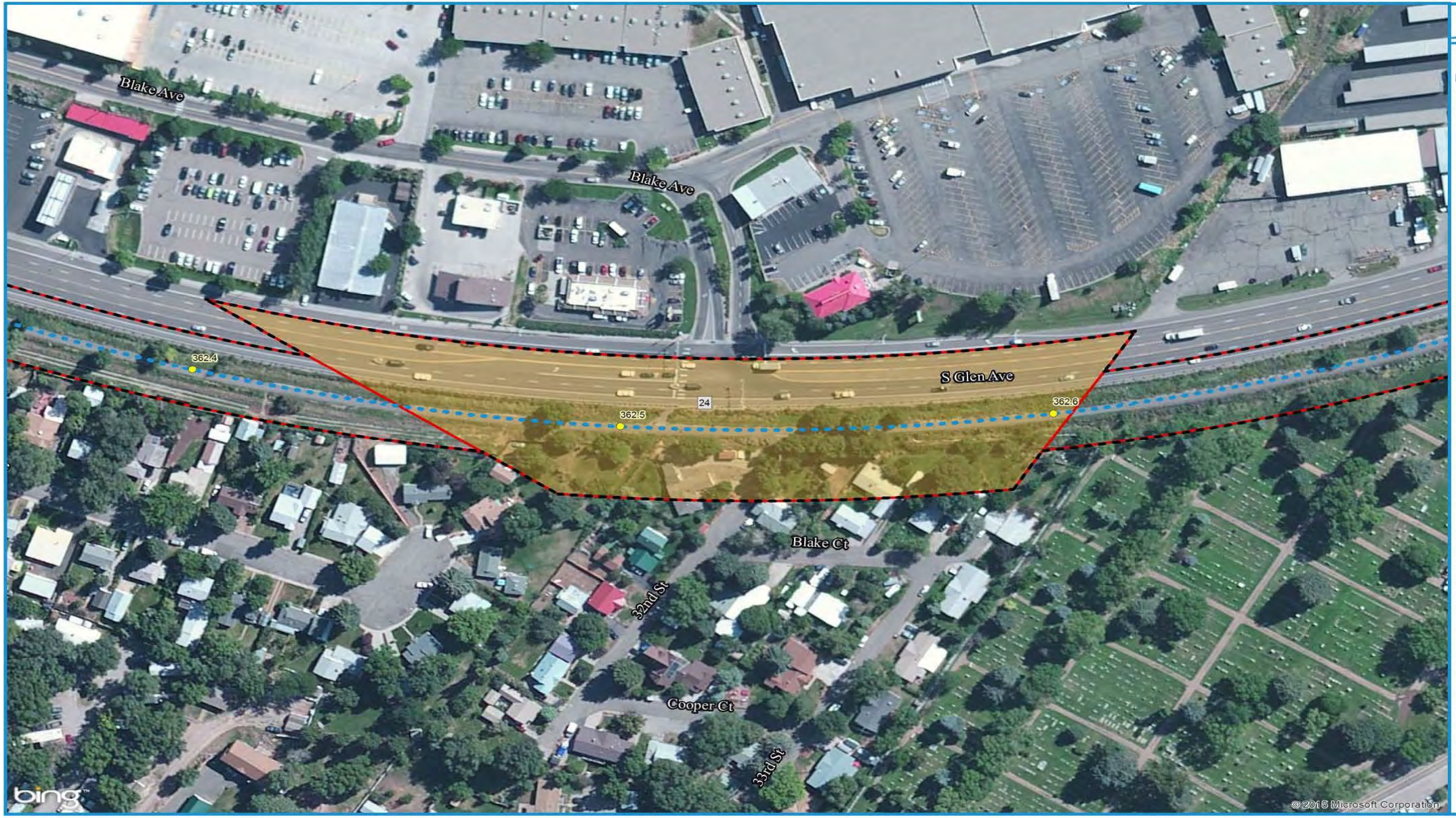
Railroad Management Plan

02/09/2023

- In 1991, eight local government entities resolved to purchase the Aspen Branch of the Denver & Rio Grande Western Railroad from Southern Pacific.
- In 1996, Southern Pacific sold all of its interests in, and common carrier obligations on the Aspen Branch to the Roaring Fork Railroad Holding Authority (RFRHA) for $8.5M, funded by a consortium of state and local interests, including funds from each member jurisdiction, $3M from CDOT, $1.5M from GOCO, and an additional $500K from Pitkin County for a perpetual 20' trail easement in Pitkin County, from Emma to Woody Creek. The railroad sold all right, title and interest to RFRHA, but there is no formal survey of the railroad corridor provided as part of the sale.
- In 2001 RFTA assumed the financial and management obligations of RFRHA
- In 2004 the RFTA Board began discussions to salvage the rail and rail equipment to build the Rio Grande Trail, but it was discovered towards the end of 2004 that because of the Railroad Corridors historic status, that rail salvage could not be completed without concurrence from the State Historic Preservation Office (SHPO). In order to secure approval from SHPO, RFTA hired the Farnsworth Group to survey the entire 33.4 mile railroad corridor property, including the existing rail infrastructure, centerline and property boundary. The survey began in 2005 and was complete in 2008. This would be the first time that the railroad property was fully surveyed using survey data completed in the valley between 1885 and 1887, including researching every deed associated with acquisition of each parcel acquired to build the Aspen Branch. Where there were no landowners yet homesteading parcels, or no city, county plats yet developed, the railroad company filled in the gaps utilizing the March 3, 1875 Act of Congress, which granted 100' of property on each side of the centerline(FGROW parcels). The next slide shows an example of a piece of FGROW in Glenwood.
- The railroad filing map was filed on 10/01/1886, and accepted by the U.S. Department of Interior, Government Land Office (GLO, now operating as the BLM) on 11/09/1886



RFTA
Roaring Fork Transportation Authority

Ownership Atlas

N E S W

0 100
Feet

2/2/2015

Farnsworth GROUP

- Mileposts
- Milepost Tenths
- RFTA Centerline
- RFTA ROW Line
- Parcel Division Lines

Parcel - Type: 1 - Grant

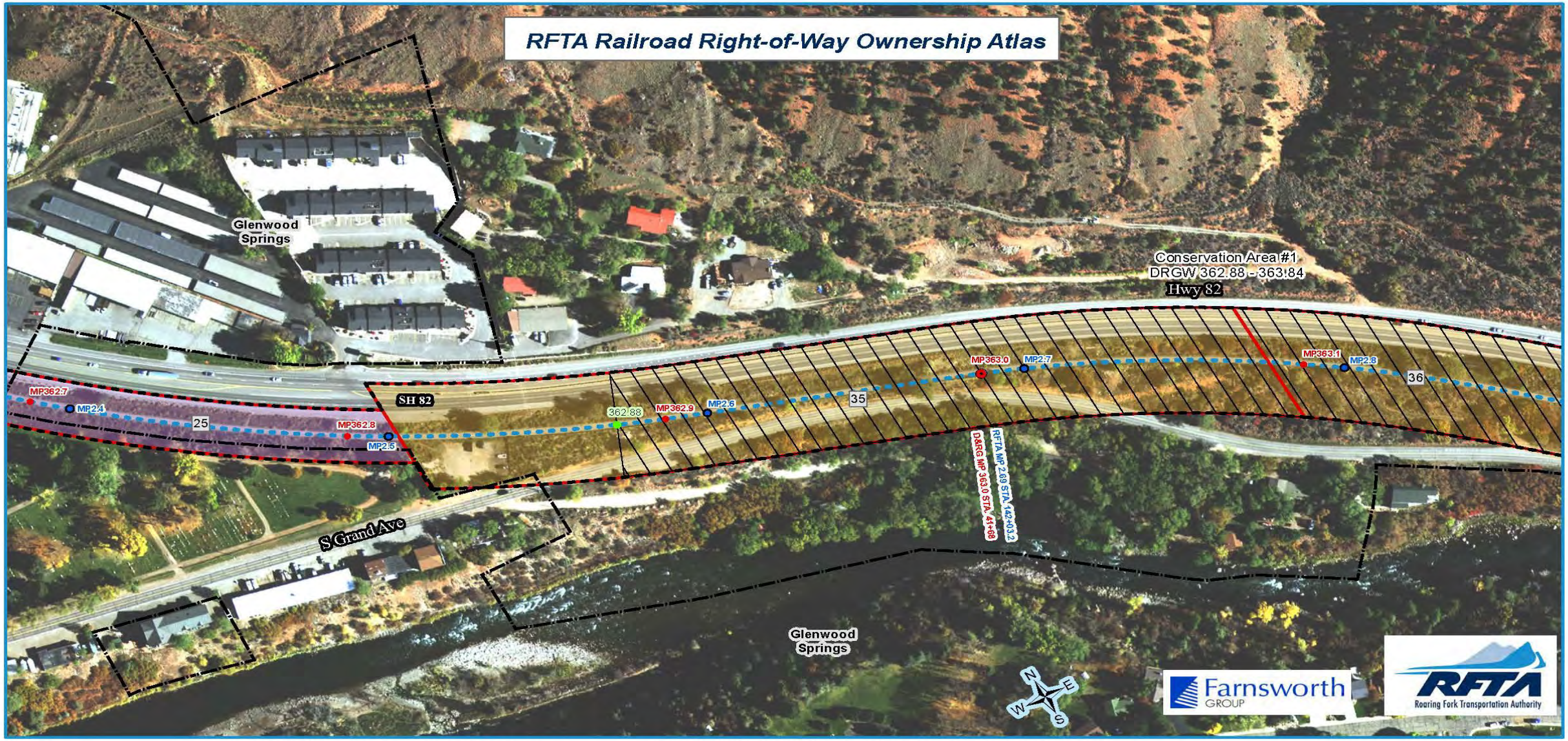
1 = Congressional Grant = Railroad Land Grant (Limited Fee or Fee Simple-Determinant)

Parcel Number Labels: 68

Parcel 24

- RFRHA/RFTA's initial railroad corridor management included managing the license and easement agreements in place at the time of the sale and collecting the revenue generated by the various agreements.
- An added railroad corridor management requirement came with the use of GOCO funds to assist in purchasing the corridor. The GOCO agreement required RFTA to create a Covenant Enforcement Commission, tasked with defining the types of uses permitted within the railroad corridor with the purpose of determining whether or not a proposed encroachment is compatible with the transportation, recreation and conservation values of the property. An independent third party is employed to complete an annual assessment of the nine covenant areas and report back on any violations to the CEC. The list of potential violations includes:
  - Construction of buildings and/or other structures
  - Fences
  - New crossings
  - Harvesting of timbers
  - Mining
  - Paving and Road Trail construction
  - Trash
  - Weeds
  - Other (items identified not listed that might require additional follow up)
- At the end of 2002, a baseline existing conditions document was developed and provided to the CEC in December, 2003. This document identified multiple violations and made recommendations for remedy. See an attached example of one of the covenant areas.

RFTA Railroad Right-of-Way Ownership Atlas



RFTA Mileposts
- Mile
- Tenth

D&RG Mileposts
- Mile
- Tenth
- Conservation Covenant Area Begin/End
- Conservation Covenant Area Hatch

- RFTA ROW Centerline
- RFTA ROW Line
- Parcel Division Lines
- Municipal Limits

Parcel - Type

Type
- 1 - Grant
- 2 - Fee
- 4 - Adverse Possession
- 5 - Easement
- 6 - Other

1 = Gov't Congressional Grant = Railroad Land Grant (Limited Fee or Fee Simple-Determinant)
2 = Fee/Deeded
4 = Prescriptive Right/Adverse Possession
5 = Easement
6 = Other (License, Contract, Permit, Ordinance, Court Decree, Charter, State PUC Decision [Administrative Law Decision] etc.)

Parcel Number Label: 68

Aerial background: Hexagon Valtus Aerial Imagery - 1 foot - Sept. 2017

1 inch = 160 feet

0 50 100 Feet

0 120 Feet

0 40 80 120 160 Feet

Rev. 1/8/2020

- Since the initial 2003 CEC report, staff has diligently worked to remove all encroachments located inside the covenant areas of the RFTA railroad corridor.
- The challenge for staff has been twofold. Pulled to implement the BRT project in 2007, staff had a limited amount of time to focus on management of the railroad corridor as a whole, and not seeking clear direction from the RFTA Board for management of the railroad corridor.
- Over the last few RFTA Board meetings and during the 2022 CEC meetings, staff has been directed to "go forth and manage" the railroad corridor. With this direction, staff has worked with Paul Taddune to develop a process for not only managing the covenant areas, but the entire railroad corridor property. This process was vetted with the CEC as a way to manage two long-term violations and the CEC is supportive of this process.
- With this direction and Board support today, staff will begin developing small, manageable sections of the railroad corridor, starting in Glenwood Springs. Staff will bring in a sophisticated utility locate company to identify all utilities, on, under and aboveground inside the railroad corridor. Staff will identify any unlicensed accesses, road, trail, etc., and/or any unlicensed encroachments inside the railroad corridor.
- When an encroachment or unlicensed access is identified, staff, with the assistance of Farnsworth Group, will develop an exhibit to approach the business or property owner to discuss the encroachment and set a timeframe for removal. The CEC has recommended allowing a 2 to 5 year timeframe for removal, or removal by RFTA at RFTA's cost, with a lien filed on the property, recoverable at a future date or sale of the property.

- Here are the primary concerns that staff feels that the RFTA Board should take into consideration before providing direction to staff for management of this corridor:
  - In the past, staff has received a great deal of pushback from the adjacent property owners when requesting removal of encroachments. In one instance staff was forced to take a claim to court, to maintain control of the corridor, but even with a court order in hand, continues on occasion to struggle for compliance from this neighbor.
  - There will be property owners unwilling to comply. This may require legal intervention up to and including a potential court filing for resolution. There will be political and financial repercussions to this approach as well. At present staff has strong support from the adjacent property owners, but once staff starts approaching them regarding encroachments, there will be some resistance and staff feels strongly that the adjacent property owners will start showing up at board meetings requesting relief from removal and/or licensing for accesses. Staff will need the full support and a consistent approach from the RFTA Board to move forward with this process.
  - Staff values the relationships with our adjacent property owners and wants to be very thoughtful in our approach to managing the public asset, but feels that it is important that RFTA regain control of this corridor and keep this property available to the public, not just the property owners that live adjacent to this corridor.
- If directed, staff will begin this new process in March. Staff would like direction on the level of interaction with property owners that should be brought back to the board for additional direction:
  - Refusal to comply with removal?
  - Once the attorneys are involved?

- Staff also continues to work on the exchange of deeds in the federal grant right-of-way sections (FGROW). Staff is currently working through a section up in Pitkin County, with Pitkin County.
- Questions?
- Comments?
- Recommendations?