

AGENDA

Planning and Zoning Commission

March 4, 2020 – REGULAR MEETING

5:30 PM

The New Business items have been placed on the agenda in the order they were received. Please note that at 9:00 p.m., the Commission will evaluate the remainder of the agenda to determine if time constraints will permit the full agenda to be heard at this meeting. All items not heard at this meeting will be postponed to the next regularly scheduled PC/BOA meeting of March 18, 2020 or to a special meeting scheduled by the Commission.

NOTICE: THE VIDEO AND AUDIO FOR THIS MEETING ARE STREAMED TO THE PUBLIC VIA THE INTERNET AND MOBILE DEVICES WITH VIEWS THAT ENCOMPASS ALL AREAS, PARTICIPANTS AND AUDIENCE MEMBERS

PLEASE SILENCE ALL ELECTRONIC DEVICES DURING THE MEETING

1. CALL TO ORDER
2. ROLL CALL
3. MATTERS FROM THE PUBLIC
4. APPROVAL OF MINUTES
5. OLD BUSINESS
6. NEW BUSINESS
 - I. Carl Pelletier will take the Planning Commissioners picture.
7. BOARD OF ADJUSTMENT
8. PLANNING COMMISSION
 - I. **ITEM P19-187:** AMENDMENT TO SECTION 8.10 DUTIES AND RESPONSIBILITIES IN THE LAND DEVELOPMENT REGULATIONS
 - II. **ITEM P19-262:** AMENDMENT TO THE FINAL (MAJOR) DEVELOPMENT PLAN FOR PINE GLADES PLANNED UNIT DEVELOPMENT (PUD)
9. MATTERS FROM THE COMMISSION
10. AGENDA FOLLOWUP
11. MATTERS FROM STAFF
12. ADJOURNMENT



TOWN OF JACKSON PLANNING COMMISSION AGENDA DOCUMENTATION

PREPARATION DATE: February 28, 2020 **SUBMITTING DEPARTMENT:** Planning
MEETING DATE: March 4, 2020 **DEPARTMENT DIRECTOR:** Tyler Sinclair
PRESENTER: Tyler Sinclair

SUBJECT: **ITEM P19-187:** Amendment to the text of the Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to revise portions of Division 8.1 Duties and Responsibilities and other related sections to update Section 8.10.1 Planning Director and to add the position of Community Development Director with related duties and responsibilities.

APPLICANT: Town of Jackson

REQUESTED ACTION

To amend Section 8.10 Duties and Responsibilities of the Town of Jackson Land Development Regulations (LDRs) to modify and update Section 8.10.1 Planning Director and to add the position of Community Development Director with related duties and responsibilities

APPLICABLE REGULATIONS

Sec. 8.7.1. LDR Text Amendment

BACKGROUND

With the creation of the Community Development Director for the Town of Jackson it is necessary to amend the LDRs to articulate the duties and responsibilities for Planning Director and Community Development Director positions.

LOCATION

The amendments apply Town-wide.

PROJECT DESCRIPTION

The Community Development position was created by the Town to allow the Town the opportunity to focus more on long range planning and strategic planning not only in the Planning Department but more importantly across the entire organization. Specifically, there are many portions of the Comprehensive Plan that are not only a land use issue but rely on all aspects of Town government to ensure their implementation including housing, transportation, core services, budgeting and community education and outreach. Regarding the LDRs the Community Development Director will be responsible for the following three (3) areas with the majority of the duties remaining with the Planning Director:

1. *To initiate or review, consider, and recommend to the Town Council a decision on the following legislative applications:*
 - a) *LDR text amendments pursuant to Sec. 8.7.1.,*
 - b) *Zoning Map amendment pursuant to Sec. 8.7.2.,*
 - c) *Planned Unit Development pursuant to Sec. 8.7.3.;*
2. *To review the effectiveness of these LDRs and the Official Zoning Map in implementing the Comprehensive Plan; and*
3. *To lead and provide recommendations to the Town Council on strategic, long range planning efforts on behalf of the Town including by not limited to the Comprehensive Plan, Integrated Transportation Plan, Housing Action Plan, etc.*

These three duties have been assigned to the Community Development Director as they are legislative policy decisions related to implementation of the Comprehensive Plan. All other duties will remain the sole responsibility of the Planning Director.

Please see the attached Division 8.10 Duties and Responsibilities revised in a track changed version and a table indicating other LDR sections that require updating as a result of adding the Community Development Director.

STAFF ANALYSIS

The issue and the related rationale for the proposed change is provided in the attached table.

STAKEHOLDER ANALYSIS

To date no public comment has been received on this application.

STAFF FINDINGS

Pursuant to Section 8.7.1.C of the Town of Jackson Land Development Regulations, the advisability of amending the text of these LDRs is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In deciding to adopt or deny a proposed LDR text amendment the Town Council shall consider factors including, but not limited to, the extent to which the proposed amendment:

1. *Is consistent with the purposes and organization of the LDRs;*

Complies. The purpose of the LDRs is to predictably implement the Comprehensive Plan. The proposed amendment updates portions of the LDRs in order to allow staff and the public to better understand the roles and responsibilities of the Planning Director and Community Development Director.

2. *Improves the consistency of the LDRs with other provisions of the LDRs;*

Complies. The proposed amendment clarifies portions of the LDRs in order to resolve inconsistent text in different parts of the LDRs as it relates to the roles and responsibilities of the Planning Director and Community Development Director.

3. *Provides flexibility for landowners within standards that clearly define desired character;*

N/A

4. *Is necessary to address changing conditions, public necessity, and/or state or federal legislation;*

Complies. The proposed amendment clarifies portions of the LDRs in order respond to the recent creation of a Town Community Development Director specifically as it relates to the roles and responsibilities of the Planning Director and Community Development Director

5. *Improves implementation of the Comprehensive Plan; and*

Complies. The proposed amendment improves the implementation of the Comprehensive Plan by increasing the oversight and personnel responsible for implementation of the Comprehensive Plan.

6. *Is consistent with other adopted Town Ordinances.*

Complies. The proposed amendment does not conflict with any other Town Ordinances.

ATTACHMENTS

1. Division 8.10. Duties and Responsibilities - Revised
2. LDR Text Amendment – Community Development Director (P19-187) – Amendment Table

LEGAL REVIEW

Complete.

RECOMMENDATION

The Planning Director recommends approval of P19-187.

SUGGESTED MOTION

Based upon the findings pursuant to Section 8.7.1.C for an amendment to the text of the Land Development Regulations, as presented by the applicant and by the Commission for Item P19-187, the application: 1) Is consistent with the purposes and organization of the LDRs; 2) Improves the consistency of the LDRs with other provisions of the LDRs; 3) Provides flexibility for landowners within standards that clearly define desired character; 4) Is necessary to address changing conditions, public necessity, and/or state or federal legislation; 5) Improves implementation of the Comprehensive Plan; and 6) Is consistent with other adopted Town Ordinances, I move to recommend **approval** to the Town Council of the requested text amendments subject to this staff report and the departmental reviews attached hereto.

Div. 8.10. Duties and Responsibilities

The following Town bodies and staff shall have the following powers and responsibilities in administering and reviewing applications under the LDRs.

8.10.1. Planning Community Development Director (1/1/15, Ord. 1074)

A. Creation and Appointment

The Community Development~~Planning~~ Director shall ~~be the agency head of the Planning Department and shall~~ be appointed by and serve at the pleasure of the Town Administrator.

B. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Community Development~~Planning~~ Director by other provisions of the Jackson Municipal Code and the Town Council, the Community Development~~Planning~~ Director shall have the following jurisdiction, authorities, and duties under these LDRs:

- ~~1. To administer the pre-submittal requirements of these LDRs pursuant to Sec. 8.2.1. Sec. 8.2.3.;~~
- ~~2. To receive applications under these LDRs pursuant to Sec. 8.2.4. Sec. 8.2.5.;~~
- ~~3. To coordinate review and recommendation under these LDRs pursuant to Sec. 8.2.6. Sec. 8.2.7.;~~
- ~~4. To administer post-decision requirements of these LDRs pursuant to Sec. 8.2.11. Sec. 8.2.13.;~~
- ~~5. To ensure that adequate public notice is provided for public hearings on applications under these LDRs pursuant to Sec. 8.2.14.;~~
- ~~6. To review, consider, and decide the following permit applications:~~
 - ~~a. sign permit pursuant to Sec. 8.3.5.;~~
 - ~~b. basic use permit pursuant to Sec. 8.4.1.;~~
 - ~~c. development option plan pursuant to Sec. 8.5.2.;~~
 - ~~d. exempt land division pursuant to Sec. 8.5.4.; and~~
 - ~~e. administrative adjustment pursuant to Sec. 8.8.1.;~~
- ~~7. To review, consider, and decide the following requests for interpretation:~~
 - ~~a. formal interpretation pursuant to Sec. 8.6.1.; and~~
 - ~~b. zoning compliance verification pursuant to Sec. 8.6.2.;~~
- ~~8. To review consider, and decide on the zoning compliance of the following applications:~~
 - ~~a. building permit pursuant to Sec. 8.3.3. and~~
 - ~~b. grading permit pursuant to Sec. 8.3.4.;~~

~~9. To review, consider, and recommend a decision to the Planning and Zoning Commission and/or Board of Adjustment or Town Council on the following applications:~~

- ~~a. sketch plan pursuant to Sec. 8.3.1.,~~
- ~~b. development plan pursuant to Sec. 8.3.2.,~~
- ~~c. conditional use permit pursuant to Sec. 8.4.2.,~~
- ~~d. special use permit pursuant to Sec. 8.4.3.,~~
- ~~e. subdivision plat pursuant to Sec. 8.5.3., and~~
- ~~f. variance pursuant to Sec. 8.7.2.;~~

1. To initiate or review, consider, and recommend to the Town Council a decision on the following legislative applications:

- a. LDR text amendments pursuant to Sec. 8.7.1.,
- b. Zoning Map amendment pursuant to Sec. 8.7.2.,
- c. Planned Unit Development pursuant to Sec. 8.7.3.;

~~2. To initiate actions to revoke permits where the physical development, use, or development option is not in compliance with the terms and conditions of the permit;~~

~~3. To initiate requests to the Town Attorney to institute proceedings against the violators of these LDRs;~~

~~4. To undertake the day to day administration of the LDRs;~~

~~5. To serve as the Secretary to the Planning and Zoning Commission/Board of Adjustment pursuant to the terms of the LDRs;~~

2. To review the effectiveness of these LDRs and the Official Zoning Map in implementing the Comprehensive Plan; and

~~6.3.~~ To lead and provide recommendations to the Town Council on strategic, long-range planning efforts on behalf of the Town including by not limited to the Comprehensive Plan, Integrated Transportation Plan, Housing Action Plan, etc.

~~To take such other action and perform such other duties as may be provided for in the LDRs.~~

C. Delegation

Any authority or duty of the Community Development Director may be delegated to a professional- level employee of the Community Development Department or Planning Department, unless specified otherwise by these LDRs.

8.10.21. Planning Director (1/1/15, Ord. 1074)

A. Creation and Appointment

The Planning Director shall be the agency head of the Planning Department appointed by and serve at the pleasure of the Town Administrator.

B. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Planning Director by other provisions of the Jackson Municipal Code and the Town Council, the Planning Director shall have the following jurisdiction, authorities, and duties under these LDRs:

1. To administer the pre-submittal requirements of these LDRs pursuant to Sec. 8.2.1.-Sec. 8.2.3.;
2. To receive applications under these LDRs pursuant to Sec. 8.2.4.-Sec. 8.2.5.;
3. To coordinate review and recommendation under these LDRs pursuant to Sec. 8.2.6.-Sec. 8.2.7.;
4. To administer post-decision requirements of these LDRs pursuant to Sec. 8.2.11.-Sec. 8.2.13.;
5. To ensure that adequate public notice is provided for public hearings on applications under these LDRs pursuant to Sec. 8.2.14.;
6. To review, consider, and decide the following permit applications:
 - a. sign permit pursuant to Sec. 8.3.5.,
 - b. basic use permit pursuant to Sec. 8.4.1.,
 - c. development option plan pursuant to Sec. 8.5.2.,
 - d. exempt land division pursuant to Sec. 8.5.4., and
 - e. administrative adjustment pursuant to Sec. 8.8.1.;
7. To review, consider, and decide the following requests for interpretation:
 - a. formal interpretation pursuant to Sec. 8.6.1., and
 - b. zoning compliance verification pursuant to Sec. 8.6.2.;
8. To review consider, and decide on the zoning compliance of the following applications:
 - a. building permit pursuant to Sec. 8.3.3. and
 - b. grading permit pursuant to Sec. 8.3.4.;
9. To review, consider, and recommend a decision to the Planning and Zoning Commission and/or Board of Adjustment or Town Council on the following applications:
 - ~~g-a.~~ sketch plan pursuant to Sec. 8.3.1.,
 - ~~h-b.~~ development plan pursuant to Sec. 8.3.2.,
 - ~~i-c.~~ conditional use permit pursuant to Sec. 8.4.2.,
 - ~~j-d.~~ special use permit pursuant to Sec. 8.4.3.,
 - ~~k-e.~~ subdivision plat pursuant to Sec. 8.5.3., and
 - ~~l-f.~~ variance pursuant to Sec. 8.7.2.;

~~7. To initiate or review, consider, and recommend to the Town Council a decision on the following legislative applications:~~

~~a. LDR text amendments pursuant to Sec. 8.7.1.;~~

~~b. Zoning Map amendment pursuant to Sec. 8.7.2.;~~

~~c. Planned Unit Development pursuant to Sec. 8.7.3.;~~

10. To initiate actions to revoke permits where the physical development, use, or development option is not in compliance with the terms and conditions of the permit;

11. To initiate requests to the Town Attorney to institute proceedings against the violators of these LDRs;

12. To undertake the day to day administration of the LDRs;

13. To serve as the Secretary to the Planning and Zoning Commission/Board of Adjustment pursuant to the terms of the LDRs;

~~14. To review the effectiveness of these LDRs and the Official Zoning Map in implementing the Comprehensive Plan; and~~

~~15.~~14. To take such other action and perform such other duties as may be provided for in the LDRs.

C. Delegation

Any authority or duty of the Planning Director may be delegated to a professional-level employee of the Planning Department, unless specified otherwise by these LDRs.

8.10.32. Plan Review Committee (~~1XX/XX4/XX17~~, Ord. ~~XXX1165~~)

A. Purpose

The purpose of the Plan Review Committee (PRC) is to advise and assist the Planning Director ~~and Community Development Direction~~ in reviewing, making recommendations, and deciding applications by providing technical assistance regarding compliance with the LDRs.

B. Composition

The PRC consists of representatives of federal, state and local agencies who oversee regulations that are related to physical development, use, development options, and subdivision. The exact members of the PRC may vary from application to application, depending on the nature and magnitude of the application. Potential PRC members are listed below, however the Planning Director may alter or expand the list if an application warrants other technical expertise.

1. Town Engineer

~~1-2.~~ County Surveyor

~~2.3.~~ Town Clerk
~~3.4.~~ Building Official
~~4.5.~~ Fire Marshal
~~5.6.~~ Teton Conservation District
~~6.7.~~ Parks and Recreation Department
~~7.8.~~ Pathways Coordinator
~~8.9.~~ START
~~9.10.~~ Jackson Police Department
~~10.11.~~ Sheriff's Department
~~11.12.~~ Integrated Solid Waste and Recycling
~~12.13.~~ Jackson/Teton County Housing Department
~~13.14.~~ Public Works
~~14.15.~~ Teton County Public Health
~~15.16.~~ Teton County Scenic Preserve Trust
~~16.17.~~ Teton County Weed and Pest
~~17.18.~~ Teton County School District
~~18.19.~~ Teton County
~~19.20.~~ Wyoming Department of Game and Fish
~~20.21.~~ Wyoming Department of Transportation
~~21.22.~~ Wyoming Department of Environmental Quality
~~22.23.~~ US Army Corps of Engineers
~~23.24.~~ US Fish and Wildlife Service
~~24.25.~~ National Forest Service
~~25.26.~~ National Park Service

8.10.43. Town Engineer

8.10.54. Design Review Committee

8.10.65. Planning and Zoning Commission

8.10.76. Board of Adjustment

8.10.87. Town Council

8.10.98. Hearing Officer

8.10.109. Town Attorney

In addition to the jurisdiction, authority and duties which may be conferred upon the Town Attorney by law, and the Town Council, the Town Attorney shall have the following authority and duties under the LDRs:

- A. To review and approve as to form all resolutions drafted by the Community Development Director, Planning Director, Planning and Zoning Commission, Board of Adjustment, or Town Council in connection with any requirement of the LDRs;
- B. To review and approve as to form all proposed new regulations or amendments to these LDRs, all Development Agreements, easements, declarations of covenants, letters of credit, performance guarantees or other such documentation in connection with any requirement of the LDRs; and
- C. To advise the Town Administrator, Community Development Director, Planning Director, Planning and Zoning Commission, Board of Adjustment, and/or Town Council in regard to legal issues that may arise during implementation of the LDRs.
- D. To enforce the provisions of the LDRs.

8.10.110. Housing Director

In addition to the jurisdiction, authority, and duties, which may be conferred upon the Jackson/Teton County Affordable Housing Director by other provisions of the Jackson Municipal Code and the Town Council, the Housing Director shall have the following authority and duties under these LDRs:

- A. To advise and provide technical assistance to the Town Administrator, Community Development Director, Planning Director, Planning and Zoning Commission, Board of Adjustment, and Town Council in regard to the housing issues which may arise during implementation of these LDRs; and
- B. To review, consider, and decide the following applications, where the Housing Director or Department is identified as the decision maker:
 - 1. minor deviation pursuant to Sec. 8.2.13.B.2,
 - 2. formal interpretation pursuant to Sec. 8.6.1,
 - 3. zoning compliance verification pursuant to Sec. 8.6.2, and
 - 4. administrative adjustment pursuant to Sec. 8.8.1.



LDR Text Amendment – Community Development Director (P19-187)

Draft: February 26, 2020

	LDR Division Section	Issue and Staff Recommendation	Proposed Amendment
1	8.10	Insert a Community Development Director (CDD) section, stipulating the CDD responsibilities under the Land Development Regulations and to adjust all portion of the Division as applicable	See attached
2	4.3.1	It is the authority of the Community Development Director not the Planning Director to provide recommendation on all Planned Unit Developments pursuant to Sec. 8.7.3	Replace “Planning Director” with “Community Development Director” throughout
3	8.2.4.D & F	As the CDD has authority over some applications of the LDRs, they need to be listed along with the Planning Director in this section	Insert a Community Development Director along with Planning Director
4	8.6.2	As the CDD has authority over some applications of the LDRs, they need to be listed along with the Planning Director in this section	Insert a Community Development Director along with Planning Director
5	8.7.1	It is the authority of the Community Development Director not the Planning Director to provide recommendation on all LDR Text Amendments pursuant to Sec. 8.7.1	Replace “Planning Director” with “Community Development Director” throughout
6	8.7.2	It is the authority of the Community Development Director not the Planning Director to provide recommendation on all Zoning Map Amendments pursuant to Sec. 8.7.2	Replace “Planning Director” with “Community Development Director” throughout
7	8.7.3	It is the authority of the Community Development Director not the Planning Director to provide recommendation on all Planned Units Developments pursuant to Sec. 8.7.3	Replace “Planning Director” with “Community Development Director” throughout
8	8.9	As the CDD has authority over some applications of the LDRs, they need to be listed along with the Planning Director in this section	Insert a Community Development Director along with Planning Director



TOWN OF JACKSON PLANNING COMMISSION AGENDA DOCUMENTATION

PREPARATION DATE: FEBRUARY 28, 2020
MEETING DATE: MARCH 4, 2020

SUBMITTING DEPARTMENT: PLANNING
DEPARTMENT DIRECTOR: PAUL ANTHONY
PRESENTER: TYLER VALENTINE

SUBJECT: **ITEM P19-262:** AMENDMENT TO THE FINAL (MAJOR) DEVELOPMENT PLAN FOR PINE GLADES PLANNED UNIT DEVELOPMENT (PUD).

APPLICANT: BILL COLLINS – COLLINS PLANNING ASSOCIATES

OWNER: PINE CANYON, LLC

STATEMENT/PURPOSE

This item was continued from the Planning Commission meeting on February 5, 2020. At that meeting the Commission indicated that they were leaning toward a recommendation of denial due to potential impacts of the proposed trail on the affordable duplex owners and because the Commissioners were unable to find the applicant's request to be in substantial conformance with past approvals (Development Plan Finding #6). The Commissioners allowed the applicant to continue the item so that the applicant could respond to these concerns. Please refer to the applicant's supplemental attachments and the discussion below under Alternative Public Trail Plan in the Staff Analysis section.

The applicant is requesting approval of an amendment to the approved Final (Major) Development Plan for the Pine Glades Planned Unit Development (PUD), specifically to:

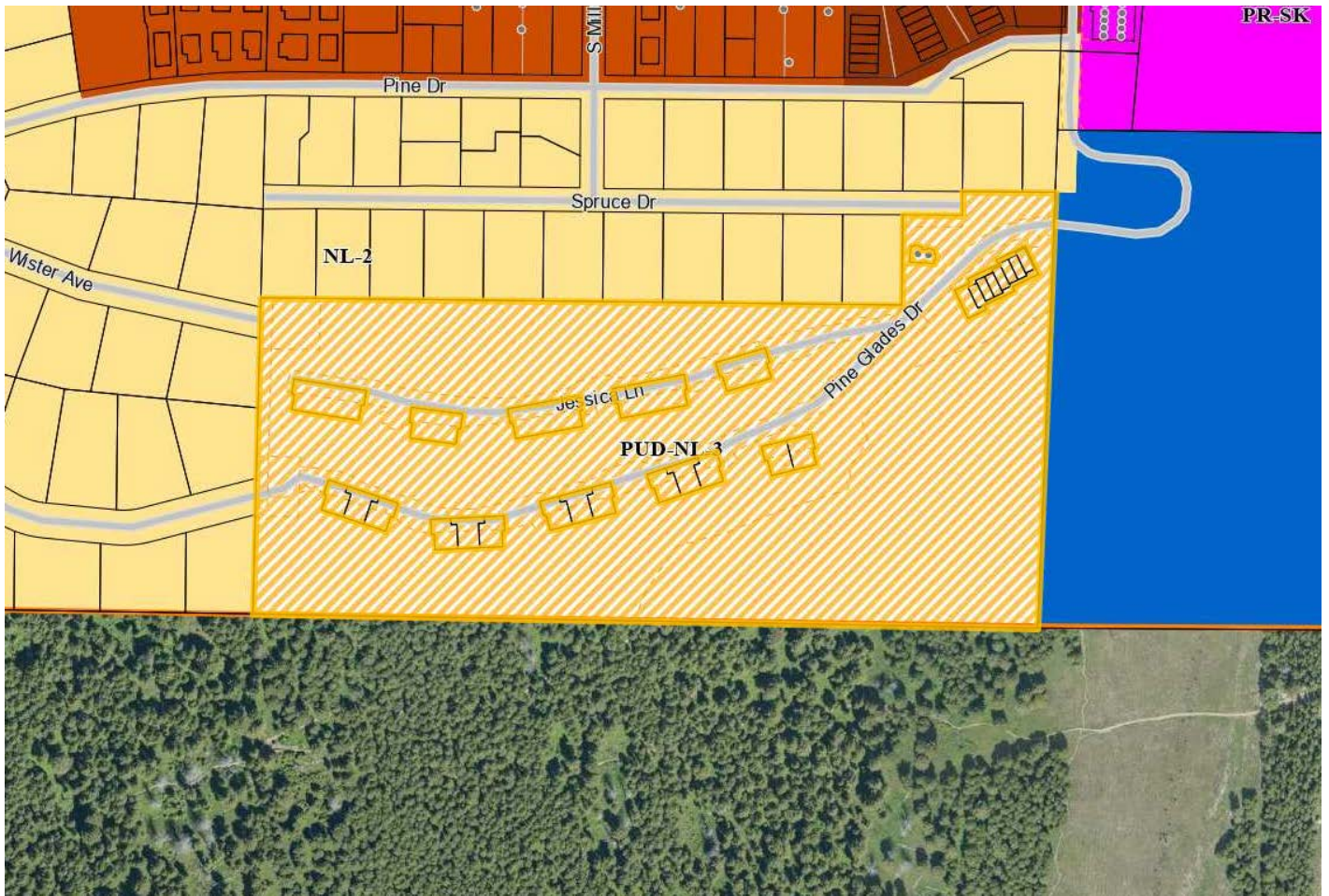
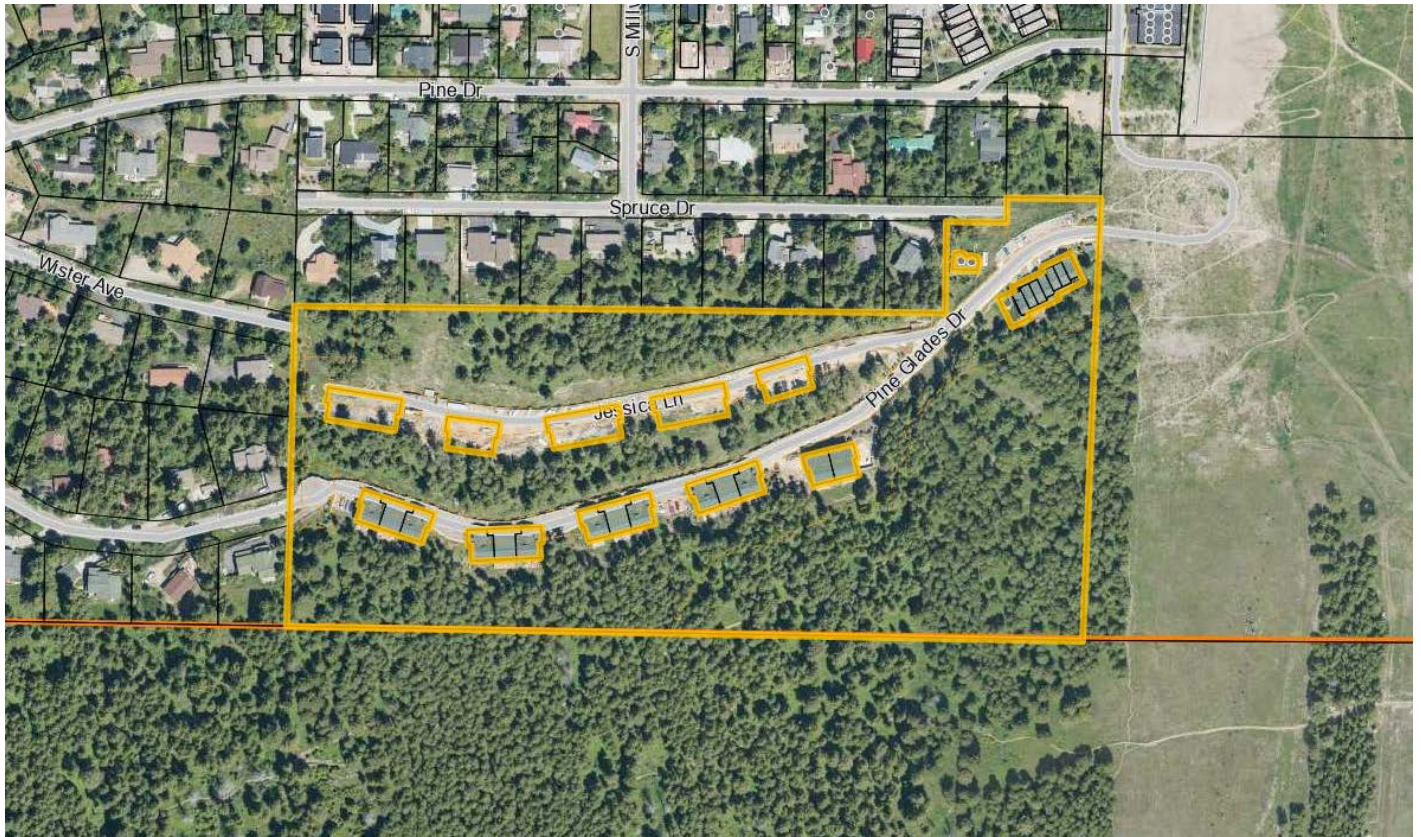
- Modify the exterior materials on the existing duplex at 140 & 142 Pine Glades Drive from a wood/stone combination to primarily stone.
- Remove the in-road heating element in Phase 1 (Pine Glades Drive) and in the future Phase 2 (Jessica Lane)
- Approve a trail plan that would allow public access through the site on trails only and would include newly recorded access easements.

APPLICABLE REGULATIONS

Section 8.3.2 Development Plan

LOCATION

The property is located at 140 Pine Glades Drive (legally described as LOT 14, PINEGLADES TOWNHOMES PHASE 1), 142 Pine Glades Drive (legally described as LOT 13, PINE GLADES TOWNHOMES PHASE 1) and Lot H (Common Area). An aerial photo and zoning map are shown below:



BACKGROUND/ALTERNATIVES

General Overview of the Pine Glades PUD

The subject property is approximately 17.11 acres (745,445 sf) and is zoned Planned Unit Development – Neighborhood Low Density-3 (PUD - NL-3). On August 20, 2007, the Town Council approved a Sketch Plan for a 39-unit Planned Unit Development (PUD), consisting of 27 market townhome units and 12 affordable townhome units. On January 22, 2008, the Town Council approved a Final (Major) Development Plan (referred to as ‘Development Plan’) and Hillside Conditional Use Permit (CUP) consistent with the previously approved Sketch Plan/PUD. After the completion of the first 2 of the 12 affordable units, the applicant requested that the remaining number be reduced from 10 to 7 affordable units. The Town Council approved the proposed amendment to allow the reduction in density provided the number of bedrooms remained the same as what was proposed with the previous 10 units. The final remaining number of deed restricted units is 9 and all are completed and occupied.

The Pine Glades PUD consists of two roads, Pine Glades Drive and Jessica Lane. Both roads are private and all road maintenance responsibility belongs to the applicant/HOA. The Town has an easement, however, that provides Town personnel access to the roadways for the purpose of maintaining the water and sewer lines located under the roads that are the Town’s responsibility. Pine Glades Drive serves Phase I (upper units) and extends down through the tunnel to the entrance of the development. Phase 1 is nearly complete and includes construction of road/utility improvements, 12 market townhome units (4 triplexes), 2 affordable condominium units (duplex), and 7 affordable townhome units (all attached). The only remaining development in Phase I is one market duplex (140 & 142 Pine Glades Drive) that is part of this application. Phase II (lower units) has not been started, so neither Jessica Lane nor the 13 market townhome (three triplexes and two duplexes) have been constructed. The only completed improvements within Phase II are associated with water/sewer mains and retaining walls. Prior to making any future improvements in Phase II, the applicant must obtain approval of a Development Agreement with the Town that will address obligations and bonding for future improvements (i.e. roadway, trails, additional utilities, etc.).

Since approval, the owners of the Pine Glades project have requested numerous amendments and changes that have been processed by the Town. Below is a complete list of the permit history of the PUD.

Original Applications

- **P05-126 & 127:** Sketch Plan and PUD approval (27 market units and 12 affordable units).
- **P07-076:** Variance approval to develop on slopes greater than 25%.
- **P07-126 & 127:** Development Plan and Hillside CUP approval (27 market units and 12 affordable units).

Applications Subsequent to Original Approval

- **P09-006:** Minor Deviation approval to modify parking adjacent to affordable housing units.
- **P09-020:** Final Plat approval for Phase I Townhomes.
- **P09-023:** Final Plat approval for the Spruce Condos (affordable duplex).
- **P09-035:** Minor Deviation approval to remove fire turnout on Pine Glades Drive.
- **P09-081:** Amendment approval to the plat related to mechanics liens.
- **P09-082:** Amendment approval to plat related to past condition of approval and mechanics liens.
- **P10-028:** Amendment approval to Subdivision Improvement Agreement.
- **P11-025:** Minor Deviation approval to remove and relocate a trail (see below)
- **P12-007:** Amendment approval to Subdivision Improvement Agreement
- **P12-095:** Development Plan amendment approval to reduce number of affordable units from 12 to 10

- **P13-054:** Minor Deviation to allow change in design of affordable units.
- **P14-044:** Final Plat approval for Spruce Townhomes.
- **P14-052:** Minor Deviation approval to remove and relocate a trail (see below)
- **P16-140:** Zoning Compliance Verification confirming outstanding obligations.
- **P17-045:** Development Plan amendment approval to modify duplex design and add 600 sf.
- **P19-018:** Development Plan amendment for modifications to architectural features at duplex at 140 & 142 Pine Glades Drive.
- **P19-262:** *Current application*

Trails

Relevant to this application, the original project included an internal trail network intended to connect to the Snow King trail system and to serve the development's residents and the general public (primarily Pine Drive residents). Prior to the approval of the Pines Glades PUD, there was some level of historic informal trail use across the 17-acre hillside parcel by neighbors and others. As a result of strong public interest in maintaining this public trail access through the property, the original developer (as represented by Dave Taylor) promised and agreed to include a trail network that would allow the public to walk and bike through the site to access the Snow King trail system, including the use of Pines Glades Drive as necessary. No public vehicular access was intended. A trail plan (attached as 'Original Trail Plan' and included in the staff report below) was approved with the original PUD and Development Plan.

The original trail plan was changed twice in 2011 and 2014 through staff level reviews. In 2011 a Minor Deviation (P11-025) was approved to relocate the west trail that switchbacks up the hill from the cul-de-sac (never built, but would have connected to the Sink or Swim trail) to the center of the site next to the duplex at 140 & 142 Pine Glades Drive. This relocation request was made due to stated concerns over the steepness of the slope in the original west location. This new section of trail near the duplex was installed and connected to Sink or Swim. Accessing the trail at this location required neighbors on Pine Drive to walk approximately 900 feet on Pine Glades Drive and the trail was used for a couple of years until the trail was relocated again at the request of the developer.

Later in 2014, another Minor Deviation (P14-062) was approved that removed the section of trail adjacent to the duplex at 140 & 142 Pine Glades Drive and established a replacement trail farther east down Pine Glades Drive just north of the upper opening of the tunnel. This new section of trail is currently built, in operation, and connects to the Shade Monkey trail located on the Town's property. The Shade Monkey trail switchbacks up the hill and connects to Sink or Swim.

Unfortunately, despite all the Council discussion and planning for trails, no access easements were recorded with the original Development Plan/PUD approval to formally establish public access across the Pines Glades roads. In addition, no easement for public access on the roads was shown or stated on the approved plat, and the Development Plan/PUD included no condition of approval requiring such access. It is staff's understanding that the lack of execution of any access easements or similar instrument was an unintentional error. This error was first discovered, as best staff can tell, when Mr. Tozzi purchased the development in 2017 and soon thereafter began posting 'no trespassing' signs on the property and calling the police on non-residents walking across the property. Prior to these actions by Mr. Tozzi (i.e., during the ownership period of the first property developer from 2007 to 2017), it appears that the general public walked frequently through the development, including on Pine Glades Drive, to access the trails with the apparent understanding that the Development Plan/PUD allowed such access and without being told otherwise by Mr. Taylor or by the owners of Pines Glades units at that time.

Recent Compliance Activity

The approval record of the PUD is complex, winding, and often not well documented, making resolution of disputed items difficult. Consequently, due to a difference of opinion between the Town, Mr. Tozzi, and adjacent neighbors about the nature of public access to the trails and Pines Glades Drive, the past three or so years have been marked by frequent accusations of trespass countered by claims of access rights, often with the Town police and planning staff caught in the middle without clear direction.

The current round of permit review started in early 2019 when the applicant submitted an application to amend the Pine Glades Development Plan (P19-018) to make additional architectural modifications to the duplex at 140 & 142 Pine Glades Drive. After getting through the Planning Commission (PC), the applicant continued the item indefinitely in response to contentious public comment at the PC meeting from residents on Pine Drive who felt that no more approvals should be given within Pine Glades until public access for trails through the roads was legally granted. On the other hand, owners of Pine Glades units commented at the PC meeting that they purchased homes in a private development that did not include public access through the roads. They also stated that the public should not be permitted to walk on the roads because of safety and liability issues. In summary the applicant wanted to resolve the access issue before meeting with the Town Council and decided to work with staff to find a solution.

After staff met with the applicant, it became apparent there was a fundamental difference of opinion between staff and the applicant regarding what was originally promised/approved with regard to public access to trails and how the matter should be resolved. Staff then conducted significant additional research into the Pine Glades approvals and prepared a detailed compliance letter in May 2019 (attached as 'Compliance Letter – May 2019') summarizing our findings and opinions on public access for trails and other outstanding compliance matters. In the letter, staff provided evidence that public access across Pine Glades Drive to access trails was clearly promised by the original developer and was presented and approved as part of the original PUD. As mentioned above, a public access easement memorializing this should have been recorded but was never done. Furthermore, the compliance letter stated that the applicant would not be granted any further approvals or be allowed to continue developing the remaining 13 townhomes on Jessica Lane until an easement was recorded allowing the public to walk on the private roads to access the trails as originally intended.

In response to the May 2019 compliance letter, staff received a detailed letter (attached as 'Compliance Response Letter - June 2019') on June 26, 2019, from the applicant's attorney, Erika Nash, stating their difference of opinion. In summary, the response letter argued that all owners purchased their homes without such an access easement recorded and that only a written, recorded legal instrument can create a property right, such as a public access easement across a property. In addition, to record such an easement now would require the (unlikely) approval and signature of all property owners within the Homeowner's Association (HOA) and that such a result would force them to accept unwanted liability for injuries on their property. The response letter also contends that the original developer and approvals were never intended to allow the public to walk across the private roads to access trails, but rather were intended to allow the public to cross through the site by means of trails only.

After reviewing the applicant's response letter, it was clear that obtaining an after-the-fact access easement would be met with strong legal resistance, so staff and the applicant held another meeting to discuss options for compliance. At the meeting the applicant conceptually proposed the idea of an alternative trail plan with trails that would not intersect any roads (except a minor crossing of the cul-de-sac on Pine Glades Drive). Instead, the trails would wrap around the roads and buildings and connect to the Snow King Trail system and would allow the neighbors and public to access the trails and cross the property but without walking on any

roads (except the cul-de-sac). The applicant believed that this alternative trail plan would meet the original intent of the PUD.

Based on this meeting, staff sent a final compliance letter on September 6, 2019 (attached as 'Compliance Final Letter – September 2019') with two options for compliance: Option #1 allowed the applicant to comply with what staff felt was the original intent of the approved PUD and requiring the applicant to record an access easement over the Pines Glades roads, and Option #2 allowed the applicant to present an alternative trail plan that, while not providing an access easement to the roads, would still provide significant public trail access through the site in similar locations as originally approved and would include clear recorded public access trail easements to avoid future disputes. The applicant chose Option #2 and so has provided an alternative trail plan for the Town's review (see analysis of proposed trail plan below).

Project Description

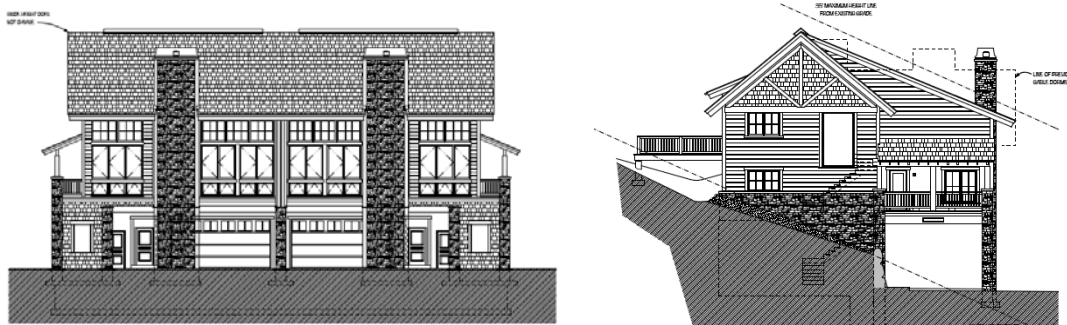
The applicant is proposing to amend the Pine Glades Development Plan to 1) modify the exterior materials on the existing duplex at 140 & 142 Pine Glades Drive, 2) remove the in-road heating element from both phases, and 3) install an alternative public trail plan.

- **Duplex Material Change**

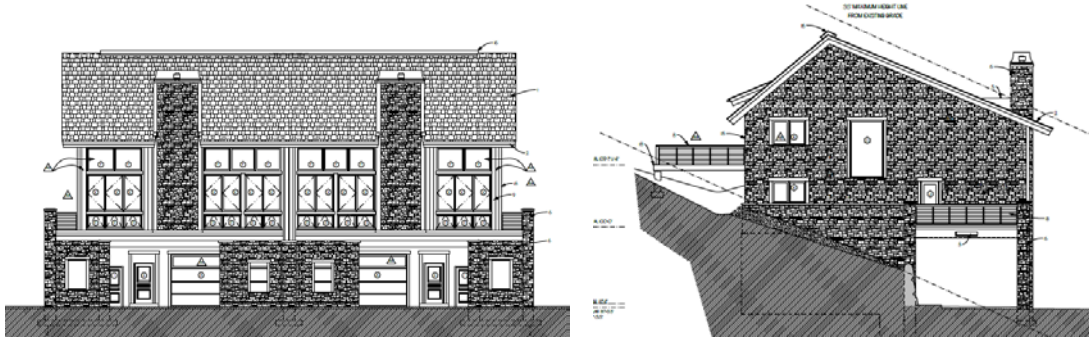
An amendment to the Pine Glades Development Plan was approved in 2017 (P17-045) which included architectural changes to roof pitches and exterior materials for all three duplexes within Phases I & II. The applicant is now seeking to make several small changes to only the duplex at 140 & 142 Pine Glades Drive which include the use of stone as the main exterior material on the side elevations (east and west). The stone proposed on the side elevations would go from the base of the unit to the roof. Previous designs had stone about half way up the building which transitioned into horizontal wood siding and wood shingles. In addition, the stone chimney on the front (north) elevation would no longer continue to the ground, but would start on the second story. Windows on all elevations would be changed slightly with regard to size and location. Additional stone is also proposed on the ground level columns and the columns themselves would be widened.

The applicant is seeking these changes to reduce the maintenance costs associated with wood. In addition, because this development did not require review and approval by the Design Review Committee, the applicant finds that personalization of the units should not be of issue considering height is not increasing. Below reflects the 2017 approved changes and the proposed 2019 changes. It should be noted that the requested changes to the duplex listed above have already been made.

Currently Approved Duplex as of the 2017 Amendment:



Proposed 2019 Changes to Duplex:



- **Roadway Heating Element**

When the Pine Glades PUD and Development Plan were approved, an in-road heating element was approved for both Phase I & II. The Phase I heating element, which is installed, starts at the top of the tunnel and continues up Pine Glades Drive and ends just past the driveway entrance for the duplex at 140 & 142 Pine Glades Drive. The Phase II heating element, which is not installed, would start at the entrance to Jessica Lane and continue west for approximately 100 feet.

The applicant is requesting that the in-road heating element for both phases be removed from the original approval because it was not an LDR requirement nor is it necessary to maintain safe road conditions. The applicant states that the heating element has been broken for three years and operating costs in one year have reached \$150,000.00. Allowing this element to be removed would relieve the HOA from having to pay high costs to fix and operate it. The applicant currently pays to have the private road plowed and sanded and no safety issues have arose since the heating elements broke. In addition, the applicant states that heating the road does not align with the Town's energy conservation objectives.

- **Alternative Trail Plan**

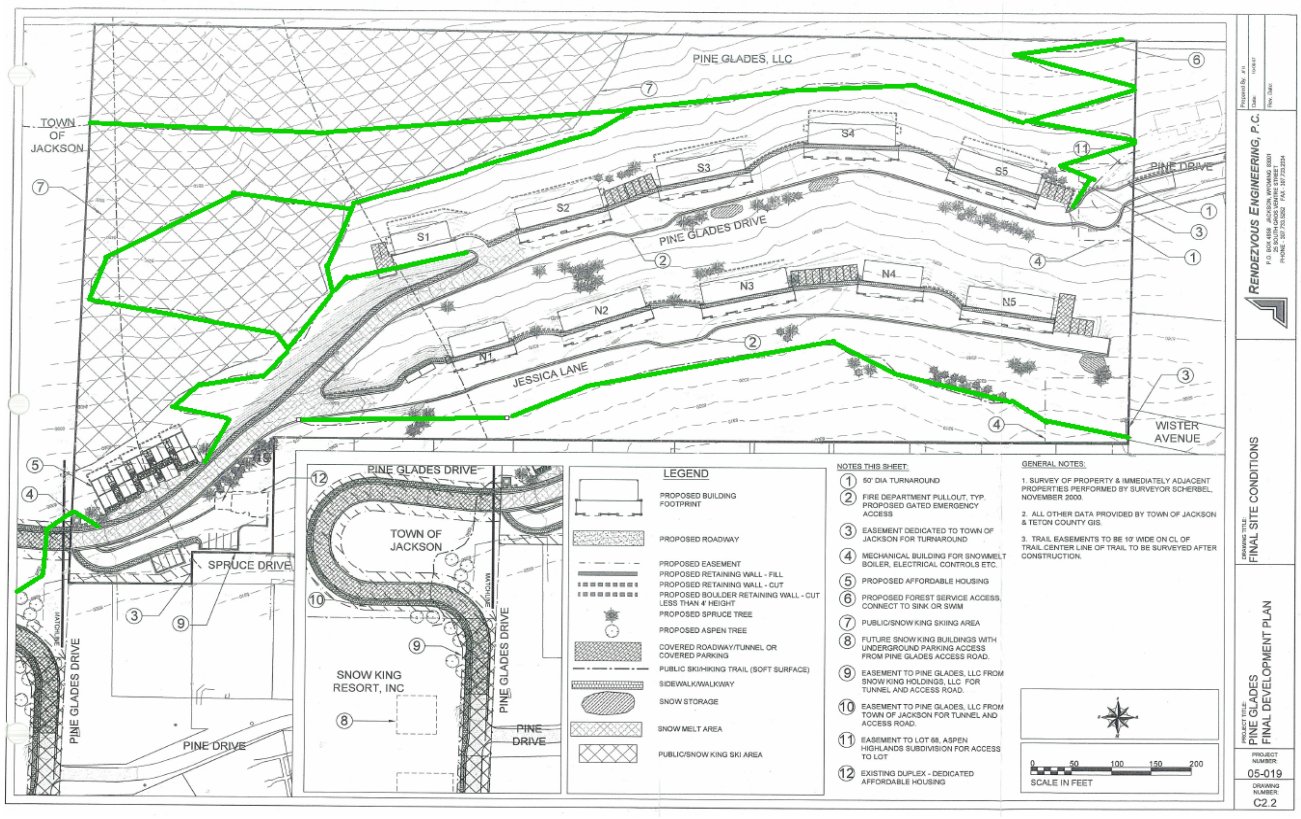
The applicant is proposing an alternative trail plan that includes three new sections of trails that do not require the use of the roads, except for the cul-de-sac at the end of Pine Glades Drive.

- The first new section of trail (below in red) starts at the cul-de-sac on Pine Glades Drive and switchbacks up the hill (south) and connects to Sink or Swim which is located on the USFS property. The total elevation from the cul-de-sac to the Sink or Swim connection is approximately 90 feet over a total horizontal distance of approximately 375 feet.
- The second section of trail (below in red) also starts at the cul-de-sac on Pine Glades Drive but switchbacks down the hill (north) and connects to the existing trail below Jessica Lane. The total elevation from the cul-de-sac to the lower trail connection is approximately 75 feet over a total horizontal distance of approximately 170 feet.
- The third section of trail (below in red) wraps around below the affordable duplex and connects the trail below Jessica Lane to the trail that starts at the top of the tunnel. The elevation drop to get around the duplex is approximately 35 feet over a horizontal distance of approximately 115 feet. The elevation to connect to the trail above the tunnel is approximately 15 feet over a horizontal distance of approximately 250 feet.

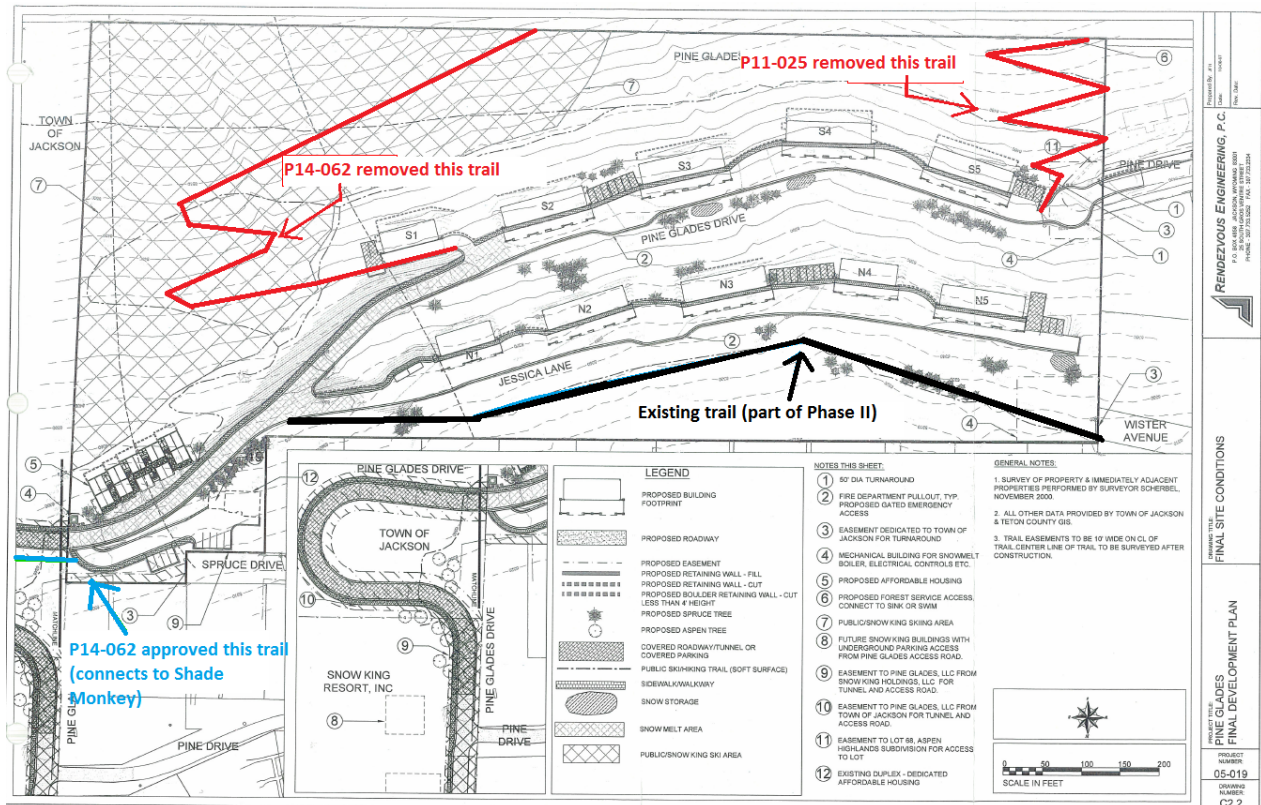
Note: the first section of trail was originally approved with the PUD but later removed and relocated. The second and third sections of trail are newly proposed and not part of a previous approval

As shown in the proposed trail section details, stone steps will be incorporated within each section due to the steep slopes and the trails will maintain a 10% average grade. Adjacent to the first section of trail, the applicant is proposing a landscape screen of trees to provide a buffer from the Phase I Pine Glades homes and the Pine Drive homes directly to the west. The applicant states that this plan meets the intention of the original developer by providing public trail access, mostly hiking and less-so mountain biking, through the site to connect to the Snow King Trail System. Although a signage plan has not been provided, the applicant intends to work with Town staff to ensure proper signage is erected and that easements are recorded against the property to ensure proper public access in perpetuity. These trails will be open year-round but only maintained during summer. Due to the steepness and use of stairs, these trails are built primarily for hikers, but portions could be used for bikers. Below are three trail plans: the Original Approved Plan, the Currently Approved Trail Plan after amendments, and the Proposed Alternative Trail Plan (larger versions are on the review packet).

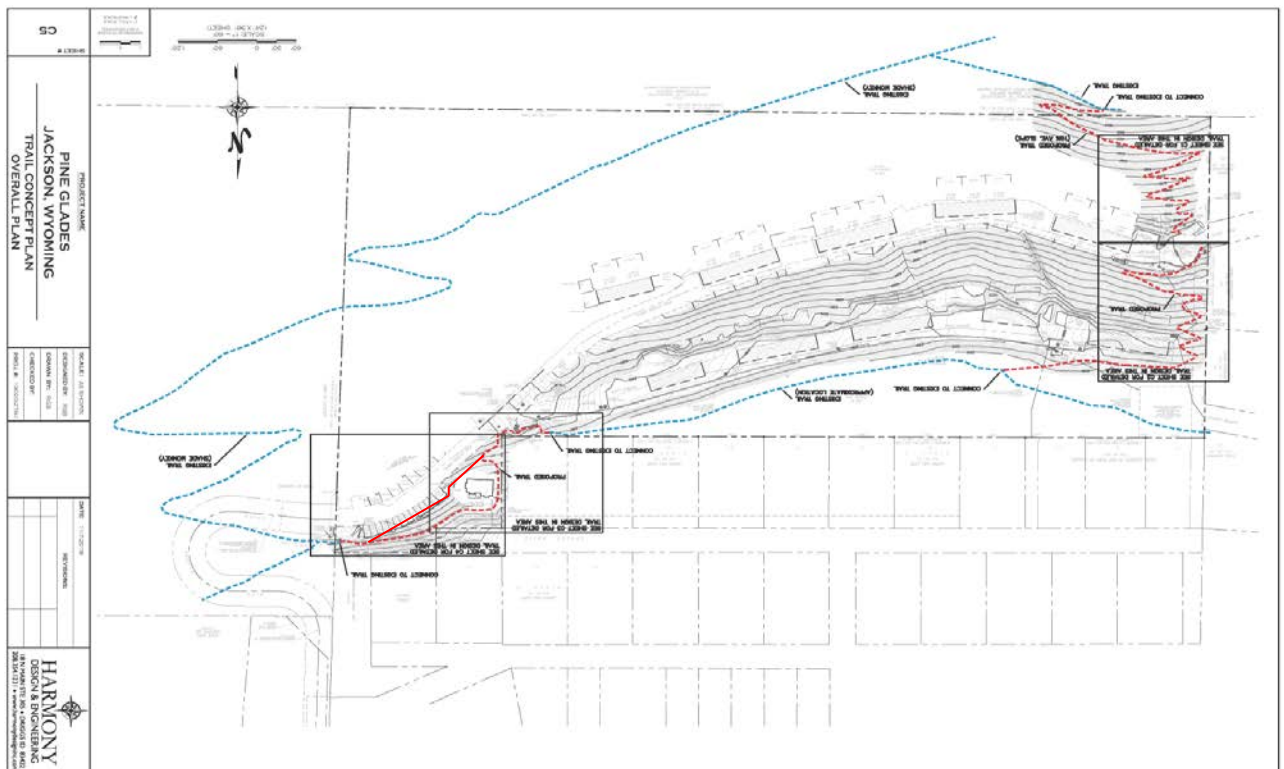
Original Approved Trail Plan (green = approved):



Currently Approved Trails (red = removed, blue = approved/installed, black = installed/Phase II):



Proposed Alternative Trail Plan (red = proposed, blue = existing):



Staff Review

Amendment to Development Plan

This request is considered an amendment to the Development Plan due to the significance of the proposed changes, especially the trail plan. The PUD does not need to be amended because this change does not directly impact the PUD, which addresses primarily allowed uses and dimensional standards. As part of the restructured LDRs effective on January 1, 2015, new language was added regarding amendments to past permits or approvals. Section 8.2.13.B - Amendment of Permits or Approval states that:

“All changes to an approved physical development permit, use permit, or development option plan not qualifying as minor deviations shall be considered amendments and shall be reviewed subject to the current procedure and standards of these LDRs.”

As stated below under **Staff Findings**, staff was able to make all necessary findings, as conditioned, for a Development Plan.

Request 1: Exterior Architectural Changes

When the Pine Glades PUD and Development Plan were approved, the duplexes were designed to match the appearance of the triplex buildings. Although there were some minor architectural differences between the duplexes and triplexes, the common elements shared were the building materials of stone, horizontal wood siding and wood shingles. Based on the residential nature of the Pine Glades project, review and approval was not required by the Design Review Committee (DRC).

To understand the proposed changes it is necessary to first briefly explain the last amendment to the Development Plan in 2017 that approved exterior changes to the three duplexes, one nearly-completed duplex in Phase I (140/142 Pines Glades Drive), and two unbuilt duplexes in Phase II. The roofs and exterior materials for the three duplexes and the 140/142 Pines Glades Drive duplex were slightly modified and it was determined by the Council that the new design was in keeping with the character of the original design, especially because the building material types were not changing. However, instead of building the duplex to be consistent with the approved changes from 2017, the applicant deviated from that design and the approved building permit by replacing much of the wood siding with stone veneer during the duplex construction process (as shown in the current proposal). The applicant is thus requesting an after-the-fact approval. If this amendment is not approved, then the applicant would be required to remove the stone and comply with the past 2017 design approval.

Staff has no significant concerns with the proposed exterior changes. The additional stone is viewed as an upgrade and requires less maintenance than wood. In addition, the use of stone is common throughout the development and the applicant is not introducing a new material. No additional height or floor area is proposed. Staff has added a condition of approval requiring the applicant to submit an addendum to the duplex building permits to reflect the materials proposed in this application.

Removal of Heating Element

Staff has confirmed that the in-road heating element was not a requirement of the LDRs but rather a developer proposed amenity that was approved with the PUD and Development Plan. As such, it became a requirement of the project but can be removed through this amendment request at the Council's discretion. The heating element has, in fact, been broken for several years and so the roads have been maintained similar to any other hillside road via plowing and sanding. To date staff has not been made aware of any vehicular-

related safety issues as a result of the inoperable heating element nor has Fire or Public Works raised concerns about its removal. Because the road is private and plowed/sanded at the expense of the HOA, staff does not have any concerns about removing the heating element from the HOA obligations. Additionally, unnecessary energy consumption such as a heated roadway does not align with the Town of Jackson's values and objectives towards sustainable development.

Alternative Public Trail Plan

Information Presented at the 1st Planning Commission Meeting – January 15, 2020 [no changes]

As explained above, the applicant has chosen to seek approval of an alternative trail plan under Option #2 as outlined in staff's final compliance letter sent in September 2019. Similar to the in-road heating element, because the original trail network was an amenity negotiated as part of the PUD, the trail plan can be re-negotiated and legally changed through this amendment process.

In terms of the proposed trail plan itself, staff finds that, while it may provide fewer lineal feet of total trails, it will provide a similar level of connectivity to adjacent trails as the original trail network. The one significant caveat is that no public access is proposed for the private internal roads, except for the cul-de-sac to access the two western switchback trails. While some portions of the trail are on steep slopes, the proposed design is suitable for the conditions and comparable to other trails. For example, the proposed trail section leading up from the cul-de-sac was included in the original approval and maintains an average 10% slope. Although stone steps will be incorporated throughout the trail plan making it difficult for bicyclists, it will still serve as a multi-use summer trail system. Although not discussed in much, if any, detail in the original approval, the applicant is not proposing and is not required to maintain the trails for winter use. This makes sense given that the Sink or Swim trail is not maintained by the USFS in the winter so there is little reason to require a higher level of maintenance on the private trails that connect to Sink or Swim. Nevertheless, as with the USFS trails, it is staff's understanding that the Pine Glades trails can be used by trail users in the winter at their own option but they will not be maintained.

Teton County Pathways Department has reviewed the trail plan and provided conditional approval to this alignment pending input from the Friends of Pathways/USFS trail construction crew. Pathways provided specific comments related to the type of cuts made to the hillside to ensure trail and slope stability. Pathways also commented that applicant needs to maintain a clear path to all trail entrances during winter months to not block access for users even though the trails, including Sink or Swim, are not maintained during the winter. It is staff's understanding that the trails will be built by the applicant, and, potentially, private nonprofits or public agencies it seeks and succeeds in partnering with. The applicant will also be responsible for summer trail maintenance, also possibly in coordination with private nonprofits or public agencies. Staff has added a condition of approval requiring the applicant to satisfy all written concerns/requirements from Pathways.

The proposed trail plan was also sent for review to the USFS and staff received comments stating that they had no significant issues with the proposed trails. The comments (attached as 'USFS Review') were from 2011 but an email from Linda Merigiano (Recreation Wilderness program manager for Jackson Ranger District) confirmed that the approval in 2011 is still valid. Staff also confirmed with Pathways and the USFS that a 10% grade is typically the standard for trails on steep slopes which is what the applicant is proposing.

The applicant has not yet proposed any specific signage for the trails, but staff will work with the applicant to ensure that all trail signage is clear, accurate, and visible so that future disputes between Pines Glades residents and the general public can be avoided. Staff has added a condition of approval related to signage which includes the provision of signage requiring dogs to be leashed on trails within the Pine Glades property.

Another important issue concerns potential landscaping/screening on both sides of the first section of trail above the cul-de-sac. Staff is supportive of vegetative screening provided that the trees are approved by the Fire Department. This property is located within the Wildland Urban Interface and typically the addition of trees (i.e. fuel) is not recommended unless they are of a specific species, properly spaced and irrigated. Pine Glades was required to provide a Fuels and Vegetation Mitigation plan which required the removal and pruning/thinning of hundreds of Douglas fir trees. Pine Glades was also required to plant over a hundred new fire-resistant tree species such as Aspen, Serviceberry and Snowberry in order to help screen the development. Staff has added a condition of approval requiring that the applicant work with the Fire and Planning Departments on an appropriate landscape screening plan for the first section of trail above the cul-de-sac that does not conflict with the Wildland Urban Interface code requirements.

At the Planning Commission meeting, staff brought up recent public comment from Jennifer Bragg (attached) who lives at the affordable duplex addressed at 45 Pine Glades Drive. Her comments expressed concerns over the closeness of the trail (Section #3) to her home as it relates to safety, privacy and noise. In response staff recommended that a 6th condition of approval be added requiring the applicant to revise Section #3 of trail to be as far from the duplex as possible and include some form of screening (i.e. trees, shrubs, fence, etc.).

Information Presented at the 2nd Planning Commission Meeting – February 5, 2020 [no changes]

After the first Planning Commission meeting on January 15, the applicant and staff met in response to Ms. Bragg's comment. The applicant presented two alternative trail routes for Section #3:

1. The first alternative trail would stay to the south of (above) the duplex. Instead of the original design that goes down the hill and around the side and back of the duplex, this option would stay above the duplex and then hug the northern side of the surface parking on Pine Glades Drive and then connect finally to the trail at the top of the tunnel. This option would cross the front stairs of the duplex near the edge of Pine Glades Drive. Staff has not heard from the owners of the duplex on this design, as it was presented to staff on January 29. Staff prefers this alternative to the current proposal because it appears to better address Ms. Bragg's concerns regarding privacy.
2. The second alternative trail would improve an existing, but not well-maintained trail, that starts at the eastern end of Spruce Drive and connects over to Shade Monkey. This trail appears to already have an easement for public access. The applicant is proposing this option as a replacement for the lower trail below Jessica Lane trail. Staff is not supportive of this alternative because it would provide less convenient and less safe access to the neighbors on Pine Drive and Wister Avenue than the currently proposed lower trail.

Pathways Director Brian Schilling provided the following comments which are attached in the department reviews:

While the revised trail provides essentially the same connectivity (start and end points) and I feel it meets the intent of the trail connection, it's not as nice a trail route for the users as it will be butt up against a retaining wall for much of the route and a 5' attached sidewalk for the rest, neither of which is a great trail design. The new route is a little more direct and has fewer stairs (although essentially the same overall vertical drop and gain), but overall the original route was a better design. So, I feel it's acceptable but a step down from the originally proposed route.

Also, during the meeting with the applicant, staff offered another option for Section #3 if the applicant would be agreeable to the alignment. Under this option, the trail would avoid the affordable duplex entirely by crossing Pine Glades Drive at the stair access at the junction of Pine Glades Drive and Jessica Lane and then continue up the hillside between the affordable townhomes and the new market duplex to the Shade Monkey trail. This trail would be similar in intent to the S1 trail (adjacent to duplex at 140/142 Pine Glades Drive) that was removed in 2014 through a Minor Deviation. Staff acknowledges that would require the applicant to voluntarily provide a public access easement to cross Pines Glade Drive. And while we know the applicant

has thus far stated that they oppose providing any public access to the development's private roads, staff believes that providing this limited access near the entrance to the tunnel would not significantly impact the owners or create any obvious conflicts. It would also avoid an expensive and awkward trail design as proposed by the applicant for Section #3.

Information to be presented at the 3rd Planning Commission Meeting – March 4, 2020 [this section is new for this staff report]

At the second Planning Commission meeting on February 5, 2020, the Commission heard new public comment from the two affordable duplex owners who expressed concerns over the closeness of the trail to their home. Their opinion was that both trail alternatives for Section #3 would have negative impacts on their privacy and living conditions. After much discussion, the Planning Commission indicated that they were leaning toward recommending denial to the Town Council based on the concerns of the duplex owners and because they were unable to make Finding #6 which requires the proposed project to be in substantial conformance with all standards or conditions of any prior applicable permits or approvals. The applicant was given the opportunity to continue the item to consider ways to address these concerns.

Since the last meeting, the applicant has provided a written response which can be summarized in the following points:

- Trail Section #1 remains as presented, but the applicant is open to it being removed due to the negative comments it received.
- Trail Section #2 remains as presented.
- Trail Section #3 remains as presented with two options. At this point the preferred option is the trail that hugs the road and parking lot and not the trail that wraps around the affordable duplex. Assuming the trail option which hugs the road and parking lot is chosen, the applicant has offered to provide a vegetative screen or fence to provide privacy for the affordable duplex.
- The applicant canvassed various neighborhoods in Town and provided a list of 650 homes that have a sidewalk or trail within 25 feet of their front entrance. The intention with this exercise is to demonstrate that the proposed trail in Section #3 (the one that hugs the road and parking lot), proposed at 27 feet from the affordable duplex, is not uncommon within the Town and there are many other homes located close to public sidewalks and trails.
- The applicant also provided a map showing all existing and proposed trails. The applicant states that the combination of existing and proposed trails allows access across Pine Glades for residents on every street that abuts Pine Glades.

In response to the applicant's supplemental memo, staff's preference is that Section #1 of trail remains because it provides the most direct path to the upper trail system (i.e. Sink or Swim) from Pine Drive and is consistent with the original trail plan which included this section of trail. Removing this section of trail would ultimately result in less trail options for Pine Drive trail users. With regard to proposing a vegetative screen or fence to mitigate visual impacts from the trail adjacent to the affordable duplex, staff is supportive of this idea assuming the screening mechanism does not inversely impact the duplex owners in any way, such as casting more shade on the units. Staff has modified Condition #6 so that the final screening design be reviewed and approved by the Town with consultation with the duplex owners to ensure their satisfaction.

Considering the lack of public trail access staff finds that the alternative trail plan, while not ideal, generally accomplishes the intent of the original Development Plan/PUD approval by completing an important project obligation from the 2007 approval. The benefits of the alternative trail plan are a public trail network with legally guaranteed recorded access easements. If this trail plan is not approved, the Town would likely hold all future requested development approvals from the applicant and/or continue to pursue enforcement action to achieve the Town's compliance goals as stated in Option #1.

Future Applications

There are a few remaining applications required by the applicant to complete the Pine Glades PUD. Below are the remaining required applications:

1. **Development Agreement (DA):** a DA is required for Phase II (Jessica Lane) based upon the original Subdivision Improvement Agreement (SIA) and needs Town Council approval. The DA is related to improvements on Jessica Lane (i.e. road, utilities, trail, etc.). However the applicant cannot apply for the DA until the issue regarding trails and public access is resolved either through this application or through enforcement.
2. **Grading Permit:** A Grading Permit is required for the proposed work on Jessica Lane related to the road, building envelopes, multi-use trail and utilities.
3. **Building Permit:** Building Permits are required for each of the remaining 13 market townhome units.
4. **Subdivision Plat:** A Subdivision Plat is required to subdivide the remaining 13 townhomes for individual ownership as originally contemplated.

Staff Findings

General Comment: Findings should only apply to changes, not original Development Plan

Development Plan. All Development Plan proposals may be approved only if all of the following findings are made:

1. *The proposed project is consistent with the desired future character described for the site in the Jackson/Teton County Comprehensive Plan.*

The proposed application is located in Character District #6 Town Periphery:

This residential, STABLE Subarea is defined by low to medium density platted single family homes with some pockets of multifamily development which should be maintained in the future. Consideration of clustered/multifamily development to preserve large portions of open space and/or wildlife habitat/movement corridors will also remain an option. In the future, building size should maintain the existing bulk and scale to avoid the construction of much larger homes that currently exist today. Development should be sensitive to the steep slopes, avalanche terrain and other natural features found in the subarea. Portions of this subarea also function as a wildlife movement corridor between the National Forest, Karns Meadow and the Southern hillsides of East Gros Ventre Butte. Wildlife permeability should be maintained or improved.

Complies. Staff finds that the project is consistent with the vision for subarea 6.1 as described above, specifically as the amendment does not increase the existing density which is considered to be low to medium. Building size and bulk are also not changing from what was previously approved. Additionally, wildlife permeability was considered into the original design to help function as a wildlife corridor between the listed areas above (i.e. National Forest, Karns Meadow and Southern hillsides of East Gros Ventre Butte). The proposed amendments do not significantly impact such corridors. Staff also finds that the project is generally consistent with all other applicable provisions of the Comp Plan, and as such finds that it achieves the level of consistency necessary for FDP approval.

In addition, staff finds that the application should be reviewed for consistency specifically with Subarea 6.1 Low to Medium Density Neighborhoods which states as follows as the desired vision for the subarea:

Common Value 1: Ecosystem Stewardship

Policy 1.1.c: Design for wildlife permeability

Complies. The subject property is not located within the Natural Resource Overlay (NRO) or Scenic Resource Overlay (SRO), but an Environmental Analysis (EA) was done in 2005 which concluded that the site provides non-crucial habitat for deer, moose and elk. The EA also contemplated the original approved trails and future trail connections above and beyond what was shown. Considering that approximately one mile of trails were approved with the original design, staff finds that the proposed trail system will not have a significant negative impact on wildlife permeability.

Policy 1.3.b: Maintain expansive hillside and foreground vistas

Complies. Staff finds that the project as previously approved maintains expansive hillside and foreground vistas through its design. The proposed amendment does not impact additional hillside disturbance beyond what was originally contemplated.

Common Value 2: Growth Management

Policy 4.3.a: Preserve and enhance stable subareas

Complies. Staff finds that because the density and bedroom count will remain the same, the proposed project does preserve and enhance stable subareas.

Policy 4.4.d: Enhance natural features in the built environment

Complies. Although the proposed trail plan will disturb hillside areas not originally contemplated (i.e. below the cul-de-sac and around/below the duplex), the proposed amendment is still less overall hillside disturbance than the original one-mile of trails. Staff finds that the amendment has no significant impact in regards to this area.

Common Value 3: Quality of Life

Policy 5.3.b: Preserve existing workforce housing stock

Complies. All nine (9) deed restricted units will not be affected by this proposal. In fact the removal of the heating element will ensure that any high maintenance and/or operating costs associated with the heating elements will not be passed onto the affordable and workforce restricted units.

2. *The proposed project achieves the standards and objective of the Natural Resource Overlay (NRO) and Scenic Resources Overlay (SRO).*

Not applicable.

3. *The proposed project does not have a have a significant impact on public facilities and services, including transportation, portable water and wastewater facilities, parks, schools, police, fire, and EMS facilities.*

Complies. Staff finds that the proposed project will not have significant impacts on public facilities and services. Furthermore, as part of the original approval, significant off-site infrastructure

improvements were completed to serve the site's needs and help counter any significant impacts on public facilities and services.

4. *The proposed project complies with the Town of Jackson Design Guidelines, if applicable.*

Not applicable.

5. *The proposed project complies with all relevant standards of these LDRs and other Town Ordinances.*

Complies. As conditioned, staff finds that the proposed project complies with the standards of these LDRs as the request meets all requirements such as FAR, LSR, setbacks, height, etc. In addition the project is in compliance with all other Town Ordinances.

6. *The proposed project is in substantial conformance with all standards or conditions of any prior applicable permits or approvals.*

Complies. As conditioned, staff finds that the proposed project will bring the previously approved Sketch Plan, PUD and Development Plan into substantial conformance.

ATTACHMENTS

Supplemental Memo 2-19-2020

STAKEHOLDER ANALYSIS

The primary stakeholders are the Pine Glades residents and owners and the general public who serve to benefit from the trail access through the private development.

PUBLIC COMMENT

Staff has received written and verbal comment on this proposal, all of which is related to the proposed trail plan. Generally speaking, all of the written comments are from residents on Pine Drive who strongly oppose the proposed trail plan and contest that it does not line up with the promises of the original developer to provide access through the roads and that this access should now be granted through an easement benefitting the public. Other comments expressed concern over the steepness of the proposed trails and their inability to accommodate mountain biking. Additionally, concerns were expressed that the proposed trails will no longer allow year-round access because some people walk on the road during winter to access other trails such as Sink or Swim which are not maintained in the winter but are frequently used by locals.

Staff has spoken to two property owners on Wister Avenue (435 & 410 Wister Avenue who do not have any strong opposition to the proposal but hope that trail access through the site will continue to be allowed. The property owner at 410 Wister Avenue expressed concerns about the location of the trail which switchbacks down from the cul-de-sac and its impact on existing Spruce trees that provide screening from the Pine Glades development. That owner would like to see those trees remain if possible. Staff has added a condition to this effect.

Staff has also spoken to the two duplex owners located at 45 Pine Glades Drive. The proposed trail wraps around their building and passes close to their homes and through their yards. Both owners claimed that they own the common land surrounding their building, however, staff has not been provided with any supporting documents. After reviewing the plat, staff confirmed that the area surrounding their duplex building is Common Lot H which is the general common area for the HOA and appears to belong to the HOA.

Staff has received a letter (attached) from 10 homeowners within Pine Glades expressing their support for the proposed amendments, specifically the original trail plan presented by the applicant. The letter goes on to explain their concerns for granted public access after-the-fact, liability and other concerns.

FISCAL IMPACT

There will be no significant fiscal impact to the Town if the proposed project is approved. However, if the request is not approved, then there is the potential for significant additional costs related to increased staff time to enforce and defend our desired compliance outcome through Option #1.

STAFF IMPACT

Staff has spent a significant amount of time, more than a typical project of this size, meeting with the applicant, coordinating with other departments, researching past approvals for Pine Glades, drafting enforcement letters, and drafting this report.

LEGAL REVIEW

Ongoing as needed.

RECOMMENDATIONS/ CONDITIONS OF APPROVAL

The Planning Director recommends **approval** of P19-262 to amend a Development Plan to allow the proposed modifications listed in the application related to exterior materials changes, the in-road heating element, and the trails plan, subject to the departmental reviews attached hereto and the following conditions of approval:

1. Prior to issuance of Certificate of Occupancy on the duplex at 140 & 142 Pine Glades Drive, the applicant shall apply for an addendum to the duplex building permits to revise all exterior elevations to reflect the approved materials and changes.
2. By no later than September 1, 2020, all trails and signage shall be installed and satisfactorily inspected. In addition, by no later than September 1, 2020 the applicant shall record public access easements for the approved trails to the satisfaction of the Planning Director, Pathways Director, and Town Attorney. Signage shall include a requirement for a dog leash requirement at all trail entrances and exists.
3. Prior to September 1, 2020, the applicant shall work with the Fire Department and Planning Department on an appropriate landscape screening plan for the first section of trail above the cul-de-sac that does not conflict with the Wildland Urban Interface code requirements.
4. The applicant shall satisfactorily address all concerns from the Pathways Director related to technical or engineering suggestions for the trails. Comments related to neighbor approval or unspecified ongoing concerns are not the responsibility of the applicant.
5. The applicant shall make all efforts to not disturb mature Spruce trees in the section of the trail below the cul-de-sac. Any necessary removal of trees will require new trees to be planted to ensure adequate screening is maintained. All new trees will require approval from the Fire Department and Planning Department.
6. The alternative trail route for Section #3 that goes above the duplex and hugs the parking area on Pines Glades Drive shall be the approved trail alignment. In addition, final screening by vegetation, fence or other means shall be review and approved by the Planning Department and shall include consultation with the duplex owners.

SUGGESTED MOTIONS

Based upon the findings for a Development Plan as presented in the staff report related to 1) Consistency with the Comprehensive Plan; 2) Achieves purpose of NRO & SRO overlays; 3) Impact of public facilities & services; 4) Complies with Town Design Guidelines; 5) Compliance with LDRs & Town Ordinances; 6) Conformance with past permits & approvals as presented by the applicant and staff for Item P19-262, I move to recommend **approval** to the Town Council to amend a Development to allow the proposed modifications listed in the application related to exterior materials changes, the in-road heating element, and the trails plan, subject to the departmental reviews attached hereto and the following conditions of approval:

1. Prior to issuance of Certificate of Occupancy on the duplex at 140 & 142 Pine Glades Drive, the applicant shall apply for an addendum to the duplex building permits to revise all exterior elevations to reflect the approved materials and changes.
2. By no later than September 1, 2020, all trails and signage shall be installed and satisfactorily inspected. In addition, by no later than September 1, 2020 the applicant shall record public access easements for the approved trails to the satisfaction of the Planning Director, Pathways Director, and Town Attorney. Signage shall include a requirement for a dog leash requirement at all trail entrances and exists.
3. Prior to September 1, 2020, the applicant shall work with the Fire Department and Planning Department on an appropriate landscape screening plan for the first section of trail above the cul-de-sac that does not conflict with the Wildland Urban Interface code requirements.
4. The applicant shall satisfactorily address all concerns from the Pathways Director related to technical or engineering suggestions for the trails. Comments related to neighbor approval or unspecified ongoing concerns are not the responsibility of the applicant.
5. The applicant shall make all efforts to not disturb mature Spruce trees in the section of the trail below the cul-de-sac. Any necessary removal of trees will require new trees to be planted to ensure adequate screening is maintained. All new trees will require approval from the Fire Department and Planning Department.
6. The alternative trail route for Section #3 that goes above the duplex and hugs the parking area on Pines Glades Drive shall be the approved trail alignment. In addition, final screening by vegetation, fence or other means shall be review and approved by the Planning Department and shall include consultation with the duplex owners.

COLLINS PLANNING
• A S S O C I A T E S •

MEMO

To: Tyler Valentine
Fr: Bill Collins
Re: Pine Glades Trails
Date: February 19, 2020

This memo responds to comments from the last Planning Commission meeting on the Pine Glades trails and provides an overall graphic that shows the large number of trails in the vicinity.

Past Trail Construction

Pine Glades developers volunteered to construct trails across the Pine Glades property as a community amenity; there are no requirement that mandates trails be provided. Trails already have been constructed as part of the Pine Glades development. The first developers of Pine Glades paid for the design and construction of the existing trail that switch backs up Snow King and for the trail that traverses the southeast corner of the development. The currently proposed trails are an additional neighborhood amenity that would bring to **four** the total number of trails provided by the Pine Glades development.

Trail Adjacent to Spruce Duplex

Since the last Planning Commission meeting, the Pine Glades team researched the number of homes in close proximity to paths and sidewalks in Jackson. In a two hour search, we identified over 650 homes that are within 25 feet of a sidewalk or path. The list of homes is attached. A more thorough search would identify one to two thousand homes within 25 feet of sidewalks. The attached list includes homes in close proximity to paths that were constructed by the Town and County Pathways program. The proposed trail in Pine Glades is 27 feet in front of the Spruce duplex.

The applicant plans to construct the sidewalk/boardwalk adjacent to Pine Glades Drive, uphill and along the side of the duplex, that then wraps around an existing parking lot. This boardwalk will intersect the stairs that connect the parking lot and the duplex. These steps will be reconstructed with a gate to prevent people and dogs from roaming down the stairs to the duplex.

A vegetative screen or fence will be installed along the walk to provide privacy for the duplex. This screen will provide privacy where no such privacy currently exists between the duplex and walkers and motorists on the existing road. Walkers and motorists currently on the Pine Glades Drive are only four or five feet further from the duplex than walkers on the proposed walk.

This trail provides access to trails on Snow King and in the Forest, and to destinations at the bottom of Snow King, for residents on Pine Drive and Wister Avenue. It fulfills any obligation that may have been implied in the Pine Glades plans to provide an additional neighborhood amenity.

Uphill Trail from Cul-de-sac

We will not oppose deleting the trail that runs uphill from the cul-de-sac on the western end of Pine Glades Drive if such a removal is desired by the Planning Commission. This trail is opposed by neighbors on both sides of it and is redundant to an existing trail 400 yards west of Pine Glades that connects Pine Drive to an existing trail on the Karns hillside. This Karns hillside trail also connects to the USFS trail network.

Trails in Vicinity

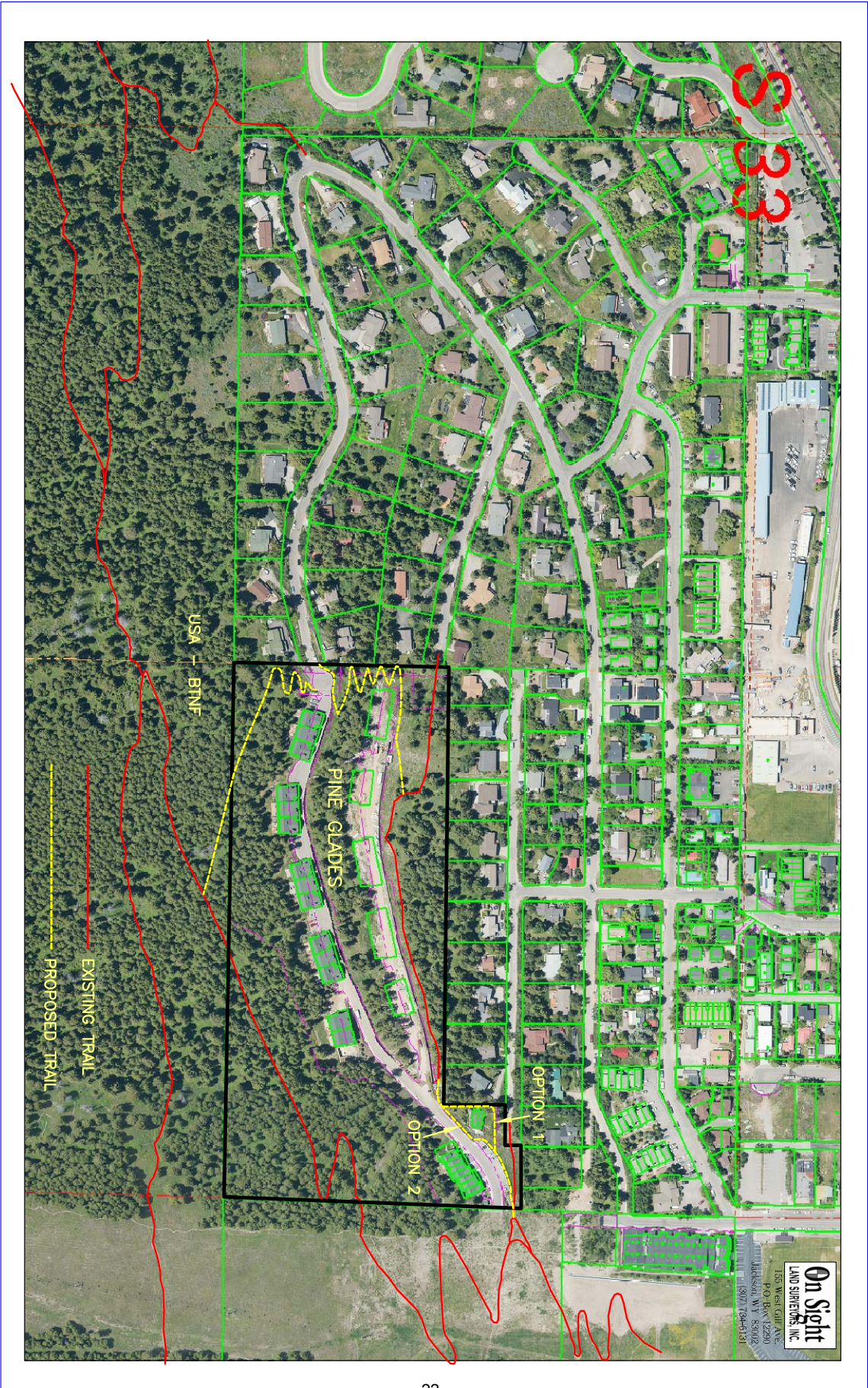
Also attached is an aerial photo that illustrates existing and proposed trails in the vicinity of Pine Glades. This graphic demonstrates that the combination of existing and proposed trails allows access across Pine Glades for residents on every street that abuts Pine Glades; namely residents on Pine Drive, Wister Avenue and Spruce Drive will be provided legal access to cross the Pine Glades development on trails.

Attached:

1. Residential Units Sidewalk Proximity in Jackson
2. Aerial Illustrating Trails in Vicinity

Residential units sidewalk proximity within the Town of Jackson

Development	Units	Type	Proximity
Cottonwood Flats	66	townhomes	< 10' to 25'
Ellingwood Condominiums	31	condominiums	<15' to 20'
Cottonwood Park, Corner Creek	77	SF homes, townhomes	<15' to 25'
Cottonwood Park, Rangeview	77	SF homes, townhomes	<15' to 25'
Horn Addition	50	SF homes	< 25 feet
Creskide Townhomes, Garaman Trail	18	townhomes	<25' to 30'
Elk Run Townhomes, Garaman Trail	13	townhomes	<25' to 30'
Jackson Hole Meadows Addition	10	SF homes	<=25'
Southgate Addition	4	SF homes	<=25'
810 West	18	townhomes	14' to 25'
Snow King Apartments	18	apartments	12' to 20'
Pineglades, Spruce Townhomes	7	townhomes	17' to 23'
Sno-King Village Townhomes	3	townhomes	12' to 19'
Alpine Mountain Townhomes	6	townhomes	25'
Indian Summer Townhomes	1	townhomes	25'
Ski Hill Townhouse Addition	4	townhomes	25'
Millward Street Apartments	6	apartments	12'
St Johns Hospital apartments Millward and Kelly	6	apartments	14'
Wort 2 nd Addition	13	SF homes	<= 25'
Glenwood Street Townhomes	8	townhomes	<= 25'
Cache Commons Townhomes	10	townhomes	<= 27'
Flat Iron Townhomes	4	townhomes	<= 20'
TVDC Townhomes	4	townhomes	<= 25'
MKGS Townhomes	4	townhomes	<= 25'
The Twelve Pines	16	townhomes	<= 25'
Aspen Stand Townhomes	10	townhomes	<=20'
Five-Two-Five Townhomes	12	townhomes	15' to 22'
James G. and Julia L. Scarlett Addition	28	apartments	12' to 20'
East Kelly Townhomes	4	townhomes	<= 25'
Shadow Tree Townhomes	7	townhomes	<= 25'
Eastridge Addition	17	SF homes & townhomes	<= 25'
Buffalo Head Townhomes	4	townhomes	<= 25'
Daisy Bush Townhome Addition	4	townhomes	15' to 25'
Daisy Bush Additions	13	SF homes	16' to 25'
Taminah Corner Townhomes	2	townhomes	25'
Meadowbrook Village Condominiums	76	condominiums	< 25'
Four Timbers Residence Club	4	townhomes	< 15'
TOTAL	655		





TOWN OF JACKSON PLANNING COMMISSION AGENDA DOCUMENTATION

PREPARATION DATE: JANUARY 31, 2020
MEETING DATE: FEBRUARY 5, 2020

SUBMITTING DEPARTMENT: PLANNING
DEPARTMENT DIRECTOR: PAUL ANTHONY
PRESENTER: TYLER VALENTINE

SUBJECT: **ITEM P19-262:** AMENDMENT TO THE FINAL (MAJOR) DEVELOPMENT PLAN FOR PINE GLADES PLANNED UNIT DEVELOPMENT (PUD).

APPLICANT: BILL COLLINS – COLLINS PLANNING ASSOCIATES

OWNER: PINE CANYON, LLC

STATEMENT/PURPOSE

This item was continued from the Planning Commission meeting on January 2, 2019. Specifically the item was continued because the Commission had additional questions for the Town Attorney. In addition, since the last Planning Commission meeting, the applicant has submitted two alternative trail paths for Section #3 which is the section near the affordable duplex. Please refer to the applicant's supplemental attachments and the discussion below under Alternative Public Trail Plan in the Staff Analysis section. Furthermore, staff has received written public comment from 10 Pine Glades residents (attached).

The applicant is requesting approval of an amendment to the approved Final (Major) Development Plan for the Pine Glades Planned Unit Development (PUD), specifically to:

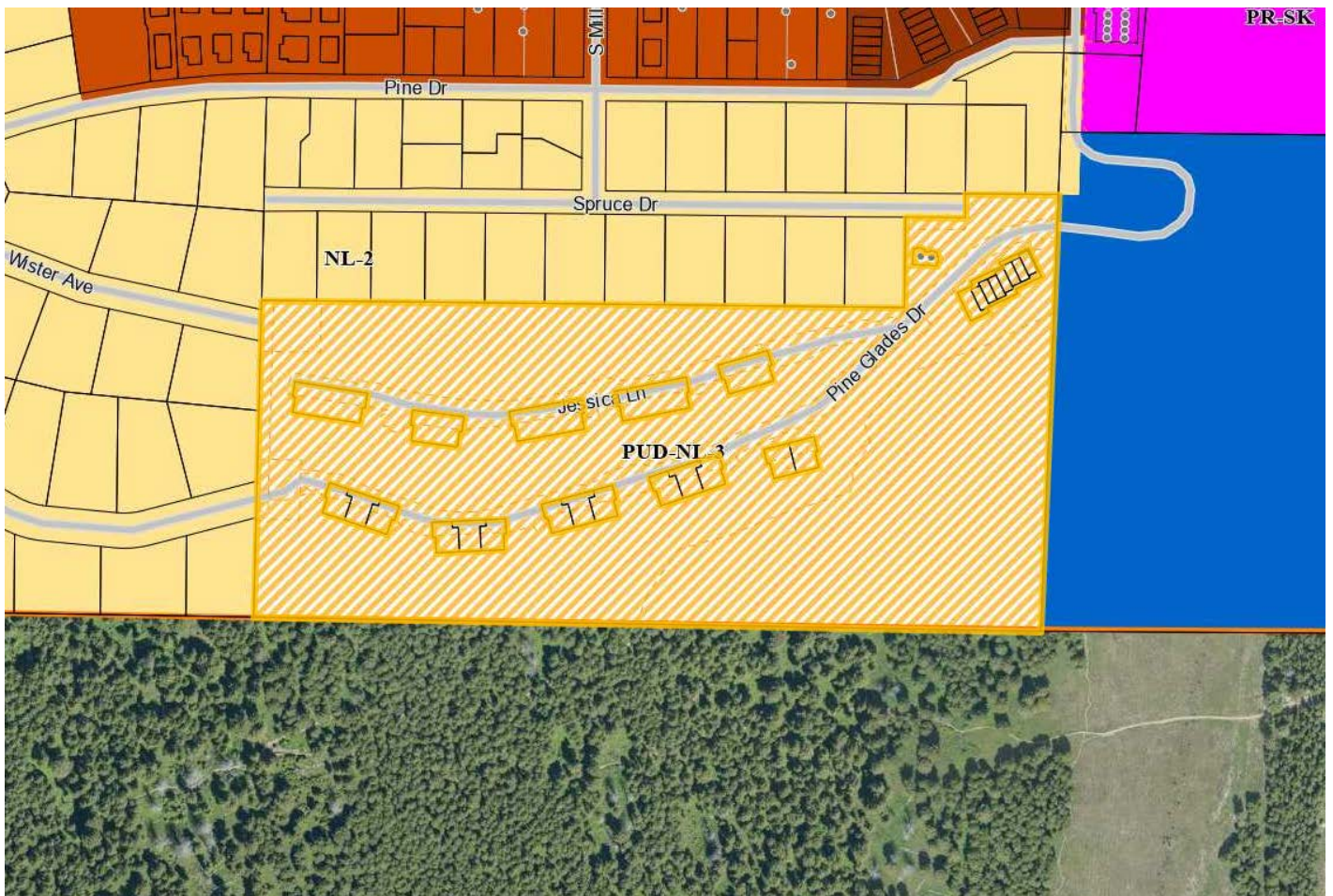
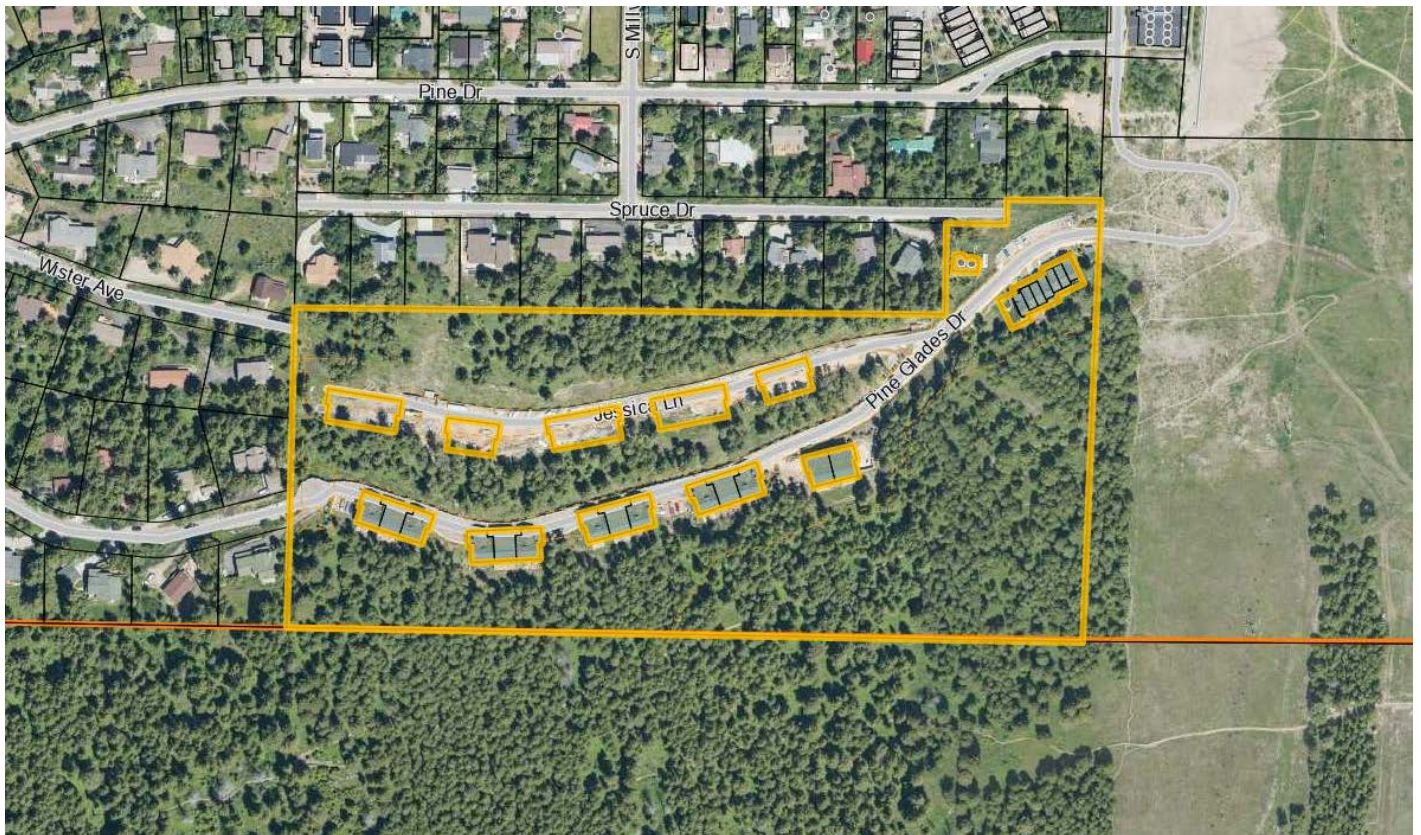
- Modify the exterior materials on the existing duplex at 140 & 142 Pine Glades Drive from a wood/stone combination to primarily stone.
- Remove the in-road heating element in Phase 1 (Pine Glades Drive) and in the future Phase 2 (Jessica Lane)
- Approve a trail plan that would allow public access through the site on trails only and would include newly recorded access easements.

APPLICABLE REGULATIONS

Section 8.3.2 Development Plan

LOCATION

The property is located at 140 Pine Glades Drive (legally described as LOT 14, PINEGLADES TOWNHOMES PHASE 1), 142 Pine Glades Drive (legally described as LOT 13, PINE GLADES TOWNHOMES PHASE 1) and Lot H (Common Area). An aerial photo and zoning map are shown below:



BACKGROUND/ALTERNATIVES

General Overview of the Pine Glades PUD

The subject property is approximately 17.11 acres (745,445 sf) and is zoned Planned Unit Development – Neighborhood Low Density-3 (PUD - NL-3). On August 20, 2007, the Town Council approved a Sketch Plan for a 39-unit Planned Unit Development (PUD), consisting of 27 market townhome units and 12 affordable townhome units. On January 22, 2008, the Town Council approved a Final (Major) Development Plan (referred to as ‘Development Plan’) and Hillside Conditional Use Permit (CUP) consistent with the previously approved Sketch Plan/PUD. After the completion of the first 2 of the 12 affordable units, the applicant requested that the remaining number be reduced from 10 to 7 affordable units. The Town Council approved the proposed amendment to allow the reduction in density provided the number of bedrooms remained the same as what was proposed with the previous 10 units. The final remaining number of deed restricted units is 9 and all are completed and occupied.

The Pine Glades PUD consists of two roads, Pine Glades Drive and Jessica Lane. Both roads are private and all road maintenance responsibility belongs to the applicant/HOA. The Town has an easement, however, that provides Town personnel access to the roadways for the purpose of maintaining the water and sewer lines located under the roads that are the Town’s responsibility. Pine Glades Drive serves Phase I (upper units) and extends down through the tunnel to the entrance of the development. Phase 1 is nearly complete and includes construction of road/utility improvements, 12 market townhome units (4 triplexes), 2 affordable condominium units (duplex), and 7 affordable townhome units (all attached). The only remaining development in Phase I is one market duplex (140 & 142 Pine Glades Drive) that is part of this application. Phase II (lower units) has not been started, so neither Jessica Lane nor the 13 market townhome (three triplexes and two duplexes) have been constructed. The only completed improvements within Phase II are associated with water/sewer mains and retaining walls. Prior to making any future improvements in Phase II, the applicant must obtain approval of a Development Agreement with the Town that will address obligations and bonding for future improvements (i.e. roadway, trails, additional utilities, etc.).

Since approval, the owners of the Pine Glades project have requested numerous amendments and changes that have been processed by the Town. Below is a complete list of the permit history of the PUD.

Original Applications

- **P05-126 & 127:** Sketch Plan and PUD approval (27 market units and 12 affordable units).
- **P07-076:** Variance approval to develop on slopes greater than 25%.
- **P07-126 & 127:** Development Plan and Hillside CUP approval (27 market units and 12 affordable units).

Applications Subsequent to Original Approval

- **P09-006:** Minor Deviation approval to modify parking adjacent to affordable housing units.
- **P09-020:** Final Plat approval for Phase I Townhomes.
- **P09-023:** Final Plat approval for the Spruce Condos (affordable duplex).
- **P09-035:** Minor Deviation approval to remove fire turnout on Pine Glades Drive.
- **P09-081:** Amendment approval to the plat related to mechanics liens.
- **P09-082:** Amendment approval to plat related to past condition of approval and mechanics liens.
- **P10-028:** Amendment approval to Subdivision Improvement Agreement.
- **P11-025:** Minor Deviation approval to remove and relocate a trail (see below)
- **P12-007:** Amendment approval to Subdivision Improvement Agreement
- **P12-095:** Development Plan amendment approval to reduce number of affordable units from 12 to 10
- **P13-054:** Minor Deviation to allow change in design of affordable units.

- **P14-044:** Final Plat approval for Spruce Townhomes.
- **P14-052:** Minor Deviation approval to remove and relocate a trail (see below)
- **P16-140:** Zoning Compliance Verification confirming outstanding obligations.
- **P17-045:** Development Plan amendment approval to modify duplex design and add 600 sf.
- **P19-018:** Development Plan amendment for modifications to architectural features at duplex at 140 & 142 Pine Glades Drive.
- **P19-262:** *Current application*

Trails

Relevant to this application, the original project included an internal trail network intended to connect to the Snow King trail system and to serve the development's residents and the general public (primarily Pine Drive residents). Prior to the approval of the Pines Glades PUD, there was some level of historic informal trail use across the 17-acre hillside parcel by neighbors and others. As a result of strong public interest in maintaining this public trail access through the property, the original developer (as represented by Dave Taylor) promised and agreed to include a trail network that would allow the public to walk and bike through the site to access the Snow King trail system, including the use of Pines Glades Drive as necessary. No public vehicular access was intended. A trail plan (attached as 'Original Trail Plan' and included in the staff report below) was approved with the original PUD and Development Plan.

The original trail plan was changed twice in 2011 and 2014 through staff level reviews. In 2011 a Minor Deviation (P11-025) was approved to relocate the west trail that switchbacks up the hill from the cul-de-sac (connecting to the Sink or Swim trail) to the center of the site next to the duplex at 140 & 142 Pine Glades Drive. This relocation request was made due to stated concerns over the steepness of the slope in the original west location. This new section of trail near the duplex was installed and connected to Sink or Swim. Accessing the trail at this location required neighbors on Pine Drive to walk approximately 900 feet on Pines Glades Drive and the trail was used for a couple of years until the trail was relocated again at the request of the developer.

Later in 2014, another Minor Deviation (P14-062) was approved that removed the section of trail adjacent to the duplex at 140 & 142 Pine Glades Drive and established a replacement trail farther east down Pine Glades Drive just north of the upper opening of the tunnel. This new section of trail is currently built, in operation, and connects to the Shade Monkey trail located on the Town's property. The Shade Monkey trail switchbacks up the hill and connects to Sink or Swim.

Unfortunately, despite all the Council discussion and planning for trails, no access easements were recorded with the original Development Plan/PUD approval to formally establish public access across the Pines Glades roads. In addition, no easement for public access on the roads was shown or stated on the approved plat, and the Development Plan/PUD included no condition of approval requiring such access. It is staff's understanding that the lack of execution of any access easements or similar instrument was an unintentional error. This error was first discovered, as best staff can tell, when Mr. Tozzi purchased the development in 2017 and soon thereafter began posting 'no trespassing' signs on the property and calling the police on non-residents walking across the property. Prior to these actions by Mr. Tozzi (i.e., during the ownership period of the first property developer from 2007 to 2017), it appears that the general public walked frequently through the development, including on Pine Glades Drive, to access the trails with the apparent understanding that the Development Plan/PUD allowed such access and without being told otherwise by Mr. Taylor or by the owners of Pines Glades units at that time.

Recent Compliance Activity

The approval record of the PUD is complex, winding, and often not well documented, making resolution of disputed items difficult. Consequently, due to a difference of opinion between the Town, Mr. Tozzi, and adjacent neighbors about the nature of public access to the trails and Pines Glades Drive, the past three or so years have been marked by frequent accusations of trespass countered by claims of access rights, often with the Town police and planning staff caught in the middle without clear direction.

The current round of permit review started in early 2019 when the applicant submitted an application to amend the Pine Glades Development Plan (P19-018) to make additional architectural modifications to the duplex at 140 & 142 Pine Glades Drive. After getting through the Planning Commission (PC), the applicant continued the item indefinitely in response to contentious public comment at the PC meeting from residents on Pine Drive who felt that no more approvals should be given within Pine Glades until public access for trails through the roads was legally granted. On the other hand, owners of Pine Glades units commented at the PC meeting that they purchased homes in a private development that did not include public access through the roads. They also stated that the public should not be permitted to walk on the roads because of safety and liability issues. In summary the applicant wanted to resolve the access issue before meeting with the Town Council and decided to work with staff to find a solution.

After staff met with the applicant, it became apparent there was a fundamental difference of opinion between staff and the applicant regarding what was originally promised/approved with regard to public access to trails and how the matter should be resolved. Staff then conducted significant additional research into the Pine Glades approvals and prepared a detailed compliance letter in May 2019 (attached as 'Compliance Letter – May 2019') summarizing our findings and opinions on public access for trails and other outstanding compliance matters. In the letter, staff provided evidence that public access across Pine Glades Drive to access trails was clearly promised by the original developer and was presented and approved as part of the original PUD. As mentioned above, a public access easement memorializing this should have been recorded but was never done. Furthermore, the compliance letter stated that the applicant would not be granted any further approvals or be allowed to continue developing the remaining 13 townhomes on Jessica Lane until an easement was recorded allowing the public to walk on the private roads to access the trails as originally intended.

In response to the May 2019 compliance letter, staff received a detailed letter (attached as 'Compliance Response Letter - June 2019') on June 26, 2019, from the applicant's attorney, Erika Nash, stating their difference of opinion. In summary, the response letter argued that all owners purchased their homes without such an access easement recorded and that only a written, recorded legal instrument can create a property right, such as a public access easement across a property. In addition, to record such an easement now would require the (unlikely) approval and signature of all property owners within the Homeowner's Association (HOA) and that such a result would force them to accept unwanted liability for injuries on their property. The response letter also contends that the original developer and approvals were never intended to allow the public to walk across the private roads to access trails, but rather were intended to allow the public to cross through the site by means of trails only.

After reviewing the applicant's response letter, it was clear that obtaining an after-the-fact access easement would be met with strong legal resistance, so staff and the applicant held another meeting to discuss options for compliance. At the meeting the applicant conceptually proposed the idea of an alternative trail plan with trails that would not intersect any roads (except a minor crossing of the cul-de-sac on Pine Glades Drive). Instead, the trails would wrap around the roads and buildings and connect to the Snow King Trail system and would allow the neighbors and public to access the trails and cross the property but without walking on any roads (except the cul-de-sac). The applicant believed that this alternative trail plan would meet the original intent of the PUD.

Based on this meeting, staff sent a final compliance letter on September 6, 2019 (attached as ‘Compliance Final Letter – September 2019’) with two options for compliance: Option #1 allowed the applicant to comply with what staff felt was the original intent of the approved PUD and requiring the applicant to record an access easement over the Pines Glades roads, and Option #2 allowed the applicant to present an alternative trail plan that, while not providing an access easement to the roads, would still provide significant public trail access through the site in similar locations as originally approved and would include clear recorded public access trail easements to avoid future disputes. The applicant chose Option #2 and so has provided an alternative trail plan for the Town’s review (see analysis of proposed trail plan below).

Project Description

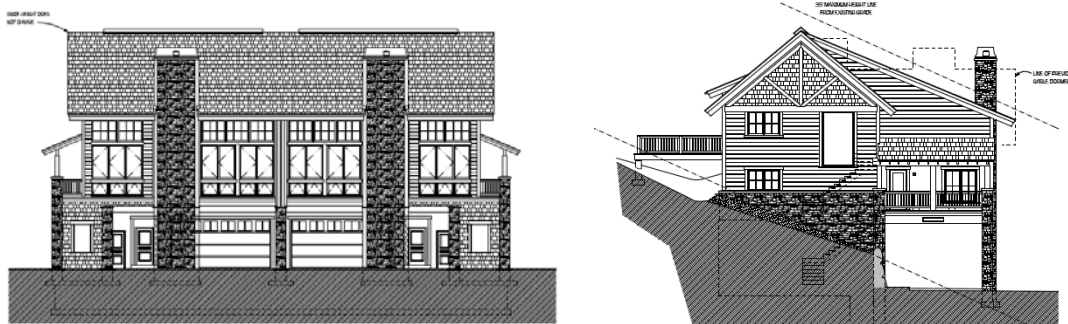
The applicant is proposing to amend the Pine Glades Development Plan to 1) modify the exterior materials on the existing duplex at 140 & 142 Pine Glades Drive, 2) remove the in-road heating element from both phases, and 3) install an alternative public trail plan.

- **Duplex Material Change**

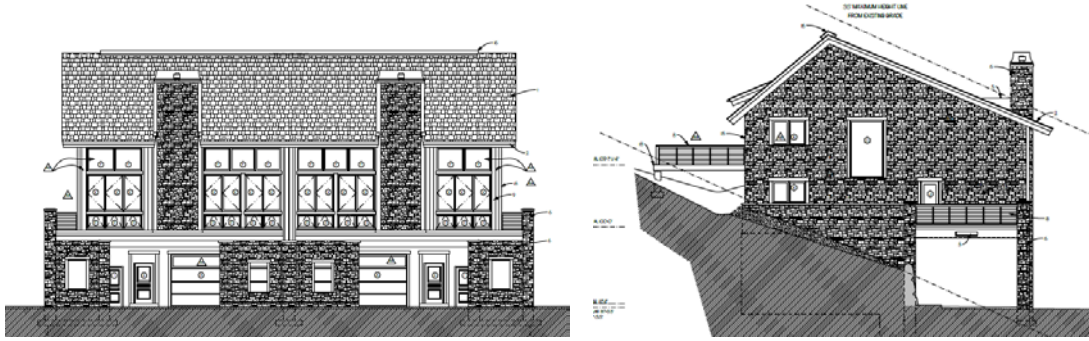
An amendment to the Pine Glades Development Plan was approved in 2017 (P17-045) which included architectural changes to roof pitches and exterior materials for all three duplexes within Phases I & II. The applicant is now seeking to make several small changes to only the duplex at 140 & 142 Pine Glades Drive which include the use of stone as the main exterior material on the side elevations (east and west). The stone proposed on the side elevations would go from the base of the unit to the roof. Previous designs had stone about half way up the building which transitioned into horizontal wood siding and wood shingles. In addition, the stone chimney on the front (north) elevation would no longer continue to the ground, but would start on the second story. Windows on all elevations would be changed slightly with regard to size and location. Additional stone is also proposed on the ground level columns and the columns themselves would be widened.

The applicant is seeking these changes to reduce the maintenance costs associated with wood. In addition, because this development did not require review and approval by the Design Review Committee, the applicant finds that personalization of the units should not be of issue considering height is not increasing. Below reflects the 2017 approved changes and the proposed 2019 changes. It should be noted that the requested changes to the duplex listed above have already been made.

Currently Approved Duplex as of the 2017 Amendment:



Proposed 2019 Changes to Duplex:



- **Roadway Heating Element**

When the Pine Glades PUD and Development Plan were approved, an in-road heating element was approved for both Phase I & II. The Phase I heating element, which is installed, starts at the top of the tunnel and continues up Pine Glades Drive and ends just past the driveway entrance for the duplex at 140 & 142 Pine Glades Drive. The Phase II heating element, which is not installed, would start at the entrance to Jessica Lane and continue west for approximately 100 feet.

The applicant is requesting that the in-road heating element for both phases be removed from the original approval because it was not an LDR requirement nor is it necessary to maintain safe road conditions. The applicant states that the heating element has been broken for three years and operating costs in one year have reached \$150,000.00. Allowing this element to be removed would relieve the HOA from having to pay high costs to fix and operate it. The applicant currently pays to have the private road plowed and sanded and no safety issues have arose since the heating elements broke. In addition, the applicant states that heating the road does not align with the Town's energy conservation objectives.

- **Alternative Trail Plan**

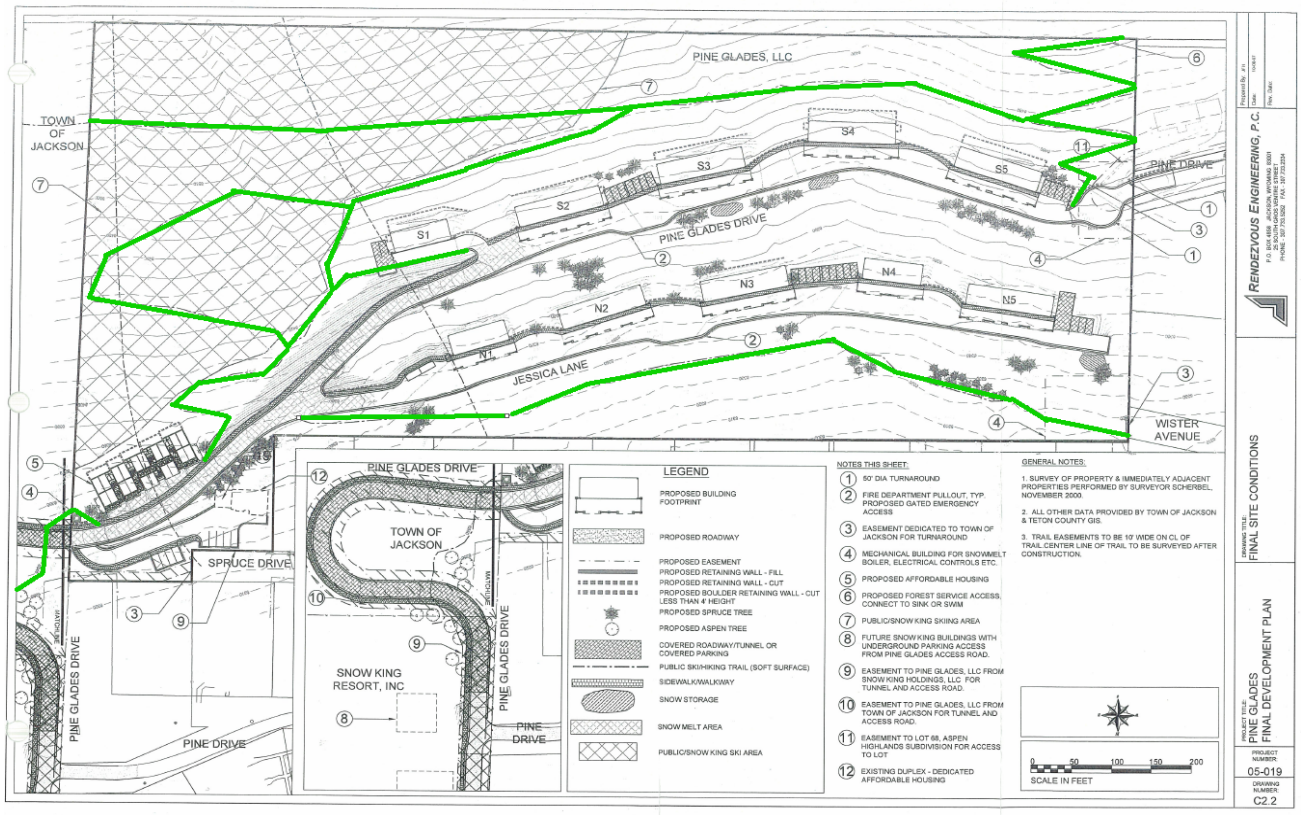
The applicant is proposing an alternative trail plan that includes three new sections of trails that do not require the use of the roads, except for the cul-de-sac at the end of Pine Glades Drive.

- The first new section of trail (below in red) starts at the cul-de-sac on Pine Glades Drive and switchbacks up the hill (south) and connects to Sink or Swim which is located on the USFS property. The total elevation from the cul-de-sac to the Sink or Swim connection is approximately 90 feet over a total horizontal distance of approximately 375 feet.
- The second section of trail (below in red) also starts at the cul-de-sac on Pine Glades Drive but switchbacks down the hill (north) and connects to the existing trail below Jessica Lane. The total elevation from the cul-de-sac to the lower trail connection is approximately 75 feet over a total horizontal distance of approximately 170 feet.
- The third section of trail (below in red) wraps around below the affordable duplex and connects the trail below Jessica Lane to the trail that starts at the top of the tunnel. The elevation drop to get around the duplex is approximately 35 feet over a horizontal distance of approximately 115 feet. The elevation to connect to the trail above the tunnel is approximately 15 feet over a horizontal distance of approximately 250 feet.

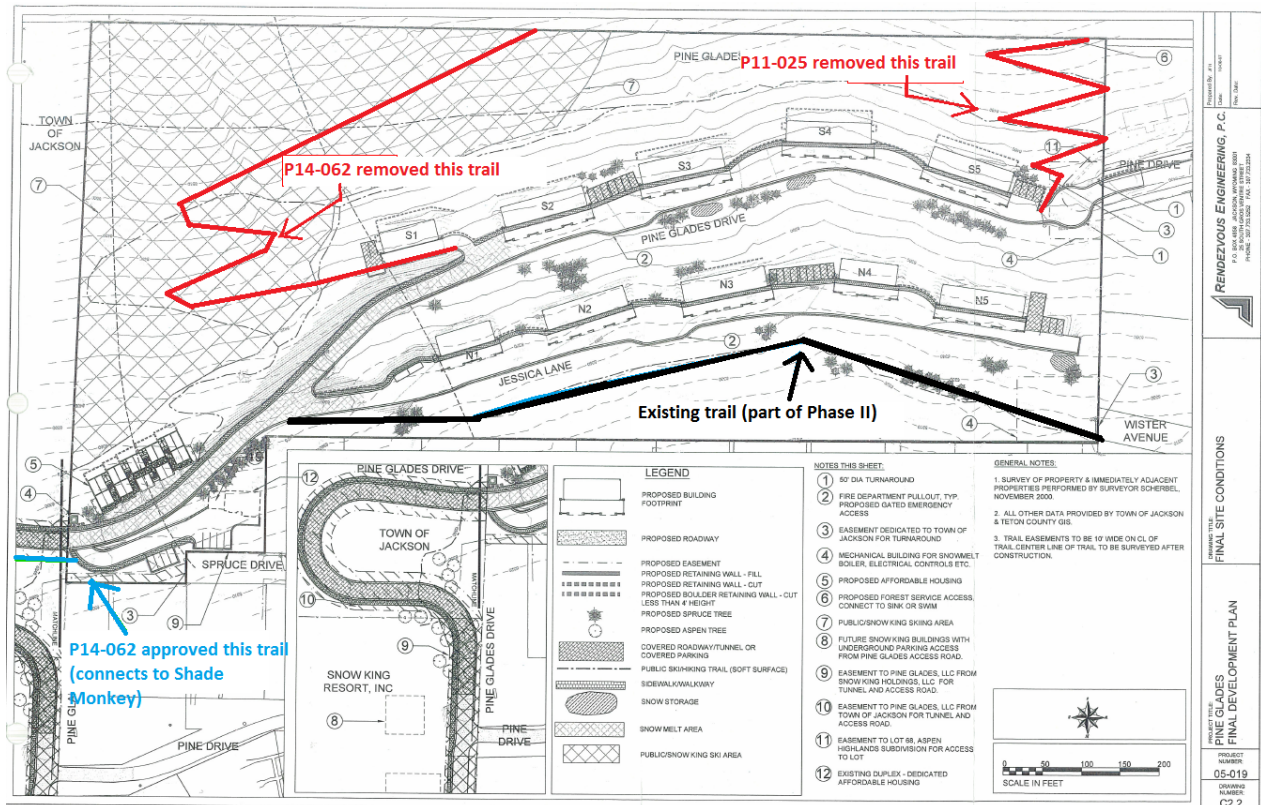
Note: the first section of trail was originally approved with the PUD but later removed and relocated. The second and third sections of trail are newly proposed and not part of a previous approval

As shown in the proposed trail section details, stone steps will be incorporated within each section due to the steep slopes and the trails will maintain a 10% average grade. Adjacent to the first section of trail, the applicant is proposing a landscape screen of trees to provide a buffer from the Phase I Pine Glades homes and the Pine Drive homes directly to the west. The applicant states that this plan meets the intention of the original developer by providing public trail access, mostly hiking and less-so mountain biking, through the site to connect to the Snow King Trail System. Although a signage plan has not been provided, the applicant intends to work with Town staff to ensure proper signage is erected and that easements are recorded against the property to ensure proper public access in perpetuity. These trails will be open year-round but only maintained during summer. Due to the steepness and use of stairs, these trails are built primarily for hikers, but portions could be used for bikers. Below are three trail plans: the Original Approved Plan, the Currently Approved Trail Plan after amendments, and the Proposed Alternative Trail Plan (larger versions are on the review packet).

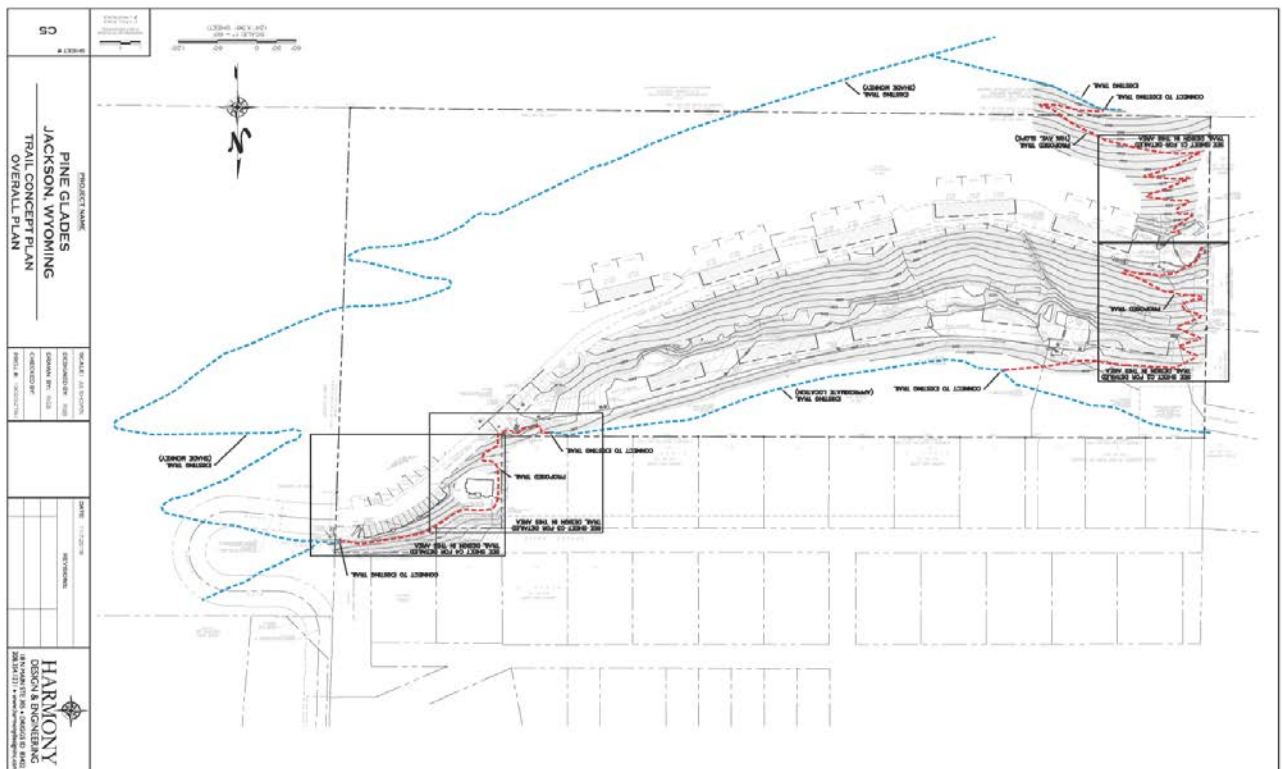
Original Approved Trail Plan (green = approved):



Currently Approved Trails (red = removed, blue = approved/installed, black = installed/Phase II):



Proposed Alternative Trail Plan (red = proposed, blue = existing):



Staff Review

Amendment to Development Plan

This request is considered an amendment to the Development Plan due to the significance of the proposed changes, especially the trail plan. The PUD does not need to be amended because this change does not directly impact the PUD, which addresses primarily allowed uses and dimensional standards. As part of the restructured LDRs effective on January 1, 2015, new language was added regarding amendments to past permits or approvals. Section 8.2.13.B - Amendment of Permits or Approval states that:

“All changes to an approved physical development permit, use permit, or development option plan not qualifying as minor deviations shall be considered amendments and shall be reviewed subject to the current procedure and standards of these LDRs.”

As stated below under **Staff Findings**, staff was able to make all necessary findings, as conditioned, for a Development Plan.

Request 1: Exterior Architectural Changes

When the Pine Glades PUD and Development Plan were approved, the duplexes were designed to match the appearance of the triplex buildings. Although there were some minor architectural differences between the duplexes and triplexes, the common elements shared were the building materials of stone, horizontal wood siding and wood shingles. Based on the residential nature of the Pine Glades project, review and approval was not required by the Design Review Committee (DRC).

To understand the proposed changes it is necessary to first briefly explain the last amendment to the Development Plan in 2017 that approved exterior changes to the three duplexes, one nearly-completed duplex in Phase I (140/142 Pines Glades Drive), and two unbuilt duplexes in Phase II. The roofs and exterior materials for the three duplexes and the 140/142 Pines Glades Drive duplex were slightly modified and it was determined by the Council that the new design was in keeping with the character of the original design, especially because the building material types were not changing. However, instead of building the duplex to be consistent with the approved changes from 2017, the applicant deviated from that design and the approved building permit by replacing much of the wood siding with stone veneer during the duplex construction process (as shown in the current proposal). The applicant is thus requesting an after-the-fact approval. If this amendment is not approved, then the applicant would be required to remove the stone and comply with the past 2017 design approval.

Staff has no significant concerns with the proposed exterior changes. The additional stone is viewed as an upgrade and requires less maintenance than wood. In addition, the use of stone is common throughout the development and the applicant is not introducing a new material. No additional height or floor area is proposed. Staff has added a condition of approval requiring the applicant to submit an addendum to the duplex building permits to reflect the materials proposed in this application.

Removal of Heating Element

Staff has confirmed that the in-road heating element was not a requirement of the LDRs but rather a developer proposed amenity that was approved with the PUD and Development Plan. As such, it became a requirement of the project but can be removed through this amendment request at the Council's discretion. The heating element has, in fact, been broken for several years and so the roads have been maintained similar to any other hillside road via plowing and sanding. To date staff has not been made aware of any vehicular-

related safety issues as a result of the inoperable heating element nor has Fire or Public Works raised concerns about its removal. Because the road is private and plowed/sanded at the expense of the HOA, staff does not have any concerns about removing the heating element from the HOA obligations. Additionally, unnecessary energy consumption such as a heated roadway does not align with the Town of Jackson's values and objectives towards sustainable development.

Alternative Public Trail Plan

As explained above, the applicant has chosen to seek approval of an alternative trail plan under Option #2 as outlined in staff's final compliance letter sent in September 2019. Similar to the in-road heating element, because the original trail network was not an LDR requirement but rather an amenity negotiated as part of the PUD, the trail plan can be re-negotiated and legally changed through this amendment process.

In terms of the proposed trail plan itself, staff finds that, while it may provide fewer lineal feet of total trails, it will provide a similar level of connectivity to adjacent trails as the original trail network. The one significant caveat is that no public access is proposed for the private internal roads, except for the cul-de-sac to access the two western switchback trails. While some portions of the trail are on steep slopes, the proposed design is suitable for the conditions and comparable to other trails. For example, the proposed trail section leading up from the cul-de-sac was included in the original approval and maintains an average 10% slope. Although stone steps will be incorporated throughout the trail plan making it difficult for bicyclists, it will still serve as a multi-use summer trail system. Although not discussed in much, if any, detail in the original approval, the applicant is not proposing and is not required to maintain the trails for winter use. This makes sense given that the Sink or Swim trail is not maintained by the USFS in the winter so there is little reason to require a higher level of maintenance on the private trails that connect to Sink or Swim. Nevertheless, as with the USFS trails, it is staff's understanding that the Pine Glades trails can be used by trail users in the winter at their own option but they will not be maintained.

Teton County Pathways Department has reviewed the trail plan and provided conditional approval to this alignment pending input from the Friends of Pathways/USFS trail construction crew. Pathways provided specific comments related to the type of cuts made to the hillside to ensure trail and slope stability. Pathways also commented that applicant needs to maintain a clear path to all trail entrances during winter months to not block access for users even though the trails, including Sink or Swim, are not maintained during the winter. It is staff's understanding that the trails will be built by the applicant, and, potentially, private nonprofits or public agencies it seeks and succeeds in partnering with. The applicant will also be responsible for summer trail maintenance, also possibly in coordination with private nonprofits or public agencies. Staff has added a condition of approval requiring the applicant to satisfy all written concerns/requirements from Pathways.

The proposed trail plan was also sent for review to the USFS and staff received comments stating that they had no significant issues with the proposed trails. The comments (attached as 'USFS Review') were from 2011 but an email from Linda Merigiano (Recreation Wilderness program manager for Jackson Ranger District) confirmed that the approval in 2011 is still valid. Staff also confirmed with Pathways and the USFS that a 10% grade is typically the standard for trails on steep slopes which is what the applicant is proposing.

The applicant has not yet proposed any specific signage for the trails, but staff will work with the applicant to ensure that all trail signage is clear, accurate, and visible so that future disputes between Pines Glades residents and the general public can be avoided. Staff has added a condition of approval related to signage which includes the provision of signage requiring dogs to be leashed on trails within the Pine Glades property.

Another important issue concerns potential landscaping/screening on both sides of the first section of trail above the cul-de-sac. Staff is supportive of vegetative screening provided that the trees are approved by the

Fire Department. This property is located within the Wildland Urban Interface and typically the addition of trees (i.e. fuel) is not recommended unless they are of a specific species, properly spaced and irrigated. Pine Glades was required to provide a Fuels and Vegetation Mitigation plan which required the removal and pruning/thinning of hundreds of Douglas fir trees. Pine Glades was also required to plant over a hundred new fire-resistant tree species such as Aspen, Serviceberry and Snowberry in order to help screen the development. Staff has added a condition of approval requiring that the applicant work with the Fire and Planning Departments on an appropriate landscape screening plan for the first section of trail above the cul-de-sac that does not conflict with the Wildland Urban Interface code requirements.

At the Planning Commission meeting, staff brought up recent public comment from Jennifer Bragg (attached) who lives at the affordable duplex addressed at 45 Pine Glades Drive. Her comments expressed concerns over the closeness of the trail (Section #3) to her home as it relates to safety, privacy and noise. In response staff recommended that a 6th condition of approval be added requiring the applicant to revise Section #3 of trail to be as far from the duplex as possible and include some form of screening (i.e. trees, shrubs, fence, etc.).

After the Planning Commission meeting on January 15, the applicant and staff met in response to Ms. Bragg's comment. The applicant presented two alternative trail routes for Section #3:

1. The first alternative trail would stay to the south of (above) the duplex. Instead of the original design that goes down the hill and around the side and back of the duplex, this option would stay above the duplex and then hug the northern side of the surface parking on Pine Glades Drive and then connect finally to the trail at the top of the tunnel. This option would cross the front stairs of the duplex near the edge of Pine Glades Drive. Staff has not heard from the owners of the duplex on this design, as it was presented to staff on January 29. Staff prefers this alternative to the current proposal because it appears to better address Ms. Bragg's concerns regarding privacy.
2. The second alternative trail would improve an existing, but not well-maintained trail, that starts at the eastern end of Spruce Drive and connects over to Shade Monkey. This trail appears to already have an easement for public access. The applicant is proposing this option as a replacement for the lower trail below Jessica Lane trail. Staff is not supportive of this alternative because it would provide less convenient and less safe access to the neighbors on Pine Drive and Wister Avenue than the currently proposed lower trail.

Pathways Director Brian Schilling provided the following comments which are attached in the department reviews:

While the revised trail provides essentially the same connectivity (start and end points) and I feel it meets the intent of the trail connection, it's not as nice a trail route for the users as it will be butt up against a retaining wall for much of the route and a 5' attached sidewalk for the rest, neither of which is a great trail design. The new route is a little more direct and has fewer stairs (although essentially the same overall vertical drop and gain), but overall the original route was a better design. So, I feel it's acceptable but a step down from the originally proposed route.

Also, during the meeting with the applicant, staff offered another option for Section #3 if the applicant would be agreeable to the alignment. Under this option, the trail would avoid the affordable duplex entirely by crossing Pine Glades Drive at the stair access at the junction of Pine Glades Drive and Jessica Lane and then continue up the hillside between the affordable townhomes and the new market duplex to the Shade Monkey trail. This trail would be similar in intent to the S1 trail (adjacent to duplex at 140/142 Pine Glades Drive) that was removed in 2014 through a Minor Deviation. Staff acknowledges that would require the applicant to voluntarily provide a public access easement to cross Pines Glade Drive. And while we know the applicant has thus far stated that they oppose providing any public access to the development's private roads, staff believes that providing this limited access near the entrance to the tunnel would not significantly impact the

owners or create any obvious conflicts. It would also avoid an expensive and awkward trail design as proposed by the applicant for Section #3.

In conclusion, staff finds that the alternative trail plan generally accomplishes the intent of the original Development Plan/PUD approval by completing an important project obligation from the 2007 approval. The benefits of the alternative trail plan are a significant public trail network with legally guaranteed recorded access easements. If this trail plan is not approved, the Town would likely continue to pursue enforcement action to achieve the Town's compliance goals as stated in Option #1.

Future Applications

There are a few remaining applications required by the applicant to complete the Pine Glades PUD. Below are the remaining required applications:

1. **Development Agreement (DA):** a DA is required for Phase II (Jessica Lane) based upon the original Subdivision Improvement Agreement (SIA) and needs Town Council approval. The DA is related to improvements on Jessica Lane (i.e. road, utilities, trail, etc.). However the applicant cannot apply for the DA until the issue regarding trails and public access is resolved either through this application or through enforcement.
2. **Grading Permit:** A Grading Permit is required for the proposed work on Jessica Lane related to the road, building envelopes, multi-use trail and utilities.
3. **Building Permit:** Building Permits are required for each of the remaining 13 market townhome units.
4. **Subdivision Plat:** a Subdivision Plat is required to subdivide the remaining 13 townhomes for individual ownership as originally contemplated.

Staff Findings

General Comment: Findings should only apply to changes, not original Development Plan

Development Plan. All Development Plan proposals may be approved only if all of the following findings are made:

1. *The proposed project is consistent with the desired future character described for the site in the Jackson/Teton County Comprehensive Plan.*

The proposed application is located in Character District #6 Town Periphery:

This residential, STABLE Subarea is defined by low to medium density platted single family homes with some pockets of multifamily development which should be maintained in the future. Consideration of clustered/multifamily development to preserve large portions of open space and/or wildlife habitat/movement corridors will also remain an option. In the future, building size should maintain the existing bulk and scale to avoid the construction of much larger homes that currently exist today. Development should be sensitive to the steep slopes, avalanche terrain and other natural features found in the subarea. Portions of this subarea also function as a wildlife movement corridor between the National Forest, Karns Meadow and the Southern hillsides of East Gros Ventre Butte. Wildlife permeability should be maintained or improved.

Complies. Staff finds that the project is consistent with the vision for subarea 6.1 as described above, specifically as the amendment does not increase the existing density which is considered to be low to medium. Building size and bulk are also not changing from what was previously approved. Additionally, wildlife permeability was considered into the original design to help function as a

wildlife corridor between the listed areas above (i.e. National Forest, Karns Meadow and Southern hillsides of East Gros Ventre Butte). The proposed amendments do not significantly impact such corridors. Staff also finds that the project is generally consistent with all other applicable provisions of the Comp Plan, and as such finds that it achieves the level of consistency necessary for FDP approval.

In addition, staff finds that the application should be reviewed for consistency specifically with Subarea 6.1 Low to Medium Density Neighborhoods which states as follows as the desired vision for the subarea:

Common Value 1: Ecosystem Stewardship

Policy 1.1.c: Design for wildlife permeability

Complies. The subject property is not located within the Natural Resource Overlay (NRO) or Scenic Resource Overlay (SRO), but an Environmental Analysis (EA) was done in 2005 which concluded that the site provides non-crucial habitat for deer, moose and elk. The EA also contemplated the original approved trails and future trail connections above and beyond what was shown. Considering that approximately one mile of trails were approved with the original design, staff finds that the proposed trail system will not have a significant negative impact on wildlife permeability.

Policy 1.3.b: Maintain expansive hillside and foreground vistas

Complies. Staff finds that the project as previously approved maintains expansive hillside and foreground vistas through its design. The proposed amendment does not impact additional hillside disturbance beyond what was originally contemplated.

Common Value 2: Growth Management

Policy 4.3.a: Preserve and enhance stable subareas

Complies. Staff finds that because the density and bedroom count will remain the same, the proposed project does preserve and enhance stable subareas.

Policy 4.4.d: Enhance natural features in the built environment

Complies. Although the proposed trail plan will disturb hillside areas not originally contemplated (i.e. below the cul-de-sac and around/below the duplex), the proposed amendment is still less overall hillside disturbance than the original one-mile of trails. Staff finds that the amendment has no significant impact in regards to this area.

Common Value 3: Quality of Life

Policy 5.3.b: Preserve existing workforce housing stock

Complies. All nine (9) deed restricted units will not be affected by this proposal. In fact the removal of the heating element will ensure that any high maintenance and/or operating costs associated with the heating elements will not be passed onto the affordable and workforce restricted units.

2. *The proposed project achieves the standards and objective of the Natural Resource Overlay (NRO) and Scenic Resources Overlay (SRO).*

Not applicable.

3. *The proposed project does not have a have a significant impact on public facilities and services, including transportation, portable water and wastewater facilities, parks, schools, police, fire, and EMS facilities.*

Complies. Staff finds that the proposed project will not have significant impacts on public facilities and services. Furthermore, as part of the original approval, significant off-site infrastructure improvements were completed to serve the site's needs and help counter any significant impacts on public facilities and services.

4. *The proposed project complies with the Town of Jackson Design Guidelines, if applicable.*

Not applicable.

5. *The proposed project complies with all relevant standards of these LDRs and other Town Ordinances.*

Complies. As conditioned, staff finds that the proposed project complies with the standards of these LDRs as the request meets all requirements such as FAR, LSR, setbacks, height, etc. In addition the project is in compliance with all other Town Ordinances.

6. *The proposed project is in substantial conformance with all standards or conditions of any prior applicable permits or approvals.*

Complies. As conditioned, staff finds that the proposed project will bring the previously approved Sketch Plan, PUD and Development Plan into substantial conformance.

ATTACHMENTS

Supplemental Narrative and Section #3 Alternative Trail Plans
New Public Comment
Comment from Pathways Director

STAKEHOLDER ANALYSIS

The primary stakeholders are the Pine Glades residents and owners and the general public who serve to benefit from the trail access through the private development.

PUBLIC COMMENT

Staff has received written and verbal comment on this proposal, all of which is related to the proposed trail plan. Generally speaking, all of the written comments are from residents on Pine Drive who strongly oppose the proposed trail plan and contest that it does not line up with the promises of the original developer to provide access through the roads and that this access should now be granted through an easement benefitting the public. Other comments expressed concern over the steepness of the proposed trails and their inability to accommodate mountain biking. Additionally, concerns were expressed that the proposed trails will no longer allow year-round access because some people walk on the road during winter to access other trails such as Sink or Swim which are not maintained in the winter but are frequently used by locals.

Staff has spoken to two property owners on Wister Avenue (435 & 410 Wister Avenue who do not have any strong opposition to the proposal but hope that trail access through the site will continue to be allowed. The

property owner at 410 Wister Avenue expressed concerns about the location of the trail which switchbacks down from the cul-de-sac and its impact on existing Spruce trees that provide screening from the Pine Glades development. That owner would like to see those trees remain if possible. Staff has added a condition to this effect.

Staff has also spoken to the two duplex owners located at 45 Pine Glades Drive. The proposed trail wraps around their building and passes close to their homes and through their yards. Both owners claimed that they own the common land surrounding their building, however, staff has not been provided with any supporting documents. After reviewing the plat, staff confirmed that the area surrounding their duplex building is Common Lot H which is the general common area for the HOA and appears to belong to the HOA.

Staff has received a letter (attached) from 10 homeowners within Pine Glades expressing their support for the proposed amendments, specifically the original trail plan presented by the applicant. The letter goes on to explain their concerns for granted public access after-the-fact, liability and other concerns.

FISCAL IMPACT

There will be no significant fiscal impact to the Town if the proposed project is approved. However, if the request is not approved, then there is the potential for significant additional costs related to increased staff time to enforce and defend our desired compliance outcome through Option #1.

STAFF IMPACT

Staff has spent a significant amount of time, more than a typical project of this size, meeting with the applicant, coordinating with other departments, researching past approvals for Pine Glades, drafting enforcement letters, and drafting this report.

LEGAL REVIEW

Ongoing as needed.

RECOMMENDATIONS/ CONDITIONS OF APPROVAL

The Planning Director recommends **approval** of P19-262 to amend a Development Plan to allow the proposed modifications listed in the application related to exterior materials changes, the in-road heating element, and the trails plan, subject to the departmental reviews attached hereto and the following conditions of approval:

1. Prior to issuance of Certificate of Occupancy on the duplex at 140 & 142 Pine Glades Drive, the applicant shall apply for an addendum to the duplex building permits to revise all exterior elevations to reflect the approved materials and changes.
2. By no later than September 1, 2020, all trails and signage shall be installed and satisfactorily inspected. In addition, by no later than September 1, 2020 the applicant shall record public access easements for the approved trails to the satisfaction of the Planning Director, Pathways Director, and Town Attorney. Signage shall include a requirement for a dog leash requirement at all trail entrances and exists.
3. Prior to September 1, 2020, the applicant shall work with the Fire Department and Planning Department on an appropriate landscape screening plan for the first section of trail above the cul-de-sac that does not conflict with the Wildland Urban Interface code requirements.

4. The applicant shall satisfactorily address all concerns from the Pathways Director related to technical or engineering suggestions for the trails. Comments related to neighbor approval or unspecified ongoing concerns are not the responsibility of the applicant.
5. The applicant shall make all efforts to not disturb mature Spruce trees in the section of the trail below the cul-de-sac. Any necessary removal of trees will require new trees to be planted to ensure adequate screening is maintained. All new trees will require approval from the Fire Department and Planning Department.
6. The alternative trail route for Section #3 that goes above the duplex and hugs the parking area on Pines Glades Drive shall be the approved trail alignment.

SUGGESTED MOTIONS

Based upon the findings for a Development Plan as presented in the staff report related to 1) Consistency with the Comprehensive Plan; 2) Achieves purpose of NRO & SRO overlays; 3) Impact of public facilities & services; 4) Complies with Town Design Guidelines; 5) Compliance with LDRs & Town Ordinances; 6) Conformance with past permits & approvals as presented by the applicant and staff for Item P19-262, I move to recommend **approval** to the Town Council to amend a Development to allow the proposed modifications listed in the application related to exterior materials changes, the in-road heating element, and the trails plan, subject to the departmental reviews attached hereto and the following conditions of approval:

1. Prior to issuance of Certificate of Occupancy on the duplex at 140 & 142 Pine Glades Drive, the applicant shall apply for an addendum to the duplex building permits to revise all exterior elevations to reflect the approved materials and changes.
2. By no later than September 1, 2020, all trails and signage shall be installed and satisfactorily inspected. In addition, by no later than September 1, 2020 the applicant shall record public access easements for the approved trails to the satisfaction of the Planning Director, Pathways Director, and Town Attorney. Signage shall include a requirement for a dog leash requirement at all trail entrances and exists.
3. Prior to September 1, 2020, the applicant shall work with the Fire Department and Planning Department on an appropriate landscape screening plan for the first section of trail above the cul-de-sac that does not conflict with the Wildland Urban Interface code requirements.
4. The applicant shall satisfactorily address all concerns from the Pathways Director related to technical or engineering suggestions for the trails. Comments related to neighbor approval or unspecified ongoing concerns are not the responsibility of the applicant.
5. The applicant shall make all efforts to not disturb mature Spruce trees in the section of the trail below the cul-de-sac. Any necessary removal of trees will require new trees to be planted to ensure adequate screening is maintained. All new trees will require approval from the Fire Department and Planning Department.
6. The alternative trail route for Section #3 that goes above the duplex and hugs the parking area on Pines Glades Drive shall be the approved trail alignment.

COLLINS PLANNING

• A S S O C I A T E S •

MEMO

To: Tyler Valentine
Fr: Bill Collins
Re: Pine Glades Trail Plan
Date: January 30, 2020

Please see attached two alternative alignments to the lower trail in Pine Glades. The currently proposed trail plan contains a lower trail that extends from Wister Avenue to the eastern portion of Pine Glades where it turns downhill adjacent to the existing duplex at 45 Pine Glades Drive. These two alternatives respond to public comment that has been received and a suggested condition from the planning staff that pertain to the current alignment.

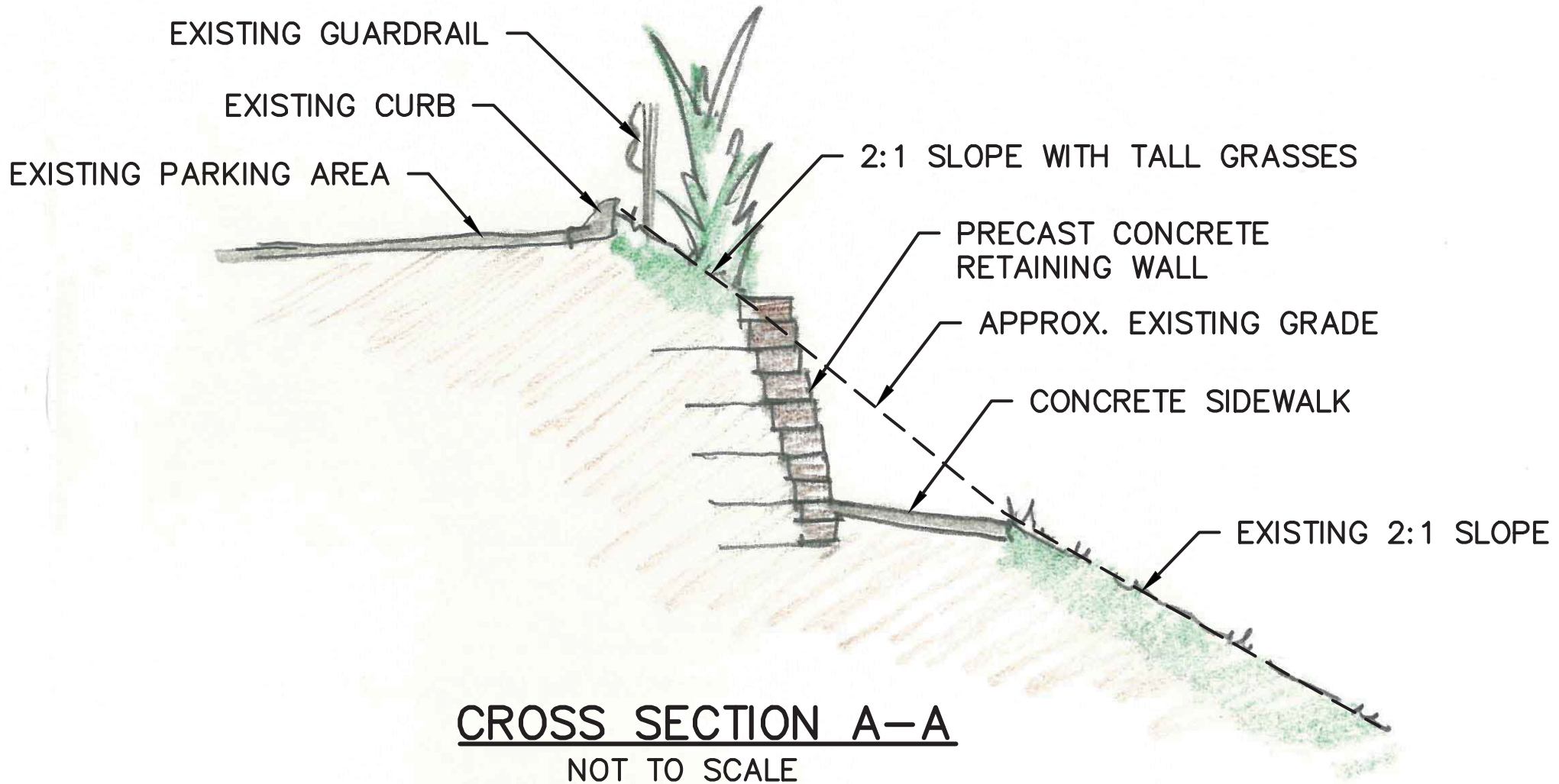
One attached alternative avoids the downhill turn adjacent to the duplex and continues the trail along the side of Pine Glades Drive to where it reaches an existing parking lot, and then the trail wraps around the parking and continues east. Attached are a plan view showing this alignment and a cross-section depicting how the alternative relates to the retaining wall at the head of the parking lot.

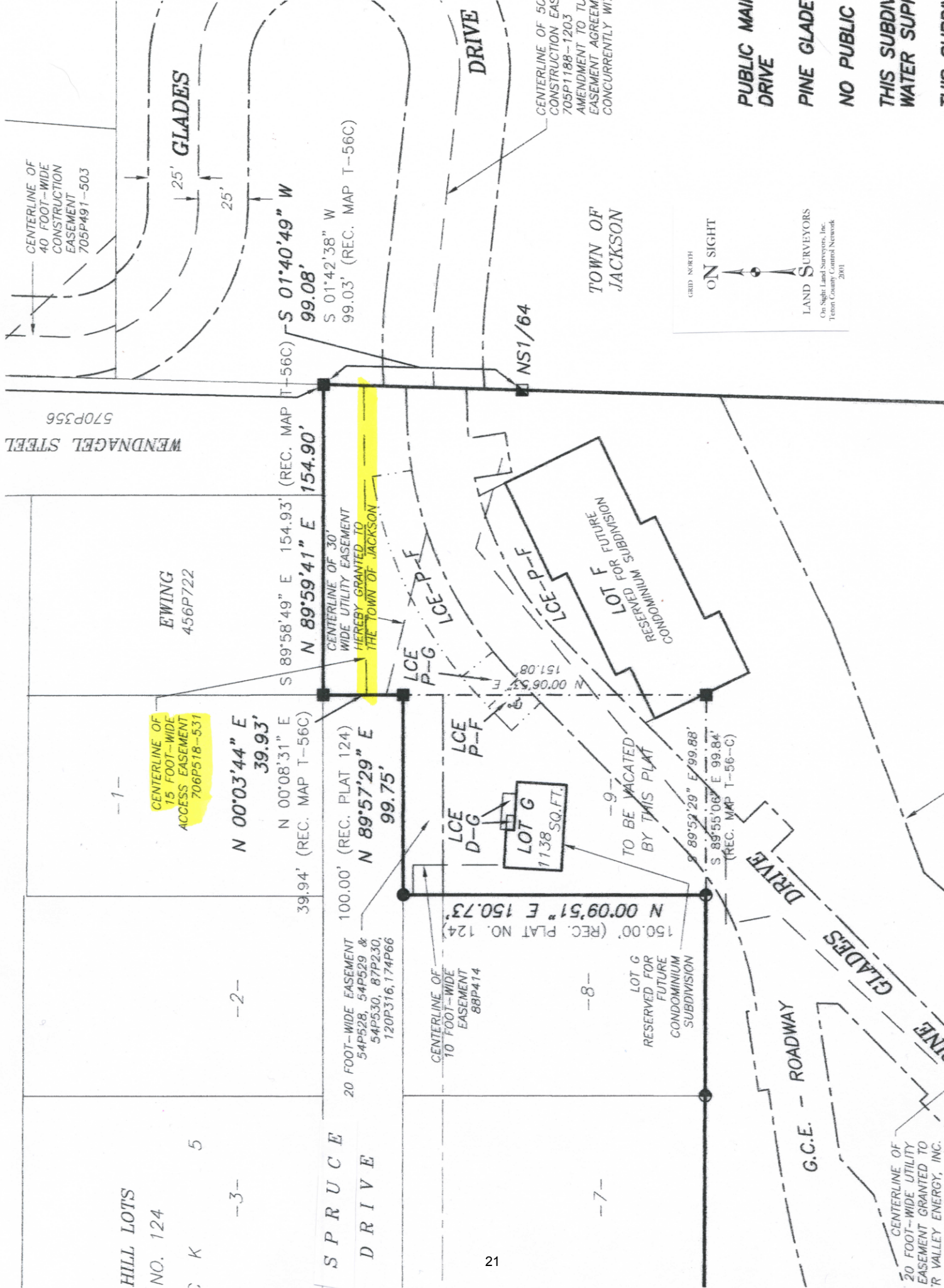
The second attached alternative redevelops a former trail that extends from the end of Spruce Drive eastward to the existing trail on Snow King. This alternative would replace the lower trail that runs near the duplex. This extension of Spruce Drive would be in an existing utility easement.

Also attached are two additional exhibits that depict the three-dimensional private road easement that crosses each individual townhouse lot, under the overhang of each building. These exhibits and the accompanying photo are for informational purposes; they illustrate the tight spaces under the building overhangs and in the travel way in front of the townhouses.

Attachments:

	Description
19020-278-1DWG-C3-NORTHEAST	Alternative trail adjacent to road and parking area
19020-278-1DWG-C3-Construction detail	Elevation view/detail of trail above
SpruceDrive_access_easement_plat1285	Detail from Plat 1285 showing easement from Spruce Drive to Snow King
PrivateRd_012920	Exhibit showing platted 3-D private road access easement passing through a townhome
A302	Architectural elevation view of typical townhome showing private road





WENDNAGEL STEEL
570P356

HILL LOTS
NO. 124

K 5

CENTERLINE OF
15 FOOT-WIDE
ACCESS EASEMENT
706P518-531

EWING
456P722

-3-

N 00°03'44" E
39.93'
N 00°08'31" E
39.94' (REC. MAP T-56C)

S 89°58'49" E 154.93' (REC. MAP T-56C)
N 89°59'41" E 154.90'

SPRUCE
DRIVE

20 FOOT-WIDE EASEMENT
54P528, 54P529 &
54P530, 87P230,
120P316, 174P66

N 89°57'29" E
99.75'

CENTERLINE OF 30'
WIDE UTILITY EASEMENT
HEREBY GRANTED TO
THE TOWN OF JACKSON

CENTERLINE OF
10 FOOT-WIDE
EASEMENT
88P414

N 00°09'51" E 150.73'
150.00' (REC. PLAT NO. 124)

LOT G
1138 SQ. FT.

LCE D-G
LCE P-F

LCE P-G
LCE P-F

-8-

LOT G
RESERVED FOR
FUTURE
CONDOMINIUM
SUBDIVISION

TO BE VACATED
BY THIS PLAT

S 89°52'29" E 99.88'
S 89°55'08" E 99.84' (REC. MAP T-56-C)

RESERVED FOR FUTURE
CONDOMINIUM SUBDIVISION
LOT F

LCE P-F

LCE P-F

N 00°06'53" E 151.08'

NS1/64

TOWN OF
JACKSON

CENTERLINE OF 5C
CONSTRUCTION EAS
705P1188-1203
AMENDMENT TO TL
EASEMENT AGREEM
CONCURRENTLY WI.

DRIVE

GLADES

25'
25'

S 01°40'49" W
99.08'
S 01°42'38" W
99.03' (REC. MAP T-56C)

GRID NORTH
ON SIGHT

LAND SURVEYORS
On Sight Land Surveyors, Inc.
Teton County Central Network
2001

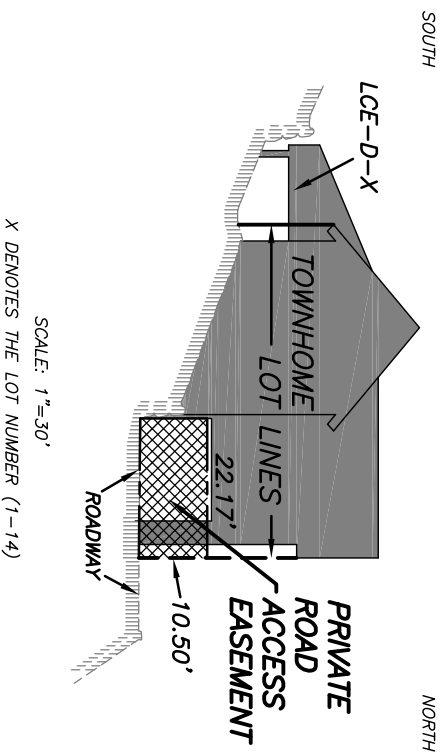
PUBLIC MAIL
DRIVE
PINE GLADE
NO PUBLIC
THIS SUBDIVISION
WATER SUPPLY

GLADES DRIVE
G.C.E. - ROADWAY

CENTERLINE OF
20 FOOT-WIDE UTILITY
EASEMENT GRANTED TO
R VALLEY ENERGY, INC.

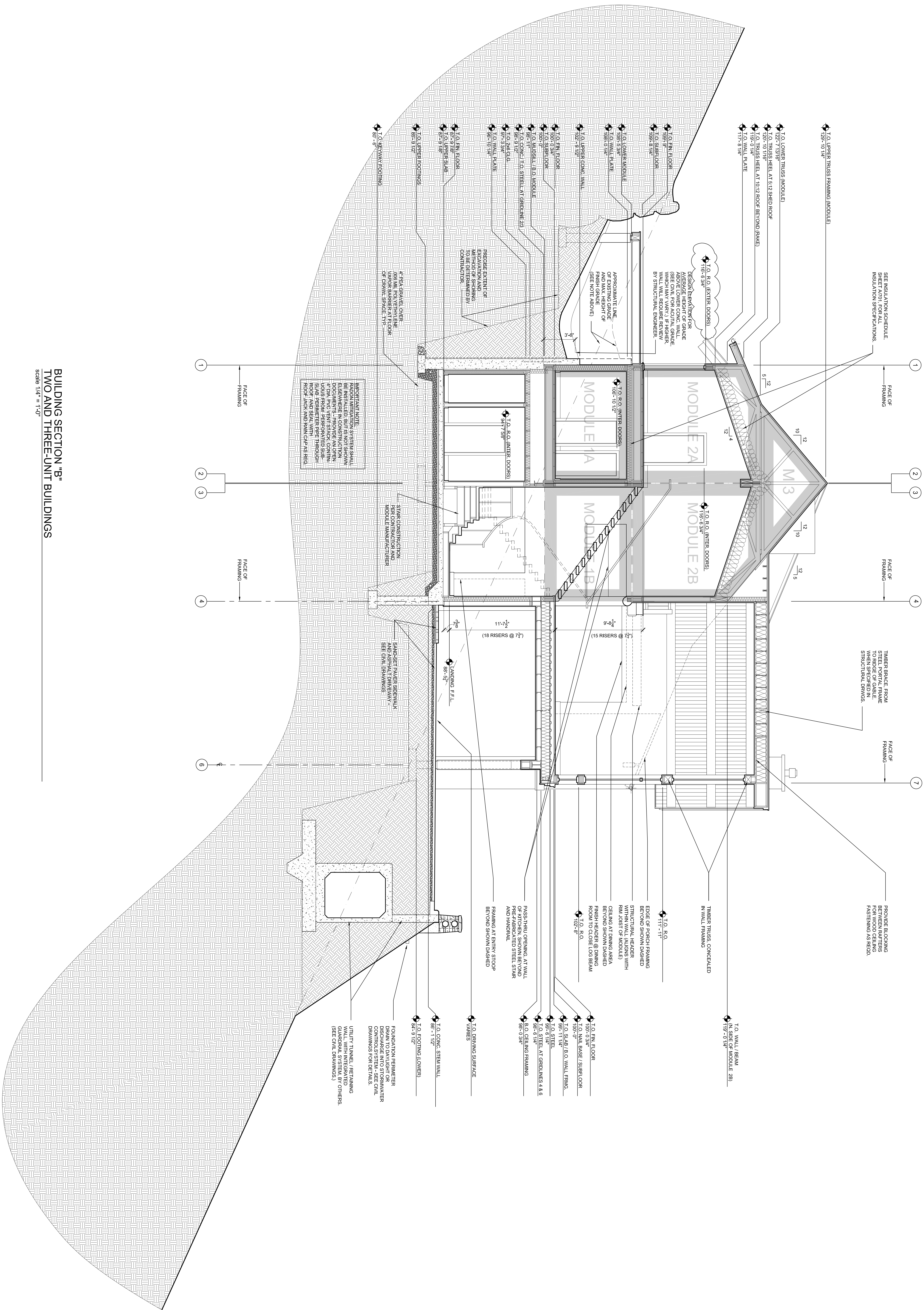
DETAIL

THREE-DIMENSIONAL PRIVATE ROAD ACCESS EASEMENT ACROSS LOTS 1-14 & A-E



155 West Gill Ave.
P.O. Box 12290
Jackson, WY 83002
(307) 734-6131

EXHIBIT
SHOWING
PRIVATE ROAD ACCESS EASEMENT
ACROSS
PINE GLADES TOWNHOMES PHASE ONE
ADDITION TO THE TOWN OF JACKSON
PLAT NO. 1285



Dear Madam and Sirs,

As concerned citizens, as good faith property owners in the Pine Glades subdivision and as residents of the Town of Jackson, we want to go on record with regard to the issues on the Application for Amendment of the Pine Glades Development Plan, item P19-262. We respectfully file these comments and appreciate the efforts by all members of the Town Planning staff and Commission to address these issues.

1. Overview of Support for Application: We want to be very clear that we, the undersigned homeowners of Pine Glades, support all three of the provisions in the application for Amendment. Given the broad acceptance of two of the items regarding a heated street and the stone additions to the new units, we will focus our discussion on the Application relating to the proposed hiking trails.

A. Overall Position of Undersigned Homeowners: To be 100% clear, while the trails are not perfect for homeowners in Pine Glades development, it is a compromise that is supported by all the undersigned homeowners living on Pine Glades Drive. We believe that substantial effort and cost has and will go into the development of the trails as proposed in the application to the benefit of all residents of Jackson who chose to avail themselves of this opportunity.

B. Trail design: The trail design accomplishes many objectives. It provides ways to access Snow King Mountain. The trails come in close proximity to the homes within the development but are mostly reasonable compromises. The western-most trail is steep as Snow King Mountain is steep. It is not unreasonably so, and in many ways, seems to mirror the steepness of other portions of trails on Snow King. Of course, it will have snow during most winter seasons. Most trails have snow in the winter. This will be no exception and should be well known by residents of Jackson. While most residents believe the proposed trails are a reasonable compromise, however, with regard to the proposed north hiking trail, it does come very close to two condominium units. We would support other viable options to the proposed north hiking trail that eliminates these proximity concerns and understand that the applicant may have already come up with an option to address this matter. In short, the trail design is not perfect from the perspective of the development homeowners but it is demonstrably a very reasonable compromise if the proposed north hiking trail can be modified to effectively address these proximity concerns.

C. Broad Public Easement to Pine Glades Drive: We note at the outset that much of the public comments only tangentially discussed the trail compromise being proposed in the application. Rather, the focus of most commenters opposed to the Application simply turned to the issue of unfettered access to the improved parts of Pine Glades Drive and the private land on Pine Glades. The record should be clear that this, while related, is a very different issue than the question of whether the trail meets the developer's written obligations and is a reasonable compromise to provide trail access. There was never any assumption that the ONLY trail design was one which gives unfettered access to the now improved, paved, snow plowed, well lit from dusk to dawn year round and a well maintained Pine Glades Drive (all of which is paid solely by Pine Glades property owners). Nonetheless, we the homeowners feel the need to address this issue even though it is NOT, nor should it be, part of the consideration for P19-262.

2. Public Record: With regard to unfettered access through a new, previously undocumented public easement through the Pine Glades development, the fact is that the only record of making this public was oral comments in 2007 timeframe. These oral comments were made by the original developer which were NEVER to our knowledge repeated, codified, recorded or confirmed in writing, acted upon in negotiation with the developer, or in any other way materialized to be added to the public records for the Town of Jackson or Teton County. This is a simple fact which, however unfortunate, all the parties must accept. At this very late date, it would be a VERY material change some thirteen years after oral conversations to impose an entirely new right easement for access onto the Pine Glades development and over the land of the good faith purchasers of property. We could go into much greater discussion of the absence of any public access easement but the planning and zoning staff understands this issue in great detail.

3. Practical and design considerations: In addition to the absence of public record supporting public access, there are strong reasons why public access is simply not feasible EVEN had it been authorized:

A. Safety. The project design obviously was not built with the idea of full public use given homeowner's safety. The overhang means that owners are stepping into a canopy road, or active bike, automobile, motorcycle, skateboard path when they step right outside their front door. There is demonstrated "adolescent" (of all ages) uses of the

pillars on our homes as a make-shift bike and skateboard slalom courses that endangers both the participant and the homeowners.

B. Liability: As private land, there is a presumption of culpability if someone is injured or killed on our property. Will the City grant the Pine Glades residents a complete indemnifications of attorney's fees, court costs, and damages as a result of injuries incurred on the development? Of course it will not. Might people use theories of architectural design, attractive nuisance, negligence in maintenance and the panoply of other arguments to find liability of the home owners? Of course they will if someone is injured or killed. It is not reasonable, years after all conditions were duly negotiated and agreed upon, and the design of the homes approved, and the written assurances that it would be PRIVATE, to impose this huge new liability on private property owners. Other private property owners, including those on the large lots on prominent neighborhoods with sizeable buffer zones between their homes and the road, have the unfettered ability to keep trespassers off their property thereby limiting liability. We have had and should continue to have the same right.

C. Quiet enjoyment of private property: A fundamental tenet of private property is the right to enjoy the property with unnecessary noise. The area must be kept private as the approved design of the units is such that people can stand directly underneath our balconies and under our living rooms. If unfettered public access is permitted, this can and will continue to happen at all hours of the day and night. Unlike some neighbors on other neighboring properties, we have no offsets or buffer on our property. The large lots do not have this concern given the distance from the public road. There is no ability to cure this issue for the existing good faith purchasers in the Pine Glades development.

D. Issues of failure to curb pets: There is a known history and well documented pet abuses that occur. Of course, most pet owners are conscientious about managing their pets, but the ones that are not have made an impact on the residents of Pine Glades.

4. Alleged Developer Transgressions: A number of the commenters outside of our community seemed to focus on alleged transgressions (e.g., topping of some trees, unauthorized landscaping, etc.) by the current owner of the development. We are, however, homeowners in the development, and are good faith purchasers of our homes. We are not the developer nor do we share in his potential rewards or financial exposure. If the developer has taken inappropriate actions, the City

has remedies which they can impose upon him WITHOUT unnecessarily penalizing good faith purchasers who wish to live in harmony under the terms and condition in effect when they purchased their homes.

5. Alleged "Elitism": In addition, a number of the external public comments appear to irrationally and inappropriately accuse the residents of the Pine Glades development of elitism. We are of course offended. We can only surmise that such offensive accusations are made based on frustrations largely born from the fundamental weakness of opponents position (total lack of documentation, good faith homeowner purchaser property rights, etc.) to achieve access to our property.

6. Alleged Recriminations of "un-Jackson like" behavior by Pine Glades residents: There is a huge irony in one of the commenters largely chastising the owners in Pine Glades for effectively not giving to others that which we have paid for (i.e., access to our private property). She does this while simultaneously chastising the Pine Glades home owners for not embodying the "spirit of Jackson." We are again offended by such recriminations when we only seek that which other private property owners have in Jackson (i.e., the ability to enjoy their private property). This person demanded that the zoning and planning commission to (paraphrasing) "just use the leverage that the City has and deny everything (without regard to ANY merit on the other two conditions) and make them give us what we want. Don't be a foolish City, just demand it!" So, this is the type of behavior she would have the City of Jackson adopt and be known for? To have no regard for the written, long established public record of negotiations, written reports, permits granted? No regard for good faith purchasers when you have "leverage" and can change the terms of the long standing public record? No regard for the property rights of bona fide good faith purchasers? The great irony of course is that this is NOT what Jackson stands for nor should it ever stand for.

7. Eminent Domain: The City and County of course enjoy the option of appropriating land under eminent domain for appropriate public uses consistent with the Wyoming Constitution and implementing laws and regulations. This of course is an entirely different proceeding than the present one and involves appropriate compensation for such taking of private property. While we see no such need given the developers proposed trail system and access it will provide, we the homeowners in the Pine Glades development will be obligated to have such discussions with the City under the rules and regulations that govern such

matters. We strongly believe however that it should not come to this given the detailed written record and the reasonable trail proposal in the application of the developer.

Thank you for the ongoing efforts and for our ability to respectfully submit our views. We are happy to provide such additional comments as the planning and zoning commission may request.

Respectfully,

Pine Glades Undersigned Homeowners:

<u>Alex Good & Darrylynn Kaun</u>	<u>260 Pine Glades Dr., Jackson, WY</u>
<u>James & Lucy Wong</u>	<u>242 Pine Glades Dr., Jackson, WY</u>
<u>Charles & Tory Nagle</u>	<u>160 Pine Glades Dr., Jackson, WY</u>
<u>Linda Damiano</u>	<u>164 Pine Glades Dr., Jackson, WY</u>
<u>Tony Hartl</u>	<u>262 Pine Glades Dr., Jackson, WY</u>
<u>Susan Oremus</u>	<u>224 Pine Glades Dr., Jackson, WY</u>
<u>Bryan Shannon Mills</u>	<u>220 Pine Glades Dr., Jackson, WY</u>
<u>Doug & Paige Lee Schrier</u>	<u>240 Pine Glades Dr., Jackson, WY</u>
<u>Bill & Stephanie Binch</u>	<u>244 Pine Glades Dr., Jackson, WY</u>
<u>Jeff Hussey</u>	<u>220 Pine Glades Dr., Jackson, WY</u>

PLANNING

Project Number P19-262 **Applied** 11/14/2019 **STOL**
Project Name Dev Plan Amend - 140 & 142 Pine Glades Dr **Approved**
Type DEVPLAN **Closed**
Subtype AMENDMENT **Expired**
Status STAFF REVIEW **Status**

Applicant Collings Planning Associates

Owner PINE CANYON, LLC

Site Address

140 Pine Glades Drive

City

Jackson

State

WY

Zip

83001

Subdivision

Parcel No

22411633438022

General Plan

Type of Review	Status	Dates			Remarks
		Sent	Due	Received	
Contact Notes Building Kelly Sluder	APPROVED	11/14/2019	12/5/2019	11/15/2019	
Fire Kathy Clay Originally, this entire area was to be irrigated. Irrigated fuels - conifers, aspens, and other plants - have a much lower chance of burning in a wildland fire scenario than those fuels which are not irrigated. I am very concerned to read "phase two is exceeding the planting requirements." As long as this is irrigated planting, there are no concerns. Without irrigation, however, these homes positioned within the wildland urban interface are certainly at a higher risk if the environment is filled with low fuel moisture content conifers.	APPROVED W/CONDITIONS	11/14/2019	12/5/2019	11/18/2019	please see comments
Joint Housing Dept Stacy Stoker (1/10/2020 10:00 AM SAS) The Housing Department's initial concern was who owned the land containing the trails going by the restricted units. Upon review of the plat, it appears that the land is owned as common area by the Homeowner's Association collectively and not by the restricted units' owners. If this is the case, the Housing Department has no concern.	APPROVED	11/14/2019	12/9/2019	1/10/2020	please see comments
Legal Lea Colasuonno (12/6/2019 2:59 PM LC) Initial legal review complete and will continue to monitor compliance with original conditions and appropriateness in light of the LDRs of amendments thereto.	APPROVED W/CONDITIONS	11/14/2019	12/5/2019	12/6/2019	
Parks and Rec Steve Ashworth (11/15/2019 1:29 PM STOL) Comments: •Would request clarification regarding maintenance responsibility of the proposed "trail system" if approved. •There is a reference to "constructing the trails and recording easements that will allow public access across the property." What type of easement?	APPROVED W/CONDITIONS	11/14/2019	12/5/2019	11/15/2019	

Andy Erskine, CPSI

Type of Review Contact Notes	Status	Dates			Remarks
		Sent	Due	Received	
Pathways Brian Schilling (12/12/2019 11:20 AM STOL) P19-262 – 140 and 142 Pine Glades - Amendment to Development Plan Comments from Teton County/TOJ Pathways Department Status: approved w/conditions	APPROVED W/CONDITI	11/14/2019	12/9/2019	12/12/2019	
•The applicant has proposed a trail plan that connects from Pine Dr. to Shade Monkey by going up the hillside at the far west end of the development. Staff has provided conditional approval to this alignment pending input from the FOP/USFS trail construction crew. •Access to the trailheads shall be maintained year-round (i.e. no piling of snow or other obstacles in front of the trail access points to prevent or discourage use). A clear path to the trail access points shall be maintained. •To the maximum extent possible, trail construction shall use the cut and bench method similar to Detail B-B on Sheet C.1 rather than the fill type of construction shown in Detail C-C on Sheet C.2. This will result in a more durable and sustainable trail. •All of the proposed trail connections are located on steep hillsides that will require steps and/or stairs and tight switchbacks. This effectively renders these connections as “hike only” trails which will not be accessible for bicycle travel. Staff has ongoing concerns about the steep grades and stairs/steps and the impact on accessibility, safety, and sustainability.					
January 31, 2019 comments in response to alternative trail plan					
•While the revised trail provides essentially the same connectivity (start and end points) and I feel it meets the intent of the trail connection, it’s not as nice a trail route for the users as it will be butt up against a retaining wall for much of the route and a 5’ attached sidewalk for the rest, neither of which is a great trail design. The new route is a little more direct and has fewer stairs (although essentially the same overall vertical drop and gain), but overall the original route was a better design. So, I feel it’s acceptable but a step down from the originally proposed route.					
Planning Tyler Valentine (1/10/2020 9:42 AM TV) Please see staff report	APPROVED W/CONDITI	11/14/2019	12/9/2019	1/10/2020	
Police Todd Smith (12/9/2019 8:39 AM STOL) Great to see a commitment to get the hiking trails reestablished by the applicant. It is not uncommon for the police to received complaints regarding this issue from the public wanting access.	APPROVED W/CONDITI	11/14/2019	12/9/2019	12/9/2019	
No additional concerns.					
Todd					
Public Works Brian Lenz	APPROVED W/CONDITI	11/14/2019	12/9/2019	1/10/2020	

Type of Review	Status	Dates			
		Sent	Due	Received	Remarks
Contact Notes (1/10/2020 10:44 AM BTL) Development Plan Review – APPROVED P19-262 OWNER: Pine Canyon LLC APPLICANT: Collins Planning Associates; Bill Collins Pine Glades PUD DATE: January 10, 2020 Brian Lenz, 733-3079 DATE OF SUBMITTAL: November 11, 2019 DATE OF MATERIALS: Project Status, 10/7/2019; Plans 11/7/2019 REVISION NO.: 00 The engineering division has reviewed your application for an Amendment to the DEVELOPMENT PLAN for the Pine Glades PUD submitted on and with application materials as dated above. CONDITIONS OF APPROVAL REQUEST 1: Material Change to Exterior of Duplex S-1 that is still under construction. 1. No Comment REQUEST 2: Trail Network Approval 1. A grading permit is required prior to construction of the proposed trail network. 2. Proposed rock retaining walls over four feet in height must be engineered. Any walls over 6-feet high shall include calculations and factors of safety for sliding, overturning, and bearing capacity. 3. Developer shall provide a cost estimate for the construction of the trails and a financial assurance of 125% of the cost to complete the improvements will be required for completion of the proposed trail network. 4. Proposed signage guiding the public to the proposed trails access shall be included with future grading or building permit submittals. Comments that are not conditions of approval: 1. Past discussion with the applicant indicated that a grading permit would not be required but based on the conceptual designs shown with stairs and proposed retaining walls a grading pre-application meeting and grading permit are warranted. 2. The proposed trail network involves extensive use of stairs and retaining structures. Prior to finalizing the easement provide clarification on the party responsible for the ongoing cost to maintain and repair the proposed structures. 3. In past discussions with the applicant, the tunnel easement provides for a private roadway and does not allow for public vehicular traffic. Please clarify if it does allow for non-motorized and/or pedestrian use by the public. If so, signage to that affect should also be installed at the entrances to the tunnel. CLARIFICATION 1: In road heating element 1. The heating element is not a requirement of public works. There are similar short sections of public road in town, examples include South Cache St., South Millward, 595 Pine Drive, with similar grades (approximately 14%) that are maintained with plowing and sanding. Public Works finds this request reasonable. START Darren Brugmann		11/14/2019	12/5/2019		
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