

ORDINANCE NO. 25
(Series of 2013)

AN ORDINANCE OF THE TOWN OF EAGLE, COLORADO, AMENDING THE ZONE DISTRICT MAP OF THE TOWN OF EAGLE BY APPROVING A COMMERCIAL PLANNED UNIT DEVELOPMENT WITHIN THE TOWN OF EAGLE TO BE KNOWN AS THE SYLVAN LAKE ROUND-ABOUT PLANNED UNIT DEVELOPMENT AND APPROVING A SITE SPECIFIC DEVELOPMENT PLAN ESTABLISHING A VESTED PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S., AND SECTION 4.17.060 OF THE EAGLE MUNICIPAL CODE.

WHEREAS, by Title 4 of the Eagle Municipal Code, the Town of Eagle enacted a comprehensive zoning ordinance for the Town, known as the Town of Eagle Land Use and Development Code; and

WHEREAS, the Board of Trustees of the Town of Eagle has received an application from Eagle Ranch Lot Investors, LLC, a Colorado limited liability company (the "Applicant"), to amend the zone district map by approving a Commercial Planned Unit Development ("C/PUD") for the real property described as Lot 1, Filing 2, West Eagle Addition, Town of Eagle, County of Eagle, State of Colorado (the "Property") in the particulars hereinafter set forth; and

WHEREAS, the Town of Eagle Planning and Zoning Commission recommended approval of the PUD Zoning Plan on March 19, 2013; and

WHEREAS, the Board of Trustees approved a P.U.D. Zoning Plan on August 13, 2013, subject to conditions; and

WHEREAS, the Applicant submitted an application for a P.U.D. Development Plan, which was found by the Town to be complete on January 15, 2013; and

WHEREAS, the Planning and Zoning Commission, following a public hearing, recommended approval of a revised P.U.D. Development Plan on September 3, 2013; and

WHEREAS, notice of a public hearing on Applicant's application for approval of the proposed P.U.D. Development Plan and rezoning of the Property has been given as required by Section 4.03.060 and 4.17.040 of the Eagle Municipal Code; and

WHEREAS, a public hearing considering said Applicant's proposed P.U.D. Development Plan and rezoning of the Property was held on October 22, 2013 as required by Chapter 4.11 of the Eagle Municipal Code; and

WHEREAS, following conclusion of the public hearing, the Board of Trustees approved the proposed P.U.D. Development Plan on October 22, 2013, for the proposed Commercial Planned Unit Development; and

WHEREAS, The Board of Trustees finds and determines that the Applicant has provided sufficient evidence that the proposed C/PUD is desirable because one or more of the purposes set forth in Section 4.11.020 of the Eagle Municipal Code have been met; and

WHEREAS, the Board of Trustees finds and determines that the Applicant has met its burden of providing evidence that the proposed C/PUD is in conformity with the Town's goals, policies, and master plan, including the Eagle Area Community Plan, and that the Applicant has met its burden of providing evidence that the area in question possesses geological, physiological, and other environmental conditions compatible with and characteristic of the uses requested, and is compatible with surrounding land uses, and that the advantages of the C/PUD requested outweigh the disadvantages of such requested zoning designation; and

WHEREAS, the Applicant has requested the vested property rights to be granted pursuant to Article 68 to Title 24, C.R.S. and Section 4.17.030 of the Eagle Municipal Code be extended from the statutory period of three (3) years to five (5) years; and

WHEREAS, the Board of Trustees has agreed to designate the P.U.D. Development Plan, as approved, as the site specific development plan for the Sylvan Lake Round-About Planned Unit Development ("Site Specific Development Plan") pursuant to Article 68 of Title 24, C.R.S., and Section 4.17.030 of the Eagle Municipal Code; and

WHEREAS, it is the intent of the Board of Trustees that its approval of the P.U.D. Development Plan, as approved with conditions, shall constitute approval of the Site Specific Development Plan establishing a vested property right for the time period of five (5) years pursuant to Article 68 of Title 24, C.R.S. and Section 4.17.060 of the Eagle Municipal Code; and

WHEREAS, the Board of Trustees has made a conditional positive determination of Adequacy of necessary public facilities in accordance with the requirements of Chapter 4.14 of the Eagle Municipal Code, subject to the conditions set forth in Section 4 below.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. That Chapter 4.04 of the Eagle Municipal Code, as well as the Zone District Map of the Town of Eagle, established by and incorporated into said Chapter, be and the same hereby is amended so as to provide that the real property described as Lot 1, Filing 2, West Eagle Addition, situate in the Town of Eagle, County of Eagle, State of Colorado, is rezoned as Commercial Planned Unit Development (C/PUD). The zoning densities, uses, and their locations shall be those depicted in the P.U.D. Development Plan for the Sylvan Lake Round-About Planned Unit Development, as approved by the Board of Trustees, which is hereby incorporated herein by reference. The zoning designation herein approved specifically requires the Applicant's full compliance with the P.U.D. Development Plan, as approved, and the Sylvan Lake Round-About PUD Guide, dated October 22, 2013 ("P.U.D. Guide"), attached hereto as Exhibit "A" and incorporated herein by this reference.

Section 2. Upon the effective date of this Ordinance, the zoning amendment herein contained shall be promptly entered on the appropriate page of the official Zone District Map, showing general location, effective date, and nature of the change. One copy of the approved application, including the approved P.U.D. Development Plan and the approved P.U.D. Guide, shall be retained in the records of the Building Official, in order to insure that development proceeds in conformance with the requirements of the approved zone district designation and this Ordinance.

Section 3. The P.U.D. Development Plan, as approved, is hereby designated as and shall constitute the approved Site Specific Development Plan for the Sylvan Lake Round-About Planned Unit Development pursuant to Article 68 of Title 24, C.R.S., and Section 4.17.030 of the Eagle Municipal Code and by virtue of such approval, a vested property right therein has been created to be effective and continual in duration for a period of five (5) years.

In the event that Applicant commences construction of the improvements depicted in the Site Specific Development Plan, which commencement of construction shall be defined as the visible commencement of actual physical construction and operations on the Property, including without limitation, obtaining all required permits and licenses and the installation of a permanent required construction element such as a caisson, footing, foundation or wall within five (5) years from the effective date of this Ordinance, the Town acknowledges that Applicant will have perfected a common law vested property right pursuant to the laws of the State of Colorado ("Common Law Vested Right").

Section 4. Following review of the criteria for determining the availability and adequacy of community facilities as set forth in Section 14.14.080 of the Eagle Municipal Code and other applicable provisions of Chapter 14.14 of the Eagle Municipal Code, the Board of Trustees approves and adopts a conditional positive determination of Adequacy conditioned upon a final determination of adequacy of public facilities ("APF") shall be made concurrently with the Board of Trustees' consideration of development permit(s) for the Property.

Section 5. After the effective date of this Ordinance, it shall be unlawful for any person to erect, construct, reconstruct, use or alter any building or structure or to use any land in violation of the P.U.D. Guide. Any person who violates this Ordinance shall be guilty of a

municipal offense. Each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provisions of this Ordinance are committed, continued or permitted and shall be subject to fines and/or imprisonment as provided under the Eagle Municipal Code.

Section 6. Within sixty (60) days after the effective date of this Ordinance, the Town Clerk, on behalf of the Town of Eagle, Colorado, is directed to:

a. File one copy each of the approved P.U.D. Zoning Plan, the approved P.U.D. Development Plan, the approved P.U.D. Guide, and the original of this Ordinance in the office of the Town Clerk of Eagle, Colorado;

b. File one certified copy of this Ordinance, one copy of the approved P.U.D. Development Plan, and one copy of the approved P.U.D. Guide in the office of the Eagle County, Colorado, Assessor; and

c. File for record one certified copy of this Ordinance, one certified copy of the approved P.U.D. Guide and one certified copy of the approved P.U.D. Development Plan with the Clerk and Recorder of Eagle County, Colorado.

Section 7. Within fourteen (14) days after the approval of this Ordinance, the Town Clerk, on behalf of the Town of Eagle, is hereby authorized and directed to:

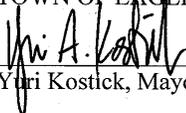
a. Publish in a newspaper of general circulation within the Town the full text of this Ordinance (without attachments); and

b. Publish concurrently with the publication of the within Ordinance a notice advising the general public that the P.U.D. Development Plan, as approved, constitutes approval of a site specific development plan establishing a vested property pursuant to Article 68 of Title 24, C.R.S., and pursuant to Section 4.17.100 of the Eagle Municipal Code.

INTRODUCED, READ, PASSED, ADOPTED, AND ORDERED PUBLISHED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado, held on November 12, 2013.

TOWN OF EAGLE, COLORADO

By:


Yuri Kostick, Mayor

ATTEST:


Sarah Braucht, Town Clerk

Publication Date:

November 21, 2013

Trustee Turnipseed introduced, read and moved the adoption of the ordinance titled,

AN ORDINANCE OF THE TOWN OF EAGLE, COLORADO, AMENDING THE ZONE DISTRICT MAP OF THE TOWN OF EAGLE BY APPROVING A COMMERCIAL PLANNED UNIT DEVELOPMENT WITHIN THE TOWN OF EAGLE TO BE KNOWN AS THE SYLVAN LAKE ROUND-ABOUT PLANNED UNIT DEVELOPMENT AND APPROVING A SITE SPECIFIC DEVELOPMENT PLAN ESTABLISHING A VESTED PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S., AND SECTION 4.17.030 OF THE EAGLE MUNICIPAL CODE.

and upon adoption that it be published pursuant to law and recorded in the Book of Ordinances.

Trustee McKibbin seconded the motion. On roll call, the following

Trustees voted "Aye":

Turnipseed, McKibbin

Kostick, Kerst

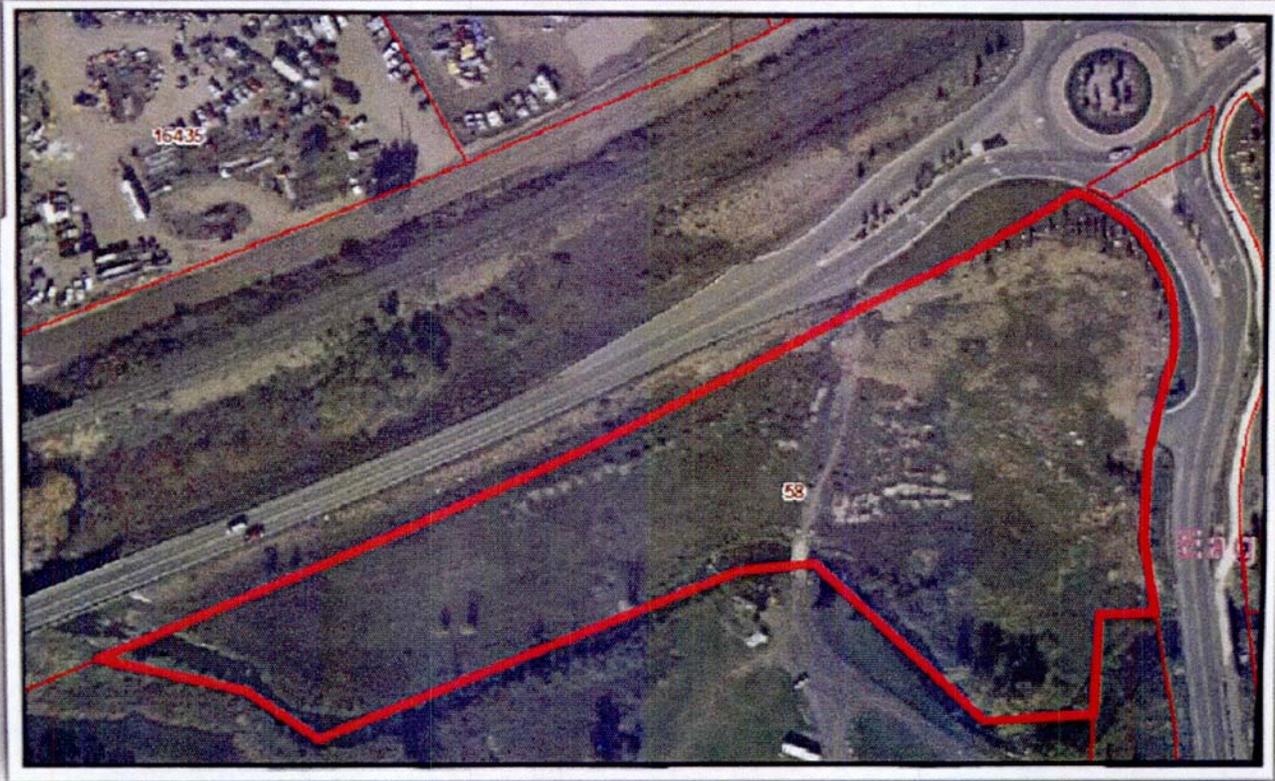
Knabel, Webster

Resa

Trustees voted "Nay":

PUD Guide

Sylvan Lake Round-About Planned Unit Development



58 Sylvan Lake Road
Lot 1, West Eagle Addition Filing 2
Eagle, Colorado 81631

November 12, 2013

MPG
Mauriello Planning Group

1. Statement of Purpose and Intent

To provide for commercial, residential, and/or mixed use development within the Town of Eagle. This PUD Development Guide defines the permitted use of land, provides for open spaces, and includes additional supplementary regulations. This Guide constitutes the standards and zoning provisions with site-specific restrictions for development within this PUD. Any aspect of development not specifically addressed in this PUD Guide or on the Development Plan (the Development Areas Plan is the Development Plan for this PUD) is regulated by the Town of Eagle Land Use and Development Code. Building construction within the PUD is subject to applicable ordinances, rules, regulations, and Codes of the Town of Eagle. This PUD Guide and exhibits shall constitute a site specific development plan and creates a vested right pursuant to Article 68 of Title 24, Colorado Revised Statutes, as amended, for a period of 5 years.

2. Uses by Right*

Commercial and institutional uses:

- Retail establishment (including drive-thrus) including but not limited to:
 - Grocery store
 - Convenience store
 - Liquor store
- Restaurant (sit-down/no drive-thru)
- Coffee shop (including drive-thru)
- Tavern, including breweries and brew pubs
- Office including business, professional, and medical offices
- Lodging
- Bed and Breakfast
- Medical or Rehabilitation Clinic
- Church
- Community Building
- Public Building
- School (small specialized school such as adult education)
- Child Care Facility
- Park and Open Space
- Indoor and Outdoor Recreation Facility
- Home Occupation
- Seasonal Sales from temporary or permanent structures such as fruit and vegetable stands, etc.

Residential Uses:

- Single Family Dwellings
- Two Family Dwellings
- Multiple Family Dwellings

*Any use that may be operated 24 hours a day shall be reviewed by the Planning and Zoning Commission to ensure that impacts to residential neighbors are adequately mitigated.

3. Specifically Prohibited Uses
 - Gasoline Sales
 - Fuel Storage above or below ground
 - Storage of Hazardous Materials (excluding common household products)
 - Vehicular and Boat Service, body shops and Sales (including recreational vehicles)
 - Dry Cleaning Plant
 - Other uses not listed as a use by right or not determined to be similar to a use by right
4. Building Height

All buildings shall be limited to 35' in height. Height is defined as: the distance measured vertically from any point on a proposed or existing roof or eaves to the existing or finished grade (whichever is more restrictive) located directly below said point of the roof or eaves. Within any building footprint, height shall be measured vertically from any point on a proposed or existing roof to the existing grade directly below said point on a proposed or existing roof.
5. Non Residential/Commercial Building Footprint

The total building footprint for a commercial or non residential use shall be limited to a maximum of 15,000 sq. ft.
6. Residential Density and Square Footage

The total number of dwelling units allowed on this entire site shall not exceed 50 units. The floor area of all residential dwelling units shall be limited to a maximum of 50,000 sq. ft.
7. Building Coverage and Impervious Coverage

Building coverage and impervious coverage shall be 50% building coverage plus 20% other lot coverage for a total of 70% total coverage allowed. Development areas shall not be considered individually. These coverages shall be based upon the combined area of Development Areas 1 and 2 and shall not include the area of the open space easement.
8. Location of Uses and Development

Two development areas are shown on the attached diagram. Both areas allow for residential, commercial, and mixed use development.
9. Setbacks

Building setbacks shall be 20' from all property boundaries. Stream setbacks shall be 50' from the high water mark.
10. Open Space

An open space easement shall be provided to the Town of Eagle allowing for fishing access to Brush Creek, recreational trails, passive open areas, passive, and landscape materials. The open space area may also allow for activities related to permitted commercial and residential uses including walking paths, patios and decks with seating areas, and access to Brush Creek subject to review of the Development Permit and found to be consistent with the intent of the area as open space. Any restaurant patio or deck located within the open space easement shall be approved by Special Use Permit. The open space easement shall be located as conceptually shown on the PUD Development Plan attached and be provided at

time of Building Permit following approval of a Development Permit. The Town of Eagle shall have the right to construct a 10 foot wide recreation trail, at its expense, within the proposed open space easement at any time upon its sole discretion, in which case the owner shall dedicate an appropriate easement for this 10 foot wide recreation trail. If alignment of this trail within the easement is obstructed by wetlands and all reasonable efforts to encroach into wetland areas have been exhausted, the Town and owner shall work out a mutually acceptable alignment/easement that avoids wetlands while minimizing encroachment into the development parcels.

If the Town constructs a trail on the applicant's property within the vesting period, the applicant shall be responsible to fund the lesser of 50% of the actual costs to construct the recreation trail upon the applicant's property or \$50,000. Such funding shall be addressed at Development Permit and funded at Building Permit approval which may precede or follow the construction of the recreation trail.

If a Development Permit is obtained for development of the property prior to the construction of the trail, the applicant shall provide the Town with a \$25,000 deposit at building permit to be used solely for the construction of the recreation trail on the applicant's property and a Letter of Credit for \$25,000 at building permit. The Town shall be obliged to construct the recreation trail within the aforementioned vesting period for the Sylvan Lake Roundabout PUD. Failing to do so shall require that the Town refund the \$25,000 and release the Letter of Credit with no further obligation for the applicant to fund recreation trail construction. Should the Town complete the recreation trail as contemplated here-in, the remaining balance required of the applicant to a maximum of \$50,000 shall be immediately paid by the applicant to the Town and the Letter of Credit will be released.

If no trail is developed within the vesting period, the applicant shall have no obligation to fund the recreation trail construction whatsoever. If the recreation trail does not connect to the Eagle Ranch Trail system or to the Regional Trail system along Violet Lane, the applicant shall have no obligation to fund the recreation trail construction whatsoever.

The provisions for the establishment of the open space easement and the 50% funding (to a maximum of \$50,000) of the recreation trail construction shall be the full extent of the exactions required of the development of this property. No further exactions shall be imposed for the life of this PUD. However, exactions are not to be interpreted to include provisions required by the Municipal Code including the Land Use and Development Code.

A land dedication may be substituted for an easement at the owner's discretion.

11. Water Plant Investment Fee

Section 12.16.040 of the Eagle Municipal Code contemplates that an applicant provide an up front payment for 60% of the estimated water plant investment fees for projects demanding 10 or more EQR. Since it is unknown whether development on this property will reach the threshold for this code section (commercial development is likely to be well below 5 EQR, for example), the prepayment of water plant investment fees, if any, shall be deferred until issuance of a Development Permit.

12. **Parking**
Shall be provided in accordance with the Land Use and Development Code except that residential studio units of up to 700 sq. ft. shall only be required one to one and half parking spaces, subject to review and approval by the Planning and Zoning Commission during the review of a development permit.
13. **Signage**
All signs shall comply with the Land Use and Development Code.
14. **Exterior Lighting**
All exterior lighting shall be in accordance with the lighting standards contained in the Land Use and Development Code, except that LED of equivalent light output shall also be allowed.
15. **Accessory Uses**
Other uses customary to commercial and residential uses, including but not limited to movie rental services, newspaper boxes, ice boxes, and other outdoor display items shall be permitted.
16. **Fencing, Walls, and Railings**
Fencing and/or walls shall be required to screen trash facilities and mechanical equipment. All fencing shall be of high quality wood, metal, or masonry.
17. **Architecture**
The architecture of residential and nonresidential buildings on site shall be consistent with the policies of the Eagle Area Community Plan with specific emphasis on visual quality and consideration of policies to create a western gateway. The architecture of all buildings should be sympathetic to residential uses in the area and include the use of sloping roof forms. The use of flat roofs shall be limited to buildings designed with a historic Eagle vernacular as one may find on Broadway or within the commercial core of Eagle Ranch Village (i.e., brick facade and/or stone facade with an articulated and ornamented terminus to the parapet). Building materials may include brick, stone, wood board and baton, wood lap siding, cementitious versions of wood siding, wood timbers, exposed wood or metal beams, natural and painted metal structural members, high quality asphalt shingles, metal, and corten siding and roofing materials. Imitation stucco is not allowed. Low quality building materials such as vinyl siding shall not be allowed. The overall development of the property shall be integrated with the topography and responsive to Brush Creek as a community resource.
18. **Water Quality**
Water Quality of Brush Creek and protection of the Town's Water Intake for Lower Basin Water Treatment Plant are of the highest priority. A stormwater water management plan approved by the Town for this property shall be designed to address this high sensitivity to potential water quality degradation of Brush Creek.
19. **Landscaping**

Landscape installation shall be per Land Use and Development Code. Care will be taken to ensure that landscape materials are placed in a manner that does not inhibit commercial performance but results in an attractive presentation of the site. In addition to the landscaping that will be required within the development areas, landscape materials (trees and shrubs) shall also be required within the open space easement as shown on the attached Conceptual Open Space Landscape Plan. Landscape materials within the open space areas will be required to be shown with any Development Permit application in either Development Area 1 or 2. However, development of either Development Area 1 or 2 shall only be required to provide landscaping within the adjacent and corresponding Open Space Landscape Area 1 or 2. Should the entire site be developed as one project, the entire open space landscaping shall be completed. Any existing debris piles located anywhere on the property shall be removed with a Development Permit approval.

20. Site Access

The town shall allow appropriately designed vehicular access from Sylvan Lake Road and if the Town approves uses of the property conditioned and dependent on access from Highway 6, the Town will support an application for a State Highway Access Permit that complies with the standards for an access permit.

21. 1041

The Town will support the applicant's efforts to modify the existing 1041 approval from Eagle County for a sewer line extension to serve the uses provided for in this PUD Guide.

22. Development Permit

All development applications within this PUD shall require a Development Permit pursuant to Section 4.06 of the Land Use and Development Code. Development permit application submittals will be required to include a wetland delineation. In general impacts to wetlands should be avoided though it is specifically recognized that the extension of utilities to the property will create impacts to wetlands that cannot be avoided. These wetland impacts are recognized as acceptable by the Town. A massing study of the proposed buildings and a review of visual impacts from the roadway and the residential property to the southwest shall be provided with an application for Development Permit.

23. Subdivision

The property may be further subdivided to allow for appropriate development and ownership of the parcels. The creation of not more than four parcels shall be processed in accordance with Section 4.12.050 Minor Subdivision of the Land Use and Development Code. The creation of condominium or townhouse units shall be in accordance with Section 4.12.040 of the Land Use and Development Code. Any subdivision of the property shall not occur prior to approval of a Development Permit.

24. Amendment to PUD

Any changes to this PUD Guide shall follow the procedures established in Section 4.11.050 of the Land Use and Development Code. However, minor changes to the plans, landscaping, signage, or building which do not change the overall intent of the character of the PUD may be approved by the Town Planner. Any decision of the Town Planner may be appealed in writing to the Board of Trustees pursuant to the Municipal Code.

Approved by Eagle Ranch Lot Investors LLC, a Colorado limited liability company, the developer of the Sylvan Lake Round-About Planned Unit Development, this ____ day of November, 2013.

Eagle Ranch Lot Investors LLC
BY: Mervyn Lapin
Mervyn Lapin, Manager

Approved by the TOWN OF EAGLE, COLORADO, a municipal corporation acting by and through its Board of Trustees, this ____ day of November, 2013

BY: Yuri Kostick
Yuri Kostick, Mayor

ATTEST

Sarah Braucht, Town Clerk

CONCEPTUAL OPEN SPACE LANDSCAPE PLAN

 COTTONWOODS 3" CALIPER
 NATIVE SHRUBS 3 GAL.
 NATIVE GRASSES THROUGHOUT

**DEVELOPMENT AREA 1 -
 COMMERCIAL/RESIDENTIAL/MIXED USE
 1.92 ACRES**
**DEVELOPMENT AREA 2 -
 COMMERCIAL/RESIDENTIAL/MIXED USE
 1.17 ACRES**

**OPEN SPACE
 LANDSCAPE AREA #2
 7 COTTONWOODS
 35 NATIVE SHRUBS**

**OPEN SPACE
 1.58 ACRES**

**OPEN SPACE
 LANDSCAPE AREA #1
 7 COTTONWOODS
 25 NATIVE SHRUBS**

