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**Town Council**  
GORDON FLAHERTY, MAYOR  
GEORGE BRODIN, MAYOR PRO TEM  
KELLY BRINKERHOFF  
TOM SULLIVAN  
SHELLY BELLM  
JERRY BUMGARNER  
BILL BURNETT

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**Town of Minturn  
Planning and Zoning Commission  
7/12/06 Meeting Minutes**

**Study Session (5:30pm)**

Process and the impact of commissioners conduct.  
Ex Parte communication.  
Annexation and the PUD process

**Regular Meeting (7:00pm)**

Minturn Town Center – 302 Pine Street

**Call To Order/Roll Call**

Chairman John “Woody” Woodruff called the meeting to order at 7:06p.m.

Planning and Zoning Commission members present included Chairman Woody Woodruff, Jim Brinkerhoff, Lynn Teach, Ernie Glesner and Vice Chair Kristi (Boulle) Bloodworth.

Town Staff present included Town Planner Wiley Smith, Planner I Derrick Slocum, Town Attorney Allen Christensen, Annexation Attorney Arthur “Boots” Ferguson and Administrative Technician/Court Clerk, Torrey Maxwell.

W. Woodruff greeted the public and noted that all were there to gather information and ask questions and that there are two additional levels of meetings that will occur where applicant will present information and be available to answer questions.

**Approval of Agenda Items**

Motion by J. Brinkerhoff, second by K. Boulle to approve the agenda as presented; all voted in favor.

**Approval of Minutes – Minutes from June 14, 2006**

Motion by K. Boulle, second by J. Brinkerhoff to approve the June 14, 2006 minutes; all voted in favor.

## New Business

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### **ACTION ITEM #1 Planned Unit Development Concept Plan**

**Applicant:** Ginn Battle North, LLC, Ginn Battle South, LLC, Ginn – LA Battle One, Ltd., LLLP

**Address of Property:** Located between Minturn and Red Cliff and commonly known as Battle Mountain.

**Zoning:** Unincorporated County

**Proposal:** To seek approval for a Planned Unit Development Concept Plan

**Summary:** The applicant is proposing a resort-oriented development with 1,700 dwelling units in a variety of layouts, an 18 hole golf course at Bolts Lake, a private ski area with approximately eight ski lifts on Battle Mountain, resort commercial, restaurant facilities, and an aquatics facility intended for use by residents and guests of the project, and other associated resort support facilities..

**Discussion:** The applicant has demonstrated meeting the PUD requirements of the Minturn Zoning Code and the following conditions of the PUD Concept Plan: The Plan is consistent with the General PUD standards, Section 16.15.8; Concept Development Application and Checklist, Section 16.15.10; Consistency with the Minturn Community Plan. The applicant has also demonstrated an appropriate architectural approach to mitigating the visual impact of the project as stated in the Minturn Design Guidelines and the policies of the Minturn Community Plan.

**Recommendation:** The Planning and Zoning Commission grant approval to the application subject to the following conditions.

1. The applicant agrees to the requirement Section 16.15.10., PUD Concept Development Plan Application and Checklist with the exception of the following to be included with the Preliminary Plan.
  - a. A Preliminary traffic and parking analysis.
  - b. A preliminary attainable housing analysis.
  - c. A preliminary school impact analysis.
  - d. An environmental impact report will be required.
  - e. A preliminary of architectural designs and guidelines regarding bulk, scale, density, and effects on ridgelines within the development.
  - f. The applicant will coordinate with the Town to

- establish public trail and path connections at the boundaries of the property and extend the Eagle County network of planned trails.
- g. The applicant will coordinate with the Department of Wildlife regarding wildlife, habitat impacts, and mitigation.
  - h. Articulation of public recreation facilities and opportunities in the project and outside the project.
  - i. Preliminary traffic analysis must have a detailed evaluation of the anticipated damage to U.S. Highway 24.
  - j. A preliminary school impact analysis must now take into consideration the children of employees as well as impact on both Lake County and Eagle County districts.
  - k. An attainable housing analysis must include on-site housing plan quantifiable in types, location and numbers including in-town housing and assistance.
2. The applicant will address staff comments along with outside review comments as a condition of concept plan approval that all review comments be satisfactorily addressed or corrected before PUD preliminary plan is accepted for review and processing.
  3. The applicant will submit any change in plans to the Planning Department such as adding an accessory unit by following the criteria in Section 16.15.27, Changes to Approved Plans.
  4. The applicant agrees to address the Planning Commission comments and concerns as identified within this report.
  5. The applicant making any modifications to the plan document as requested by the Planning Staff and Building Inspector, Town Clerk, and Eagle River Fire Protection District. prior to Certificate of Occupancy.
  6. The applicant shall pay all required fees and charges related to development of the subject property.

W. Smith introduced the applicant and stated that they had:

1. proof of publication of public notice in the Vail Daily
2. copy of the tax roll list prepared by applicant
3. copy of the notice letter that was mailed (may be from applicant)
4. copy of the certifications of mailing (from applicant)
5. a copy of a representation from applicant that it will pay the costs of the notices
6. a copy of the sign itself that was posted
7. the affidavits filed by the applicant on Forms A and B
8. copy of the website posting together with a statement of the dates it was posted
9. copy of the mineral interest notification (from applicant)

10. the June 12, 2006 staff report
11. the subsequent staff report sent to Dominic on June 30
12. copies of the referral comment letters
13. copies of the summary of referral comment letters prepared by planning staff
14. copy of your June 12, 2006 letter to Dominic
15. copy of any other comments or summaries or referral comments that have made or received over the past two weeks.

Bill Weber, Regional Vice President, The Ginn Company, 0627 Hernage Creek Road, Eagle, Colorado. Thank you for letting us continue our zoning process in front of you tonight. Two primary speakers this evening, Sarah Baker, our council who will discuss process and procedure and Dominic Mauriello, consulting planner who will provide an overview of where we are with the project along with numerous other members of their team if needed to answer questions during the evening.

Sarah Baker, 164 Railroad Ave, Minturn. Sarah J. Baker PC representing applicant.  
Process and Procedure

- a) Annexation petition submitted in November 05
- b) PUD Zoning Process
  - a. Concept Plan
  - b. PUD Preliminary
  - c. PUD Final Plan
- c) Subdivision Preliminary Plan

### **What is a Planned Unit Development (PUD)?**

Unified zoning and development plan with a variety of compatible land uses such as residential, commercial, recreation and open space uses all within a single development.

Created by the State legislature in 1972 to allow flexibility and creativity in zoning and subdivision. Alternative to traditional lot-by-lot zoning and subdivision. Provides more control to Town of Minturn while allowing creativity and flexibility in design.

#### Application Contents 16.21.6.F

- Applicant's identity
- Legal Description
- Disclosure of ownership in connection with submission 0809203-1 through -9
- Vicinity map
- Written description (notebook)
- Environmental impact report
- Adjacent property owners list
- Comply with additional requirements

More comprehensive 6 15 12 requirements set forth in this section

A written statement describing the nature and extent of the development proposed; met this requirement by submitting the Concept Plan notebook prepared by Dominic Mauriello of Mauriello Planning Group.

Reasons the PUD procedure is more desirable than a conventional plan; applicant response to that is set forth in Section 18 of its written application.

A survey stamped by a licensed surveyor indicating existing conditions of the property; applicant submitted an existing conditions map of the Battle Mountain property dated April 24, 2006 and was prepared by Peak Land Surveying.

A vicinity map or plan showing the proposed site in relation to all adjacent properties and a description of how the proposed development relates to the surrounding character area and Community Plan; applicant submitted a vicinity map as an appendix to their application and the application also describes how the development relates to the surrounding character areas.

A development plan that illustrates the proposed land uses, building locations, housing unit densities, proposed trails, sidewalks, traffic circulation patterns and the proposed open space and recreational areas or uses; applicant submitted the Battle Mountain Conceptual Plan (which was on display)

Proposed source of water and method of sewage disposal; the applicant in Section 18 of written application described that requirement.

Economic and supporting data to justify any proposed commercial and industrial elements; the applicant is not proposing any industrial elements on the project, in compliance applicant submitted a Fiscal Impact Analysis for the Battle Mountain project which was prepared by Ford Frick of BBC Researching Consulting.

A preliminary environmental assessment; the applicant submitted a variety of environmental reports with the application:

- Wildlife Assessment Report of Potential Impacts and Suggested Mitigation Measures prepared by Eric Pederson of Rocky Mountain Ecological Services.
- Variety of environmental reports prepared by Ken Washee of Environmental Resources Management
  - “Wetlands Delineation Report for Battle Mountain East Property
  - “Wetlands Delineation Report for Battle Mountain North Property & Eagle Mine Site
  - Geophysical and Test Pit Investigation of Rex Flats
  - Interim Air Quality Data Summary Report of the Bolts Lake Area & Areas within OU-1 of the Eagle Mine Site.
  - Interim Surface Water Data Summary Report of the Bolts Lake Area & Areas within OU-1 of the Eagle Mine Site.
  - Interim Ground Water Data Summary Report of the Bolts Lake Area & Areas within OU-1 of the Eagle Mine Site.

- Interim Soil Data Summary Report of the Bolts Lake Area & Areas within OU-1 of the Eagle Mine Site.
- Interim Quality Assurance Project Plan Report, Bolts Lake Area & Areas with OU-1 Eagle Mine Site

In addition to those reports the applicant submitted four flood plain drainage and geological hazard reports;

1. Eagle River Flood Plain Report prepared by Sam Otaru, HDR Engineering.
2. Conceptual Plan Drainage Report of the Bolts Lake Planning Area Conceptual Mountain Plan Drainage Report; prepared by Mike Gamba of Gamba and Associates.
3. Conceptual Plan Geologic Hazards and Soil's Report.
4. Archeology Report: Final Report of a Cultural Resource Inventory for Battle Mountain.

A preliminary fiscal impact analysis of the estimated demands for Town services and a statement of projected Town tax revenue based upon the historic Town tax levy, and a schedule of projected revenue; the applicant satisfied this requirement with the Fiscal Impact Analysis for the Battle Mountain project which was prepared by Ford Frick of BBC Researching Consulting.

Preliminary architectural concepts or plans sufficient to determine the general scale and appearance of the proposed development; the applicant satisfied this requirement with the Architectural renderings dated April 14, 2006 which is attached as an appendix to the written submission and were prepared by Brian Judge and Ian Butler of VAG Architecture and Planning.

A conceptual phasing plan for the proposed development; applicant satisfied this requirement in Section 13 of its written application.  
Proposed method of fire protection and emergency medical services; applicant satisfied that requirement with two reports; Conceptual EMS Design Criteria Report prepared by Mike Gamba of Gamba & Associates and also by a Preliminary Wildfire Analysis prepared by Jeff Butler of Alpine Fire LLC.

Any other materials and information deemed necessary by the Planning Director.

In addition the applicant in their written application was required to demonstrate additional criteria in MMC 16.15.12 set forth thirteen criteria that applicant must demonstrate; the applicant has identified in Section 16.15 of the written application how those criteria were satisfied.

In addition MMC 16.15.8 set forth in General Standards PUD standards that applicant is required to comply; there are sixteen standards and in Section 17 of the written application the applicant has demonstrated how they comply with each.

MMC 16.15.13 sets forth the evaluation criteria that the Planning Commission is required to make specific findings on and then recommends to the Planning Director on whether the applicant should proceed to the Preliminary Plan Application. Each of these is addressed in Section 19 of the written application.

- There are objectives of the Community Plan or special physical conditions or objectives of development, which the proposal will satisfy to warrant a departure from the standard regulation requirements;
- The resulting development will be consistent with the Community Plan and the proposed PUD reflects the character of Minturn;
- The area around the development can be planned to be in substantial harmony with the proposed PUD;
- The adjacent and nearby neighborhoods will not be detrimentally affected by the proposed PUD;
- The mass and scale of individual buildings and the overall density of the PUD shall be consistent in scale and character to avoid abrupt and/or severe differences with the surrounding area;
- The PUD can be completed within a reasonable period of time, which shall be determined prior to final approval of the PUD.
- The PUD provides for the appropriate treatment of the Eagle River corridor as a community recreational amenity and focal point.
- The PUD has easy access to recreational amenities.
- Any increase in density proposed above what is permitted in the underlying zone or character area shall be mitigated by increasing the land dedications to open space, recreational amenities or other public facilities or services.
- Any proposed commercial or industrial development can be justified.

- Residential density and intensity of other uses shall be limited as required by the Town Council, upon consideration of the Community Plan, the Official Zone District Map and the specific characteristics of the subject land.
- A finding on the Preliminary Environmental Assessment and a recommendation on the requirement to submit an Environmental Impact Report with the Preliminary Plan.
- A finding on the extent to which the proposed PUD addresses a demonstrated community need.

In conclusion, applicant asks that you make a finding pursuant to MMC 16.15.13 that based on the analysis set forth in applicant's written application together with written support materials and testimony that will be heard that applicant has satisfied the submission requirements and evaluation criteria set forth in Article 15 and 21 of Chapter 16 of the MMC and recommend to the Planning Director that the applicant proceed to the Preliminary Plan Application.

Dominic Mauriello, Mauriello Planning Group, 5601 Wildridge Road, Avon, Colorado representing the applicant. Mr. Mauriello used a PowerPoint presentation showing resort context slide showing location of property in reference to Minturn, Red Cliff, Beaver Creek and Vail.

He directed attention to the Battle Mountain Annexation map and the outlined (lightly shaded) boundary of the property being annexed. The darker area show on the map was not included in the application for annexation because it is over the Three Mile limit allowed by Colorado law. The remainder of the property will be annexed within a one year and one day after the first annexation is approved.

### **Vicinity map**

- Shrine Pass Road passes through Ginn property but will be maintained as public road as it is today.
- Tigawon Road that runs through Bolts Lake area that accesses the Holy Cross area will be maintained as public access through the property as part of this application.

### **Concept Plan Overview**

Plan Consists of Five Planning (Character) Areas

- Bolts Lake Character Area
- Gilman Character Area
- Holy Cross Character Area
- Rock Creek Character Area
- Willow Creek Character Area

**Bolts Lake Character Area** will be the core of project with a multi story building, resort support, what you might refer to as "back of the house" activities, restaurant, resort retail, aquatic

facility, golf course and a place where the property owner would enter and check in for access to their property.

- It isn't actually a hotel, they aren't building any hotel rooms as part of this project it is all condominiums, some of the condominiums will be in a rental pool and they can be rented out.
- ROS recreation open space. This area is connected to the mountain with a gondola which comes up to the middle of the development and then up again to another hub which is located in the Willow Creek Character Area. You would use the gondola to get to the amenities on the mountain versus getting in your car and driving there.
- R1 R2 main access off of 24 RS district

#### Five Zones

- R1 Residential 3 –5 units
- R2 Residential 18 –20 units
- MU1 Mixed Use 650 –725 units
- RS1 Resort Service
- ROS Recreation Open Space
- 561.6 acres 670 —750 units

**Gilman Character Area** more multiple family core type property, multi story buildings, some town homes, support operations, amenities for the people who live there.

Tigawon Road

Rex Flats

Gilman area is one of the more tricky areas of the plan, a lot of remediation and environmental concerns and they are working hand in hand with several federal and state agencies to make sure that this is cleaned up.

There is also a gondola that would take you to the top of the mountain from this area.

#### Two Zones

- MU2 Mixed Use 93.8 acres 270 –300 units
- ROS Recreation Open Space

**Holy Cross Character Area** far northern portion of the property and would access across 24 from Bolts Lake. These are ski-in and ski-out property. He pointed out where there is a faint line stating that it is for a potential future lift. There is a Peregrine Falcon protection zone that has been established to show where the Peregrine nesting area is. They are not federally listed but they are a state listed bird of concern. If the Peregrines happen to abandon this nesting area then they would proceed with the lift. But that lift doesn't go in there until the nest has been determine abandoned after a period of time.

#### Three Zones

- R9 Residential 43 –48
- R10 Residential 31— 43
- ROS Recreation Open Space
- 1,265.1 acres 74 —82 units

**Rock Creek Character Area** in the middle of the plan. You can see a series of residential bubbles, main ski area, a hub, a lot of ski functions will happen here and also down in the MU4 zone. RS2 by HWY 24 residential support provides services such as fire house, ambulance, front gate, summer maintenance equipment for golf course or skiing, the less glamorous types of back of the house operations. Single family of varying sized lots and many of those may be duplex lots which has not been determined yet.

#### Seven Zones

- R5 Residential 109 -121
- R6 Residential 22 -25
- R7 Residential 69 –77
- R8 Residential 75 – 83
- MU3 Mixed Use 18 –20
- RS2 Resort Service
- ROS2 Recreation Open Space
- 1,289.5 acres 293 —326 units

**Willow Creek Character Area** basically defined by Willow Creek and outer boundary of the property before you get to Red Cliff Area. Mixed use hub connected to the gondola, single family homes, restaurants, ski services or ski related functions.

#### Four Zones

- R3 Residential 64 –71 units
- R4 Residential 11 –13 units
- MU4 Mixed Use 238 –265 units
- ROS Recreation Open Space
- 1,130.4 acres 313 –349 units

A concept plan is just that, it is a concept, an idea. You might imagine these bubbles packed with development. They won't actually be full of development; the bubbles indicate the area for the proposed development of homes, but as the homes are actually put in place these bubbles will actually shrink.

#### Architectural Character

Bolts Lake renderings of buildings reminiscent of mining towns  
Local materials to be used here in town with a mining background  
Single family home conceptual drawings showing bulk and mass  
Willow Creek area types of buildings like the mixed use areas.

#### What is Open Space?

#### Trails

Internal trail network for owners and guests  
Will work with trails committee on community trail through applicant's property  
Trails will be for hiking, biking, equestrian uses

Trail locations to be coordinated with CDOW to reduce potential wildlife conflicts

### **Skiing**

Approximately 800 acres of ski terrain

20% beginner

40% intermediate

40% advanced

Approximately 55 ski trails

5 chair lifts plus gondola

Nordic Skiing Areas

Potential for winter ice rink

### **Golfing**

Approximately 250 acres of golf which includes all lakes and ponds

One 18-hole golf course at Bolts Lake

Part of remediation of tailings piles

Golf course will enhance winter range for elk

Proposing native plants and grasses

### **Traffic**

Applicant recognizes traffic impacts as a major concern of the community

Traffic studies and coordination with CDOT is ongoing

Traffic study not required with PUD Concept Plan

Comprehensive report to be provided with PUD Preliminary Plan

### **Attainable Housing**

Applicant recognizes project will generate need for employee and attainable housing

No current requirement for housing in municipal code

Despite no code requirement, a comprehensive program to address employee housing will be provided at PUD Preliminary Plan

Plan may include financial assistance, new construction, and participation with existing providers such as Habitat for Humanity

Applicant provided a clarification letter to staff report dated July 9, 2006

Applicant agrees in general with findings and conclusions of staff report

Proposed minor revisions to conditions:

- 1- While the applicant has complied with the PUD Concept Plan submission requirements, the applicant shall insure that the following requirements and comments are addressed with any application for PUD Preliminary Plan
  - a. A preliminary traffic and parking analysis;
  - b. A preliminary attainable housing analysis
  - c. An Environmental Impact Report
  - d. A preliminary school impact analysis; the applicant included this analysis in the report but there has been some desire to expand that report which the applicant has agreed to.

- e. Preliminary architectural designs and guidelines depicting the general bulk, scale, density, and effects on ridgelines within the development;
  - f. The applicant will coordinate with the Town to establish public trail and path connections at the boundaries of the property and extend the Eagle County network of planned trails
  - g. The applicant will coordinate with the Colorado Division of Wildlife regarding wildlife, habitat impacts, and any enhancement and mitigation plan
  - h. Articulation of potential public recreation facilities and opportunities in the project and outside the project
  - i. The preliminary traffic analysis must have a plan to address potential damage to U.S. Highway 24 caused by construction traffic directly attributable to the proposed construction of the applicant's project;
  - j. The preliminary school impact analysis should take into consideration the children of employees as well as impact on both Lake County and Eagle County districts;
  - k. The attainable housing analysis should include provisions for on-site and off-site employee housing opportunities.
- 2- The applicant will address staff and other referral agency comments which require a response either as part of revisions to application materials or in writing. This condition is not to suggest that all referral or staff comments must be complied with if not deemed appropriate.
- 3 - The applicant will submit any change in plans to the Planning Department such as adding an accessory unit by following the criteria in Section 16.15.18, Changes to Approved Plans.
- 4 - The applicant agrees to address the Planning Commission comments and concerns as identified within this report.
- 5 - The applicant shall coordinate with the Planning Director, Building Inspector, and Eagle River Fire Protection District to ensure plans comply with all applicable regulations prior to the issuance of a certificate of occupancy. (This condition is not appropriate for approval of a Concept Plan approval, and seems better suited to a PUD Preliminary Plan approval.
- 6 - The applicant shall pay all required fees and charges related to development of the subject property. (This condition seems better suited to a PUD Preliminary Plan, but applicant has no issue with its inclusion).

Mr. Mauriello concluded his presentation.

W. Woodruff invited the public to sign up if they would like to address the commission this evening and then called for a break at 8:16pm. The break concluded at 8:38pm.

W. Woodruff announced that eleven people signed up to address the commission.

- There will be five minutes provided to each person to speak
- Do not restate what someone before you already stated. Don't repeat.
- Public is to address commission not applicant
- Five minutes is for speaker, can not be given to someone else and can not be used for someone else.
- State name, address and any affiliations if they are applicable.

J. Brinkerhoff added that Minturn is a small community, if you have questions please ask here, now, not out on the street. We want to have a record of these events that is infallible.

Marjorie Westermann, Tennessee Pass, Hwy 24, CO

- What is the elevation of the Holy Cross home sites;
- What is the percentage of slope they will be built on;
- Where home sites are going to be in relation to the Peregrine falcons
- Are there any traffic alternatives that don't include 24.
  - She invited the commission to drive Hwy 24 five days a week twice a day.
  - How many employees during and after construction that will drive Hwy 24

Charles Overy, 679 Edwards Village Blvd, Edwards, CO have done work for the Ginn Company building architectural models here and in other parts of the country

- Give the applicant more leeway in their architectural guidelines than some of the other communities we see around the Vail Valley. For example; Mountain Star has a lot of interesting and fun architecture going on versus places like Bachelor Gulch where everything seems the same. The character of Minturn is that we allow people to have their style.
- Clearly delineate where public access will be across and to the property. A rural lifestyle means to him that you can access the back country and this development stands between Minturn and the back country. Mr. Overy believes that walking paths with private property signs are appropriate and that they can work.
- Transportation miles be included when you look at employee housing that those be bundled so that your employees are as close as possible to where they work or putting a priority on employees walking to work, biking, or using public transportation.
- He asked that Planning and Zoning and the Ginn Company to break the bottleneck and get some movement from the railroad.

Randy Quintana, 1071 Main Street, Minturn, CO

- He owns property at the end of town which is located in Eagle County between the Ginn Development and Minturn; does his property have to be annexed in as well
- Will there be a school on the development for the residents
- How will the town residents benefit from the annexation.

Todd German, 325 Pine Street, Minturn, CO

- When will annexation vote take place
- Will it be a referendum
- What, if any part, will the town council play

B. Ferguson responded, based on the timing, you may recall the applicant put up a chart of the different processes; it appears the Town Council will not consider annexation until it is also able to consider the preliminary plan, the zoning and the preliminary plat from a subdivision prospective. That is anticipated to take place in the late spring of 2007.

The Town Council has thought about whether to subject it to the vote of the people but has made no decision on it as it has not been appropriate for them to make that decision given the context of the proceedings. However, the town people have the right to initiate a referendum and to review the Town Council's decision that would be implemented by an ordinance.

Mr. German asked what it would take for the people of the town to initiate a referendum rather than have a council of six people decide on this;

A. Christensen responded 10% of the number of people that voted at the last election.

W. Woodruff added that his personal opinion is that there will definitely be a vote.

Mr. German if there was a referendum vote and the vote is nay, then what would the Town Council approve at that point. What Ginn can and can't do based on the referendum vote.

W. Woodruff will take their application recommend to approve, disapprove, or approve with conditions. Then as a legislative body they will look at that application and then they will approve, disapprove or approve with conditions. At that point, that plan would go to a vote of the people and if the vote is no then Ginn will stay in the county.

Julie Babcock was called as next speaker; she stated she signed up accidentally.

Honorable Ramon Montoya, 177 Water Street, Red Cliff, CO, Mayor of Red Cliff

- Red Cliff Mayor Montoya read a letter requesting extension of time date wise to respond to the Battle Mountain plan. That letter was submitted by fax on 7-10-06.
- Journals of environmental reports; what is the process on who reviews the reports and are they available to the public
- Will there be access that will go through the development and through the Town of Red Cliff and the impacts of that. Will they go through Willow Creek during and after construction.
- On a permanent basis will access be strictly through Hwy 24 or will it go through Red Cliff as well.

B. Ferguson responded to Red Cliff's Mayor Montoya request for extension to respond. He noted that June 23<sup>rd</sup> was the final date for referral comments and the code is very specific. The staff report had to include referral comments and be available to the public at least five days prior to this meeting. Extensions can't be made but the record is still open and comments can still be provided. The records will remain open while the planning commission continues to hold hearings. As far as the environmental reports the planning director has retained entities to assist in the review of these reports and the town is also relying on state referral agencies for their

comments; EPA, US Fish and Wildlife, Forest Service, Division of Wildlife, Department of Health and other interested state agencies.

Lynn Foster was called as the next speaker; she stated that she would like to pass.

Mark Tatham, 501 Pine Street, Minturn, CO

- Ginn development would be great for business owner; used to have traffic coming and going when Gilman was up and running and it was a great opportunity for our businesses
- Open rail line for a community rail; from Avon and then go up into Gilman and on into Leadville
- Or perhaps a tour bus which would open up the valley and bring residents together

Tim Parks was called as the next speaker; he stated he would like to pass.

William Martinez, 268 Water Street, Red Cliff, CO

- Received certified letters inviting us to come here, we live up on Shrine Pass
- There is a meadow up above their houses; will the development over look their houses in Red Cliff, will Red Cliff be able to see the houses in the development from their homes.
- When they find out it is easier to go through Red Cliff will we be having all the traffic, including construction traffic through Red Cliff

Mark Sifers, 671 Main Street, Minturn, CO

- How much Ginn is going to pay as far as infrastructure? Who is paying for getting the infrastructure to the property through the Town?

B. Ferguson responded that those two issues are very important. A Wastewater Treatment Plant agreement has been negotiated between the Town and the developer and is not tied to any approvals or annexation, but relates to the development of a WWTP that will be this side of Dowd Junction. The Ginn Company under that agreement has obligated itself to pay for that and associated infrastructure to service its project coupled with the demands of the town. A part of that is the recognition of the maintenance service fees in line with historic practice. The Water Plant itself is a functioning facility and working just fine, not on front burner of infrastructure need. Discussions with the applicant have gone in that direction and one of things that you will find in this process is that if the applicant receives approval they will be obligated to pay for the cost of the infrastructure associated with its project and there will not be an obligation by the Town to take on those responsibilities. Also, the applicant has been most willing to step up to the plate and address the ancient infrastructure needs; wooden water pipe.

Mr. Sifers restated the use of Historical Values for the service for fees?

B. Ferguson responded consistent with Historic Practice because obviously there is a time when fees go up. Both the applicant and the Town are concerned that when you put in a new facility and there are associated increased cost over what might have existed that the applicant did not want to impose an unfair burden on existing town residents as a result of the new infrastructure.

Mr. Sifers asked if they foresee any increase in the resident's cost.

B. Ferguson responded that it would be consistent with the historic practice because there is a point in which service fees go up. There was significant negotiation to make sure that the town citizenry did not pay for the applicant's needs or for the public facilities that had to be built to service the applicant's needs.

Mr. Sifers inquired if they are using a special district.

B. Ferguson responded that the Town is using the Enterprise Entity which under the statutes can operate its Water and Wastewater facilities as an enterprise which gives it a certain manner legally, so that it can collect fees, retention of capital, maintenance and improvement down the road, and it is a Enterprise consistent with the way a lot of Enterprise has been done throughout the state. The applicant has not come to the Town and sought a special district to be formed to operate either Water or Wastewater. That has been left to the purview of the Town. The facilities would be owned by the Town, oversee by the Town, and there would not be another governmental or taxing entity involved.

Mr. Sifers inquired if the Enterprise that the Town is creating is that going to be used as a private entity?

A. Christensen added as clarification that the Enterprise was created under State Law in 1996. It was created for replacement of wooden water lines on Pine Street for the issuance of the Bond. It has been in existence since 1996 to allow the Town to authorize Bonds to pay for things. A. Christensen added that it is not uncommon and suggested checking with Avon, Red Cliff.

Mr. Sifers inquired about Electrical and Gas infrastructure?

B. Ferguson responded that the Town is not the provider of these services an obvious requirement will be that the applicant address those issue with the providers. Town won't get in the middle of that unless there had to be upgrades.

Mr. Sifers inquired about roads.

B. Ferguson responded that has not been specifically addressed at this time but as you'll notice a recommended condition from the Planning Director is that a traffic analysis be performed from which assessments can be made regarding 1) traffic and 2) impacts on the roads.

J. Brinkerhoff asked if Mr. Sifers was referring to roads on site or off site.

Mr. Sifers answered both.

B. Ferguson responded that on site will be private roads and the Town will have nothing to do with the maintenance of. Offsite road is Hwy 24.

Mr. Sifers inquired about future cost is all of that going to be held under the private company's umbrella for maintenance of any of the infrastructure.

B. Ferguson responded that a lot of that detail comes up in the Preliminary Plan. A lot of those cost and fees would be the responsibility of the applicant. At this juncture, until there is greater detail at the Preliminary Plan level of both the phasing and specific area requirements, nothing specific has or can be addressed.

Mr. Sifers inquired about the fire district asking if they will be utilizing additional fire departments or just use Minturn. How will that work?

B. Ferguson responded that generally the fire district and the applicant get to have a discussion about that. The Fire District gets to tell the decision makers whether they are happy or not. So the applicant has to work out with the Fire District what the appropriate facilities, equipment, personnel, and locations are.

Mr. Sifers stated that it would be fair to say that you haven't gotten into the research of a lot of these issues at this time.

B. Ferguson responded that we have some referral comments in which have been made available to the public, but if you also notice that the Planning Director imposed on the applicant is that arrangements be worked out with the Fire District, the School District, and if you look at the code, the requirements and obligations for submission of Preliminary Plan coupled with the criteria for approval of Preliminary Plan really get into those types of details and they have to be addressed at that time. Concept Plan doesn't provide enough specificity for those types of arrangements to be finalized in a manner that can be appropriately implemented to accomplish their goals. Notwithstanding the requirements of the code, the Planning Director has imposed that as a recommended condition of an approval so that the applicant has to go out and do that.

W. Woodruff asked if there was anyone else who would like to speak to the council at this time; there were no other speakers. At 9:20pm it was determined that public comment would be continued to the next Planning Commission meeting July 26<sup>th</sup>, 2006. He stated that at this time he would like to set up a Site Visit for the Planning Commission and as it would be a Public meeting the Public would be invited also.

Bill Dunn, 235 Pine Street, Minturn asked if it would be possible to have public access so we would not have to be in a company vehicle.

W. Woodruff responded that Ginn will provide transportation in a tour to anybody who is interested and show them around. This particular visit needs to be as a body, officially and the public is welcome to come along as it is public record.

Mr. Dunn stated that there are "no trespassing" signs posted recently and he is wondering if the public can go up in their own private vehicles to take a look at it on their own. He added that he knows that the Town's legal guys are telling him to respond that it is not safe, etc, etc.

W. Woodruff responded that it is private property not ours to give permission to access.

Dominic Mauriello added that in anticipation of a site visit the applicant has spoke with a local tour company that have four wheelers, Hummers, Jeeps etc as there are inherent dangers, very steep roads, and they can not allow people up there in their private vehicles. But what they can do is provide transportation for public tours. These can be arranged by contacting Cliff Thompson at Ginn Company.

Motion made by J. Brinkerhoff, second by K. Boulle that the meeting be continued to Friday, July 14<sup>th</sup>, 2006 at 8am at the Town Center for the Site Visit; W. Woodruff asked the Town Attorney if Lynn Teach sees it on her own will it prejudice what she sees? The Planning commission is seeing it as part of a meeting. A. Christensen responded that they will have to work with the applicant on this to make sure that she sees nothing more, nothing less. They will record any remarks that are made so she will be able to listen to them. All voted in favor.

W. Woodruff added that the cut off time for public to sign up for the site visit will be July 13<sup>th</sup>, at 4pm by calling T. Maxwell at the Town offices. W. Woodruff then stated that the remainder of this meeting he would like to hear questions from the commissioners starting with J. Brinkerhoff

J. Brinkerhoff

- What are the plans for the 1000 acres that are not a part of the annexation
- Why is there three or four different legal entities, what is the purpose
- Environmental Cleanup – would like to hear from the applicant’s environmental people on the Super Fund Site; what it means to the Town, what is the plan, what has been done, where is Viacom, what have they been doing, what is their plan, is the applicant working on a new Consent Decree for developing of the Bolts Lake – Rex Flat areas.
- The Town is looking at annexing in a Super Fund Site into our town. Legally do we have any liability in that
- Bolts Lake planning area, Cross Creek what is anticipated in the RS 1 area that runs through Cross Creek. It is a beautiful valley that has escaped a lot of environmental pressures, it is a little gem. What resort service is planned there and what measures are being taken to preserve it?
- Traffic between Gilman, Red Cliff, and Minturn; emergency vehicles head up that area regularly and there appears to be a lot of rock fall, littered with rocks regularly. Geo hazard report didn’t address that.
- Holy Cross Character Area what you will see from Minturn as far as the ridgeline; will you see houses? Specific comment from arch and planner on what we will see and also what lighting will be used
- Access to the east property, what are the solutions and treatments for that
- At Bolts Lake there is a small area of land adjacent to the Eagle River R1, where there are three or four areas of small land requested as multi family dwellings. Multi family says dense but 3-5 units does not sound very dense, please explain.
- Ability to access water and sewer, how do you connect from one place to another and what is the impact to the Town.
- Where is the WWTP going to be located?
- Traffic study; he would like the commission involved. Would like applicant to get traffic out of town, batch plant south of town, a gravel pit out of town to eliminate traffic through town, push anything to the south of town that we can such as a gas station.

- Presentation of analysis of impact. Have them come in and give presentation so we understand details, how did it come through for other towns in terms of their projections.
- Public trail going through the property; more you can create us versus them, allowing public through there with a trail that goes through to Red Cliff and onto Leadville. Create community between the development and the Town's residents.
- Process the applicant takes to approve houses, condo, and landscape features etc. Does every house come before the commission?

W. Smith has requested a document that outlines the architecture, a pallet that will dictate within a broad range of different areas in the development what the style will be, how it will look, size, bulk, a guideline of different styles of houses, building, condo, and shops. Any changes would come back and go through the commission. It will be a document in a booklet that will tell you what they will look like in the different areas of the developments.

B. Ferguson added that generally that will be articulated in a master declaration of covenants, conditions and restrictions that will be an overlaying governing document for the HOA for the entire project. The way those generally work is there is an extensive structure that is established for the review and approval of plans for homes within the community by the community itself. Only after that will it come to the town for a building permit. The Town will retain the governmental responsibility of issuing building permits, imposing code, etc but that document will probably be 70-80 pages of small print, reviewed and approved prior to the filing of the final plat.

J. Brinkerhoff would a proposed house go through the commission or go through the HOA?

B. Ferguson usually it will be a requirement that no application could be submitted to the Town prior to the approval of the HOA Design Review committee and as a part of any submission it would go through the normal procedure of any other house in town would go through.

Mr. Weber added that if someone bought a lot from the applicant, as part of their sales contract there will be the architectural guidelines attached to those documents. Those guidelines will have been reviewed with the Planning Director as far as materials to be used, color pallets, and that would be approved by HOA as part of their sales contract, but those guidelines will have already gone through the Planning Director. You won't see all of them until the permit stage as they will have to comply with HOA. And normally the HOA is stricter than the communities.

J. Brinkerhoff continued:

- Will building envelopes be issued on some of the bigger lots to protect certain environmental conditions.
- Shrine Pass and Tigawon Road; what are the plans for these roads. Will there be relocation, any changes in the nature of these roads, amenities, or parking associated with the changes.
- Drainage report; would like a presentation on the metals in the water, elevated levels of metal in water from sludge pond. How do we prevent it from getting worse while you are disturbing the area during construction? The river is a very important part of this town.

- Cribs - seems to be a disaster waiting to happen? Although not on Ginn property he would like to know if they are looking into that.

Mr. Weber added that the cribs are in Beldan. The cribbing is contaminated material that was put into big boxes which they called cribs and now the cribs are deteriorated. The EPA has X amount of money identified to repair them. Ginn would like to remove the cribs but EPA says to repair. He also added as clarification that there are two Super Fund Sites on the property; Gilman which is approximately 90 acres and Bolts Lake which is approximately 300 acres. The preponderance of the property which is on the east side of Hwy 24 is not a Super Fund Site.

J. Brinkerhoff continued:

asked if the hotel looking structure is on Rex's Flats; Mr. Weber responded yes. There is the old tailings pile and the consolidated tailings pile and the golf course is on that. The applicant has been up to Anacondium Montana, which is in the same EPA district as Minturn, and they have successfully going back to 1992 built a golf course on a tailings pile.

J. Brinkerhoff continued:

- Will the applicant be requesting a permit for night skiing; Mr. Weber responded no.
- Restaurants to create a connection between residents of Battle Mountain and Minturn. How to make Minturn better, more attractive should we go forward with this?

Mr. Weber responded that from the very first meeting that they attended in Minturn, Bobby Ginn and himself were present they have stated that we plan on being a good neighbor to Minturn and to Red Cliff. In the other communities that we are in actively we have a special type of classification in the adjoining towns where they can utilize the facilities with some restrictions. We want people from the communities; we want inclusion, not just for members and owners. Access will be restricted but not off limits.

J. Brinkerhoff continued:

- Beetle kill program, excited about the effort and what happens with it.

Mr. Weber responded that the applicant has been up there about a year and our environmental people are logging approximately 1000 acres; approximately 80 dead trees per acre. One logging company was not able to keep up with it so we introduced a second company .

J. Brinkerhoff continued:

- What is the long term goal; to preserve and protect what remains? They are talking about a 90-95% kill rate. What are your environmentalist saying by logging what results are you looking for.

Eric Pederson, consultant for Ginn Company, when they assessed the level of Pine Beetle infestation on the property we felt that we still had an opportunity to do mitigation by removing the live green trees that had the larvae in them. In an effort to reduce the bugs on the mountain we knew that if we didn't do anything and just let the bugs go that we would have 90% mortality of the lodge poles up there. Based on the desired outcome of the property's development we knew that wasn't an option. So we decide on the direct control method of removing trees that

have bugs in them, they are also removing the red dead or previously year's killed trees. There might be a little infestation in that red dead, priority is get the live green trees that have the bugs before the beetles fly in mid August.

J. Brinkerhoff inquired what the mortality rate is.

Mr. Pederson responded 30-40% mortality would be good. They want to keep it up until the epidemic level of bugs starts to get back to manageable levels which could be five years.

W. Woodruff inquired where the logs are going to.

Mr. Pederson responded to a mill in Walden where they are turned into landscaping timbers and then some other haulers are taking them to a mill in Hotchkiss where they are turned into mine timbers for some of the coal mines in the Paonia area.

W. Woodruff inquired that the bulk of the bugs are in the bark and you are skidding them to a bunk, you load them onto a truck, at some point these bugs are going to fly.....they are not wrapping the loads because he sees them go by, in the old days, we stacked them in the woods and wrapped them with Visquine to kill them with heat. What are we doing to keep you from hauling these bugs to somebody else?

Mr. Pederson responded that the milling process kills the bugs. The bunks are being sprayed with an insecticide; W. Woodruff interjected so you are doing some chemical; yes. And they are wrapping the bunks and slash piles with Visquine. They will start spraying next week and will probably start wrapping them next week knowing that they have about a month before the bugs fly.

J. Brinkerhoff continued:

- Referral comments; is there anything that the applicant thinks is unreasonable?

Dominic Mauriello responded that there are a number of comments that they have reviewed and the bulk of them they can manage and answer in the Preliminary Plan. 95% of the referral comments you have received from staff, Carter & Burgess etc have been so technical that we can't answer until Preliminary Plan. In response to a lot of your questions we could come back at another meeting and we could have our environmental people speak and our fiscal people etc.

J. Brinkerhoff inquired if there is an intent to preserve certain things that you have identified that we should know about; sort of wreckage and if there is anything that is of value that has been found?

W. Woodruff requested that due to the time that we be able to move to the next commission member who may have questions.

L. Teach inquired

- Increase snowshoe hare population but in another area you state that there might be some damage to the Canadian lynx? What can we do to protect or increase the Lynx?

- When Mt. Star was built there was concern about some of the wild flowers. Is there anything like that we will be dealing with on Battle Mountain.
- Employee housing. Minturn does not have the beds here, would like to hear more about that.

Ernie G. inquired

- Would like to hear from their experts on traffic which is one of his main concerns.

Mr. Weber interjected if you would like a quick executive summary we have staff here tonight or we could respond on the 26<sup>th</sup>; 26<sup>th</sup> was agreed upon.

K. Boule inquired

- The lighting from the development and the fact that if you drive up Tigawon it is the best place to watch a meteor shower, so many stars when you get out of city lights. Would like to see that addressed in the HOA that they can't have big flood lights and that restaurants have lower intensity lights on at night and have a certain time to turn off those lights.
- Noise and traffic goes along with that. Have certain time limits in regards to the semis and the helicopters that were mentioned that will be needed to bring in the poles for ski lifts and gondolas.
- Concerned with items she read that were contradictory about the Elk. As far as the golf course you are trying to make it more attractive for the elk to graze in winter by providing native grasses and plants but at the same time discouraging from using anything that would be attractive for the wildlife to eat. Her concern is that if you have something attractive for them to eat that they will wander down there during the summer months and she doesn't think that it is good to play golf with deer and elk.

W. Woodruff inquired

- Traffic and the path from Minturn to Red Cliff. There is a plan in the county, maybe staff can get it to you, to take the bike path up the old highway. It is an incredible resource, as there is already a road bed laid in. There are hundreds of cyclists that go up Battle Mountain, onto Tennessee pass and do the triangle. Biking is BIG. Once construction starts it is going to become less attractive to bike up there. He would like a response from the applicant as to when will we do that. The sooner the better so we don't have the cement truck and cyclist conflict.
- Property that used to be official road who owns that road bed, did it revert to your ownership, is there a piece through the middle of it.
- How applicant is going to handle the repairing of habitat along the river through Bolts Lake. There is a 30-75' don't touch it along river. So what is your plan to handle your end for the trout and the elk.
- Historical archeological report there was hardly anything on prehistoric. Battle Mountain is named for an Indian battle. Maybe there is no information but it would be unfortunate if we passed up the opportunity to survey a prehistoric Indian site that may be in there.
- Clean up. The mine clean up, as he sees it, has three corners; Bolts Lake, Gilman and the third part of this is Belden which is not on the applicant's property. It is an amazing site but it is scary. There is water pouring out of that mine, what can we do with the three corners, not just the two?

J. Brinkerhoff inquired about the zoning density. One of the reports stated 8500 sq ft of retail support, care taker units that may be detached. Is that in the density or separate?

Motion by Ernie Glesner, second by Lynn Teach to continue meeting to 5:30pm July 26, 2006 at the Town Center; all voted in favor.

**Old Business:** None

Informational: None

**Attachments:** Application for Battle Mountain Planned Unit Development Concept Plan.

### **ADJOURNMENT**

As there was no further business the meeting was adjourned at 10:30pm.