

**EXHIBIT I, Ordinance 989**



**Planned Development Agreement**

**Pagosa Views Planned Development**

This Planned Development Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the Town of Pagosa Springs, a municipal corporation (hereinafter referred to as “Town”), and Hwy 160 PS Partners (hereinafter referred to as “Developer”), collectively referred to herein as “Parties”.

WHEREAS, Developer is the owner and developer of certain property within the Town limits more specifically described in Exhibit A (“Property”); and

WHEREAS, the Final Planned Development (“PD”) multi-phased Concept Plan as set forth in Exhibit B (“Project”), incorporated herein by reference, and has sought approval to develop this Property as a Planned Development containing residential, lodging and mixed use district commercial uses; and

WHEREAS, said Planned Development proposal has been received and approved in accordance with the Town of Pagosa Springs Planned Development regulations, as adopted in the Town of Pagosa Springs Municipal Code (“Code” or “P.S.M.C.”) within chapter 21 (“Land Use Code”) section 2.4.2.D; and

WHEREAS, section 2.4.2.D.3.a.(i) of the Land Use Code, approval criteria for Planned Developments includes: “the PD addresses a unique situation, confers a substantial benefit to the Town, or incorporates creative site design such that it achieves the purposes of this Land Use Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments”; and

WHEREAS, the Town’s adopted 2018 comprehensive Plan identifies the Property to be rezoned for accommodating higher residential density in close proximity to Town and for inclusion into the Putt Hill Overlay District which supports considerations for preserving the natural environment (mature trees, wetlands and waterways), larger buffer distances from the highway right-of-way with open space dedications, inclusion of a pedestrian/bike commuter trail, and providing a secondary road network; and

WHEREAS, the Town’s adopted Town to Pagosa Lakes Trail Master Plan identifies a non-motorized commuter trail along the Hwy 160 frontage of the subject property; and

WHEREAS, the Access Control Plan adopted by the Colorado Department of Transportation, Archuleta County and the Town identifies the requirement for providing a local road network extension through the subject property and a full movement intersection at 14<sup>th</sup> Street and Hwy 160; and

WHEREAS, the Town Council adopted 2022-2023 Goals and Objectives identifies the need to provide “*workforce housing to address current and projected needs by supporting efforts to add more deed-restricted units to local inventory through the public and private sectors*”; and

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WHEREAS, the Developer is required to submit Major Subdivision applications for approval by the Town’s respective boards for each proposed phase of the Project, which will identify required public and private improvements and associated required financial security for such improvements that will be formalized in an executed Development Improvements Agreement between the Developer and the Town prior to commencement of construction of each Project phase; and

WHEREAS, Major Design Review applications and other development applications as determined necessary for each proposed phase of the Project will be required for each Project phase; and

WHEREAS, the Town Council finds and determines that the Pagosa Views Planned Development advances the long range goals, objectives, plans and policies of the Town; is in the best interest of the Town; and will promote the general welfare of the Town.

NOW, THEREFORE, the Parties agree as follows:

1. Development Applications Required. Development applications are required to be submitted to the Town for each Project phase or portion of each phase. The respective Town board or committee will consider the submitted applications, currently anticipated to include at least Major Subdivision applications and Major Design review applications, for consistency with the Land Use Code requirements in effect at the time of submittal and this agreement.

2. Site Development Standards. The following minimum standards shall apply to each Project phase.  
Protection of Natural Resources. A principal feature of this PD is the preservation of natural resources as contemplated in the 2018 Comprehensive Plan and the Putt Hill Overlay District. At the time of the phase one Major Subdivision Application submittals, Developer shall provide the following prepared by a person or firm with the professional expertise and skill set do prepare such.

- a. Tree Preservation Plan: Such plan shall include at least the following considerations:
  - i. Pre Construction:
    - Existing tree inventory map
    - Identification of significant trees to be preserved and trees to be removed
    - Plan for tree protection and installation of protection fencing
    - Building footprint planning considerations
    - Staking of construction footprints under trees
    - Low impact building foundation designs
    - Tree pruning plan
    - Insect control
    - Fire mitigation
    - Best practices for forest health
  - ii. During Construction:
    - Contractor communication and education
    - Protection zones and maintenance of
    - Required root pruning
    - Monitoring tree health
    - Tree care
  - iii. Post Construction:
    - Communication and education for Property residents, owners, and maintenance managers.
    - Maintenance Manual defining protection and tree care

b. Wetlands delineation report and a wetlands and waterway preservation and mitigation plan:

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Such preservation and mitigation plan shall at the very least include a detailed analysis regarding the impacts to the wetlands and waterways contained on the entire Property and an onsite mitigation plan for the consideration by the Town, and any state and/or federal agencies having jurisdiction of such. The Delineation report shall be prepared for any wetlands on the entire Property.

c. Open Space dedication:

Open space shall be dedicated to the public along the Property adjacent to the Hwy 160 corridor to ensure the preservation of a wider buffer area between the Hwy right-of-way and development. This Open Space area shall be at least 5.6 acres in size and can contain the non-motorized commuter trail, wetlands, waterway, landscape areas and vehicular access from Hwy 160 at the 14th Street intersection. Open space dedications shall be formalized in an agreement and included on the initial phase one subdivision plat and dedicated in perpetuity. Additional Open Space dedications shall be considered in other areas on the Property where development is not feasible.

- 3. Access Control Plan and Vehicular Road Improvements. The Project shall provide the Highway intersection improvements and internal local roadway network in compliance with the Access Control Plan adopted by the Colorado Department of Transportation, Archuleta County and the Town, and the adopted Land Use Code. At the time of the phase one Major Subdivision Application submittals, the Developer shall provide a detailed and complete Traffic Study prepared by a Colorado licensed traffic engineer for the phased and build out of the Project. All proposed vehicular road infrastructure improvements shall be approved by the Town and CDOT through separate permitting processes where applicable. Roadway improvements shall occur consistent with the needs of each phase of the Project, and as determined during the Major Subdivision application processes. Town agrees to work with the Developer to vacate the recorded 1937 road easement which no longer provides a benefit to the adopted Access Control Plan.
- 4. Pedestrian Trails. At the time of submittal of the phase one Major Subdivision Application, Developer shall provide a detailed engineered plan for the Town to Pagosa Lakes non-motorized commuter trail (Trail) consistent with the adopted Town to Pagosa Lakes Trail Master plan. The Developer shall construct such portion of the trail as part of the required phase one public improvements. Internal sidewalk/trail connectivity shall be provided throughout the Project and incorporated within each respective Project phase.
- 5. Land Use and Density. The Project’s approved land uses shall contain uses as described in Exhibit D “Land Use Summary”, herein attached, including:
  - a. Residential including but not limited to attached multifamily and detached single family uses with a gross residential density of 8.54 units per acre on the 79 acres Property, not to exceed a total of 675 residential dwelling units on the entire Property. Short Term Vacation Rentals shall be prohibited in all residential units.
  - b. Lodging Establishment uses, however, Short Term Vacation Rentals shall be prohibited in all residential units.
  - c. Mixed Use Corridor district Commercial uses.
  - d. Amenity facilities that may include; pool, pickle ball courts, open space, parks, trails, etc, shall be open to the public. A fee may be charged for amenities other than parks, open space and trails.
- 6. Workforce Housing. The Applicant shall provide a minimum of 10% of the total number of dwelling units, or a total of 68 deed restricted workforce housing units as described in the numbers and types in the Project phases as identified in Exhibit D “Land Use Summary and as described in Exhibit E “Workforce Housing Commitment”, which also includes the required distribution of units according to level of Area Median Income. The Developer shall provide a minimum of 55% of all workforce housing units dedicated as

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ownership units that are deed restricted in perpetuity. For lease units shall be deed restricted for workforce housing units in perpetuity. The terms of such ownership units purchase and sale agreements, ownership and for lease deed restrictions, and qualifications of tenants/owners shall be further reviewed and approved by the Town.

7. Zoning. Zoning designation of Mixed-Use Corridor (MU-C) base zoning with a Planned Development Overlay (OPD) zoning shall be applied to the Property and shall be effective immediately following final adoption of an ordinance rezoning the Property as such. This PD Agreement shall also govern the zoning and permissible uses on the subject land, as shown in Exhibit D, "Land Use Summary".
8. Development and Design Guidelines. Development applications shall comply with the Town's Land Use Code in effect at the time of application and reviewed for compliance by the appropriate Town board or commission as defined therein. Development proposals shall comply with both the Design Standards contained in the Land Use Code, as well as the specific Design Guidelines contained in this Agreement, and when in conflict, the PD Agreement Design Guidelines shall govern.
9. Building Envelopes. Individual units, buildings, or other structures shall be located in designated building envelopes so as to preserve significant trees and viewsheds;
  - a. Building Envelopes shall be established to maintain at least 5-foot perimeter setbacks for a total 10-foot between structures to accommodate utility easements between and along property lines.
  - b. Building Envelopes plans shall show and identify significant trees and viewsheds;
  - c. Building Envelopes shall be shown on all required site plans submitted with Major Subdivision Applications for review by the Town.
10. Private Outdoor Space. All residential dwelling units, both for-lease units and for-sale units, including single-family (detached) and multi-family (attached), shall include substantial private outdoor space so as to provide a private outdoor area for each resident to enjoy, adjacent to or in close proximity to their dwelling unit;
  - a. Private Outdoor Space shall be either a deck, a patio, or a balcony, and may be a combination of one or more of these.
  - b. Private Outdoor Space shall incorporate at least one of the following design features:
    - i. A covered structure such as an awning or pergola
    - ii. Partially enclosed or shielded, or recessed into the building façade
    - iii. A patio or deck large enough to accommodate a dining table with 4 or more chairs
11. Residential Building Height and Mass. Residential Building height may be allowed to exceed the height limitation in the Town's Land Use and Development Code if all the following criteria are met:
  - a. The building or structure is a multi-family (attached) residential building; and
  - b. The height maximum may be 4 stories if the 4th floor (story) of the building does not exceed 55% of the 1st floor Footprint; and
  - c. The Developer has submitted a complete development application and current review fees per the Town's LUDC; and
  - d. Has received approval by the Town staff or Town Planning Commission or Design Review Board for the development application; and
  - e. The overall height of the building does not exceed 50 feet when measured from mid-grade to mid-span of the tallest roof element.
  - f. Building height and mass for all other buildings shall comply with the Town's LUDC.
12. Roof Designs. Roof designs shall apply to all buildings and structures outlined and allowed in the Land Use Summary.

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- a. All sloped roof elements shall either be a gable, hip, or shed roof type.
  - b. All roof pitches shall be at least a 6/12 pitch.
  - c. Roof materials shall include either standing seam metal roofing or composite shingles, or may be a combination of both.
  - d. A Flat roof section may be incorporated into roof designs;
    - i. Flat roof sections shall include adequate slope of a minimum of 1/12, to ensure proper drainage and snow shed.
    - ii. Flat roof sections shall not dominate roof designs and be used as a design element only, not to exceed 30% of the overall width of the roof design.
  - e. For maintenance and safety, roof valleys shall be minimized.
  - f. Protection of pedestrians and vehicles from snow shedding shall be provided.
13. Exterior Siding and Building Materials. Exterior materials and building assembly methods shall be consider fire resistance. Building materials shall include at least three of the following materials on 2 to 4 of the façades, with at least one fenestration (door or window) on all four facades:
- a. Painted brick or natural brick
  - b. Composite siding material
  - c. Cement-board siding material
  - d. Stucco or stone
  - e. Metal not to exceed 35% of the associated façade area.
14. Personal Storage Areas. Secured storage space for all residential dwelling units is considered critical to the success of the development and shall be further governed by the CC&Rs recorded for each property.
- a. Garages. Garages shall be provided for all single-family (detached) residential units 400 sf or greater and shall include additional storage space beyond the one or two 9-foot by 18-foot vehicle parking spaces, to store seasonal items and recreational equipment, etc. Garages may or may not be attached to the dwelling unit.
  - b. Dwelling Unit Storage. Secured storage space shall be provided for every residential dwelling unit, either within the dwelling unit, within the multi-family building or near the multi-family building.
  - c. Storage Area Size: Shall be at least 200 cubic feet to accommodate items such as bicycles, recreational equipment, seasonal equipment, or intermittently used items, etc.
  - d. Outdoor Storage. Outdoor storage of personal items shall not be allowed unless approved by the HOA and, if approved must be shielded by opaque building materials.
15. Setbacks. Building Envelopes shall be established for all lots or buildings, as applicable. Where building envelopes have not been established on property internal to the development, buildings shall maintain at least 5-foot side setbacks, 5-foot rear setbacks, and 15-foot front setbacks. Development along the Hwy 160 corridor shall maintain a minimum setback of 70 feet (TBD) from Highway 160, as a means to maintain the wider buffer contemplated in the 2018 Comprehensive Plan and Putt Hill Overlay District. Where Building Envelopes have not been established, setbacks shall comply with the adopted Land Use and Development Code (LUDC), Chapter 21 of the Pagosa Springs Municipal Code (PSMC) Dimensional Standards, and consistent with the intent of the Comprehensive Plan in effect at the time of Planning or Building permit, whichever comes first.
16. Project Phasing Plan. The Phasing Plan incorporated herein as Exhibit C, is provided as a conceptual phasing plan for the development. Changes to the phasing plan shall be approved by the Town and be reflected on an amended Exhibit D, Land Use Summary approved by the Town.
17. Project Phasing of Public and Private Improvements. The Developer shall submit Major Subdivision development applications to the Town for each phase of the Project, prior to commencing construction on

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such phase. The development applications will be considered for approval from the respective Town boards. After approval of such Final Major Subdivision application for each Project phase, the Developer shall enter into a Development Improvements Agreement (DIA) with the Town that will then formalize the required public and private improvements and required financial security, the responsibilities of the developer, and the completion deadlines of such improvements. After such improvements are inspected, approved, and accepted by the Town, a warranty period shall begin requiring warranty period financial security pursuant to the terms of the DIA.

- 18. Subsequent Subdivision. Subsequent subdivisions within each future phase shall require a Major Subdivision Application process and associated development permit application in effect at the time of development. Each subsequent subdivision shall comply with the LUDC in effect at the time of subdivision and comply with all terms of this PUD Agreement.
- 19. Modifications to Plans and Specifications. Modifications to Public Improvements, plans or specifications that deviate from this Agreement or that cause any development standard, technical specification or regulation adopted by the Town to be compromised, must be approved by the Town. Failure to secure written approval of such changes shall not relieve Developer of the obligation to remove or replace changes not approved. Minor changes that do not cause any development standard, Agreement condition or Town specification to be compromised may be considered administratively by the Town’s Community Development Department.
- 20. Compliance with Town Standards and Policies. The Developer shall, at all times, comply with the requirements of this PUD Agreement, the Pagosa Springs Municipal Code, Land Use Code, technical manuals, ordinances, resolutions and regulations as they relate to land use and development. If the Developer fails to comply with these requirements or secure a required permit prior to construction of any Public or Private Improvement, the Town, without prior notice or hearing, is authorized to issue a stop work order and take any or all of the following actions:
  - a. Delay processing of any pending land development-related application;
  - b. Refuse to issue any land development permit, including but not limited to, right-of-way access, street cut, over-lot grading or building permits, and certificates of occupancy; and
  - c. Issue a citation to the Developer or any contractor or subcontractor for violating requirements of the Pagosa Springs Municipal Code, technical manuals, ordinances, resolutions and regulations related to the required permit.
- 21. Construction Site Maintenance. During construction, Developer shall use proper dust and erosion control and maintain streets and roads in such a manner that they may be reasonably traveled upon. When the Town determines in its sole discretion that dust emanating from the development related to construction activities is unacceptable, it may order construction to cease or abatement measures be taken, and Developer shall comply with such order. The DIA improvements and warranty financial security shall be sufficient to include costs associated with dust mitigation and re-vegetation of areas impacted by such construction. Developer may secure construction areas within the development from the general public during construction, except for necessary local traffic, representatives of the Town and other appropriate jurisdictions on official business, and emergency service providers.
- 22. Notice. Any notice required pursuant to the terms of this Agreement shall be effective if deposited in the United States mail, postage prepaid, addressed to the respective parties at the addresses hereinafter set forth or at such other addresses as a party may designate through written notification to the other party at the address hereinafter set forth. Addresses for notice are as follows:

TOWN: Town of Pagosa Springs  
c/o Community Development Director

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PO Box 1859  
Pagosa Springs, CO 81147

APPLICANT: Hwy 160 PS Partners  
7441 Alameda Blvd NE, Suite B  
Albuquerque, NM 87113

Notice shall be effective three (3) days after notice is deposited in the United States mail, postage prepaid, as hereinabove set forth.

- 18. Amendments. This Agreement may only be amended through an amendment of the Agreement approved by Town Council and recorded with the Archuleta County Clerk and Recorders Office. A written instrument executed by the Parties hereto which shall be appended hereto to become a part hereof. Verbal amendments shall be ineffective for any purpose.
- 19. Severability. Should any term, provision or condition of this Agreement be determined invalid or unenforceable, the invalidity or unenforceability of any other term, provision or condition herein contained, all terms, conditions and provisions herein being independent and severable.
- 20. Binding Agreement. This Agreement shall run with the land described on Exhibit A attached hereto and shall be binding upon the respective parties hereto, their heirs, successors, grantees, personal representatives, and assigns.
- 23. Effective Date. This Agreement shall become effective upon execution and recording of the Ordinance for PD Overlay District zoning and recording of this Agreement for the Pagosa Views Planned Development.

IN WITNESS HEREOF, the Parties have executed this Agreement the day and year first above written.

**TOWN OF PAGOSA SPRINGS:**

**OWNER/DEVELOPER:**

\_\_\_\_\_  
Andrea Phillips, Town Manager

\_\_\_\_\_  
Carl Bommarito, Hwy 160 PS Partners

**ATTEST:**

\_\_\_\_\_  
Phil Williams, Hwy 160 PS Partners

\_\_\_\_\_  
April Hessman, Town Clerk

**List of Exhibits**

- Exhibit A: Property Legal Description
- Exhibit B: Planned Development Concept Plan Site Plan
- Exhibit C: Phasing Plan
- Exhibit D: Land Use Summary Table with Workforce Housing Table
- Exhibit E: Pagosa Views Workforce Housing Commitment

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## **EXHIBIT A**

**- DRAFT - Property Legal Description - DRAFT -**

\* Current description provided for reference.  
Exact Legal description being created as part of the Developers Title Report.

**500 W. U.S. Hwy 160 described as:** That 2.039 acre portion of the "Plat of the Pagosa Springs Elementary School Site Addition to the Town of Pagosa Springs" annexation Plat noted as the "Matthews" along U.S. Hwy 160.

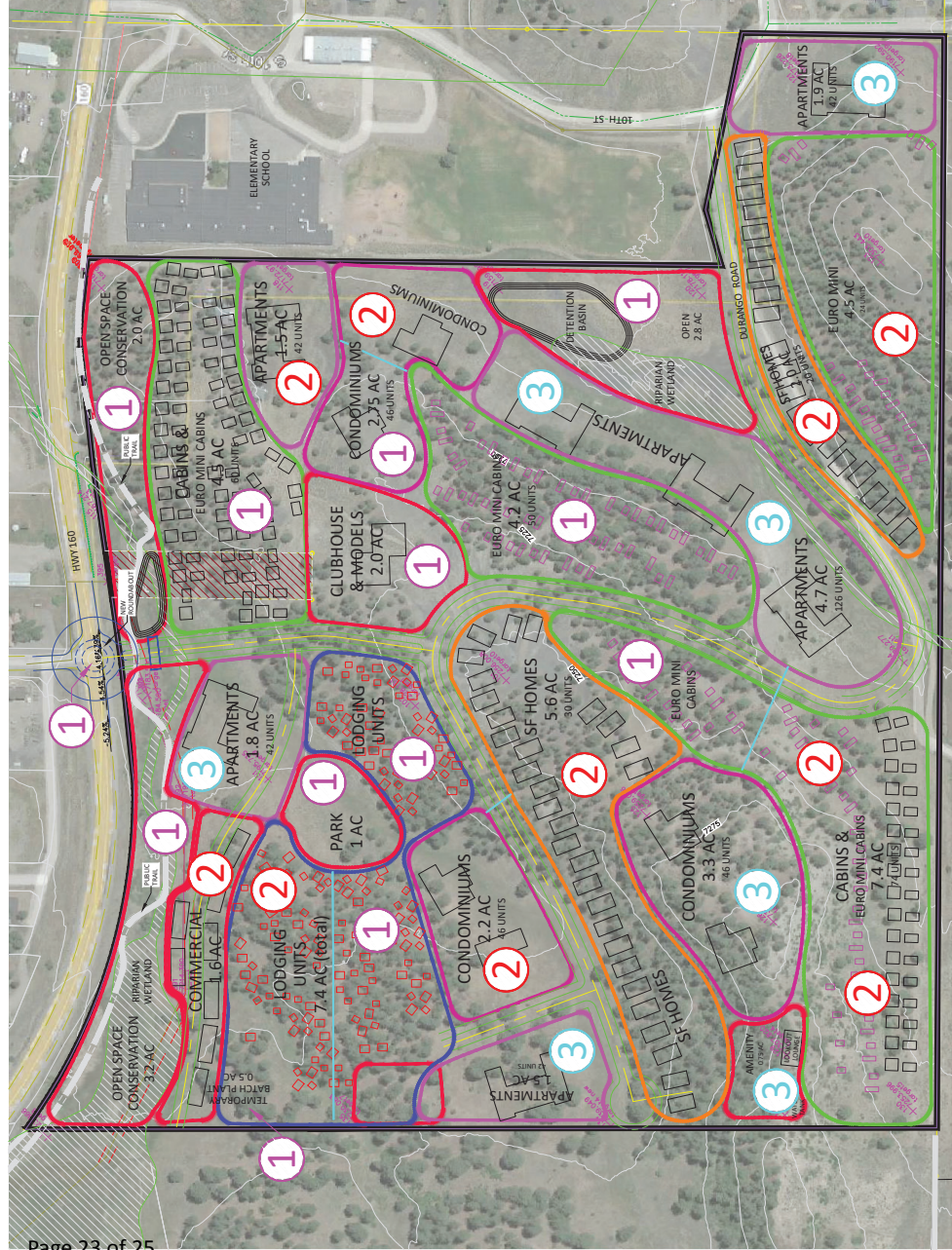
**600 W. U.S. Hwy 160, described as:** The NW corner of the Putman Annexation to the Town of Pagosa Springs, comprising of approximately 78 acres of such property annexation.





**PHASE PLAN  
PAGOSA VIEWS**  
a lifestyle community

**EXHIBIT C**



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**ENCANTO TERRA, LLC**  
CONSULTING ENGINEERS  
455 GLENWOOD DRIVE  
MORNING, CO 80461  
PHONE: (303) 770-2382

**PAGOSA VIEWS**  
ARCHITECT  
COUNTY

**ENGINEER**  
PHILIP C. WILLIAMS, P.E., P.L.S.  
455 GLENWOOD DRIVE  
MORNING, CO 80461  
PHONE: (303) 770-2382  
CONTACT: PHIL WILLIAMS, P.E., P.L.S.  
EMAIL: PHILLIAMS@ENCANTOTERRA.COM

**FLOOD PLAIN**  
FLOOD ZONE: X (100 YEAR FLOOD) MAP NO. 0505001A  
PROFESSIONAL ENGINEER REG. NO. 100000001

**SITE INFORMATION**  
ADDRESS: 6000 W. US HWY 160  
PAGOSA SPRINGS, CO  
PARCEL AER: 79AC  
ZONING: R-100  
ZONING CODE BY: LOCAL TRANSITION

**TRAIL SYSTEM:**  
A 1.0 WIDE PAVED TRAIL SYSTEM WILL RUN FROM EAST TO WEST THROUGH THE CENTER OF THE TRAIL. TRAIL WIDTHS WILL BE DETERMINED FOR FUTURE ACCESS.

**LEGEND**  
① PHASE 1  
② PHASE 2  
③ PHASE 3

**VICINITY MAP**  
TERRA, LLC (N. 453)

**REVISIONS**

NO.	DATE	DESCRIPTION
1	12/20/2023	ISSUED FOR PERMIT
2	01/10/2024	REVISED PER COMMENTS

**PHASE PLAN**  
SHEET NO. 1/1

SCALE: 1" = 100'

100 0 100 200  
FEET

EXHIBIT D Pagosa Views Land Use Summary

Description	Phases			Total
	One	Two	Three	
	2023-2025	2026-2028	2029-2031	
Apartments: (6) 42-unit Buildings	0	42	210	252
<i>Apartment Breakdown: Market Rate</i>				
		36	182	
<i>Workforce Apartments</i>				
		10	21	
Condominiums: (6) 23-Unit Buildings	18	69	46	133
Workforce Condo's	7	4	0	
Large Single Family Homes	0	48	12	60
Cabin-homes: Single Family	59	39	0	98
Euro-Mini Cabins	80	52	0	132
<i>1 Toilet, 1 Shower, 2 Sinks in each</i>				
Workforce mini-cabins	17	10	1	
Lodging Business: (144 nightly rental Units)	60	64	20	
<i>1 Toilet, 1 Shower, 1 Sink per Unit, no kitchens</i>				
Equivalent Units (EU)	72			72
Equivalent Units				<b>747</b>

Land Use Breakdown	Acres
Preservation / Trails/ Open Space	9.10
Circulation and Roadways	19.70
Clubhouse and Amenities	2.75
Apartments	10.90
Condominiums and Townhomes	9.15
Various Cabins	20.40
Lodging Business	8.00
<b>Total Acres</b>	<b>80.00</b>

**EXHIBIT E**

**Pagosa Views: Workforce Housing Commitment**

As the developers of the Pagosa Views mixed-use development we are committed to making Pagosa Springs a more affordable place to live, work and raise a family. That is why we are prepared to integrate “workforce housing” into our entire residential development project. Ten percent of the dwellings sold and leased will qualify as workforce housing as per the 2021-2022 Town of Pagosa Springs written guidelines. The Pagosa Views “Land Use Summary” which has been provided to Town’s planning department and the Town’s Water District outlines how the project is being built in 3 phases. Workforce rental and for-sale dwellings will be included in all 3 phases, beginning in 2024 when the project will be opening for business. All workforce housing dwellings will be the same size and materials as the “market rate” dwellings and integrated into and throughout the entire development. We commit to work in a spirit of cooperation with Town officials to identify and select those residents of Pagosa Springs that are qualified to participate in this program. This public/private sector partnership shall be ongoing through the completion of the project and beyond. Thus, once the developer has completed the project and turns the completed community over to the master HOA, the master HOA shall continue management and oversight of the workforce housing. The delivery schedule of housing units is as follows:

**PHASE-ONE (2023-2025)**

- (7) WF Condo Units (for-sale)
- (17) WF Euro mini-Cabins (for-sale)

**PHASE-TWO (2026-2028)**

- (10) WF Apartment Units (for rent)
- (4) WF Condo units (for-sale)
- (10) WF Euro mini-Cabins (for-sale)

**PHASE-THREE (2029-2031)**

- (21) WF Apartment Units (for rent)
- (1) WF Euro mini-Cabins (for-sale)

Workforce Housing shall be distributed in the various AMI income categories:

- AMI segment of 40-60%.....26%
- AMI segment of 60-80%.....26%
- AMI segment of 80-100%.....26%
- AMI segment of 100-120%.....22%