

TOWN OF SNOWMASS VILLAGE
TOWN COUNCIL

ORDINANCE NO. 09
SERIES OF 2021

ENCLAVE MAJOR PUD AMENDMENT FINAL PLAN APPLICATION WITH ASSOCIATED VARIATIONS FROM BUILDOUT / DEVELOPMENT PARAMETERS, A RE-ZONING FROM ‘PUD’ TO MULTI-FAMILY (‘MF’), A PLAT AMENDMENT, AND A SUBDIVISION EXEMPTION CREATING AN EXPANSION PARCEL AS WELL AS SUBSEQUENT CONDOMINIUMIZATION OF AFFECTED UNITS.

WHEREAS, on December 18, 1978, Ordinance No. 28, Series of 1978 (Ordinance 28) approved the Final Planned Unit Development for the Enclave project together with the Subdivision Plat for Parcel N on a site containing 4.05 acres or 176,418 square feet, 39 condominium units and one employee/manager unit calculating to approximately 10 dwelling units per acre (DU/ac); and

WHEREAS, on December 18, 1978, a subdivision plat for the “Parcel N Subdivision” involving the Enclave project was approved by the Town; and

WHEREAS, Resolution No. 18, Series of 1983, approved an amendment to certain restrictions contained in Ordinance 28 to provide for the use of the Enclave condominium manager’s apartment (Unit 100) by individuals other than employees of the Enclave Condominium Association; and

WHEREAS, Ordinance No. 12, Series of 1990, approved an Amendment to the Parcel N PUD (Ordinance 28) for a 1,685 square foot Arrival Center on the Enclave property including modifying the parking areas for 49 spaces on the site; and

WHEREAS, in 2006, the Wood Run ski lift easement was extinguished, via an executed private ski easement recorded at Pitkin County Clerk and Recorder’s Reception No. 538226; and

WHEREAS, Town Council Resolution No. 26, Series of 2015, approved “authorizing Jim Gustafson a member of the Town of Snowmass Village Planning Commission to appear before Town Council on behalf of the Enclave for the purpose of discussing, reviewing and seeking approval regarding proposed renovations and new development at the Enclave”; and

WHEREAS, on January 3, 2017, Town Council Resolution No. 4, Series of 2017, was passed granting deferrals of the construction management plan drawings, a detailed landscape plan, and updated condominium documents to the Final PUD submission, and waived the Brush Creek Impact Report and the Wildlife Habitat Analysis as part of a Preliminary Plan review; and

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WHEREAS, an Amendment to the Preliminary Plan was submitted by the Applicant on October 30, 2017 that was accepted by the Town Council at the November 6, 2017 meeting for ongoing review. This Amendment involved various addendums and revisions of the application materials, which showed the effects from a proposed new 822 square foot two-bedroom deed restricted ‘for-sale’ employee housing unit; and

WHEREAS, on January 2, 2018, Town Council Resolution No. 7, Series of 2018, granted the Enclave Association, Inc. the acceptance of the Major PUD Amendment Preliminary Plan application; and

WHEREAS, after a submission on April 12, 2021 for an Administrative Modification Subdivision Exemption and a subsequent review process, a Record of Decision was approved on June 10, 2021 granting a 2nd Supplemental Condominium Map to incorporate the balance of common areas from the prior Parcel N Subdivision for the site into the Enclave Association’s condominium regime; and

WHEREAS, after three one-year extension requests granted by the Town Council via Resolution Nos. 39, 2018, 41, 2019 and 32, 2020, the Enclave Association, Inc. submitted on May 20, 2021, as updated and determined complete for formal referral and review on June 16, 2021, the Enclave Final Plan, with a Rezoning from ‘PUD’ to ‘MF,’ Variations to the Buildout maximum and PUD setback reductions, a Plat Amendment of the existing Parcel N Subdivision, and a Subdivision Exemption creating an expansion parcel with subsequent condominiumization of affected units; and

WHEREAS, the Final Plan application submitted May 20, 2021 and determined complete on June 16, 2021, generally proposes six major elements: (A) Construction of New Residential Units in a building addition capped at 8493 in elevation on Expansion Parcel involving five (5) free-market units (with a mix of 1, 4-bedroom, 2, 3-bedroom and 2, 2-bedroom dwellings) and one (1) restricted ‘for-sale’ 2-bedroom employee unit, with a Buildout Variation from 39 to 45 actual free-market units; (B) Construction of a New Arrival Center housing a lobby area, office, mechanical/storage rooms, an elevator, an Association conference room, fitness facility, small meeting area, and additional storage or ski lockers; (C) Conversion of the Existing Manager’s Unit in the current northern most building wing to a Free-Market Residential Unit with termination of the employee housing limitation for Unit 100; (D) Conversion of the exiting Arrival Center to Three (3) Employee Units; (E) Reconfiguration of Existing Driveway and Parking Area, and Addition of Underground Garage with 17 new parking spaces; plus reconfiguration of the driveway and parking areas with a net increase of 27 spaces (including 28 tandem parking spaces under an expanded carport structure), for overall total of 74 spaces for the site; and (F) New residential floor area of approximately 332 square feet each for Units 113 and 213 plus a roof terrace for Unit 313 in the existing west building wing; and

WHEREAS, the applications were processed pursuant to the procedures outlined in Section 16A-5-300 ‘Purpose; overview; general restrictions,’ Section 16A-5-310

90 'Review standards,' for PUDs, and Section 16A-5-360, 'Final plan,' Section 16A-5-
91 340(k), 'Amendment,' and Section 16A-5-450, 'Amendment of final plat,' which all refer
92 to the Development Evaluation Standards in Article IV of the Municipal Code; further
93 Section 16A-5-220, 'Amendments to Official Zone District Map,' and Section 16A-5-500-
94 530, 'Subdivision exemptions.'

95
96 **NOW, THEREFORE, BE IT ORDAINED**, by the Town Council of the Town of
97 Snowmass Village, Colorado:

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99 **Section One: Findings.** Subject to the Conditions in Section Four of this Ordinance,
100 the Town Council finds that:

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102 1. **Application material sufficiency.** The Applicant has submitted sufficient
103 information pursuant to Sections 16A-5-220(d), 16A-5-360(c)(2), 16A-5-450(2)b,
104 and 16A-5-510(2) of the Municipal Code to permit the Town Staff, referral
105 agencies, and Town Council an adequate review of the proposed applications.

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107 2. **Public Hearing Notices.** The Applicant met the minimum public hearing notice
108 requirements outlined in Section 16A-5-60, 'Notice of public hearing' in the
109 Municipal Code and submitted the required affidavits.

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111 3. **Conformance with Municipal Code Requirements.** The applications are in
112 compliance with Section 16A-5-300(c), 'General Restrictions,' Section 16A-5-
113 310, 'Review Standards,' for PUDs, Section 16A-5-360(e), 'Guarantee of public
114 improvements,' Section 16A-4-400-420, 'Standards for Restricted Housing,'
115 Section 16A-5-220(e), 'Review Standards,' for Re-zonings, Section 16A-5-
116 450(3), 'Review standards,' for Plat Amendments, and Section 16A-5-530,
117 'Review standards,' for Subdivision Exemptions in the Municipal Code.

118
119 4. **PUD Amendment Standards.** According to Section 16A-5-390, subsection (3)
120 of the municipal code, the Town Council has considered, but is not bound by,
121 whether the proposal also meets the 'Review Standards' for Minor PUD
122 Amendments. The Town Council finds that the proposed PUD Amendment:

- 123
124 a. Is an enhancement of the original PUD approval;
125 b. Does not have a substantial adverse effect on the neighborhood
126 surrounding the land where the amendment is proposed, or has a
127 substantially adverse impact on the enjoyment of land abutting upon or
128 across the street from the subject property; and
129 c. Does not change the basic character of the PUD or surrounding areas.

130
131 5. **Final Plan Purpose.** According to Section 16A-5-360 of the Land Use and
132 Development Code, the Final Plan:

- 133 a. complies with all of the representations made during the application
134 process, and sufficiently addressed all issues or concerns raised during

135 that process. This documentation acceptably includes a final
136 development plan, a guarantee of public improvements and covenants,
137 as described within this Ordinance or its Exhibits thereto.

138 b. The final development plan and the attached PUD Guide (Exhibit D)
139 acceptably specifies the new 'MF' zone district limitations and
140 development regulations that will guide the future development of the
141 property.

142 **6. Final Plan Review Intent and Issues.**

143 a. *Response to preliminary plan conditions.* The applicant provided
144 detailed, sufficient, and appropriate responses to each of the conditions
145 identified in Town Council Resolution No. 7, 2018 regarding the
146 Preliminary Plan acceptance.

147 b. *Agreements and guarantees.* The applicant submitted an adequate
148 subdivision improvements agreement and pledge of security to
149 guarantee the performance of any public improvements required by the
150 Town.

151 c. *Other plans and documents.* The applicant submitted such other
152 documents (final development plan, final landscaping plan, final grading
153 plan, final utility plan and final architectural plans) that set out the
154 specifications for all relevant features of the development proposal.

155 d. *Final version of the homeowner's association or condominium*
156 *association documents or covenants.* These existing documents have
157 been submitted, and shall be amended to incorporating the new units,
158 also describing how the association will maintain any common open
159 space.

161 **Section Two: Specific Findings.** Consistent with the Preliminary Plan per Town
162 Council Resolution No. 7, 2018, and subject to the Applicant implementing the
163 conditions in Section Four of this resolution, the Town Council more specifically finds:
164

165 1. **Shadow Impacts.** The shading impacts from the proposed buildings are more
166 significant during the winter solstice than during other times of the year, which is
167 not uncharacteristic of the other developments in the immediate vicinity.
168

169 2. **Conference Facilities in proposed 'MF' zone.** The proposed approximate 190
170 and 625 square foot board and conference rooms planned in the proposed new
171 Arrival Building are not interpreted as a stand-alone conference facility as
172 prohibited under the proposed 'MF' zone district, but rather as acceptable
173 ancillary uses to the principle uses on the site.
174

175 3. **Comprehensive Plan consistency.** The Town Council finds that the Enclave
176 proposal is consistent with the 2010 Comprehensive Plan at the time its
177 Preliminary Plan application was submitted of which this Final Plan is reflective
178 of.

179
180 **Section Three. Action.** The Town Council hereby approves, as specifically noted
181 below, the Enclave Association's Major PUD Amendment Final Plan with associated
182 variations from buildout / development parameters, a Re-zoning from 'PUD' to Multi-
183 Family ('MF'), a Plat Amendment, and a Subdivision Exemption creating an expansion
184 parcel and subsequent condominiumization of new units or affected other units or
185 conversions thereof, subject to implementing the conditions in Section Four below.

- 186
187 1. **Amendment to the Town's Official Zone District Map for the Re-Zoning of**
188 **the Amended Parcel N Subdivision from 'PUD' to Multi-Family ('MF')**
189 **pursuant to attachment Exhibit 'A' incorporated herein;**
- 190
191 2. **Plat Amendment** to the existing Parcel N Subdivision pursuant to attached
192 **Exhibit 'B'** incorporated herein;
- 193
194 3. **Subdivision Exemption** for the creation of the Parcel Expansion, and for the
195 subsequent condominiumization of new units, conversion, or additions pursuant
196 to attached **Exhibit 'C'** incorporated herein;
- 197
198 4. **Final Plan application, its PUD Guide, and final design drawings,** pursuant to
199 attached **Exhibit 'D'** incorporated herein;
- 200
201 5. **Variation of Buildout** for the proposed buildout from 39 to 45 actual free market
202 units or from 27.42 UE to 37.03 UE (*unit equivalents*), which is beyond 100
203 percent buildout, and requires a super-majority vote via this Ordinance for Final
204 Plan approval; and the Applicant's acceptably demonstrated community purpose
205 of a deed-restricted 822 square feet, two-bedroom 'for-sale' employee unit,
206 exceedance of the employee housing mitigation requirement of 1,828 square feet
207 to 2,650 square feet, the provision of a multi-purpose utility and construction
208 easement for the bus shelter and transit stop, and partial installation of a
209 sidewalk extension along the easterly site frontage for pedestrian connection,
210 safety and convenience, with unique and exceptional circumstances and
211 exceedance of the PUD review standards at the time of the Preliminary Plan
212 review.
- 213
214 6. **Setback Reductions** of the minimum PUD setback distances from
215 approximately 22 to 13 feet along Wood Road for the planned expanded tandem
216 carport structure and the establishment of a new setback line for the PUD of
217 approximately ten (10) feet away from the north and east property lines and from
218 the existing gondola alignment ski easement.
- 219

- 220 7. **28 tandemly arranged parking spaces** within the expanded carport garage with
221 the setback reduction.
222
- 223 8. **Parking Management Plan** pursuant to attached **Exhibit ‘E’** incorporated
224 herein.
225
- 226 9. **Accepted Community Purposes:** a) The proposed enhanced landscape
227 buffering with the tree removal and mitigation plan with oversized plant materials
228 at installation for the Setback reductions; b) The required restricted housing of
229 1,125 square feet is being exceeded by 1,525 square feet to 2,650 square feet
230 under the final plan proposal, which also serves as an acceptable community
231 purpose item for the proposed variations according to the municipal code.
232 Included with the restricted housing square footage, the additional restricted ‘for-
233 sale’ employee housing unit of 822 square feet has been offered to enhance the
234 community purpose offerings, as presented by the Applicant at the Town Council
235 meeting on November 6, 2017; and c) the prior installation of a sidewalk along
236 the eastern one-half of the site’s frontage, and d) the provision on the plat
237 amendment for a multi-purpose utility and construction easement for the bus
238 shelter and transit stop.
239
- 240 10. **Subdivision Improvements Agreement (SIA)** pursuant to attached **Exhibit ‘F’**
241 incorporated herein, to include the cost estimates for the installation of a
242 pedestrian crosswalk with flashing beacon caution lights, and appropriate safety
243 signs.
244
- 245 11. **Restricted Housing Agreement (RHA)** pursuant to attached **Exhibit ‘G’**
246 incorporated herein.
247

248 **Section Four: Conditions of Approval.** The Applicant will comply with the following
249 conditions:

- 250
- 251 1. **Maximum Height of Building Addition.** While below the 38-foot height
252 parameter for the ‘MF’ zoning, the building addition at the northwest portion of the
253 site shall remain capped at 8493 feet in elevation height for the upper pod, with
254 the lowering of the grading, pursuant to the Findings made in the Preliminary
255 Plan’s Town Council Resolution No. 7, Series of 2018.
256
- 257 2. **Employee Rental Housing.** Together with the Restricted Housing Agreement in
258 attachment Exhibit G, the Applicant will, pursuant to the Declaration of Employee
259 Housing Restrictions draft, retain and include the provision that the owner(s) of
260 the Rental Units shall submit ‘Annual Reports’ to the Town Housing Department
261 detailing requested rental information for each Rental Unit for the preceding
262 calendar year (which such information may include rental rates, identification of
263 the renters, employments of the renters, and other information necessary to
264 demonstrate compliance with Town Permanent Moderate Housing Regulations).
265 Each such report shall be due on or before January 31 of each calendar year and

266 shall cover the period from the preceding January to December. A Rental Unit
267 owner who fails to timely submit such report to the Town Housing Department
268 shall be subject to a \$1,000 fine imposed by the Town for each report not so
269 submitted.

270
271 3. **Restricted 'For-Sale' Unit.** The restricted 'for-sale' two-bedroom unit within the
272 building addition shall be capped at \$340,000.00 upon its initial sale, as
273 determined by current sale prices of comparable restricted units' inventory within
274 the Town pursuant to the municipal code.

275
276 4. **Timing of Employee Units.** The building addition or the units within it on the
277 Enclave site shall not receive a Certificate of Occupancy and/or rented or sold to a
278 third party or purchaser until the restricted employee housing units (rentals and
279 restricted 'for-sale') have been issued a building permit and have received a
280 Certificate of Occupancy.

281
282 5. **Assessments upon Employee Units.** The documents creating the
283 condominium regime, Homeowner's Association (HOA) and any Covenants,
284 Conditions and Restrictions (CC&R) shall state that the restricted housing unit
285 shall only be assessed monthly dues and other shared assessments based upon
286 the standards in the municipal code or shall not exceed 50% of that assessed for
287 similar-sized free-market units.

288
289 6. **Civil Plan and Environmental matters.** The Applicant shall provide a final
290 construction drawing package with the building permit application addressing to
291 the satisfaction of the affected referral agencies any remaining outstanding review
292 comments prior to issuance of a building permit.

293
294 7. **Public Sidewalk Pedestrian Facility.** Town staff and Enclave Association shall
295 work together to ensure a safe pedestrian crosswalk on Wood Road between the
296 transit stops to include adequate lighting, flashing beacon caution lights, and
297 appropriate safety signs as described in the updated SIA (Exhibit F).

298
299 8. **Bike Share.** The Applicant shall provide and maintain an E-bike station or similar
300 with bicycles on the Enclave site that is accessible to residents and guests as
301 described in the attached SIA.

302
303 9. **Parking.** Pursuant to the number of parking spaces identified in the Parking
304 Management Plan (Exhibit E), including one reserved space for each free-market
305 unit, the Applicant shall reserve and sign on-site the six (6) parking spaces
306 designated for the employee housing units and the seven (7) compact spaces in
307 the parking garage, with additional parking demand provided on a first-come-first-
308 served basis.

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310 10. **Emergency Access.** The Applicant shall continue to work with the Snowmass-
311 Wildcat Fire Protection District (SWFPD) to demonstrate and achieve emergency

312 access during and after the construction period that provides a smooth
313 noninterfering transition between the replacement entryway driveway and the new
314 Wood Road public improvements, including sidewalk connections or crosswalks.
315

316 11. **Air Quality.** The Applicant shall implement the Fugitive Dust Control Plan
317 (FDCP) as part of the Construction Management Plan during construction and
318 follow State guidelines. Locations of the exhaust and intake ports, both facing
319 Wood Road, shall continue to be described in the construction drawings with the
320 submission of the building permit application.
321

322 12. **Solid Waste.** The Applicant will create a level, flat grade for access by trash
323 trucks of bear-proof dumpsters and recycling containers of a number and size,
324 among other details, satisfactory to the Town's Public Works Department.
325

326 13. **Water Quality.** The Applicant shall address any outstanding review comments
327 relative to drainage, water quality, water and sanitary utility lines and services to
328 the satisfaction of the Snowmass Water and Sanitation District, including the
329 proper parking drain system design and the two sand / oil and grease separators
330 vaults with definitive descriptions in the civil plan construction drawings prior to
331 issuance of a construction permit.
332

333 14. **Geotechnical investigation.** Following the review of appropriately detailed civil
334 plan construction drawings at the time of a building permit application, a
335 dewatering permit if required by the State of Colorado, shall be submitted by the
336 Applicant, in particular if groundwater, including groundwater that is comingled
337 with stormwater or surface water, is encountered during construction. In addition,
338 a Stormwater Discharge permit shall be obtained prior to construction, if required
339 by the State and if construction activities disturb more than one or more acre of
340 land.
341

342 15. **Landscape Plan.** The detailed landscape plan submitted with the Final Plan
343 application is sufficient to address the Preliminary Plan conditions relative to
344 adding and identifying plant material and spaces for ground coverages and types,
345 shrub bed areas, decorative boulder or retaining walls as may be needed, and an
346 automatic irrigation system, together with dense planting buffers as illustrated in
347 Exhibit D.
348

349 16. **Construction Management Plan.** A detailed Construction Management Plan
350 consistent with the CMP submitted with the Final Plan application shall be
351 submitted with the building permit application(s) addressing any remaining
352 outstanding review comments to the satisfaction of the Chief Building Official.
353 Details regarding construction waste shall be addressed in the CMP at the time of
354 building permit application. The CMP will be revised to incorporate a Right-of-Way
355 Permit for any work that is to occur in the public right-of-way.
356

357 17. **Final Plat Amendment and Easements.** The final plat amendment and affected
358 easements shall be executed prior to issuance of a building permit.

359
360 18. **Subdivision Exemption limitation on Expansion Parcel and new unit areas.**

361
362 a) The Subdivision Exemption for the Expansion Parcel shall be temporary
363 during the construction phase only.

364 b) Once work on the improvements planned for the Expansion Parcel has been
365 completed, then:

366 i. the Subdivision Exemption for the Expansion Parcel shall be vacated
367 by Town Council action via a resolution, and

368 ii. the new construction will, per the application, be incorporated into the
369 existing Enclave Condominiums as new units and common elements
370 by submission of a 3rd supplemental condominium map for review by
371 the Town, both for subsequent execution and recording prior to
372 issuance of a Certificate of Occupancy.

373 c) Thereafter, the employee-only use restriction applicable to Unit 100,
374 established in Town of Snowmass Village Ordinance No. 28, Series of 1978,
375 and Resolution No. 18, Series of 1983, is hereby amended to permit “free
376 market” residential use of the new Unit 100, including the original manager’s
377 unit, the original fitness room and part of the stairway.

378
379 19. **Building Permit Application.** The Applicant shall address the Conditions in this
380 Ordinance and any unfilled or outstanding review comments as part of the Final
381 Plan application evaluation with the building permit application, including
382 compliance with building, structural, engineering, and fire code requirements.

383 20. **Final version of the homeowner's association or condominium association**
384 **documents or covenants.** These existing documents shall be amended at the
385 time of the 3rd Condominium Map Amendment for the units to address:

386 a) How the association will maintain any amended common open space.

387 b) Employee housing units meeting the requirements of the Town
388 Permanent Moderate Housing Regulations.

389 c) Employee housing units on the property shall only be leased or rented in
390 accordance with the provisions in the Town’s Housing Office.

391 d) The Homeowner Association Fees assess for the Expansion Parcel For-
392 Sale Employee Unit shall not exceed 50% of that assessed for similarly
393 sized free-market units or pursuant to the standards in the municipal
394 code.

395
396 21. **Off-Site Parking.** Off-site parking overnight in Town owned public lots will not be
397 allowed.

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399 **Section Five. Severability.** If any provision of this Ordinance or application hereof to
400 any person or circumstance is held invalid, the invalidity shall not affect any other

401 provision or application of this Ordinance which can be given effect without the invalid
402 provision or application, and, to this end, the provisions of this Ordinance are severable.

403
404 **INTRODUCED, READ, AND APPROVED**, on First Reading by the motion of Town
405 Council member _____ and the second of Town Council member _____ by
406 a vote of ___ in favor and ___ against, on this 16th day of August 2021.

407
408 **READ, APPROVED AND ADOPTED**, on Second Reading by the motion of Town
409 Council member _____ and the second of Town Council member _____ by
410 a vote of ___ in favor and ___ against, on this 13th day of September 2021.

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412
413 **TOWN OF SNOWMASS VILLAGE**
414 **TOWN COUNCIL**

415
416 _____
417 Bill Madsen, Mayor

418 **ATTEST:**
419 _____
420 Rhonda B. Coxon, Town Clerk

421
422 **APPROVED AS TO FORM:**
423 _____
424 John C. Dresser, Jr., Town Attorney

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426
427
428 **Attached Exhibits incorporated herein:**
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430 **Exhibit ‘A’** – Vicinity and Re-Zoning Map;
431 **Exhibit ‘B’** – Plat Amendment to the Parcel N Subdivision;
432 **Exhibit ‘C’** – Subdivision Exemption for the creation of the expansion parcel and for
433 condominiumization of new units, conversion or additions;
434 **Exhibit ‘D’** – PUD Guide, with tables, and selected site, landscape and building
435 elevation drawings;
436 **Exhibit ‘E’** – Parking Management Plan;
437 **Exhibit ‘F’** – Subdivision Improvements Agreement;
438 **Exhibit ‘G’** – Restricted Housing Agreement, with the Declaration of Employee Housing
439 Restrictions.

440
441 **Exhibits incorporated by reference and on file at the Town’s Community**
442 **Development Department:**
443 • **Applicants’ initial application materials**, updated as complete as of June 16,
444 2021; and
445 • **Applicant’s responses to the referral agency review comments** dated August 6,
446 2021.