighting is provided throughout the art display areas.
- Back of the house lighting is primarily fluorescent lighting.
- Lighting controls are traditional wall mounted switches.

Facility Assessment

Lighting Recommendations:

1. Exterior lighting should be reviewed further to confirm adequate lighting at the main entry. Lighting should be added in this area.
2. Exterior pole mounted acorn style fixtures should be replaced with cut off type lighting to prevent glare and light pollution.
3. Add code required egress lighting at exits.
4. Replace standard light switches with occupancy sensors.
5. Inventory all existing fluorescents and plan to replace with LED.



Specialty incandescent/halogen track lighting throughout the art display area



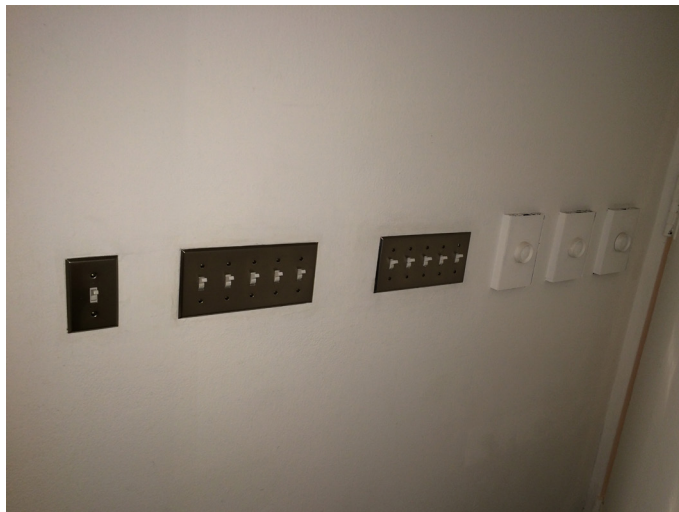
No entry lighting at main entrance



Specialty incandescent/halogen track lighting throughout the art display area



Acorn style pole mounted area lighting at parking



Art Display lighting is controlled by some dimming but primarily switched on/off

City of Aspen - Old Power House
20 Year Capital Expenditure Forecast

20 Year Capital Expenditure Forecast

| | | | | | | | | | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 | 2035 | |
|-------------------------------|------------------|------------------|--|--------------------------|-------|-------------|---------------|--------------|-----------|-------------|-----------|----------|---------|--------|--------|--------|--------|--------|---------|---------|---------|---------|----------|----------|---------|---------|---------|-----------|-------------|
| Location | Improvement Year | Improvement Year | Item | Qty | Unit | Unit Cost | Extended Cost | With MU Cost | | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 | Year 11 | Year 12 | Year 13 | Year 14 | Year 15 | Year 16 | Year 17 | Year 18 | Year 19 | Year 20 |
| SITE | 3 | | Regrade, Site | 3,000 | SF | \$3.45 | \$10,350 | \$15,213 | | | | \$16,624 | | | | | | | | | | | | | | | | | |
| | 3 | | Remove Shed | 1 | LS | \$1,500.00 | \$1,500 | \$2,205 | | | | \$2,409 | | | | | | | | | | | | | | | | | |
| | 3 | | Remove Hardscape & Softscape | 1,000 | SF | \$4.31 | \$4,310 | \$6,335 | | | | \$6,922 | | | | | | | | | | | | | | | | | |
| | 3 | | Hardscape & Site Specialties | 500 | SF | \$31.05 | \$15,525 | \$22,819 | | | | \$24,935 | | | | | | | | | | | | | | | | | |
| | 3 | | Pedestrian Bridge, Repair Existing | 1 | LS | \$15,000.00 | \$15,000 | \$22,048 | | | | \$24,092 | | | | | | | | | | | | | | | | | |
| | 3 | | Landscaping & Irrigation | 500 | SF | \$17.25 | \$8,625 | \$12,677 | | | | \$13,853 | | | | | | | | | | | | | | | | | |
| | 3 | | Site Lighting (LED) | 1 | LS | \$10,000.00 | \$10,000 | \$14,699 | \$14,699 | | | | | | | | | | | | | | | | | | | | |
| | | | Site Utilities | Not Required | | | | | | | | | | | | | | | | | | | | | | | | | |
| STRUCTURE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| EXTERIOR | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 2 | 20 | Remove Exterior Wall Furring and Gyp Bd. | 4,050 | SF | \$3.16 | \$12,798 | \$18,811 | | | \$19,957 | | | | | | | | | | | | | | | | | | \$33,975 |
| | 2 | 20 | Remove Exterior Windows | 600 | SF | \$8.05 | \$4,830 | \$7,099 | | | \$7,532 | | | | | | | | | | | | | | | | | | \$12,822 |
| | 2 | 20 | Remove Door and Frame | 4 | EA | \$115.00 | \$460 | \$676 | | | \$717 | | | | | | | | | | | | | | | | | | \$1,221 |
| | 2 | 20 | Brick Veneer - Patch, Repair & Repoint | 1,000 | SF | \$23.00 | \$23,000 | \$33,807 | | | \$35,865 | | | | | | | | | | | | | | | | | | \$61,058 |
| | 2 | 20 | Weatherproofing / Sealant | 8,365 | SF | \$1.35 | \$11,293 | \$16,599 | | | \$17,610 | | | | | | | | | | | | | | | | | | \$29,979 |
| | 2 | 20 | Window Frame w/ Ins. Glazing (Historic) | 600 | SF | \$138.00 | \$82,800 | \$121,704 | | | \$129,115 | | | | | | | | | | | | | | | | | | \$219,810 |
| | 2 | 20 | Exterior Door w/ Frame, Per Leaf | 4 | Leaf | \$4,312.50 | \$17,250 | \$25,355 | | | \$26,899 | | | | | | | | | | | | | | | | | | \$45,794 |
| | 2 | 20 | Paint Wall, Exterior | 2,000 | SF | \$2.30 | \$4,600 | \$6,761 | | | \$7,173 | | | | | | | | | | | | | | | | | | \$12,212 |
| ROOFING | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 2 | 20 | Remove Roofing & Flashings | 7,000 | SF | \$3.74 | \$26,180 | \$38,481 | | | \$40,824 | | | | | | | | | | | | | | | | | | \$69,500 |
| | 2 | 20 | Roofing, Soffit, Flashings, Snow Fence | 7,000 | SF | \$19.55 | \$136,850 | \$201,149 | | | \$213,399 | | | | | | | | | | | | | | | | | | \$363,297 |
| INTERIOR | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 1 | 14 | Replace Carpet / Flooring | 8,365 | SF | \$4.89 | \$40,905 | \$60,124 | \$60,124 | | | | | | | | | | | | | | | \$90,943 | | | | | |
| | 1 | 14 | Repaint Walls / Ceilings | 8,365 | SF | \$1.27 | \$10,624 | \$15,615 | \$15,615 | | | | | | | | | | | | | | \$23,619 | | | | | | |
| | 1 | 14 | Refinish Doors / Trim | 1 | LS | \$2,500 | \$2,500 | \$3,675 | \$3,675 | | | | | | | | | | | | | | \$5,558 | | | | | | |
| | 1 | 14 | Patch and Repair Allowance | 1 | LS | \$3,500 | \$3,500 | \$5,144 | \$5,144 | | | | | | | | | | | | | | \$7,781 | | | | | | |
| MECHANICAL | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 1 | 20 | Remove HVAC System | 8,365 | SF | \$3.45 | \$28,859 | \$42,419 | \$42,419 | | | | | | | | | | | | | | | | | | | \$76,613 | |
| | 1 | 20 | Ductwork, Insulation & Devices | 7,100 | LBS | \$10.35 | \$73,485 | \$108,012 | \$108,012 | | | | | | | | | | | | | | | | | | | \$195,082 | |
| | 1 | 20 | Boiler | 1 | EA | \$8,500 | \$8,500 | \$12,494 | \$12,494 | | | | | | | | | | | | | | | | | | | \$22,565 | |
| | 1 | 20 | AHU | 1 | EA | \$30,000 | \$30,000 | \$44,096 | \$44,096 | | | | | | | | | | | | | | | | | | | \$79,641 | |
| | 1 | 20 | AHU | 1 | EA | \$30,000 | \$30,000 | \$44,096 | \$44,096 | | | | | | | | | | | | | | | | | | | \$79,641 | |
| | 1 | 20 | Condensing Unit | 1 | EA | \$5,000 | \$5,000 | \$7,349 | \$7,349 | | | | | | | | | | | | | | | | | | | \$13,274 | |
| | 1 | 20 | Condensing Unit | 1 | EA | \$5,000 | \$5,000 | \$7,349 | \$7,349 | | | | | | | | | | | | | | | | | | | \$13,274 | |
| | 1 | 20 | Humidifier | 1 | EA | \$2,000 | \$2,000 | \$2,940 | \$2,940 | | | | | | | | | | | | | | | | | | | \$5,309 | |
| | 1 | 20 | HVAC Piping & Specialties | 8,365 | SF | \$5.46 | \$45,673 | \$67,132 | \$67,132 | | | | | | | | | | | | | | | | | | | | \$121,248 |
| | 1 | 20 | HVAC Control System | 8,365 | SF | \$5.00 | \$41,825 | \$61,476 | \$61,476 | | | | | | | | | | | | | | | | | | | | \$111,033 |
| | 1 | 20 | HVAC Test & Balance | 120 | HR | \$132.25 | \$15,870 | \$23,327 | \$23,327 | | | | | | | | | | | | | | | | | | | | \$42,130 |
| | 1 | 20 | HVAC Modifications, Misc. | 1 | LS | \$25,000.00 | \$25,000 | \$36,746 | \$36,746 | | | | | | | | | | | | | | | | | | | | \$66,368 |
| | ELECTRICAL | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | 1 | | Remove Electrical System | 8,365 | SF | \$2.88 | \$24,091 | \$35,410 | \$35,410 | | | | | | | | | | | | | | | | | | | |
| 1 | | | Light Fixtures, LED | 100 | EA | \$557.75 | \$55,775 | \$81,981 | \$81,981 | | | | | | | | | | | | | | | | | | | | |
| 1 | | | Power Outlets / Switches | 125 | EA | \$178.25 | \$22,281 | \$32,750 | \$32,750 | | | | | | | | | | | | | | | | | | | | |
| 1 | | | Distribution Panel | 1 | EA | \$6,500 | \$6,500 | \$9,554 | \$9,554 | | | | | | | | | | | | | | | | | | | | |
| 1 | | | Distribution Panel | 1 | EA | \$7,500 | \$7,500 | \$11,024 | \$11,024 | | | | | | | | | | | | | | | | | | | | |
| 1 | | | Feeder & Branch Wiring | 8,365 | SF | \$8.63 | \$72,190 | \$106,108 | \$106,108 | | | | | | | | | | | | | | | | | | | | |
| 1 | | | Fire Alarm System | 8,365 | SF | \$2.01 | \$16,814 | \$24,714 | \$24,714 | | | | | | | | | | | | | | | | | | | | |
| 1 | | | Surge Suppression System | 8,365 | SF | \$1.90 | \$15,894 | \$23,361 | \$23,361 | | | | | | | | | | | | | | | | | | | | |
| 1 | | | Electrical Modifications, Misc. | 1 | LS | \$15,000.00 | \$15,000 | \$22,048 | \$22,048 | | | | | | | | | | | | | | | | | | | | |
| PLUMBING | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 1 | | Remove Plumbing Fixtures & Piping | 20 | EA | \$977.50 | \$19,550 | \$28,736 | \$28,736 | | | | | | | | | | | | | | | | | | | | |
| | 1 | | Plumbing Fixtures w/ Piping | 20 | EA | \$3,335.00 | \$66,700 | \$98,039 | \$98,039 | | | | | | | | | | | | | | | | | | | | |
| | 4 | | Water Heater | 1 | EA | \$2,900.00 | \$2,900 | \$4,263 | \$4,263 | | | | \$4,798 | | | | | | | | | | | | | | | | |
| | 1 | | Plumbing Modifications, Minimal (Allowance) | 1 | LS | \$5,000.00 | \$5,000 | \$7,349 | \$7,349 | | | | | | | | | | | | | | | | | | | | |
| FIRE/LIFE SAFETY | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 1 | | Fire Sprinkler System (Riser, Piping, & Heads) | 8,365 | SF | \$4.03 | \$33,711 | \$49,550 | \$49,550 | | | | | | | | | | | | | | | | | | | | |
| ADA | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 1 | | Elevator, Hydraulic - 2 Stop | 1 | EA | \$74,750.00 | \$74,750 | \$109,871 | \$109,871 | | | | | | | | | | | | | | | | | | | | |
| OTHER | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total | | | | 8,365 | GSF | | \$1,192,767 | \$1,753,188 | | \$1,197,187 | \$499,091 | \$88,836 | \$4,798 | | | | | | | | | | | | | | | | \$1,675,848 |
| Total with inflation @3%/year | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

NOTES:

Costs are for Construction only.
Costs are Based on a Traditional Open Competitive Bid Basis.
Costs are Based on a Construction Start of Spring 2016.



MEMORANDUM

TO: Mayor and City Council

FROM: **Nicole Henning**, City Clerk

THROUGH: Jim True, City Attorney

MEMO DATE: **August 4, 2022**

MEETING DATE: August 9, 2022

RE: Resolution #100, Series of 2022 – Calling for and establishing the date for the Coordinated Election and authorizing the City Clerk to execute the IGA with Pitkin County.

REQUEST OF COUNCIL: Staff is recommending Council establish participation in the Coordinated November Election and authorize the City Clerk to execute the IGA.

SUMMARY AND BACKGROUND: The attached resolution calls for and sets the date for the Coordinated General Election for November 8, 2022, and authorizes the City Clerk to execute the Intergovernmental Agreement with the Pitkin County Clerk and Recorder concerning that election. Staff will be recommending to Council a ballot question seeking an extension of the Parks and Open Space Sales Tax, implementation of a Short-Term Rental Tax and other potential items, for the November 8, 2022, coordinated election.

DISCUSSION: To coordinate with the County for the November election there are several time deadlines that must be met. The first is calling for the election by resolution and execution of the IGA prior to August 30, 2021. The second deadline to consider is that all ballot content must be delivered to the County by September 9, 2021. At the Council meeting on August 23rd, Staff will recommend ballot language for the questions noted above. Council can still add ballot questions or issues, if needed, by holding a special meeting.

FINANCIAL IMPACTS: Political Subdivision (City of Aspen) shall pay to the County Clerk its pro rata share of the direct costs and expenses actually incurred and paid by the County Clerk in order to prepare for and conduct the election, including without limitation post-election activities such as the post-election audit, canvass and certification of official results. Political Subdivision's prorated share of such costs and expenses shall be based on a) the total number of registered electors residing within the columnar length in inches, of ballot content certified to the County Clerk by the Political Subdivision. The minimum charge for participation in the election is \$1,000.

ENVIRONMENTAL IMPACTS: None

ALTERNATIVES: If Council chooses not to place the question on the ballot in November, the next opportunity would be March of 2023.

RECOMMENDATIONS: Staff is recommending Council adopt Resolution #100, Series of 2022 to set the election date for the coordinated general election and authorize the City Clerk to sign the IGA.

RESOLUTION #100
(Series of 2022)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, CALLING FOR AND ESTABLISHING A DATE FOR THE CITY OF ASPEN TO COORDINATE WITH PITKIN COUNTY FOR THE 2022 COORDINATED ELECTION TO BE CONDUCTED ON NOVEMBER 8, 2022, AND AUTHORIZING THE CITY CLERK TO EXECUTE THE INTERGOVERNMENTAL AGREEMENT CONCERNING THE 2022 COORDINATED ELECTION.

WHEREAS, there has been submitted to the City Council an intergovernmental agreement for the 2022 Coordinated Election, between the City of Aspen “Political Subdivision” and Pitkin County Clerk and Recorder, a draft copy of which is attached hereto as Exhibit “A”; and

WHEREAS, the City Council desires to place before the Aspen electorate certain ballot questions; and

WHEREAS, the City Council may add such additional questions to the ballot as it may hereafter deem appropriate,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO,

Section 1:

The City of Aspen shall coordinate with the Pitkin County General Election established for Tuesday, November 8, 2022, for the purposes of submitting ballot questions regarding amending code provisions regarding the extension of a Parks and Open Space Sales Tax, implementation of a Short-Term Rental Tax and any other questions to be determined by the City Council at a future date.

Section 2:

Pursuant to Ordinance No. 31, Series of 1996, the coordinated election shall be conducted in accordance with the Uniform Election Code of 1992, as amended. The City Clerk shall take all steps necessary to negotiate with the Pitkin Clerk and Recorder for the preparation of an intergovernmental agreement in accordance with Section 1-7-116, C.R.S., concerning the conduct of the November 8, 2022, Coordinated General Election according to law, substantially in the form of the draft attached hereto. The City Clerk shall be authorized to execute the intergovernmental agreement concerning the 2022 Coordinated General Election, subject to final approval of the City Attorney.

Section 3:

If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen on the 9th day of August 2022.

Torre, Mayor

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held, August 9, 2022.

Nicole Henning, City Clerk

INTERGOVERNMENTAL AGREEMENT FOR CONDUCT OF

2022 GENERAL ELECTION

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made effective this 9th day of August, 2022, between the Pitkin County Clerk and Recorder (hereinafter referred to as "Clerk") and City of Aspen (hereinafter referred to as "Political Subdivision").

I. PURPOSE

The Political Subdivision desires to refer one or more candidate, contests, issues or questions on the Pitkin County ballot for the November 8, 2022 General Election (hereinafter referred to as "Election").

The Clerk will act as the coordinated election official and conduct the Election on behalf of the Political Subdivision and similarly situated participating entities.

The Clerk agrees to perform the services specified below in connection with the Election in consideration of Political Subdivision's timely payment of costs and performance of its other obligations as set forth herein.

This Agreement sets forth the responsibilities between the Clerk and Political Subdivision for the preparation and conduct of the Election.

The parties agree as follows:

II. APPLICABLE LAW

The Election is to be held in accordance with the Uniform Election Code of 1992, Title I of the Colorado Revised Statutes, Articles 1-13 ("Election Code"), the Colorado Secretary of State Election Rules ("CO SOS Rules"), Pitkin County Home Rule Charter ("HRC"), Article 6 and Colorado Constitution, Article X, Section 20 ("TABOR"). Statutory and administrative

requirements under the Election Code, CO SOS Rules, HRC and TABOR apply to the completion of any duties or tasks required under this Agreement. If any Political Subdivision encompasses territory in more than one county, this Agreement applies only to the portion of the Political Subdivision within Pitkin County.

III. DESIGNATION OF OFFICIALS

A. Clerk's Designated Election Official

The Clerk designates the following person as the Designated Election Official, i.e. contact person, to act as the Clerk's primary liaison with the Political Subdivision for all purposes relating to the Election. The Contact Officer acts under the authority of the Clerk.

DEO Name: Madeleine Osberger, Elections Operations Administrator

Mailing Address: 530 E. Main Street, Suite 104, Aspen, CO 81611

Phone Number: 970-429-2711

Fax Number: 970-445-3007

Email Address: madeleine.osberger@pitkincounty.com

B. Political Subdivision's Designated Election Official

The Political Subdivision designates the following person as the Designated Election Official ("DEO") for purposes of the Election. The DEO is the primary liaison between the Political Subdivision and the Clerk.

DEO Name: Nicole Henning

Mailing Address: 427 Rio Grande Pl, Aspen CO

Phone Number: 970-429-2685

Fax Number: _____

Email Address: nicole.henning@aspen.gov

Alternate DEO: The Political Subdivision designates Cindy Klob,
phone 970-309-8161 as an alternate DEO if the primary DEO is unavailable for
unforeseen circumstances.

IV. DUTIES OF THE CLERK

a. **Election Preparation.** The Clerk must:

- i. Provide Political Subdivision with an address library report which lists all residential street addresses situated within the Political Subdivision's boundaries according to the State of Colorado Registration and Election Management database ("SCORE").
- ii. Manage and update all voter registration records and associated correspondence.
- iii. Supply, deliver, and set up all voting equipment and other items necessary to conduct the Election.
- iv. Appoint eligible electors as election judges, arrange for their compensation, and provide necessary election judge training in advance of the Election.
- v. Include on the ballot all content timely certified by Political Subdivision.
- vi. Contract for the printing of ballots, ballot envelopes, and other printed materials reasonably necessary to conduct the Election, and arrange for payment to the printing vendors(s).
- vii. Perform all required acceptance testing, hardware diagnostic testing and logic and accuracy testing of Pitkin County's voting systems and components. (CO SOS Rule 11.3 Voting Systems)
- viii. Designate the proper number of Voter Service and Polling Centers ("VSPC"), early voting centers, and mail ballots drop off locations, ensuring the VSPCs are accessible to electors with disabilities.

- ix. Publish and post official Public Notice providing the date of the Election, and the dates, address(es), and hours of the VPSCs and drop-off location(s) no later than 20 days before the Election. (C.R.S. § 1-5-205(1); 1-5-205(1.4))

b. **Election Conduct**, The Clerk must:

- i. Issue mail ballots to and accept voted mail ballots from military and overseas voters in compliance with deadlines and delivery methods. (C.R.S., Article 8.3)
- ii. Provide for the security, processing, and reconciliation of all mail ballots by receiving, verifying voter signatures, opening, duplicating if applicable, and counting of ballots.
- iii. Provide for the security and reconciliation of official ballots supplied for or cast at the VSPCs.
- iv. Provide provisional ballots for use by electors and process them accordingly. (C.R.S., Article 8.5; CO SOS Rule 17. Provisional Voting)
- v. Conduct post-election Risk-Limiting Audit in compliance with Colorado Election Code and Rules. (CO SOS Rule 25. Post-Election Audit)
- vi. Conduct any mandatory or permissive recount.
- vii. Prepare and conduct the Canvass of Votes no later than 22 days after the Election. (C.R.S. § 1-10-102; CO SOS Rule 10. Canvassing)
- viii. Certify and provide official results to all political subdivisions participating in the Election.
- ix. Preserve all election records relating to the Election for at least twenty-five months. (C.R.S. §1-7-802)

V. DUTIES OF POLITICAL SUBDIVISION

a. Election Preparation. The Political Subdivision must:

- i. Determine whether a ballot issue, ballot question, candidate contest, or candidate is eligible or properly certified for the ballot.
- ii. Verify and certify to the Clerk the address library report the Clerk provides is accurate and complete at the earliest possibility time and no later than 4:30 p.m., 70 days before the Election. Political Subdivision will notify the Clerk of any address ranges or street names in the address library report that are inaccurate, incomplete, or omitted in its certification.

NOTE: If certification is not provided by 4:30 p.m., 70 days before the Election, the Political Subdivision may not participate in the Election, or alternatively, the Clerk, in her discretion, may build the Election on the assumption that the address library report is complete and accurate.

- iii. Deliver to the Clerk a certified copy of the ordinance or resolution, enacted or adopted by its governing board, authorizing the Political Subdivision to participate in the Election according to the terms of this Agreement by 4:30 p.m., 70 days before the Election, and identifying person(s) authorized to execute this Agreement.
- iv. Provide a certified copy to the Clerk of all ballot content in the format provided for in this Section under b. Ballot Content.
- v. Post or publish any legal notices required of the Political Subdivision not expressly agreed to be the responsibility of the Clerk in this Agreement.

- b. **Ballot Content.** The Political Subdivision must:
- i. Certify and email ballot content to the Clerk at the earliest possible time and no later than 4:30 p.m., 60 days before the Election. (C.R.S. § 1-5-203(3)(a))
 - ii. Use the exact language and order as such ballot content is to appear on the printed official and sample ballots for the Election for all certified ballot content.
 - iii. Limit ballot content to **250** words, including title, unless the Clerk provides written consent in advance.
 - iv. Submit and format the certified ballot content in the following format:
 1. Microsoft Word '97 or later
 2. Font Type: Arial
 3. Font Size: 8 point
 4. Justification: Left
 5. Spacing: Single
 6. All Margins: 0.5 inches
 7. Language: English
 8. Ballot Title: Bold and lower case (County Clerks determine numbering, CO SOS Rule 4. Coordinated Election)
- a. **Definition of Ballot Issue and Ballot Question:**
- i. **"Ballot Issue"** means a state or local government matter arising under section 20 of article X of the state constitution, as defined in C.R.S. § 1-41-102(4) and 1-41-103(4), respectively.

- ii. “Ballot Question” means a state or local government matter involving a citizen petition or referred measure, other than a ballot issue.
 - b. Example of Ballot Title (Issue and Question): Each ballot issue or question must contain the name of the political subdivision at the beginning of the ballot issue or question; e.g.:
 - i. Aspen Ambulance District Ballot Issue 6A
 - ii. City of Aspen Ballot Question 2A - Amendment to City Charter Term Limits
 - c. Ballot Issues or Questions will provide the following options:
 - i. Yes/For
 - ii. No/Against
 - d. For Candidate Races, when identifying the term and number to vote for, please use the following example:
 - i. Four-Year Term, Vote for up to Three (3)
9. Audio File Type: Wave Sound, file extension.wav, or mp3.
- a. A candidate in an election must provide an audio recording of his or her name exactly as it appears on the statement of intent. (CO SOS Rule 4.6.2 Coordinating Election)
 - b. Pitkin County asks that each DEO collect the recording of each candidate and provide the audio recording to the

county no later than the deadline to certify the content of the race to the county clerk.

- v. Designate an agent to appear in person at the Clerk's office to proofread and approve ballot content certified by Political Subdivision as it appears on ballot artwork before printing within one business day after Clerk's notification. Notification to appear to approve ballot artwork will occur between 8:00 a.m. to 6:00 p.m. from the 57th day until the 47th day before the Election. The Political Subdivision designates the following as their agent to approve ballot artwork:

Name: Nicole Henning
Phone Number: 970-429-2685
Cell Phone Number: 970-379-3769
Fax Number: _____
Email Address: nicole.henning@aspen.gov

NOTE: The Political Subdivision's **certified content will be final upon transmission to and receipt by the Clerk.** The Clerk will not be responsible for making any changes after Political Subdivision's certification of its ballot content. Changes will be made to ballot artwork only if ballot artwork does not match the certified ballot content provided by the Political Subdivision.

- c. **Additional Duties for Special District Election.** The Special District must, if applicable:
- i. Certify to the Clerk the list of property owners eligible to vote for Special District Elections by 4:30 p.m., 53 days prior to the Election. (C.R.S. § 32-1-806)

- ii. Notify eligible property owners within the Political Subdivision of the option to contact the Clerk for a property owner mail ballot. Clerk will provide a draft of property owner affidavit to DEO for mailing.

VI. BALLOT ISSUE NOTICE ("TABOR NOTICE")

a. Duties of the Clerk

- i. Prepare and mail a combined TABOR Notice no less than 30 days prior to the Election, pursuant to Colorado Constitution Article X, Section 20(3)(b).
- ii. Mail TABOR Notice to eligible electors at each address in Pitkin County where one or more registered voters of the Political Subdivision and of any other participating political subdivision resides.
- iii. Determine the least cost method for mailing the TABOR notice.
- iv. Refer inquiries concerning the substance of ballot issues and ballot questions or Political Subdivision operations to the Political Subdivision DEO named in this Agreement.

b. Duties of the Subdivision

- i. Ensure timely preparation, accuracy, and legal sufficiency of any TABOR Notice content.
- ii. Provide a local office address and telephone number to incorporate in the TABOR Notice.
- iii. Email pro and con statements and required fiscal information to the Clerk by 4:30 p.m., no later than 43 days prior to the Election. (C.R.S. § 1-7-904)
- iv. Submit pro and con statements in the following format:

1. Microsoft Word '97 or later
 2. Font Type: Arial
 3. Font Size: 8 point
 4. Justification: Left
 5. Spacing: Single
 6. All Margins: 0.5 inches
 7. Language: English
- v. Designate an agent to proofread and approve via email Political Subdivision's TABOR Notice content before printing within four hours after receiving TABOR Notice artwork from the Clerk. Due to production time constraints, the agent designated by the Political Subdivision must be available from the 39th day prior to the election until the 37th day prior to the Election. The Political Subdivision designates the following as their agent to approve TABOR notice artwork:

Name: Nicole Henning

Phone Number: 970 - 429-2685

Cell Phone Number: 970 - 379- 3769

Fax Number: _____

Email Address: nicole.henning@aspen.gov

- vi. Mail its TABOR Notice content to all property owners within the Political Subdivision who are eligible to vote on the ballot issue, except for electors to whom the Clerk mails the combined TABOR Notice.
- vii. Pay the prorated amount of the total cost to produce and mail the complete TABOR Notice, based on the total number of active registered voters residing within the Political Subdivision, as reflected by the voter

registration records and count used by the Colorado Secretary of State for the Election, and by the columnar length in inches, rounded to the nearest quarter inch, the Political Subdivision content occupies in the TABOR Notice.

VII. ELECTION COSTS

- i. The Clerk will keep accurate accounts of all costs incurred to conduct the Election, including, but not limited to, costs for supplies, printing, ballot mailing, TABOR Notice, election notice(s), temporary labor, compensation of election judges, and other expenses attributable to conducting the Election on behalf of the Political Subdivision.
- ii. The Clerk will determine the cost allocation for each Political Subdivision participating in the Election. The cost is determined on the basis of the total number of active registered voters within each Political Subdivision and the amount of space, by the columnar length in inches, rounded to the nearest quarter inch, the Political Subdivision uses on the ballot or TABOR Notice.
- iii. The Clerk will charge and allocate to the Political Subdivision its share of expenses incurred by the Clerk to remedy, resolve, or reconcile the Political Subdivision's failure or omission to timely perform any of its obligations under the Agreement, without regard to whether the Political Subdivision rescinds its intent to participate in the Election.
- iv. There will be a minimum charge for participation in the Election of \$1000, and in no event will any district pay less than \$1000.

- v. The Clerk will submit to the Political Subdivision an invoice, within 90 days of the Election, for their pro rata share of costs incurred in participating in the Election.
- vi. The Political Subdivision must reimburse the Clerk for Election costs as allocated within 30 days of receiving the invoice of its pro rata costs.
- vii. In the event of a recount, mandatory or permissive, of a candidate contest, ballot issue, or ballot question certified by the Political Subdivision, the Clerk will charge expenses reasonably incurred to conduct any such recount or ballot contest to the Political Subdivision. If more than one Political Subdivision participating in the Election is involved in any such recount or election contest, the costs will be prorated between the Political Subdivision and other participating entities.

VIII. CANCELLATION OF THE ELECTION

- i. If the Political Subdivision opts to cancel its Election, the Political Subdivision must notify the Clerk immediately.
- ii. The Political Subdivision must pay the Clerk all amounts due, including production and mailing costs incurred before and after the Clerk received cancellation notice.
- iii. The Political Subdivision must provide notice of publication of the cancellation of its Election. A copy of the publicized notice must be posted in the office of the Clerk, office of the D.E.O., and if the Political Subdivision is a special district in the office of the Division of Local Government. (C.R.S. § 1-5-208(6))

- iv. The Political Subdivision cannot cancel its participation in the Election after the 25th day prior to the Election. (C.R.S. § 1-5-208(2))

IX. ADDITIONAL TERMS

- i. In the event a court of competent jurisdiction finds the Election for the Political Subdivision was void or otherwise defective as the sole result of the failure of the Clerk to perform in accordance with this Agreement or laws applicable to the Election, the Political Subdivision will be entitled to recover expenses or losses caused by such breach or failure up to the maximum amount paid by the Political Subdivision to the Clerk. This will be the exclusive remedy for breach available to the Political Subdivision. The Clerk will not be held liable for any expenses, damages, or losses in excess of the amounts paid by Political Subdivision under this Agreement.
- ii. If requested by Clerk, Political Subdivision shall designate eligible electors to participate and/or serve as election judges, on various election judge boards, and on various boards and panels convened to oversee the Election.
- iii. In the event the Clerk does not request the Political Subdivision to designate eligible electors under this section, all election judges, boards and panels will be comprised of registered electors affiliated with the major political parties and recommended by the county chairpersons thereof; provided, however, that Clerk reserves the right to appoint unaffiliated electors or electors affiliated with minor political parties if the county chairpersons of the major political parties are unable or fail to

recommend a sufficient number of registered electors affiliated with the major political parties. (C.R.S., Article 6)

- iv. No portion of this Agreement creates a cause of action to anyone who is not a party to this Agreement.
- v. Any proposed Political Subdivision not identified by a tax code in the Pitkin County Assessor records must provide the Clerk with a certified legal description, map and locator, identifying all “high/low” ranges for street addresses within the proposed Political Subdivision, no later than 180 days before the Election. If the locator data is not provided by 180 days, the proposed Political Subdivision will not participate in the Election.
- vi. The Clerk agrees to perform the services specified in this Agreement in consideration of the Political Subdivision’s timely payment of costs and performance of its other obligations as set forth.
- vii. The Political Subdivision warrants it has sufficient funds available in its approved budget to pay all amounts due to the Clerk.
- viii. The signatory for the Political Subdivision warrants that they have power and authority to bind the Political Subdivision to this Agreement.
- ix. Should any provision of this Agreement be determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, it is the intent of the parties hereto that the remaining provisions of this Agreement shall be of full force and effect.
- x. Unless otherwise agreed in writing, this Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado. Venue for

any and all legal actions arising under this IGA shall lie in the District
Court in and for the County of Pitkin, State of Colorado.

This agreement must be signed and delivered to the Clerk by 4:30 p.m., no later than 70
days prior to the Election, and is effective as of the day of signing.

CLERK AND RECORDER
530 E. MAIN STREET, ASPEN, CO 81611
PITKIN COUNTY, COLORADO

Ingrid Grueter

Date

POLITICAL SUBDIVISION

City of Aspen

Print or type name of Political Subdivision

By: Michelle H.

8/4/22

Date

Title: City Clerk

EXHIBIT A

POLITICAL SUBDIVISION'S ADDRESS LIBRARY REPORT

At 5:00 p.m. Mayor Torre called the regular meeting to order with Councilors Doyle, Richards, and Mesirow present. Councilor Hauenstein was absent.

PUBLIC COMMENT:

Don Rogers – Mr. Rogers said he started yesterday as the new editor of the Aspen Times. He is looking forward to learning and getting to know the councilmembers.

Council welcomed him.

COUNCILMEMBER COMMENTS:

Councilor Doyle spoke about the continued drought in the west and the forest fires which are all over Europe. The heat wave is baking things. He mentioned April Long from our Engineering team who is the Reudi Power and Water Authority Director. She had to make a request for no fishing this past week due to the high temperatures. Fish get stressed out when the water is above 65 degrees, so, April helped with this and it's important to tell some good news.

Councilor Richards said she would ask that people on bicycles start paying attention to the rules of the traffic road. She's seeing a lot of dangerous behavior and they are riding at night with no reflectors, and this is very dangerous. Sharing the road requires responsibility, and she would like to see this change before there are any injuries.

Mayor Torre brought up mental health awareness. If you know someone suffering, there are a bunch of resources in our community. He mentioned the Hope Center, which is available 24 hours a day. aspenstrong.org has a lot of resources and also has opportunities for scholarship or pro bono counseling. He always likes to mention better things people could be doing, and tonight's highlight is the Sound of Music. This is an outstanding performance with an orchestra and Theatre Aspen. It starts at 7:30 this evening. He also has a question to council regarding the living lab downtown. He's wondering about modifications that need to be made. He sees room for improvement and changing the loading zone on Hyman Avenue. It's slated to be in place until October 1st. He wants to know if council is interested in having a discussion at next week's work session for modifications. He spoke with Ward about it this evening and he was open to the conversation. Our speed limit in town and side streets are still at 20 mph and perhaps we should lower it in the core. He's interested in revisiting the bicycle rolling stop signs. What we are seeing is no longer with pedal power, they have small motors on them. We're seeing different conditions with bikes.

Councilor Richards is wondering what we go back to when the living lab is over. She does appreciate the conversation and looks forward to it.

Councilor Doyle supports revisiting it as well and making some tweaks.

Councilor Mesirow said he's always in for listening and learning. Maybe we need a refresher on changing biker behavior and speed limits. He'd like staff feedback on what they can really do to be effective.

Mayor Torre said he will speak with City Manager, Sara Ott, as to when they can get a discussion together.

Public Works Director, Scott Miller, said the rolling stop sign was state enacted. Mayor Torre asked about changing it for Aspen.

City Attorney, James R. True, said he will look into it and see if we have the authority.

Councilor Richards asked if at a future meeting we can ask the city arborist for the status health of trees. She's seen a lot of them browned out. She's wondering if it's a new disease or just drought conditions.

AGENDA AMENDMENTS: None.

CITY MANAGER COMMENTS:

Ms. Ott said they've been scheduling the living lab discussion for late September. She announced the Recreation Center hours are back open to seven days a week.

BOARD REPORTS:

Councilor Doyle said he had a CORE meeting, and the methane project is moving forward.

Councilor Richards is leaving tomorrow for Rangely for a Club 20 policy meeting. Public lands and energy are topics on the agenda.

Councilor Mesirow had APCOA which continues to work on rightsizing standards for sellers. We had our 4th HomeTrek presentation at this meeting.

Mayor Torre said he had ACRA and that Steve Skadron was in attendance as a presenter and he spoke about the childcare room and working that into a training facility while also extending the capacity for infant care by eight spots. The big conversation around the table was surrounding the living lab on Galena and Cooper.

Ms. Ott gave an update on the Airport Advisory Board. She said the discussions were focused around making a recommendation to the BOCC regarding baseline gas emissions. Noise mitigation for aviation aircraft was the topic of conversation. The group will meet again in four weeks.

Councilor Richards wants to know how many employees it takes to run the airport.

CONSENT CALENDAR:

Mayor Torre pulled both items.

Resolution #093, Series of 2022 – Paepcke Transit Hub Change Order 2 - Mike Horvath, Civil Engineer

Mayor Torre said this is the second change order and the cost has been 400,000+ in change orders. He understands why this one is coming through but is wondering about overall project budget. Mr. Horvath said the project is on schedule at this point and won't set them back substantially. This amount is also within contingency. He said they are past the large part of discoverables at this point. Mr. Doyle asked what date going across Main Street will take place and Mr. Horvath said late August and are looking at traffic control and for the best path forward. It will either be night work or a lane closure.

Resolution #094, Series of 2022 - Lumberyard Design Team Contract Amendment to add 2022 Entitlements Planning Services and Related Consulting Services – Chris Everson, Project Manager

Mayor Torre said he has the same question on this one. We have recently moved up funding and he wants to know if we are in sequence. Mr. Everson said he was here to add additional services on June 28th. At the time, we had just finished the schematic design process. Now we need to get ready for the landuse and titlements process. Everything you see here is designed to fit within the 2022 budget. Mayor Torre said affordable housing has been a big topic of conversation this past week, and we are the representatives of our community, and want to do the best for our community. He said he is supportive.

Councilor Doyle motioned to approve the consent calendar; Councilor Mesirow seconded.

Roll call vote: motion carried. All in favor.

First Reading of Ordinances:

Ordinance #15, Series of 2022 – 470 Rio Grande Place, Theater Aspen, Minor Amendment to a Planned Development Project Review Approval – Amy Simon, Planning Director & Alan Richman of Alan Richman Planning Services, Inc.

Councilor Richards motioned to read Ordinance #15, Series of 2022; Councilor Doyle seconded. Roll call vote: Doyle, yes; Mesirow, yes; Richard, yes; Torre, yes. 4-0, motion carried.

City Clerk, Nicole Henning, read Ordinance #15.

Ms. Simon said this is a straightforward request. We are asking to amend the approval of the current cover over the theater tent. This has proved to have some downsides. It's expensive to put up and take down each year. She showed a rendering of a more permanent tent on screen and said it will release Theatre Aspen from having to remove the roof each year. This new technology of the roof top will be ok for snow loading. She read the conditions of approval. Mr. Richman said Theatre Aspen is comfortable with all conditions. M. Simon said the public hearing will be August 9th.

Councilor Richards thinks this is an appropriate request and looks forward to the second reading. She would like to take a look at the master plan. She doesn't like the travel trailers.

Councilor Doyle supports this going forward but said this is another example of something intended to be temporary or seasonal and will now be permanent. It's concerning, but he's supportive.

Councilor Mesirow said he is supportive. At first blush, it seems reasonable. Theatre in our park isn't a bad thing to be permanent. He's curious if there may be long term programming in the future for wintertime.

Mayor Torre said we have some meetings coming up to discuss that very thing. He is interested to see some past invoicing. He has questions about the security of it in the wintertime and maybe there are other wintertime uses.

Councilor Richards motioned to approve Ordinance #15, Series of 2022; Councilor Mesirow seconded.

Roll call vote: Doyle, yes; Mesirow, yes; Richards, yes; Torre, yes. 4-0, motion carried.

Councilor Mesirow motioned to adjourn; Councilor Richards seconded.

Roll call vote: Doyle, yes; Mesirow, yes; Richards, yes; Torre, yes. 4-0, motion carried at 6:00 p.m.

Nicole Henning, City Clerk



TO: Mayor Torre and Aspen City Council

FROM: Amy Simon, Planning Director

THRU: Phillip Supino, Community Development Director

MEETING DATE: August 9, 2022

RE: Second Reading, Ordinance #15, Series of 2022, 470 Rio Grande Place, Theater Aspen, Minor Amendment to a Planned Development Project Review Approval, **PUBLIC HEARING**

APPLICANT:

Theatre Aspen
c/o Jed Bernstein, Producing
Director, authorized by the property
owner, the City of Aspen

REPRESENTATIVE:

Alan Richman,
Alan Richman Planning Services,
Inc.

LOCATION:

Lot 1, Rio Grande Subdivision

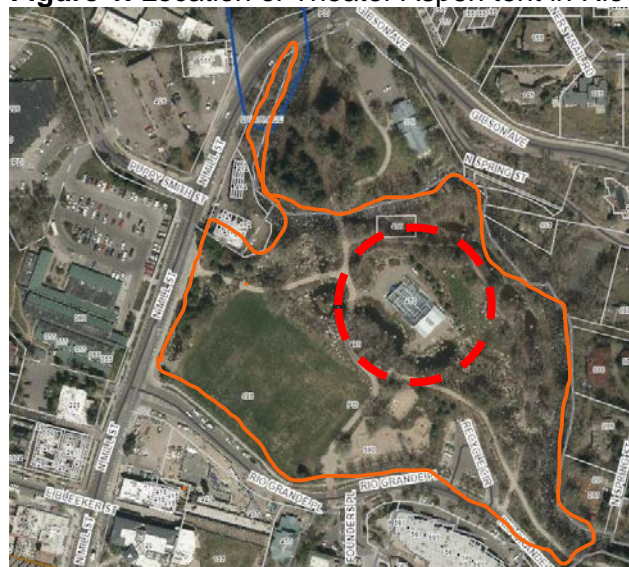
**CURRENT AND PROPOSED
ZONING & USE**

The subject property is located in the Public (PUB) zone district with a Planned Development (PD) overlay, and is a municipal park. Theatre Aspen leases a portion of the park for their facility, located northeast of the permanent restroom facilities. No changes to use or zoning are proposed in this application.

SUMMARY: In 2011, after many years of installing a summer only tent, Theater Aspen was granted approval for a lobby and metal framed auditorium structure to remain in place but unused in their off-season, with the condition that the auditorium's membrane roof and walls be taken down from October to April to reduce perceived visual impacts of a building in the park setting. 10 years later, and given the construction of permanent bathrooms in the park, Theater Aspen perceives removal of the roof to have minimal public benefit and a number of negatives, and requests a Minor Planned Development Amendment to delete this condition.

STAFF RECOMMENDATION: Staff recommends the City Council approve the Minor Amendment to a Project Review approval as proposed.

Figure 1. Location of Theater Aspen tent in Rio Grande Park.



BACKGROUND: Theater Aspen has been performing in Rio Grande Park since 1987, initially in a summertime only “circus tent.” Based on 2011 and 2013 approvals, a lobby is now in place year round and the auditorium is partially disassembled and screened. At the time this was required, the applicant did not expect to be able to afford a roof membrane designed for snow loads, and decision-makers wanted to minimize the impact of a building mass in the park. Since then, some circumstances have changed as the permanent bathroom structures have been built, and technology to reinforce the roof for the winter has become available. The applicant has estimated the cost to remove the roof and screen the remaining elements to be \$50,000 per year. Below is a photo of the existing winter condition, and a rendering of the proposed winter condition



EXISTING



PROPOSED

REQUEST OF CITY COUNCIL: The Applicant is requesting the following land use approval:

- Minor Amendment to Project Review Approval (Pursuant to Land Use Code Section 26.445.050): An application requesting installation of a year-round roof and walls to the existing tent structure of Theatre Aspen, which requires Review by the City Council. City Council is the final review body.

COUNCIL QUESTIONS FROM FIRST READING:

1. **Please provide more information about the trailers that sit adjacent to the tent.** In early 2011, Theater Aspen held a worksession with City Council to discuss improvements to their summer only structure. Staff was given direction to allow the tent that was in use at the time to be replaced with the current metal framed tent, and to allow the facility to be supplemented with seasonal trailers to be brought on site for stage production, backstage area and bathrooms for performers only. In late 2011/early 2012, the approval was expanded by Council approval to leave the lobby of the new tent in place year round.
2. **Is there documentation of the \$50,000 annual cost to remove and reinstall the roof over the tent?** The applicant has provided a summary (below) of the costs, though as a courtesy to the vendors, they would prefer not to share with the public the specific hourly rates being charged for each of these tasks. Information will be provided to the City, if required.

Theatre Aspen Yearly Tent Roof Installation and Disassembly Expenses

| Action | Vendor | Typical Month of Action | Document Number | Amount |
|---------------------------------------|-------------------------|-------------------------|-----------------|--------------|
| Support Truss Install | Pink Monkey Studio | May | 1 | \$ 17,550.00 |
| Lodging for Install Crew | Frias Properties | May | 2 | \$ 4,650.00 |
| Summer Panel Install and Cleaning | Bethel Rentals | May | 3 | \$ 2,160.00 |
| Project Supervisor - Roof Install | Private Contractor | May | 4 | \$ 3,750.00 |
| Support Truss Disassembly | Pink Monkey Studio | September | 5 | \$ 9,375.00 |
| Lodging for Disassembly Crew | Frias Properties | September | 6 | \$ 4,650.00 |
| Winter Panel Install and Cleaning | Bethel Rentals | September | 7 | \$ 3,702.00 |
| Project Supervisor - Roof Disassembly | Private Contractor | September | 8 | \$ 3,750.00 |
| Yearly Carpet and Floor Deep Cleaning | Sunrise Carpet Cleaning | May | 9 | \$ 757.40 |

Total: **\$50,344.40**

3. **Are there uses that would be appropriate if the roof is to remain in place year round?** The only additional use the applicant has indicated would be desired at this time is use of the theater by school programs on the shoulders of Theater Aspen's performance season. Currently, there is nothing preventing this as Theater Aspen uses the site from Mid-May through September and no limits have been placed on performances. The theater is not heated and there is no water or sewer to the site, so use in colder months would be difficult without additional improvements.

STAFF COMMENTS AND RECOMMENDATION ON THE APPLICATION: The application is subject to Minor Amendment of a Project Review Approval as it entails change from a seasonal structure to a year-round structure. The applicant has provided a number of valid justifications for their request and indicates that allowing more of the structure to remain year round reduces truck trips and impacts on the park site, as well as providing maximum protection of the non-profit's facility and financial asset that stay on site in winter. The Community Development Department Staff recommends the City Council approve the proposed year-round roof and wall installation finding that the review criteria are met, with the condition that prior to any future replacement of the membrane, Council will review and approve the color selection for best fit within the seasonal color changes in the park. In addition, this approval shall not allow any use of the tent for any time or purpose beyond the theater season and winter storage occurring now, unless Council wishes to amend this position based on the discussion at First Reading. The organization is responsible for protecting pedestrians from snow-shedding, and for repairing any damage to the park resulting from snow coming from the roof.

RECOMMENDED MOTION: "I move to adopt Ordinance #15, Series of 2022, for a Minor Amendment to the Planned Development Project Review affecting Theater Aspen."

CITY MANAGER COMMENTS:

ATTACHMENTS:

Ordinance #15, Series of 2022

Exhibit A – Minor Amendment to Project Review Approval Criteria

Exhibit B – Application

**ORDINANCE #15
(SERIES OF 2022)**

**AN ORDINANCE OF THE CITY OF ASPEN CITY COUNCIL GRANTING A MINOR
AMENDMENT TO A PLANNED DEVELOPMENT PROJECT REVIEW APPROVAL
FOR THE THEATER ASPEN FACILITY LOCATED AT 470 RIO GRANDE PLACE,
LOT 1, RIO GRANDE SUBDIVISION, CITY OF ASPEN, COLORADO**

PARCEL ID: 2737-073-06-851

WHEREAS, the Community Development Department received an application from Theater Aspen, 110 E. Hallam, Suite 126, Aspen, CO 81611, requesting a Minor Amendment to the Planned Development approval for their facility in Rio Grande Park. The request was amendment to a condition of approval stated in Ordinance #38, Series of 2011 that requires seasonal removal of the membrane roof and walls on the theater structure from October to April; and

WHEREAS, this property is located in the Public (PUB) zone district, with a Planned Development Overlay, and is owned by the City of Aspen and leased to Theater Aspen. The City of Aspen authorized the submittal of this application; and,

WHEREAS, the Community Development Department referred the application to the City Engineering and City Parks Departments for comments, performed an analysis of the application and found that the review standards are met, with conditions; and

WHEREAS, City Council reviewed and considered the development proposal under the relevant provisions of the Municipal Code as identified herein, reviewed and considered the recommendations of the Community Development Director and the referral agencies, and took and considered public comment at a public hearing; and,

WHEREAS, the City Council finds that this Ordinance furthers and is necessary for the promotion of public health, safety, and welfare.

NOW, THEREFORE BE IT ORDAINED BY THE CITY OF ASPEN CITY COUNCIL AS FOLLOWS:

Section 1: Minor Planned Development Amendment to a Project Review Approval:

Pursuant to the procedures and standards set forth in Title 26 of the Aspen Municipal Code, the request to leave all roof and walls in place at the Theater Aspen facility in Rio Grande Park year-round is approved with the following conditions:

1. Prior to any future replacement of the membrane roof and walls, Council will review and approve the color selection for best fit within the seasonal color changes in the park.
2. This approval shall not allow any use of the tent for any time or purpose beyond the theater season and winter storage occurring now.

505 Rio Grande Place, Theater Aspen Minor PD Amendment
Ordinance #15, Series 2022

3. The roof shall be kept in good repair at all times.
4. Theater Aspen shall be solely responsible for ensuring public safety related to snow shedding from roof, and shall install and maintain warning/hazard signs, to be approved by the City of Aspen Parks Department.
5. Any damage to the surrounding area from snow shedding, including damage to trees, shrubs, irrigation or turf, is required to be repaired by Theater Aspen, at its sole cost and expense, as soon as practical, after approval from the City of Aspen Parks Department.

Section 2:

All material representations and commitments made by the Applicant pursuant to the development proposal approvals as herein awarded, whether in public hearing or documentation presented before the Community Development Department or the Aspen City Council, are hereby incorporated in such plan development approvals and the same shall be complied with as if fully set forth herein, unless amended by other specific conditions or an authorized authority.

Section 3:

This Ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 4:

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

INTRODUCED, READ AND ORDERED PUBLISHED as provided by law, by the City Council of the City of Aspen on the 26th day of July, 2022.

Attest:

Approved as to content:

Nicole Henning, City Clerk

Torre, Mayor

FINALLY, adopted, passed and approved this 9th day of August, 2022.

Approved as to form:

Approved as to content:

Jim True, City Attorney

Torre, Mayor

Attest:

Nicole Henning, City Clerk

505 Rio Grande Place, Theater Aspen Minor PD Amendment
Ordinance #15, Series 2022

EXHIBIT A
PLANNED DEVELOPMENT PROJECT REVIEW

Minor Amendment to a Project Review approval. An amendment found by the Community Development Director to be generally consistent with the allowances and limitations of a Project Review approval or which otherwise represents an insubstantial change but which does not meet the established thresholds for an insubstantial amendment, may be approved, approved with conditions or denied by the City Council.

26.445.050. Project Review Standards.

The Project Review shall focus on the general concept for the development and shall outline any dimensional requirements that vary from those allowed in the underlying zone district. The burden shall rest upon an applicant to show the reasonableness of the development application and its conformity to the standards and procedures of this Chapter and this Title. The underlying zone district designation shall be used as a guide, but not an absolute limitation, to the dimensions which may be considered during the development review process. Any dimensional variations allowed shall be specified in the ordinance granting Project Approval. In the review of a development application for a Project Review, the Planning and Zoning Commission or the Historic Preservation Commission, as applicable, and City Council shall consider the following:

A. Compliance with Adopted Regulatory Plans. The proposed development complies with applicable adopted regulatory plans.

Staff Finding: *The Theatre Aspen facility is part of the Rio Grande Subdivision, which received its rezoning in 1977 under Ordinance #54. A 1993 Master Plan provided guidance for future improvements. Theatre Aspen's status as a welcome presence in the park was reinforced by additional Council approvals granted in 1995, and in 2011 the organization received approval to construct a permanent lobby, though the auditorium space continued to require a level of annual deconstruction. In 2013, this condition was amended to allow sections of walls to remain in place year round.*

The applicant is in compliance with adopted regulatory plans. They request deletion of all requirements to disassemble the roofs and walls of the tent each year for a number of reasons, including changed conditions in the park, changed technologies allowing the roof to support winter snow load, a desire to reduce the costs and vehicle trips needed to take down and and put up the materials twice a year, and reduction of wear and tear on the interior of the auditorium space as a result of it being open to the elements when the roof is off.

No dimensional or use changes are proposed as a part of this request. Staff finds this criterion to be met.

Please note, as a condition of approval for the permanent lobby structure via Ordinance #38, Series of 2011, Theatre Aspen was required to participate in an employee audit to demonstrate if any additional employees resulted from the approval of the lobby. Arguably, additional employees generated from staffing the lobby space would be subject to discussion of affordable housing mitigation. Neither the applicant nor Staff can find evidence that such an audit was conducted. For this application, Theater Aspen was required to provide a baseline of employees generated by Theatre Aspen during a typical season. Staff suggests the information be accepted as the documentation that was previously requested. The applicant represents that the lobby has always been staffed by employees covering multiple functions, and no additional employees were hired

solely for this purpose. A condition is included in this approval to note that it shall not allow any use of the tent for any time or purpose beyond the theater season and winter storage occurring now, in part to ensure no increase in operations or employees for Theater Aspen.

B. Development Suitability. The proposed Planned Development prohibits development on land unsuitable for development because of natural or man-made hazards affecting the property, including flooding, mudflow, debris flow, fault ruptures, landslides, rock or soil creep, rock falls, rock slides, mining activity including mine waste deposit, avalanche or snowslide areas, slopes in excess of 30%, and any other natural or man-made hazard or condition that could harm the health, safety, or welfare of the community. Affected areas may be accepted as suitable for development if adequate mitigation techniques acceptable to the City Engineer are proposed in compliance with Title 29 – Engineering Design Standards. Conceptual plans for mitigation techniques may be accepted for this standard. The City Engineer may require specific designs, mitigation techniques, and implementation timelines be defined as part of the Detailed Review and documented within a Development Agreement.

Staff Finding: *This standard is not applicable. No new buildings or site grading are proposed.*

C. Site Planning. The site plan is compatible with the context and visual character of the area. In meeting this standard, the following criteria shall be used:

1. The site plan responds to the site's natural characteristics and physical constraints such as steep slopes, vegetation, waterways, and any natural or man-made hazards and allows development to blend in with or enhance said features.
2. The project preserves important geologic features, mature vegetation, and structures or features of the site that have historic, cultural, visual, or ecological importance or contribute to the identity of the town.
3. Buildings are oriented to public streets and are sited to reflect the neighborhood context. Buildings and access ways are arranged to allow effective emergency, maintenance, and service vehicle access.

Staff Finding: *These standards are not applicable. No new buildings are proposed.*

D. Dimensions. All dimensions, including density, mass, and height shall be established during the Project Review. A development application may request variations to any dimensional requirement of this Title. In meeting this standard, consideration shall be given to the following criteria:

1. There exists a significant community goal to be achieved through such variations.
2. The proposed dimensions represent a character suitable for and indicative of the primary uses of the project.
3. The project is compatible with or enhances the cohesiveness or distinctive identity of the neighborhood and surrounding development patterns, including the scale and massing of nearby historical or cultural resources.
4. The number of off-street parking spaces shall be established based on the probable number of cars to be operated by those using the proposed development and the nature of the proposed uses. The availability of public transit and other transportation facilities,

including those for pedestrian access and/or the commitment to utilize automobile disincentive techniques in the proposed development, and the potential for joint use of common parking may be considered when establishing a parking requirement.

5. The Project Review approval, at City Council's discretion, may include specific allowances for dimensional flexibility between Project Review and Detailed Review. Changes shall be subject to the amendment procedures of Section 26.445.110 – Amendments.

Staff Finding: These standards are not applicable. *There are no changes to dimensions of the existing structure.*

E. Design Standards. The design of the proposed development is compatible with the context and visual character of the area. In meeting this standard, the following criteria shall be used:

1. The design complies with applicable design standards, including those outlined in Chapter 26.410, *Residential Design Standards*, Chapter 26.412, *Commercial Design Standards*, and Chapter 26.415, *Historic Preservation*.

Staff Finding: This standard is not applicable. *The design standards do not adequately address a tent, and the existing building is not being changed.*

2. The proposed materials are compatible with those called for in any applicable design standards, as well as those typically seen in the immediate vicinity. Exterior materials are finalized during Detailed Review, but review boards may set forth certain expectations or conditions related to architectural character and exterior materials during Project Review.

Staff Finding: *The applicant proposes to keep the roof and walls in place year-round, rather than removing them seasonally. The applicant proposes to internally reinforce the tent-canvas roof material to handle winter snow loads. The proposed tent-canvas material is consistent with previous approvals for the facility and will continue the same character and architectural character of the structure.*

The 1995 approval of the tent structure in Ordinance No. 24 (Series of 1995) included the condition to seasonally remove the walls and roof of the structure as a measure to reduce the visual impact of the tent. Since the adoption of Ordinance No. 38 (Series of 2011) and Resolution No. 47 (Series of 2013), some year-round features of the tent have been left in place, including maintaining the tent walls and a permanent lobby. The permanent restroom facility in the Rio Grande Park was constructed, blocking some views towards the tent. Conditions in the park have changed sufficiently to justify leaving the roof up, and numerous downsides to its disassembly have been identified. That said, staff does recommend that if the tent membrane is replaced in the future, review of color selection by City Council is required. While the white tent has limited visual impact in the winter (when the roof is currently being required to be removed), in the summer it is a notable structure. More balance might be struck to suit the natural environment across the seasons. This was clearly the intent of the bathroom building and the tent should be held to a similar standard. Staff finds this criterion to be met with a condition of approval.

F. Pedestrian, bicycle & transit facilities. The development improves pedestrian, bicycle, and transit facilities. These facilities and improvements shall be prioritized over vehicular facilities and improvements. Any vehicular access points, or curb cuts, minimize impacts on existing or proposed pedestrian, bicycle, and transit facilities. The City may require specific designs,

mitigation techniques, and implementation timelines be defined as part of the Detailed Review and documented within a Development Agreement.

Staff Finding: *This standard is not applicable.*

G. Engineering Design Standards. There has been accurate identification of engineering design and mitigation techniques necessary for development of the project to comply with the applicable requirements of Municipal Code Title 29 – Engineering Design Standards and the City of Aspen Urban Runoff Management Plan (URMP) and Water Efficient Landscape Ordinance. The City Engineer may require specific designs, mitigation techniques, and implementation timelines be defined and documented within a Development Agreement.

Staff Finding: *The City Engineering Department had no comments or conditions for this proposal. Staff finds this criterion is met.*

H. Public Infrastructure and Facilities. The proposed Planned Development shall upgrade public infrastructure and facilities necessary to serve the project. Improvements shall be at the sole costs of the developer. The City Engineer may require specific designs, mitigation techniques, and implementation timelines be defined as part of the Detailed Review and documented within a Development Agreement.

Staff Finding: *The City Park's Department provided referral comments for this review and recommended conditions of approval related to ensuring public safety and preservation of public property as a result of any snow shedding from the roof. These are incorporated as conditions of approval in the ordinance. Staff finds this criterion to be met with conditions.*

I. Access and Circulation. The proposed development shall have perpetual unobstructed legal vehicular access to a public way. A proposed Planned Development shall not eliminate or obstruct legal access from a public way to an adjacent property. All streets in a Planned Development retained under private ownership shall be dedicated to public use to ensure adequate public and emergency access. Security/privacy gates across access points and driveways are prohibited.

Staff Finding: *No changes to access and circulation are proposed. This standard is not applicable.*

THEATRE ASPEN

PD AMENDMENT TO ELIMINATE WINTER TENT REMOVAL CONDITION

SUBMITTED BY

**ALAN RICHMAN PLANNING SERVICES, INC.
P.O. BOX 3613
ASPEN, COLORADO 81612
920-1125**

JANUARY, 2022

TABLE OF CONTENTS

| | PAGE |
|--|------|
| I. Introduction | 1 |
| II. History of Prior Development Approvals | 3 |
| III. Description of Existing Conditions | 6 |
| IV. Amendment to Project Review | 8 |
| V. Conclusion | 14 |

EXHIBITS

- #1. City Council Ordinance No. 38 (Series of 2011)
- #2. City Council Resolution 092 (Series of 2021)
- #3. Letter Authorizing Submission of Application
- #4. Pre-Application Conference Summary
- #5. City Council Resolution No. 38 (Series of 1988)
- #6. City Council Resolution No. 42 (Series of 1993)
- #7. City Council Ordinance No. 24 (Series of 1995)
- #8. City Council Resolution No. 47 (Series of 2013)

DRAWINGS and PHOTOS

- Vicinity Map
- Existing Site Plan
- Photos of Tent in Winter (3 Photos)
- Simulation of Tent in Winter (1 Simulation)
- Aspen Community Art Park Poster (Submitted Separately)

I. INTRODUCTION

This is an application requesting an amendment to one of the conditions set forth in Ordinance No. 38, Series of 2011. Ordinance 38 (attached hereto as Exhibit #1) authorized Theatre Aspen to construct a permanent lobby structure to serve the performance tent which is located in Rio Grande Park. The address of the property is 505 Rio Grande Place. The property's Pitkin County Parcel ID# is 273707306851.

The condition which the applicant proposes to amend is stated in Section 2 of Ordinance 38 and reads as follows:

The tent framing shall be covered with a roof, as weather allows, from April to October of each calendar year. From October to April of each calendar year, the tent framing shall not be covered with a roof. Temporary sides shall be installed to shield the stage and seating from view. The stage and seating shall be under protective cover and located on the existing concrete pad. This is attached as Exhibit B. Theatre Aspen shall return to City Council one year from the date of approval, or as soon thereafter as can be scheduled with City Council, to review the design of the tent framing with temporary walls. City Council shall have the ability to amend the SPA approval as necessary to ensure the visual impacts of the tent framing are sufficiently minimized from October to April

The amendment which is being requested is to eliminate the requirement that the roof of the tent be removed each winter. This requirement imposes a significant economic burden on Theatre Aspen, which is a not-for-profit entity. Furthermore, we can find no apparent visual or other benefit to the site, structure or neighborhood which results from removing the tent's roof. Allowing the tent roof to remain in place year-round is the only aspect of this project which is proposed to be amended by this application. No changes to the length of the performance season or any other aspect of the theatre operation are being requested by this amendment.

This application is being submitted to the City Council by Theatre Aspen (hereinafter, "the applicant"). The applicant has leased the property from the City of Aspen since the 1990's. A copy of the most recent lease for the site, demonstrating the applicant's right to apply for this amendment, is attached as Exhibit #2. A letter from Jed Bernstein, Producing Director of Theatre Aspen, designating Alan Richman Planning Services, Inc. as the applicant's representative for this application is attached as Exhibit #3

A pre-application discussion was held between the applicant and staff of the Community Development Department prior to submission of this application. A copy of the pre-application form which staff provided to the applicant is attached hereto as Exhibit #4. The form directs the applicant to provide responses to the following development review procedures of the Land Use Code:

**Sec. 26.445.110.D: Minor PD Amendment (Project Review Stage); and
Sec. 26.445.050: Project Review Standards.**

The following sections of this application are organized to demonstrate how the proposal complies with the applicable review standards of the Aspen Land Use Code. First, however, some background information is presented to trace the history of the prior land use planning for the Rio Grande property and the land use approvals granted for the theatre performance tent and to provide a brief description of the property's existing conditions.

II. HISTORY OF PRIOR DEVELOPMENT APPROVALS

The Rio Grande property has a long history of public planning, ever since it came into public ownership in the early 1970's. The property was originally purchased with "7th penny" transportation funds, which the City subsequently re-appropriated by the use of "6th penny" open space funds in recognition of the use of a portion of the property for a playing field. In 1977 an "Interim SPA Plan" was adopted by the City identifying recreation and parking as the key uses for the property.

In 1980-81 the Rio Grande Task Force completed a report listing potential uses for the property and a general configuration for such uses. Key facilities included a performing arts center, jail, parking structure, transit facility, recreation, library, greenway and restaurant. Subsequently, in 1982, the report was used to formulate a conceptual plan for the site containing many of these uses. A final SPA plan was not developed at this time.

In 1988, the City Council adopted the Rio Grande Conceptual SPA plan for the site. This plan, approved by Council Resolution 88-37 (attached as Exhibit #5), identified locations for a parking structure, library, snowmelt facility, shuttle route, playing field and extension of Spring Street. The area where the theatre tent is now located was designated for "arts usage". Final SPA plans were later submitted and approved allowing for construction of the parking structure and library, but not for the other conceptual plan elements.

The Aspen Theatre Company (ATC) first began conducting theatre performances in a tent on the Rio Grande property during the summer of 1987 when Kent Reed of the ATC obtained approval from City Council to use the property. For the next eight years he and his successors obtained annual approval to use the site for a summer performance tent. In 1989 he also was given permission to create a "temporary art park environment" around the tent to display sculptures and to establish temporary landscaping to separate the tent from surrounding public uses. The process of obtaining annual approval for the theatre tent continued until 1995.

In 1993 the City adopted the Rio Grande Master Plan and SPA Development Plan pursuant to Resolution 42 of 1993 (see Exhibit #6). This Master Plan focused on two areas of the Rio Grande property which had not yet been fully developed, these being Site A, which includes the area along the River where the seasonal theatre tent had been erected, and Site B, the area where the recycle center is located. During this planning process, a group of Aspen citizens developed plans for an "Art Park" on Site A and began to revitalize this long-neglected area through volunteer efforts. A copy of the illustrative plan produced by the group is included in this application package. It shows that the centerpiece of the Art Park Plan would be a theatre tent in approximately its current location.

In 1995, Aspen Theatre in the Park submitted an SPA Amendment application to the City to obtain a more long-term approval for its use of the site and to eliminate the need for the

annual review process. This approval was granted by the Aspen City Council pursuant to Ordinance 24, Series of 1995, which is attached as Exhibit #7. Ordinance 24 allowed for the theatre tent to be erected in mid-May and dismantled in mid-September of each year, without the need for an annual review. The performance tent was described in the application as a seasonal "circus-type" tent with interior aluminum structural supports. It was erected on a platform which had previously been built to provide for seating and the stage.

This situation continued for the next 15 years, until in 2011, Theatre Aspen submitted an application for an SPA Amendment to construct a permanent lobby structure and to permit the theatre tent framing, stage and seating to remain on-site year-round. Approval of this amendment was granted by the Aspen City Council pursuant to Ordinance 38, Series of 2011 (see Exhibit #1). As explained above, this approval authorized the permanent lobby structure to remain year round but only allowed the roof of the tent to be in place from April through October of each year.

Ordinance 38 required Theatre Aspen to return to the City Council within one year to review the design of the tent framing and the temporary walls which had been approved for the site. The design review submission was made to the City within the required time frame. According to the staff report prepared at that time, following was the rationale for this one-year review:

"The approval allowed the tent to be up, covered with a roof, from April through October of each year. In the intervening months, the approval allowed the tent structure to remain up in the park without a roof and with side screening. This significantly decreased the number of truck trips in the park. Previously, the Theatre Aspen tent was erected each year in mid- May and removed each year in mid- September, generating approximately 48 truck trips a year on the trails in Rio Grande Park.

At the time, City Council supported leaving the tent frame up because of the elimination of truck trips that created wear and tear on the park. Council was concerned, however, with the aesthetics of how the tent frame would fit into the park. This led to adding a condition in the approval requiring a Council check- in to review the tent frame design."

In its application letter, Theatre Aspen provided the following explanation of its request:

"The applicant is seeking administrative approvals to leave partial walls on its tent structure when Theatre Aspen is not in production. This will help the tent to look similar to how it appears during the summer and more like a finished structure than it has in previous winters. Though the purchase of a snow- loaded roof is cost prohibitive, Theatre Aspen has purchased new walls specifically for this use. These walls are currently installed on the south and west sides of the tent, facing the Rio Grande Trail and field, where the maximum potential exposure would be in the off-season."

This City Council action on this review is summarized in Resolution 47, Series of 2013 (see Exhibit #8). That Resolution made no changes to the condition regarding the design and seasonal removal of the roof tent and did not require any further reviews to occur.

III. DESCRIPTION OF EXISTING CONDITIONS

Attached is a drawing showing the existing site plan for the area in and around the Theatre Tent. It shows that the existing structure consists of the lobby/ticketing area on the east side of the structure, and the performance tent. The seating area offers 199 seats for performances.

The “back of stage area” within the existing tent is rather limited. It does not offer enough space to store scenery and other support materials for performances, nor does it provide an adequate backstage area for performers and other personnel. Therefore, during the season Theatre Aspen brings in several trailers and places them behind the tent to provide support space for the performers. There are also temporary restrooms in this area, since the existing tent is not connected to municipal water supply or sewage disposal facilities.

Access to the Theatre Tent is provided from Rio Grande Place, along the existing trail that is located between the playing field and the skateboard park. On-site vehicle parking is not provided, as it has consistently been the public preference and adopted City policy that parking for the facility should not be provided on-site but instead should occur in the nearby municipal parking structure.

In the pre-application form, the staff has also asked that the applicant present a current employee audit for Theatre Aspen. The reason an employee audit has been requested is that Section 5 of Ordinance 38, Series of 2011 states that *“Theatre Aspen shall conduct an employee audit one year after final City Council approval for the permanent lobby structure. Volunteer hours shall not be included in the audit.”*

The condition stated that the Housing Authority’s was to request the audit from Theatre Aspen and that the audit would be presented to the Housing Board, P&Z and/or City Council, as applicable. The condition also stated that failure by the Housing Authority to request the audit would not relieve Theatre Aspen of the requirement to be audited.

Staff could not find any record of the audit having taken place. Therefore, this condition is being met by the following statement of Theatre Aspen’s current employment.

Theatre Aspen is currently staffed with **twelve (12) full time paid employees**. These persons fill the following positions in the organization:

| | |
|-------------------------------|----------------------------------|
| Producing Director | Business Manager |
| General Manager | Education Manager |
| Director of Production | Event and Rentals Coordinator |
| Director of Artistic Planning | Development Associate |
| Director of Advancement | Apprentice and Board Coordinator |
| Director of Marketing | Education Associate |

In addition, Theatre Aspen has the following **seasonal employees** who work during the production season (May through September).

15-20 cast/performers;

10 production staff

1 musical director; and

25 summer apprentices (covering roles in production, performance, education, and administration).

The seasonal employees work approximately 13 weeks during the production season. During this period they work on a full time (40 hours per week) basis, so they are paid for approximately 520 hours of work. Under Aspen's affordable housing regulations, 520 hours equals approximately 1/3 of a full time equivalent (FTE) employee, since a full time employee is considered to be one who works 1,500 per year.

Finally, Theatre Aspen puts together a number of **creative and design teams** for periods of 2 to 4 weeks during the main stage season. These teams are composed of a director, assistant director and choreographer, each of whom are employed for 3 to 4 weeks, and a scenic designer, lighting designer, sound designer, costume designer and a wig/makeup designer, each of whom are employed for 2 weeks.

IV. AMENDMENT TO PROJECT REVIEW

Section 26.445.110 of the Land Use Code establishes the procedures and standards for PD Amendments. It authorizes the Community Development Director to determine whether a proposed amendment is insubstantial, minor or major. The Director has made this determination for this proposal and has classified this as a “minor PD amendment”, which requires Project Review by the Aspen City Council.

The purpose of this application is to amend the condition of the prior approval which requires the roof of the tent to be removed from its internal framing during the winter months. At the time of the original approval, Theatre Aspen represented that the roof of the tent they had purchased would be unable to handle a winter snow load and so it would need to be removed. That situation has changed. The local company which services the tent is able to provide panels inside of the roof of the tent which support the fabric and allow it to handle the snow load. These panels would be installed prior to the winter and removed prior to the summer, allowing the roof of the tent to remain in place year-round.

The primary benefit of this amendment is that it would relieve Theatre Aspen of the significant financial burden of removing the roof of the tent each winter and replacing it the next spring. It will also reduce the number of vehicle trips which are associated with removing and replacing the roof of the tent each year, thereby causing less wear and tear on Rio Grande Park and less disruption to the trail which Theatre Aspen is authorized to use for vehicular access to the tent.

No other changes to the original approval are requested at this time.

Standards for Project Review

Section 26.445.050 of the Code contains the standards for Planned Development Project Review. This Section describes the purpose of Project Review as follows:

“The Project Review shall focus on the general concept for the development and shall outline any dimensional requirements that vary from those allowed in the underlying zone district. The burden shall rest upon an applicant to show the reasonableness of the development application and its conformity to the standards and procedures of this Chapter and this Title. The underlying zone district designation shall be used as a guide, but not an absolute limitation, to the dimensions which may be considered during the development review process. Any dimensional variations allowed shall be specified in the ordinance granting Project Approval.”

Following are the applicant's responses to each of the Project Review standards.

A. Compliance with Adopted Regulatory Plans. *The proposed development complies with applicable adopted regulatory plans.*

Response: The 1993 Rio Grande Master Plan is the City's adopted regulatory plan for this property. This document states that *"A strong Art Theme should be promoted as an important use for the Rio Grande property. The Art Theme is already supported by a variety of existing uses: the Theatre in the Park, on- site sculpture and flower gardens introduced by the Art Park group and direct access to the Art Museum...Aspen Theatre in the Park is a key component of the Art Theme."*

The land use designations for this portion of the Rio Grande property in the Rio Grande Master Plan are "Art Park/Passive Park/Art Theme". The performance tent is the centerpiece of this portion of the Rio Grande property. The tent fulfills the intent of this land use designation, providing a vital performing arts function which complements the surrounding park features.

Section II of this application traces the history of planning for the Rio Grande property. It describes the community planning process which began more than 40 years ago (1980-81) during which time the Rio Grande property has consistently been identified as the appropriate location in Aspen for a performing arts facility. This location was first used for a theatre performance tent in 1987 and has continued to be the tent site for the last 35 years. This use is fully consistent with the adopted Rio Grande Master Plan.

B. Development Suitability. *The proposed Planned Development prohibits development on land unsuitable for development because of natural or man-made hazards affecting the property, including flooding, mudflow, debris flow, fault ruptures, landslides, rock or soil creep, rock falls, rock slides, mining activity including mine waste deposit, avalanche or snowslide areas, slopes in excess of 30%, and any other natural or man-made hazard or condition that could harm the health, safety, or welfare of the community. Affected areas may be accepted as suitable for development if adequate mitigation techniques acceptable to the City Engineer are proposed in compliance with Title 29 – Engineering Design Standards. Conceptual plans for mitigation techniques may be accepted for this standard. The City Engineer may require specific designs, mitigation techniques, and implementation timelines be defined as part of the Detailed Review and documented within a Development Agreement.*

Response: The suitability of the site for the current uses was evaluated when the original SPA plans for this property were prepared and adopted. No changes to the building footprint or current uses are proposed, so there should be no need for further hazard mitigation to be considered as part of this PD Amendment.

C. Site Planning. *The site plan is compatible with the context and visual character of the area. In meeting this standard, the following criteria shall be used:*

1. The site plan responds to the site's natural characteristics and physical constraints such as steep slopes, vegetation, waterways, and any natural or man-made hazards and allows development to blend in with or enhance said features.

2. The project preserves important geologic features, mature vegetation, and structures or features of the site that have historic, cultural, visual, or ecological importance or contribute to the identity of the town.

3. Buildings are oriented to public streets and are sited to reflect the neighborhood context. Buildings and access ways are arranged to allow effective emergency, maintenance, and service vehicle access.

Response: No changes to the existing site plan are proposed within this PD Amendment.

D. Dimensions. *All dimensions, including density, mass, and height shall be established during the Project Review. A development application may request variations to any dimensional requirement of this Title. In meeting this standard, consideration shall be given to the following criteria:*

1. There exists a significant community goal to be achieved through such variations.

2. The proposed dimensions represent a character suitable for and indicative of the primary uses of the project.

3. The project is compatible with or enhances the cohesiveness or distinctive identity of the neighborhood and surrounding development patterns, including the scale and massing of nearby historical or cultural resources.

4. The number of off-street parking spaces shall be established based on the probable number of cars to be operated by those using the proposed development and the nature of the proposed uses. The availability of public transit and other transportation facilities, including those for pedestrian access and/or the commitment to utilize automobile disincentive techniques in the proposed development, and the potential for joint use of common parking may be considered when establishing a parking requirement.

5. The Project Review approval, at City Council's discretion, may include specific allowances for dimensional flexibility between Project Review and Detailed Review. Changes shall be subject to the amendment procedures of Section 26.445.110.

Response: None of the approved or existing building dimensions are proposed to be changed by this PD Amendment.

E. Design Standards. *The design of the proposed development is compatible with the context and visual character of the area. In meeting this standard, the following criteria shall be used:*

1. The design complies with applicable design standards, including those outlined in Chapter 26.410, Residential Design Standards, Chapter 26.412, Commercial Design Standards, and Chapter 26.415, Historic Preservation.

2. The proposed materials are compatible with those called for in any applicable design standards, as well as those typically seen in the immediate vicinity. Exterior materials are finalized during Detailed Review, but review boards may set forth certain expectations or conditions related to architectural character and exterior materials during Project Review.

Response: This application includes several photos taken this winter which show the appearance of the Theatre Tent today. These photos show that the side walls of the tent remain in place, but the roof of the tent has been removed, exposing the internal metal framing. The photos also show that the lobby area is a permanent structure, with its side walls and roof in place year round. These are the conditions that were authorized by the prior City Council approval.

A photo simulation has also been provided showing how the tent would look if the roof were permitted to remain in place. The change is not dramatic in terms of the overall scale and massing. Obviously, where today one is able to look through the supports to see behind the tent, with the roof in place the ability to see through the structure would be eliminated. Some may see that change as an expansion of the mass of the structure while others may see it as a way to cover the internal workings of the facility year round. But it is important to note that when this condition was adopted, there were no permanent structures in this portion of the Rio Grande property and the Council wanted to be cautious about making the tent more permanent. Since that approval the Rio Grande Park bathrooms have been built. As the attached photo shows, the tent framing seems somewhat out of place when viewed across the playing field, with the permanent bathrooms in front of it.

From our perspective, keeping the roof of the tent in place allows the structure to appear to be more complete and makes the entire roof, from the lobby through to the tent, appear to be a more unified structure. We believe that there is nothing inherently unattractive about the current condition, but that the proposed condition would be an appropriate winter condition in the Park. The tent would have a white color and so it would complement the snowy park setting in which it is located. The structure would look complete, where today it looks like a work-in-progress. The continuing evolution of this tent, from its makeshift origins, to its more permanent appearance today, is appropriate to meet the needs of Theatre Aspen, while remaining consistent with conditions in the neighborhood.

F. Pedestrian, bicycle & transit facilities. The development improves pedestrian, bicycle, and transit facilities. These facilities and improvements shall be prioritized over vehicular facilities and improvements. Any vehicular access points, or curb cuts,

minimize impacts on existing or proposed pedestrian, bicycle, and transit facilities. The City may require specific designs, mitigation techniques, and implementation timelines be defined as part of the Detailed Review and documented within a Development Agreement.

Response: No changes to the existing site access are proposed by this PD Amendment.

G. Engineering Design Standards. *There has been accurate identification of engineering design and mitigation techniques necessary for development of the project to comply with the applicable requirements of Municipal Code Title 29 – Engineering Design Standards and the City of Aspen Urban Runoff Management Plan (URMP). The City Engineer may require specific designs, mitigation techniques, and implementation timelines be defined as part of the Detailed Review and documented within a Development Agreement.*

Response: The proposed PD amendment does not require the installation of any new City facilities nor will it change the stormwater management plans for the site.

H. Public Infrastructure and Facilities. *The proposed Planned Development shall upgrade public infrastructure and facilities necessary to serve the project. Improvements shall be at the sole costs of the developer. The City Engineer may require specific designs, mitigation techniques, and implementation timelines be defined as part of the Detailed Review and documented within a Development Agreement.*

Response: The proposed PD amendment will not place any added demand on existing infrastructure or public facilities. Instead, it will result in a reduction in the number of service vehicle trips necessary to remove and replace the roof of the tent each year.

I. Access and Circulation. *The proposed development shall have perpetual unobstructed legal vehicular access to a public way. A proposed Planned Development shall not eliminate or obstruct legal access from a public way to an adjacent property. All streets in a Planned Development retained under private ownership shall be dedicated to public use to ensure adequate public and emergency access. Security/privacy gates across access points and driveways are prohibited.*

Response: No changes to access or circulation are proposed as part of this PD amendment application.

J. Height and Floor Area Variations. *Variations to allowed height and floor area shall be subject to the following review criteria:*

1. *The proposed increase is necessary to address unique natural or man-made site characteristics, such as topographical conditions, historic resources, or other natural features; or*

2. *The proposed increase enables innovative design solutions or furthers stated community goals.*

Response: No height or floor area variations are being requested as part of this PD amendment application.

V. CONCLUSION

The above responses and the attached materials provide the information which has requested to process this application. This application package demonstrates that the proposed amendment complies with the applicable provisions of the Aspen Land Use Code. Please do not hesitate to contact us if you need anything else during the review process.

EXHIBITS

**ORDINANCE NO. 38,
(SERIES OF 2011)**

AN ORDINANCE OF THE CITY OF ASPEN CITY COUNCIL APPROVING A SPECIALLY PLANNED AREA (SPA) AMENDMENT, AND AN ESSENTIAL PUBLIC FACILITY GROWTH MANAGEMENT REVIEW, FOR THEATRE ASPEN TO CONSTRUCT A PERMANENT LOBBY STRUCTURE AND TO ALLOW THEATRE ASPEN TO MAINTAIN THEIR TENT FRAME, STAGE, AND SEATING ON-SITE DURING THE WINTER AT RIO GRANDE PARK, 505 RIO GRANDE PLACE, CITY OF ASPEN, COLORADO, LEGALLY DESCRIBED AS: LOT 1 OF THE RIO GRANDE SUBDIVISION.

Parcel ID 2737-073-06-851

WHEREAS, the Community Development Department received an application from Theatre Aspen, represented by Charles Cuniffe Architects, requesting approval of a Specially Planned Area (SPA) amendment, and an Essential Public Facility Growth Management Review, to construct a permanent lobby structure and to permit the theatre tent framing, stage, and seating to remain on-site year round; and,

WHEREAS, the Applicant requests a recommendation by the Planning and Zoning Commission to the City Council for a Specially Planned Area (SPA) Amendment, and Essential Public Facility Growth Lodge Management Review; and,

WHEREAS, the property is located in the Rio Grande Park and is zoned Public (PUB) with an SPA Overlay; and,

WHEREAS, upon initial review of the application and the applicable code standards, the Community Development Department recommended the Applicant amend the proposal to better comply with the requirements of a Specially Planned Area (SPA); and,

WHEREAS, during a duly noticed public hearing on November 1, 2011, Planning and Zoning Commission approved Resolution No. 20, Series of 2011, by a four to zero (4 – 0) vote, recommending city Council approve an amendment to the Rio Grande SPA and an Essential Public Facilities Growth Management Review for Theatre Aspen; and,

WHEREAS, pursuant to Section 26.440, the City Council may approve a SPA Amendment, during a duly noticed public hearing after considering a recommendation from the Planning and Zoning Commission made at a duly noticed public hearing, comments from the general public, a recommendation from the Community Development Director, and recommendations from relevant referral agencies; and,

WHEREAS, pursuant to Section 26.470, the City Council may approve an Essential Public Facility Growth Management Review, during a duly noticed public hearing after considering a recommendation from the Planning and Zoning Commission made at a duly

noticed public hearing, comments from the general public, a recommendation from the Community Development Director, and recommendations from relevant referral agencies; and,

WHEREAS, during a duly noticed public hearing on January 9, 2012, the City Council approved Ordinance No. 38, Series of 2010, by a four to one (4 – 1) vote, approving an SPA amendment and an Essential Public Facility Growth Management Review; and,

WHEREAS, the Aspen City Council has reviewed and considered the development proposal under the applicable provisions of the Municipal Code as identified herein, has reviewed and considered the recommendation of the Planning and Zoning Commission, the Community Development Director, the applicable referral agencies, and has taken and considered public comment at a public hearing; and,

WHEREAS, the City Council finds that the development proposal meets or exceeds all applicable development standards and that the approval of the development proposal, with conditions, is consistent with the goals and elements of the Aspen Area Community Plan; and,

WHEREAS, the City Council finds that this Ordinance furthers and is necessary for the promotion of public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN AS FOLLOWS:

Section 1: Approvals

Pursuant to the procedures and standards set forth in Title 26 of the Aspen Municipal Code, the Planning and Zoning Commission hereby recommends City Council approval of a Specially Planned Area (SPA) amendment to the Rio Grande SPA, and an Essential Public Facility Growth Management Review.

Section 2: Design

The permanent lobby structure shall comply with the plan shown at the November 1st, 2011 P&Z meeting, and attached as Exhibit A. Theatre Aspen's commemorative brick shall be re-incorporated into the permanent lobby and/or associated patio.

The tent framing shall be covered with a roof, as weather allows, from April to October of each calendar year.

From October to April of each calendar year, the tent framing shall not be covered with a roof. Temporary sides shall be installed to shield the stage and seating from view. The stage and seating shall be under protective cover and located on the existing concrete pad. This is attached as Exhibit B. Theatre Aspen shall return to City Council one year from the date of approval, or as soon thereafter as can be scheduled with City Council, to review the design of the tent framing with temporary walls. City Council shall have the ability to amend the SPA approval as necessary to ensure the visual impacts of the tent framing are sufficiently minimized from October to April.

Theatre Aspen shall provide a security check of the site at least three times per week to ensure the site remains safe and secure.

Section 3: Signage

A revised signage plan reflecting changes discussed with staff and the Planning and Zoning Commission shall be submitted to staff prior to City Council review. This shall include replacing a proposed marquee sign with a less imposing sign on a low-lying rock, as outlined in the P&Z meeting on November 1, 2011 and the staff memo for said meeting.

Section 4: Temporary Fencing

The temporary fencing shown in Exhibit C shall be temporary, and shall only be erected during the theatre season when theatre performances are conducted and when required by the *Actors' Equity Association Small Professional Theatre Rulebook, Sec. 48.A.2-4*. The fencing shall be constructed in a manner that does not prevent or limit the use of the trash enclosure for trash storage.

Section 5: Essential Public Facility Growth Management Review - Affordable Housing Mitigation

Theatre Aspen shall conduct an employee audit one year after final City Council approval for the permanent lobby structure. Volunteer hours shall not be included in the audit. Any additional employees that are not a result of the Rio Grande improvements shall be indicated in the report. However, only those employees that are a result of the improvements shall be subject to future mitigation. The Housing Authority shall request the audit from Theatre Aspen. Failure to request the audit shall not render any of the approvals invalid. Theatre Aspen shall provide the Housing Authority and the Community Development Department with the audit report. The Housing Authority and Community Development shall forward the audit to the Housing Board, P&Z and/or City Council for review, as applicable.

Section 6: Parks

Theatre Aspen shall coordinate all improvements with the Parks Department to ensure they comply with the Parks Department's Master Plan for Rio Grande Park. Theatre Aspen shall comply with Parks Department regulations related to the prohibition of pesticide and herbicide use.

The applicant shall ensure the site is clean and secure at all times. The applicant shall work with the Parks Department to ensure compliance during the fall and winter months when the tent is taken down each year.

Section 7: Environmental Health

Theatre Aspen shall undertake a noise monitoring program for its productions to ensure compliance with the City's noise ordinance, as amended from time to time. The current noise limits are 55 dBA from 7am – 9pm, and 50 from 9pm – 7am. The noise monitoring program shall verify compliance with the noise ordinance, by Theatre Aspen staff, before opening night of each production. It shall also include continued monitoring throughout the summer theatre season given background noise levels may vary. Noise level readings shall be taken at multiple locations along the property line of

the Rio Grande Park. The noise monitoring program shall be filed with the City of Aspen Environmental Health Department, who may require it to be updated as needed.

Concessions at the tent historically have only been pre-packaged, non-potentially hazardous foods, and beverages without ice, due to the fact that Theatre Aspen does not hold a food service license nor have permanent plumbing. For special events serving food held at Theatre Aspen a temporary food permit must be submitted for approval to the Aspen Environmental Health Department prior to the event to ensure the protection of public health.

Section 8: Engineering

The Applicant's design shall be compliant with all sections of the City of Aspen Municipal Code, Title 21 and all construction and excavation standards published by the Engineering Department. A construction management plan should be submitted as part of building permit.

Section 9: Exterior Lighting

All exterior lighting shall meet the requirements of the City's Outdoor Lighting Code pursuant to Land Use Code Section 26.575.150, *Outdoor lighting*. No lighting shall be permitted in the stream margin area (fifteen (15) foot setback area from top of slope) or in any area below the top of slope line (toward the river) unless it is in the exact location of the existing lighting and requires no additional disturbance to the stream margin area.

Section 10: Theatre Aspen Lease

Within 180 days of City Council approval, Theatre Aspen shall re-execute their long-term lease on the Rio Grande Park to reflect this approval.

Section 11:

All material representations and commitments made by the Applicant pursuant to the development proposal approvals as herein awarded, whether in public hearing or documentation presented before the Planning and Zoning Commission or City Council, are hereby incorporated in such plan development approvals and the same shall be complied with as if fully set forth herein, unless amended by an authorized entity.

Section 12:

This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 13:

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

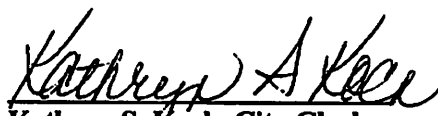
The City Clerk is directed, upon the adoption of this ordinance, to record a copy of this ordinance in the office of the Pitkin County Clerk and Recorder.

Section 14:

A public hearing on this ordinance shall be held on the 9th day of January, 2012, at a meeting of the Aspen City Council commencing at 5:00 p.m. in the City Council Chambers, Aspen City Hall, Aspen, Colorado, a minimum of fifteen days prior to which hearing a public notice of the same shall be published in a newspaper of general circulation within the City of Aspen.

INTRODUCED, READ AND ORDERED PUBLISHED as provided by law, by the City Council of the City of Aspen on the 12th day of December, 2011.

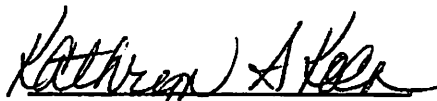
Attest:


Kathryn S. Koch, City Clerk


Michael C. Ireland, Mayor

FINALLY, adopted, passed and approved this 9th day of June, 2012.

Attest:


Kathryn S. Koch, City Clerk


Michael C. Ireland, Mayor

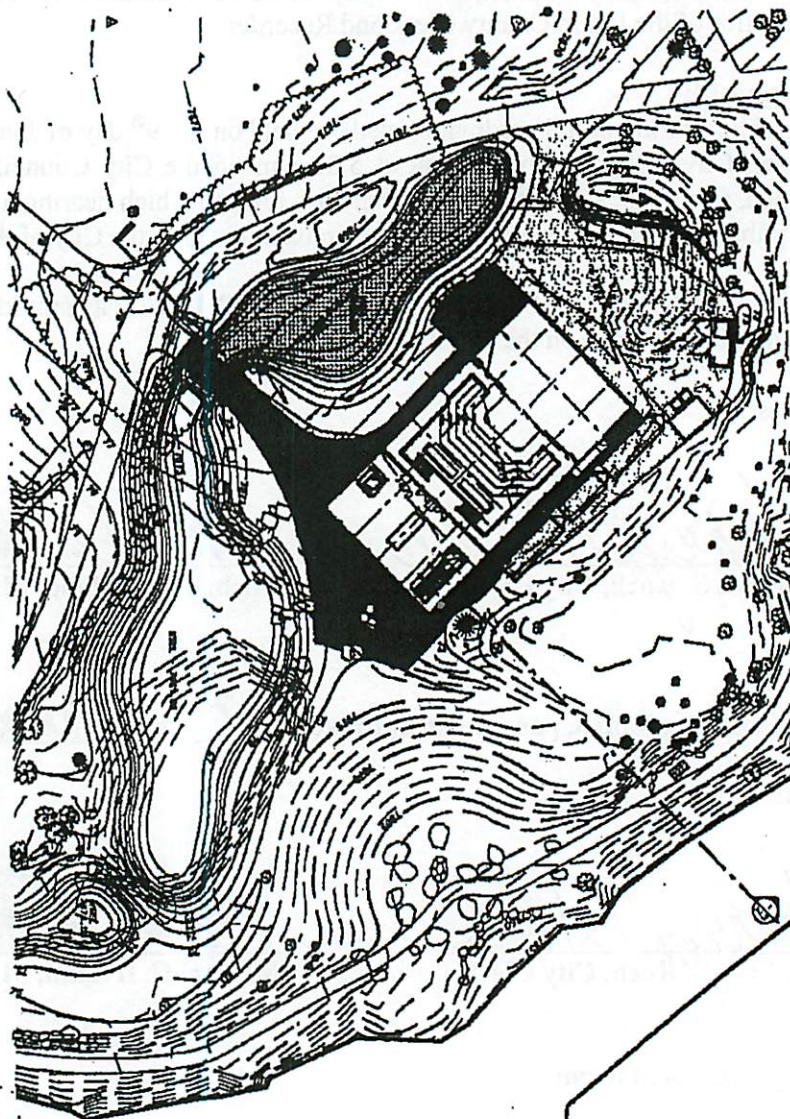
Approved as to form:


City Attorney

EXHIBITS:

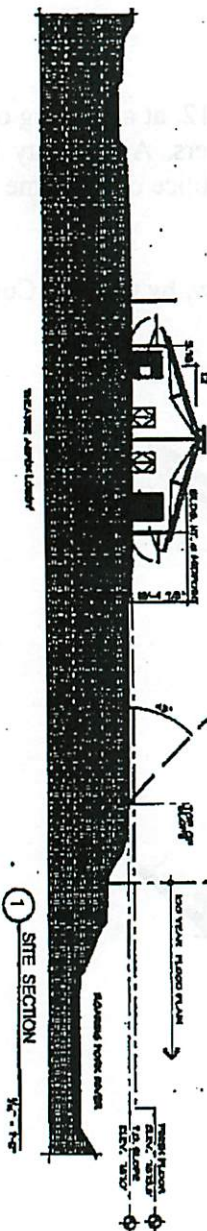
- Exhibit A: Plans for the permanent lobby structure
- Exhibit B: Rendering of tent framing and screening
- Exhibit C: site plan indicating location of proposed actor's privacy fence.

Exhibit A



LEFT OF ASPEN LAND USE ZONE
EXIST. IMPROVED STREET FRONTAGE
RECENT

2 SITE PLAN
1" = 30'



1 SITE SECTION
1/4" = 1'-0"

PLANNING & ZONING CALCULATION

FLOOR AREA

PROPOSED BUILDING FOOTPRINT = 9,941 SQ. FT.

EXISTING BUILDING FOOTPRINT = 1,100 SQ. FT.

PROPOSED TOTAL BUILDING FOOTPRINT = 11,041 SQ. FT.

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THEATRE ASPEN

CHARLES CUNIFFE ARCHITECTS

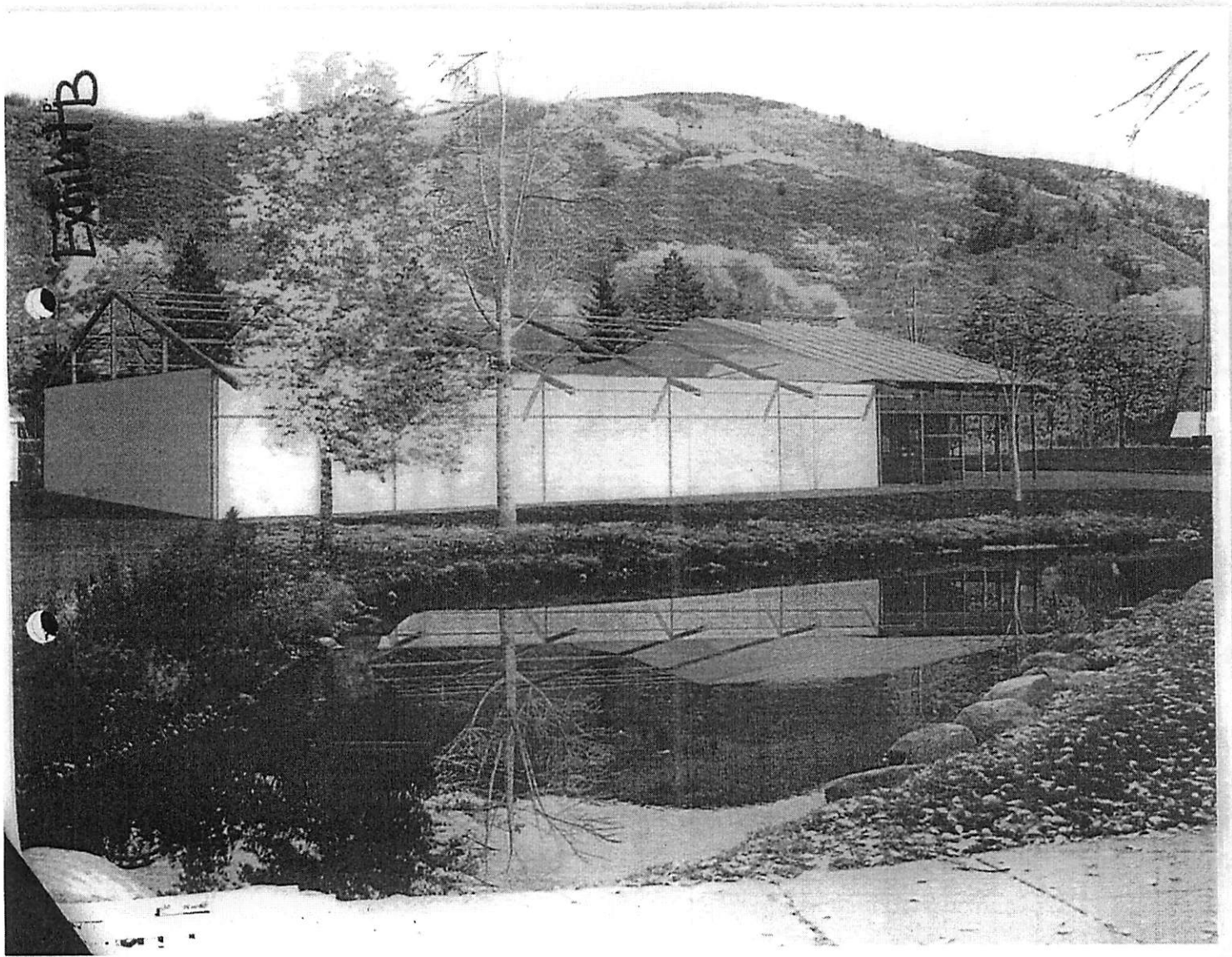
ASPEN, COLORADO

500 EAST PINE AVE. | ASPEN, CO 81611 | TEL: 970.925.1111 | FAX: 970.925.1112
500 EAST PINE AVE. | TELLURIDE, CO 81415 | TEL: 970.726.1111 | FAX: 970.726.1112



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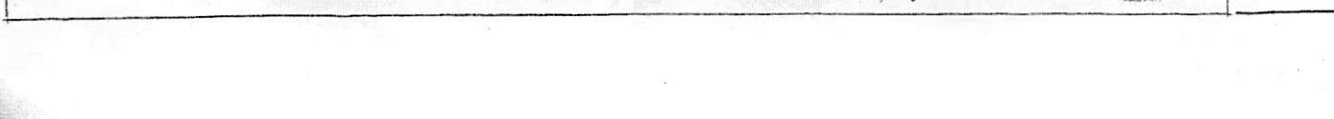


EXHIBIT #2

**RESOLUTION #092
(Series of 2021)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASPEN,
COLORADO, APPROVING AN AMENDMENT TO LEASE AGREEMENT
BETWEEN THE CITY OF ASPEN AND THEATRE ASPEN AND
AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT
ON BEHALF OF THE CITY OF ASPEN.**

WHEREAS, there has been submitted to the City Council an Amendment to Lease Agreement for the Theatre Aspen Lease at Rio Grande Park, between the City of Aspen and Theatre Aspen, a true and accurate copy of which is attached hereto as Exhibit "A";

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF ASPEN, COLORADO,


That the City Council of the City of Aspen hereby approves that Amendment to Lease Agreement for the Theatre Aspen lease at Rio Grande Park, between the City of Aspen and Theatre Aspen, a copy of which is annexed hereto and incorporated herein and does hereby authorize the City Manager to execute said agreement on behalf of the City of Aspen.

INTRODUCED, READ AND ADOPTED by the City Council of the City of Aspen on the 9th day of November 2021.



Torre, Mayor

I, Nicole Henning, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held, November 9, 2021.



Nicole Henning, City Clerk

AMENDMENT TO LEASE AGREEMENT

This Amendment to Lease Agreement ("Amendment"), entered into this ___ day of _____, 2021, amends that Lease Agreement between the City of Aspen, Colorado ("City") and Theater of Aspen, a Colorado non-profit corporation ("Tenant") effective January 31, 2012 ("Lease Agreement").

Recitals

Whereas, according to the terms of the Lease Agreement, Tenant leases a portion of Rio Grande Park in Aspen, Colorado for purposes of presenting theatrical productions and related operations; and

Whereas, pursuant to the Lease Agreement, Tenant is authorized to place a tent and structures for ticketing and concessions on the leased premises; and

Whereas, the Lease Agreement may be modified by written agreement duly executed by the parties; and

Whereas, the City desires to amend the Lease Agreement to identify more specifically the area that is the leased premises and the uses for the leased premises; and

Whereas, Tenant agree to amend the Lease Agreement to modify the description of the leased premises, and the uses for the leased premises.

Terms

Now, therefore, in consideration of the mutual promises set forth herein the parties agree to amend the Lease Agreement as follows:

1. Premises: The Premises subject to this Lease Agreement shall be the area outlined within the Rio Grande Park as shown on Exhibit 1 appended hereto and by this reference made a part hereof as if fully set forth here.

2. Use: The Premises may be used by Tenant solely for the purpose of placing a non-permanent theater tent in substantially the area shown on Exhibit 1, and constructing or placing an adjoining ticketing and concessionaire's structure to remain on the Premises during the duration of the Lease Agreement. This area will be known as the Primary Operating Area. Tenant may use the Primary Operating Area for the presentation of theatrical productions and related operations (including the annual Gala). Tenant may occasionally rent out the Primary Operating Area to third parties who may use the Primary Operating Area for similar purposes. The uses permitted within the Primary Operating Area shall comply in all respects with any and all conditions required by the City in any approvals that may be granted to the Tenant by the Aspen City Council pursuant to the Aspen Municipal Code.

As shown on Exhibit 1, an adjacent area to the Primary Operating Area shall be made available to the Tenant for special events and is labeled as Secondary Operating Area. Special events and park rentals occurring within the Secondary Operating Area shall comply with current Park Rental and Special Event requirements as stated in the Aspen Municipal Code. When the Secondary Operating Area is used by the Tenant, clear and inviting public access alternatives to John Denver Sanctuary must be identified and maintained. Tenant shall be permitted to rent the Secondary Operating area as a venue to host weddings, or other non-theater special events. There shall be no more than 8 non-theater special events within the Secondary Operating Area per year, and events shall be no longer than one day in duration, including setup and removal of event infrastructure. Areas outside of the Secondary Operating Area (such as John Denver Sanctuary) identified in Exhibit 1 shall not be rented by the Tenant in conjunction with special events within the Secondary Operating Area.

Tenant recognizes that Special Events may occur within the John Denver Sanctuary that are not associated with the Tenant. In the case that a Special Event would like to utilize the Secondary Operating Area, it is at the Tenant's sole discretion to rent the Secondary Operating Area to said party, and that event shall count towards one of the stated 8 events allowed per calendar year.

3. The attached Exhibit 1 supersedes the existing Exhibit 1.

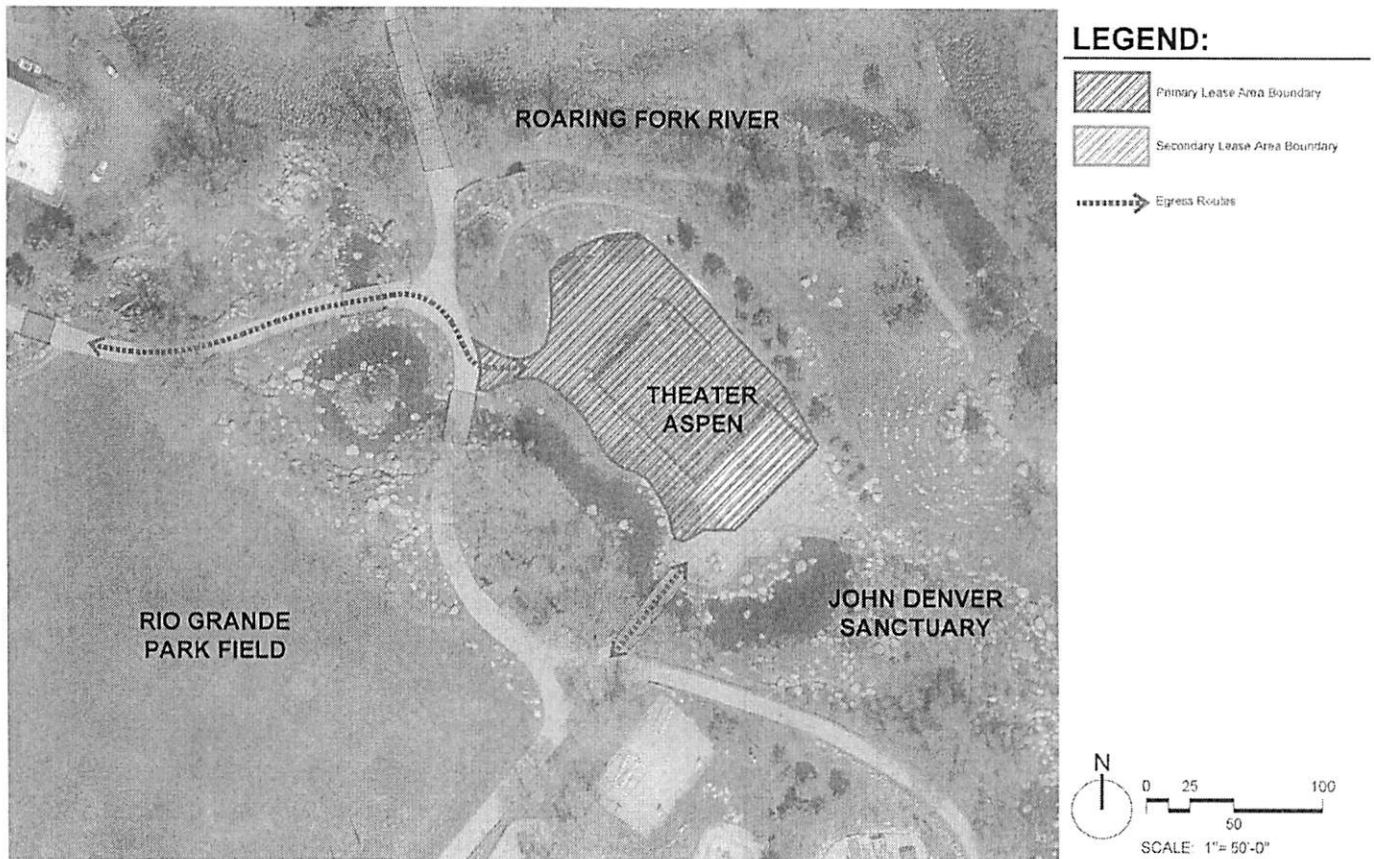
4. All other terms and conditions of the Lease Agreement not expressly modified herein shall remain in full force and effect.

CITY OF ASPEN, COLORADO

THEATER OF ASPEN, INC.

DocuSigned by:
By: Diane Foster 11/11/2021 | 10:15:35 AM MST
0675626FF4FG42F...
Name Date

By: [Signature] 10/18
Name Date



THEATER ASPEN I LEASE BOUNDARY EXHIBIT

EXHIBIT #3

**Ms. Amy Simon, Planning Director
City of Aspen Community Development Department
427 Rio Grande Place
Aspen, Colorado 81611**

RE: LETTER OF AUTHORIZATION FOR THEATRE ASPEN PD AMENDMENT

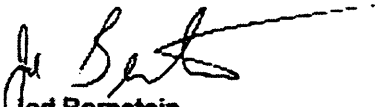
Dear Amy,

Theatre Aspen has a long term lease with the City of Aspen for the property on which our tent is located, at 505 Rio Grande Place in Aspen. Theatre Aspen hereby authorizes Alan Richman Planning Services Inc. to submit a land use application to amend one of the conditions for the Planned Development (PD) approval previously granted to this property.

Mr. Richman is authorized to submit said application on behalf of Theatre Aspen and he is authorized to represent us in meetings with the City staff and City Council concerning said application.

Should you have any need for further information during the course of your review of this application, please contact Mr. Richman, whose address and phone number can be found in the land use application, or you may contact me directly at the address listed below.

Sincerely,



**Jed Bernstein
Theatre Aspen
110 East Hallam Street, Suite 126
Aspen, Colorado 81611**



PRE-APPLICATION CONFERENCE SUMMARY

PLANNER: Amy Simon, Planning Director, amy.simon@aspen.gov
DATE: January 6, 2022
PROPERTY: Rio Grande Park, 505 Rio Grande Place, also known as Theatre Aspen
REPRESENTATIVE: Alan Richman, Alan Richman Planning, alan@alanplans.com

REQUEST: PD Amendment to allow tent to remain permanently installed

DESCRIPTION: In 2011, the city passed Ordinance No. 38, Series of 2011, approving a specially planned area (SPA) amendment and an essential public facility growth management review for Theatre Aspen to construct a permanent lobby structure to serve their performance space in Rio Grande Park. Although the seasonal Theater Aspen operation had traditionally been essentially removed from the site in winter months, the 2011 approval allowed more of the structure, including the lobby, tent frame, stage and seating on-site during the winter.

Section 2 of Ordinance 38, Series of 2011 states: "The tent framing shall be covered with a roof, as weather allows, from April to October of each calendar year. From October to April of each calendar year, the tent framing shall not be covered with a roof. Temporary sides shall be installed to shield the stage and seating from view. The stage and seating shall be located on the existing concrete pad under a protective cover. Theatre Aspen shall return to City Council one year from the date of approval, or as soon thereafter as can be scheduled with City Council, to review the design of the tent framing with temporary walls. City Council shall have the ability to amend the SPA approval as necessary to ensure the visual impacts of the tent framing are sufficiently minimized from October to April." It does not appear that this discussion occurred as planned.

The Applicant would like to eliminate the condition noted above, so the tent sides and roof remain up year-round. The change to this condition of approval will require a PD amendment since all SPAs were converted to PDs in 2014.

The Applicant has stated that the removal of the tent sides and roof is a significant annual budget item (\$50,000). Also, they believe that when the tent is down the site is unsightly compared to leaving a white tent in place against a snowy winter backdrop. The Applicant has spoken with the tent manufacturer, and they have indicated that there is a way to reinforce the tent internally to support the snow load.

No new development or design changes are proposed. This change is not anticipated to require a building permit as, in initial discussion with Building, it is likely that the tent membrane is designed for year round installation, adequate for snow load, etc. Additionally, the Commercial Design Standards do not address this type of development. For these reasons, the proposal is exempt from Commercial Design Review (26.412.020.A-B).

Theatre Aspen is NOT asking the City of Aspen to allow programming in this tent year-round; the request is to leave the tent sides and roof up to avoid the expense in the future. The tent will be closed and not in use during the winter months. The Applicant does not anticipate additional

employees will be generated because there are no operational changes proposed. This proposal is exempt from GMQS because the operation is not proposed to change, and no new employees will be needed. If the applicant ever desires to hold a special event, temporary event, temporary use, or the like, a full Essential Public Facility review under Growth Management would be required.

The Applicant's proposal to keep the temporary tent structure installed year-round with the existing permanent lobby structure requires a one-step City Council review for a Planned Development Amendment.

Below are links to the Land Use Application form and Land Use Code for your convenience:

[Land Use Application](#) [Land Use Code](#)

Land Use Code Section(s)

| | |
|-----------------------|---|
| 26.304 | Common Development Review Procedures |
| 26.445.110.D | Amendments. Minor Amendment to a Project Review approval. |
| 26.445.040.B.2 | Procedures for Review. Planned Development Review. Step Two - Project Review before the City Council. |
| 26.445.050 | Project Review |

Review by: Staff for completeness and recommendations
Parks and Engineering Department

Public Hearing: Yes, at City Council

Planning Fees: Fee for Non-Profit Organizations – Pursuant to Section 26.104.070, Non-Profits are eligible for a waiver of 100% for planning fees (not referral fees) up to \$2,500, and 50% for fees between \$2,500 and \$10,000, not to exceed a waiver of \$6,250 over a 12 month period.

PD Substantial Amendment Review, will be billed/ refunded at a rate of \$10,400.00 (32-hour deposit).

(Additional/ lesser hours will be billed/ refunded at a rate of \$325 per hour.)

Parks: Flat rate of \$1,625.

Engineering: \$325 deposit for one hour of work, billed at \$325 an hour thereafter

Total Fee: The project is eligible for a fee waiver, resulting in a required deposit of \$7,150.

To apply, email the following information in a single pdf to Amy Simon (amy.simon@aspen.gov)

- ☐ Completed Land Use Application.
- ☐ An 8 1/2" x 11" vicinity map locating the subject parcel within the City of Aspen.
- ☐ Pre-application Conference Summary (this document).
- ☐ Street address and legal description of the parcel on which development is proposed to occur, consisting of a current (no older than 6 months) certificate from a title insurance

company, an ownership and encumbrance report, or attorney licensed to practice in the State of Colorado, listing the names of all owners of the property, and all mortgages, judgments, liens, easements, contracts and agreements affecting the parcel, and demonstrating the owner's right to apply for the Development Application.

- ☐ Applicant's name, address and telephone number in a letter signed by the applicant that states the name, address and telephone number of the representative authorized to act on behalf of the applicant.
- ☐ A site improvement survey (no older than a year from submittal) including topography and vegetation and the high-water line and 100 year flood plain (flood hazard area) showing the current status of the parcel certified by a registered land surveyor by licensed in the State of Colorado. (waived for this case)
- ☐ HOA Compliance form.
- ☐ List of adjacent property owners within 300' for public hearing.
- ☐ Complete responses to all Review Criteria sufficient to analyze and determine that review criteria are met
- ☐ Images illustrating views of the tent under the current Ordinance condition, as well as the proposed condition, sufficient to analyze and determine that review criteria are met.
- ☐ Information on any additional Council meetings following the 2011 approval, including any meetings to review the design or the housing audit.
- ☐ A complete housing audit if one was not provided to APCHA or the City one year following the Ordinance approval
- ☐ Written Project Summary

Disclaimer: The foregoing summary is advisory in nature only and is not binding on the City. The summary is based on current zoning, which is subject to change in the future, and upon factual representations that may or may not be accurate. The summary does not create a legal or vested right.

EXHIBIT #5

RESOLUTION NO. 37 (Series of 1988)

A RESOLUTION OF THE CITY COUNCIL OF ASPEN, COLORADO APPROVING THE CONCEPTUAL SPA PLAN FOR THE RIO GRANDE PARCEL

WHEREAS, the City Council of Aspen, Colorado (hereinafter "Council") has reviewed the Conceptual SPA Plan for the Rio Grande (hereinafter "Plan") at public hearings held on September 26, October 10 and October 17, 1988; and

WHEREAS, the Aspen Planning and Zoning Commission recommended approval of the Conceptual SPA Plan for the Rio Grande through its Resolution No. 88-6; and

WHEREAS, in September of 1987, the Council endorsed and the Planning and Zoning Commission adopted the Aspen Area Comprehensive Plan: Transportation Element (hereinafter "Transportation Plan") which identified appropriate concepts for the Rio Grande property; and

WHEREAS, in the Spring of 1988, RFTA and the Council retained the services of a consulting team headed by RNL Design of Denver to develop appropriate physical and financial alternatives for a parking facility on the Rio Grande property; and

WHEREAS, based on their review of the Conceptual SPA Plan for the Rio Grande property, the Council makes the following findings:

Parking - The City Council concurs with P&Z that the parking facility should be hidden from view and allow the potential for other transportation related uses.

Library/Other Public Buildings - The City Council supports the conceptual location of the library. The idea of hiding development or minimizing the visual impact of development may not be an appropriate concept for important public buildings, such as the Library or the Arts buildings. These buildings should be attractive and designed in a manner which indicates the buildings' importance to the community. Additionally, setting back the Library from Mill Street to avoid the "canyon effect" which could occur because of the location and height of the Jerome is an idea which may be overstated. The Council finds that creating activity on the Mill Street streetscape by setting the library close to the sidewalk is important.

The Council finds that Galena Street will become an important pedestrian connection between the Rio Grande (Library, Arts, River) and the Mall/downtown area. Therefore, pedestrian access should be improved between the downtown and the river using Galena Street and continuing the pedestrian treatment through the Rio Grande to the river. In order to ensure this pedestrian flow the architectural element on top of the parking facility roof which covers the stairwell and elevator shaft should be located off the Galena Street corridor.

Plaza - The roof of the parking facility should be a people place with landscaping and not considered for parking. It is important that this area be designed so that it does not become a dead space.

Teen Center - The City Council finds that the Teen Center is an important community function and directs staff to develop building designs associated with the parking facility plaza.

Transit Shuttle - The Council believes that a shuttle corridor which continues north on Galena Street along the east side of the parking facility can avoid some of the traffic congestion associated with Mill Street.

Circulation - The Council finds that, if possible, Spring Street should be located to allow for the possibility of a gas station associated with the Cap's property. The location of Spring Street should not negatively effect Cap's business.

Snowdump/Snowmelt - The Council finds the land use impact of a snowdump unacceptable and in an effort to reduce that impact will install a snowmelt machine(s) in the northwest embankment of the impound lot area.

Impound Lot - The Council finds that the impound lot is an unacceptable use of the Rio Grande property and will relocate it as soon as possible.

Revegetation - The snowdump and impound lot areas should be revegetated to enhance the park aspects of the Rio Grande site. This should be done as soon as the snowdump and impound lot uses are eliminated.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO:

Section 1

That the Council does hereby approve the Conceptual SPA Plan for the Rio Grande with the following conditions:

Conditions to be addressed as part of conceptual approval

1. The City and County should agree to amend the 1982 Land Exchange Agreement in order to avoid future confusion regarding uses on the Rio Grande site. If the library is not located on the Oden area of the site, then the Arts group requests that the site be retained for a Performing Arts Center.

Conditions to be addressed at precise plan stage

1. The applicant(s) shall submit a site plan, landscaping plan, building design plan and building design techniques which illustrate how the development compliments or enhances the neighborhood. Plans for mitigation of impacts caused by the Spring Street extension on the surrounding neighborhood (ie.,Oklahoma Flats) should also be presented. All plans submitted shall comply with the requirements of Article 7., Division 8, Specially Planned Area, of the Aspen Land Use Regulations and shall be consistent with the representations of the approved Conceptual Plan.

2. The following environmental studies and mitigation plans shall be prepared to the satisfaction of the Environmental Health Department:
 - a. Air pollution resulting from the starting of automobiles in and mechanical ventilation of the parking facility.
 - b. Water pollution hazards as a result of runoff from impervious surfaces and the use of chemical snow melting substances.
 - c. The loss of any storm water detention areas.
3. The City shall maintain the alley for fire protection purposes.
4. The parking structure shall be sprinklered.
5. Any downtown shuttle should service the Rio Grande site, Post Office, pedestrian access points to the parking facility and Rio Grande recreational and cultural areas, as well as important activity centers in the downtown.
6. The applicants shall provide to the satisfaction of the Engineering Department the following:
 - a. A drainage plan.
 - b. A full survey with title blocks, a list of easements and encumbrances.
 - c. An overlay of the survey showing utilities (this should be signed by each utility).
7. The applicants shall work with the City and private utilities to develop an acceptable utilities plan.
8. The following actions are encouraged as part of the development of the Rio Grande site:
 - a. Increased enforcement of on-street parking requirements in the downtown.
 - b. Review the existing time zone requirements for parking in the downtown.
 - c. Implement the Roaring Fork Greenway Plan and the Parks/Recreation/Open Space/Trails Plan.
 - d. Relocate the snowdump.

- e. Relocate impound lot.
9. The City shall develop a fee structure for the Rio Grande parking facility which is inexpensive for the user and also discourages use of the automobile.
 10. The applicants shall indicate how many employees will be generated by the proposal and how employee housing requirements will be addressed.
 11. Each applicant shall submit information for the Growth Management Quota Exemption for essential public facilities.
 12. The City shall develop plans for improving the pedestrian access between the Mall and the Rio Grande using Galena Street. A Galena Street pedestrian corridor should be compatible with the Mall and compatible with the Rio Grande pedestrian system which extends through the Rio Grande to the river.
 13. The Library shall have the ability to expand to the east 44 feet on top of the parking facility, if their program needs in the long-term future justify this expansion.
 14. The City and Teen Center group shall work together to develop a Teen Center in conjunction with the parking facility plaza.
 15. The architectural element on top of the parking facility roof which covers the stairwell and elevator shaft should be relocated to an area off of the Galena Street access. This will allow for an uninterrupted pedestrian corridor between the downtown and the river.
 16. The extension of Spring Street shall be designed so as not to preclude the possibility of a service/gas station in conjunction with Cap's auto.
 17. The City and Library should agree on who is responsible for what percent of general site improvements, these include, but are not limited to utility improvements, transportation improvements and landscaping improvements.
 18. The City shall experiment with a snowmelt machine as a way of reducing the impact of the snowdump on the property.
 19. The City shall reserve the area known as the Snowdump for future Arts Usage; however, if the Library does not use the Oden parcel, then the Arts Groups retain the right to use the Oden site instead of the Snowdump area.

Dated: October 27, 1988.


William L. Stirling, Mayor

I. Kathryn S. Koch, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado, at a meeting held October 24, 1988.


Kathryn S. Koch, City Clerk

RGRCC

EXHIBIT #6

RESOLUTION NO. 42
(SERIES OF 1993)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ASPEN, COLORADO APPROVING THE RIO GRANDE MASTER PLAN**

WHEREAS, the Aspen City Council (hereinafter "Council") has been requested to endorse the Rio Grande Master Plan which has been adopted by the Aspen Planning and Zoning Commission; and

WHEREAS, Council directed staff to prepare a master plan for the Rio Grande property, specifically the area between Rio Grande Drive and the Roaring Fork River; and

WHEREAS, staff, together with community members and representatives of community organizations, identified general land use concepts for future development of the property; and

WHEREAS, a land use map was created that associates specific areas of the Rio Grande property with general land use themes and is incorporated herein; and

WHEREAS, other maps were prepared and incorporated into the Master Plan to act as guides in ensuring that development of specific uses can be accommodated on the property; and

WHEREAS, pursuant to the Rio Grande Master Plan and applicable provisions of the Municipal Code, development review for site specific projects for the Rio Grande parcels shall be reviewed through the Specially Planned Area development review; and

WHEREAS, the Council reviewed the proposed Master Plan maps at a worksession held January 7, 1993 and provided comments to staff and the Rio Grande Group; and

WHEREAS, the Commission reviewed the Master Plan at regularly scheduled meetings March 16, 1993 and April 20, 1993; and

WHEREAS, the Planning and Zoning Commission approved Resolution No. ___ formally adopting the Rio Grande Master Plan at a public hearing June 8, 1993; and

WHEREAS, the Council has emphasized that vehicular access to Site A be restricted as much as possible while still complying with the needs of the park and Theatre; and

WHEREAS, the snow melter shall be relocated as soon as humanly possible.

NOW THEREFORE BE IT RESOLVED by the Aspen City Council that it does hereby endorse the Rio Grande Master Plan for the Rio Grande property.

APPROVED by the Council at a regularly scheduled meeting June 14, 1993.

BY: John Bennett

John Bennett, Mayor

I, Kathryn S. Koch, duly appointed and acting City Clerk do certify that the foregoing is a true and accurate copy of that resolution adopted by the City Council of the City of Aspen, Colorado at a meeting held June 14, 1993.

Kathryn S. Koch
Kathryn S. Koch, City Clerk

EXHIBIT #7

ORDINANCE NO.24 (SERIES OF 1995)

AN ORDINANCE OF THE ASPEN CITY COUNCIL GRANTING TO THE ASPEN THEATRE IN THE PARK AN AMENDMENT TO THE RIO GRANDE FINAL SPA DEVELOPMENT, FINAL SPA PLAN APPROVAL, AND GROWTH MANAGEMENT EXEMPTION FOR THE PURPOSE OF YEARLY CONSTRUCTION OF THE THEATRE TENT AND THEATRE PRODUCTIONS AT THE CITY-OWNED RIO GRANDE PARK IN THE CITY OF ASPEN, PITKIN COUNTY, COLORADO.

WHEREAS, the Rio Grande Master Plan and SPA Development Plan were approved in 1993; and

WHEREAS, the Planning Director did receive from the Aspen Theatre in the Park (Applicant) and has reviewed and recommended for approval an application (the "Plan") for an amendment to the Rio Grande SPA Final Development Plan, Final SPA Development Plan, and Growth Management Exemption for an Essential Public Facility to undertake its yearly tent construction and theatre production at the area historically used for this purpose; and

WHEREAS, the Planning and Zoning Commission reviewed the development proposal in accordance with those procedures set forth at Section 24-6-205(A)(5) of the Municipal Code and did conduct a public hearing thereon on May 2, 1995; and

WHEREAS, upon review and consideration of the plan, agency and public comment thereon, and those applicable standards as contained in Chapter 24 of the Municipal Code, to wit, Division 8 of Article 7 (Specially Planned Area) and Division 1 of Article 8 (Growth Management Exemption) the Planning and Zoning Commission has recommended approval of the Aspen Theatre in the Park's amendment to the Rio Grande SPA Final Development Plan and exemption from growth management competition and mitigation subject to conditions,

to the City Council; and

WHEREAS, the Aspen City Council has reviewed and considered the Plan under the applicable provisions of the Municipal Code as identified herein, has reviewed and considered those recommendations and approvals as granted by the Planning and Zoning Commission, and has taken and considered public comment at public hearing; and

WHEREAS, the City Council finds that the Plan meets or exceeds all applicable development standards and that the approval of the Plan, with conditions, is consistent with the goals and elements of the Aspen Area Community Plan; and

WHEREAS, the City Council finds that this Ordinance furthers and is necessary for public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO as follows:

Section 1: Pursuant to Section 24-7-804 B. of the Aspen Municipal Code, and subject to those conditions of approval as specified hereinafter, the City Council finds as follows in regard to the Plan's SPA development component:

1. The Applicant's final plan submission is complete and sufficient to afford review and evaluation for approval.
2. The Plan is compatible with and enhances the mix of development in the immediate vicinity.
3. Sufficient public facilities exist to serve the development.
4. The parcel is generally suited for development considering topography and natural hazards.
5. The Plan employs land planning techniques to limit impacts to the environment and provides public and private amenities.

6. The Plan is in compliance with the Aspen Area Community Plan.
7. The Plan does not require the expenditure of public funds for the subject parcel or the neighborhood.
8. No development is proposed on slopes of 20% or greater.
9. No GMQS allocations or exemption are necessary for the Plan except for as approved within this ordinance.

Section 2: Pursuant to the findings set forth in Section 1 above, the City Council grants SPA Final Development Plan amendment approval for the Aspen Theatre in the Park subject to the following conditions:

1. All parking, handicap parking and handicap parking dropoffs will be consistent with the Rio Grande Master Plan as adopted by City Council.
2. Prompt clean-up of the site after each summer season is required. No storage of materials is allowed on the site in the off season except for the tent structure, under protective cover. Materials and props stored on site shall be kept out of view in accordance with a landscaping plan including fencing if necessary to be approved by the Community Development Director with the ability of Council to review if it is not working.
3. The tent will be erected in mid May and removed in mid September of each year.
4. The amended Rio Grande SPA Development Plan shall be recorded in the office of the Pitkin County Clerk and Recorder. Failure on the part of the applicant to record the amended SPA Development Plan within a period of one hundred and eighty (180) days following approval by the City Council shall render the PUD Plan approval invalid and reconsideration and approval of both by the Commission and City Council will be required before their acceptance and recording, unless an extension or waiver is granted by City Council for a showing of good cause.
5. Any overhead utility wires shall be undergrounded by the applicant within three years. The applicant shall work with the Parks Department on and appropriate digging schedule.

Section 3: Pursuant to Section 24-8-104 (C)(1)(b)(i-iii) of the Municipal Code, the City Council finds as follows in regard to the

Applicant's request for Growth Management Quota System development exemption for essential public facilities:

- 1) The Applicant's annual tent construction is essential for their continued use of the Rio Grande property.
- 2) The programs and activities sponsored and or hosted by the Applicant at the Rio Grande facilities have historically provided cultural enrichment to the citizens of the City of Aspen without which the City would not have attained its present character. Furthermore, the Applicant's programs have served and continue to serve important community needs and continuation of same will only enhance their value and accessibility to the citizens of the City of Aspen and the general public.
- 3) The Applicant's proposed development involves essential public facilities, will enhance existing essential public facilities, and is not-for-profit in nature.

Section 4: Pursuant to Section 24-8-104 (C)(1)(b)(i-iii) of the Municipal Code, and the findings set forth in Section 6 above, the City Council awards and grants growth Management Quota System development exemptions from competition and affordable housing impact mitigation for the theatre tent and normal accessory uses of the tent on the basis that such development is for essential public facilities.

Section 5: All material representations and commitments made by the developer pursuant to the Plan approvals as herein awarded, whether in public hearing or documentation presented before the Planning and Zoning Commission and or City Council, are hereby incorporated in such plan development approvals and the same shall be complied with as if fully set forth herein, unless amended by other specific conditions.

Section 6: This Ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding

now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 7: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

Section 8: That the City Clerk is directed, upon the adoption of this ordinance, to record a copy of this ordinance in the office of the Pitkin County Clerk and Recorder.

Section 9: A public hearing on the Ordinance shall be held on the 26 day of June, 1995 at 5:00 in the City Council Chambers, Aspen City Hall, Aspen Colorado, fifteen (15) days prior to which hearing a public notice of the same shall be published in a newspaper of general circulation within the City of Aspen.

INTRODUCED, READ AND ORDERED PUBLISHED as provided by law, by the City Council of the City of Aspen on the 15 day of May, 1995.

Georgann Waggoner
~~John Bennett, Mayor~~
Georgann Waggoner,
Mayor Pro Tem

Attest:

Kathryn S. Koch
Kathryn S. Koch, City Clerk

FINALLY, adopted, passed and approved this 26 day of

June, 1995.

Attest:

Kathryn S. Koch
Kathryn S. Koch, City Clerk

Georgeann Waqqaman
~~John Bennett, Mayor~~
Georgeann Waqqaman,
Mayor Pro Tem

EXHIBIT #8

RESOLUTION NO. 47, (SERIES OF 2013)

A RESOLUTION OF THE CITY OF ASPEN CITY COUNCIL ACCEPTING DESIGN CONDITIONS OUTLINED IN ORDINANCE 38, SERIES OF 2011, FOR THE THEATRE ASPEN TENT FRAMING FOR THE PROPERTY LOCATED AT RIO GRANDE PARK, 505 RIO GRANDE PLACE, CITY OF ASPEN, COLORADO, LEGALLY DESCRIBED AS: LOT 1 OF THE RIO GRANDE SUBDIVISION.

Parcel ID 2737-073-06-851

WHEREAS, during a duly noticed public hearing on January 9, 2012, the City Council approved Ordinance No. 38, Series of 2010, by a four to one (4 – 1) vote, approving an SPA amendment and an Essential Public Facility Growth Management Review to allow the construction of a new lobby structure and a new tent structure for Theatre Aspen in the Rio Grande Park; and,

WHEREAS, Section 2 of Ordinance 38, Series of 2013 required Theatre Aspen to check-in with City Council after a year, or as soon thereafter as possible, to review the conditions related to the winter design of the tent structure ; and,

WHEREAS, the Community Development Department received an application from Theatre Aspen, represented by Emily Zeck, Executive Director, requesting continued approval of the conditions outlined in Section 2 of Ordinance 38, Series of 2013; and,

WHEREAS, pursuant to Section 26.440, the City Council may approve an amendment to an approved SPA, during a duly noticed public hearing after considering a recommendation from the Community Development Director, and recommendations from relevant referral agencies; and,

WHEREAS, upon review of the application and the applicable code standards, the Community Development Department recommended approval of the request; and,

WHEREAS, during a duly noticed public hearing on April 22, 2013, the City Council approved Resolution No. 47, Series of 2013, by a five to zero (5 – 0) vote; and,

WHEREAS, the Aspen City Council has reviewed and considered the development proposal under the applicable provisions of the Municipal Code as identified herein, has reviewed and considered the recommendation the Community Development Director, the applicable referral agencies, and has taken and considered public comment at a public hearing; and,

WHEREAS, the City Council finds that the development proposal meets or exceeds all applicable development standards and that the approval of the development proposal, with conditions, is consistent with the goals and elements of the Aspen Area Community Plan; and,

WHEREAS, the City Council finds that this Resolution furthers and is necessary for the promotion of public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASPEN AS FOLLOWS:

Section 1:

The original conditions regarding the design of the tent framing, as outlined in Section 2 of Ordinance 38, Series of 2011, remain in effect. The applicant has satisfied the requirement to check-in with City Council, and no further action is required to meet that condition.

The applicant shall continue to work with the Parks Department, as necessary, to ensure the site remains well kept and secure.

Section 2: Fee Waiver

City Council hereby denies the fee waiver requested by Theatre Aspen for the Planning and Parks fees related to this Land Use Review.

Section 3:

All material representations and commitments made by the Applicant pursuant to the development proposal approvals as herein awarded, whether in public hearing or documentation presented before City Council, are hereby incorporated in such plan development approvals and the same shall be complied with as if fully set forth herein, unless amended by an authorized entity.

Section 4:

This resolution shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions or ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior resolutions or ordinances.

Section 5:

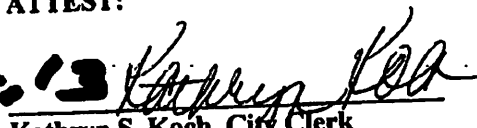
If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

FINALLY, adopted, passed and approved this 22nd day of April, 2013.

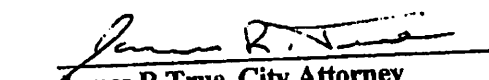
APPROVED:


Michael C. Ireland, Mayor

ATTEST:


Kathryn S. Koch, City Clerk

APPROVED AS TO FORM:


James R True, City Attorney

**DRAWINGS
AND PHOTOS**



Pitkin Maps & More

Rio Grande Property Vicinity Map

Map Created on 10:18 AM 01/19/22 at <http://www.pitkinmapsandmore.com>



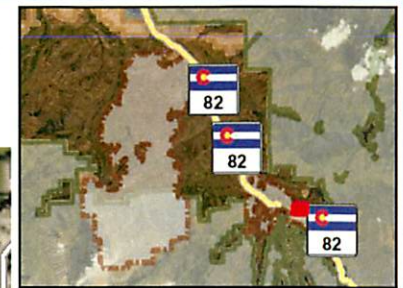
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THIS MAP IS FOR INFORMATIONAL PURPOSES.
Pitkin County GIS makes no warranty or guarantee
concerning the completeness, accuracy, or reliability
of the content represented.



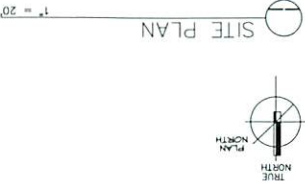
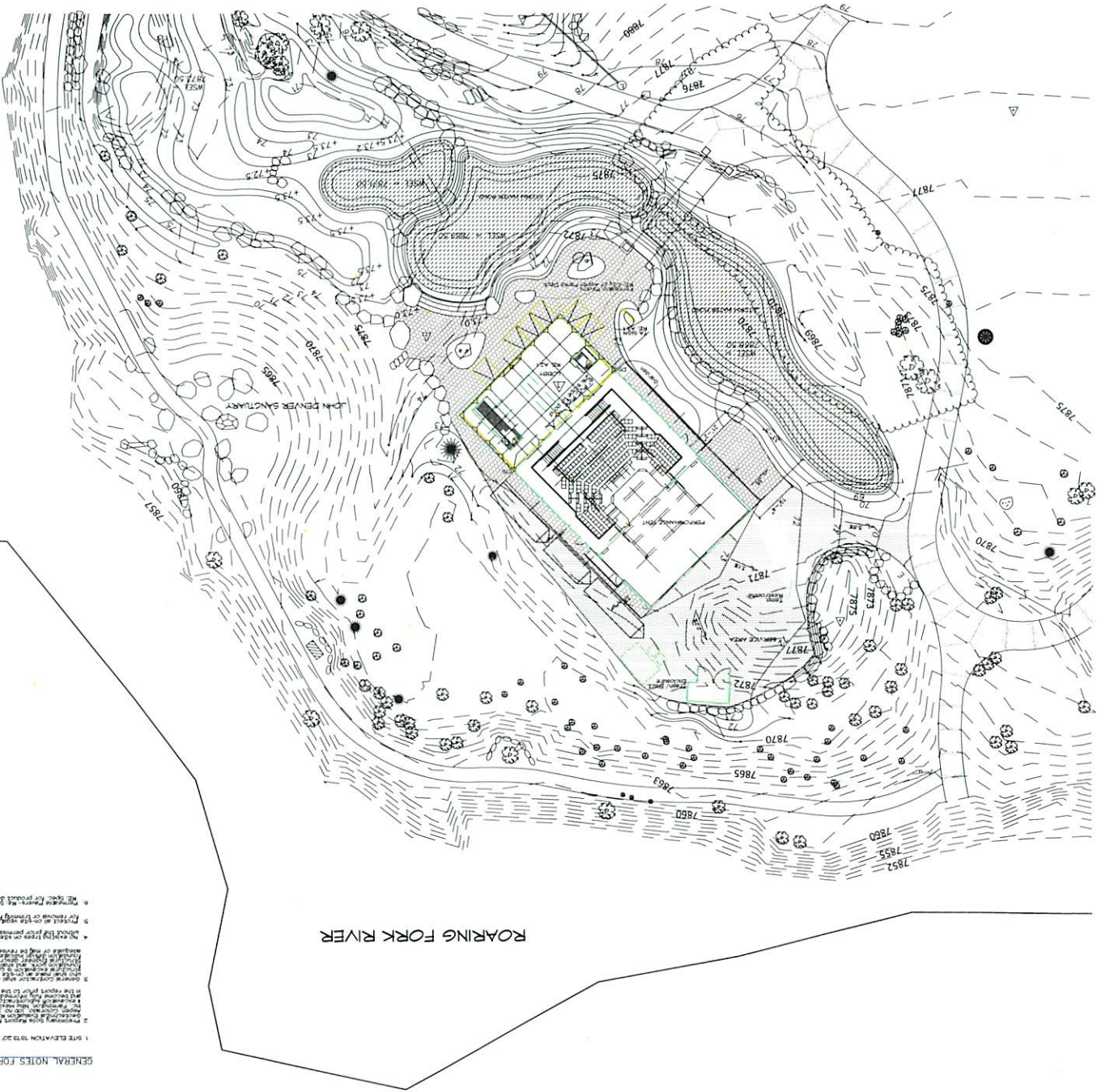
Legend

- State Highway
- Road Centerline 4K
- Primary Road
- Secondary Road
- Service Road
- Rivers and Creeks
 - Continuous
 - Intermittent
- River, Lake or Pond
- Town Boundary
- Federal Land Boundary
 - BLM
 - State of Colorado
 - USFS

Notes

GENERAL NOTES FOR LAYOUT AND SITEWORK

1. SITE ELEVATION 1073.07' - ARCHITECTURAL ELEVATION 0'
2. PRELIMINARY SITE REPORT FOR PROJECT HAS BEEN SUBMITTED, DATED FEBRUARY 2, 2003
3. PRELIMINARY LAYOUT AND SITEWORK HAS BEEN PREPARED BY ARCHITECTURAL FIRM, CHARLES CUNNIFF ARCHITECTS, 598 W. COLORADO, TEL: 970.283.3738, FAX: 970.283.3540
4. PRELIMINARY LAYOUT AND SITEWORK HAS BEEN PREPARED BY ARCHITECTURAL FIRM, CHARLES CUNNIFF ARCHITECTS, 598 W. COLORADO, TEL: 970.283.3738, FAX: 970.283.3540
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THEATRE ASPEN CHARLES CUNNIFF ARCHITECTS

ASPEN, COLORADO

610 EAST HYMAN AVE. ASPEN, CO. 81611 TEL: 970.925.5550 FAX: 970.920.4557
 598 W. COLORADO TELLURIDE, CO. 81435 TEL: 970.283.3738 FAX: 970.283.3540



| | |
|---------------------|-----------|
| DRAWING: | SITE PLAN |
| ISSUE: | DATE: |
| PERMIT: | DATE: |
| LOBBY CONSTRUCTION: | DATE: |
| REVISION #1: | DATE: |
| REVISION #2: | DATE: |
| REVISION #3: | DATE: |
| REVISION #4: | DATE: |
| REVISION #5: | DATE: |
| REVISION #6: | DATE: |
| REVISION #7: | DATE: |
| REVISION #8: | DATE: |
| REVISION #9: | DATE: |
| REVISION #10: | DATE: |

SHEET NO. A1.1

CUNNIFF ARCHITECTS, 598 W. COLORADO, TEL: 970.283.3738, FAX: 970.283.3540









THEATRE ASPEN

THEATRE ASPEN - TENT ROOF

JANUARY 24 2022

1



March 31, 2022

Phillip Supino
City of Aspen Community Development
427 Rio Grande Place
Aspen, CO 81611

RE: Theatre Aspen/Minor PD Amendment Application

Dear Mr. Supino:

I am an attorney licensed to practice law in the State of Colorado and presently serve as the City Attorney for the City of Aspen. In this capacity I have examined the ownership and control of the property located in the City of Aspen and known as Lot 1, Rio Grande Subdivision, also known as 505 Rio Grande Place.

I can hereby confirm that the City of Aspen is the owner of the property and has complete authority to take action for the development and reconstruction on the property. The property is not encumbered in any manner affecting the use of the property for the construction and maintenance of the redevelopment that is proposed in the Theatre Aspen's Minor PD Amendment. Further, the City of Aspen authorizes Theatre Aspen and its designated representatives to pursue the proposed Minor PD Amendment through the City of Aspen's land use process.

If you need anything further, please advise.

Thank you.

Sincerely,

[Copy: Original signed by James R. True]
James R. True
City Attorney

CITY OF ASPEN COMMUNITY DEVELOPMENT DEPARTMENT

Agreement to Pay Application Fees

An agreement between the City of Aspen ("City") and

Address of Property: 505 Rio Grande Place

Please type or print in all caps

Property Owner Name: Theatre Aspen

Representative Name (if different from Property Owner):

Alan Richman Planning Services, Inc.

Billing Name and Address - Send Bills to:

Jed Bernstein, Theatre Aspen, 110 East Hallam Street, Suite 126, Aspen CO 81611

Contact info for billing: e-mail: jed@theatreaspen.org Phone: 970-925-9313

I understand that the City has adopted, via Ordinance No. 20, Series of 2020, review fees for Land Use applications, and payment of these fees is a condition precedent to determining application completeness. I understand that as the property owner, I am responsible for paying all fees for this development application.

For flat fees and referral fees: I agree to pay the following fees for the services indicated. I understand that these flat fees are non-refundable.

\$ _____ flat fee for _____ \$ _____ flat fee for _____

\$ _____ flat fee for _____ \$ _____ flat fee for _____

For deposit cases only: The City and I understand that because of the size, nature, or scope of the proposed project, it is not possible at this time to know the full extent or total costs involved in processing the application. I understand that additional costs over and above the deposit may accrue. I understand and agree that it is impracticable for City staff to complete processing, review, and presentation of sufficient information to enable legally required findings to be made for project consideration unless invoices are paid in full.

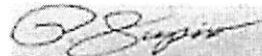
The City and I understand and agree that invoices sent by the City to the above listed billing address and not returned to the City shall be considered by the City as being received by me. I agree to remit payment within 30 days of presentation of an invoice by the City for such services.

I have read, understood, and agree to the Land Use Review Fee Policy, including consequences for non-payment. I agree to pay the following initial deposit amounts for the specified hours of staff time. I understand that payment of a deposit does not render an application complete or compliant with approval criteria. If actual recorded costs exceed the initial deposit, I agree to pay additional monthly billings to the City to reimburse the City for processing my application at the hourly rates hereinafter stated.

\$ 7,150.00 deposit for 32 hours of Community Development Department staff time. Additional time above the deposit amount will be billed at \$325.00 per hour.

\$ _____ deposit for _____ hours of Engineering Department staff time. Additional time above the deposit amount will be billed at \$325.00 per hour.

City of Aspen:



Phillip Supino, AICP

Community Development Director

City Use:

Fees Due: \$ _____ Received \$ _____

Case # _____

Signature:



PRINT Name:

Jed Bernstein

Title:

PROBUCING DIRECTOR

April 2020

City of Aspen | 130 S. Galena St. | (970) 920 5090

Homeowner Association Compliance Policy

All land use applications within the City of Aspen are required to include a Homeowner Association Compliance Form (this form) certifying that the scope of work included in the land use application complies with all applicable covenants and homeowner association policies. The certification must be signed by the property owner or Attorney representing the property owner.

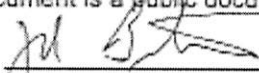
| | | |
|--|--------------------------------------|-------------------------|
| Property Owner ("I"): | Name: Theatre Aspen | Phone No.: 970-925-9313 |
| | Email: jed@theatreaspen.org | |
| Address of Property: (subject of application) | 505 Rio Grande Place, Aspen CO 81611 | |

I certify as follows: (pick one)

- ☒ This property is not subject to a homeowner association or other form of private covenant.
- ☐ This property is subject to a homeowner association or private covenant, and the improvements proposed in this land use application do not require approval by the homeowners association or covenant beneficiary.
- ☐ This property is subject to a homeowners association or private covenant and the improvements proposed in this land use application have been approved by the homeowners association or covenant beneficiary.

I understand this policy and I understand the City of Aspen does not interpret, enforce, or manage the applicability, meaning or effect of private covenants or homeowner association rules or bylaws. I understand that this document is a public document.

Owner signature:



Date:

7/18/22

Owner printed name:

Jed Bernstein

or,

Attorney signature:

Date:

Attorney printed name:

CITY OF ASPEN COMMUNITY DEVELOPMENT DEPARTMENT

LAND USE APPLICATION

Project Name and Address: Theatre Aspen PD Amendment (Tent Removal Condition)

Parcel ID # (REQUIRED) 273707306851

APPLICANT:

Name: Theatre Aspen

Address: 110 East Hallam Street, Suite 126, Aspen, CO 81611

Phone #: 970-925-9313 email: jed@theatreaspen.org

REPRESENTATIVE:

Name: Alan Richman Planning Services, Inc.

Address: P.O. Box 3613, Aspen, CO 81612

Phone #: 970-920-1125 email: alan@alanplans.com

Description: Existing and Proposed Conditions

See attached application packet

Review: Administrative or Board Review

PD Amendment by City Council

Required Land Use Review(s):

PD Amendment by City Council

Growth Management Quota System (GMQS) required fields:

Net Leasable square footage _____ Lodge Pillows _____ Free Market dwelling units _____

Affordable Housing dwelling units _____ Essential Public Facility square footage _____

Have you included the following?

FEES DUE: \$ 7,150

- ☒ Pre-Application Conference Summary
- ☒ Signed Fee Agreement
- ☒ HOA Compliance form
- ☒ All items listed in checklist on PreApplication Conference Summary

Pitkin County Mailing List of 300 Feet Radius
From Parcel: 273707306851 on 01/21/2022



Instructions:

This document contains a Mailing List formatted to be printed on Avery 5160 Labels. If printing, DO NOT "fit to page" or "shrink oversized pages." This will manipulate the margins such that they no longer line up on the labels sheet. Print actual size.

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<http://www.pitkinmapsandmore.com>

EQT ASPEN 18 TRUST
3002 S LIPSCOMB
AMARILLO, TX 79109

CALDWELL DAVID & OLGA
3455 POND CIR
BEAUMONT, TX 77707

COLORADO PROPERTIES LTD
1011 N FRIO ST 2ND FL
SAN ANTONIO, TX 78207

MALEK MARLENE REV TRUST
1259 CREST LN
MC LEAN, VA 22101

MOSCOE THOMAS D REV TRUST
445 GRAND BAY DR #607
KEY BISCAYNE, FL 33149

BELLA SUNRISE LLC
401 WORTH AVE #301
PALM BEACH, FL 33480

GALANTER YALE & ELYSE
101 N SPRING ST #3301
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

TGS LLC
PO BOX 1913
ASPEN, CO 81612

414 N MILL LLC
PO BOX 9060
ASPEN, CO 81612

NGUYEN MICHAEL TAM
430 E HYMAN AVE
ASPEN, CO 81611

SHE SHED 44 LLC
355 SILVERLODE DR
ASPEN, CO 81611

MAIN STREET LANDLORD LLC
312 AABC #D
ASPEN, CO 81611

HODGSON PATRICIA H FAMILY TRUST
212 N MONARCH ST
ASPEN, CO 81611

MAIN STREET LANDLORD LLC
312 AABC #D
ASPEN, CO 81611

MOUNTAIN VIEW INTEREST LLC
410 SOUTH BEACH RD
HOBE SOUND, FL 33455

FESUS FAMILY TRUST
PO BOX 9197
ASPEN, CO 81612

PEMBER WILLIS
412 N MILL ST
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

OP LLC
424 PARK CIR #6
ASPEN, CO 81611

NGS LLC
101 FOUNDERS PL #109
ASPEN, CO 81611

BLEEKER MILL DEVELOPMENT LLC
330 E MAIN ST
ASPEN, CO 81611

PFEIFER ASPEN HOUSE TRUST
16300 CANTRELL RD
LITTLE ROCK, AR 72223

BECKWITH NATALIE B QPRT
777 E WISCONSIN AVE
MILWAUKEE, WI 53202

MASHATU LLC
258 ROARING FORK DR
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

A CONCEPT LLC
325 SHARON PARK DR #703
MENLO PARK, CA 94025

VAN DEUSEN LLC
233 N SPRING ST
ASPEN, CO 81611

HENRY WILLIAM STONE REV TRUST
3382 TURNBURY DR
RICHFIELD, OH 44286

GRW RIO GRANDE PROPERTY LLC
11653 E BERRY AVE
ENGLEWOOD, CO 801114156

FELDMAN LISA SUSAN NORMAN
4409 WOODFIELD BLVD
BOCA RATON, FL 33434

GWM PROPERTIES LLC
PO BOX 4146
ASPEN, CO 81612

BULKELEY RICHARD C & JULIE J
600 E MAIN ST #401
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

390 N SPRING ST LLC
420 E MAIN ST #210
ASPEN, CO 81611

HUTCHESON LAURA TRUST
1220 MOUNTAIN VIEW DR
ASPEN, CO 816111028

NORTH MILL STREET LLC
625 E MAIN ST UNIT 102B #401
ASPEN, CO 81611

MARRIOTT FAMILY TRUST
727 E BLEEKER ST
ASPEN, CO 816111551

B&Z 2010 REV TRUST
728 E FRANCIS ST
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

GIANONIO NICOLE
110 E HALLAM #104
ASPEN, CO 81611

CALHOON THOMAS C
315 LAVACA ST
AUSTIN, TX 787013036

SUMNER VERONICA
101 N SPRING ST #3109
ASPEN, CO 81611

SHE SHED 44 LLC
355 SILVERLODE DR
ASPEN, CO 81611

WARK RICKEY E & CYNTHIA ANN
3 DEVON MILL PL
THE WOODLANDS, TX 773825304

JQT ASPEN 18 TRUST
3002 S LIPSCOMB
AMARILLO, TX 79109

SATTLER SANDRA A
101 N SPRING ST #3204
ASPEN, CO 81611

HOLLAND AND HART
PO BOX 8749
DENVER, CO 80201

BANKERS MORTGAGE CORP
1616 ORCHARD AVE
GRAND JUNCTION, CO 81501

ASPEN LEGACY LLC
17740 E HINSDALE AVE
FOXFIELD, CO 80016

RIVER PARK IN ASPEN CONDO ASSOC
PO BOX 4100
BASALT, CO 81621

NUNEZ GIANNA
100 OBERMEYER PL #102
ASPEN, CO 81611

LONE PINE UNIT 10 LLC
9501 W BROADVIEW DR
BAY HARBOR ISLANDS, FL 33154

ORTEGA G RICHARD
414 N MILL ST
ASPEN, CO 81611

UNIT 106 OP LLC
PO BOX 3742
BASALT, CO 81621

OBP LLC
PO BOX 444
WOODY CREEK, CO 816560444

FARRELL ALISSA M & DAVID A
550 E MAIN ST #103
ASPEN, CO 81611

ASPEN PARKING LLC
5956 SHERRY LN # 1500
DALLAS, TX 75225

VECTOR ENTERPRISES LLC
0490 ASPEN OAK DR
ASPEN, CO 81611

PAM LLC
PO BOX 4446
ASPEN, CO 81612

EISENSTAT MELISSA B
1125 PARK AVE #6D
NEW YORK, NY 10128

RESIDENCES AT THE LITTLE NELL CONDO A
501 E DEAN ST
ASPEN, CO 81611

ASPEN PARKING LLC
5956 SHERRY LN # 1500
DALLAS, TX 75225

OBERMEYER 204 LLC
2727 ALLEN PKWY STE1400
HOUSTON, TX 77019

BLEEKER MILL DEVELOPMENT LLC
330 E MAIN ST
ASPEN, CO 81611

RIVER BLUFF TOWNHOME CONDO ASSOC
155 LONE PINE RD
ASPEN, CO 81611

UNIT 109 OP LLC
501 RIO GRANDE PL #107
ASPEN, CO 81611

HILL HOUSE CONDO ASSOC
COMMON AREA
655 GIBSON AVE
ASPEN, CO 81611

STERTZER ELIANE C
PO BOX 8677
ASPEN , CO 81612

TSE HOLDINGS LLC
601 RIO GRANDE PL #120
ASPEN, CO 81611

HAMAN MICHAEL
434 E MAIN ST #203
ASPEN, CO 81611

CONCEPT 600 LLC
5048 CAMINO DEL LAZO
TUCSON, AZ 85750

KALLENBERG JEFFREY D J & SANDRA L
401 MARKET ST #500
SHREVEPORT, LA 71101

GALENA PLAZA CONDO ASSOC
420 E MAIN ST
ASPEN, CO 81611

OBP LLC
PO BOX 444
WOODY CREEK, CO 816560444

KING KITTY LLC
434 E MAIN ST #101
ASPEN, CO 81611

MCNEILL AUSTIN J
100 OBERMEYER PL #102
ASPEN, CO 81611

LAMB DON REV TRUST
1449 E 56TH ST
CHICAGO, IL 60637

BEYER ALAN R
410 N MILL ST #B11
ASPEN, CO 81611

DIXIE DOG VENTURES LLC
1690 HOMESTAKE DR
ASPEN, CO 81611

PLETTS SARAH A
410-412 N MILL ST #B-12
ASPEN, CO 81611

201 N MILL ASSOCIATES LLC
730 E DURANT AVE #200
ASPEN, CO 81611

CRUMMER KLEIN TITLE TRUST
1305 N BEVERLY DR
BEVERLY HILLS, CA 90210

CROWN LAURIE J
414 N MILL ST
ASPEN, CO 81611

ASPEN MILL HOLDINGS II LLC
400 E MAIN ST
ASPEN, CO 81611

SHAPIRO FREDERIC M & SUSAN
101 N SPRING ST #3108
ASPEN, CO 81611

ABBOTT MICHAEL
700 N INTERLACHEN AVE
WINTER PARK, FL 32789

MAIN STREET LANDLORD LLC
312 AABC #D
ASPEN, CO 81611

ROSENWASSER RONALD N
4409 WOODFIELD BLVD
BOCA RATON, FL 33434

KIMPLE 2004 TRUST
3505 TURTLE CREEK BLVD #PH20A
DALLAS, TX 75219

OBERMEYER PLACE RENTAL GRP LLC
115 AABC
ASPEN, CO 81611

VOLK EVERGREEN LLC
730 BAY ST
ASPEN, CO 816111468

WOLKE LAUREN B
4109 GREENBRIAR LN
TARZANA, CA 91356

PITKIN COUNTY CAPITAL LEASING CORP
530 E MAIN ST
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

JOSA LLC
601 RIO GRANDE #110
ASPEN, CO 81611

UNIT 410 LLC
323 W MAIN ST #301
ASPEN, CO 81611

ALTHOUSE PATRICIA ANNE
9655 LAKEVIEW DR
PINCKNEY, MI 48169

LONE PINE TOWNHOUSES CONDO ASSOC
COMMON AREA
155 LONE PINE RD
ASPEN, CO 81611

BANK MIDWEST N A
1111 MAIN ST #2800
KANSAS CITY, MO 64105

PITKIN COUNTY
530 E MAIN ST #301
ASPEN, CO 81611

HARKEY LAW FIRM PC
12200 STEMMONS
DALLAS, TX 75234

AARON ROGER S & VIRGINIA A
885 PARK AVE #14A
NEW YORK, NY 10075

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

PEATE BRADLEY
101 N SPRING ST #3104
ASPEN, CO 816111518

PITKIN COUNTY
530 E MAIN ST #301
ASPEN, CO 81611

MASHATU LLC
258 ROARING FORK DR
ASPEN, CO 81611

NINFA LLC
PO BOX 2568
FORT MYERS, FL 33902

LEONARD FAMILY TRUST
999 LA PAZ RD
SANTA BARBARA, CA 931081022

CROWN LAURIE J
414 N MILL ST
ASPEN, CO 81611

CROWN LAURIE J
414 N MILL ST
ASPEN, CO 81611

CHAFFEY DUAN
201 N MILL ST # 1A
ASPEN, CO 81611

SOUTHWEST JLK CORP
301 COMMERCE ST #1600
FORT WORTH, TX 761024116

HOLLAND AND HART
PO BOX 8749
DENVER, CO 80201

ORTEGA G RICHARD
414 N MILL ST
ASPEN, CO 81611

426 EAST MAIN LLC
312 AABC STE D
ASPEN, CO 81611

HUNTER ALEXANDER
PO BOX 1638
ASPEN, CO 81612

NGS LLC
101 FOUNDERS PL #109
ASPEN, CO 81611

SINTA SCOTT
PO BOX 2872
ASPEN, CO 81612

CONCEPT 600 LLC
5048 CAMINO DEL LAZO
TUCSON, AZ 85750

CALHOON THOMAS C
315 LAVACA ST
AUSTIN, TX 787013036

HOLLAND AND HART
PO BOX 8749
DENVER, CO 80201

GREENBERG MARILYN FAMILY TRUST
112 N SPRING ST
ASPEN, CO 81611

COMMUNITY BANKS OF COLORADO
1111 MAIN ST #2800
KANSAS CITY, MO 641052154

ORTEGA G RICHARD
414 N MILL ST
ASPEN, CO 81611

HAUSER MARY JANE
1540 BOHNS POINT RD
WAYZATA, MN 55391

MILNE SHEILA
PO BOX 8286
ASPEN, CO 81612

MULLINS MARGARET ANN
216 W HYMAN AVE
ASPEN, CO 81611

DAO OANH KIM
430 E HYMAN AVE
ASPEN, CO 81611

RIVERS EDGE CONDO ASSOC
COMMON AREA
851 GIBSON AVE
ASPEN, CO 81611

WAGAR RICHARD H
6718 W HARBOR DR
ELK RAPIDS, MI 49629-9778

OP LLC
424 PARK CIR #6
ASPEN, CO 81611

DORAN RALPH C & ELIZABETH B
2600 WOODWARD WAY
ATLANTA, GA 30305

SMITH JAMES F & N LINDSAY
600 E MAIN ST #302
ASPEN, CO 81611

YOUNG COULTER BARRETT TRUST
PO BOX 26
WOODY CREEK, CO 81656

M & G CONDO ASSOC
426 E MAIN ST
ASPEN, CO 81611

POTVIN DALE A FAMILY BYPASS TRUST
155 LONE PINE RD C-2
ASPEN, CO 81611

MAYER PAULINE M FAM LTD PTNR LLLP
628 MCSKIMMING RD
ASPEN, CO 81611

ORTEGA G RICHARD
414 N MILL ST
ASPEN, CO 81611

RIO GRANDE PARTNERS 88 LLC
PO BOX 29
JENKINTOWN , PA 19046

EMPHASYS SERVICES CO
1925 BRICKELL AVE BLDG D, PENTHSE 11
MIAMI, FL 33129

TSE HOLDINGS LLC
601 RIO GRANDE PL #120
ASPEN, CO 81611

RIO GRANDE CONDO ASSOC
130 S GALENA ST
ASPEN, CO 81611

BELLA SUNRISE LLC
401 WORTH AVE #301
PALM BEACH, FL 33480

CREEKTREE CONDO ASSOC
COMMON AREA
727 E BLEEKER ST
ASPEN, CO 81611

NORTH MILL STREET LLC
625 E MAIN ST UNIT 102B #401
ASPEN, CO 81611

RIVER PARK IN ASPEN CONDO ASSOC
PO BOX 4100
BASALT , CO 81621

PROPERTIES MANAGEMENT LLC
34522 N SCOTTSDALE RD #120648
SCOTTSDALE, AZ 85266

PITKIN COUNTY
530 E MAIN ST #301
ASPEN, CO 81611

YOUNG COULTER BARRETT TRUST
PO BOX 26
WOODY CREEK, CO 81656

SPEETJENS J KAREL & SUSAN B
101 N SPRING ST #304
ASPEN, CO 81611

600 EAST MAIN STREET LLC
155 E LAKE ST
WAYZATA, MN 55391

BORCHERTS ROBERT H REV TRUST
1555 WASHTENAW
ANN ARBOR, MI 48104

GOLDSTEIN GERALD H & CHRISTINE S
PO BOX 2045
ASPEN, CO 81612

DOCKEN ANDREW
101 N SPRING ST #106
ASPEN, CO 81611

WELSCH SUSAN F REVOC TRUST
101 N SPRING ST #201
ASPEN, CO 81611

GWM PROPERTIES LLC
PO BOX 4146
ASPEN, CO 81612

JACKDOG LTD
3900 ESSEX #101
HOUSTON, TX 77027

MAIN STREET LANDLORD LLC
312 AABC #D
ASPEN, CO 81611

RIO GRANDE PARTNERS 88 LLC
PO BOX 29
JENKINTOWN , PA 19046

SNOW OWL 33 TRUST
16217 KITTRIDGE ST
VAN NUYS, CA 91406

POWELL JAMES B & TRACEY L
501 RIO GRANDE PL # 203
ASPEN, CO 81611

KAPLAN & CO LLC
300 S POINTE DR # 1105
MIAMI BEACH, FL 33139

ASPEN PARKING LLC
5956 SHERRY LN # 1500
DALLAS, TX 75225

LARSON MARIA M
PO BOX 8207
ASPEN, CO 81612

OBERMEYER PLACE CONDO
COMMON AREA
210 N MILL ST #201
ASPEN, CO 81611

DAKOTA MEADOWS DUPLEX LLC
55 WAUGH DR #1111
HOUSTON, TX 77007

HODGSON PHILIP R
212 N MONARCH ST
ASPEN, CO 81611

B&Z 2010 REV TRUST
728 E FRANCIS ST
ASPEN, CO 81611

MILL STREET CONDO ASSOC
COMMON AREA
RIO GRANDE PL
ASPEN, CO 81611

GWM PROPERTIES LLC
PO BOX 4146
ASPEN, CO 81612

124 N SPRING LLC
4042 ISLAND ESTATES DR
NORTH MIAMI BEACH, FL 33160

HENDERSON BRIAN W 2012 TRUST
2530 AVE AU SOLEIL
DELRAY BEACH, FL 33483

NR HOLDING CO
580 MALLORY WY
CARSON CITY, NV 89701

KAWAII DOG LLC
729 E BLEEKER ST
ASPEN, CO 81611

GWM PROPERTIES LLC
PO BOX 4146
ASPEN, CO 81612

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

412 ROBINSMITH LLC
PO BOX 8616
ASPEN, CO 81612

CARVER RUTH A
116 S ASPEN ST
ASPEN, CO 81611

ASPEN SCHOOL DISTRICT #1
0235 HIGH SCHOOL RD
ASPEN, CO 81611

HEATH JESSE B JR & HETTA S
5096 CEDAR CREEK DR
HOUSTON, TX 77056

MCGOWIN FLORENCE M
4047 DUMAINE WAY
MEMPHIS, TN 38117

FRIEDSTEIN SHELDON TRUST
PO BOX 7917
ASPEN, CO 81612

601 RIO GRANDE #105 LLC
1230 SNOWBUNNY LN
ASPEN, CO 81611

WAGAR RICHARD H
6718 W HARBOR DR
ELK RAPIDS, MI 49629-9778

MOUNTAIN VIEW INTEREST LLC
410 SOUTH BEACH RD
HOBE SOUND, FL 33455

ANDERSON BENJAMIN S & TRACY F
550 E MAIN ST #104
ASPEN, CO 81611

Z&B 2010 REV TRUST
728 E FRANCIS ST
ASPEN, CO 81611

WOLKE LAUREN B
4109 GREENBRIAR LN
TARZANA, CA 91356

RIO GRANDE PLACE LLC
990 S ROCK BLVD #F
RENO, NV 89502

VECTOR ENTERPRISES LLC
0490 ASPEN OAK DR
ASPEN, CO 81611

FRATERNAL ORDER OF EAGLES
700 E BLEEKER AVE
ASPEN, CO 81611

BIG BOY LLC
PO BOX 4737
ASPEN, CO 81612

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

GRAHAM NARELDA
101 N SPRING ST #203
ASPEN, CO 81611

HOLLAND AND HART
PO BOX 8749
DENVER, CO 80201

BLU VIC CONDO ASSOC
202 N MONARCH ST
ASPEN, CO 81611

WARK RICKEY E & CYNTHIA ANN
3 DEVON MILL PL
THE WOODLANDS, TX 773825304

MILL BUILDING CONDO ASSOC
201 N MILL ST
ASPEN, CO 81611

MAIN STREET LANDLORD LLC
312 AABC #D
ASPEN, CO 81611

WFP INC
PO BOX 4290
ASPEN, CO 81612

MCGAFFEY FAMILY & CO NO C LLC
2465 NOB HILL AVE NORTH
SEATTLE, WA 98109

RONICK MEL & RUTH TRUST
155 LONE PINE RD #4
ASPEN, CO 81611

BURCHAM JAMES G REV TRUST
5011 SUNSET DR
KANSAS CITY, MO 64112

POWELL JAMES B & TRACEY L
501 RIO GRANDE PL # 203
ASPEN, CO 81611

412 ROBINSMITH LLC
PO BOX 8616
ASPEN, CO 81612

OBERMEYER PLACE RENTAL GRP LLC
115 AABC
ASPEN, CO 81611

KLEIN JAMES J & SALLIE R
PO BOX 12022
ASPEN, CO 81612

RIVER PARK IN ASPEN CONDO ASSOC
PO BOX 4100
BASALT , CO 81621

MOCKLIN PETER M REV TRUST
PO BOX 261
EAGLE, CO 816310261

COPPOCK RICHARD PAUL
600 E MAIN ST #407
ASPEN , CO 81611

Z&B 2010 REV TRUST
728 E FRANCIS ST
ASPEN, CO 81611

SHE SHED 44 LLC
355 SILVERLODE DR
ASPEN, CO 81611

ICONIC PROPERTIES JEROME LLC
1375 ENCLAVE PKWY
HOUSTON, TX 77077

OBRIEN KEVIN & RHEY ANN
434 E MAIN ST #302
ASPEN, CO 81611

UNREGISTERED TRUST 6/16/1983
3674 WOODLAWN TERRACE PL
HONOLULU, HI 96822

RIVER PARK IN ASPEN CONDO ASSOC
PO BOX 4100
BASALT , CO 81621

MILL BUILDING ASSOCIATION INC
730 E DURANT AVE #200
ASPEN, CO 81611

KIRKBRIDE FAMILY TRUST
15951 VALLEY MEADOW PL
ENCINO, CA 91436

MILIAS ELIZABETH A
PO BOX 4662
ASPEN, CO 81612

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

HENDERSON JAMES C
4880 HARLEM RD
GALENA, OH 43021

WARK RICKEY E & CYNTHIA ANN
3 DEVON MILL PL
THE WOODLANDS, TX 773825304

MONARCH HOUSE LLC
120 SW 8TH ST
MIAMI, FL 33130

ASPEN MILL HOLDINGS II LLC
400 E MAIN ST
ASPEN, CO 81611

MACLEAN HANA
101 N SPRING ST #3107
ASPEN, CO 81611

LCC ASPEN HOLDINGS LLC
PO BOX 1550
ASPEN, CO 81612

TRIMAR LLC
320 DAKOTA DR
GRAND JUNCTION, CO 81507

HOROWITZ JAMES M
PO BOX 4605
ASPEN, CO 81612

RAMOS WALTHER JR & MARJORIE R REV LI
133 TALL TREES DR
BALA CYNWYD, PA 19004

VECTOR ENTERPRISES LLC
0490 ASPEN OAK DR
ASPEN, CO 81611

BROUGH STEVE & DEBORAH
2049 SCHAD RD
ELKTON, OR 97436

PEMBER WILLIS
412 N MILL ST
ASPEN, CO 81611

RIO GRANDE PARTNERS 88 LLC
PO BOX 29
JENKINTOWN , PA 19046

ARTIM LLC
PO BOX 30106
NEW YORK, NY 10011

LARK INGALIL E
PO BOX 404
ASPEN, CO 81612

CAVALIERI JOHN R TRUST
3334 E COAST HWY #341
CORONA DEL MAR, CA 95625

EMPHASYS SERVICES CO
1925 BRICKELL AVE BLDG D, PENTHSE 11
MIAMI, FL 33129

GOLDFEIN MICHAEL R TRUST
1724 BRAESIDE LN
NORTHBROOK, IL 60062

| | | |
|--|--|---|
| RAF PT ASPEN LLC 10000 MEMORIAL DR #320 HOUSTON, TX 77023 | CITY OF ASPEN 130 S GALENA ST ASPEN, CO 81611 | BASSI PETER & BARBARA FAMILY TRUST 18 CHANNEL VISTA NEWPORT COAST, CA 92657 |
| WOLKE LAUREN B TRUST #1 4109 GREENBRIAR LN TARZANA, CA 91356 | WOLKE LAUREN B TRUST #1 4109 GREENBRIAR LN TARZANA, CA 91356 | SKILOFT LLC 11 GREENWAY PLAZA STE 2000 HOUSTON , TX 77046 |
| ARENELLA BETH & FRANK J III 100 OBERMEYER PL # 101 ASPEN, CO 81611 | 610 RIO GRANDE 110 ASSOC LLC 257 PARK AVE ASPEN, CO 81611 | PUPPY SMITH LLC 602 E COOPER #202 ASPEN, CO 81611 |
| RIO GRANDE PLACE LLC 990 S ROCK BLVD #F RENO, NV 89502 | KLAWITER FAMILY TRUST PO BOX 6759 SNOWMASS VILLAGE, CO 81615 | CITY OF ASPEN 130 S GALENA ST ASPEN, CO 81611 |
| CROWN LAURIE J 414 N MILL ST ASPEN, CO 81611 | CITY OF ASPEN 130 S GALENA ST ASPEN, CO 81611 | CROWN LAURIE J 414 N MILL ST ASPEN, CO 81611 |
| MAESTRANZI ALEXA LEE TRUST 1736 PARK RIDGE PT PARK RIDGE, IL 60068 | HOLLAND AND HART PO BOX 8749 DENVER, CO 80201 | GOLDFEIN PAMELA J TRUST 1724 BRAESIDE LN NORTHBROOK, IL 60062 |
| 214 WEST COOPER LLC 6 NE 63RD ST #220 OKLAHOMA CITY, OK 73105 | CITY OF ASPEN 130 S GALENA ST ASPEN, CO 81611 | CJB REALTY INVESTORS LLC 9235 GULF SHORE DR #202 NAPLES, FL 34108 |
| BORCHERTS HOLDE H REV TRUST 1555 WASHTENAW ANN ARBOR, MI 48104 | PARROTT LAURA 3126 S ROCKFORD DR TULSA, OK 74106 | SHORT DIANA & CAMERON 201 N MILL ST #2C ASPEN, CO 81611 |
| CITY OF ASPEN 130 S GALENA ST ASPEN, CO 81611 | CONCEPT 600 CONDO ASSOC 600 E MAIN ST ASPEN, CO 81611 | RESIDENCES AT THE LITTLE NELL CONDO A 501 E DEAN ST ASPEN, CO 81611 |
| LAZAR FAMILY TRUST 5342 ALDEA AVE ENCINO, CA 91316 | HAUSER MARY JANE 1540 BOHNS POINT RD WAYZATA, MN 55391 | ASPEN MILL HOLDINGS LLC 400 E MAIN ST #2 ASPEN, CO 81611 |

| | | |
|---|---|---|
| BALLINGER ELIZABETH F 102 FOUNDERS PL #102 ASPEN, CO 81611 | CURET JORDAN 101 N SPRING ST #205 ASPEN, CO 81611 | QUAIL ROOST REALTY MGMT LLC 400 E 3RD AVE PH1701 DENVER, CO 80203 |
| G & G CORPORATE OFFICES LLC 2520 S GRAND AV # 114 GLENWOOD SPGS, CO 81601 | AVALANCHE EAGLE PINES LLC 24 MIDDLE DR MANHASSET, NY 11030 | 412 ROBINSMITH LLC PO BOX 8616 ASPEN, CO 81612 |
| AJAX/COMET LLC 170 E END AVE PH2A NEW YORK, NY 10128 | EMPHASYS SERVICES CO 1925 BRICKELL AVE BLDG D, PENTHSE 11 MIAMI, FL 33129 | MAROLT ENTERPRISES LLC PO BOX 8705 ASPEN, CO 81612 |
| PARROTT SUSAN TRUST 3126 S ROCKFORD DR TULSA, OK 74106 | ELDEN GAIL TRUST 2430 N LAKEVIEW AVE #11S CHICAGO, IL 60614 | 414 N MILL LLC PO BOX 9060 ASPEN, CO 81612 |
| WARK RICKEY E & CYNTHIA ANN 3 DEVON MILL PL THE WOODLANDS, TX 773825304 | CAMPBELL JAMES D PO BOX 404 ASPEN, CO 81612 | GREENBERG FAMILY 2012 TRUST 112 N SPRING ST ASPEN, CO 81611 |
| DESOTO LINDA JANE LIVING TRUST 155 LONE PINE RD #9 ASPEN, CO 81611 | METCO COLORADO LLC 333 W LOOP NORTH 4TH FLR HOUSTON, TX 77024 | HOLLAND AND HART PO BOX 8749 DENVER, CO 80201 |
| LANDIS CAROLYN 155 LONE PINE RD #C8 ASPEN, CO 81611 | UNIT 117B LLC PO BOX A3 ASPEN, CO 81612 | ANDREWS MCFARLIN CONDO ASSOC 414 N MILL ST ASPEN, CO 81611 |
| GANT CONDOMINIUM ASSOCIATION INC 610 S WEST END ST ASPEN, CO 81611 | VECTOR ENTERPRISES LLC 0490 ASPEN OAK DR ASPEN, CO 81611 | 110 N SPRING ST LLC 15 W 6TH ST #2400 TULSA , OK 74119 |
| CARBONA CAPITAL LLC 235 PUPPY SMITH ST #1373 ASPEN, CO 81611 | SIPSEY CANDACE & LIAM 201 N MILL ST #2B ASPEN, CO 81611 | HOROWITZ JAMES M 110 E HALLAM #104 ASPEN, CO 81611 |
| CITY OF ASPEN 130 S GALENA ST ASPEN, CO 81611 | CITY OF ASPEN 130 S GALENA ST ASPEN, CO 81611 | LAYNE MATTHEW & KRISTIN 201 NORTH MILL ST #2A ASPEN, CO 81611 |

VECTOR ENTERPRISES LLC
0490 ASPEN OAK DR
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

FRONTIER LLC
PO BOX 27395
OMAHA, NE 681270395

CARBONA CAPITAL LLC
235 PUPPY SMITH ST #1373
ASPEN, CO 81611

BOHNETT MARSHA ANN TRUST
765 ANAMA ST #504
HONOLULU, HI 96814

GWM PROPERTIES LLC
PO BOX 4146
ASPEN, CO 81612

311 ASPEN LLC
PO BOX 918
WILMINGTON, DE 19899

CARBONA CAPITAL LLC
235 PUPPY SMITH ST #1373
ASPEN, CO 81611

130 N SPRING STREET 10 LLC
PO BOX 70
EAST GREENWICH, RI 02818

UNIT 106 OP LLC
PO BOX 3742
BASALT, CO 81621

214 WEST COOPER LLC
6 NE 63RD ST #220
OKLAHOMA CITY, OK 73105

MADDEN WALTER ROSS
218 N MONARCH ST
ASPEN, CO 81611

BECKWITH DAVID E QPRT
85 GLORIA CIRCLE
MENLO PARK , CA 94025

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

550 EMPLOYEE HOUSING CONDO ASSOC INC
550 E MAIN ST
ASPEN, CO 81611

SHE SHED 44 LLC
355 SILVERLODE DR
ASPEN, CO 81611

VECTOR ENTERPRISES LLC
0490 ASPEN OAK DR
ASPEN, CO 81611

CONCEPT 600 LLC
5048 CAMINO DEL LAZO
TUCSON, AZ 85750

414 N MILL LLC
PO BOX 9060
ASPEN, CO 81612

NEWLON LLC
PO BOX 1863
ASPEN, CO 81612

MYRIN CUTHBERT L JR
PO BOX 12365
ASPEN, CO 81612

LANDIS JOSHUA B
434 E MAIN ST #101
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

GINSBERG JEROME D IRREV TRUST
166 E 61ST #19F
NEW YORK, NY 10065

SNOW OWL 33 TRUST
16217 KITTRIDGE ST
VAN NUYS, CA 91406

DCR FAMILY LP
125 IVY ST
DENVER, CO 802205846

DONAHUE ELIZABETH
102 FOUNDERS PL #2302
ASPEN, CO 81611

KUCK KATHERINE M
4880 HARLEM RD
GALENA, OH 43021

SEYFFERT STEVEN J
102 FOUNDERS PL #201
ASPEN, CO 81611

CHANDON LLC
625 E HYMAN AVE #201
ASPEN, CO 81611

CITY OF ASPEN
130 S GALENA ST
ASPEN, CO 81611

US POSTAL SERVICE
WESTERN REGION
SAN BRUNO, CA 94099

LITTLE RIVER HOUSE LLLP
125 IVY ST
DENVER, CO 80222

100 NORTH SPRING STREET LLC
250 STEELE ST #375
DENVER , CO 80206

REIDSCROFT PARTNERSHIP
PO BOX 10443
ASPEN, CO 81612

225 NORTH MILL ST LLC
1530 BROADWAY 4TH FL
NEW YORK, NY 10036

134 N SPRING STREET CONDO LLC
PO BOX 321
SARATOGA SPRINGS, NY 12866

WARK RICKEY E & CYNTHIA ANN
3 DEVON MILL PL
THE WOODLANDS, TX 773825304

LEBARRE FAM LLC
7518 MIDDLEWOOD ST
HOUSTON, TX 77063

JACKSON ASPEN PROPERTIES LLC
PO BOX 419
WOODY CREEK, CO 81656

ORTEGA G RICHARD
414 N MILL ST
ASPEN, CO 81611

LIPNICK FAMILY ASPEN LLC
1825 K ST NW #125
WASHINGTON, DC 20006

CREEKTREE CONDO ASSOC
COMMON AREA
727 E BLEEKER ST
ASPEN, CO 81611

MARCHETTI FAMILY LLC
1526 FOREST DR
GLENVIEW, IL 60025

SMITH H W III
102 FOUNDERS PL #2204
ASPEN, CO 816111486

BEYER ALAN R
410 N MILL ST #B11
ASPEN, CO 81611

GIANONIO NICOLE
PO BOX 4605
ASPEN, CO 81612

MOCKLIN MONICA M REV TRUST
PO BOX 807
ASPEN, CO 81612

ASPEN PARKING LLC
5956 SHERRY LN # 1500
DALLAS, TX 75225

HANDLEY DENNIS
102 FOUNDERS PL #202
ASPEN, CO 81611

ASPEN STREAM LLC
753 BAY ST
ASPEN, CO 81611

NGS LLC
101 FOUNDERS PL #109
ASPEN, CO 81611

135 MINERS TRAIL LLC
8 WRIGHT ST
WESTPORT, CT 06880

MURPHY GEORGE W
PO BOX 4146
ASPEN, CO 81612

TRUE ROMANCE LLC
701 GIBSON AVE #C
ASPEN, CO 81611

GENE MCCUTCHIN LTD II
PO BOX 802043
DALLAS, TX 753802043

JACKSON ASPEN PROPERTIES LLC
PO BOX 419
WOODY CREEK, CO 81656

MILLARD PARTNERS LTD
3007 MID LN
HOUSTON, TX 77027

QUITASOL JONATHAN C
PO BOX 9864
ASPEN, CO 81612

GANT CONDOMINIUM ASSOCIATION INC
610 S WEST END ST
ASPEN, CO 81611

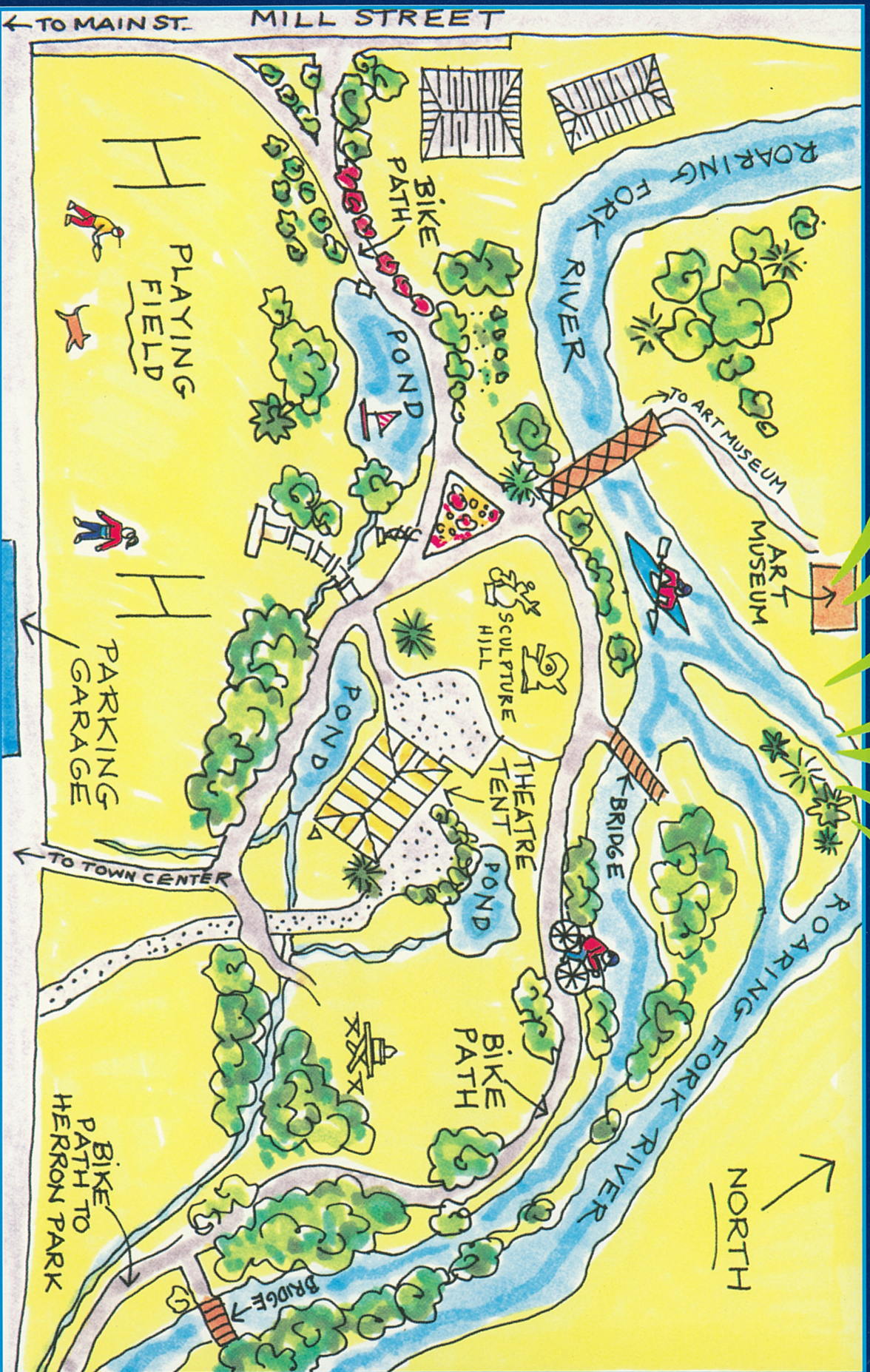
PITKIN COUNTY
530 E MAIN ST #301
ASPEN, CO 81611

GILKERSON LINDA REV TRUST
1449 E 56TH ST
CHICAGO, IL 60637

ASPEN COMMUNITY

ART PARK

a place to let your imagination wander





TO: Mayor Torre and Aspen City Council

FROM: Phillip Supino, Community Development Director
James R. True, City Attorney

MEETING DATE: August 9, 2022

RE: **Resolution #96, Series of 2022,** 516 E Hyman Ave., Amendment to a Growth Management Development Order, Change-in Use, and Expansion of Commercial Development Review.

APPLICANT:

1235 East Cooper Avenue,
LLC; 516 E Hyman Ave., 2nd
floor; Aspen, CO 81611

REPRESENTATIVE:

n/a

LOCATION:

516 E Hyman Ave.

**CURRENT AND
PROPOSED ZONING &
USE**

The subject property is located in the Commercial Core (CC) zone district and is a mixed-use building containing commercial uses and a 400 square foot deed restricted residential unit.

SUMMARY: Transfer an existing deed restriction from a 400 sq. ft. studio unit at 516 E Hyman Ave., off-site to a two-bedroom unit at 1235 E. Cooper Ave., create 7 additional affordable housing units for AH credits, and a Change-in Use approval to convert the 400 sq. ft. from deed restricted residential to commercial.

STAFF RECOMMENDATION: Staff recommends the City Council approve the Amendment to a Growth Management Development Order and Change-in Use as proposed.



Figure 1: Property Location

BACKGROUND: The Aspen School District (ASD) and Mark Hunt approached the Community Development Department and City Attorney's Office about the need for affordable housing to address the housing shortage impacting employers and community sustainability. The proposal is for permanent deed restrictions to be placed on all eight condo units located at the Hunt-owned Aspen Edge Condos at 1235 E. Cooper Ave. The parties negotiated the lease or sale of those units to ASD, who would place APCA-compliant tenants in the units as soon as possible. This timing of this Council review, should the Resolution be approved, will facilitate the placement of ASD staff into units at 1235 prior to the start of the 2022-2023 school year.

Approval of Resolution No. 096 would initiate a process by which one deed restricted AH unit, currently located at 516 E. Hyman, would be vacated in exchange for the creation of eight new AH units, 16 bedrooms, at 1235 E. Cooper. Certificates of Affordable Housing would be created from the net of the seven new deed restrictions minus the mitigation required for changing the use the space in 516 from AH Residential to Commercial. The Land Use mechanics required for this application include administrative actions, with the amendment to the 516 deed restriction requiring Council approval. The approvals, described below, have been combined with Council review of the amendment to the deed restriction for efficiency of process.

REQUEST OF CITY COUNCIL: The Applicant is requesting the following land use approvals:

- Insubstantial Amendment to Growth Management Development Order (Pursuant to Land Use Code Section 26.470.150.A): An application requesting to transfer a deed restriction from a 400 sq. ft. studio unit to Unit #2 at 1235 E. Cooper Ave. This administrative review has been combined with the other Council reviews and included in Resolution 096. City Council is the final review authority.
- Change-in Use (Pursuant to Land Use Code Section 26.470.100.A): Once the deed restriction is transferred off-site, the space formerly occupied by the deed restricted studio will be converted to a commercial use. This review is being combined with all other requested reviews for efficiency. City Council is the final review authority.
- Expansion or New Commercial Development (Pursuant to Land Use Code Section 26.470.100.E): Converting 400 sq. ft. from deed restricted residential to commercial use requires compliance with the Growth Management chapter, including receiving commercial allotments and the provision of affordable housing mitigation for the additional commercial net leasable area created. This review is being combined with all other requested reviews for efficiency. City Council is the final review authority.

STAFF COMMENTS AND RECOMMENDATION: In staff's assessment, the benefits to the community and APCA system from this application are clear: the creation of seven new deed restricted units, 14 bedrooms, in exchange for the relocation and expansion of an existing deed restricted unit. Additional factors for Council consideration include:

- The existing 516 deed restriction will expire under its current configuration.
- The amendment to the current 516 deed restriction will result in a larger unit, albeit off-site instead of on-site.

- The creation of Certificates of Affordable Housing from the seven 1235 units may alleviate the supply constraints currently undermining the efficacy of the Credits market.

APCHA provided referral comments, included as Exhibit B. APHCA staff support the proposal, insofar as it creates more units in the system. While the units are below the minimum required by APCHA Guidelines, staff determined that the quality of the units and amenities provided are sufficient to warrant their acceptance.

Staff has included the Change-in-Use request in this procedure and the resolution to ensure clarity for the applicant. Additionally, including the Change-in-Use in the resolution clearly ties-together the interrelated matters of the amendment of the existing deed restriction, the recordation of new deed restrictions, the creation of Credits, the resulting change in use, and the mitigation required for that change in use. In this way, the Change-in-Use is a by product of Council action on the deed restriction amendment, rather than a request to be considered in insolation.

The resolution and administrative approval documents have been crafted to ensure that, without documentation of the benefit to the community of the new deed restrictions, the benefits to the applicant of the amended deed restriction, Change-in-Use, and creation of credits cannot be realized. As such, staff recommends Council approve Resolution No. 096.

CONCLUSION: The outcome of this request will be the creation of eight permanent, two-bedroom, high quality affordable housing units in place of one impermanent, studio unit. Community Development staff and the City Attorney have reviewed the application materials and relevant Land Use Code requirements and feel confident in the benefits of the outcome and protections to the public interest embedded in this Resolution and the approval documents.

RECOMMENDED MOTION: “I move to approve Resolution #096, Series of 2022, for an Insubstantial Amendment to a Growth Management Development Order, Change-in Use, and Expansion of Commercial Development approval for 516 E. Hyman Ave.”

CITY MANAGER COMMENTS:

ATTACHMENTS:

Resolution #096, Series of 2022
 Exhibit A – GMQS Review Criteria
 Exhibit B – APCHA Referral Comments

**A RESOLUTION OF THE CITY COUNCIL AMENDING THE RESTRICTIVE
COVENANT ASSOCIATED WITH THE AFFORDABLE HOUSING UNIT LOCATED
AT 516 E. HYMAN AVENUE, LEGALLY DESCRIBED AS PITKIN CENTER
SUBDIVISION, LOT 1, CITY OF ASPEN, COUNTY OF PITKIN, STATE OF
COLORADO**

**RESOLUTION NO. 096, SERIES OF 2022
PARCEL ID: 2737-182-15-001**

WHEREAS, the applicant, Mark Hunt, dba 1235 E. Cooper Avenue, LLC and 516 E. Hyman Avenue, LLC, submitted an application requesting an amendment to a restrictive covenant agreement and Growth Management review for the mixed-use building located at 516 E. Hyman Ave. The amendment would relocate the on-site deed restricted affordable housing unit from 516 E. Hyman Ave. to 1235 E. Cooper, which is to be voluntarily converted to affordable housing units and Certificates of Affordable Housing; and

WHEREAS, the mixed-use building at 516 E. Hyman Ave. was granted development approval via Resolution No. 06, Series of 1989, which included the mitigation of affordable housing requirements through the deed restriction of an on-site studio affordable housing unit. That deed restriction has a date specific expiration, which was common for deed restrictions at the time. The expiration is in approximately seventeen years; and,

WHEREAS, subsequent to the development of the property and recordation of the deed restriction, the presence of the unit in the Aspen-Pitkin County Housing Authority (APCHA) system and its occupancy status became unclear. The applicant, Community Development Department, and APCHA desire to clarify the affordable housing requirements for 516 E. Hyman Ave. and make permanent a deed restriction for an affordable housing unit; and,

WHEREAS, Community Development Department staff reviewed the application for compliance with the applicable review criteria, and found that the request requires an Insubstantial Amendment to a Development Order for the relocation of the deed restricted unit, a Growth Management review for a Change in Use, and an Administrative Review for the creation of Certificates of Affordable Housing; and,

WHEREAS, Land Use Code section 26.304.060.b, permits the combined reviews for compliance with elements of the Land Use Code where more than one development approval is sought simultaneously. Reviews may be combined or modified whenever the Community Development Director determines, in consultation with the applicant, that such combination or modification would eliminate or reduce duplication and ensure economy of time, expense, and clarity. The Insubstantial Growth Management and Change of Use reviews have been combined with this amendment to the restrictive covenant agreement as provided in Land Use Code section 26.304.060.b; and,

WHEREAS, a Notice of Approval issued on August 9, 2022, by the Community Development Department and recorded with the Pitkin County Clerk and Recorder, Reception No. _____, demonstrates compliance with applicable sections of the Land Use Code for the issuance of Certificates of Affordable Housing, Growth Management Insubstantial Review, and amendments to the deed restriction agreement; and,

WHEREAS, the Community Development Department received comments from APCHA and considered those comments in the recommendation to Council; and,

WHEREAS, the amendment of the deed restriction agreement and creation of Certificates of Affordable Housing, as described in the Notice of Approval, will facilitate the creation of needed affordable housing units within the City per Aspen Area Community Plan Housing Policies IV.1, IV.2, and IV.5, and the Affordable Housing Strategic Plan; and,

WHEREAS, the Community Development Director has reviewed the application and recommends Council approve the request with the conditions described herein; and,

WHEREAS, City Council has reviewed and considered the recommendations of the Community Development Director at a regular meeting on August 9, 2022; and,

WHEREAS, City Council finds that this resolution furthers and is necessary for the promotion of public health, safety, and welfare; and,

NOW, THEREFORE, BE IT RESOLVED:

Section 1:

City Council approves the amendment to the Occupancy Deed Restriction and Agreement relocating the affordable housing unit, required for affordable housing mitigation from the development of 516 E. Hyman, as described in Resolution No. 06, Series of 1989. The amended deed restriction agreement shall list 1235 E. Cooper Ave., Unit 2, as the location of the affordable housing unit required in Resolution No. 06, Series of 1989. The studio affordable housing unit located at 516 E. Hyman and described in the “Occupancy Deed Restriction and Agreement”, Reception #309696, shall be abandoned and the use changed to Commercial. The establishment of a new free-market residential use at 516 E. Hyman Ave. is prohibited under current Land Use Code regulations. Future uses and developments shall be subject to Land Use Code requirements in place at the time of application submission.

Section 2.

The deed restriction agreement amendment authorized through this resolution is conditioned upon compliance with the requirements of the Notice of Approval approved on August 9, 2022, recorded at Reception No. _____. Failure to record the deed restrictions for 1235 E. Cooper St. Units 1-8 as described in the Notice of Approval by December 30, 2022, will void the deed restriction agreement amendment authorized through this resolution, requiring the existing affordable housing unit to remain in place at 516 E. Hyman Ave and be occupied pursuant to APCA guidelines.

Approval of the change in use at 516 E. Hyman Ave. from affordable housing residential to commercial is conditioned on all requirements in the Notice of Approval being met. The change in use results in employee generation, as described in the Notice of Approval, mitigation of which shall be provided through the extinguishment of certificates of affordable housing per the Notice of Approval.

The amendment of the deed restriction agreement, relocating the 400 square foot studio affordable housing unit to a two-bedroom unit (Unit #02) with a minimum size of 602 square feet, known as 1235 E. Cooper Ave, Unit 2, does not result in additional employee generation or mitigation. No Certificates of Affordable Housing shall be created by the amendment of the deed restriction

agreement relocating the affordable housing unit from 516 E. Hyman Ave. to 1235 E. Cooper Ave. Unit 2, and no new employee generation shall be required from this exchange.

Section 3.

City Council hereby authorizes the City Manager to execute such documents as are required to complete the purposes of this Resolution, including the Amendment to the Occupancy Deed Restriction and Agreement for 516 E. Hyman, subject to the approval of the City Manager and the City Attorney.

Section 4.

This resolution and the amendments to the deed restriction associated with 516 E. Hyman Ave., as described in this resolution shall become effective upon the execution of a Notice of Approval, and recordation of all appropriate documents with the Pitkin County Clerk and Recorder.

Section 5:

This resolution shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

Section 6:

If any section, subsection, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

APPROVED BY THE CITY COUNCIL at its regular meeting on the 9th of August 2022.

Torre, Mayor

Approved as to form:

James R. True, City Attorney

Attest:

Nicole Henning, City Clerk

Section 26.470.080. General Review Standards.

All Planning and Zoning Commission and City Council applications for growth management review shall comply with the following standards.

- A. Sufficient Allotments:** Sufficient growth management allotments are available to accommodate the proposed development, pursuant to Subsection 26.470.040.B. Applications for multi-year development allotment, pursuant to Paragraph 26.470.110.A shall be required to meet this standard for the growth management years from which the allotments are requested.

Staff Response: There are 33,000 square feet of commercial net leasable allotments available each year. The proposed Change-in Use is requesting 400 square feet of commercial net leasable space and there are sufficient 2022 commercial allotments available. Staff finds this criterion to be met.

- B. Development Conformance:** The proposed development conforms to the requirements and limitations of this Title, of the zone district or a site-specific development plan, any adopted regulatory master plan, as well as any previous approvals, including the Conceptual Historic Preservation Commission approval, the Conceptual Commercial Design Review approval and the Planned Development – Project Review approval, as applicable.

Staff Response: The amended Growth Management Development order request to relocate a deed restricted studio unit to 1235 E Cooper, the change in use, and the additional 400 sq. ft. of commercial space all comply with the requirements of this title. No development is proposed as part of this request, Staff finds this criterion to be met.

- C. Public Infrastructure and Facilities.** The proposed development shall upgrade public infrastructure and facilities necessary to serve the project. Improvements shall be at the sole costs of the developer. Public infrastructure includes, but is not limited to, water supply, sewage treatment, energy and communication utilities, drainage control, fire and police protection, solid waste disposal, parking and road and transit services.

Staff Response: No development is proposed as part of this request, staff finds this criterion to be not applicable.

- D. Affordable Housing Mitigation.**

- 1) For commercial development, sixty-five percent (65%) of the employees generated by the additional commercial net leasable space, according to Section 26.470.050.B, Employee generation rates, shall be mitigated through the provision of affordable housing.

Staff Response: The affordable housing mitigation requirements for the 400 sq. ft. of commercial space that results from the change in use results in the following affordable housing mitigation requirements:

Commercial Generation Rate = 4.7 FTEs/1000 SF
 $4.7/1000 = .0047 \times 400 \text{ Sq. Ft.} = 1.88 \text{ FTEs} \times .65 = 1.22 \text{ FTEs}$
 $1.22 \text{ FTEs} \times 25\% \text{ reduction for upper-level commercial space} = \underline{.92 \text{ FTEs (Category 2)}}$

- 2) For lodge development, sixty-five percent (65%) of the employees generated by the additional lodge pillows, according to Section 26.470.050.B, Employee generation rates, shall be mitigated through the provision of affordable housing. For the redevelopment or expansion of existing lodge uses, see section 26.470.100.G.

Staff Response: No lodge development is proposed, Staff finds this criterion to be not applicable.

- 3) For the redevelopment of existing commercial net leasable space that did not previously mitigate (see Section 26.470.100.E), the mitigation requirements for affordable housing shall be phased at 15% beginning in 2017, and by 3% each year thereafter until 65% is reached, as follows:

Staff Response: The 400 square feet of new commercial space was previously deed restricted affordable housing; Staff finds this section to be not applicable.

- 4) Unless otherwise exempted in this chapter, when a change in use between development categories is proposed, the employee mitigation shall be based on the use the development is converting to. For instance, if a commercial space is being converted to lodge units, the mitigation shall be based on the requirements for lodge space, outlined in subsection 2, above. Conversely, if lodge units are being converted to commercial space, the mitigation shall be based on the requirements for commercial space, outlined in subsections 1 and 3, above.

Staff Response: The affordable housing mitigation requirements for the 400 sq. ft. of commercial space that results from the change in use results in the following affordable housing mitigation requirements:

Commercial Generation Rate = 4.7 FTEs/1000 SF
 $4.7/1000 = .0047 \times 400 \text{ Sq. Ft.} = 1.88 \text{ FTEs} \times .65 = 1.22 \text{ FTEs}$
 $1.22 \text{ FTEs} \times 25\% \text{ reduction for upper-level commercial space} = \underline{.92 \text{ FTEs (Category 2)}}$

- 5) For new residential subdivisions, see sections 26.470.100.H and I.

Staff Response: A new residential subdivision is not proposed, Staff finds this criterion to be not applicable.

- 6) For new, redeveloped, or renovated single-family and duplex residential development, or the affordable housing mitigation requirements are established by 26.470.090.A and C.

Staff Response: No single family or duplex structures exist or are proposed, Staff finds this criterion to be not applicable.

- 7) For the expansion of existing free-market multi-family units, affordable housing mitigation requirements are established by 26.470.090.B.

Staff Response: No expansion of the multi-family units is proposed, Staff finds this criterion to be not applicable.

- 8) For new free-market multi-family units, affordable housing mitigation requirements are established by 26.470.090.F.

Staff Response: No new free-market multi-family units are proposed, Staff finds this criterion to be not applicable.

- 9) For the demolition or redevelopment of existing multi-family residential development, affordable housing mitigation requirements are established by 26.470.100.D.

Staff Response: Demolition is not proposed, Staff finds this criterion to be not applicable.

- 10) For essential public facility development, mitigation shall be determined based on Section 26.470.110.D.

Staff Response: Essential Public facility development is not proposed, Staff finds this criterion to be not applicable.

- 11) For all affordable housing units that are being provided as mitigation pursuant to this chapter or for the creation of a Certificate of Affordable Housing Credit pursuant to Chapter 26.540, or for any other reason:

- i. The proposed units comply with the Aspen/Pitkin County Housing Authority Employee Housing Regulations and Affordable Housing Development Policy, as amended.

Staff Response: APCHA has provided a recommendation of approval and will accept the units used for mitigation either for the amended 516 E Hyman Deed

restricted unit and for the units used to create credits to be used as mitigation for the change in use, Staff finds this criterion to be met.

- ii. Required affordable housing may be provided through a mix of methods outlined in this chapter, including newly built units, buy down units, certificates of affordable housing credit, or cash-in-lieu.

Staff Response: Transferring the deed restriction from 516 E Hyman requires affordable housing mitigation requirements that will be mitigated through the permanent deed restriction of Unit 2 at 1235 E Cooper. Additional affordable housing mitigation is required from the Change-in Use to a commercial use, and that mitigation will be deducted from the total credits generated through the deed restriction of the seven (7) remaining units at 1235 E. Cooper, Staff finds this criterion to be met.

- iii. Affordable housing that is in the form of newly built units or buy-down units shall be located on the same parcel as the proposed development or located off-site within the City limits. Units outside the City limits may be accepted as mitigation by the City Council, pursuant to Section 26.470.110.B. When off-site units within City limits are proposed, all requisite approvals shall be obtained prior to approval of the growth management application.

Staff Response: The unit that is providing mitigation for transferring the deed restriction from 516 E Hyman is unit 2 at 1235 E Cooper. This is within City limits, and the review criteria have been met for all other reviews required by this action, Staff finds this criterion to be met.

- iv. Affordable housing mitigation in the form of a Certificate of Affordable Housing Credit, pursuant to Chapter 26.540, shall be extinguished pursuant to Section 26.540.120, Extinguishment and Re-Issuance of a Certificate, utilizing the calculations in Section 26.470.050.F, Employee/Square Footage Conversion.

Staff Response: Affordable housing mitigation resulting from the Change-in Use will be mitigated using Certificates of Affordable Housing Credits generated from deed restriction units 1, 2-8, Staff finds this criterion to be met.

- v. If the total mitigation requirement for a project is less than 0.1 FTEs, a cash-in-lieu payment may be made by right. If the total mitigation requirement for a project is 0.1 or more FTEs, a cash-in-lieu payment shall require City Council approval, pursuant to Section 26.470.110.C.

Staff Response: The mitigation for the amended deed restriction at 516 E Hyman and the Change-in Use exceed the 0.1 FTE threshold, Staff finds this criterion to be not applicable.

- vi. Affordable housing units shall be approved pursuant to Paragraph 26.470.100.D, Affordable housing.

Staff Response: The affordable housing units are approved via newly adopted section 26.470.090.D, Staff finds this criterion to be met.

- vii. Each unit provided shall be designed such that the finished floor level of fifty percent (50%) or more of the unit's net livable area is at or above natural or finished grade, whichever is higher. This dimensional requirement may be varied through Special Review, Pursuant to Chapter 26.430.

Staff Response: All 8 units are entirely above grade; Staff finds this criterion to be met.

- 12) Affordable housing units that are being provided absent a requirement ("voluntary units") may be deed-restricted at any level of affordability, including residential occupied (RO).

Staff Response: All reviews included in the Council GMQS require affordable housing mitigation, Staff finds this criterion to be not applicable.

- 13) Residential Mitigation Deferral Agreement For property owners qualified as a full-time local working resident, an affordable housing mitigation Deferral Agreement may be accepted by the City of Aspen subject to the Aspen/Pitkin County Housing Authority Employee Housing Regulations. This allows deferral of the mitigation requirement for residential development until such time as the property is no longer owned by a full-time local working resident. Staff of the City of Aspen Community Development Department and Staff of the Aspen/Pitkin County Housing Authority can assist with the procedures and limitations of this option. The City Attorney and Community Development Director shall prescribe the form to be used for a Deferral Agreement. A copy of the Deferral Agreement form is on file with the City of Aspen Community Development Department.

The required mitigation shall be calculated to the FTE and then multiplied by the codified Fee-in-Lieu at the time of building permit submission. This amount will be identified in the Deferral Agreement. Following the establishment of the initial mitigation requirement in the Deferral Agreement, the amount of mitigation initially identified shall increase annually by the CPI for each year that the Deferral Agreement is in effect until such time that the Deferral Agreement is terminated following sale to a non-resident.

The term “CPI” shall mean the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, not seasonally adjusted, 1984=100 reference base; published by the United States Department of Labor, Bureau of Labor Statistics. The calculation of the value of the mitigation required at the time of the termination of the Deferral Agreement may be completed using a commonly available calculator that aggregates the CPI over time. The term of the calculation shall be the month of the initial execution of the Deferral Agreement and the most recent index month available at the time of release of the Deferral Agreement. The provision describing this regular annual increase shall be described in the Deferral Agreement. The Deferral Agreement shall be recorded prior to the issuance of a Certificate of Occupancy or Letter of Completion.

Should a property with a Deferral Agreement in place be sold to a qualified resident, a new Deferral Agreement shall be established, identifying the initial mitigation requirement, and an inclusion of the continued annual increases that will continue to accrue from the date of initiation of the original deferral agreement. The initiation date of the original deferral agreement shall be identified in the new deferral agreement.

Deferral Agreements initiated prior to July 28, 2022, shall remain in effect and are not subject to the stipulations described in the paragraphs above. If desired, the parties to a previously established deferral agreement may, at their discretion, enter into a new deferral agreement that that updates the terms to be consistent with the provisions identified above.

Staff Response: A employee deferral agreement is not requested, Staff finds this criterion to be not applicable.

Section 26.470.100

- A. Change in use.** A change in use of an existing property, structure or portions of an existing structure between the development categories identified in Section 26.470.020 (irrespective of direction), for which a certificate of occupancy has been issued and which is intended to be reused, shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on the general requirements outlined in Section 26.470.080. No more than one (1) free-market residential unit may be created through the change-in-use.

Staff Response: A 400 square foot deed restricted unit is proposed to be transferred to 1235 E. Cooper Ave. The unit will be converted to commercial use. The Change-in Use review is being combined with the City Council Substantial Amendment to a Growth Management Development Order review for efficiency per Section 26.340.070. All General Review standards have been met, Staff finds this criterion to be met.

E. Expansion or new commercial development. The expansion of an existing commercial building or commercial portion of a mixed-use building or the development of a new commercial building or commercial portion of a mixed-use building shall be approved, approved with conditions or denied by the Planning and Zoning Commission based on general requirements outlined in Section 26.470.080.

Staff Response: 516 E Hyman contains existing commercial space. The total commercial net leasable space will increase by 400 square feet with the requested Change-in Use. Affordable housing mitigation requirements are outlined in Staff's response to Section 26.470.080. Staff finds this criterion to be met.

Section 26.470.150. Amendment of a growth management development order.

A. Substantial amendment. All other amendments to an approved growth management development order shall be reviewed pursuant to the terms and procedures of this Chapter. Allotments granted shall remain valid and applied to the amended application, provided that the amendment application is submitted prior to the expiration of vested rights. Amendment applications requiring additional allotments or allotments for different uses shall obtain those allotments pursuant to the procedures of this Chapter. Any new allotments shall be deducted from the growth management year in which the amendment is submitted.

Staff Response: A Growth Management approval was issued by City Council via Resolution 06 of 1989 granting approval for 1,471 square feet of commercial space. The affordable housing mitigation provided for the commercial space was an on-site 400 sq. ft. studio apartment. The applicant is requesting to transfer the deed restricted unit offsite to 1235 E Cooper. Unit 2 at 1235 E. Cooper will be used as off-site mitigation for the Affordable housing of 516 E Hyman. All new allotments are discussed in Staff's response to Section 26.470.080, Section 26.470.100.A, and Section 26.470.100.E. Staff finds all relevant review criteria for the request to be met, and therefore, this criterion to be met.



LAND USE MEMORANDUM

TO: Garrett Larimer, Community Development Department
FROM: Cindy Christensen, Deputy Director - APCHA
DATE: July 28, 2022
RE: Aspen Edge Condos, 1235 E Cooper – AH Credit Project – LPA 21-114

PROJECT

The property is located at 1235 East Cooper and includes eight two-bedroom units. The applicant has requested to move forward with the approval of the project for the use of the Affordable Housing Credit program for seven of the units and mitigation for the deed restricted unit located at 516 E Hyman that is out of compliance and has not been used as required by its deed restriction.

RECOMMENDATIONS

Based on the conditions of approval stated in the Notice of Approval that will be reviewed by City Council, APCHA would recommend approval of the use of seven of the units for the Affordable Housing Credit Program and one of the units for the replacement of the deed restricted unit located at 516 E Hyman. APCHA will provide the master deed restriction for signature and recording upon approval. The deed restriction will require minimum occupancy of each unit.