



May 16, 2023

Town of Fraser
153 Fraser Avenue
Fraser, CO 80442
Attn: Planning Dept

RE: ELK CREEK CONDOS 4W.1 FINAL PD PLAN AND FINAL PLAT 2ND REFERRAL COMMENTS

On behalf of Grand Park Development, Terracina Design has reviewed the comments dated May 1, 2023. The following is a response to comments to Baselines FPDP review, Merrick & Company's Elk Creek PA 4W.1 Drainage Review, Merrick & Company's Elk Creek PA 4W.1 Utility Review and Elk Creek PA 4W.1 FPDP Plat Submittal Review. **RESPONSES are in bold.**

WILL CHARLES- BASELINE

Conditions of Preliminary Plat and Planned Development Plan Approval – Resolution 2022-03-01
Adopted on March 23, 2022

1. Address drainage and utility engineering comments provided by Merrick & Company and revise documents accordingly. CORRECTIONS NEEDED.

RESPONSE: See responses to comments on pages 2-4 of this letter.

2. Address review comments in Whitmer Law Firm memo dated 3-15-2022 and revise documents accordingly. CORRECTIONS NEEDED.

RESPONSE: See responses on pages 4-6 of this letter.

3. Specify width of proposed ROW on plat. RESOLVED.
4. Fraser should require additional ROW for the existing Johns Drive in conjunction with this development application to match the 60' ROW that is being proposed. RESOLVED.
5. Revise note to say 4W has 16 units remaining, not 46. Add additional remaining unit language to Final Plan AND Final Plat notes regarding density transfer. RESOLVED.
6. On Final Plan note #2, delete "130 permitted including 30% transfer (This may be determined in the future). RESOLVED.
7. Revise site data charts accordingly to equal a total of 46 units per the requested density transfer and add site data charts to Final Plat. RESOLVED.
8. Clarify reference to conservation easement on Sheet 3 and 4 of 11 of the Final Plan. RESOLVED.
9. Reference to development permit in the title should be deleted and replaced with Site Plan per code. RESOLVED.
10. Applicant must secure CDOT Utility Permit for US 40 sewer crossing prior to recording the final plat. RESOLVED.
11. Applicant shall resubmit for review and approval all final plat and final plan & site plan documents. This development application shall be scheduled for Planning Commission once these conditions have been addressed. CORRECTIONS NEEDED.

RESPONSE: All technical corrections have been made per the following responses.

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Comments:

1. Per your email request, this application can be taken before the Planning Commission. All outstanding staff comments will likely be recommended as conditions to be corrected prior to going before the Board of Trustees.

RESPONSE: The documents will be re-submitted, however there are outstanding comments that will need to be resolved at the Board of Trustee meeting.

JEANNE BOYLE – MERRICK & COMPANY – DRAINAGE REVIEW

Drainage Report

1. As previously commented, the Proposed Drainage Plan shows that portions of the Existing Storm Drainage Pipe Extension, Temporary Diversion Ditch, and Temporary Sediment Pond are not located on property owned by Grand Park Development, LLC or within recorded drainage easements. It was stated in the response letter that a letter granting access and allowing for the temporary drainage improvements was provided. However, this letter does not appear to have been included in the submittal information that we received. A relocatable access easement agreement was provided, but the above drainage improvements are not included in the area described by the legal description.

RESPONSE: The property is owned by the same development group. Writing a letter allowing yourself access seems unnecessary.

JULIE KOEHLER – MERRICK & COMPANY – UTILITY REVIEW

Final Construction Plans

Sheet 3 of 34. Overall Site Plan:

1. Asphalt sawcut and paving at intersection of new Johns Drive and old Johns Drive. Minimize patchwork of asphalt at utility connections by providing asphalt sawcuts perpendicular to vehicle traffic and provide uniform paving in the intersection.

RESPONSE: Sawcut has been updated so that it is perpendicular to vehicle traffic.

Sheet 6 of 34. Overall Utility Plan:

1. Verify that all sewer and water have a minimum horizontal separation of 10' from outside to outside of pipe per state regulations and Town of Fraser design std. sec. 14-3-340.a.4. Sanitary sewer stub to the north of Johns Drive and fire hydrant lateral are 10' from center to center of pipe.

RESPONSE: The distance between sewer and water pipes has been verified. All sewer and water pipes have 10' of separation from outside to outside of pipe.

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2. Several existing utility callouts state "TO ME REMOVED", change to "TO BE REMOVED".

RESPONSE: Comment has been addressed.

Sheet 7 of 34. Utility Plan (1 of 2):

1. Move valve outside of concrete curb on the fire hydrant lateral in front of BLDG K.
RESPONSE: Comment has been addressed.
2. Several existing utility callouts state "TO ME REMOVED", change to "TO BE REMOVED".
RESPONSE: Comment has been addressed.

Sheet 8 of 34. Utility Plan (2 of 2):

1. Move valve outside of concrete curb on the fire hydrant lateral in front of BLDG K.
RESPONSE: Comment has been addressed.
2. Move valve into pavement area on the fire hydrant lateral in near of GARAGE A.
RESPONSE: Comment has been addressed.
3. Correct leaders in a few areas on this sheet.
RESPONSE: Comment has been addressed.
4. Previous submittal had gate valve on fire hydrant lateral near GARAGE D. Add back into plan set.
RESPONSE: Comment has been addressed.

Sheet 15 of 34. Sanitary Plan and Profile:

1. Sanitary sewer stub north of Johns Drive does not have information provided. Provide sanitary sewer profile, pipe design information, plug elevation and water line crossing shown.
RESPONSE: Sanitary stub has been added to the plan and profile sheets.
2. STRC-13 does not have invert information of sewer stub from the north in the profile. Provide invert elevation.
RESPONSE: Sanitary stub has been added to the plan and profile sheets.
3. Sanitary sewer profile does not show 6" DIP fire hydrant laterals or 6" water line service to the buildings. There appears to be utility pipe conflicts that need to be addressed with 18" clearance per Town of Fraser standard detail A-23.
RESPONSE: All laterals have been added to the water and sanitary profile sheets.
4. Remove duplicate Utility Note that is overwriting Legend information.
RESPONSE: Comment has been addressed.

Sheet 16 of 34. Water Plan and Profile (1 of 2):

1. Show sanitary sewer stub pipe crossing north of Johns Drive in the water line profile with 18" clearance per Town of Fraser standard detail A-23.

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RESPONSE: All laterals have been added to the water and sanitary profile sheets.

2. Fix overlapping text on utility callouts.

RESPONSE: Comment has been addressed.

Sheet 17 of 34. Water Plan and Profile (2 of 2):

1. Verify that 6" sanitary sewer service to BLDG H does not conflict with 8" water line with 18" clearance per Town of Fraser standard detail A-23.s

RESPONSE: All laterals have been added to the water and sanitary profile sheets.

Engineers Opinion of Estimated Cost

1. Unit costs have been adjusted per recent Town of Fraser capital improvement projects as well as other recent development projects near the Town of Fraser.

RESPONSE: We will not be adjusting the estimate as we do not agree with the unit prices provided by Merrick. The costs provided in the estimate reflect the pricing that Grand Park Development is seeing for the installation of new infrastructure. The prices in the Town of Fraser capital improvement projects reflect replacement costs which are higher than new installation.

2. The Water Subtotal was not included in the Phase 1 Subtotal. Review the spreadsheet to make sure calculations are correct.

RESPONSE: Water subtotal has been added to the cost estimate.

KENT WHITMER – WHITMER LAW FIRM

In connection with the third submittal for the Elk Creek Condos, we have reviewed Terracina responses to our previous comments and have updated the below comments accordingly in red. As before, **Applicant would like to discuss all of our comments directly with the Board.**

1. COMMENT: The Town is aware of a *lis pendens* recorded December 7, 2021 at Reception No. 2021013626 encumbering some of the site, which overlaps a portion of the southwest side of the submitted development. This *lis pendens* is not included in the submitted title commitment. The *lis pendens* should be listed on the title work and should be released as to the proposed development as a condition of final approval.

RESPONSE: The Elk Creek conservation easement boundaries are clearly depicted on the Land Use Plan (Sheet 6 of 11) of the Grand Park Planned Development District Plan ("PDDP"). In the summer of 2015, as part of the review of the Final Plan and Final Plats for Planning Area 5W, situate immediately west of and adjacent to the Elk Creek conservation easement area, the Town Board authorized the Town Manager and Town Attorney to finalize a conservation easement and secure execution and recordation of same. There was a disagreement between Fraser and Cornerstone at that time with respect to whether grant of the Elk Creek conservation easement fulfilled all of Cornerstone's conservation easement requirements under the Annexation Agreement and despite the exchange of several drafts, the easement agreement was not finalized at that time. The Town Attorney also wanted a surveyed legal description for the easement prepared. Michael Kervin, PLS with David Evans and Associates, prepared a detailed legal description of the 17.72 acre conservation easement (riparian area of Elk Creek) containing over 700 separate calls. When the conservation easement was

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executed and recorded in March, 2020, there was no objection to the surveyed legal description. Similarly, there was no objection to the legal description in October, 2020 when the Town attempted to unilaterally revoke the easement or at any time prior to its recordation of a lis pendens in March, 2022 containing a legal description prepared by Tim Shenk. The error in Mr. Shenk's description as it pertains to the boundary of the easement adjacent to PA 4W, Elk Creek Condos Phase 2 could not be more obvious. Mr. Shenk shows that easement boundary as a single straight line over 973 feet long, whereas the PDDP depicts a very meandering boundary that includes over 125 calls and distances per the Kervin survey and legal description. In short, the Town's lis pendens incorrectly describes the Elk Creek conservation easement area and Town representatives have acknowledged the same in the recent discussions directed toward settling the pending litigation. Approval of Elk Creek Condos Phase 2 cannot be held hostage to a lis pendens containing a clearly erroneous legal description.

COMMENT: It also appears that the southwest portion of the development lies outside of Planning Area 4W.1 and arguably encroaches into an area contemplated to be included in the Elk Creek conservation easement, which is currently the subject of litigation between the applicant and the Town. While the location of development within Planning Area 4W.1 is malleable, it should occur within the boundaries of the Planning Area. With a portion of the submitted development clearly lying outside of Planning Area 4W.1, the Board of Trustees will need to agree to this proposed configuration. **No additional comment.**

RESPONSE: Section 4.3 of the annexation agreement clearly states that the number of units is the controlling factor and the planning area acreages and boundaries may change to accommodate the density.

COMMENT: Under Code § 19-3-230(d), "The final plat shall include a plat note, in form approved by the Town Attorney, which advises purchasers and owners of any lot, parcel or tract shown thereon that, while building permits may be issued prior to final completion of subdivision improvements, no certificate of occupancy may be issued for a structure on any lot, parcel or tract until all such improvements, as required by the SIA, have been completed and preliminarily accepted by the Town pursuant to Section 19-3-445." Plat Note 13 must reference the SIA because the SIA guarantees improvements included on the FPDP. We recommend that Note 13 be amended so that its last sentence states "THE PARKING, SNOW STORAGE, DRAINAGE, LANDSCAPING, AND OTHER IMPROVEMENTS INCLUDED IN EACH APPROVED BUILDING PERMIT APPLICATION OR IN THE SIA SHALL BE COMPLETED AND PRELIMINARILY ACCEPTED BY THE TOWN IN ACCORDANCE WITH TOWN CODE SECTION 19-3-445 PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY FOR EACH BUILDING AND SHALL BE DELINEATED ON THE AS- BUILT CONDOMINIUM MAP AS MORE PARTICULARLY DESCRIBED IN PLAT NOTE 14."

Terracina's response says that the above comments was addressed, but no new plat was submitted. We therefore have the same comment as above.

RESPONSE: The note will be revised.

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2. COMMENT: The submitted Subdivision Improvements Agreement Exhibit C (Improvement Schedule) does not include a sufficient timeline to comply with the SIA, which states at Paragraph 3.1: Subdivider shall construct the Improvements in strict accordance with the schedule described on the attached Exhibit C. Any failure by Subdivider to commence or complete the construction of the Improvements in strict compliance with the schedule established in Exhibit C shall constitute a default by Subdivider and shall entitle the Town to proceed in accordance with the provisions of Section 15 of this SIA. Applicant providing an *anticipated* completion date will not allow for "strict compliance" with the required schedule and is therefore inadequate.

In addition to the above comment, we refer applicant to TC Sec. 19-3-430. Time for completion, which states:

"The time allowed for the completion of required improvements shall be as provided in the SIA; or, if no time for completion is specified in the SIA for some or all required improvements, such improvements shall be completed within two (2) years from the recording date of the final plat or issuance of the development permit, whichever is applicable. The Board of Trustees may extend such time for completion upon request from the applicant, for good cause shown."

RESPONSE: Noted. The applicant will comply with Sec 19-3-430.