



**BOARD OF TRUSTEES**  
**STAFF REPORT & REQUEST FOR BOARD ACTION**

Date Prepared: February 23, 2023  
Meeting Date: March 1, 2023

**RE: Final Plat – 461 Muse Drive Residential Development**

**To:** Town of Fraser Board of Trustees

**From:** Julie Esterl, Baseline

**Project Number:** TF-22-11

**Project Address:** 461 Muse Drive, Fraser

**Applicant:** Michael Ziehler, KBZ Investments LLC

**Property Owner:** Michael Ziehler, KBZ Investments LLC

**Zoning:** Low Density Multi-Family (LDMF) Residential District

**CC:** Ed Cannon, Fraser Town Manager

Ben Thurston, AICP, Baseline



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**MATTER BEFORE THE BOARD OF TRUSTEES:**

Final Plat, 461 Muse Drive residential development

**ACTION REQUESTED:**

The applicant and owner, Michael Ziehler, KBZ Investments, LLC, is requesting Final Plat approval for the 461 Muse Drive residential development.

**BACKGROUND:**

The applicant, Michael Ziehler, submitted the application for the Final Plat on December 15, 2022 which involves the subdivision of Lot 4, Block 1 of Byers Vista subdivision into six lots and one tract for the purpose of constructing two triplex residential buildings and associated common area.

**PLANNING COMMISSION REVIEW AND RECOMMENDATION:**

On February 22, 2023, after a public hearing, the Fraser Planning Commission approved Resolution 2023-02-01 recommending the Fraser Board of Trustees conditionally approve the Final Plat for the 461 Muse Drive development of two triplex residential buildings. Prior to that, on November 23, 2022, after a public hearing, the Fraser Planning Commission approved Resolution 2022-11-01 conditionally approving the 461 Muse Drive Preliminary Plat and Major Site Plan.

At both public hearings, public comment was received from neighbor Jane Mather and the Mountain View Townhomes III HOA owners at 451 Muse Drive, which is adjacent to and south of the property at 461 Muse Drive. Concerns were raised regarding future use of a driveway that currently encroaches onto the 461 Muse Drive property. In addition, questions and concerns regarding the grading and drainage plans were raised. In response to these concerns, Staff indicated that the driveway encroachment is a private matter that needs to be resolved between the property owners and that the grading and drainage concerns were forwarded to the Town's Engineer, Merrick & Associates. In addition, final review and approval of the drainage plans and report, as outlined in the 461 Muse Drive Major Subdivision – 2<sup>nd</sup>



Referral Comments memo dated January 20, 2023, was included as a condition of Planning Commission recommendation of final plat approval. That condition of recommendation of approval is also a proposed condition of final plat approval as outlined in the recommendation section of this staff report.

Per Table 1.1 of Section 19-1-210 of the Fraser Municipal Code, a public hearing is not required prior to action by the Board of Trustees on a final plat.

For more details on the Planning Commission review of this development project, please refer to the November 23, 2022 and the February 22, 2023 staff reports included with this staff report. A brief summary of those reports is included below.

### LOCATION MAP

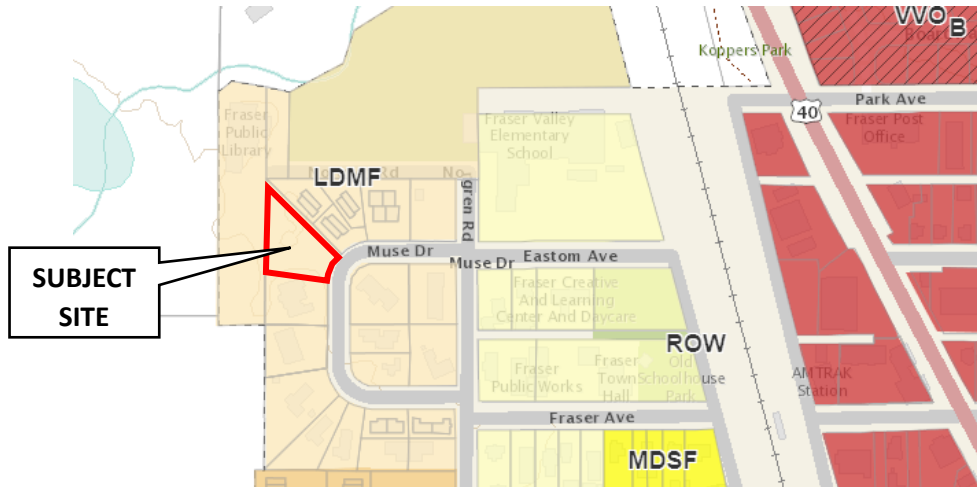


### ZONING & LAND USE

The property is zoned Low Density Multi-Family (LDMF) Residential. Multi-family dwellings are a permitted use in the LDMF district. Section 19-2-230 outlines the district standards. The development is consistent with the Chapter 19 - Land Development Code regulations including the use, density, setbacks, lot width, lot size, building height, open space, access, parking snow storage, landscaping, revegetation, architecture, trash enclosure, and pedestrian circulation.



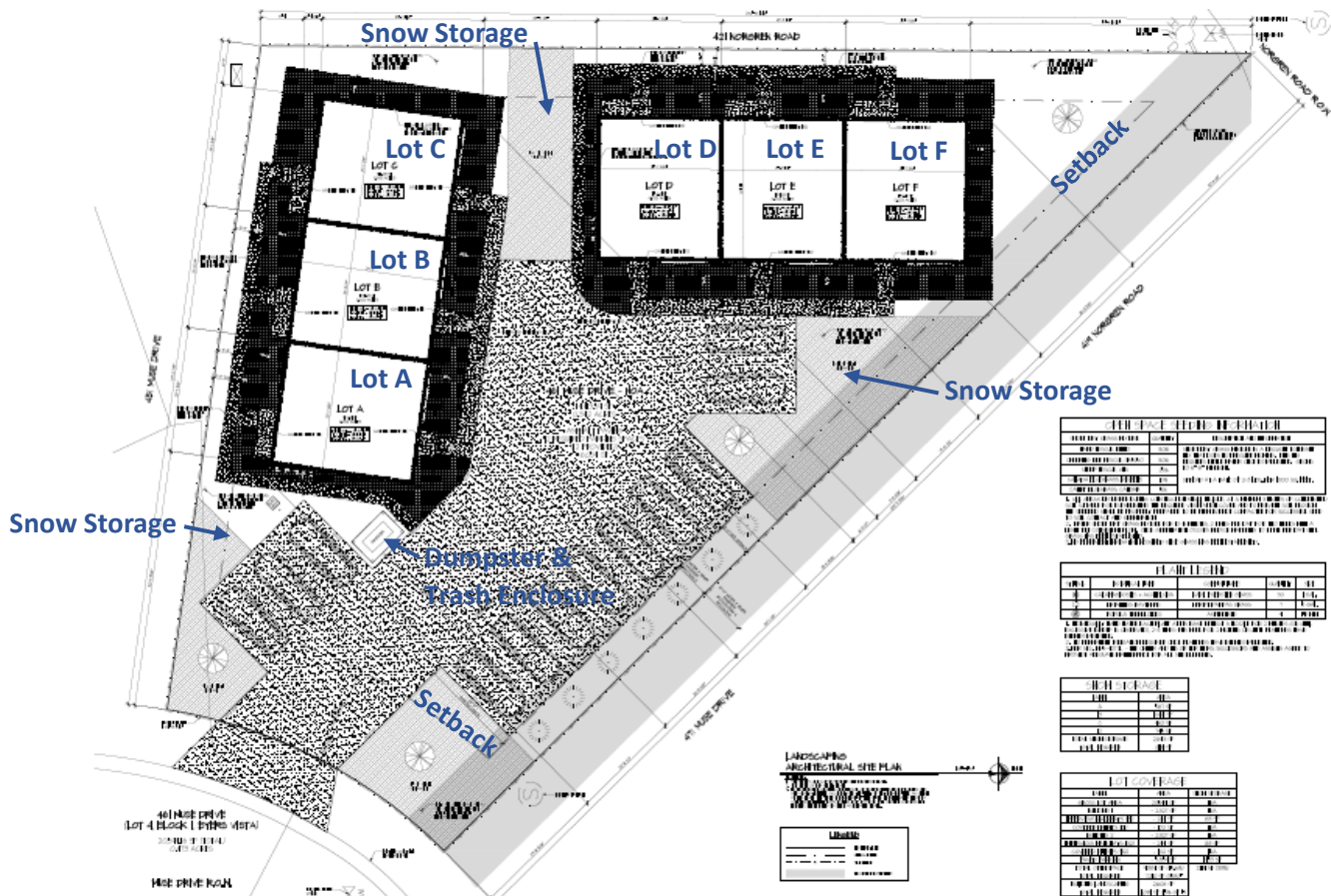
**ZONING MAP**



**REVISED SITE & GRADING PLANS**

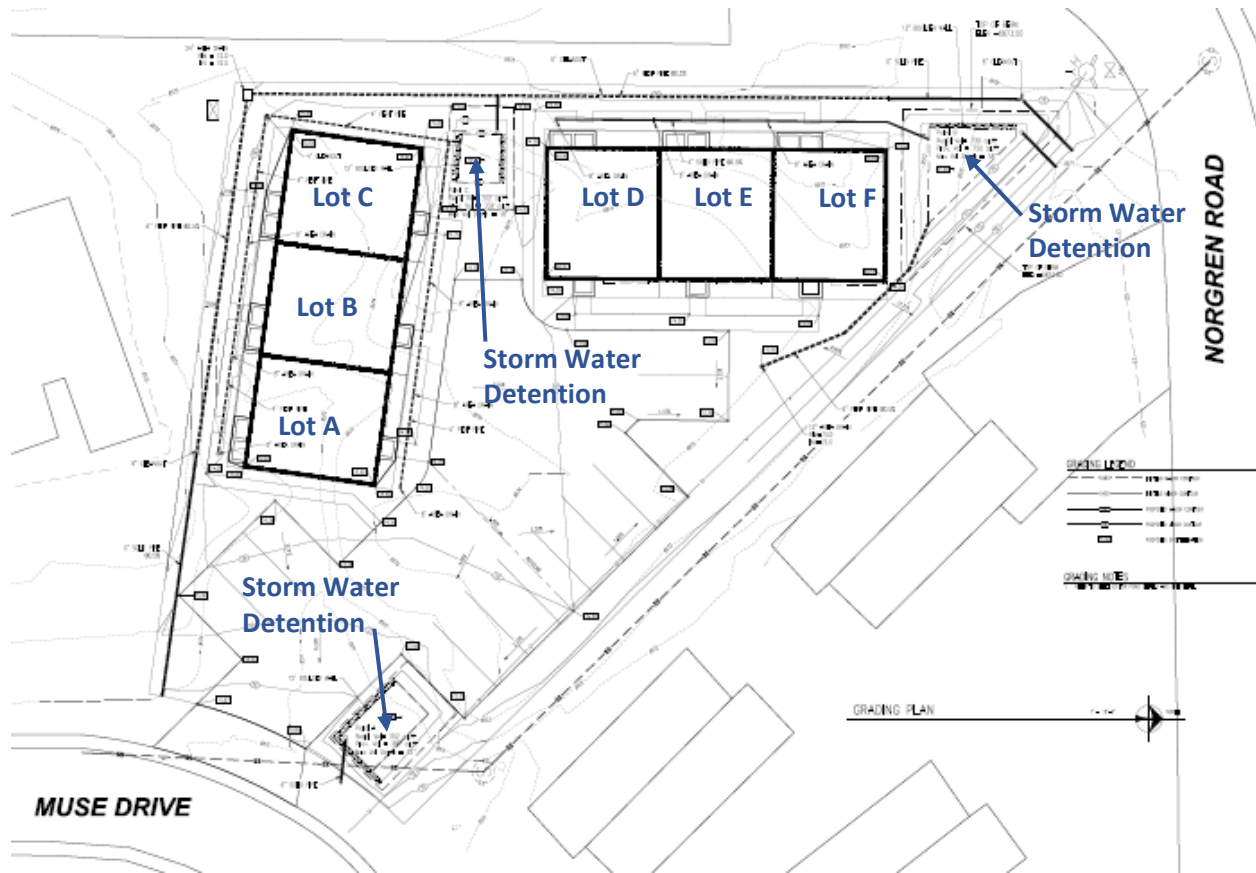
As noted above, there are outstanding items that need to be addressed on the Site Plan and Grading and Drainage Plans, as outlined in the 461 Muse Drive Major Subdivision – 2<sup>nd</sup> Referral Comments memo dated January 20, 2023. Those comments must be addressed prior to Final Plat approval and are listed as a proposed condition of approval.

**SITE PLAN**





**GRADING & DRAINAGE PLAN**



**PROPOSED BUILDING ELEVATIONS**

The proposed building elevations and renderings that were provided with the preliminary application have not changed and are shown below.







**FINAL PLAT REVIEW**

The final plat was submitted in accordance with the checklist provided in the Land Development Code and includes Title Commitment, Geotech Report, final Grading, Drainage and Erosion Control Plans and HOA documents.

Staff reviewed the final plat and included redline comments with the 461 Muse Drive Major Subdivision – 2<sup>nd</sup> Referral Comments memo dated January 20, 2023. These comments and redlines must be addressed prior to final plat approval.

Final plat approval is regulated by the Land Development Code as outlined in the following table.

Sec. 19-3-230 – Final Plat	Comment
<p>a) General. An approved final plat shall be required for all major and minor subdivisions. The purpose of the final plat is to complete the subdivision of land in conformance with the requirements and standards of the Town and all recommendations made at earlier stages of subdivision review.</p> <p>No subdivision shall be approved until such data, surveys, analyses, studies, plans and designs as may be required by these regulations and by the Town Staff, Planning Commission and/or the Board of Trustees have been submitted, reviewed and found to meet all sound planning and engineering requirements of the Town.</p>	<p>The applicant has submitted the 461 Muse Drive Final Plat as part of the major subdivision process. The proposed final plat will subdivide Lot 4, Block 1, Byers Vista into six (6) lots and one (1) tract for the development of two-tri-plex residential buildings and common space to be owned and maintained by an HOA.</p> <p>The required data, surveys, studies and plans as required by the checklist in Appendix 1 of Chapter 19 of the Municipal Code have been submitted and reviewed by Town staff, and have been found to meet the planning and engineering requirements of the Town with the exception of outstanding referral comments as outlined in the 461 Muse Drive Major Subdivision – 2<sup>nd</sup> Referral</p>



	<p>Comments memo dated January 20, 2023. These remaining comments must be addressed prior to the final approval of the final plat and major site plan, and have been included in the conditions of approval.</p> <p>In addition, the proposed restrictive covenants and HOA bylaws submitted must be finalized and recorded with the final plat.</p>
<p>1) For a major subdivision that has received preliminary plat approval, the final plat must be submitted within one (1) year from the date of Planning Commission or Board of Trustees action, as applicable, unless the preliminary plat expiration date had been extended by the approval body.</p>	<p>The final plat was received within one year of the preliminary plat recommendation for approval, and is therefore in compliance with this section of the Code.</p>
<p>2) Approval and recording of the final plat allows sale of lots within the subdivision to proceed; except when the conditions of approval or the subdivision improvements agreement provide otherwise, or in the case of a subdivision of condominiums and/or townhomes, where approval of an as-built plat is the instrument which allows the sales of a subdivision to proceed.</p>	<p>As a townhome subdivision, an as-built plat per the code will be required for the sale of the individual units.</p>
<p><b>Sec. 19-3-410 – Subdivision improvements agreement required</b></p>	<p><b>Comment</b></p>
<p>The subdivision improvements agreement (SIA) is a written contract between the Town and the applicant providing for construction of the required improvements, with collateral security to guarantee completion of such improvements as provided in these regulations. No subdivision plat shall be signed by the Town or recorded in the office of the Grand County Clerk and Recorder, and no building permit shall be issued for any subdivision or development with required improvements, until a SIA between the Town and the applicant has been executed.</p>	<p>A subdivision improvements agreement is required prior to the recordation of the final plat. This has been included in the proposed conditions of approval.</p>
<p><b>19-3-415. - Types of improvements.</b></p>	<p><b>Comment</b></p>
<p>The SIA shall address the following types of improvements unless waived by the Town:</p> <p>3) Public and private drainage. Stormwater detention and water quality facilities,</p>	<p>SIAs are generally required for public improvements, but are also required for private stormwater and detention facilities.</p>



<p>drainage ditches, flood prevention and flood mitigation improvements.</p>	<p>There are no public improvements proposed with this development, however, an SIA will be required for the proposed private stormwater and detention facilities. This has been included in the proposed conditions of approval.</p>
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**LAND DEDICATIONS/FEES IN LIEU OF LAND DEDICATION**

Section 19-3-310, establishes regulations for the subdivision of residential lands which requires land dedications or, at the discretion of the Town, a fee in lieu of land dedication for schools and parks.

- Land dedications for schools: Either 0.138 acres per multi-family dwelling unit or cash equivalent based on market value per acre.
- Land dedications for parks: Either 5% of the total area of land to be subdivided or 5% of market value.

Land dedications are not proposed with this development. Fees in lieu of land dedication will be due prior to Final Plat approval and recordation.

**SUMMARY**

The applicant and property owner, Michael Ziehler, has submitted a complete application for the review of a final plat for the development of two tri-plex residential buildings at 461 Muse Drive. The application is in compliance with the land development code with the exceptions outlined in this report and as listed as recommended conditions of approval.

**REQUEST:** Approval of a Final Plat for the development of two tri-plex residential buildings at 461 Muse Drive.

**RECOMMENDATION:** Staff recommends APPROVAL subject to the following conditions:

**CONDITIONS:**

1. Prior to Final Plat and Major Site Plan approval, the Applicant shall address all comments and redlines outlined in the 461 Muse Drive Major Subdivision – 2<sup>nd</sup> Referral Comments memo dated January 20, 2023 and revise and resubmit all documents accordingly.
2. Prior to Final Plat approval and recordation, the Applicant shall execute an approved subdivision improvement agreement and provide the appropriate security.
3. Prior to Final Plat approval and recordation, the Applicant shall pay fees in lieu of park and school land dedications.
4. Prior to Final Plat recordation, the Applicant shall provide the Town with the following items as outlined in the Major Subdivision Final Plat Checklist:



- a. Proof of filing the applicable articles of incorporation with the Secretary of State and the executed originals of all legal documents, including a final executed SIA and any required collateral.
  - b. Final plat Mylar
  - c. A fourteen (14) inch by eighteen (18) inch black line Mylar for the purpose of incorporating the data into a 911 emergency system, containing the name and subdivision, the section, township and range in which the subdivision is located, all street names, lot numbers, street addressing numbers, and unit numbers (if applicable).
  - d. A digital file of the approved final plat and 911 emergency system drawing in both CAD and PDF format for the Town's Geographic Information System (GIS).
5. Concurrent with Final Plat recordation, the Applicant shall record the subdivision improvements agreement as well as the HOA declaration, restrictive covenants, and bylaws.

Attachments:

- 01a November 23, 2022 PC Staff Report
- 01b February 22, 2023 PC Staff Report
- 02a Final Plat Application
- 02b Major Subdivision Final Plat Checklist
- 03 Cover Letter
- 04 Final Plat - Final Submittal
- 05a Site Plan Set
- 05b Grading Plan
- 05c Pond Details
- 05d Materials Board
- 06 Geotech Report
- 07 Drainage Report
- 08a HOA Declaration
- 08b HOA Articles of Incorporation
- 08c HOA Bylaws
- 09 Statement of Owners of Mineral Rights
- 10 List of Properties within 200 feet
- 11 Proof of Public Notice
- 12 461 Muse Dr Major Subd 2nd Referral Comments
- 13 Letter from Jane Mather and Mountain View Townhomes III HOA owners