



REGULAR CITY COUNCIL MEETING AGENDA
Tuesday, March 1, 2022 6:00 PM
City Council Chambers, Elks Civic Building - 107 S. Cascade Ave.

The Montrose City Council is pleased to have residents of the community take time to attend City Council meetings. We encourage your attendance and participation. Individuals wishing to be heard during public hearing proceedings are encouraged to be prepared and will generally be limited to three minutes to allow everyone the opportunity to be heard. Additional written comments are welcome and will be received at any time. The 11:00 p.m. rule will be enforced in accordance with City of Montrose Regulations (Sec. 7-15-2).

Public participation for this meeting will be in person in the City Council Chambers and via Zoom at the following link: https://us02web.zoom.us/webinar/register/WN_he65A1hMScOHjxsU0znW0w
Telephone participation is available at: 1-253-215-8782 or 1-346-248-7799. Webinar ID 899 7206 6095.

The meeting can be viewed via livestream at <https://www.cityofmontrose.org/759/Live-Meetings-Viewer>.

Hearing assistance devices are available for public use. Please let us know if you need accommodation. The City also offers interpretation for Spanish speakers. In order to allow time to book this resource, please email planningmail@ci.montrose.co.us at least three days before the meeting.

- 1) City Council meeting called to order by Mayor Doug Glaspell
- 2) The Pledge of Allegiance
- 3) Roll call by the City Clerk
- 4) Changes to the agenda including additions and deletions
- 5) Mobile Home Park Rehabilitation Project Presentation
- 6) CALL FOR PUBLIC COMMENT FOR NON-AGENDA ITEMS

The “Call for Public Comment” agenda item is a time when concerned members of the community may publicly voice their concerns and discuss items of interest. Please note that no formal action will be taken on the matters raised during this time.

Comments made during this time should be addressed to the Council and pertain to matters of at least general importance to the City and its operations. Please be aware that neither City Council nor City staff are expected to respond or engage in discussion or debate. Personal attacks and disagreements, personnel and employment matters, the use of profanity or ethnic, racial or gender-oriented slurs are prohibited, as is any “disorderly conduct” which violates state or local law and shall not be permitted.

**Please note that the times listed are estimates only. Actual times may vary depending upon discussion and public comment received.*



7) APPROVAL OF MINUTES (5 minutes)

City Council consideration of the minutes of the February 15, 2022 regular City Council meeting. *Staff: City Clerk Lisa DelPiccolo 7-14*

Action: Consider making a motion to approve the minutes of the February 15, 2022 regular City Council meeting as presented.

8) YOUTH CITY COUNCIL APPLICANT INTERVIEW AND APPOINTMENT

City Council will interview and consider the appointment of Sabastine Simkins to the City of Montrose Youth City Council for the remainder of the 2021-2022 term. *Staff: Youth City Council Coordinators Mikayla Unruh and Kailey Rhoten*

Action: Consider making a motion to appoint Sabastine Simkins to the City of Montrose Youth City Council for the remainder of the 2021-2022 term.

9) ORDINANCE 2563 - SECOND READING (10 minutes)

City Council consideration of Ordinance 2563 on second reading, an Ordinance of the City of Montrose, Colorado, extending the temporary moratorium to prohibit the establishment of any new or relocation of existing adult gaming arcade uses within the City limits of the City of Montrose; providing that the moratorium shall be in effect for a period which shall terminate at the earliest of the City's adoption of an amendment to Title 4, Chapter 14 Adult Business Regulations, or the expiration of three hundred sixty-five (365) days from date of passage of Emergency Ordinance 2560; providing for legislative findings, intent, and purpose; providing for a revised definition of the use of adult gaming arcades for the purposes of this Ordinance; providing repealing clauses; and providing an effective date. *Staff: Assistant City Attorney Matthew Magliaro 15-31*

Action: Accept public comment. Consider making a motion to adopt Ordinance 2563 on second reading as presented.

10) ORDINANCE 2577 - SECOND READING (15 minutes)

City Council consideration of Ordinance 2577 on second reading, An Ordinance of the City of Montrose, Colorado, updating Title 6 Chapter 1, Miscellaneous Offenses: repealing and recodifying Title 6 Chapter 1 Section 27 (6-1-27) only regarding underage possession of tobacco/cannabis and paraphernalia, adding Title 6 Chapter 1 Section 26 (6-1-26) regarding underage possession of tobacco and tobacco paraphernalia; repealing and replacing Title 6 Chapter 1 Section 27 (6-1-27) regarding underage possession of cannabis and cannabis paraphernalia. *Staff: Assistant City Attorney Matthew Magliaro 32-49*

Action: Accept public comment. Consider making a motion to adopt Ordinance 2577 on second reading as presented.

11) ORDINANCE 2581 - FIRST READING (15 minutes)

City Council consideration of Ordinance 2581 on first reading, an Ordinance of the City of Montrose, Colorado, updating Title 4 Chapter 4, Sections 2, 10, 14, 17, and 18 Zoning Regulations of the City of Montrose: amending Title 4 Chapter 4 Sections 2, 10, 14, 17, and 18 (4-4-2, 4-4-10, 4-4-14, 4-4-17, and 4-4-18) regarding zoning regulations to add a definition of supportive housing, barrier(s) to employment and housing stability, on-site supportive service, skilled nursing facility, and assisted living facility and specify where supportive housing is allowed. *Staff: Community Engagement Specialist Ross Valdez* **50-64**

Action: Hold a hearing. Consider making a motion to pass Ordinance 2581 on first reading as presented.

12) ORDINANCE 2578 - SECOND READING (10 minutes)

City Council consideration of Ordinance 2578 on second reading, an Ordinance of the City of Montrose, Colorado, updating Title 4, Chapter 15, Historic Preservation Regulations of the City of Montrose: Amending Title 4 Chapter 15 Section 2 (4-15-2) regarding the composition of the historic preservation commission. *Staff: Planner I William Reis* **65-70**

Action: Accept public comment. Consider making a motion to adopt Ordinance 2578 on second reading as presented.

13) ORDINANCE 2579 - SECOND READING (10 minutes)

City Council consideration of Ordinance 2579 on second reading, an Ordinance of the City of Montrose, Colorado, amending the zoning designation of the Yocum Addition from "R-2" Low Density District to "R-3A" Medium High Density District. *Staff: Senior Planner Amy Sharp* **71-78**

Action: Accept public comment. Consider making a motion to adopt Ordinance 2579 on second reading as presented.

14) ORDINANCE 2580 - SECOND READING (10 minutes)

City Council consideration of Ordinance 2580 on second reading, an Ordinance of the City of Montrose, Colorado, designating the S.H. Nye Building, 428 E Main Street, Montrose, Colorado, as a City of Montrose Historic Property Pursuant to § 4-15 of the Official Code of the City of Montrose. *Staff: Planner I William Reis* **82-84**

Action: Accept public comment. Consider making a motion to adopt Ordinance 2580 on second reading as presented.

15) NIAGARA ROAD ADDITION ANNEXATION (15 minutes)

City Council will hold a hearing on the annexation of the Niagara Road Addition. *Staff: Planner I William Reis* **85-96**



Resolution 2022-05: City Council consideration of Resolution 2022-05, Findings of Fact for the Niagara Road Addition. **93-94**

Action: Accept public comment. Consider making a motion to adopt Resolution 2022-05 as presented.

Ordinance 2582 - First Reading: City Council consideration of Ordinance 2582 on first reading, an Ordinance of the City of Montrose, Colorado for the annexation of the Niagara Road Addition. **95-96**

Action: Hold a hearing. Consider making a motion to pass Ordinance 2582 on first reading as presented.

16) ORDINANCE 2583 - FIRST READING (10 minutes)

City Council consideration of Ordinance 2583 on first reading, an Ordinance of the City of Montrose, Colorado providing for the zoning of the Niagara Road Addition as "B-2" Highway Commercial District. *Staff: Planner I William Reis* **97-98**

Action: Hold a hearing. Consider making a motion to pass Ordinance 2583 on first reading as presented.

17) MIER ADDITION ANNEXATION (15 minutes)

City Council will hold a hearing on the annexation of the Mier Addition. *Staff: Senior Planner Amy Sharp* **99-112**

Resolution 2022-06: City Council consideration of Resolution 2022-06, Findings of Fact for the Mier Addition. **109-110**

Action: Accept public comment. Consider making a motion to adopt Resolution 2022-06 as presented.

Ordinance 2584 - First Reading: City Council consideration of Ordinance 2584 on first reading, an Ordinance of the City of Montrose, Colorado for the annexation of the Mier Addition. **111-112**

Action: Hold a hearing. Consider making a motion to pass Ordinance 2584 on first reading as presented.

18) ORDINANCE 2585 - FIRST READING (10 minutes)

City Council consideration of Ordinance 2585 on first reading, an Ordinance of the City of Montrose, Colorado providing for the zoning of the Mier Addition as "R-3" Medium Density District. *Staff: Senior Planner Amy Sharp* **113-114**

Action: Hold a hearing. Consider making a motion to pass Ordinance 2585 on first reading as presented.

19) HOME OF THE BRAVE PRELIMINARY PLAT (10 minutes)

City Council consideration of the Home of the Brave Preliminary Plat. *Staff: Senior Planner Amy Sharp* **115-128**

Action: Accept public comment. Consider making a motion to approve the Home of the Brave Preliminary Plat expressly conditioned upon City staff ensuring that all policies, regulations, ordinance and municipal code provisions are met and that the applicant adequately addresses all of staff's concerns prior to execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied.

20) RIVERBEND RV PARK TRAVEL HOME PARK PERMIT (10 minutes)

City Council consideration of a revised travel home park permit for Riverbend RV Park located at 65120 Old Chipeta Trail. *Staff: Senior Planner Amy Sharp* **129-137**

Action: Accept public comment. Consider making a motion to approve the Travel Home Park Permit for Riverbend RV Park as detailed in the staff report. The request meets the Code criteria and standards based on the evidence and testimony presented at this hearing and in the staff report.

21) LOT A, REPLAT OF MCKINLEY SUBDIVISION, AMENDMENT NO. 1 (10 Minutes)

City Council consideration of the Lot A, Replat of McKinley Subdivision, Amendment No. 1 plat. *Staff: City Engineer Scott Murphy* **138**

Action: Accept public comment. Consider making a motion to approve the Lot A, Replat of McKinley Subdivision, Amendment No. 1 plat to include dedication of rights of way and easements for the future construction of a roundabout at the intersection of East Oak Grove and Woodgate Roads.

22) NIAGARA-HILLCREST ROUNDABOUT DESIGN CONTRACT (10 Minutes)

City Council consideration of a contract award to Felsburg, Holt, and Ullevig in the amount of \$183,422.50 for completion of design studies and civil design associated with the Niagara-Hillcrest Roundabout Project. *Staff: City Engineer Scott Murphy* **139-140**

Action: Accept public comment. Consider making a motion to award a contract to Felsburg, Holt, and Ullevig in the amount of \$183,422.50 for completion of design studies and civil design associated with the Niagara-Hillcrest Roundabout Project as presented.

23) PAVEMENT MARKING CONTRACT EXTENSION (10 minutes)

City Council consideration of the extension of a pavement marking contract with Stripe A Lot, Inc., of Montrose, Colorado, for the not-to-exceed amount of \$175,000.00. *Staff: Public Works Manager Jim Scheid* **141-143**



Action: Accept public comment. Consider making a motion to approve the extension of a pavement marking contract with Stripe a Lot, Inc. for the not-to-exceed amount of \$175,000.00 as presented.

24) STAFF REPORTS

25) YOUTH CITY COUNCIL COMMENTS

26) CITY COUNCIL COMMENTS

27) MOTION TO ADJOURN

A regular meeting of the Montrose City Council was held on Tuesday, February 15, 2022 at 6:00 p.m. in the City Council Chambers of the Elks Civic Building. Said meeting was posted in accordance with the Sunshine Law. Public participation for this meeting was held in person and via Zoom. The meeting agenda included a Zoom link and phone numbers for public participation.

PRESENT: Doug Glaspell, Dave Frank, Barbara Bynum, J. David Reed, Jasmine Hemenway, Bill Bell, Ann Morgenthauer, Greg Story, Lisa DelPiccolo, Tim Cox, Blaine Hall, Jim Scheid, Matthew Magliaro, Kendall Cramer, Ross Valdez, William Reis, Chris Dowsey, Shani Wittenberg, David Bries

ABSENT: Anthony Russo

GUESTS: Larry Fredericksen, Mari Steinbach, Jeff Ryan, Lana Kinsey, Mike Surak, Adam Renfrow

CALL TO ORDER

Mayor Doug Glaspell called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Youth City Council Representative Jasmine Hemenway.

CHANGES TO THE AGENDA

No changes were made to the agenda.

CALL FOR PUBLIC COMMENT

No comments were received.

APPROVAL OF MINUTES

City Council considered the minutes of the January 31, 2022 special City Council meeting, the February 1, 2022 regular City Council meeting, and the February 2, 2022 special City Council meeting.

A motion was made by Barbara Bynum, seconded by Dave Frank, to approve the minutes of the January 31, 2022 special City Council meeting, the February 1, 2022 regular City Council meeting, and the February 2, 2022 special City Council meeting as presented. All voted yes. Motion passed.

RESOLUTION 2022-03

City Council considered Resolution 2022-03, A Resolution of the City Council of the City of Montrose, Colorado, authorizing the filing of a Community Development Block Grant (CDBG) application in order to fund economic development opportunities for persons of low and moderate incomes. A hearing was held.

Community Programs Manager Kendall Cramer reported that Resolution 2022-03 authorizes the filing of the grant application on behalf of Haven House of Montrose, Inc., which provides low income and homeless individuals with housing, life skills training, resources for career development, and early childhood education.

Mr. Cramer stated that grant funds will be used for expansion of the Haven House facility at 4806 N. River Road in Olathe. A 9,200 square foot, two-story addition will house an early childhood education center, office space, four new transitional housing units and eight new low income apartments. Mr. Cramer said that the expansion will enable the early childhood education center to accommodate up to 35 pre-kindergarten children and provide training for early childhood educators. Mr. Cramer stated that approximately 85 percent of Haven House clients are from Montrose and Delta Counties, and at least 95 percent are at the low to moderate income level.

Mr. Cramer stated that the project cost is \$3.1 million, and the required matching funds will be provided by Colorado Housing and Finance Authority, private foundations, and the Haven House Building Fund. Mr. Cramer said the City will not contribute matching funds but commits to assisting with an environmental review, ensuring that procurement aligns with CDBG requirements, submitting required reports, and serving as a liaison with the Department of Local Affairs.

Mr. Cramer reported that if the grant is awarded, the City will enter into an agreement with Haven House for the provision of CDBG funding. Haven House notified the City of Delta, the Town of Olathe, and Montrose County of its intent to file the grant application and received letters of support.

Mr. Cramer said that Resolution 2022-03 authorizes the City Manager to execute the grant agreement, authorizes City staff to act on behalf of the grant, and acknowledges compliance with CDBG requirements.

Mayor Doug Glaspell opened the hearing.

Public comment was accepted.

Haven House President Larry Fredericksen thanked the City for facilitating the grant application and said that without this grant, it would be difficult to proceed with the project.

Mayor Glaspell closed the hearing.

A motion was made by Dave Frank, seconded by J. David Reed, to adopt Resolution 2022-03 as presented. All voted yes. Motion passed.

RESOLUTION 2022-04

City Council considered Resolution 2022-04, authorizing the City of Montrose Police Department to file a Victims of Crime Act (VOCA) Grant through the Colorado Department of Public Safety, Division of Criminal Justice for a 2-year grant totaling \$65,000, for the 2-year lease of a Victim Services vehicle at \$11,000 (\$5,500 per year), \$54,000.00 (\$27,000 per year) for 49.09% of the full-time base salary of the Victim Advocate position for 2023/2024; authorizing a grant match of \$16,250.00 (\$8,125 per year); authorizing the Chief of Police to act in connection with the application and to provide such additional information as may be required; and authorizing the City Manager, Chief of Police and Finance Director to sign the grant application documents.

Police Chief Blaine Hall stated that the requested \$65,000.00 will fund half of the victim advocate position, which is statutorily required, and fund a response vehicle. Chief Hall stated that the grant requires a match of \$16,250.00 over the two-year period and confirmed that the City has applied for and received VOCA grant funding for the past 15 years.

Public comment was accepted. No comments were received.

A motion was made by Barbara Bynum, seconded by J. David Reed, to adopt Resolution 2022-04 as presented. All voted yes. Motion passed.

ORDINANCE 2563 - FIRST READING

City Council considered Ordinance 2563 on first reading, an Ordinance of the City of Montrose, Colorado, extending the temporary moratorium to prohibit the establishment of any new or relocation of existing adult gaming arcade uses within the City limits of the City of Montrose; providing that the moratorium shall be in effect for a period which shall terminate at the earliest of the City's adoption of an amendment to Title 4, Chapter 14 Adult Business Regulations, or the expiration of three hundred sixty-five (365) days from date of passage of Emergency Ordinance 2560; providing for legislative findings, intent, and purpose; providing for a revised definition of the use of adult gaming arcades for the purposes of this Ordinance; providing repealing clauses; and providing an effective date. A hearing was held.

Assistant City Attorney Matthew Magliaro reported that Ordinance 2563 will extend the moratorium on adult gaming arcade uses to September 21, 2022. Mr. Magliaro also requested authorization from City Council to request a formal written opinion or guidance from the state attorney general regarding the legality of the gaming devices and whether a home rule municipality could lawfully enact a ban.

Mr. Magliaro recapped the issue including the adoption of an emergency ordinance on September 21, 2021 enacting a 180-day moratorium while staff researched the issue and available options. Mr. Magliaro reported that two of the arcades are no longer in business within the City limits, and two remain. Mr. Magliaro reviewed research efforts and stated that part of

this proposal is to allow potential statewide legislation to be considered and to receive guidance from the attorney general's office. Mr. Magliaro reviewed proposed modifications to definitions included in Ordinance 2563.

Mayor Doug Glaspell opened the hearing.

Public comment was accepted. No comments were received.

Mayor Glaspell closed the hearing.

A motion was made by Dave Frank, seconded by Barbara Bynum, to pass Ordinance 2563 on first reading as presented. All voted yes. Motion passed.

ORDINANCE 2577 - FIRST READING

City Council considered Ordinance 2577 on first reading, An Ordinance of the City of Montrose, Colorado, updating Title 6 Chapter 1, Miscellaneous Offenses: repealing and recodifying Title 6 Chapter 1 Section 27 (6-1-27) only regarding underage possession of tobacco/cannabis and paraphernalia, adding Title 6 Chapter 1 Section 26 (6-1-26) regarding underage possession of tobacco and tobacco paraphernalia; repealing and replacing Title 6 Chapter 1 Section 27 (6-1-27) regarding underage possession of cannabis and cannabis paraphernalia. A hearing was held.

Assistant City Attorney Matthew Magliaro reported that Ordinance 2577 separates the existing ordinance into two sections and repeals one provision. Mr. Magliaro summarized the proposed changes and stated that a redline version of the revisions is included in the meeting packet along with the proposed ordinance and a staff memo.

Mayor Doug Glaspell opened the hearing.

Public comment was accepted. No comments were received.

Mayor Glaspell closed the hearing.

A motion was made by Dave Frank, seconded by J. David Reed, to pass Ordinance 2577 on first reading as presented. All voted yes. Motion passed.

ORDINANCE 2579 - FIRST READING

City Council considered Ordinance 2579 on first reading, an Ordinance of the City of Montrose, Colorado, amending the zoning designation of the Yocum Addition from "R-2" Low Density District to "R-3A" Medium High Density District. A hearing was held.

City Councilor J. David recused himself from this agenda item stating that he represents the owner/applicant. Mr. Reed left the meeting at 6:25 p.m.

Planner I William Reis reviewed the location of the 7.3 acre property adjacent to Ogden Road across from the intersection with Kelly Drive and said the purpose of the rezone is to allow for

future development of multi-family housing. The property is adjacent to property zoned R-2 and R-3A and property outside of the City limits.

Mr. Reis reviewed rezone criteria, the intent of the R-3A zoning designation, and Comprehensive Plan goals and objectives. Mr. Reis recommended approval of the rezone stating that the request meets rezone criteria, meets the intent of R-3A zoning designation, is compatible with the Comprehensive Plan, and is compatible with existing uses of the surrounding area. The Planning Commission recommended approval on January 26.

Applicant Mike Surak, a development associate with RealAmerica, presented an overview of plans for the property. Mr. Surak said the development will have 60 apartments in two three-story buildings, and 12 of the units will be market rate. Mr. Surak said a neighborhood meeting was held on January 13, and the response was positive.

Mayor Doug Glaspell opened the hearing.

Public comment was accepted.

Adam Renfrow spoke in support of the project.

Mayor Glaspell closed the hearing.

A motion was made by Dave Frank, seconded by Barbara Bynum, to pass Ordinance 2579 on first reading as presented. All present voted yes. Motion passed.

Mr. Reed rejoined the meeting at 6:42 p.m.

ORDINANCE 2578 - FIRST READING

City Council considered Ordinance 2578 on first reading, an Ordinance of the City of Montrose, Colorado, updating Title 4, Chapter 15, Historic Preservation Regulations of the City of Montrose: Amending Title 4 Chapter 15 Section 2 (4-15-2) regarding the composition of the Historic Preservation Commission.

Planner I William Reis reported that Ordinance 2578 amends the Municipal Code to accommodate the appointment of an alternate member of the Historic Preservation Commission. Mr. Reis reviewed the changes and said the alternate will vote in the absence of regular member.

Mayor Doug Glaspell opened the hearing.

Public comment was accepted. No comments were received.

Mayor Glaspell closed the hearing.

A motion was made by J. David Reed, seconded by Dave Frank, to pass Ordinance 2578 on first reading as presented. All voted yes. Motion passed.

HISTORIC PRESERVATION COMMISSION BYLAWS

City Council considered a review and update of the Historic Preservation Commission Bylaws.

Planner I William Reis reviewed recommended changes to the Historic Preservation Commission bylaws that clarify the role of the alternate member and further define a quorum. Mr. Reis said the Historic Preservation Commission reviewed the changes and recommend approval.

Public comment was accepted. No comments were received.

A motion was made by Barbara Bynum, seconded by Dave Frank, to approve the Historic Preservation Commission Bylaws as presented. All voted yes. Motion passed.

ORDINANCE 2580 - FIRST READING

City Council considered Ordinance 2580 on first reading, an Ordinance of the City of Montrose, Colorado, designating the S.H. Nye Building, 428 E Main Street, Montrose, Colorado, as a City of Montrose Historic Property Pursuant to § 4-15 of the Official Code of the City of Montrose. A hearing was held.

Planner I William Reis reviewed the history of the S.H. Nye building and stated that it is over 50 years old, is associated with significant historical events, is connected with significant persons in history, and has distinctive characteristics.

Mr. Reis reviewed the history of Samuel Huntington Nye. Mr. Nye was one of the earliest settlers in the Uncompahgre Valley. He is credited with being one of the first to grow fruit trees in Montrose County, and he was one of the first county commissioners appointed by the governor in 1883. Mr. Reis also reviewed the history of the building which was completed in February of 1910.

Mr. Reis recommended approval of the historic property designation stating that staff finds that the building meets the eligibility and integrity requirements.

A hearing was held.

Mayor Doug Glaspell opened the hearing.

Public comment was accepted. No comments were received.

Mayor Glaspell closed the hearing.

A motion was made by Barbara Bynum, seconded by Dave Frank, to pass Ordinance 2580 on first reading as presented. All voted yes. Motion passed.

BUCKLEY/LIONS PARK IRRIGATION REPLACEMENT CONTRACT RECOMMENDATION

City Council considered the award of a contract to Stryker and Company, Inc., in the amount of \$802,073.74 for the Buckley/Lions Irrigation Replacement Project.

City Councilor J. David Reed recused himself from this agenda item stating that he represents the contractor. Mr. Reed left the meeting at 6:55 p.m.

Public Works Manager Jim Scheid reported that the existing irrigation system for Buckley Park and Lions Park was installed in the 1980s. It serves 10 acres with a complex layout and a large number of trees. Mr. Scheid said the irrigation system has aged to the point where crews spend a large amount of time keeping it functioning. Mr. Scheid stated that the design work was completed in house, and impacted trees will be replaced.

Mr. Scheid reviewed the bid process and recommended awarding the contract to Stryker and Company. Mr. Scheid said the contract amount includes a 10 percent contingency.

Public comment was accepted. No comments were received.

A motion was made by Dave Frank, seconded by Barbara Bynum, to award a contract to Stryker and Company, Inc., in the amount of \$802,073.74 for the Buckley/Lions Irrigation Replacement Project as presented. All present voted yes. Motion passed.

Mr. Reed rejoined the meeting at 7:01 p.m.

STAFF REPORTS

Sales, Use, and Excise Tax Report: Finance Director Shani Wittenberg presented a sales, use, and excise tax report for the month of December of 2021. Ms. Wittenberg reported that total sales and use tax collections were up 12.5 percent as compared to December of 2020 with a positive budget variance of 17.8 percent. Year-to-date collections were up 19.3 percent with a positive budget variance of 26.6 percent.

Fourth Quarter Budget Review: Finance Director Shani Wittenberg reported no concerns and said the full report is included in the meeting packet along with a summarizing memo.

YOUTH CITY COUNCIL COMMENTS

Youth City Council Representative Jasmine Hemenway reported that MHS representatives met with the Youth City Council to discuss creating a space to learn about college and career opportunities, assist students with college readiness, and provide information on internship opportunities. Ms. Hemenway also reported that the Youth City Council is planning a clothing drive for homeless youth and Earth Week activities.

CITY COUNCIL COMMENTS

City Councilor Barbara Bynum announced that The Forum is back on Wednesdays from 8:00-9:00 a.m. in the Cascade Room of the CMU Montrose Campus. Ms. Bynum said County Manager Jon Waschbusch will present an update on February 16.

Community Engagement Specialist Ross Valdez reported that a Latinx Police Academy is scheduled for April 12, April 19, and April 26. Registration information is available on the City website or by contacting Mr. Valdez.

Police Chief Blaine Hall invited the community to a local police hiring and recruiting event on Saturday, February 19, from 10 a.m. until 4:00 p.m. at the Montrose County Event Center. Interested individuals will be able to submit an application at the event. Equipment and vehicles will be on display, and tours of the new police building will be offered.

MOTION TO ADJOURN

At 7:16 p.m., a motion was made by Dave Frank to adjourn the meeting with no further action taken.

ATTEST:

Douglas Glaspell, Mayor

Lisa DelPiccolo, City Clerk

ORDINANCE NO. 2563

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, EXTENDING THE TEMPORARY MORATORIUM TO PROHIBIT THE ESTABLISHMENT OF ANY NEW OR RELOCATION OF EXISTING ADULT GAMING ARCADE USES WITHIN THE CITY LIMITS OF THE CITY OF MONTROSE; PROVIDING THAT THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE AT THE EARLIEST OF THE CITY'S ADOPTION OF AN AMENDMENT TO TITLE 4, CHAPTER 14 ADULT BUSINESS REGULATIONS, OR THE EXPIRATION OF THREE HUNDRED SIXTY-FIVE (365) DAYS FROM DATE OF PASSAGE OF EMERGENCY ORDINANCE 2560; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT, AND PURPOSE; PROVIDING FOR A REVISED DEFINITION OF THE USE OF ADULT GAMING ARCADES FOR THE PURPOSES OF THIS ORDINANCE; PROVIDING REPEALING CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Montrose is a home rule municipal corporation operating under adopted charter pursuant to § 6 of Article XX of the Colorado Constitution; and

WHEREAS, Article XVIII, §§2 and 9 of the Colorado Constitution regulates unlicensed gaming, and authorizes limited gaming only within the commercial districts in municipal limits of Central, Black Hawk and Cripple Creek in the State of Colorado; and

WHEREAS limited gaming, defined in Article XVIII, § 9(4)(b) of the Colorado Constitution to include "the use of slot machines," is unlawful within any city that has not approved the expansion of limited gaming by the procedure set forth in Article XVIII, § 9(6) of a statewide vote on a constitutional amendment followed by a second affirmative vote of the majority of electors in the city, town, or county in which limited gaming will occur; and

WHEREAS limited gaming has not been so approved within the municipal limits of the City of Montrose and accordingly "shall not be lawful" in the City of Montrose under Article XVIII, § 9(6) of the Colorado Constitution; and

WHEREAS, the Colorado Supreme Court has recognized the authority of a home rule municipality to enact regulation of gambling as a matter of local concern, in *Woolverton v City and County of Denver*, 361 P.2d 982, 988-990 (Colo. 1961), *overruled on other grounds by, Vela v People*, 484 P.2d 1204 (Colo. 1971); and

WHEREAS, the State of Colorado has recognized the authority of municipal governments, in relation to their general police powers enumerated in C.R.S. § 31-15-

401(1)(a)-(q), to declare what is a nuisance, to set punishments and abate declared nuisances, “to suppress gaming and gambling houses, lotteries, and fraudulent devices and practices for the purpose of gaining or obtaining money or property[,]” and to enact and enforce ordinances prohibiting the activity of gambling and uses of any gambling device; and

WHEREAS, there are now existing within the jurisdiction boundaries of the City of Montrose establishments that are engaged in the business of providing access to and the use of video gaming machines that accept money from patrons and pay monetary prizes in cash that may from known mechanics of operation fit the legal definition of slot machine, gambling device, and/or simulated gambling device prohibited under Colorado state law; and

WHEREAS, the businesses engaged in this activity referred herein as Adult Gaming Arcades sited within the jurisdictional boundaries of the City of Montrose have had secondary, negative impact upon neighboring business, the community and the public in the form of increased crime, to wit: illegal drug usage; illegal drug distribution; public intoxication; violent crime and increased calls for service at and around their locations from the Montrose Police Department; and

WHEREAS, the City Council of the City of Montrose unanimously voted to adopt Emergency Ordinance 2560 on September 21st, 2021, in order to impose a one hundred eighty (180) day moratorium on new or relocating Adult Gaming Arcade establishments pursuant to its home rule authority provided under the Colorado Constitution, Article XX, Section 6, and the Montrose City Charter, Article II, Section 8, which conveys police power authority to act for the benefit of and preservation of public property, health, peace, or safety within the City limits; and

WHEREAS, the Montrose City Council, in promulgating this extension, expressly incorporates and makes findings based upon the record received in conjunction with Emergency Ordinance 2560 at the September 20, 2021, work session, the September 21, 2021, special session; and

WHEREAS, the moratorium’s continued intent is to allow City staff sufficient time to evaluate the legality of the use referred to as Adult Gaming Arcades, to coordinate with law enforcement partners to include the State of Colorado, and to help prevent prospective business operators from opening new businesses within city limits that could be determined to be establishments offering simulated gambling prohibited by Colorado law; and

WHEREAS, the City’s Adult Business Regulations are a matter of local control and purposed to promote the public health, safety, and welfare; and

WHEREAS, the City's Adult Business Regulations are updated from time to time; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

The following Sections of Title 4 Chapter 14 of the Official Code of the City of Montrose, Colorado, only are hereby repealed and replaced: Title 4 Chapter 14 Section 1 (§ 4-14-1) is hereby repealed and replaced; and Title 4 Chapter 14 Section 10 (§ 4-14-10) is hereby repealed and replaced. This version supersedes all previous versions to read in full as follows:

4-14-1. - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Adult arcade means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image or virtual reality producing machines, for viewing by five or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, or other photographic, digital or electronic reproductions describing, simulating or depicting specified sexual activities or specified anatomical areas.

Adult bookstore, adult novelty store, or adult video store means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, however produced, that depict or describe specified sexual activities or specified anatomical areas; or
- (B) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

Adult cabaret means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment that features:

- (A) Persons who appear nude or in a state of nudity or seminudity; or
- (B) Live performances that are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

Adult Gaming Arcade means any business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person or by that person's partners, affiliates, subsidiaries, agents, or contractors which features (i) slot

machine(s), (ii) gambling device(s), (iii) simulated gambling device(s), or (iv) any mechanical, electrical, video, electronic, or other device, contrivance or machine which after insertion or conveyance of a coin, debit card, credit card, cash, virtual currency, token or similar object or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive monetary compensation and/or redeemable game credits, or any other thing of value. This definition expressly includes any tabletop or standing electronic display with one or more stations featuring buttons, joysticks, or other control(s) that delivers to the player cash, cash premiums, prize(s), redeemable game credits or any other thing of value for successful play, whether the redeemable payout is made automatically from the machine or from an employee of the business location, to include 'fish game' 'fish game table' 'fish game gambling table' however denominated. This definition expressly excludes any business location which features bona fide amusement devices that pay nothing of value, cannot be adjusted to pay anything of value, provide only unredeemable free games, or provide only tickets redeemable for nonmonetary prizes consisting of toys or novelties of nominal value; crane games; vintage slot machine models introduced on the market in 1984 as described in this Section; coin-operated music machines; or any bona fide amusement device authorized within restaurants by Colorado Revised Statute § 44-3-103(47).

Adult motel means a hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other media productions, however produced, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and which commercial establishment has a sign visible from the public right-of-way which advertises the availability of this adult type of media production.

Adult motion picture theater means a commercial establishment that is distinguished or characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, or similar photographic reproductions, on more than 100 days per year, that have an "X" rating or that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by an emphasis on exposure of specified anatomical areas or by specified sexual activities.

Commercial establishment means an establishment that may have other principal business purposes that do not involve the depicting or describing specified sexual activities or specified anatomical areas and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of

its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe specified sexual activities or specified anatomical areas. The term "commercial establishment" includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations with paid memberships.

Crane Game means an amusement machine that, upon insertion of a coin, bill, token, or similar object, allows the player to use one or more buttons, joysticks, or other controls to maneuver a crane or claw over a nonmonetary prize, toy, or novelty, none of which shall have a cost of more than twenty-five dollars, and then, using the crane or claw, to attempt to retrieve the prize, toy, or novelty for the player.

Employee means a person who works or performs in and/or for a sexually oriented business or an Adult Gaming Arcade, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business.

Establishment of a sexually oriented business means and includes any of the following:

- (A) The opening or commencement of any such business as a new business;
- (B) The conversion of an existing business into a sexually oriented business;
- (C) The addition of a different sexually oriented business to any other existing sexually oriented business; or
- (D) The relocation of a sexually oriented business.

Foyer means an architectural element of a building that consists of an entry hall or vestibule that is completely enclosed and contains one door to provide access to areas outside of the building and a separate door to provide access to areas inside of the building.

Gambling Device means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine; except that the term does not include a crane game.

Manager means an operator, who is employed by a sexually oriented business or an Adult Gaming Arcade to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

Nudity or state of nudity:

- (A) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or
- (B) A state of dress which fails, opaquely and fully, to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

Operator means includes the owner, custodian, manager, operator, or person in charge of any sexually oriented business or an Adult Gaming Arcade.

Peep booth means a room, semi-enclosure or other similar area located within a sexually oriented business wherein a person may view representations of specified anatomical areas or specified sexual activities.

Person means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

Principal business purpose means any establishment, having as a substantial or significant portion of its stock in trade the items listed in Subsections (A) and (B) of the definition of adult bookstore, adult novelty store, or adult video store in this Section and having on the premises at least 30 percent of the establishment's display space occupied by the display of the items described therein.

Principal owner means any person owning, directly or beneficially:

- (A) Any membership or partnership interest in a limited liability company or limited liability partnership if such person has any legal control or authority over the management or operation of the entity; or
- (B) In the case of any other legal entity, five percent or more of the ownership interests in the entity, except for shareholders, but including such shareholders who are corporate officers or directors or who otherwise have any legal control or authority over the management or operation of the entity.

Prize means a gift, award, gratuity, good, service, credit, or anything else of value, including a thing of value for a "gain" as defined in section 18-10-102 (1), that may be transferred to a customer, whether or not possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize. "Prize" does not include: **(I)** Free or additional play; **(II)** Any intangible or virtual award that cannot be converted into money, goods, or services; or **(III)** A paper or electronic coupon, whether issued to a player as a single ticket or token or as multiple tickets or tokens, that is won in return for a single play of a device; has a value that does not exceed the equivalent of twenty-five dollars; cannot be exchanged or returned for money, monetary credits, or any financial consideration; and cannot be used to acquire or exchanged for any product that is, contains, or can be used as a constituent part of or accessory for: **(A)** Alcohol beverages; **(B)** Tobacco, tobacco products, marijuana, or smoking; or **(C)** Firearms or ammunition.

Public park means an area of land owned by a governmental entity or private association and intended to be used for recreational purposes, including any such land

that contains no improvements and is intended only for open space purposes, and including any such land that is intended for use only for pathway purposes.

Sexually oriented business means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, peep booth or nude model studio. The definition of sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Colorado engages in medically approved and recognized sexual therapy, or a college, junior college or other institution which houses an adult model studio for artistic or educational purposes.

Seminude or seminudity means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices, which supporting straps or devices are used to support or enable the wearing of such clothing.

Simulated Gambling Device means a mechanically or electronically operated machine, network, system, program, or device that is used by an entrant and that displays simulated gambling displays on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors; except that the term does not include bona fide amusement devices, as authorized in Colorado Revised Statute § 44-3-103 (47), that pay nothing of value and cannot be adjusted to pay anything of value. "Simulated gambling device" includes: (I) A video poker game or any other kind of video card game; (II) A video bingo game; (III) A video craps game; (IV) A video keno game; (V) A video lotto game; (VI) A video roulette game; (VII) A pot-of-gold; (VIII) An eight-liner; (IX) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols; (X) An electronic gaming machine, including a personal computer of any size or configuration that performs any of the functions of an electronic gaming machine; (XI) A slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution; and (XII) A device that functions as, or simulates the play of, a slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution. (b) "Simulated gambling device" does not include any pari-mutuel totalisator equipment that is used for pari-mutuel wagering on live or simulcast racing events and that has been approved by the director of the division of racing events for entities authorized and licensed under article 32 of title 44 of the Colorado Revised Statutes.

Slot machine means any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the

element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner; except that the term does not include a crane game or vintage slot machine models introduced on the market in 1984, does not contain component parts manufactured in 1984 or thereafter and is not used for gambling purposes or limited gaming purposes.

Specified anatomical areas means as used herein means and includes any of the following:

- (A) Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered; or
- (B) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified criminal acts means sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity, prostitution, or pandering.

Specified sexual activities means includes any of the following:

- (A) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- (B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (C) Masturbation, actual or simulated;
- (D) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (E) Excretory functions as part of or in connection with any of the activities set forth in Subsections (A) through (D) of this definition.

4-14-10- Adult Gaming Arcades

- (A) **Legislative Declaration.** The Montrose City Council hereby adopts and incorporates the above recital clauses herein by reference in this Ordinance, finds the recitals as true and correct, and to constitute the legislative findings of the City in support of the following ordaining sections. It is the purpose and intent of this Ordinance to promote the health, safety, morals, and general welfare of the residents and businesses of the City by affording time for City staff to conduct analysis of any impact from Adult Gaming Arcades, whether such uses are legal and, if so, can be appropriately sited within the city limits of the City of Montrose with appropriate regulation, or whether such uses are or should be prohibited.

(B) Imposition of Moratorium. A moratorium period is hereby declared on all new establishments not in existence or the relocation of existing establishments as of September 21, 2021, constituting Adult Gaming Arcades, Slot Machine, Gambling Device and Simulated Gambling Device from the effective date of Emergency Ordinance 2560, September 21, 2021, for the period of three hundred sixty-five (365) days to September 21, 2022 (inclusive), or until further action of the City Council ending or modifying this moratorium, whichever occurs first. Such further action shall be taken by resolution by the City Council accordingly. No applications pertaining to sales and use tax, amendments to the official zoning map, site development, liquor license, sign permit or building permit, any development permit, or renewal or transfer of any of the aforementioned shall be accepted for review by the City of Montrose for the moratorium period as defined herein.

(C) Repeal. This section (4-14-10) is repealed, effective 12:01 a.m. September 22, 2022.

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

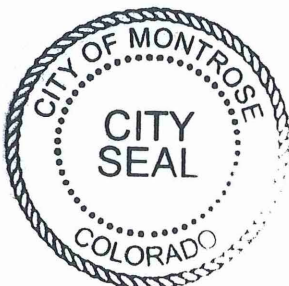
You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the 15th day of February, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 15th day of February, 2022.


Douglas Glaspell, Mayor

ATTEST:


Lisa DelPiccolo, City Clerk



INTRODUCED, READ and ADOPTED on second reading this 1st day of March,
2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

4-14-1. - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Adult arcade means any commercial establishment to which the public is permitted or invited where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image or virtual reality producing machines, for viewing by five or fewer persons per machine at any one time, are used regularly to show films, motion pictures, video cassettes, slides, or other photographic, digital or electronic reproductions describing, simulating or depicting specified sexual activities or specified anatomical areas.

Adult bookstore, adult novelty store, or adult video store means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations, however produced, that depict or describe specified sexual activities or specified anatomical areas; or
- (B) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

Adult cabaret means a nightclub, bar, restaurant, concert hall, auditorium or other commercial establishment that features:

- (A) Persons who appear nude or in a state of nudity or seminudity; or
- (B) Live performances that are characterized by the exposure of specified anatomical areas or by the exhibition of specified sexual activities.

Adult Gaming Arcade means any business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person or by that person's partners, affiliates, subsidiaries, agents, or contractors which features (i) slot machine(s), (ii) gambling device(s), (iii) simulated gambling device(s), or (iv) any mechanical, electrical, video, electronic, or other device, contrivance or machine which after insertion or conveyance of a coin, debit card, credit card, cash, virtual currency, token or similar object or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive monetary compensation and/or redeemable game credits, or any other thing of value. This definition expressly includes any tabletop or standing electronic display with one or more stations featuring buttons, joysticks, or other control(s) that delivers to the player cash, cash premiums, prize(s), redeemable game credits or any other thing of value for successful play, whether the redeemable payout is made automatically from the machine or from an employee of the business location, to

include 'fish game' 'fish game table' 'fish game gambling table' however denominated.

This definition expressly excludes any business location which features bona fide amusement devices that pay nothing of value, cannot be adjusted to pay anything of value, provide only unredeemable free games, or provide only tickets redeemable for nonmonetary prizes consisting of toys or novelties of nominal value; crane games; vintage slot machine models introduced on the market in 1984 as described in this Section; coin-operated music machines; or any bona fide amusement device authorized within restaurants by Colorado Revised Statute § 44-3-103(47).

Adult motel means a hotel, motel or similar commercial establishment that offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other media productions, however produced, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and which commercial establishment has a sign visible from the public right-of-way which advertises the availability of this adult type of media production.

Adult motion picture theater means a commercial establishment that is distinguished or characterized by the showing, for any form of consideration, of films, motion pictures, video cassettes, slides, or similar photographic reproductions, on more than 100 days per year, that have an "X" rating or that have an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by an emphasis on exposure of specified anatomical areas or by specified sexual activities.

Commercial establishment means an establishment that may have other principal business purposes that do not involve the depicting or describing specified sexual activities or specified anatomical areas and still be categorized as a sexually oriented business. Such other business purposes will not serve to exempt such commercial establishments from being categorized as a sexually oriented business so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe specified sexual activities or specified anatomical areas. The term "commercial establishment" includes clubs, fraternal organizations, social organizations, civic organizations or other similar organizations with paid memberships.

Crane Game means an amusement machine that, upon insertion of a coin, bill, token, or similar object, allows the player to use one or more buttons, joysticks, or other controls to maneuver a crane or claw over a nonmonetary prize, toy, or novelty, none of which shall have a cost of more than twenty-five dollars, and then, using the crane or claw, to attempt to retrieve the prize, toy, or novelty for the player.

Employee means a person who works or performs in and/or for a sexually oriented business or an Adult Gaming Arcade, regardless of whether or not said person is paid a salary, wage, or other compensation by the operator of said business.

Establishment of a sexually oriented business means and includes any of the following:

- (A) The opening or commencement of any such business as a new business;
- (B) The conversion of an existing business into a sexually oriented business;
- (C) The addition of a different sexually oriented business to any other existing sexually oriented business; or
- (D) The relocation of a sexually oriented business.

Foyer means an architectural element of a building that consists of an entry hall or vestibule that is completely enclosed and contains one door to provide access to areas outside of the building and a separate door to provide access to areas inside of the building.

Gambling Device means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine; except that the term does not include a crane game.

Manager means an operator, who is employed by a sexually oriented business or an Adult Gaming Arcade to act as a manager or supervisor of employees or is otherwise responsible for the operation of the business.

Nudity or state of nudity:

- (A) The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or
- (B) A state of dress which fails, opaquely and fully, to cover human buttocks, anus, male or female genitals, pubic region, or areola or nipple of the female breast.

Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

Operator means includes the owner, custodian, manager, operator, or person in charge of any sexually oriented business or an Adult Gaming Arcade.

Peep booth means a room, semi-enclosure or other similar area located within a sexually oriented business wherein a person may view representations of specified anatomical areas or specified sexual activities.

Person means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.

Principal business purpose means any establishment, having as a substantial or significant portion of its stock in trade the items listed in Subsections (A) and (B) of the definition of adult bookstore, adult novelty store, or adult video store in this Section and having on the premises at least 30 percent of the establishment's display space occupied by the display of the items described therein.

Principal owner means any person owning, directly or beneficially:

- (A) Any membership or partnership interest in a limited liability company or limited liability partnership if such person has any legal control or authority over the management or operation of the entity; or
- (B) In the case of any other legal entity, five percent or more of the ownership interests in the entity, except for shareholders, but including such shareholders who are corporate officers or directors or who otherwise have any legal control or authority over the management or operation of the entity.

Prize means a gift, award, gratuity, good, service, credit, or anything else of value, including a thing of value for a “gain” as defined in section 18-10-102 (1), that may be transferred to a customer, whether or not possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize. “Prize” does not include: (I) Free or additional play; (II) Any intangible or virtual award that cannot be converted into money, goods, or services; or (III) A paper or electronic coupon, whether issued to a player as a single ticket or token or as multiple tickets or tokens, that is won in return for a single play of a device; has a value that does not exceed the equivalent of twenty-five dollars; cannot be exchanged or returned for money, monetary credits, or any financial consideration; and cannot be used to acquire or exchanged for any product that is, contains, or can be used as a constituent part of or accessory for: (A) Alcohol beverages; (B) Tobacco, tobacco products, marijuana, or smoking; or (C) Firearms or ammunition.

Public park means an area of land owned by a governmental entity or private association and intended to be used for recreational purposes, including any such land that contains no improvements and is intended only for open space purposes, and including any such land that is intended for use only for pathway purposes.

Sexually oriented business means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, peep booth or nude model studio. The definition of sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Colorado engages in medically approved and recognized sexual therapy, or a college, junior college or other institution which houses an adult model studio for artistic or educational purposes.

Seminude or seminudity means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices, which supporting straps or devices are used to support or enable the wearing of such clothing.

Simulated Gambling Device means a mechanically or electronically operated machine, network, system, program, or device that is used by an entrant and that displays simulated gambling displays on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors; except that the term does not include bona fide amusement devices, as authorized in Colorado Revised Statute § 44-3-103 (47), that pay nothing of value and cannot be adjusted to pay anything of value. "Simulated gambling device" includes: (I) A video poker game or any other kind of video card game; (II) A video bingo game; (III) A video craps game; (IV) A video keno game; (V) A video lotto game; (VI) A video roulette game; (VII) A pot-of-gold; (VIII) An eight-liner; (IX) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols; (X) An electronic gaming machine, including a personal computer of any size or configuration that performs any of the functions of an electronic gaming machine; (XI) A slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution; and (XII) A device that functions as, or simulates the play of, a slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution. (b) "Simulated gambling device" does not include any pari-mutuel totalisator equipment that is used for pari-mutuel wagering on live or simulcast racing events and that has been approved by the director of the division of racing events for entities authorized and licensed under article 32 of title 44 of the Colorado Revised Statutes.

Slot machine means any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner; except that the term does not include a crane game or vintage slot machine models introduced on the market in 1984, does not contain component parts manufactured in 1984 or thereafter and is not used for gambling purposes or limited gaming purposes.

Specified anatomical areas means as used herein means and includes any of the following:

- (A) Human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areola, that are not completely and opaquely covered; or
- (B) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified criminal acts means sexual crimes against children, sexual abuse, sexual assault, or crimes connected with another sexually oriented business, including, but not limited to, distribution of obscenity, prostitution, or pandering.

Specified sexual activities means includes any of the following:

- (A) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- (B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (C) Masturbation, actual or simulated;
- (D) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (E) Excretory functions as part of or in connection with any of the activities set forth in Subsections (A) through (D) of this definition.

4-14-10 Adult Gaming Arcades

- (A) **Legislative Declaration.** The Montrose City Council hereby adopts and incorporates the above recital clauses herein by reference in this Ordinance, finds the recitals as true and correct, and to constitute the legislative findings of the City in support of the following ordaining sections. It is the purpose and intent of this Ordinance to promote the health, safety, morals, and general welfare of the residents and businesses of the City by affording time for City staff to conduct analysis of any impact from Adult Gaming Arcades, whether such uses are legal and, if so, can be appropriately sited within the city limits of the City of Montrose with appropriate regulation, or whether such uses are or should be prohibited.
- (B) **Imposition of Moratorium.** A moratorium period is hereby declared on all new establishments not in existence or the relocation of existing establishments as of September 21, 2021, constituting Adult Gaming Arcades, Slot Machine, Gambling Device and Simulated Gambling Device from the effective date of ~~this Emergency Ordinance 2560~~, September 21, 2021, for the period of ~~one~~ **three** hundred ~~eighty sixty-five~~ **(180-365)** days to **September 21** ~~March 20, 2022~~ (inclusive), or until further action of the City Council ending or modifying this moratorium, whichever occurs first. Such further action shall be taken by resolution by the City Council accordingly. No applications pertaining to sales and use tax, amendments to the

official zoning map, site development, liquor license, sign permit or building permit, any development permit, or renewal or transfer of any of the aforementioned shall be accepted for review by the City of Montrose for the moratorium period as defined herein.

(C) Repeal. This section (4-14-10) is repealed, effective 12:01 a.m. September 22,
~~March 20~~, 2022.

MEMORANDUM

TO: Montrose City Council
FROM: Matthew Magliaro, Assistant City Attorney Public Safety
DATE: January 27, 2022
RE: Recodification of Montrose Official Code Section 6-1-27 Underage Possession of Tobacco/Cannabis and Paraphernalia

Synopsis:

Montrose Code Section 6-1-27 in current form contains four separate crimes: (1) possession, use or consumption of cigarettes or tobacco products (including chewing tobacco) by any person under the age of 18; (2) the knowing possession of ‘smoking paraphernalia’ at or upon any public place by any person under the age of 18; (3) possession, use or consumption of cannabis or cannabis products by those under the age of 21; and (4) the knowing possession of ‘drug paraphernalia’ by those under the age of 21 to introduce cannabis or cannabis products into the human body, in violation of the laws of Montrose. The ordinance also contains two separate definition sections all bearing subparts, one affirmative defense, and three separate penalty provisions.

MC § 6-1-27 has a complicated structure that makes it difficult to read and to cite correctly on a charging document. By way of example, the correct legal citation to underage possession of a vape pen containing a tobacco product is MC § 6-1-27(I)(C), (I)(A)(3); for underage consumption of cannabis, MC § 6-1-27(II)(A); and for possession of a glass bong containing a cannabis product, MC § 6-1-27(II)(D)(1)(g)(xi), (II)(D)(3)(a). The uniform citation and complaint form used by Montrose Police Department only lists ‘MC 6-1-27’ with no subsections specified, requiring the officer to write in the precise subsection of charge or the municipal prosecutor to orally move to clarify the charge at the initial appearance of the defendant for advisement. The latter happens on nearly every municipal court docket.

Council Consideration:

Before City Council is a proposal to repeal MC § 6-1-27 only, and recodify it into two separate sections: Underage Possession of Tobacco and Tobacco Paraphernalia in MC § 6-1-26 and Underage Possession of Cannabis and Cannabis Paraphernalia in MC § 6-1-27. Sections have been moved internally within both as part of the recodification to follow a pattern order: (1) the substantive crimes; (2) definitions, arranged in alphabetical order; and (3) penalty for the substantive crimes. Subheadings on the penalty sections were added for additional clarity. Edits were made for consistency of language, and to express more gender inclusive nomenclature.

Substantive edits were made to replace the undefined term ‘smoking paraphernalia.’ The intent of these edits is to provide express cross-reference to the extensive definition and considerations for ‘drug paraphernalia’ as codified in ordinance. The definition of ‘drug paraphernalia’ in turn follows the Colorado Revised Statutes defining drug paraphernalia, C.R.S. §§ 18-18-425 through -428. An earlier draft of this proposal was presented at work session held

January 3, 2022. Since that presentation, staff have worked to recodify the prohibition on minor possession of paraphernalia in the tobacco section of the proposed ordinance in order to further enhance clarity, new MC § 6-1-26(B).

Staff made changes to the underage possession of tobacco and tobacco paraphernalia consistent with the discussions at the January 3rd, 2022, work session and in light of passage of House Bill 2020-1001 ‘Concerning Nicotine Product Regulations [.]’ This passed legislation raised the age of minority to age twenty-one years for the legal sale by retailers of tobacco products. The ordinance proposal in turn raises the age of minority from age 18 to age 21, bearing some carve outs authorized by state law. Staff has drafted this ordinance MC § 6-1-26 as a secondary offense for traffic vehicle stops by peace officers. Staff has also modified the definitions of ‘tobacco product’ in MC § 6-1-26(C)(3) and ‘cannabis’ in MC § 6-1-27(C)(1) to better reflect parallel definitions in Colorado Revised Statute.

Staff Recommendation & Rationale:

Staff recommends this change. This is an ordinance regularly cited incorrectly or incompletely into the municipal court. Breaking the ordinance apart into separate topics enhances readability. The change will hopefully lead to less need to clarify charges orally at advisement. This provides a benefit to the Montrose Municipal Court clerical staff tasked with the preparation of forms for advisement, as well the judge conducting the proceeding. It provides time savings for the municipal prosecutors at the City Attorney’s Office, as there hopefully will be less of a need to continually clarify or amend charges of this type at or before advisement. It provides a benefit to the cited defendants of affording a greater chance of adequate notice of the correct charge in advance of court proceedings.

The City Attorney’s Office provided a copy of the proposed ordinance and discussed this with the Montrose Youth City Council at a regular meeting of that body, held January 26th, 2022. The undersigned provided a courtesy copy of the revised proposal (both clean and redline versions) to the Montrose Municipal Court along with this memo, for its own review.

ORDINANCE NO. 2577

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 6 CHAPTER 1, MISCELLANEOUS OFFENSES: REPEALING AND RECODIFYING TITLE 6 CHAPTER 1 SECTION 27 (6-1-27) ONLY REGARDING UNDERAGE POSSESSION OF TOBACCO/CANNABIS AND PARAPHERNALIA, ADDING TITLE 6 CHAPTER 1 SECTION 26 (6-1-26) REGARDING UNDERAGE POSSESSION OF TOBACCO AND TOBACCO PARAPHERNALIA; REPEALING AND REPLACING TITLE 6 CHAPTER 1 SECTION 27 (6-1-27) REGARDING UNDERAGE POSSESSION OF CANNABIS AND CANNABIS PARAPHERNALIA.

WHEREAS, the City's Police Regulations are updated from time to time; and

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

The following Sections of Title 6 Chapter 1 of the Official Code of the City of Montrose, Colorado are hereby repealed, replaced or added: Title 6 Chapter 1 Section 27 (6-1-27) only is hereby repealed and recodified into two separate Sections; Title 6 Chapter 1 Section 26 is hereby added (6-1-26); Title 6 Chapter 1 Section 27 (6-1-27) is hereby repealed and replaced. This version supersedes all previous versions to read in full as follows:

6-1-26. - Underage Possession of Tobacco and Tobacco Paraphernalia.

- (A) It shall be unlawful for any person under the age of 21 years to purchase or attempt to purchase, possess, use or consume any cigarettes or tobacco products as defined by this Section, including chewing tobacco, at or upon any public place.
- (B) It shall be unlawful for any person under the age of 21 years to possess at or upon any public place tobacco paraphernalia used to ingest, inhale, or otherwise introduce tobacco product into the human body, if the person knows or reasonably should know that the tobacco paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado as provided herein. Tobacco paraphernalia means electronic

smoking devices defined herein, and any and all of those items listed in the definition of 'drug paraphernalia' in Official Code of Montrose § 6-1-27 when those items are used instead to ingest, inhale or otherwise introduce tobacco product into the human body. The determination procedure and considerations listed for 'drug paraphernalia' in Official Code of Montrose § 6-1-27(C)(3.5) apply to violations of this Section.

(C) Definitions:

- (1) The term "electronic smoking device" means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provides a vapor of nicotine or any other substance for inhalation. The term "electronic smoking device" shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, an electronic hookah, or a vape pen, or any other product name or descriptor.
- (2) The term "public place" includes the following places:
 - (a) Property owned or leased by the United States of America, the State of Colorado, Montrose County or the City or any agencies or political subdivision thereof.
 - (b) The entire width of street and alley rights-of-way, parking areas and grounds outside the establishments open to the public such as restaurants, grocery stores, convenience stores, bars and other places of public gathering for amusement and entertainment.
 - (c) The inside of vehicles located upon any of the above-listed places.
- (3) The term "tobacco product" means any product that contains nicotine or tobacco or is derived from nicotine or tobacco and is intended to be ingested or inhaled; or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including, but not limited to, electronic smoking devices, cigarettes, cigars, cheroots, stogies, and Periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and

other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. The term "tobacco product" also includes cloves and any other plant matter or product that is packaged for smoking. The term "tobacco product" does not mean a product that the Food and Drug Administration of the United States Department of Health and Human Services has approved as a tobacco use cessation product.

- (D) Penalty: Any person who commits a violation of Subsection (A) and/or (B) of this Section shall be punished by a fine of not more than \$200.00 and/or 20 hours of useful public service.
- (E) This Section does not prohibit an employee of a retailer who is eighteen years of age or older but under twenty-one years of age from handling or otherwise having any contact with cigarettes or tobacco products that are offered for sale at the retailer's business.
- (F) No driver of a vehicle shall be stopped or occupant of a vehicle cited for a violation of this Section unless such driver was stopped by a law enforcement officer for an alleged violation of Colorado Revised Statute or the traffic code as adopted by the City of Montrose other than a violation for this Section, except that nothing in this Section shall prohibit citation if contact was initially made in a police-citizen voluntary contact or a contact predicated upon community caretaking functions of a peace officer.

6-1-27. - Underage Possession of Cannabis and Cannabis Paraphernalia.

- (A) It shall be unlawful for any person under the age of 21 to possess, use, or consume cannabis or any cannabis products as defined in this Section.
- (B) It shall be unlawful for any person under the age of 21 years to possess drug paraphernalia if the person knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado, as provided herein.
- (C) Definitions:
 - (1) For the purposes of this Section, the term "cannabis" shall include all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or

preparation of such plant, its seeds, or resin, including its concentrate. It shall not include industrial hemp, the mature stalks of such plant, fiber produced from its stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of its mature stalks, except the resin extracted therefrom, fiber, oil, cake or the sterilized seed of such plant which is incapable of germination, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

- (2) "Cannabis concentrate" shall mean hashish, tetrahydrocannabinoids, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized of tetrahydrocannabinoids.
- (3) For the purposes of this Section, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing cannabis into the human body. The term "drug paraphernalia" includes, but is not limited to:
 - (a) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of cannabis under circumstances in violation of the laws of this state;
 - (b) Scales and balances used, intended for use, or designed for use in weighing or measuring cannabis;
 - (c) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining cannabis;
 - (d) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding cannabis;

- (e) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of cannabis;
- (f) Containers and other objects used, intended for use, or designed for use in storing or concealing cannabis;
- (g) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis into the human body, such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;
 - (iv) Smoking and carburetion masks;
 - (v) Roach clips, meaning objects used to hold burning material such as a marijuana or cannabis cigarette that has become too small or too short to be held in the hand;
 - (vi) Chamber pipes;
 - (vii) Carburetor pipes;
 - (viii) Electric pipes;
 - (ix) Air-driven pipes;
 - (x) Chillums;
 - (xi) Bongs; or
 - (xii) Ice pipes or chillers.

(3.5) Determination for Paraphernalia, Considerations

- (a) In determining whether an object is drug paraphernalia, the court, in its discretion, may consider, in addition to all other relevant factors, the following:
 - (i) Statements by an owner or by anyone in control of the object concerning its use.
 - (ii) The proximity of the object to cannabis.
 - (iii) The existence of any residue of cannabis on the object.
 - (iv) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object or evidence that such person reasonably should know that it will be delivered to persons who he knows or reasonably should know could use the object to facilitate a violation of this Section.
 - (v) Instructions, oral or written, provided with the object concerning its use.
 - (vi) Descriptive materials accompanying the object, which explain or depict its use.
 - (vii) National or local advertising concerning its use.
 - (viii) Manner in which the object is displayed for sale.
 - (ix) Whether the owner or anyone in control of the object is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products.
 - (x) Existence and scope of legal uses for the object in the community.

(xi) Expert testimony concerning its use.

(b) In the event a case brought pursuant to this Section is tried before a jury, the court shall hold an evidentiary hearing outside the presence of the jury if issues are raised by pre-trial motion pursuant to this Section.

(D) Penalty:

(1) Any person who commits a violation of Subsection (A) of this Section shall be punished by a fine of not more than \$400.00 and/or 40 hours of useful public service.

(2) Any person who commits a violation of Subsection (B) of this Section shall be punished by a fine of not more than \$200.00 and/or 20 hours of useful public service.

(E) It shall be affirmative defense to a violation of this Section 6-1-27 that the defendant is a patient engaged in the medical use of marijuana as declared lawful by paragraph (4)(a) of Section 14 of Article XVIII of the State Constitution, in accordance with the limitations and provisions of said Section 14, Article XVIII, provided that the patient has a current and valid registry identification card and that the possession or use of marijuana was not in plain view of, or in a place open to the general public. For the purposes of this Section, the terms "patient," "medical use," and "registry identification card," shall be defined as set out in said Section 14, Article XVIII.

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the 15th day of February, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 15th day of February, 2022.

ATTEST:

Lisa DelPiccolo
Lisa DelPiccolo, City Clerk



Douglas Glaspell
Douglas Glaspell, Mayor

INTRODUCED, READ and ADOPTED on second reading this 1st day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

6-1-26. - ~~Reserved.~~ Underage Possession of Tobacco and Tobacco Paraphernalia.

- (A) It shall be unlawful for any person under the age of ~~18~~ 21 years to purchase or attempt to purchase, possess, use or consume any cigarettes or tobacco products as defined by this ~~Code~~ Section, including chewing tobacco, at or upon any public place.
- (B) It ~~is~~ shall be unlawful for any person under the age of ~~18~~ 21 years to possess at or upon any public place tobacco smoking paraphernalia used to ingest, inhale, or otherwise introduce tobacco product into the human body, if ~~he~~ the person knows or reasonably should know that the smoking tobacco paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado as provided herein. Tobacco paraphernalia means electronic smoking devices as described in this Chapter defined herein, and any and all of those items listed in the definition of 'drug paraphernalia' in Official Code of Montrose § 6-1-27 when those items are used instead to ingest, inhale or otherwise introduce tobacco product into the human body. The determination procedure and considerations listed for 'drug paraphernalia' in Official Code of Montrose § 6-1-27(C)(3.5) apply to violations of this Section.
- (C) Definitions:
- (1) The term "electronic smoking device" means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provides a vapor of nicotine or any other substance for inhalation. The term "electronic smoking device" shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, an electronic hookah, or a vape pen, or any other product name or descriptor.
- (2) The term "public place" includes the following places:
- (a) Property owned or leased by the United States of America, the State of Colorado, Montrose County or the City or any agencies or political subdivision thereof.
- (b) The entire width of street and alley rights-of-way, parking areas and grounds outside the establishments open to the public such as restaurants, grocery stores, convenience

stores, bars and other places of public gathering for amusement and entertainment.

(c) The inside of vehicles located upon any of the above-listed places.

(3) The term "tobacco product" means any product that contains nicotine or tobacco or is derived from nicotine or tobacco and is intended to be ingested or inhaled; or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including, but not limited to, electronic smoking devices, cigarettes, cigars, cheroots, stogies, and Periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. The term "tobacco product" also includes cloves and any other plant matter or product that is packaged for smoking. The term "tobacco product" does not mean a product that the Food and Drug Administration of the United States Department of Health and Human Services has approved as a tobacco use cessation product.

(D) Penalty: Any person who commits a violation of Subsection (A) Subsection (A)(B) and/or (A)(e)(B) of this Section shall be punished by a fine of not more than \$200.00 and/or 20 hours of useful public service.

(E) This Section does not prohibit an employee of a retailer who is eighteen years of age or older but under twenty-one years of age from handling or otherwise having any contact with cigarettes or tobacco products that are offered for sale at the retailer's business.

(F) No driver of a vehicle shall be stopped or occupant of a vehicle cited for a violation of this Section unless such driver was stopped by a law enforcement officer for an alleged violation of Colorado Revised Statute or the traffic code as adopted by the City of Montrose other than a violation for this Section, except that nothing in this Section shall prohibit citation if contact was initially made in a police-citizen voluntary contact or a contact predicated upon community caretaking functions of a peace officer.

6-1-27. - Underage Possession of Cannabis and Cannabis Paraphernalia.

~~I.—Tobacco and Paraphernalia.~~

~~(A)——Definitions.~~

- ~~(1) The term "tobacco product" means any product that contains nicotine or tobacco or is derived from nicotine or tobacco and is intended to be ingested or inhaled; or any electronic device that can be used to deliver nicotine to the person inhaling from the device, including, but not limited to, electronic smoking devices, cigarettes, cigars, cheroots, stogies, and Periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; Cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. The term "tobacco product" also includes cloves and any other plant matter or product that is packaged for smoking.~~
 - ~~(2) The term "public place" includes the following places:~~
 - ~~(a) Property owned or leased by the United States of America, the State of Colorado, Montrose County or the City or any agencies or political subdivision thereof.~~
 - ~~(b) The entire width of street and alley rights of way, parking areas and grounds outside the establishments open to the public such as restaurants, grocery stores, convenience stores, bars and other places of public gathering for amusement and entertainment.~~
 - ~~(c) The inside of vehicles located upon any of the above listed places.~~
 - ~~(3) The term "electronic smoking device" means any electronic oral device such as one composed of a heating element, battery, and/or electronic circuit which provides a vapor of nicotine or any other substance for inhalation. The term "electronic smoking device" shall include every variation and type of such devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pen, an electronic pipe, an electronic hookah, or a vape pen, or any other product name or descriptor.~~
- ~~(B) It shall be unlawful for any person under the age of 18 years to possess, use or consume any cigarettes or tobacco products as defined by this Code, including chewing tobacco, at or upon any public place.~~
- ~~(C) It is unlawful for any person under the age of 18 years to possess smoking paraphernalia, at or upon any public place, including electronic smoking devices~~

~~as described in this Chapter, if he knows or reasonably should know that the smoking paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado as provided herein.~~

~~(D) Any person who commits a violation of Subsection I(B) and/or I(C) of this Section shall be punished by a fine of not more than \$200.00 and/or 20 hours of useful public service.~~

~~H.—Cannabis and Paraphernalia.~~

(A) It shall be unlawful for any person under the age of 21 to possess, use, or consume cannabis or any cannabis products as defined in this Section.

~~(B)(3)(a)~~ It ~~is~~ shall be unlawful for any person under the age of 21 years to possess drug paraphernalia if ~~he~~ the person knows or reasonably should know that the drug paraphernalia could be used under circumstances in violation of the laws of the City of Montrose, Colorado, as provided herein.

~~(C)(B)~~ Definitions:

(1) For the purposes of this Section, the term "cannabis" shall include all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin, including its concentrate. ~~It but~~ shall not include industrial hemp, the mature stalks of such plant, fiber produced from its stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of its mature stalks, except the resin extracted therefrom, fiber, oil, cake or the sterilized seed of such plant which is incapable of germination, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product.

(2) ~~The term~~ "eCannabis concentrate" shall mean hashish, tetrahydrocannabinol, or any alkaloid, salt, derivative, preparation, compound or mixture, whether natural or synthesized of tetrahydrocannabinol.

(3) ~~(D)(1)~~ For the purposes of this Section, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating,

cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing cannabis, ~~as defined in Subsection II(B) of this Section,~~ into the human body. The term "drug paraphernalia" includes, but is not limited to:

- (a) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of cannabis under circumstances in violation of the laws of this state;
- (b) Scales and balances used, intended for use, or designed for use in weighing or measuring cannabis;
- (c) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining cannabis;
- (d) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding cannabis;
- (e) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of cannabis;
- (f) Containers and other objects used, intended for use, or designed for use in storing or concealing cannabis;
- (g) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis into the human body, such as:
 - (i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - (ii) Water pipes;
 - (iii) Carburetion tubes and devices;

- (iv) Smoking and carburetion masks;
- (v) Roach clips, meaning objects used to hold burning material such as a marijuana or cannabis cigarette that has become too small or too short to be held in the hand;
- (vi) Chamber pipes;
- (vii) Carburetor pipes;
- (viii) Electric pipes;
- (ix) Air-driven pipes;
- (x) Chillums;
- (xi) Bongs; or
- (xii) Ice pipes or chillers.

~~(3.5)(2)~~ Determination for Paraphernalia, Considerations

- (a) In determining whether an object is drug paraphernalia, the court, in its discretion, may consider, in addition to all other relevant factors, the following:
 - (i) Statements by an owner or by anyone in control of the object concerning its use.
 - (ii) The proximity of the object to cannabis.
 - (iii) The existence of any residue of cannabis on the object.
 - (iv) Direct or circumstantial evidence of the knowledge of an owner, or of anyone in control of the object or evidence that such person reasonably should know that it will be delivered to persons who he knows or reasonably should

know could use the object to facilitate a violation of this Section.

- (v) Instructions, oral or written, provided with the object concerning its use.
- (vi) Descriptive materials accompanying the object, which explain or depict its use.
- (vii) National or local advertising concerning its use.
- (viii) Manner in which the object is displayed for sale.
- (ix) Whether the owner or anyone in control of the object is a supplier of like or related items to the community for legal purposes, such as an authorized distributor or dealer of tobacco products.
- (x) Existence and scope of legal uses for the object in the community.
- (xi) Expert testimony concerning its use.

- (b) In the event a case brought pursuant to this Section is tried before a jury, the court shall hold an evidentiary hearing outside the presence of the jury on if issues are raised by pre-trial motion pursuant to this Section. ~~Such hearing shall be conducted on camera.~~

~~(D)(3)~~ Violations Penalty:

- (1)~~(C)~~ Any person who commits a violation of ~~Subsection II(A)~~ Subsection (A) of this Section shall be punished by a fine of not more than \$400.00 and/or 40 hours of useful public service.
- (2)~~(b)~~ Any person who commits a violation of ~~Subsection II(D)(3)(a)~~ Subsection (B) of this Section shall be punished by a fine of not more than \$200.00 and/or 20 hours of useful public service.

- (E) ~~(4)~~ It shall be affirmative defense to a violation of this Section 6-1-27 that the defendant is a patient engaged in the medical use of marijuana as

declared lawful by paragraph (4)(a) of Section 14 of Article XVIII of the State Constitution, in accordance with the limitations and provisions of said Section 14, Article XVIII, provided that the patient has a current and valid registry identification card and that the possession or use of marijuana was not in plain view of, or in a place open to the general public. ~~(2)~~ For the purposes of this Section, the terms "patient," "medical use," and "registry identification card," shall be defined as set out in said Section 14, Article XVIII.



CITY OF MONTROSE

MEMO

TO: City Council
FROM: Ross Valdez, Community Engagement Specialist
DATE: March 1, 2022
RE: Code Modification for Supportive Housing
ATTACHMENTS: Ordinance Amending MC 4-4 of Zoning Code (Redline Version & Clean Version)

City Staff have undertaken a review of the Municipal Code Title 4, Chapter 4, Sections 2, 10, 14, 17, and 18 in order to add a definition for supportive housing and define where these uses are allowed. This Code amendment increases solutions available to help individuals and families experiencing homelessness or at-risk of homelessness, and have a barrier to employment and housing stability by allowing supportive housing as a conditional use in the following zoning districts: “OR” Office-Residential District, “B-3” General Commercial District, “I-1” Light Industrial District, and “I-2” General Commercial District. The Code currently does not allow for facilities that have ongoing, onsite supportive services and housing for those experiencing homelessness or at-risk of homelessness. The proposed definition of supportive housing specifies that this use is not on an emergency or nightly basis, and therefore does not include facilities that are commonly referred to as homeless shelters. Occupancy of supportive housing is intended to be long term with stays of thirty (30) consecutive days or more.

This code modification provides additional definitions for barrier(s) to employment and housing stability, on-site supportive services, skilled nursing facility, and assisted living facility to further distinguish supportive housing as a use separate from existing uses in the City of Montrose. Nursing care facilities and assisted living residences are licensed by the State of Colorado as such and are separate from supportive housing. This Code amendment will make an important clarification in our Code, in order for supportive housing developers to understand the allowed locations for this type of use.

Recommended Definition for Supportive Housing:

Supportive housing means housing that is designed to provide ongoing and on-site supportive services to help individuals and families experiencing homelessness or at risk of homelessness, and which persons have barrier(s) to employment and housing stability. Occupancy of supportive housing shall be designed and operated for stays of 30 consecutive days or more and not on a nightly or emergency basis.

Additional Definitions Included in Code Amendment:

Barrier(s) to employment and housing stability means social, economic or health conditions, including mental illness, chemical dependency, or other disabling chronic health conditions which prevent or diminish a person's ability to obtain and remain in safe and permanent housing.

On-site supportive services include, but are not limited to, health and dental care, behavioral health care, mental health services, substance abuse services, case management, life skills training, food access, assistance with transportation, child care assistance, and dependent care, when offered in connection with supportive housing.

Skilled Nursing Facility means health care or residential facility licensed by the State of Colorado to provide continuous inpatient services.

Assisted Living Facility means a residential structure licensed by the State of Colorado to provide health-related and personal care.

Recommended Actions:

1. Update Municipal Code Title 4, Chapter 4, Sections 2, 10, 14, 17, and 18 to add a definition for supportive housing and define that this use is allowed in "OR" Office-Residential District, "B-3" General Commercial District, "I-1" Light Industrial District, and "I-2" General Commercial District as a conditional use. To further clarify this modification, update Municipal Code to add definitions for barrier(s) to employment and housing stability, on-site supportive services, skilled nursing facility, and assisted living facility.



ORDINANCE NO. 2581

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 4 CHAPTER 4, SECTION 2, 10, 14, 17, and 18 ZONING REGULATIONS OF THE CITY OF MONTROSE: AMENDING TITLE 4 CHAPTER 4 SECTIONS 2, 10, 14, 17, and 18 (4-4-2, 4-4-10, 4-4-14, 4-4-17, and 4-4-18) REGARDING ZONING REGULATIONS TO ADD A DEFINITION OF SUPPORTIVE HOUSING, BARRIER(S) TO EMPLOYMENT AND HOUSING STABILITY, ON-SITE SUPPORTIVE SERVICES, SKILLED NURSING FACILITY, AND ASSISTED LIVING FACILITY AND SPECIFY WHERE SUPPORTIVE HOUSING IS ALLOWED.

WHEREAS, the City of Montrose is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the “Council”), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, in the exercise of this authority the City Council has previously enacted Chapter 4 of Title IV of the Official Code of the City of Montrose, concerning land use and zoning (the “Zoning Regulations”); and

WHEREAS, the City Council finds that the Zoning Regulations require amendment to add definitions and associated references pertaining to supportive housing, and in to specify the zone districts in which this use is allowed; and

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO:

Section 1. Zoning Regulations Amended

The following Sections of Title 4 Chapter 4 Sections 2, 10, 14, 17, and 18 of the Official Code of the City of Montrose, Colorado are hereby amended as follows: Title 4 Chapter 4 Sections 2, 10, 14, 17, and 18 (4-4-2, 4-4-10, 4-4-14, 4-4-17, and 4-4-18) are hereby amended. This version supersedes all previous versions of Montrose Municipal Code § 4-4-2, 4-4-10, 4-4-14, 4-4-17, and 4-4-18, to read in full as follows:

Sec. 4-4-2. Definitions, is amended by the following new definitions, at their appropriate alphabetical locations:

Supportive housing means housing that is designed to provide ongoing and on-site supportive services to help individuals and families experiencing homelessness or at risk of homelessness, and which persons have barrier(s) to employment and housing stability. Occupancy of supportive housing shall be designed and operated for stays of 30 consecutive days or more and not on a nightly or emergency basis.

Barrier(s) to employment and housing stability means social, economic or health conditions, including mental illness, chemical dependency, or other disabling chronic health conditions which prevent or diminish a person's ability to obtain and remain in safe and permanent housing.

On-site supportive services include, but are not limited to, health and dental care, behavioral health care, mental health services, substance abuse services, case management, life skills training, food access, assistance with transportation, child care assistance, and dependent care, when offered in connection with supportive housing.

Skilled Nursing Facility means health care or residential facility licensed by the State of Colorado to provide continuous inpatient services.

Assisted Living Facility means a residential structure licensed by the State of Colorado to provide health-related and personal care.

Sec. 4-4-10. "OR" Office-Residential District.

(A) *Intent.* The "OR" Office-Residential district is intended to allow for a mix of offices and residences in areas adjacent to commercial zones or in areas in transition from residential to commercial uses.

(B) *Uses by Right.*

- (1) Offices for medically related and professional service providers including doctors, dentists, chiropractors, lawyers, engineers, surveyors, accountants, bookkeepers, secretarial services, title companies, social service providers and other similar professional service providers.
- (2) Single-family homes.
- (3) Duplexes.
- (4) Government buildings and facilities.
- (5) Places of worship.
- (6) Parks and recreation facilities owned or operated by a homeowner association.
- (7) Public utility service facilities.
- (8) Childcare facilities.
- (9) Bed and breakfast operations operated solely by the residents of a lot of at least 6,250 square feet, providing no more than four bedrooms for rent in the dwelling unit, and the only meal provided on the premises shall be breakfast to the renters.

- (10) Hospitals.
 - (11) Parking facilities.
 - (12) Accessory uses.
 - (13) Short-term rentals.
 - (14) Family child care home.
 - (C) *Conditional Uses*.
 - (1) Multifamily residences.
 - (2) Skilled nursing and assisted living facilities.
 - (3) Offices not allowed as a use by right.
 - (4) Schools.
 - (5) Retail sales and services establishments which cater to the general shopping public.
 - (6) Supportive housing.
 - (D) *Performance Standards*. Buildings with offices must be architecturally compatible with the residential character of the area and comply with City design standards.
- (Ord. No. 2472, § 4-4-10, 5-7-2019; Ord. No. 2561, 10-19-2021)

Sec. 4-4-14. "B-3" General Commercial District.

- (A) *Intent*. The "B-3" General Commercial District is intended for a large variety of uses that require large storage areas to conveniently serve customers.
- (B) *Uses by Right*.
 - (1) Uses listed as "uses by right" in the "B-1," "B-2" and "B-2A" districts.
 - (2) Automobile and vehicle sales or service establishments.
 - (3) Farm implement sales or service establishments.
 - (4) Mobile home sales or service establishments.
 - (5) Building materials sales establishments.
 - (6) Rental businesses.
 - (7) Feed storage and sales establishments.
 - (8) Veterinary clinics or hospitals for large animals.
 - (9) Automobile body shops.
 - (10) Automotive repair and service establishments.
 - (11) Construction and contractor's office and equipment storage facilities.
 - (12) Above ground storage facilities for hazardous fuels.
 - (13) Parking facilities.
 - (14) Renewable energy facilities.

(15) Short-term rentals.

(C) *Conditional Uses.*

- (1) Uses listed as conditional uses in the "B-1," "B-2" and "B-2A" districts.
- (2) Warehouses and storage facilities.
- (3) Antennas and towers are allowed only as conditional uses in all zones and are subject to the provisions of Section 4-4-21 and the other applicable requirements of City ordinances and regulations.
- (4) Supportive housing.

(D) *Not Included in this District.* The following uses are not to be construed as a use by right or a conditional use in the "B-3" General Commercial district:

- (1) Manufacturing and industrial uses except as allowed by Subsection (C)(1) of this Section.

(E) *Performance Standards.*

- (1) Manufacturing and storage associated with manufacturing shall be indoors.
- (2) No use may create a nuisance to other property by reasons of dust, odor, noise, light, smoke, or vibration or other adverse effects which cannot be effectively confined on the premises.

(Ord. No. 2472, § 4-4-14, 5-7-2019; Ord. No. 2561, 10-19-2021)

Sec. 4-4-17. "I-1" Light Industrial District.

(A) *Intent.* The purpose of the "I-1" Light Industrial District is to accommodate a limited group of research, manufacturing uses, and transportation hub. This promotes the creation and maintenance of an environment which will serve the mutual interests of the community as a whole, of any adjacent residential areas and of the occupants of the industrial park area.

(B) *Uses by Right.*

- (1) Uses which meet the intent of Subsection (A) of this Section and the performance standards of Subsection (C) of this Section are uses by right. Typical examples of such manufacturing and non-manufacturing uses include: food processing; metal finishing and fabrication; power generation and transformer stations; paper, plastic and wood manufacturing (excluding processing of any raw materials), fabric manufacturing and similar activities.
- (2) Parks and open spaces.
- (3) Government buildings and facilities, to include airport and accessory uses.
- (4) Public utility service facilities.
- (5) Warehouse and wholesale distribution centers.
- (6) Renewable energy facilities.
- (7) Single-family homes, duplexes, and multiple-family residences.

- (8) Accessory uses.
 - (9) Aircraft support services, including, but not limited to, aircraft maintenance and passenger and crew services.
 - (10) Short-term rentals.
 - (11) Family child care home.
 - (12) Childcare facilities.
 - (C) *Conditional Uses.*
 - (1) Any commercial use other than the uses by right which complies with the performance standards of Subsection (C) of this Section and is consistent with the intent of Subsection (A) of this Section.
 - (2) Supportive housing.
 - (D) *Performance Standards.*
 - (1) No structure shall be constructed within 100 feet of an existing residential zone.
- (Ord. No. 2472, § 4-4-17, 5-7-2019; Ord. No. 2561, 10-19-2021)

Sec. 4-4-18. "I-2" General Industrial District.

- (A) *Intent.* The "I-2" General Industrial District allows most industrial and manufacturing uses, provided that they do not create a nuisance to other property by reasons of dust, odor, noise, light, smoke, or vibration or other adverse effects which cannot be effectively confined on the premises.
 - (B) *Uses by Right.*
 - (1) Those uses which are uses by right in the "I-1" Light Industrial District.
 - (2) Other industrial uses.
 - (3) Short-term rentals.
 - (C) *Conditional Uses.*
 - (1) Antennas and towers are allowed only as conditional uses in all zones and are subject to the provisions of Section 4-4-21 and the other applicable requirements of City ordinances and regulations.
 - (2) Supportive housing.
 - (D) *Performance Standards.*
 - (1) No structure shall be constructed within 100 feet of a residential or commercial district.
- (Ord. No. 2472, § 4-4-18, 5-7-2019; Ord. No. 2561, 10-19-2021)

Section 2. Severability

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

Section 3. Effective Date

This Ordinance shall take effect upon adoption at second reading and publication as required by the charter.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the 1st day of March, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 1st day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 15th day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 4 CHAPTER 4, SECTION 2, 10, 14, 17, and 18 ZONING REGULATIONS OF THE CITY OF MONTROSE: AMENDING TITLE 4 CHAPTER 4 SECTIONS 2, 10, 14, 17, and 18 (4-4-2, 4-4-10, 4-4-14, 4-4-17, and 4-4-18) REGARDING ZONING REGULATIONS TO ADD A DEFINITION OF SUPPORTIVE HOUSING, BARRIER(S) TO EMPLOYMENT AND HOUSING STABILITY, ON-SITE SUPPORTIVE SERVICES, SKILLED NURSING FACILITY, AND ASSISTED LIVING FACILITY AND SPECIFY WHERE SUPPORTIVE HOUSING IS ALLOWED.

WHEREAS, the City of Montrose is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the “Council”), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, in the exercise of this authority the City Council has previously enacted Chapter 4 of Title IV of the Official Code of the City of Montrose, concerning land use and zoning (the “Zoning Regulations”); and

WHEREAS, the City Council finds that the Zoning Regulations require amendment to add definitions and associated references pertaining to supportive housing, and in to specify the zone districts in which this use is allowed; and

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO:

Section 1. Zoning Regulations Amended

The following Sections of Title 4 Chapter 4 Sections 2, 10, 14, 17, and 18 of the Official Code of the City of Montrose, Colorado are hereby amended as follows: Title 4 Chapter 4 Sections 2, 10, 14, 17, and 18 (4-4-2, 4-4-10, 4-4-14, 4-4-17, and 4-4-18) are hereby amended. This version supersedes all previous versions of Montrose Municipal Code § 4-4-2, 4-4-10, 4-4-14, 4-4-17, and 4-4-18, to read in full as follows:

Sec. 4-4-2. Definitions, is amended by the following new definitions, at their appropriate alphabetical locations:

Supportive housing means housing that is designed to provide ongoing and on-site supportive services to help individuals and families experiencing homelessness or at risk of homelessness, and which persons have barrier(s) to employment and housing stability. Occupancy of supportive housing shall be designed and operated for stays of 30 consecutive days or more and not on a nightly or emergency basis.

Barrier(s) to employment and housing stability means social, economic or health conditions, including mental illness, chemical dependency, or other disabling chronic health conditions which prevent or diminish a person's ability to obtain and remain in safe and permanent housing.

On-site supportive services include, but are not limited to, health and dental care, behavioral health care, mental health services, substance abuse services, case management, life skills training, food access, assistance with transportation, child care assistance, and dependent care, when offered in connection with supportive housing.

Skilled Nursing Facility means health care or residential facility licensed by the State of Colorado to provide continuous inpatient services.

Assisted Living Facility means a residential structure licensed by the State of Colorado to provide health-related and personal care.

Sec. 4-4-10. "OR" Office-Residential District.

(A) *Intent.* The "OR" Office-Residential district is intended to allow for a mix of offices and residences in areas adjacent to commercial zones or in areas in transition from residential to commercial uses.

(B) *Uses by Right.*

- (1) Offices for medically related and professional service providers including doctors, dentists, chiropractors, lawyers, engineers, surveyors, accountants, bookkeepers, secretarial services, title companies, social service providers and other similar professional service providers.
- (2) Single-family homes.
- (3) Duplexes.
- (4) Government buildings and facilities.
- (5) Places of worship.
- (6) Parks and recreation facilities owned or operated by a homeowner association.
- (7) Public utility service facilities.

- (8) Childcare facilities.
 - (9) Bed and breakfast operations operated solely by the residents of a lot of at least 6,250 square feet, providing no more than four bedrooms for rent in the dwelling unit, and the only meal provided on the premises shall be breakfast to the renters.
 - (10) Hospitals.
 - (11) Parking facilities.
 - (12) Accessory uses.
 - (13) Short-term rentals.
 - (14) Family child care home.
 - (C) *Conditional Uses.*
 - (1) Multifamily residences.
 - (2) Skilled nursing and assisted living facilities.
 - (3) Offices not allowed as a use by right.
 - (4) Schools.
 - (5) Retail sales and services establishments which cater to the general shopping public.
 - (6) Supportive housing.
 - (D) *Performance Standards.* Buildings with offices must be architecturally compatible with the residential character of the area and comply with City design standards.
- (Ord. No. 2472 , § 4-4-10, 5-7-2019; Ord. No. 2561 , 10-19-2021)

Sec. 4-4-14. "B-3" General Commercial District.

- (A) *Intent.* The "B-3" General Commercial District is intended for a large variety of uses that require large storage areas to conveniently serve customers.
- (B) *Uses by Right.*
 - (1) Uses listed as "uses by right" in the "B-1," "B-2" and "B-2A" districts.
 - (2) Automobile and vehicle sales or service establishments.
 - (3) Farm implement sales or service establishments.
 - (4) Mobile home sales or service establishments.
 - (5) Building materials sales establishments.
 - (6) Rental businesses.
 - (7) Feed storage and sales establishments.

- (8) Veterinary clinics or hospitals for large animals.
- (9) Automobile body shops.
- (10) Automotive repair and service establishments.
- (11) Construction and contractor's office and equipment storage facilities.
- (12) Above ground storage facilities for hazardous fuels.
- (13) Parking facilities.
- (14) Renewable energy facilities.
- (15) Short-term rentals.

(C) *Conditional Uses.*

- (1) Uses listed as conditional uses in the "B-1," "B-2" and "B-2A" districts.
- (2) Warehouses and storage facilities.
- (3) Antennas and towers are allowed only as conditional uses in all zones and are subject to the provisions of Section 4-4-21 and the other applicable requirements of City ordinances and regulations.

(4) Supportive housing.

(D) *Not Included in this District.* The following uses are not to be construed as a use by right or a conditional use in the "B-3" General Commercial district:

- (1) Manufacturing and industrial uses except as allowed by Subsection (C)(1) of this Section.

(E) *Performance Standards.*

- (1) Manufacturing and storage associated with manufacturing shall be indoors.
- (2) No use may create a nuisance to other property by reasons of dust, odor, noise, light, smoke, or vibration or other adverse effects which cannot be effectively confined on the premises.

(Ord. No. 2472 , § 4-4-14, 5-7-2019; Ord. No. 2561 , 10-19-2021)

Sec. 4-4-17. "I-1" Light Industrial District.

- (A) *Intent.* The purpose of the "I-1" Light Industrial District is to accommodate a limited group of research, manufacturing uses, and transportation hub. This promotes the creation and maintenance of an environment which will serve the mutual interests of the community as a whole, of any adjacent residential areas and of the occupants of the industrial park area.

(B) *Uses by Right.*

- (1) Uses which meet the intent of Subsection (A) of this Section and the performance standards of Subsection (C) of this Section are uses by right. Typical examples of such manufacturing and non-manufacturing uses include: food processing; metal finishing and fabrication; power generation and transformer stations; paper, plastic and wood manufacturing (excluding processing of any raw materials), fabric manufacturing and similar activities.
 - (2) Parks and open spaces.
 - (3) Government buildings and facilities, to include airport and accessory uses.
 - (4) Public utility service facilities.
 - (5) Warehouse and wholesale distribution centers.
 - (6) Renewable energy facilities.
 - (7) Single-family homes, duplexes, and multiple-family residences.
 - (8) Accessory uses.
 - (9) Aircraft support services, including, but not limited to, aircraft maintenance and passenger and crew services.
 - (10) Short-term rentals.
 - (11) Family child care home.
 - (12) Childcare facilities.
- (C) *Conditional Uses.*
- (1) Any commercial use other than the uses by right which complies with the performance standards of Subsection (C) of this Section and is consistent with the intent of Subsection (A) of this Section.
 - (2) Supportive housing.
- (D) *Performance Standards.*
- (1) No structure shall be constructed within 100 feet of an existing residential zone.
(Ord. No. 2472 , § 4-4-17, 5-7-2019; Ord. No. 2561 , 10-19-2021)

Sec. 4-4-18. "I-2" General Industrial District.

- (A) *Intent.* The "I-2" General Industrial District allows most industrial and manufacturing uses, provided that they do not create a nuisance to other property by reasons of dust, odor, noise, light, smoke, or vibration or other adverse effects which cannot be effectively confined on the premises.
- (B) *Uses by Right.*
- (1) Those uses which are uses by right in the "I-1" Light Industrial District.

- (2) Other industrial uses.
- (3) Short-term rentals.

(C) *Conditional Uses.*

- (1) Antennas and towers are allowed only as conditional uses in all zones and are subject to the provisions of Section 4-4-21 and the other applicable requirements of City ordinances and regulations.

(2) Supportive housing.

(D) *Performance Standards.*

- (1) No structure shall be constructed within 100 feet of a residential or commercial district.

(Ord. No. 2472 , § 4-4-18, 5-7-2019; Ord. No. 2561 , 10-19-2021)

Section 2. Severability

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

Section 3. Effective Date

This Ordinance shall take effect upon adoption at second reading and publication as required by the charter.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the ___ day of _____, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this _____ day of _____, 2022.

_____, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this _____ day of _____, 2022.

_____, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk



CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: William Reis, Planner I
DATE: March 1, 2022
RE: City of Montrose Municipal Code Update, Section 4-15-2

City staff have undertaken a review of the Municipal Code Title 4, Chapter 15, Section 2 (4-15-2) in order to codify the appointment of an alternate Historic Preservation Commission member. This modification cleans up the code and clarifies the role of the alternate member.

Recommended Actions:

1. Update Section 4-15-2 to reflect this change in the Historic Preservation Commissioners' appointments.

Proposed Language:

The language below is proposed to be changed to Municipal Code Section 4-15-2:

Section 4-15-2: Creation of Planning Commission

(B) *Composition*. The commission shall be composed of seven voting members, all of who have demonstrated interest in, competence with or knowledge of preservation. The Council may appoint alternate historic preservation commission members in the same manner as regular appointments. The alternate historic preservation commission members may be called to sit on the commission and vote as a member thereof on account of the absence of any regular member.

ORDINANCE NO. 2578

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 4 CHAPTER 15, HISTORIC PRESERVATION REGULATIONS OF THE CITY OF MONTROSE: AMENDING TITLE 4 CHAPTER 15 SECTION 2 (4-15-2) REGARDING HISTORIC PRESERVATION COMMISSION ALTERNATE APPOINTMENTS.

WHEREAS, the City of Montrose is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the "Council"), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, in the exercise of this authority the City Council has previously enacted Chapter 15 of Title IV of the Official Code of the City of Montrose, concerning historic preservation (the "Historic Preservation Regulations"); and

WHEREAS, the City Council finds that the Historic Preservation Regulations require amendment to codify the process for appointment of an alternate historic preservation commissioner; and

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

Section 1. Historic Preservation Regulations Amended

The following Section of Title 4 Chapter 15 of the Official Code of the City of Montrose, Colorado are hereby amended as follows: Title 4 Chapter 15 Section 2 (4-15-2) is hereby amended. This version supersedes all previous versions of Montrose Municipal Code § 4-15-2, to read in full as follows:

4-15-2. – Historic Preservation Commission.

(B) *Composition.* The commission shall be composed of seven voting members, all of who have demonstrated interest in, competence with or knowledge of preservation. The Council may appoint one alternate historic preservation commission member in the same manner as regular appointments. The alternate historic preservation commission

member may be called to sit on the commission and vote as a member thereof on account of the absence of any regular member.

Section 2. Severability

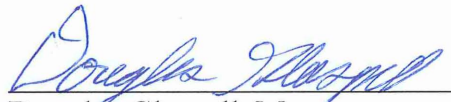
This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

Section 3. Effective Date

This Ordinance shall take effect upon adoption at second reading and publication as required by the charter.

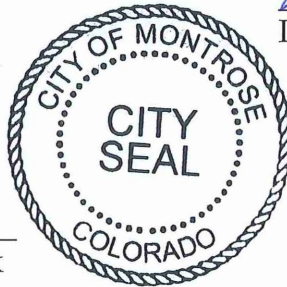
You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the 15th day of February, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 15th day of February, 2022.


Douglas Glaspell, Mayor

ATTEST:


Lisa DelPiccolo, City Clerk



INTRODUCED, READ and ADOPTED on second reading this 1st day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

ORDINANCE NO. 2578

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, UPDATING TITLE 4 CHAPTER 15, HISTORIC PRESERVATION REGULATIONS OF THE CITY OF MONTROSE: AMENDING TITLE 4 CHAPTER 15 SECTION 2 (4-15-2) REGARDING HISTORIC PRESERVATION COMMISSION ALTERNATE APPOINTMENTS.

WHEREAS, the City of Montrose is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and C.R.S. § 31-23-101, the City, acting through its City Council (the “Council”), is authorized to adopt ordinances for the protection of the public health, safety or welfare; and

WHEREAS, in the exercise of this authority the City Council has previously enacted Chapter 15 of Title IV of the Official Code of the City of Montrose, concerning historic preservation (the “Historic Preservation Regulations”); and

WHEREAS, the City Council finds that the Historic Preservation Regulations require amendment to codify the process for appointment of an alternate historic preservation commissioner; and

WHEREAS, the City Council of the City of Montrose has determined that the changes to the Municipal Code will further the health, safety, and welfare of the people of the City of Montrose.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO that:

Section 1. Historic Preservation Regulations Amended

The following Section of Title 4 Chapter 15 of the Official Code of the City of Montrose, Colorado are hereby amended as follows: Title 4 Chapter 15 Section 2 (4-15-2) is hereby amended. This version supersedes all previous versions of Montrose Municipal Code § 4-15-2, to read in full as follows:

4-15-2. – Historic Preservation Commission.

(B) *Composition.* The commission shall be composed of seven voting members, all of who have demonstrated interest in, competence with or knowledge of preservation. The Council may appoint alternate historic preservation commission members in the same manner as regular appointments. The alternate historic preservation commission

members may be called to sit on the commission and vote as a member thereof on account of the absence of any regular member.

Section 2. Severability

This Ordinance shall be deemed severable. Should any phrase, term, section, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unlawful, the remainder of the Ordinance shall remain in full force and effect.

Section 3. Effective Date

This Ordinance shall take effect upon adoption at second reading and publication as required by the charter.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the ___ day of _____, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this _____ day of _____, 2022.

_____, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this _____ day of _____, 2022.

_____, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk



CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
DATE: March 1, 2022
RE: Yocum Addition Rezone
ATTACHMENTS:

- Exhibit A: Maps
- Exhibit B: Photos of Project Area
- Exhibit C: Zoning Code Excerpt

City Council Consideration:

City Council is considering the approval of the Yocum Addition rezone. City Council will consider all of the information in this memo in making a decision.

Application Background:

The proposal is to rezone the Yocum Addition from “R-2” Low Density District to “R-3A” Medium High Density District for future development of multi-family housing. The property consists of approximately 7.3 acres.

Applicant: Luckenbill Drayton & Associates, LLC Profit Sharing Plan & Michael Surak, Real America

Proposed Zoning: “R-3A” Medium High Density District

Staff Analysis:

1. Municipal Code, Section, 4-4-29(A), Rezoning.
“Amendments to the Official Zoning Map involving any change in the boundaries of an existing zoning district, or changing the designation of a district, shall be allowed only upon findings as follows:



- a) The amendment is not adverse to the public health, safety and welfare; and
 - b) The amendment is in substantial conformity with the master plan or,
 - i. The existing zoning is erroneous, or
 - ii. Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.”
2. The Planning Commission should consider the merits of the proposed rezone only and make a recommendation to City Council based on whether it should be rezoned to “R-3A” Medium High Density District. The current zoning is “R-2” Low Density District.
 - Zoning Regulations. The "R-3A" Medium High Density District is intended to provide an area which is suitable for single-family homes, duplexes and multifamily residences with intermediate overall density. This district provides for other uses which are compatible with such residential uses. (Section 4-4-7.1)
 - Exhibit C includes an excerpt from the Municipal Code showing uses by right in the "R-3A" Medium High Density District.
3. This property is adjacent to properties that are zoned “R-2” Low Density District, “R-3A” Medium High Density District, and agricultural (outside City limits).
4. General Conformance with the Comprehensive Plan:
 - The Comprehensive Plan Future Land Use Map (Chapter 5) designates this area as Residential Mixed Density Low. This district provides primarily for single-family homes, as well as small amounts of attached residential dwelling units (such as duplexes and even small groups of townhomes).
 - Goal LU (Land Use) 5: Infill & Redevelopment: Promote higher density infill and redevelopment of underutilized sites and support development in areas that can be easily accessed by foot, bike, and/or public transit.
 - Goal HN (Housing & Neighborhoods)-1: Housing Variety. Encourage a variety of housing types, tenure, and density to meet the needs of the community.
 - a) Objective 1.1 Promote a mix of residential housing types including single-family homes on a variety of lot sizes, multi-family housing, townhomes, apartments, senior housing, and transitional housing.
 - b) Objective 1.2 Encourage a variety of housing densities (low, medium, high) throughout the community, including mixed-density neighborhoods.
 - Goal HN-2: Affordable Housing. Increase access to affordable housing.
 - a) Objective 2.1 Encourage a mix of housing price ranges, thereby providing choices for residents of all incomes and ages.
 - b) Objective 2.2 Offer incentives and information to encourage affordable housing in new developments.
 - c) Objective 2.3 Support and work with housing agencies, organizations, private developers, and businesses to increase the amount of workforce housing.



- Staff finds that the proposed zoning meets numerous goals and objectives of the Comprehensive Plan.
5. The “R-3A” zoning does not appear to be adverse to the public health, safety and welfare, and is consistent with Municipal Code requirements, zoning in the surrounding area, and the Comprehensive Plan.

Staff Recommendation:

Staff finds that the rezone criteria has been met; it is in compliance with the Comprehensive Plan; it is compatible with existing uses in the surrounding area; and therefore, recommends approval of the "R-3A" Medium High Density District.

Planning Commission Recommendation:

The Planning Commission recommended approval of the Yocum Addition to “R-3A” Medium High Density District at the January 26, 2022 meeting. The vote was unanimous.

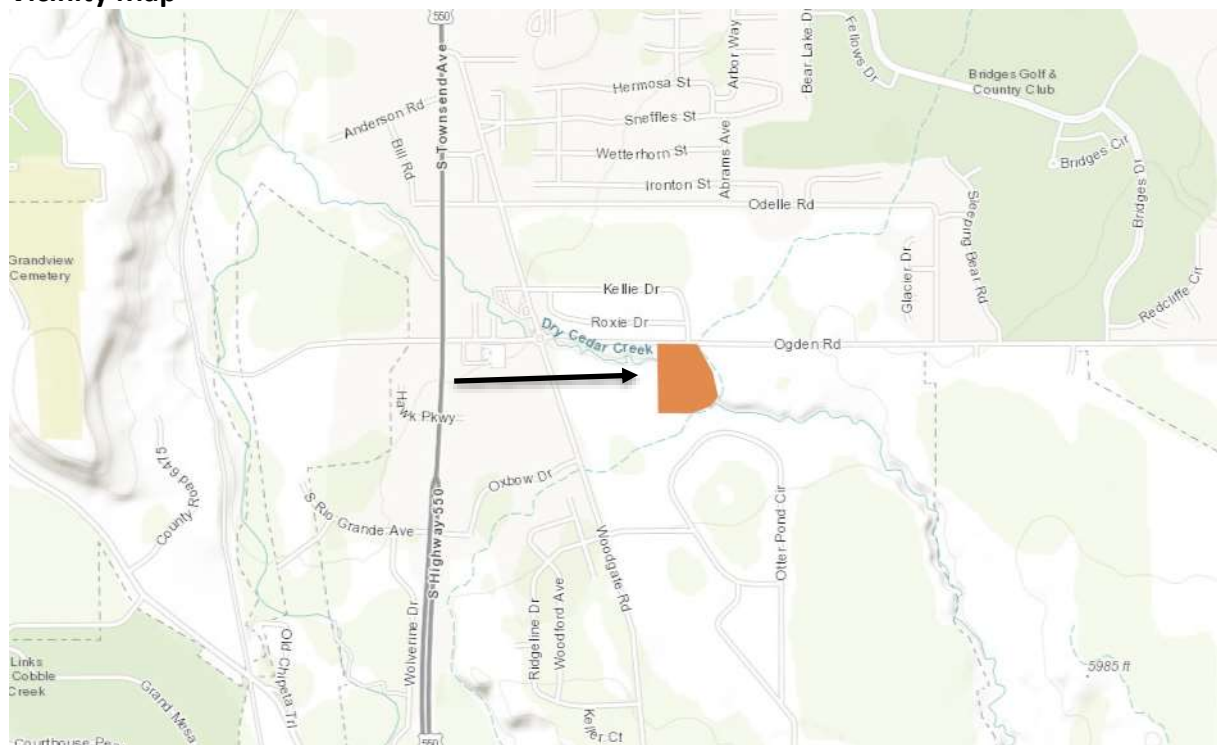
City Council Options:

1. Accept the Planning Commission recommendation and approve the rezone.
2. Deny the request for a rezone and schedule a de novo hearing. The hearing date should be established in consultation with the City Attorney.



EXHIBIT A: Maps

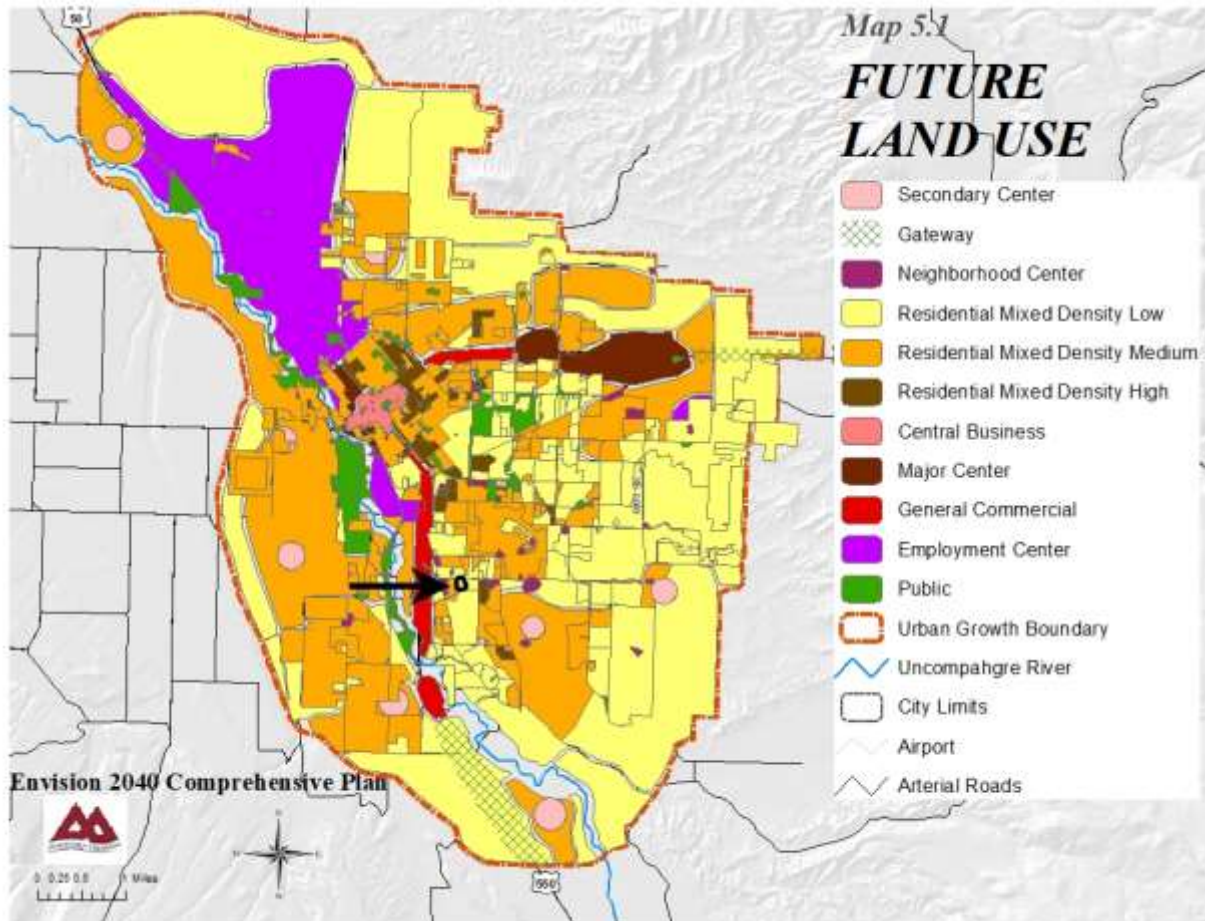
Vicinity Map



Notification Area



Comprehensive Plan Future Land Use Map



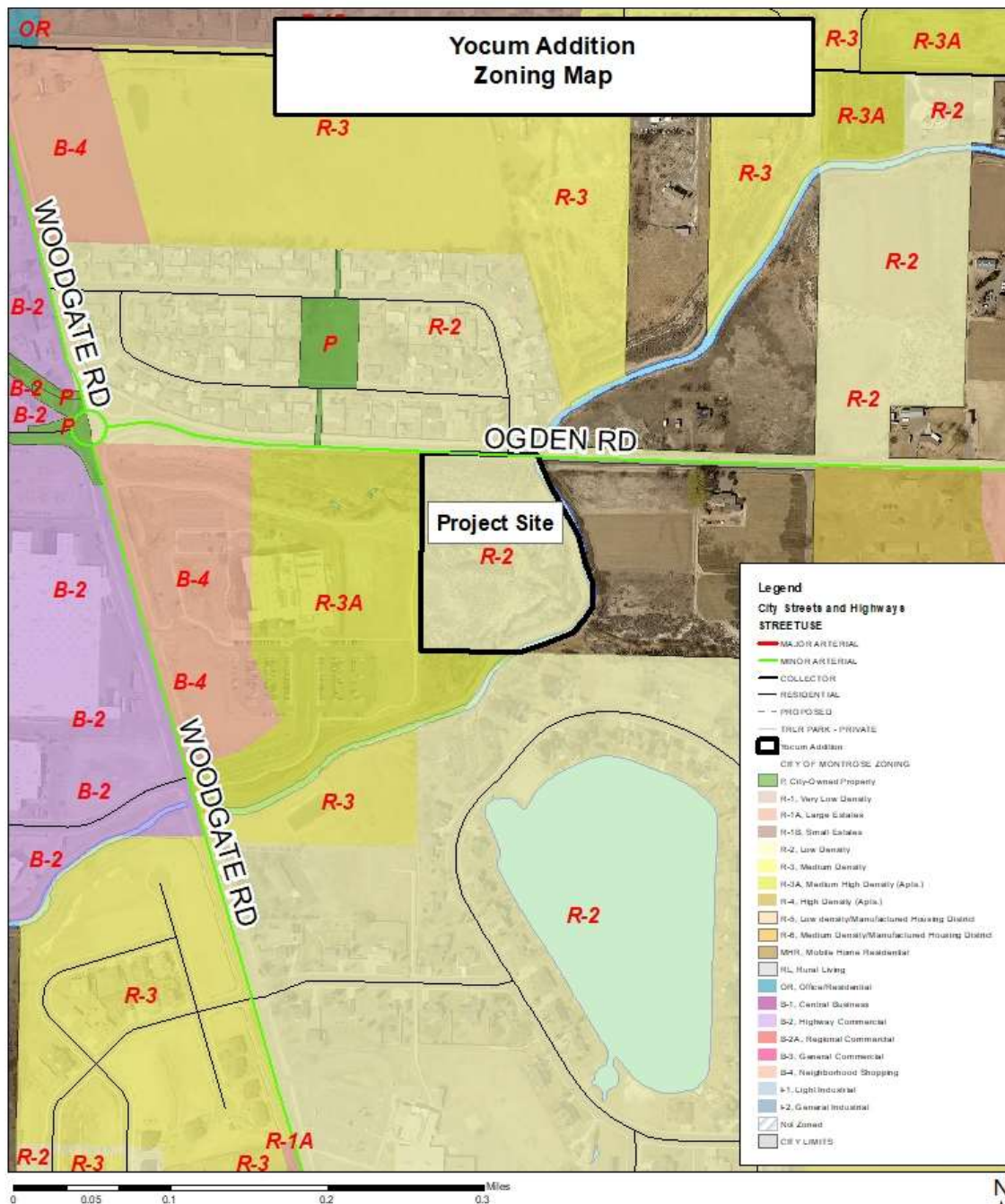


EXHIBIT B: Photos of Project Area





EXHIBIT C: Zoning Code Excerpt

Sec. 4-4-7.1. "R-3A" Medium High Density District.

- (A) *Intent.* The "R-3A" Medium High Density District is intended to provide an area which is suitable for single-family homes, duplexes and multifamily residences with intermediate overall density. This district provides for other uses which are compatible with such residential uses.
- (B) *Uses by Right.*
- (1) Single-family homes, duplexes, multifamily residences.
 - (2) Public utility service facilities.
 - (3) Government buildings and facilities.
 - (4) Parks and recreation facilities owned or operated by a homeowner association.
 - (5) Places of worship.
 - (6) Accessory uses.
 - (7) Short-term rentals.
 - (8) Family child care home.
- (C) *Conditional Uses.*
- (1) Childcare facilities.
 - (2) Skilled nursing and assisted living facilities.
 - (3) Schools.

(Ord. No. 2472 , § 4-4-7.1, 5-7-2019; Ord. No. 2561 , 10-19-2021)



ORDINANCE NO. 2579

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, AMENDING THE ZONING DISTRICT DESIGNATION OF THE YOCUM ADDITION FROM "R-2", LOW DENSITY DISTRICT TO "R-3A", MEDIUM HIGH DENSITY DISTRICT.

WHEREAS, Phoebe Benziger moved, and Chad Huffman seconded, to recommend the City Council approval of the rezone of the Yocum Addition more particularly described below, City of Montrose; and

WHEREAS, the motion carried unanimously and Planning Commission has recommended the zoning changes provided herein; and

WHEREAS, the City Council has determined that such zoning will be consistent with the public health, safety and welfare, the City's Master Plan and changed conditions in the area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, that

SECTION 1:

The Official Zoning Map is amended to designate the parcel more particularly described as:

THAT PART OF THE NORTH ½ OF U.S. GOVERNMENT LOT 16, SECTION 4, TOWNSHIP 48 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN, LYING WESTERLY OF THE LOUTSENHIZER CANAL AS PRESENTED CONSTRUCTED, COUNTY OF MONTROSE, STATE OF COLORADO

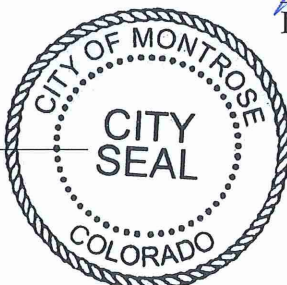
as an "R-3A", Medium High Density District, according to the Official Zoning Map.

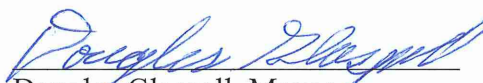
You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 15th of February, 2022, at the hour of 6:00 p.m. at Montrose City Council Chambers, Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 15th day of February, 2022.

ATTEST:


Lisa DelPiccolo, City Clerk




Douglas Glaspell, Mayor

INTRODUCED, READ and ADOPTED on second reading this 1st day of March, 2022.

ATTEST:

Douglas Glaspell, Mayor

Lisa DelPiccolo, City Clerk



CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: William Reis, Planner I
DATE: March 1, 2022
RE: Historic Property Designation Application for the S.H. Nye Building

City Council Consideration:

On January 25, 2022, the City of Montrose Historic Preservation Commission considered an application for historic property designation of the S.H. Nye Building, located at 428 E Main St, according to Section 4-15 of the Montrose Municipal Code. The commission voted unanimously to recommend to the City Council for approval as a historic property.

Staff Analysis:

In reviewing the application, City staff submitted and the commission concurred with the following findings:

1. The structure meets the eligibility criteria per Montrose Municipal Code 4-15-3 (B) as follows:
 - a. The building is over fifty years old.
 - b. The building is significant for its association with the development of downtown Montrose in the early twentieth century, housing stores and offices.
 - c. The building is significant for its association with Samuel H. Nye, prominent Montrose rancher, businessman, and civic leader.
 - d. The building, although altered, is representative of the Twentieth Century Commercial style in its brick construction, restrained ornament, double-hung sash windows with transoms on the upper story, and large storefronts on the lower story.
2. The structure has been found to also meet the integrity criteria per Montrose Municipal Code 4-15-3 (C).

ORDINANCE NO. 2580

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, DESIGNATING THE S. H. NYE BUILDING, 428 E. MAIN STREET, MONTROSE, COLORADO AS A CITY OF MONTROSE HISTORIC PROPERTY PURSUANT TO § 4-15 OF THE OFFICIAL CODE OF THE CITY OF MONTROSE

WHEREAS, pursuant to Montrose City Code, Chapter 4-15, City Council has established a public policy encouraging the protection, enhancement and perpetuation of historic properties with the City; and

WHEREAS, by motion approved on January 25, 2022, the City of Montrose Historic Preservation Commission (the "Commission") determined the S.H. Nye Building, at 428 E. Main Street in Montrose, as more specifically described in the legal description below (the "Property"), is eligible for the historic property designation pursuant to Montrose City Code § 4-15-3 as follows: the building is over fifty years; it has stone coping, paneled parapet with two stone plaques reading "S H NYE BUILDING"; stone cornice supported by scroll brackets; walls composed of yellow and orange brick; second story is divided into two bays by brick panels; within each panel are four double-hung sash windows with transoms; windows have lintels of gauged brick with stone keystones and rock-faced stone sills which create a continuous course, beneath which is a dentil course; lower story has lap siding above the storefronts, which have large plate glass display windows, inset entrances, and glazed doors with transoms; and

WHEREAS, the Commission further determined the Property meets the criteria set forth in City Code § 4-15-3, is eligible for designation as a historic property, and has recommended to the City Council the Property be designated as a historic property; and

WHEREAS, the owner of the Property has consented to such historic property designation and desires to protect the Property; and

WHEREAS, such historic property designation will preserve the Property's significance to the community; and

WHEREAS, the City Council has reviewed the recommendation of the Commission and desires to follow such recommendation and designate the Property as a historic property; and

WHEREAS, designation of the Property as a historic property is necessary for the prosperity, civic pride, and welfare of the public.

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

Section 1. The City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. The Property located in the City of Montrose, Montrose County, Colorado, is described as follows, to wit:

Lots 5 and 6, Block 87, Town of Montrose, now a part of the City of Montrose, except the westerly 3 ½ inches of said Lot 6 adjoining Lot 7 in said Block for its entire length, County of Montrose, State of Colorado

also known by street and number as: 428, 430 & 432 E. Main Street, Montrose, CO 81401

Section 3. Alteration, additions, and other changes to the building and structures located on the Property will be reviewed for compliance with Montrose City Code § 4-15-5, as currently enacted or hereafter amended.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and the question of its passage on first reading on Tuesday, the 15th day of February, 2022, at the hour of 6:00 p.m. at the Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 15th day of February, 2022.

ATTEST:


Lisa DelPiccolo, City Clerk




Douglas Glaspell, Mayor

INTRODUCED, READ and ADOPTED on second reading this 1st day of March, 2022.

ATTEST:

Lisa DelPiccolo, City Clerk

Douglas Glaspell, Mayor



CITY OF MONTROSE

Planning Services

MEMO

TO: City Council
FROM: William Reis, Planner I
DATE: March 1, 2022
RE: ANX21-0139 – Niagara Road Addition
ATTACHMENTS:

- Exhibit A: Maps

Public notice requirements have been fulfilled in accordance with Section 4-4-31(D) of the City of Montrose Municipal Code. A sign was posted on the property, letters sent to property owners within 100 feet, and an ad appeared in the Montrose Daily Press.

City Council Consideration:

City Council is considering this annexation application and the associated zoning, which is done by considering approval of an annexation ordinance and a zoning ordinance at a first and second reading. Council will consider all of the information in this memo in making a decision.

Proposed Schedule:

January 18:	Council Work Session Overview
February 9:	Planning Commission zoning hearing
March 1:	City Council Annexation hearing, 1st reading of annexation ordinance, and 1st reading of zoning ordinance
March 15:	2nd reading of annexation and zoning ordinances

Application Background:

The Niagara Road Addition is a proposed annexation approximately 0.456 acres in size. The property is located on the northern half of Niagara Road, approximately centered at the intersection with St. Mary's Dr. It is within the City's Urban Growth Boundary, the City of Montrose Water Service Area, and the City of Montrose Sewer Service Area. Annexation of this property will clean-up an orphaned parcel of City Right of Way.

Proposed Zoning: "B-2" Highway Commercial District

Applicant: City of Montrose

Staff Analysis:

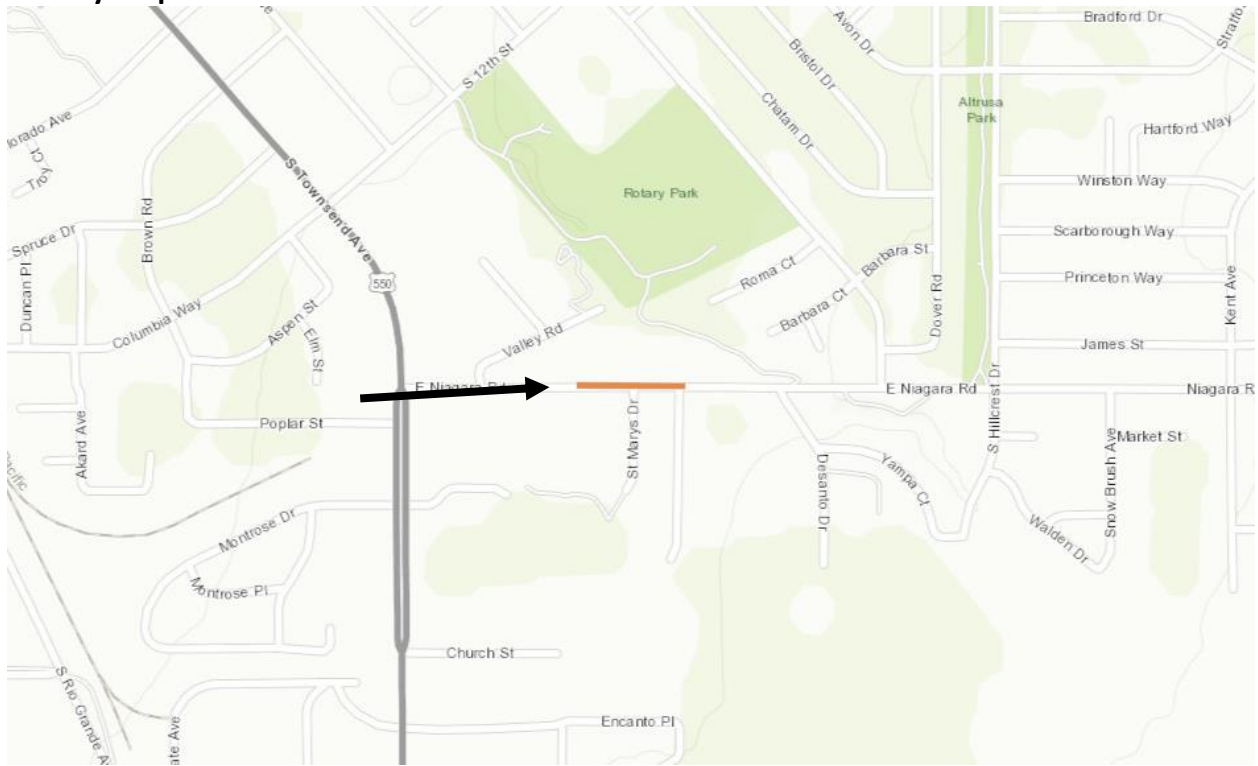
1. The City-County IGA gives the City the option to annex properties within the IGA. The area is urbanizing and more than 1/6 of the perimeter is contiguous to the city limits. These factors support annexation.
2. The Petition for Annexation and annexation agreement are not required for this annexation.
3. Zoning Regulations
 - a. Municipal Code, Section, 4-4-29(B), Zoning of Additions. "The Planning Commission shall recommend to the Council a zoning district designation for all property annexed to the City not previously subject to City zoning, and shall follow the review procedure set out in Section 4-4-31 in arriving at its recommendation. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the annexation ordinance or thereafter. *The zoning designation for newly annexed property shall not adversely affect the public health, safety and welfare* (emphasis added)."
 - b. Municipal Code, Section 4-4-11.1 (A) Intent: The "B-2" Highway Commercial District is intended to provide for business oriented toward serving the motoring public. This district provides for the convenient exchange of goods and services along the major thoroughfares of the City.
 - c. The proposed zoning is compatible with existing zoning and general conditions in the area. The property is adjacent to properties that are zoned "B-2" Highway Commercial District on all sides.
4. The Comprehensive Plan Future Land Use Map designates the area of the Niagara Road Addition as Residential Mixed Density Low. This district provides primarily for single-family homes, as well as small amounts of attached residential dwelling units (such as duplexes and even small groups of townhomes). This low-density residential land use is intended to preserve the traditional building pattern of the existing residential development in Montrose. It will continue to be the predominant density in the City.
5. The property is located within Growth Area 1, which represents the most cost-efficient areas for the City to grow, and comprises of platted but unbuilt lots, annexed but unplatted land, and un-annexed small enclaves, according to the Comprehensive Plan.
6. The "B-2" zoning district does not appear to be adverse to the public health, safety and welfare.

Staff Recommendation:

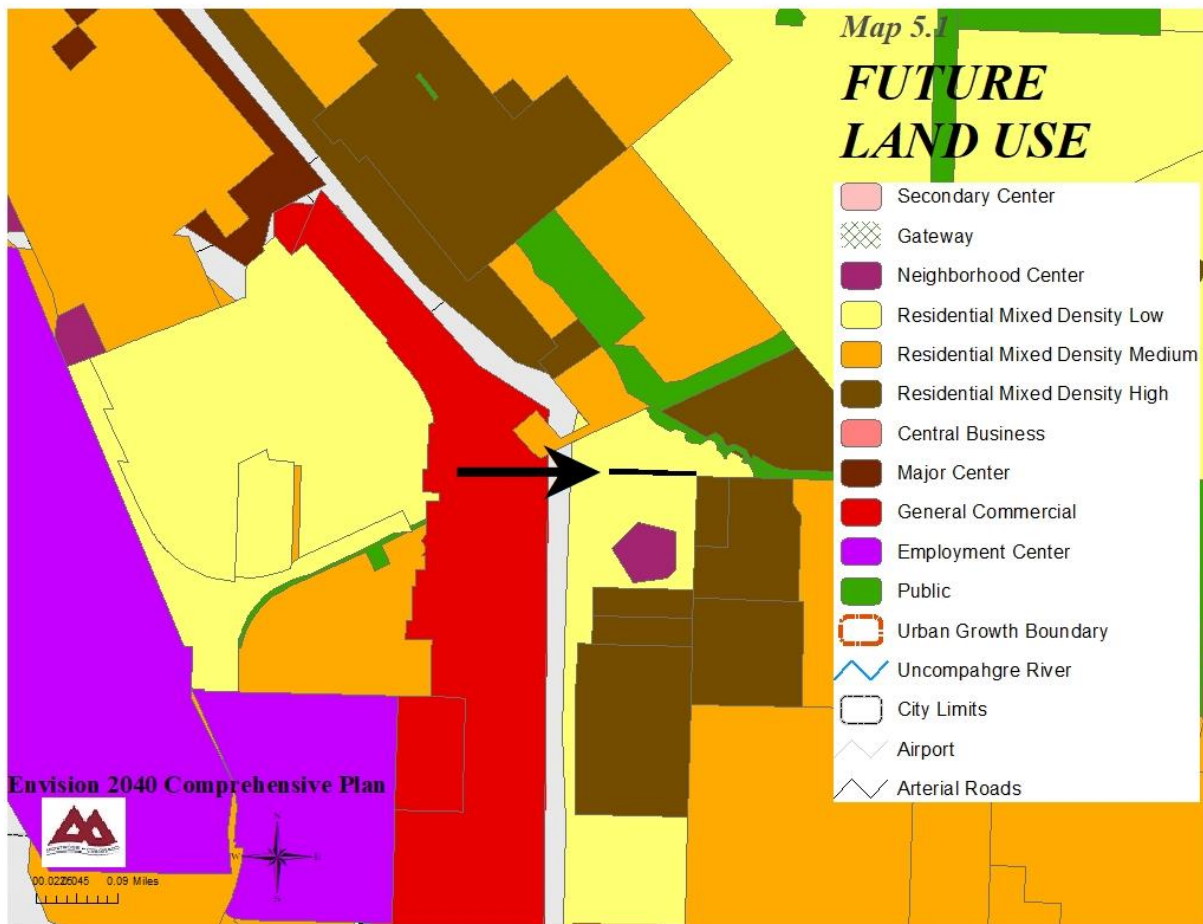
Staff recommends approval of the annexation and "B-2" Highway Commercial District.

Exhibit A: Maps

Vicinity Map



Comprehensive Plan Future Land Use Map

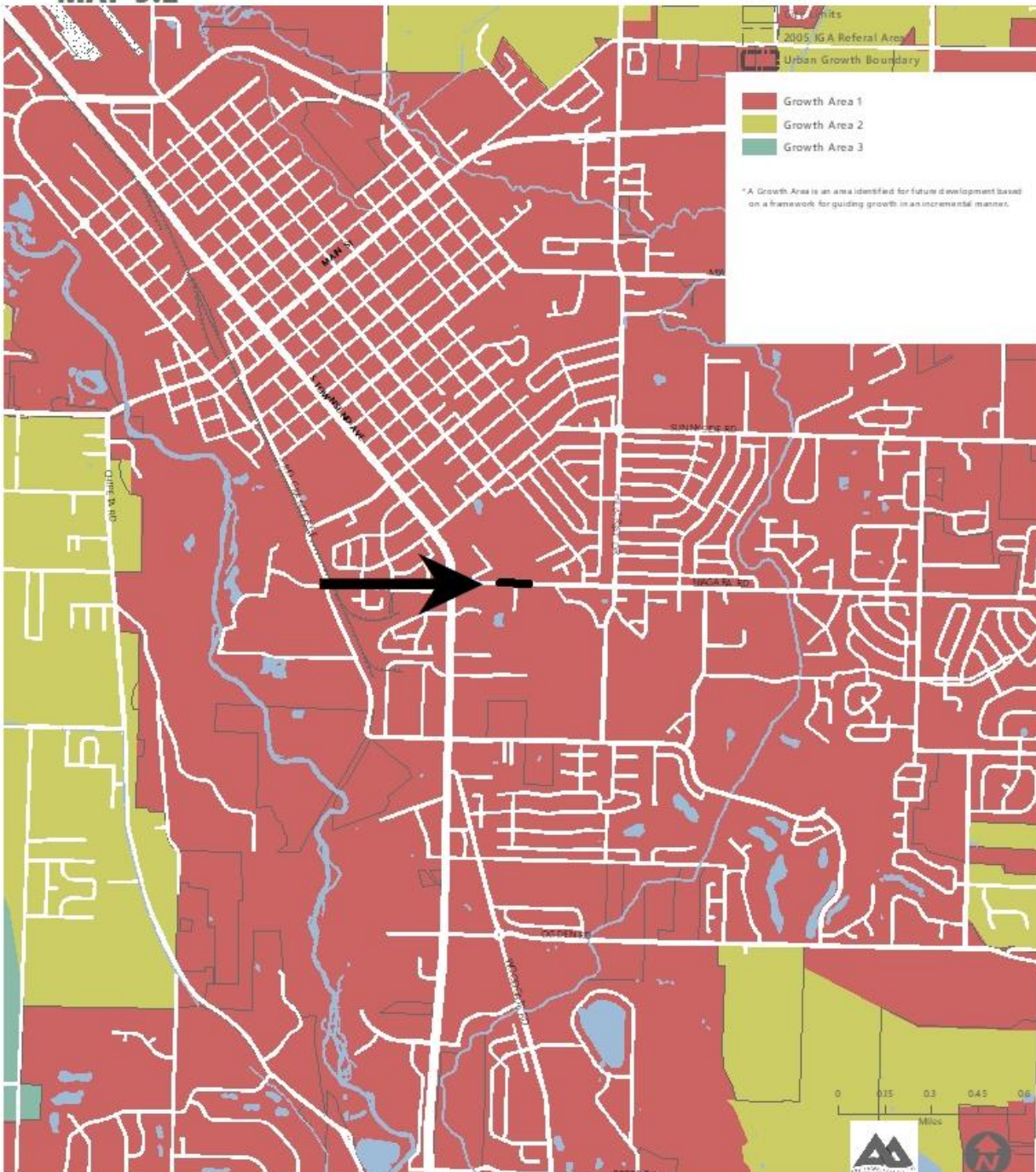


Comprehensive Plan Growth Areas Map

GROWTH AREAS*

MAP 5.2

LEGEND

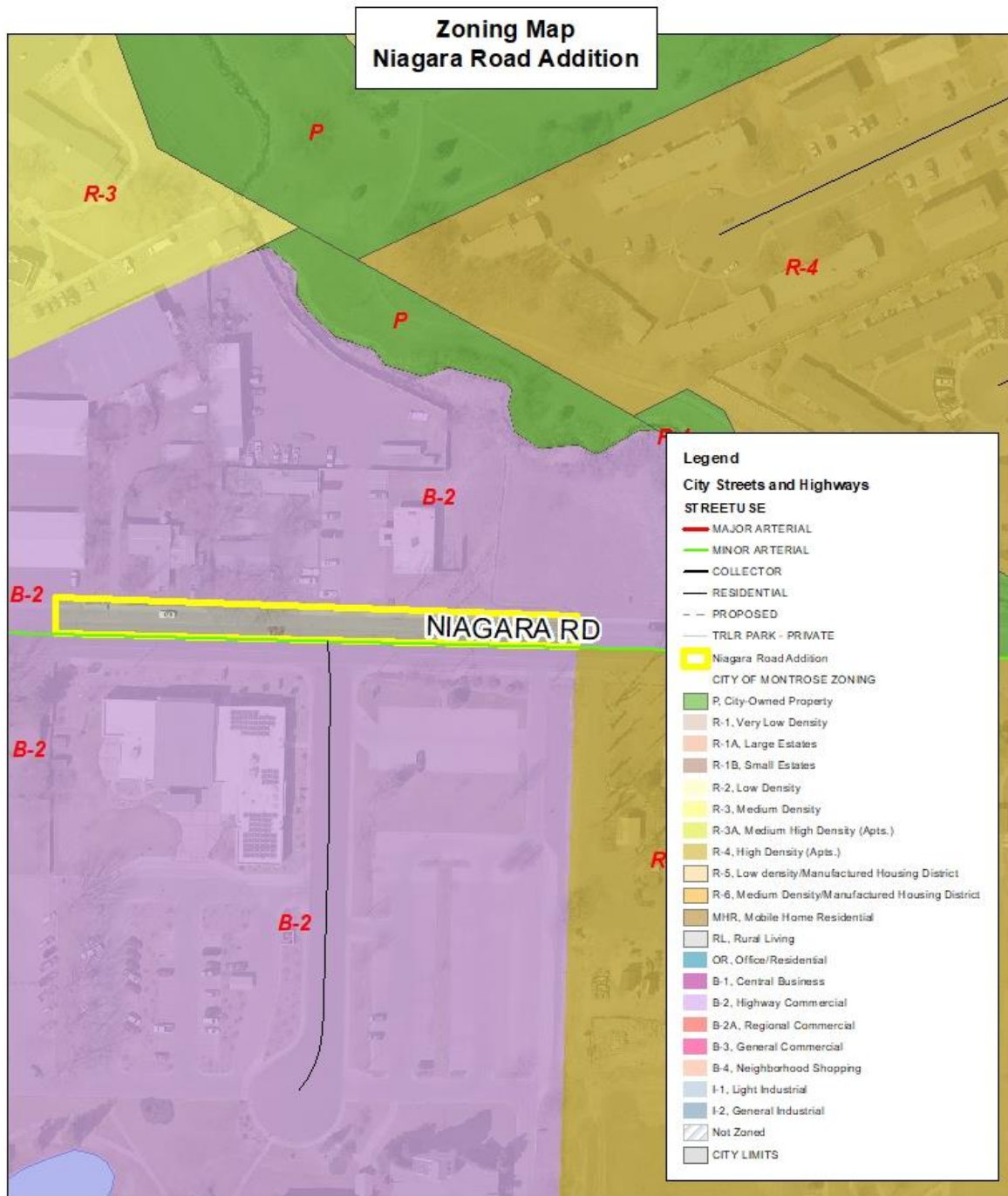




0 0.02 0.04 0.08 0.12 Miles



Map created 1-10-22



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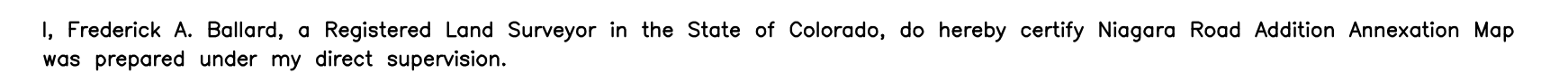
Map created 1-10-22

SITUATED IN SECTION 34, TOWNSHIP 49 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN
CITY OF MONTROSE, COUNTY OF MONTROSE, STATE OF COLORADO

 CITY LIMITS
 PROPERTY BOUNDARY / LIMITS OF ANNEXATION

TOTAL PERIMETER = 1073.34'
PERIMETER CONTIGUOUS TO CITY LIMITS = 1073.34'

THIS PLAT DOES NOT CONSTITUTE A BOUNDARY
SURVEY. IT IS A COMPILATION OF EXISTING RECORDS
FOR THE PURPOSE OF ANNEXATION.



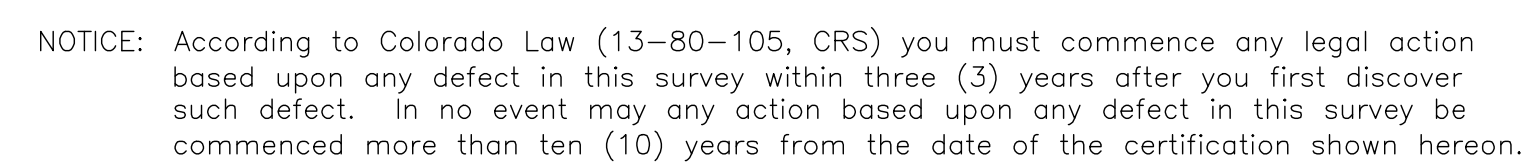
Frederick A. Ballard, P.L.S.
Registration No. 37690

This is to certify that the City of Montrose, a municipal corporation in the County of Montrose, State of Colorado has by its Ordinance No. _____ adopted on the _____ day of _____, 20____, annexed the property hereon to the City of Montrose.

Attest: _____
City Clerk

This map was filed for record in the office of the Clerk and Recorder of Montrose County, Colorado, at the time of _____, on the _____ day of _____, 20____ under Reception No. _____.

Deputy



 DEL-MONT CONSULTANTS, INC. ENGINEERING ▼ SURVEYING 125 Colorado Ave. ▼ Montrose, CO 81401 ▼ (970) 249-2251 ▼ (970) 249-2342 FAX www.delmont.com ▼ service@delmont.com				TITLE: NIAGARA ROAD ADDITION	
CLIENT: CITY OF MONTROSE				ADDRESS & PHONE: 433 S. FIRST ST. MONTROSE, CO 81401 970-240-1498	
FIELD BOOK: N/A		DRAWN BY: BAJ		DATE: 2021-12-03	
SHEET: 1 of 1		FILE: 21019V ANNX NIAGARA-RO		JOB NO.: 21019	
				TYPE: ANNEXATION	

RESOLUTION NO. 2022-05

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, as follows:

The City Council hereby set forth its findings of fact and conclusions based thereon with respect to the annexation of the **Niagara Road Addition** based on the evidence contained in the official file, the official records of the City of Montrose, Colorado and the evidence produced at the Hearing held on March 1, 2022.

FINDINGS OF FACT

1. The requirements of the applicable parts of Sections 31-12-104 and 31-12-105, C.R.S. have been met including the following:

A. Not less than one sixth of the perimeter of the area proposed to be annexed is contiguous with the City as can be seen from the annexation map.

B. A community of interest exists between the area proposed to be annexed and the City, due to the proximity of the area to the City, the desire of the owners to annex and existing City services in the area.

C. The area is urban or will be urbanized in the near future and the area is already substantially integrated with, and is capable of being fully integrated with the City.

D. It is practical to extend City services to the area on the same terms and conditions on which services are available to City citizens generally.

E. No land held in identical ownership has been divided into separate parts. No tract over 20 acres with a valuation of over \$200,000 has been included without written consent. No annexation proceedings concerning this area have been commenced by any other municipality.

F. This annexation will not result in any detachment of area from the Montrose School District No. RE-IJ. No part of the area to be annexed extends any more than three miles from the existing City boundaries. The City has in place a plan for that area as required by C.R.S. 31-12-105.

G. The entire width of any streets to be annexed are included within the annexation.

H. Access shall be allowed to annexed portions of the street to the owners of unincorporated property adjoining annexed streets on a reasonable basis.

2. No petition for annexation election has been submitted and an election is not required pursuant to C.R.S. 31-12-107(2).

3. The City Council has determined that additional terms and conditions will not be imposed.
4. An Annexation Impact Report is not required.

CONCLUSIONS

1. The area proposed for annexation as the **Niagara Road Addition** is eligible for annexation pursuant to applicable parts of C.R.S. 31-12-104.
2. None of the limitations of C.R.S. 31-12-105 apply to restrict annexation.
3. Said Addition may be annexed by Ordinance pursuant to C.R.S. 31-12-111, without election.

ADOPTED this 1st day of March, 2022, by the Montrose City Council.

CITY OF MONTROSE, COLORADO

By _____
Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

ORDINANCE NO. 2582

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, FOR THE ANNEXATION OF NIAGARA ROAD ADDITION.

WHEREAS, the City of Montrose is the sole owner of an unincorporated tract of land described below which area is proposed to be annexed as the Niagara Road Addition and which is not solely a public street or right of way; and

WHEREAS, such property is eligible for annexation pursuant to C.R.S. §§ 31-12-104(1)(a) and 31-12-105; and

WHEREAS, all applicable requirements of the Montrose Municipal Code and Charter have been fulfilled; and

WHEREAS, the property is eligible for annexation in accordance with the Municipal Annexation Act of 1965 without Notice or Hearing,

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

SECTION 1:

The property described on **Exhibit A** hereto which is solely owned by the City of Montrose and which is not solely a public street or right of way is hereby annexed to the City of Montrose, Colorado, to be known as the Niagara Road Addition.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 1st day of March, 2022, at the hour of 6:00 p.m. at Montrose City Hall in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 1st day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 15th day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

EXHIBIT A

Legal Description:

A parcel of land situated in Section 34, Township 49 North, Range 9 West, New Mexico Principal Meridian, County of Montrose, State of Colorado. Being more particularly described as beginning at the SE Corner of the SW1/4 NE1/4 of said Section 34;
Thence along the north line of the Colorado Ute No. 2 addition N90°00'00"W 496.67 feet;
Thence along east line of the Demmer addition N00°00'00"W 40.00 feet;
Thence along the south line of the Southside addition N90°00'00"E 496.67 feet;
Thence along the west line of the Moore addition S00°00'00"E 40.00 feet to the Point of Beginning.

Containing 0.456 Acres more or less as described.

ORDINANCE NO. 2583

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, PROVIDING FOR THE ZONING OF NIAGARA ROAD ADDITION AS A “B-2”, HIGHWAY COMMERCIAL DISTRICT.

WHEREAS, the Niagara Road Addition has been recently annexed to the City of Montrose, Colorado; and

WHEREAS, the owners of such property have requested zoning which the Planning Commission has reviewed and recommended in accordance with the requirements of the City Code; and

WHEREAS, the proposed recommendation is substantially in accord with the City's Master Plan, is compatible with existing zoning in nearby or adjoining properties, and is in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, that

SECTION 1:

The Official Zoning Map is hereby amended to designate the **Niagara Road Addition**, according to the Official Annexation Map thereof, as a **“B-2”, Highway Commercial District**.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 1st day of March, 2022, at the hour of 6:00 p.m. at Montrose City Council Chambers, Elks’ Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 1st day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 15th day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

Legal Description

A parcel of land situated in Section 34, Township 49 North, Range 9 West, New Mexico Principal Meridian, County of Montrose, State of Colorado. Being more particularly described as beginning at the SE Corner of the SW1/4 NE1/4 of said Section 34;

Thence along the north line of the Colorado Ute No. 2 addition N90°00'00"W 496.67 feet;

Thence along east line of the Demmer addition N00°00'00"W 40.00 feet;

Thence along the south line of the Southside addition N90°00'00"E 496.67 feet;

Thence along the west line of the Moore addition S00°00'00"E 40.00 feet to the Point of Beginning.

Containing 0.456 Acres more or less as described.



CITY OF MONTROSE

Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
DATE: March 1, 2022
RE: 21-0110 Mier Addition
ATTACHMENTS:

- Exhibit A: Maps
- Exhibit B: Zoning Code Excerpt

City Council Consideration:

City Council is considering this annexation application and the associated zoning, which is done by considering approval of an annexation ordinance and a zoning ordinance at a first and second reading. Council will consider all of the information in this memo in making a decision.

Proposed schedule:

January 3:	Council Work Session Overview
January 18:	Council Resolution to set a hearing date
February 9:	Planning Commission zoning hearing
February 16:	Annexation Impact Report filing deadline to Montrose County
March 1:	City Council Annexation hearing, 1st reading of annexation ordinance, and 1st reading of zoning ordinance
March 15:	2nd reading of annexation and zoning ordinances

Application Background:

The Mier Addition is a proposed annexation approximately 14.67 acres in size. The parcel is located east of 6530 Road, west of 6600 Road, and north of Locust Road. It is within the City's Urban Growth Boundary, Tri-County Water Service Area, and the City of Montrose Sewer Service Area. Annexation of this property will allow for future housing development. An Annexation Agreement will be required.



Proposed Zoning: “R-4” High Density District – Applicant changed request to “R-3” Medium Density District at Planning Commission on February 23, 2022

Applicant: Calvin and Helen Mier

Staff Analysis:

1. The City-County IGA gives the City the option to annex properties within the IGA. The area is urbanizing and more than 1/6 of the perimeter is contiguous to the city limits. These factors support annexation.
2. An annexation agreement is required as a condition of this annexation.
3. Zoning Regulations
 - a. Municipal Code, Section, 4-4-29(B), Zoning of Additions. “The Planning Commission shall recommend to the Council a zoning district designation for all property annexed to the City not previously subject to City zoning, and shall follow the review procedure set out in Section 4-4-31 in arriving at its recommendation. Proceedings concerning the zoning of property to be annexed may be commenced at any time prior to the effective date of the annexation ordinance or thereafter. *The zoning designation for newly annexed property shall not adversely affect the public health, safety and welfare* (emphasis added).”
 - b. Municipal Code, Section 4-4-8(A) Intent: The “R-4” High Density District is intended to provide for high density multiple-family residences and to allow variable densities. This allows variety in the types of residences.
 - c. Municipal Code, Section 4-4-7(A) Intent: The “R-3” Medium Density District is intended to provide an area which is suitable for single-family homes and duplexes. The district provides for other uses which are compatible with such uses.
 - d. The proposed zoning is compatible with existing zoning and general conditions in the area. The property is adjacent to properties that are zoned “R-4” High Density District, “R-2” Low Density District, and agricultural (outside City limits).
4. General Conformance with the Comprehensive Plan:
 - a. The Comprehensive Plan Future Land Use Map (Chapter 5) designates the area of the Mier Addition as **Residential Mixed Density Medium**. This district provides for a variety of residential types, mixed within a neighborhood, including single-family homes, townhomes, duplexes, triplexes, and multi-family housing. The majority of the mixed density medium residential land uses are designated in areas that are not yet developed.
 - b. Goal LU (Land Use) 5: Infill & Redevelopment: Promote higher density infill and redevelopment of underutilized sites and support development in areas that can be easily accessed by foot, bike, and/or public transit.



- c. Goal HN (Housing & Neighborhoods)-1: Housing Variety. Encourage a variety of housing types, tenure, and density to meet the needs of the community.
 - i. Objective 1.1 Promote a mix of residential housing types including single-family homes on a variety of lot sizes, multi-family housing, townhomes, apartments, senior housing, and transitional housing.
 - ii. Objective 1.2 Encourage a variety of housing densities (low, medium, high) throughout the community, including mixed-density neighborhoods.
 - d. Goal HN-2: Affordable Housing. Increase access to affordable housing.
 - i. Objective 2.1 Encourage a mix of housing price ranges, thereby providing choices for residents of all incomes and ages.
- 5. The property is located within Growth Area 2. According to the Comprehensive Plan, Growth Area 2 consists of some level of infrastructure or moderate proximity to existing infrastructure (existing streets, utilities and public services).
 - 6. The “R-3” zoning does not appear to be adverse to the public health, safety and welfare.
 - 7. The Planning Commission recommended approval of the initial zoning of “R-3” Medium Density District at the February 23, 2022 meeting. The vote was unanimous.

Staff Recommendation:

Staff recommends approval of the annexation and “R-3” Medium Density District.

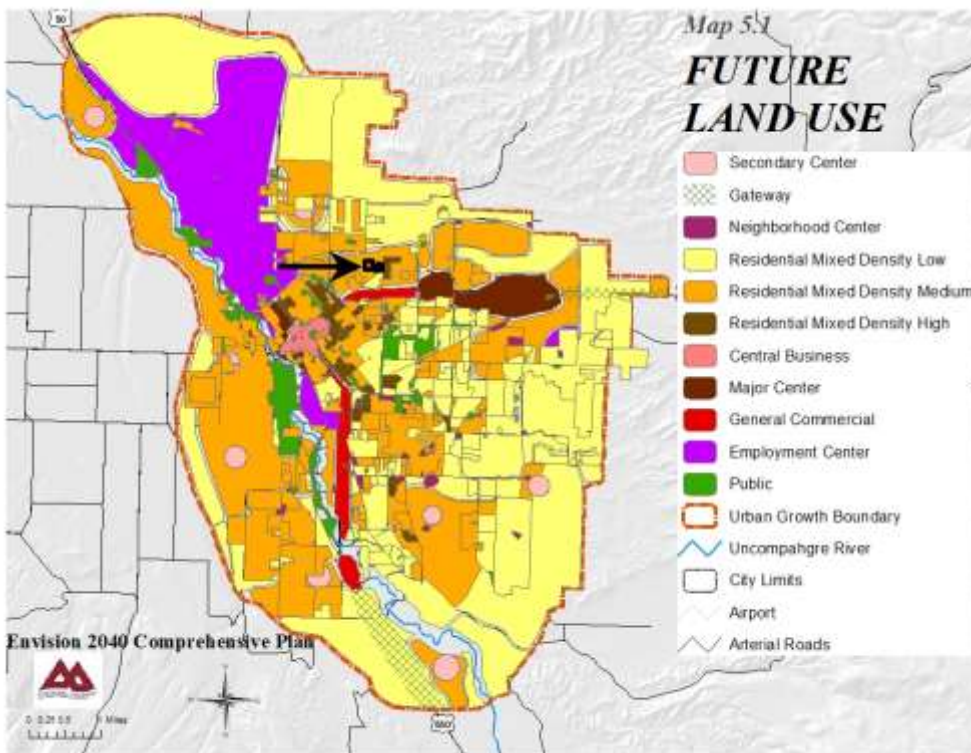


EXHIBIT A: Maps

Vicinity Map

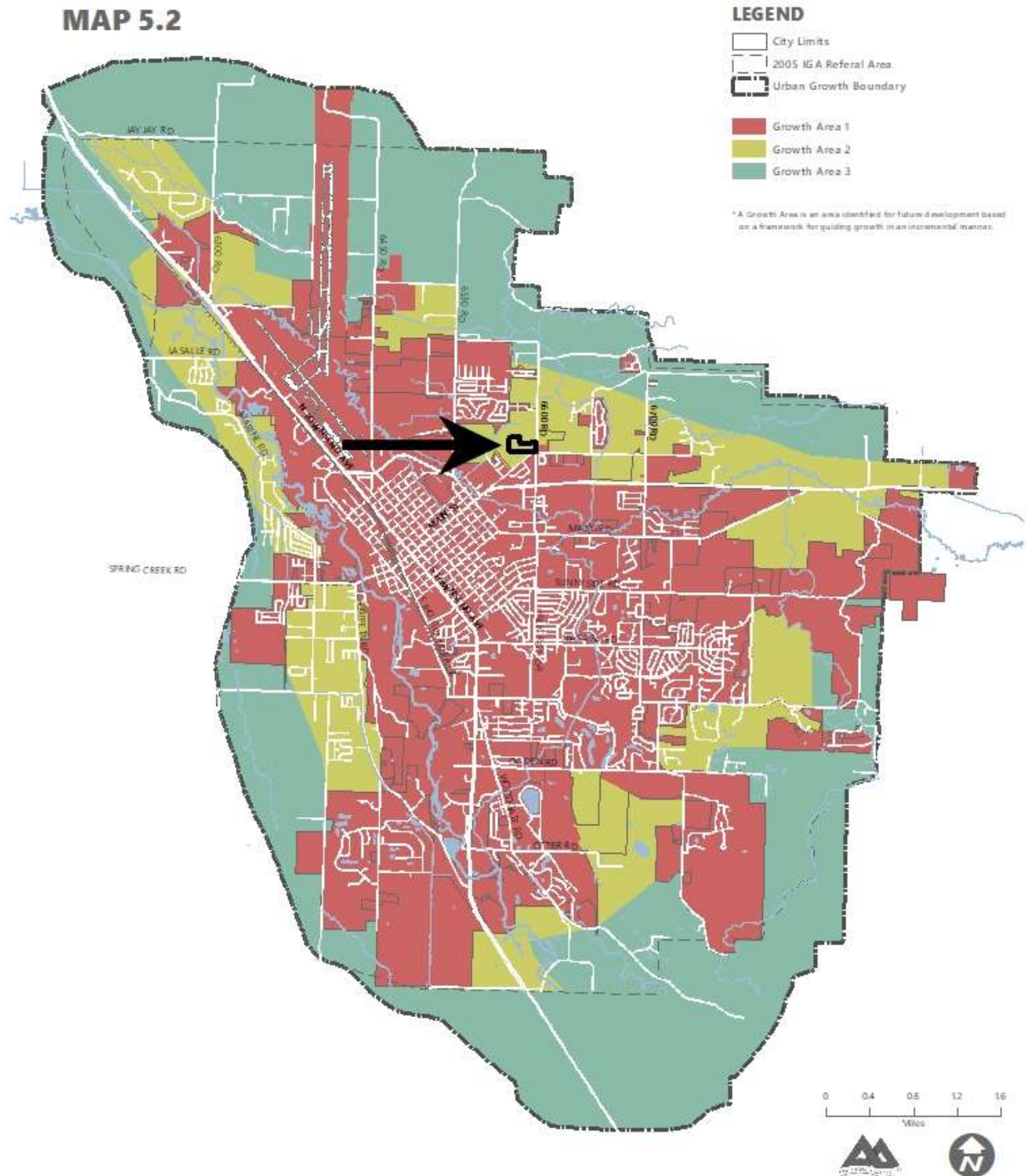


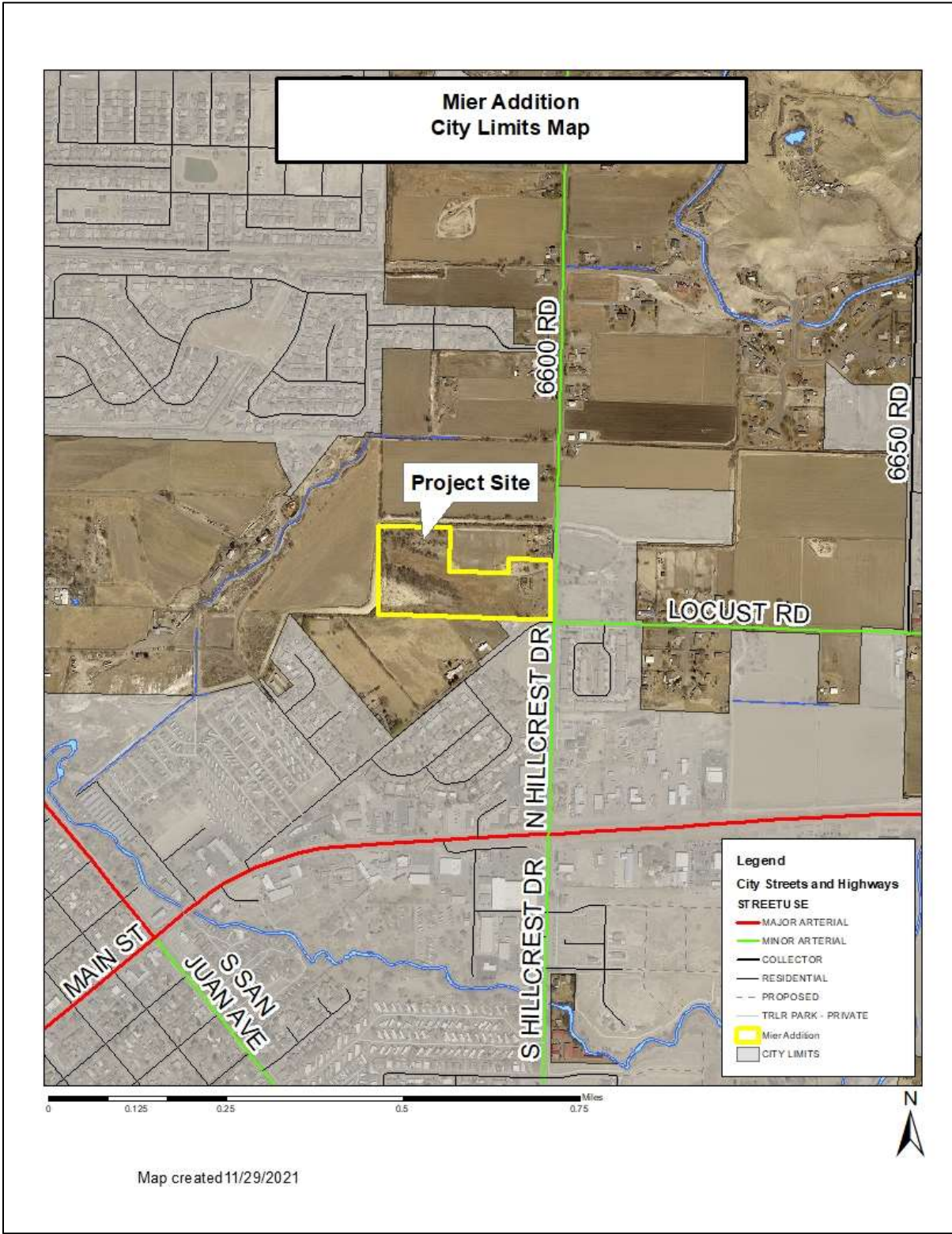
Comprehensive Plan Future Land Use Map

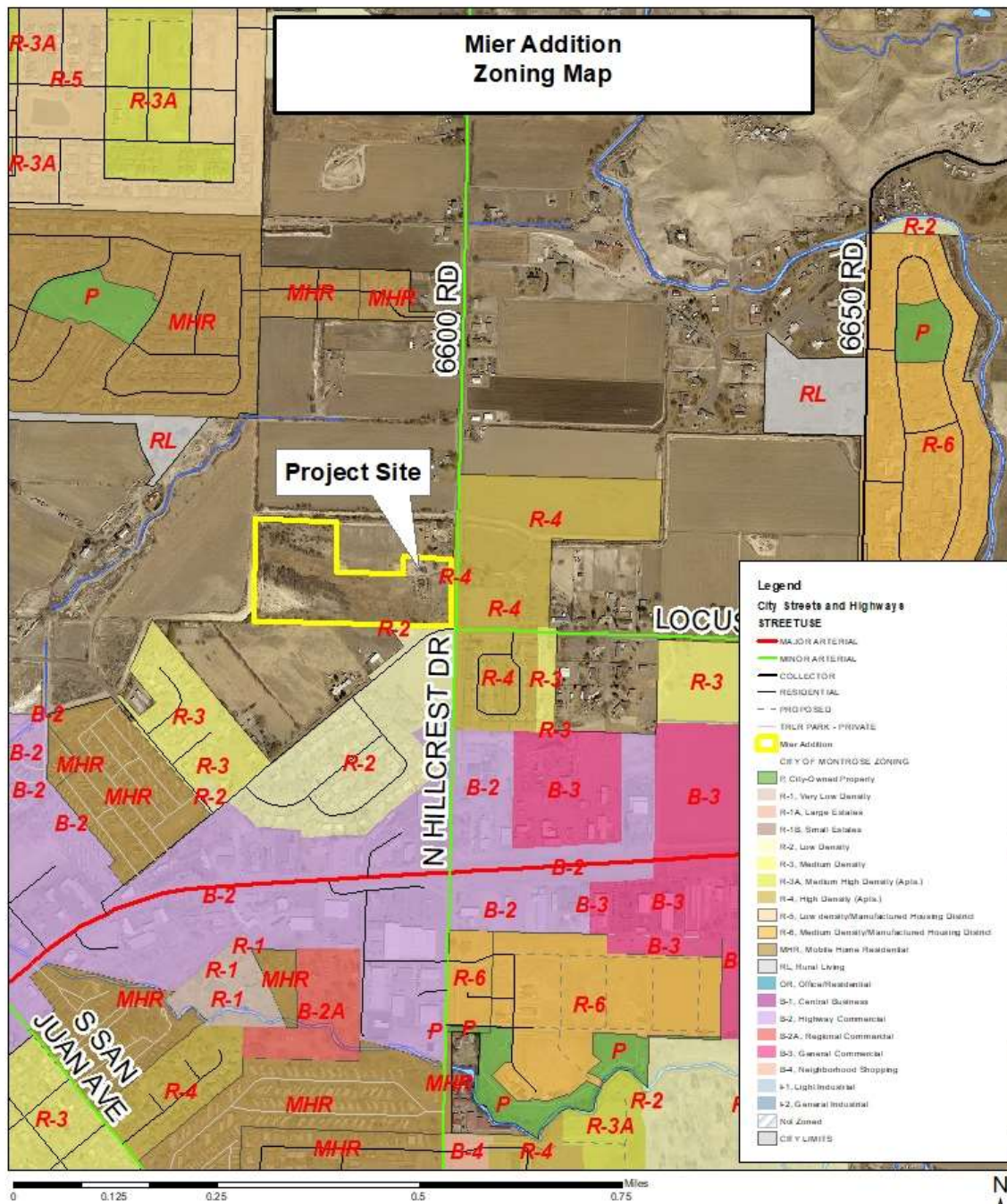


GROWTH AREAS*

MAP 5.2

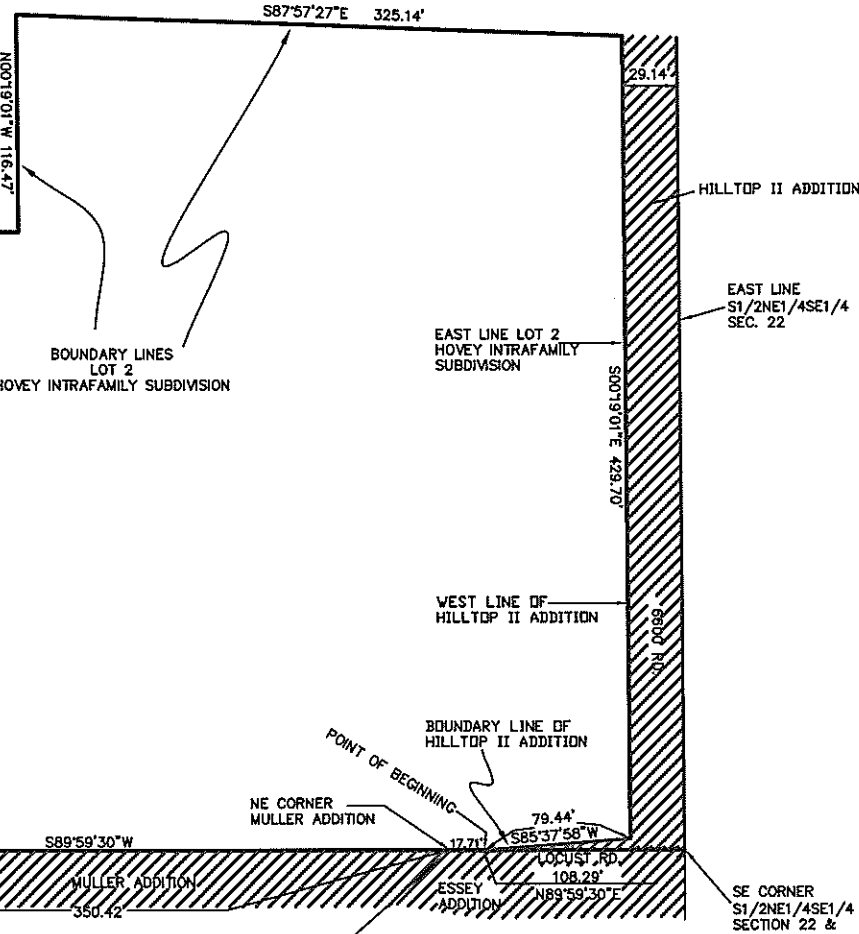
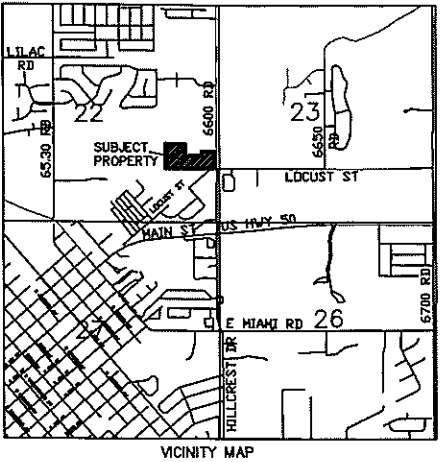
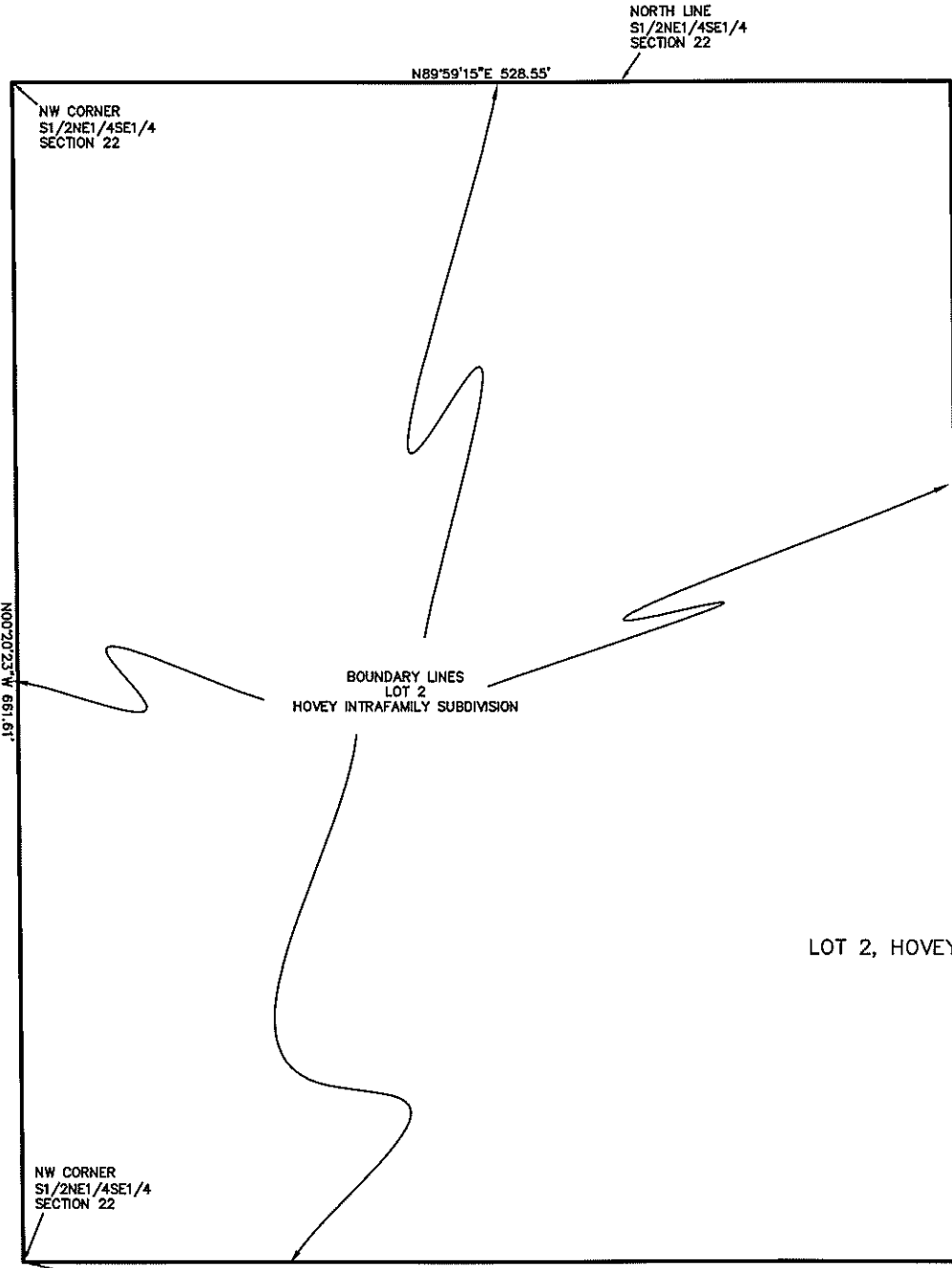






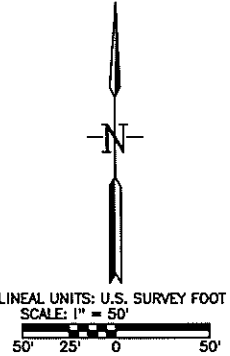
MIER ADDITION

TO THE CITY OF MONTROSE, COLORADO
BEING LOT 2, HOVEY INTRAFAMILY SUBDIVISION
SITUATED IN S1/2NE1/4SE1/4 SECTION 22, T49N, R9W, N.M.P.M.
MONTROSE COUNTY, COLORADO



MIER ADDITION
TOTAL AREA: 14.67 ACRES

LOT 2, HOVEY INTRAFAMILY SUBDIVISION - OWNERS: HELEN & CALVIN MIER



PROPERTY DESCRIPTION OF MIER ADDITION TO THE CITY OF MONTROSE, COLORADO
A tract of land situated in the S1/2NE1/4SE1/4 Section 22, Township 49 North, Range 9 West, N.M.P.M. being Lot 2 of Hovey Intrafamily Subdivision. Said tract is more particularly described as follows: Beginning at a point on the south line of said S1/2NE1/4SE1/4 Section 22 from whence the southeast corner of said S1/2NE1/4SE1/4 Section 22, bears N89°59'30\"/>

SURVEYOR'S CERTIFICATE
I, William D. Wiley, a Registered Land Surveyor in the State of Colorado, do hereby state the accompanying Annexation Map of MIER ADDITION to the City of Montrose, Colorado has been prepared under my direction and supervision, that it does not constitute a boundary survey and is only a compilation of existing records for the purpose of annexation.

William D. Wiley
Colorado Registered Land Surveyor
#12180

Date

MAYOR'S CERTIFICATE
This is to certify that the City of Montrose, a Municipal Corporation in the County of Montrose, State of Colorado, has by its Ordinance

No. _____ adopted on this _____ day of _____, A.D.,
_____ annexed the property described hereon to the City of Montrose.

Mayor

ATTEST:

City Clerk

CLERK & RECORDER'S CERTIFICATE
This plat was filed for record in the office of the Clerk and Recorder of Montrose County

at _____ m. on the _____ day of _____, 20____

Reception No. _____

Montrose County Clerk & Recorder

Deputy

CITY LIMITS
CONTIGUOUS CITY LIMITS: 877.27 SQ. FT.
TOTAL PERIMETER: 4,130.12 SQ. FT.
ACRES ANNEXED: 14.67 ACRES

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

CF: 21-135 MIER ADD Plot Scale 1\"/>	MIER ADDITION TO THE CITY OF MONTROSE, COLORADO BEING LOT 2, HOVEY INTRAFAMILY SUBDIVISION SITUATED IN S1/2NE1/4SE1/4 SECTION 22, T49N, R9W, N.M.P.M. MONTROSE COUNTY, COLORADO FOR: HELEN AND CALVIN MIER MESA SURVEYING ASSOCIATES INC. P.O. Box 1287 Montrose, CO 81402 (970)-240-9994 Sheet 1 of 1 File No. 21-135
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EXHIBIT B: Zoning Code Excerpt

Sec. 4-4-7. "R-3" Medium Density District.

- (A) *Intent.* The "R-3" Medium Density District is intended to provide an area which is suitable for single-family homes and duplexes. The district provides for other uses which are compatible with such uses.
- (B) *Uses by Right.*
- (1) Single-family homes and duplexes.
 - (2) Public utility service facilities.
 - (3) Government buildings and facilities.
 - (4) Parks and recreation facilities owned or operated by a homeowner association.
 - (5) Places of worship.
 - (6) Accessory uses.
 - (7) Short-term rentals.
 - (8) Family child care home.
- (C) *Conditional Uses.*
- (1) Childcare facilities.
 - (2) Skilled nursing and assisted living facilities.
 - (3) Multiple-family residences.
 - (4) Bed and breakfast operations operated solely by the residents of a lot of at least 6,250 square feet providing no more than two bedrooms for rent in the dwelling unit, and the only meal provided on the premises shall be breakfast to the renters.
 - (5) Schools.

(Ord. No. 2472 , § 4-4-7, 5-7-2019; Ord. No. 2561 , 10-19-2021)

Sec. 4-4-8. "R-4" High Density District.

- (A) *Intent.* The "R-4" High Density District is intended to provide for high density multiple-family residences and to allow variable densities. This allows variety in the types of residences.
- (B) *Uses by Right.*
- (1) Single-family homes, duplexes, and multiple-family residences.
 - (2) Public utility service facilities.
 - (3) Government buildings and facilities.
 - (4) Parks and recreation facilities owned or operated by a homeowner association.
 - (5) Places of worship.
 - (6) Accessory uses.



- (i) Bed and breakfast operations operated solely by the residents of a residence providing no more than four bedrooms for rent in the dwelling unit, and the only meal provided on the premises shall be breakfast to the renters. The lot shall be at least 6,250 square feet and at least 3,125 square feet per rental bedroom.
 - (ii) Childcare facilities. A childcare facility shall be considered an accessory use to a residence in all districts, provided no more than eight children under 13 years of age are present on the premises at any one time, including children of the family living in the residence; a childcare facility shall not be considered an accessory use to a residence when a greater number of children is present on the premises at any one time. The facility must comply with all appropriate State Statutes and regulations.
- (7) Short-term rentals.
- (C) *Conditional Uses.*
- (1) Skilled nursing and assisted living facilities.
 - (2) Childcare facilities. A childcare facility shall be a conditional use in all districts if more than eight but less than 16 children under 13 years of age are present on the premises at any one time, including children of the family living in the residence, in accordance with State Statutes and regulations.
 - (3) Schools.

(Ord. No. 2472 , § 4-4-8, 5-7-2019)



RESOLUTION NO. 2022-06

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, as follows:

The City Council hereby set forth its findings of fact and conclusions based thereon with respect to the annexation of the **Mier Addition** based on the evidence contained in the official file, the official records of the City of Montrose, Colorado and the evidence produced at the Hearing held on March 1, 2022.

FINDINGS OF FACT

1. The requirements of the applicable parts of C.R.S. §§ 31-12-104, 105 have been met including the following:

A. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City as can be seen from the annexation map.

B. A community of interest exists between the area proposed to be annexed and the City, due to the proximity of the area to the City, the desire the owners to annex and existing City services in the area.

C. The area is urban or will be urbanized in the near future and the area is already substantially integrated with, and is capable of being fully integrated with the City.

D. It is practical to extend City services to the area on the same terms and conditions on which services are available to City citizens generally.

E. No land held in identical ownership has been divided into separate parts. No tract over 20 acres with a valuation of over \$200,000 has been included without written consent. No annexation proceedings concerning this area have been commenced by any other municipality.

F. This annexation will not result in any detachment of area from the Montrose School District No. RE-IJ. No part of the area to be annexed extends any more than three miles from the existing City boundaries. The City has in place a plan for that area as required by C.R.S. § 31-12-105.

G. The entire width of any streets to be annexed are included within the annexation.

H. Access shall be allowed to annexed portions of the street to the owners of unincorporated property adjoining annexed streets on a reasonable basis.

2. No petition for annexation election has been submitted and an election is not required pursuant to C.R.S. § 31-12-107(2).

3. The City Council has determined that additional terms and conditions will not be imposed.
4. The Petition was signed by the owners of 100% of the property to be annexed exclusive of streets and alleys.
5. Proper notice of this hearing was published and mailed as required by C.R.S. § 31-12-108.
6. An Annexation Impact Report has been produced, and filed with Montrose County.

CONCLUSIONS

1. The area proposed for annexation as the **Mier Addition** is eligible for annexation pursuant to applicable parts of C.R.S. § 31-12-104.
2. None of the limitations of C.R.S. § 31-12-105 apply to restrict annexation.
3. Said Addition may be annexed by Ordinance pursuant to C.R.S. § 31-12-111, without election.

ADOPTED this 1st day of March, 2022, by the Montrose City Council.

CITY OF MONTROSE, COLORADO

By _____
Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

ORDINANCE NO. 2584

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, FOR THE ANNEXATION OF THE MIER ADDITION.

WHEREAS, a petition for the annexation of a tract of land known as the **Mier Addition** has been submitted to the City of Montrose and has been found by the City Council to be in substantial compliance with C.R.S. § 31-12-107(1), and

WHEREAS, said petition has been signed by the owners of 100% of the area proposed to be annexed exclusive of streets and alleys, and

WHEREAS, the property is eligible for annexation in accordance with the Municipal Annexation Act of 1965, as amended,

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

SECTION 1:

The property described in **Exhibit A**, known as the **MIER ADDITION**, is hereby annexed to the City of Montrose, Colorado.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 1st day of March, 2022, at the hour of 6:00 p.m. at Montrose City Council Chambers, Elks Building, Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 1st day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 15th day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

EXHIBIT A

Legal Description

PROPERTY DESCRIPTION OF MIER ADDITION TO THE CITY OF MONTROSE, COLORADO

A tract of land situated in the S1/2 NE1/4 SE1/4 Section 22, Township 49 North, Range 9 West, N.M.P.M. being Lot 2 of Hovey Intrafamily Subdivision. Said tract is more particularly described as follows: Beginning at a point on the south line of said S1/2 NE1/4 SE1/4 Section 22 from whence the southeast corner of said S1/2 NE1/4 SE1/4 Section 22, bears NB9°59'30"E, 108.29 ft., said point being a corner of said Lot 2, Hovey Intrafamily Subdivision and the southwest corner of the Hilltop II Addition to the City of Montrose and a point on the north line of the Essey Addition to the City of Montrose; thence S89°59'30"W along said north line of the Essey Addition and along the south line of said Lot 2 of Hovey Intrafamily Subdivision, 17.71 ft. to the northeast corner of the Muller Addition to the City of Montrose; thence S89°59'30"W along said north line of said Muller Addition and along said Lot 2, Hovey Intrafamily Subdivision, 350.42 ft. to the northwest corner of said Muller Addition; thence the following courses along the boundary line of said Lot 2, Hovey Intrafamily Subdivision: S89°59'30"W, 865.80 ft.; N00°20'23"W, 661.61 ft.; NB9°59'15"E, 528.55 ft.; S00°19'01"E, 330.68 ft.; East, 442.31 ft.; N00°19'01"W, 116.47 ft.; S87°57'27"E, 324.28 ft. to a point on the west line of the Hilltop II Addition to the City of Montrose; thence S00°19'01"E along said west line, also being the east line of said Lot 2, Hovey Intrafamily Subdivision 429.70 ft.; thence S85°37'58"W along a boundary line of said Hilltop II Addition, also being a boundary line of said Lot 2, Hovey Intrafamily Subdivision, 79.44 ft. to the point of beginning, containing 14.67 acres.

ORDINANCE NO. 2585

AN ORDINANCE OF THE CITY OF MONTROSE, COLORADO, PROVIDING FOR THE ZONING OF THE MIER ADDITION AS AN "R-3", MEDIUM DENSITY DISTRICT.

WHEREAS, the **Mier Addition** has been recently annexed to the City of Montrose, Colorado; and

WHEREAS, the owners of such property have requested zoning which the Planning Commission has reviewed and recommended in accordance with the requirements of the City Code; and

WHEREAS, the proposed recommendation is substantially in accord with the City's Master Plan, is compatible with existing zoning in nearby or adjoining properties, and is in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTROSE, COLORADO, that

The Official Zoning Map is hereby amended to designate the **Mier Addition**, according to the Official Annexation Map thereof, as an "R-3", Medium Density District.

You will please take notice that the Montrose City Council will hold a hearing upon the above Ordinance and on the question of its passage on first reading on Tuesday, the 1st day of March, 2022, at the hour of 6:00 p.m. at Montrose City Council Chambers, Elks' Civic Building in Montrose, Colorado.

INTRODUCED, READ and PASSED on first reading this 1st day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk

INTRODUCED, READ and ADOPTED on second reading this 15th day of March, 2022.

Douglas Glaspell, Mayor

ATTEST:

Lisa DelPiccolo, City Clerk



CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
DATE: March 1, 2022
RE: Home of the Brave Preliminary Plat
ATTACHMENTS

- Exhibit A: Area Maps
- Exhibit B: Excerpts from City of Montrose Municipal Code

City Council Consideration:

City Council is considering approval of the Home of the Brave Preliminary Plat. City Council will consider all of the information in this memo in making a decision.

Application Background:

The Home of the Brave Preliminary Plat will subdivide a parcel, 39.4 acres in size, into a residential subdivision. The property is located adjacent to 6450 Road which runs along the western edge of the property. It is located approximately 0.5 mile north of Hwy 50. The property is zoned "R-3" Medium Density. The proposed subdivision will consist of 148 residential lots, plus a clubhouse and park/playground. This subdivision will include 116 single-family lots and 32 duplex lots for a total of 180 dwelling units. This parcel was annexed and zoned in 2000. A Final Plat will also be required within five (5) years of approval of this Preliminary Plat (City of Montrose Municipal Code, Section 4-7-5(C) (1) (a)).

Applicant: Todd and Maya Haynes

Staff Analysis:

1. Subdivision Application Details & Review Standards:

The City of Montrose Municipal Code outlines the process and standards for Subdivision applications. The preliminary plat and proposed improvements shall comply with all requirements of the subdivision regulations and other applicable City design and construction specifications and standards. The Planning Commission should consider whether the project meets the standards outlined within Section 4-7-5 (A) (2) and summarized below:
(See Exhibit B)



- The proposal shall be consistent with the Master Plan, City subdivision and zoning regulations, standards and other applicable ordinances and regulations and will be reviewed considering the following at a minimum:
 - a. Conformance with the master plan and zoning regulations;
 - b. Relationship of development to topography, soils, drainage, flooding, potential hazard areas and other physical characteristics;
 - c. Availability of water, means of sewage collection and treatment, storm water drainage, access and other utilities and services;
 - d. Compatibility with the natural environment, wildlife, vegetation and unique natural features;
 - e. Adjacent streets and traffic flow, including pedestrian access;
 - f. Availability of fire, police and other emergency services protection;
 - g. Impacts on area schools.
- 2. The Comprehensive Plan Future Land Use Map designates the area as Residential Mixed Density Medium. The majority of the mixed-density medium residential land uses are designated in areas that are not yet developed. This district provides for a variety of residential types, mixed within a neighborhood, including single-family homes, townhomes, duplexes and triplexes.
- 3. Zoning Regulations:
 - a. Municipal Code, Section 4-4-7(A) Intent: The "R-3" Medium Density District is intended to provide an area which is suitable for single-family homes and duplexes. The district provides for other uses which are compatible with such uses.
 - b. The proposed uses are a use-by-right in these zoning districts. The current zoning is compatible with general conditions in the area. The property is adjacent to properties that are zoned "MHR" Manufactured Housing Residential District, "I-1" Light Industrial District, "B-4" Neighborhood Shopping District, and agricultural (outside City limits).
- 4. Dimensional Requirements:
 - c. Municipal Code, Section 4-4-22. The dimensional requirements in the "R-3" zoning district are included in the table below.

	Minimum Lot				Minimum Setbacks				
District	Use	Width at Building Line	Depth	Size	Front	Rear	Side	Corner Lot	Maximum Building Height
R-3	Single-family	N/A	N/A	6,250	15	25	5	15	35
	All others	N/A	N/A	9,375	15	25	5	15	35



5. The Home of the Brave Preliminary Plat is consistent with the Master Plan, City subdivision and Zoning Regulations, standards and other applicable ordinances and regulations.

Planning Commission Recommendation:

The Planning Commission recommended approval of the Home of the Brave Preliminary Plat at the February 9, 2022 meeting. "The approval of this Preliminary Plat is expressly conditioned upon City staff ensuring that all policies, regulations, ordinances and municipal code provisions are met and that the Applicant adequately addresses all of staff's concerns prior to the execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied."

City Council Options - Preliminary Plat:

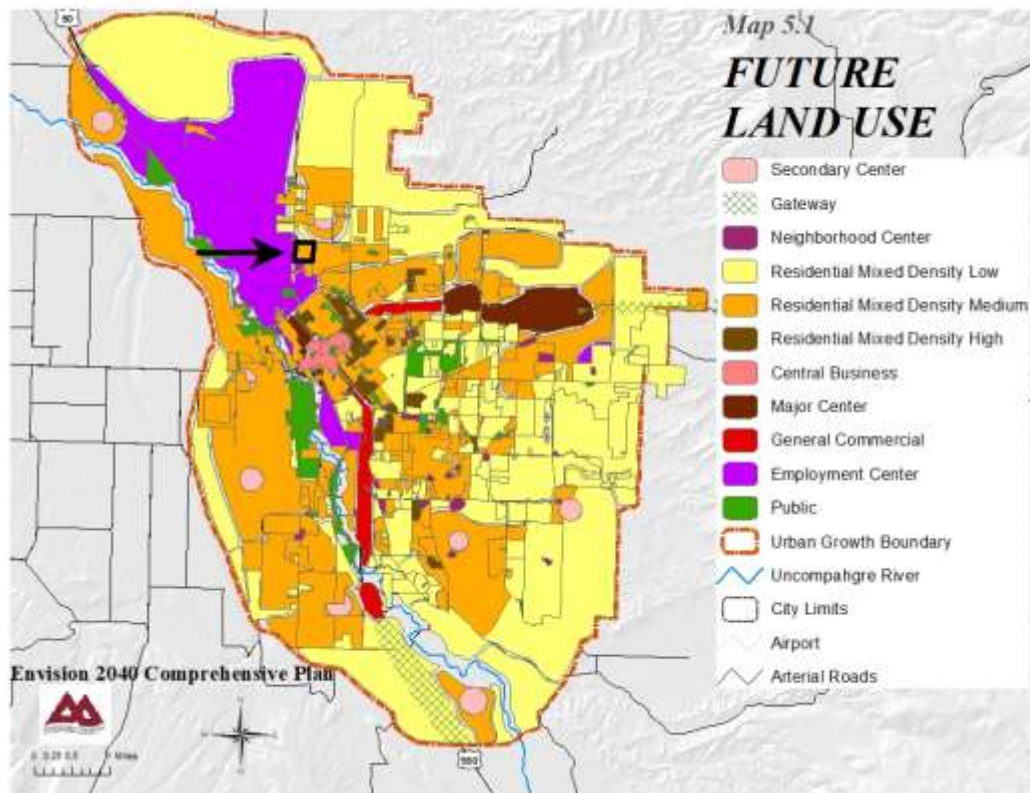
1. Accept the Planning Commission recommendation and approve the Home of the Brave Preliminary Plat with the following standard condition:
 - "The approval of this Preliminary Plat is expressly conditioned upon City staff ensuring that all policies, regulations, ordinances and municipal code provisions are met and that the Applicant adequately addresses all of staff's concerns prior to the execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied."
2. Disapprove the preliminary plat if Council finds the requirements of the subdivision regulations have not been met.

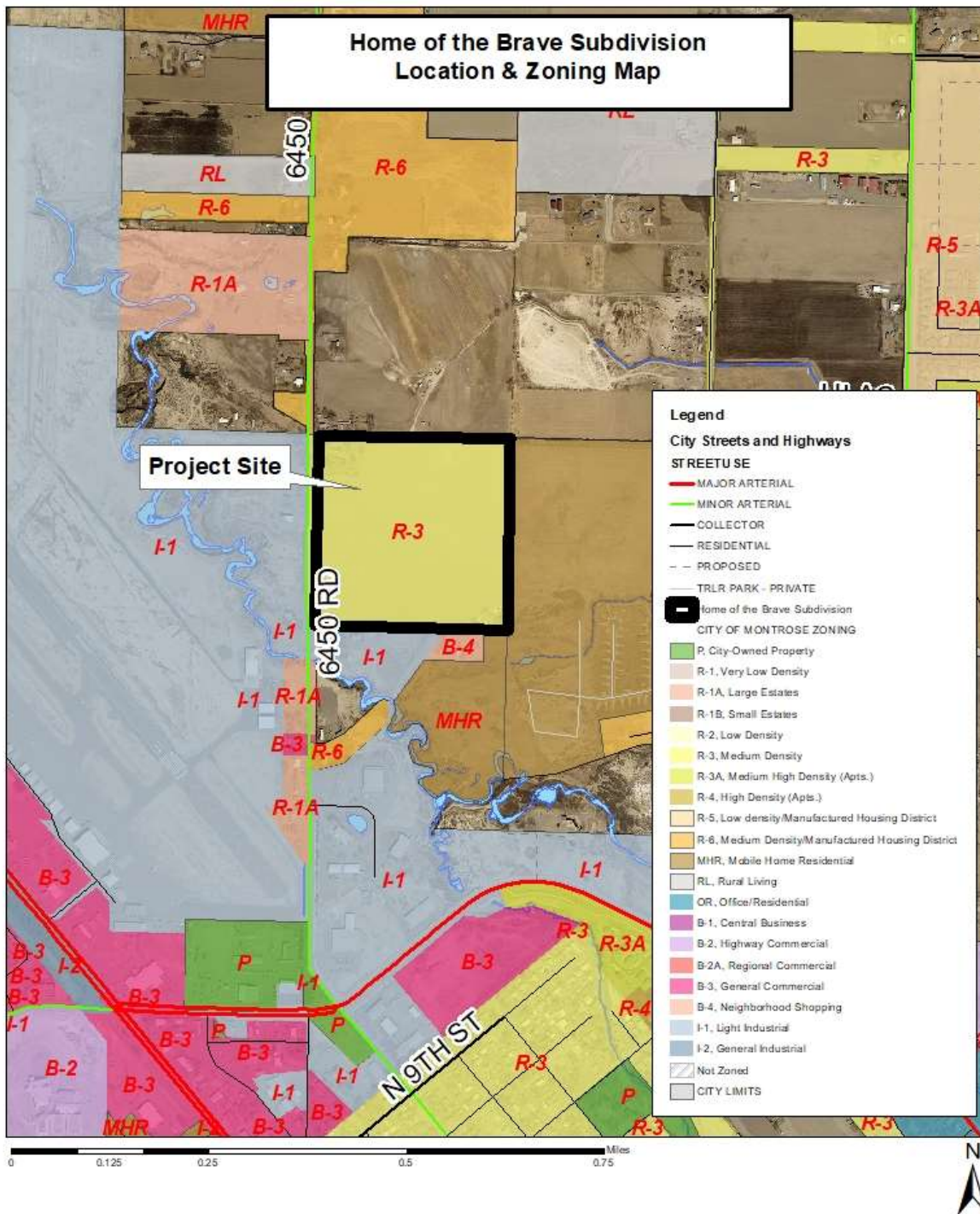


EXHIBIT A: Area Maps
Vicinity Map



Comprehensive Plan Future Land Use Map







Preliminary Plat
Home of the Brave Subdivision
1956 6450 Road
Montrose, Colorado

Revision	Date	By
1		
2		
3		
4		
5		
6		
7		
8		
9		

Notice: Colorado law requires that you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event shall any limitation on the time for commencing an action be deemed to bar any claim for which the statute of limitations period has not yet expired. The survey is for informational purposes only and does not constitute a contract. The sign-off of the surveying party herein is not a contract.

Job No: 2021-4610-0001
 Drawn by: MEW
 Date: 10/3/2022
 Approved: -- PLS
 File: HomeHealthBrave Sub 4610

Title: Home of the Brave
Subdivision
Phasing Plan

Sheet No. 3

Of: 3

\\2021\2021-homeofthebravesubdivision\001\H-Dwas\Surv\Dwas\BaseMaps\HomeoftheBrave Subd.dwg Plotted: 1/3/2022 2:24 PM By: Mary Winklev



REVIEW COPY

EXHIBIT B: Code Excerpts for Subdivisions

Sec. 4-7-5. - Subdivision procedure.

- (A) The subdivision of land shall be accomplished in accordance with the procedures provided in this Section, except for those instances where different governing procedures are set forth pursuant to Sections 4-7-9 through 4-7-11, Informal Review and Sketch Plan. The City Council shall set all application fees related to land use action per resolution.
- (1) Prior to submittal of the subdivision application, the subdivider shall make a reasonable effort to consult informally with property owners of record adjoining or within 100 feet of the proposed subdivision, and the City. No fee shall be required for such review or discussions of any plans or data concerning the proposed subdivision, prior to sketch plan review. The City shall not be bound by virtue of any discussions during the informal review stage.
- (2) The proposal shall be consistent with the Master Plan, City subdivision and Zoning Regulations, standards and other applicable ordinances and regulations and will be reviewed, considering the following at a minimum.
- (a) Conformance with the Master Plan and Zoning Regulations;
- (b) Relationship of development to topography, soils, drainage, flooding, potential natural hazard areas and other physical characteristics;
- (c) Availability of water, means of sewage collection and treatment, stormwater drainage, access and other utilities and services;
- (d) Compatibility with the natural environment, wildlife, vegetation and unique natural features;
- (e) Adjacent streets and traffic flow, including pedestrian access;
- (f) Availability of fire, police and other emergency services protection;
- (g) Impacts on area schools.
- (3) A subdivider who intends to immediately develop only a portion of a full tract shall nevertheless submit an informal sketch plan for the entire tract showing his present plans for its eventual development.
- (4) Following informal review when applicable, and in all cases except when not required by other provisions of this Chapter, the applicant shall file copies of the sketch plan application and sketch map, along with all required supporting plans, with the City. The submittal of such application, map and supporting plans shall comply with City's application and fee requirements.
- Filing of a sketch plan shall not be required in cases where a subdivision, which does not qualify as a minor or amended subdivision, primarily due to a lack of installed on or off-site public improvements. In no case shall the sketch plan requirement be waived under this provision for subdivision proposals containing more than three divisions of real property, or where any part of the subdivision has been subdivided without a sketch plan under any part of this Official Code of the City of Montrose, Colorado, within the three years prior to the date of submission.
- (5) The sketch plan review shall commence only upon submittal of a completed sketch map, a completed sketch plan application form, which form shall be provided by the City, and all required



supplemental information as set forth below, as well as any additional materials determined by City staff to be necessary for processing of the application.

(a) Sketch Map. The sketch map shall include the following:

- (i) A location map, of approximately four inches by four inches, showing the project location in relation to the City of Montrose, with appropriate reference to major and minor arterial and collector roads or highways.
- (ii) A detailed map showing property boundaries of the subdivision, north arrow and date. The scale of the map shall not be less than one inch equals 200 feet. The map shall include the name of the subdivision, name of the county, township, range, Section and quarter Section. The map shall further indicate zoning and land use of all lands within 300 feet of any property boundary owned by or under option to the subdivider. A title box shall be located in the lower right corner of the map. In the case of large subdivisions requiring more than one sheet at such a scale, an index map showing the total area on a single sheet shall also be submitted.
- (iii) A conceptual drawing of the lot and street layout indicating the approximate area and number of individual lots and access to the property.
- (iv) Significant natural and manmade features on the site, such as streams, lakes, natural drainage ways and wetlands; vegetation types including locations of wood areas; wildlife habitats; scenic corridors; visual impacts; solar access; existing buildings; utility lines and easements; irrigation ditches; bridges and similar physical features; existing development on adjacent property; and footprints of existing buildings.
- (v) Total acreage of the tract.
- (vi) Existing and proposed zoning district boundary lines. General land use divisions, including residential types, commercial, industrial, parks, open space and community facilities, including the proposal's relevance to underlying zoning.
- (vii) Type and layout of all proposed infrastructure, including streets, utilities, water and sewer systems, and impact on existing systems.
- (viii) Public use areas proposed to be dedicated to the public, the purpose of the dedication, and their relationship to existing public use areas.
- (ix) Existing and proposed land use patterns, including street system, of both the tract proposed for development and immediately adjacent land.
- (x) Existing site problems or peculiarities, such as areas of poor drainage, existing floodplain, geological hazards and seepage water.
- (xi) Existing and proposed stormwater discharge facilities pertaining to the property.

(b) Sketch Plan Application. The sketch plan application shall include, but not be limited to, the following information pertaining to the proposed subdivision (this information may be provided in a narrative format):

- (i) Estimated total number of gallons per day of water system requirements, source of water to supply subdivision requirements, and proposed dedication of water rights in accordance with existing City ordinances.
- (ii) Estimated total number of gallons per day of sewage to be treated and means for sewage disposal.
- (iii) Availability of electrical power, natural gas, CATV, telephone and other utilities necessary or proposed to serve the subdivision.
- (iv) Access to the property, off-street parking, school bus stop area, and mail box location.



- (v) Total number of proposed dwelling units.
 - (vi) Demonstrated compatibility with natural features.
 - (vii) Identification of all activities of the subdivision which shall require approval by permitting agencies at the local, state and federal level, and a description of the approval so required.
 - (viii) Names and addresses of all property owners of record adjoining or within 100 feet of the proposed subdivision.
 - (ix) Summary of issues or concerns resulting from informal review with neighboring property owners, if applicable.
- (c) Sketch Plan Supplemental Documents. The sketch plan application shall also include the following supplemental documentation:
- Disclosure of ownership, with supporting documentation from a title insurance company or, if acceptable to the City, an attorney licensed in the State of Colorado, which shall set forth a legal description of the property and title ownership of the property.
- (6) Upon complete submittal of all required information, City staff shall provide initial review of the sketch plan within 45 days. Upon completion of initial review of the plan and submission by the applicant of any supplemental materials or necessary revisions as requested by City staff, the sketch plan application shall be placed on an upcoming Planning Commission agenda for which space is available and for which all notice requirements can be met.
 - (7) Advance notice of the sketch plan review by the City Planning Commission shall be provided by publication, with a location map of the property to be subdivided. Fifteen-day advance written notice shall also be provided, by hand delivery or deposit into the U.S. mail, to all property owners of record adjoining or within 100 feet of the proposed subdivision. The City shall provide such notice. The review and discussion of the Sketch Plan by the Planning Commission shall be informal and non-binding in nature, and shall serve as a means to provide guidance to the subdivider.
- (B) Preliminary Plat.
- (1) An application for preliminary plat shall be submitted to the City and shall comply with applicable City submittal requirements.
 - (2) The City may distribute copies of the preliminary plat and supporting plans or data as appropriate to the County Land Use Department, the school district, the natural gas, CATV, electrical power and telephone companies, the Fire Protection District, the Colorado Department of Transportation, the Federal Aviation Administration, the Uncompahgre Valley Water User's Association, applicable City departments and employees, and other entities as appropriate.
 - (3) The preliminary plat and proposed improvements shall comply with all requirements of these subdivision regulations and other applicable City design and construction specifications and standards. The plat shall be drawn to a scale of not less than one inch equals 100 feet. (See Chapter 4-4 of these Zoning Regulations.)
 - (4) The preliminary plat shall contain, at a minimum, the following:
 - (a) The name of the subdivision and the name, address and phone number of the subdivider, and his representatives, if applicable. Such information shall be contained in a title box located on the lower right corner of the plat.



- (b) A certificate by the engineer or surveyor preparing the plat attesting to the accuracy of the plat. Such information shall be contained in a title box located on the lower right corner of the plat and shall be signed and stamped by the licensed professional engineer or registered surveyor, and shall indicate the scale used and direction of true north.
- (c) A certificate by a licensed professional engineer that the water, stormwater, sewer systems, and all other improvements are properly engineered and designed in compliance with applicable requirements of the City and state.
- (d) A certificate of ownership of the subject property.
- (e) A location map, of approximately four inches by four inches, showing the project location in relation to the City of Montrose, with appropriate reference to significant roads or highways. The location map shall be provided both on the preliminary plat and separately on letter size paper.
- (f) Certification on forms approved by the City to document approval of the plat; and the form of the certificates proposed to be used to comply with the requirements imposed for the final plat as found in Subsection (C) of this Section.
- (g) Two-foot elevation contours and the boundaries of the base flood (100-year flood) and floodway and base flood elevation data, as defined and specified in the City's floodplain management regulations.
- (h) The then-current zoning designations of the subdivision and of adjacent properties.
- (i) The names of the owners of record of adjacent properties, and the property lines of adjacent properties as space will allow.
- (j) The location and ownership interest of existing and proposed watercourses including lakes, swamps, ditches and floodprone areas (the inclusion of such watercourses within the jurisdictional authority of local, state or federal regulatory agencies shall also be noted); the location of existing and proposed streets, easements, utility lines, poles and towers, sewer lines, water lines, drains, culverts and other underground utilities and stormwater drainage facilities both on the proposed subdivision and adjacent properties as practical.
- (k) The layout of all lots showing the building lines, dimensions and lot areas and footprints of existing buildings, if any. The plat shall include at least two references to City GPS coordinates.
- (l) The layout and location of all parks and open space.
- (m) The location of all land to be reserved or dedicated for public use.
- (5) The following shall be submitted accompanying the preliminary plat together with plans and specifications prepared by a licensed professional engineer consistent with City standards and specifications, for all required or proposed improvements. All plans and specifications shall be signed and stamped by a licensed professional engineer.
 - (a) Plans for the proposed sanitary sewer system showing location, grade, pipe sizes and invert elevations, and the connection points to the existing system.
 - (b) Plans for the water system and fire protection system showing locations, pipe size, valves, fire hydrants and connection points to the existing system.



- (c) Plans for the storm drainage system showing location, pipe sizes, grades and discharge points, including off-site improvements. Such plans shall comply with any applicable City stormwater drainage requirements.
 - (d) Plans for any improvements specifically affecting watercourses within the jurisdictional authority of local, state or federal regulatory agencies, noting the required permits therefor.
 - (e) Plans for proposed streets, sidewalks, recreation paths, showing grade and cross Section, trails and walkways and streetlight and street names.
 - (f) A soil or geological report prepared and certified by a professional geologist or soil scientist.
 - (g) Plans for piping ditches, or improvements to waterways.
 - (h) Plans for parks and recreation facilities.
 - (i) A traffic impact study for all developments when estimated vehicle trips per day will exceed 250 and plans for recommended traffic mitigation measures. The study shall provide, but not be limited to, traffic capacity for existing road infrastructure, proper analyses of transportation linkages in conformance with transportation plan, cumulative traffic impact of development at build-out, and proposed infrastructure design to account for such considerations. The scope of the impact study may be broadened to include other nearby subdivisions and developments, allowing for cooperative participation and cost sharing.
- (6) If the applicant intends to develop the project in phases, a phasing plan will be required to be submitted to and approved by the City. The phasing plan must include the numbers of lots in each phase, the infrastructure planned for completion with each phase that is necessary to allow the phase to be properly integrated into City services as determined by the City Engineer, the amenities to be constructed with each phase, and all other information pertinent to the completion of the development.
- (7) Upon submittal of all required information, the City staff shall provide initial review of the preliminary plat within 45 days. Upon completion of initial review of the preliminary plat and submission by the applicant of any supplemental materials and revisions necessary to comply with City regulations, the Preliminary Plat Application shall be placed on an upcoming Planning Commission agenda for which space is available and for which all notice requirements can be met. City staff shall make a recommendation to the City Planning Commission to approve the preliminary plat, provided that all supporting documentation has been properly submitted and the plat meets all requirements, disapprove the plat if it does not appear to comply with the provisions of this Chapter, or approve the plat with conditions or modifications.
- (8) Advance notice of the preliminary plat review by the City Planning Commission shall be provided by publication, with location map of the property to be subdivided. The City shall provide such notice at least 15 days in advance of the scheduled meeting.
- (9) Following receipt of a completed Preliminary Plat Application, the applicant shall be required to diligently pursue the application by providing revised plans, plat maps, and other necessary information in a timely fashion. Where the applicant fails to meet this requirement, the City shall, in writing, request the applicant to withdraw the application. If the applicant fails to take any further action on the Preliminary Plat Application for a period of six consecutive months following such request to withdraw, the Preliminary Plat Application shall automatically expire and all



applicable fees shall be non-refundable. When a Preliminary Plat Application has expired under this Subsection, in the event the applicant wishes to pursue development of the property the applicant must re-apply and pay any applicable fees.

- (10) Upon review by the City Planning Commission, the commission shall make a recommendation to the City Council to approve the preliminary plat, provided that all supporting documentation has been properly submitted and the plat meets all requirements, disapprove the plat if it does not appear to comply with the provisions of this Chapter, or approve the plat with modifications or conditions. The reasons for such recommendation shall be included in the minutes of the Planning Commission meeting and provided in writing to the applicant upon request.
- (11) Unless the subdivider withdraws the preliminary plat from review, or it expires as set forth herein, the plat shall be submitted to the City Council for final review and action. Advance notice of the preliminary plat review by the City Council shall be provided by posted notice.
- (12) Council may approve the preliminary plat, approve the plat subject to conditions necessary to implement the provisions of this Chapter, or disapprove the plat if the Council finds that the requirements of these regulations have not been met.
- (13) No construction of the required subdivision improvements shall commence until approval of the preliminary plat by the City Council and submittal of both a Mylar of the preliminary plat, as finally approved with signed certificates as required by the City, and a copy of the preliminary plat in a digital format acceptable to the City and compatible with City computer systems. Upon approval and submittal of the Mylar, and supporting documentation as required, the City shall then issue a written notice to proceed.

(Code 2012, § 4-7-5; [Ord. No. 2062](#), 6-2-2005; [Ord. No. 2092](#), 11-17-2005; [Ord. No. 2173](#), 11-15-2007; [Ord. No. 2229](#), 11-5-2009)





CITY OF MONTROSE
Planning Services

MEMO

TO: City Council
FROM: Amy Sharp, Senior Planner
DATE: March 1, 2022
RE: Travel Home Park Permit for Riverbend RV Park
ATTACHMENTS

- Exhibit A: Area Map & Site Plan
 - Exhibit B: Excerpts from City of Montrose Municipal Code
-

City Council Consideration:

The City Council is considering the approval of a Travel Home Park Permit for Riverbend RV Park. City Council will consider all of the information in this memo in making a decision.

Applicant: David Svenson

Application Background:

The Riverbend RV Park is requesting is an update to a site plan for an existing travel home park permit in order to expand services and facilities within the existing park. This must be approved by both the Planning Commission and City Council. This project is located along Chipeta Road just north of Chipeta Lake.

Staff Analysis – Issuance of Travel Home Park Permit

The City Municipal Code, Section 4-12-7 outlines the process for the Planning Commission's review of Travel Home Park applications. Section 4-12-8 outlines the travel home park design requirements (Exhibit B). The Planning Commission reviews the site plan and shall approve or disapprove of the application. If disapproved, the reasons for disapproval shall be included in the Planning Commission minutes and provided to the applicant upon request. If the application is approved, it shall be submitted to the City Council for review and action. The Council may approve the application, or disapprove the application, if it finds that the requirements of these regulations have not been met.

Staff's analysis of the travel home park permit application and site plan (Exhibit A) is that the proposal is consistent with Section 4-12-7 and Section 4-12-8. A conditional use permit, variance, and travel home park permit were all approved in 2021. This updated travel home park permit would allow an additional five (5) RV only sites on the west side of the property from what was approved in 2021. These five (5) sites do not need additional conditional use permit or variance approvals.

Staff Recommendation:

The staff finds that the criteria have been met and recommend approval of the travel home park permit and attached site plan.

Planning Commission Recommendation: The Planning Commission recommended approval of the Riverbend RV Park Permit at the February 9, 2022 meeting.

City Council MotionApproval Recommendation

"I hereby make a motion to approve the request to allow a travel home park permit for the requested improvements at Riverbend RV Park as shown on the approved site plan in this staff report. The request meets the Code criteria based on the evidence and testimony presented at this hearing and in the staff report."

Denial Motion Recommendation:

"I hereby make a motion to deny the request. The request does not meet the Code criteria based on the evidence and testimony presented at this hearing and in the staff report."

EXHIBIT A:**Vicinity Map**

LOCATION MAP

NOT TO SCALE



PROPERTY ADDRESS:
SITE ADDRESS IS 65110 OLD CHIPETA TR. MONTROSE, CO.

SHEET NO.: 1

OF 1 SHEETS

EXHIBIT B: Excerpts from Municipal Code

Sec. 4-12-7. Travel home park permits.

- (A) It shall be unlawful to commence construction of any travel home park until a travel home park construction permit has been approved by the City Planning Commission and City Council as meeting the criteria and requirements of this Chapter and other applicable City and state regulations.
- (B) Application for a travel home park construction permit shall be made by submitting a site plan of the travel home park, accompanied by any supporting documents, plans or drawings as necessary to show that the design requirements of Section 4-12-8 have been complied with.
- (C) The site plan and all supporting plans must be submitted to the City no later than 30 days before the date at which the Planning Commission is to review the application. Following review of the application, the Planning Commission shall approve or disapprove the application. If disapproved the reasons for disapproval shall be included in the Planning Commission minutes and provided to the applicant upon request. If the application is approved it shall be submitted to the City Council for review and action. The Council may approve the application, or disapprove the application, if it finds that the requirements of these regulations have not been met.
- (D) It shall be unlawful to occupy any travel home within any travel home park prior to the time that an occupancy permit for the travel home park, or applicable portion thereof, has been issued by the City Manager following an inspection to determine if the travel home park, or the applicable portion thereof, has been developed in substantial conformity with the site plan as approved by the City Council.
- (E) An application fee as set forth in Chapter 3-1 of the City of Montrose Regulations Manual shall accompany the application for a travel home park construction permit.

(Code 2012, § 4-12-7; Ord. No. 1999 , 4-15-2004)

Sec. 4-12-8. Travel home park design requirements.

- (A) Size and Location. Travel home parks may be located only where allowed by City Zoning Regulations and shall be a minimum of two acres in area.
- (B) All travel home parks shall, as a minimum, comply with applicable State of Colorado regulations for campgrounds and recreation areas, and the requirements of this Chapter. In the event of any conflict between state regulations and the requirements of this Chapter, or other City ordinances or regulations, those regulations which are more stringent shall apply.
- (C) Dimensional Requirements.
 - (1) All travel homes and any accessory structures shall be at least ten feet from any other travel home and accessory structure.
 - (2) The number of travel homes in the park shall not exceed 25 travel homes per acre.
- (D) Eight percent of the gross area of the travel home park, or 2,500 square feet, whichever is greater, shall be developed and maintained as a park or playground.
- (E) The travel home park developer shall provide the following improvements:
 - (1) A water system, including fire hydrants and fire mains.
 - (2) A sanitary sewer system.
 - (3) Paved streets with a minimum width as follows:
 - (a) One-way/no parking: 11 feet;
 - (b) One-way/parking on one side: 18 feet;
 - (c) Two-way/no parking: 24 feet;
 - (d) Two-way/parking on one side: 27 feet; and
 - (e) Two-way/parking on both sides: 34 feet.

- (4) A storm drainage system.
- (5) Street signs and security lights.
- (6) A service building meeting the requirements of applicable state and City regulations.
- (F) Plans for all improvements shall be submitted with the site plan and shall be approved by the City Manager and the City Engineer prior to the approval of any permit by the City Council. All required improvements shall comply with standard City design and construction standards and specifications.
- (G) Easements. The City may require reasonable utility easements to be dedicated to the public for the purpose of public and City utilities. The City may require the over-sizing of water and sewer lines in which event the City shall pay the cost for over-sizing.

(Code 2012, § 4-12-8)

**TRAVEL HOME PARK PERMIT
DECLARATION OF COVENANTS AND CONSTRUCTION PERMIT**

THIS AGREEMENT is entered into **RIVERBEND RV LLC**, a Colorado limited liability company, whose address is 4551 County Road 24, Ridgway, Colorado 81432 and the **CITY OF MONTROSE**, a Colorado home-rule municipal corporation, with a principal address of 433 South First Street, P.O. Box 790, Montrose, Colorado 81402-0790 (“City”) pursuant to the Travel Home Park Regulations of the City; (the foregoing entity and individual(s) may sometimes be referred to collectively as the “Parties”, or individually and generically as a “Party”).

WITNESSETH:

WHEREAS, the City has approved a Site Development Plan for the property described in Paragraph 1, below, on the condition, as required by City ordinances, that the Declarant execute this Travel Home Park Permit containing the declaration of covenants set forth below; and

WHEREAS, in consideration of said Site Development Plan, the Declarant agrees and declares as follows:

1. Declarant is the record owner of the real property located in Montrose County, Colorado, described as follows:

Lot 1 of the Riverbend Amended Plat according to the Plat recorded November 4, 2021 at Reception No. 943253 at the Montrose County Clerk and Recorder’s Office, County of Montrose, State of Colorado

2. Declarant shall properly complete the construction and installation of, and maintain in good condition thereafter, all improvements and landscaping (hereinafter referred to as “improvements”) related to the property described above per the Site Development Plan approved by the City, which Plan is attached hereto as **Exhibit A**, in accordance with applicable City standards, specifications, regulations, ordinances and good engineering practices.
3. In addition to any other remedies provided by law, if Declarant fails to comply with the terms for construction and proper maintenance of improvements as described herein, the City may cause the construction and/or maintenance of the improvements described above to be done, assess the costs thereof to the property described above and collect such costs by certification to the County Treasurer to be collected similarly as taxes. The City shall have the right to enter upon the property for such purpose.
4. Declarant hereby declares that the following terms, covenants, conditions, restrictions, and obligations shall be deemed to run with the real property described in Paragraph 1, above, and shall be binding and accrue to the Declarant, and Declarant's successors and assigns, and any person or entity acquiring and holding an interest in said property, their grantees,

5. Further Assurances: Each Party hereto agrees to cooperate in all reasonable respects necessary to consummate the transactions contemplated by this Agreement, and from time to time to do such acts and things and execute and deliver such documents and instruments as may reasonably be required in order to implement the transactions contemplated hereby. Each Party hereto agrees to cooperate in the execution of subsequent addenda, or to re-execute an amended version of this Agreement, in the event that a Party discovers: 1) a clerical error; or 2) a misinterpretation of law; or 3) an error as to form; when such error(s) obviate or hinder the consideration, performance or enforcement of this Agreement.

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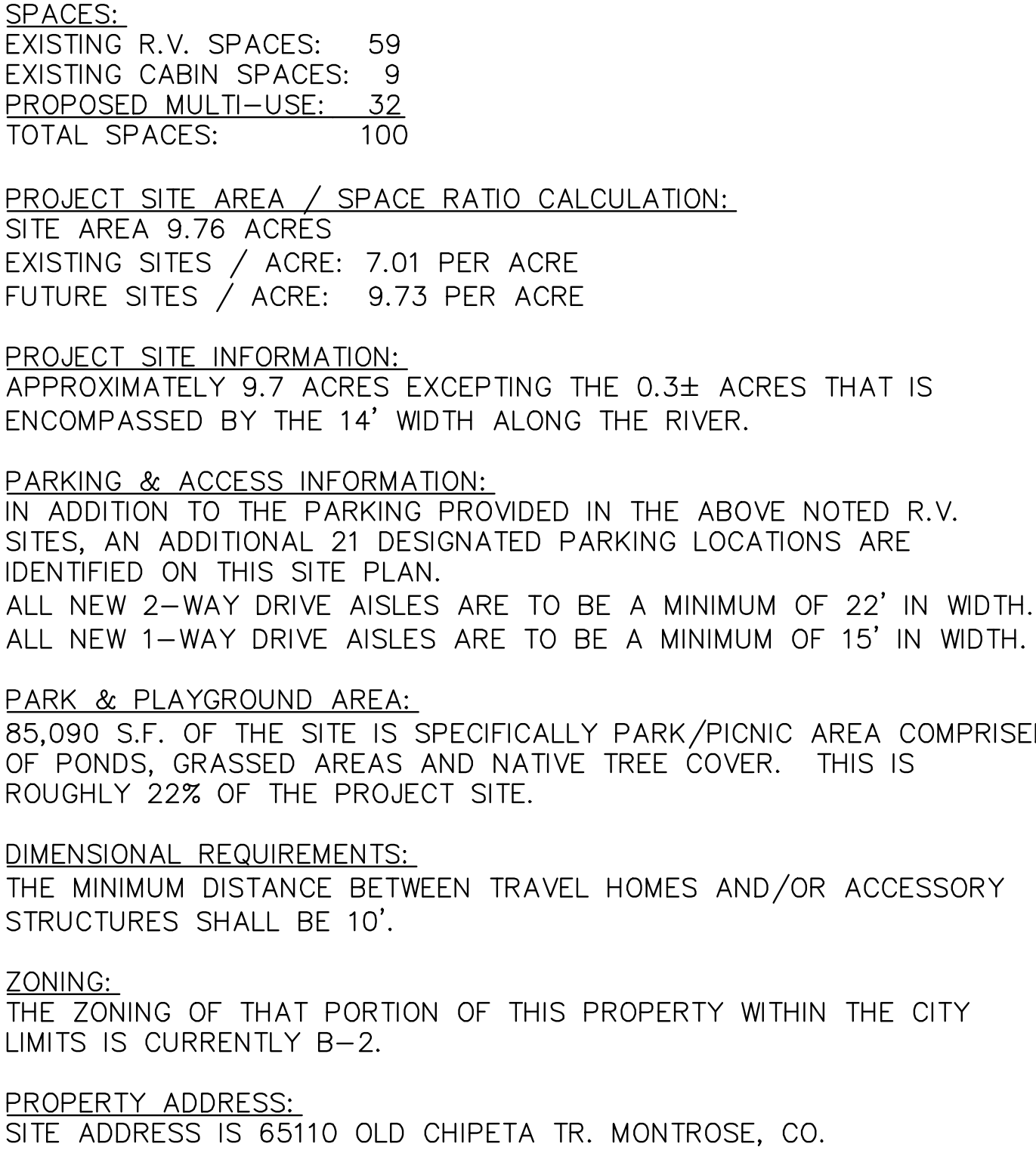
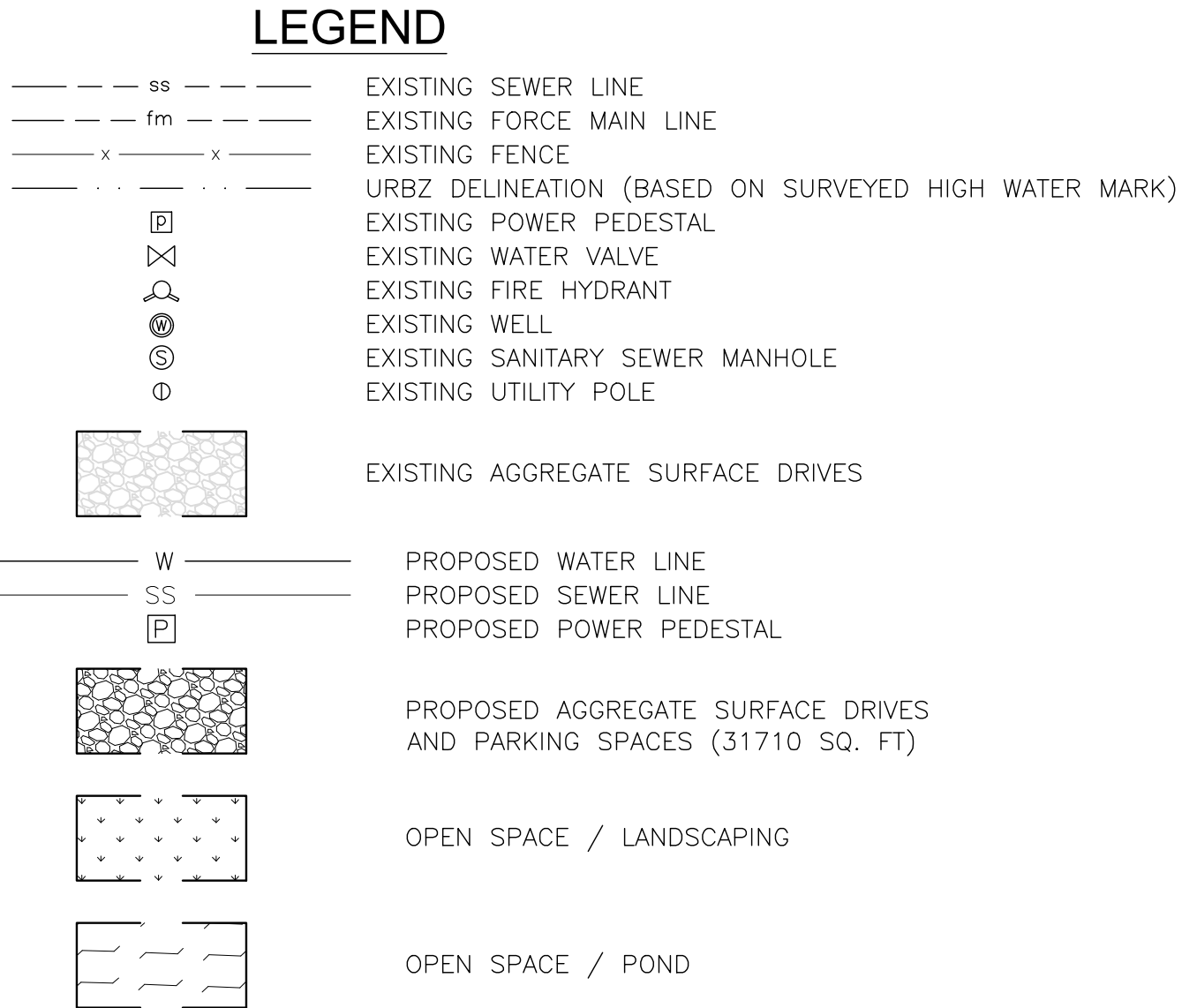
STATE OF COLORADO)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____.

Witness my hand and official seal.
My commission expires: _____.

(SEAL)

Notary

[illegible]

	DEL-MONT CONSULTANTS, INC. E N G I N E E R I N G S U R V E Y I N G 125 Colorado Ave. • Montrose, CO 81401 • (970) 248-2323 • (970) 248-2342 FAX www.delmont.com • info@delmont.com			2022-01-14
	DESIGNED BY:	SCALE:	AS-NOTED	CHECKED BY:
CHAIRMAN #P	FLS # NAME:	202626_FLS_201121.DWG	DATE (MM/DD)	
DMGW				

DAVID SVENSON
RIVERBEND R.V. PARK
MONTROSE, CO

RV AND CABIN EXPANSION
AMENDED SITE LAYOUT

DMC JOB NO.: 21028

SHEET NO.: 1

OF 1 SHEETS 4 of 4

SITUATED IN SECTION 4, TOWNSHIP 48 NORTH, RANGE 9 WEST, NEW MEXICO PRINCIPAL MERIDIAN
CITY OF MONTROSE, COUNTY OF MONTROSE, STATE OF COLORADO

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CONTRACT AWARD RECOMMENDATION



TO: Honorable Mayor and Members of the City Council
FROM: Scott Murphy, *City Engineer*
DATE: February 7, 2022
RE: Niagara-Hillcrest Roundabout Design Contract Recommendation
CC: William Bell, Shani Wittenberg

Action

Consider the award of a professional services contract to Felsburg, Holt, and Ullevig in the amount of \$183,422.50 for completion of design studies and civil design associated with the Niagara-Hillcrest Roundabout Project.

Background

The City of Montrose performed a traffic study of the Hillcrest Drive corridor between Miami and Niagara Roads in early 2016. Based on the results of this study and in response to citizen requests, the City has elected to install roundabouts along this corridor to address capacity and safety issues at each of its minor arterial intersections (Miami, Sunnyside, and Niagara). Since completion of this study, roundabouts have been constructed at Hillcrest's intersections with Sunnyside and Miami Roads.

The Niagara and Hillcrest intersection is currently controlled as a four way stop. A recent traffic study performed in 2021 indicated that the intersection is approaching capacity and could experience unacceptable levels of service in the foreseeable future due to continued and accelerating traffic growth in the area. In response to this, the City is looking to design and perform property acquisitions for a roundabout at this intersection in 2022.

Request for Proposals and Design Team Recommendation

On January 7, 2022 the City of Montrose issued a request for proposals to procure a design team for the roundabout project. This design team would be responsible for performing the following key tasks:

- Perform all property and basemap surveys for the project area
- Perform an updated traffic study to evaluate traffic growth and long-term performance of the intersection. These studies work to ensure a roundabout will function as desired into the future and help to guide design of the roundabout's geometry.
- Perform geotechnical, hydrologic, and hydraulic design studies to aid in design of project elements (pavement thickness, pipe sizes, etc).
- Design roundabout geometry and grading.
- Design utility replacements for aged City-owned infrastructure within the intersection.
- Prepare plans for relocation of conflicting utilities and undergrounding of electrical infrastructure.
- Prepare project plans, specifications, and cost estimates.

Proposals were publically received on January 27, 2022 from two consultants summarized in Table 1 below. Following receipt of the proposals each was evaluated by the City of Montrose Engineering Department and a score between 0 and 4 assigned to each based on weighted evaluation criteria. The City then entered into pricing negotiations with the highest-rated consultant. This method of procurement was utilized for the project given the specialized nature of roundabout design.

TABLE 1		
Summary of Consultant Proposals		
Consultant	Location	Rating
Felsburg, Holt, and Ullevig	Greenwood Village, CO	3.60
KLJ Engineering	Montrose, CO	3.00

Using the process described above, the City selected Felsburg, Holt, and Ullevig (FHU) as the preferred consultant for design of the Niagara-Hillcrest Roundabout. The negotiated price for completion of this design is \$183,422.50 on a time-and-materials, not-to-exceed basis and this price is within expectations of the City. It should also be noted that FHU was the successful design consultant for the Miami-Hillcrest Roundabout Project.

Project Schedule

Project design is proposed to be completed in 2022. As soon as the project footprint is finalized, the City will begin working on partial property purchases needed to support the project. Detailed construction cost estimates will also be prepared as early as possible for use in capital planning and budgeting efforts. It should be noted that construction of the project is not scheduled at this time. Scheduling of the project's construction will be dependent on the success of required property acquisitions and other capital priorities within the City.

Contract Administration and Project Financials

Contract administration and project management will be performed by the City of Montrose engineering department. The 2022 budget included \$175k in the capital improvement fund for this project; placing the anticipated cost approximately \$8k over budget. This overage could be funded using savings on other projects within this budget line or by supplementing of the budget if necessary.

CONTRACT AWARD RECOMMENDATION

TO: Honorable Mayor and Members of the City Council
FROM: Jim Scheid, Public Works Manager
DATE: February 14th, 2022
RE: Pavement Marking Contract Extension Recommendation
CC: William Bell, Ann Morgenthaler, Shani Wittenberg



Recommendation

Consider the extension of a Pavement Marking contract to Stripe a Lot, Montrose, CO.

Background

The City's Street Division contracts the striping of our City Streets. The contractor will stripe all streets that require striping at least once per year and all crosswalks, stop bars, arrows, etc as needed. The contractor will also apply a preformed plastic coating at all roundabouts or other high traffic areas. This type of application will be completed at least once per year but will be applied as needed and could take multiple applications.

Stripe a Lot has performed very well over the past few years for the City of Montrose and for surrounding communities.

The contract that City Staff is recommending to extend with Stripe a Lot began in 2021 after an RFP was issued and Stripe a Lot was awarded the pavement marking scope for 2021. The scope for 2022 has remained very similar to 2021, except that some of the material type has been adjusted to utilize a higher performing epoxy in areas that traffic counts are becoming higher. Stripe a Lot has submitted a letter from their supplier documenting an increase in raw material cost from 2021 to 2022, this letter is attached in this packet. Stripe a Lot is proposing a 10% increase to the City from 2021 rates.

City Staff recommends extending this contract to Stripe a Lot.

Financial Impact

The RFP that was issued for Pavement Marking contains a bid sheet with several different marking types and quantities. The quantities estimated in the bid sheet are simply estimates for bidding purposes and are not guaranteed. The contract extension that is being recommended for award with Stripe a Lot will be a Not-to-Exceed contract that is billed out as work is performed. The not to exceed amount is \$175,000.00. This service is included in the 2022 budget at \$175,000.00 (100-5115-353-000).



4161 Piedmont Parkway,
Suite 370
Greensboro, NC 27410

Kevin Cook
Sales Director USCA
PPG Traffic Solutions (Ennis –Flint)
M:678-614-7476

September 7th 2021

Dear Valued Customer,

As communicated earlier this year, the pavement marking industry continues to have challenges on many fronts. Raw material, labor, and logistics costs continue to accelerate and remain at all-time highs. Multiple raw material cost increases have jumped into high double-digit ranges. The security of supply also continues to be an area of concern. Many multinational companies remain in force majeure that dates back to February of 2021. We were hopeful that improvements to the supply chain would have occurred in the second half of 2021, however, that has not been the case.

Effective September 7, 2021, or as contracts allow, Ennis-Flint will increase prices on the following Product(s).

	Percent increase effective 9/7/21
Paint	17.8%
Thermoplastic & HPS®-8	19.5%
Epoxy (HPS®-2, HPS®-3 and HPS®-4)	26.0%
MMA products (HPS®-6, HPS®-7, and MMA [®])	7.5%
Preformed Thermoplastic	6.0%
Stimsonite® 101 (Snow plowable iron castings)	30.0%
All other RPMs	10.0%

Pricing for orders placed and accepted prior to September 7, 2021, as evidenced by an Order Acknowledgement, will remain the same. We understand supply of products to our customer base in 2021 has been not been to our prior standard. Considerable efforts are underway with suppliers and through PPG infrastructure to enhance our ability to meet critical customer requirements. We greatly appreciate the business placed with Ennis-Flint and remain focused to improve our supply chains in the future. We look forward to our continuing business relationship as we work through these extremely difficult times.

As always, your Regional Sales Manager is available to work with you or answer any questions you may have regarding these increases.

Respectfully,

Kevin Cook

