

MINUTES OF THE • MINTURN PLANNING AND ZONING COMMISSION

Wednesday, July 26, 2006

Minturn Town Center, 302 Pine Street • Minturn, CO 81645 • (970) 827-5645

REGULAR SESSION – 5:30pm

1. Call to Order

Chairman Woody Woodruff called the meeting to order at 5:39 p.m. Roll call showed the following members present: Co-Chair Kristie (Boule) Bloodworth, Lynn Teach, Ernie Glesner, and Jim Brinkerhoff.

Staff present included Town Planner Wiley Smith, Town Attorney Allen Christensen, Annexation Attorney Boots Ferguson, and Office Technician/Court Clerk Torrey Maxwell.

2. Discussion of the Agenda

- a. Items to be pulled from Action Calendar - None
- b. Items to be pulled from the Discussion Calendar - None
- c. Items to be pulled from the Consent Calendar - None
- d. Emergency Items to be added - None
- e. Order of the Agenda Items – As presented
- f. Approval of the agenda

Motion by L. Teach, second by J. Brinkerhoff to **approve** the agenda as presented; **Motion passed 5-0**

3. Approval of the Minutes - July 12, 2006 Minutes

- J. Brinkerhoff stated that his question regarding the 1,000 acres was meant to be; what are development plans, if any, for those 1,000 acres
- Via Com what are their continuing responsibilities
- Super Fund Site and the Town's legal liability; what happens if something bad comes down the river or there is a health concern in the future, and
- Rex Flats at beginning of second sentence Mr. Weber spoke. The applicant has inspected mining reclamation in Montana and will apply some of the methods into this project specifically where the proposed golf course is planned.

Motion J. Brinkerhoff, second by L. Teach, to **approve** the minutes as presented; **Motion passed 5-0**

4. New Business

Discussion of official court transcript of Planning Commission minutes and Town minutes of recorded public hearing.

W. Smith requested that this item be held off to the end of the meeting; yes.

5. Discussion/Action Items – Planned Unit Development Concept Plan

Applicant: **Minturn Lofts LLC**
Owners of Record: Steve Michonski
Address of Property: 421 – 431 Main Street
Zoning: Commercial – Old Town Character Area
Proposal: The applicant is requesting approval for a Conditional Use in this application: Residential use in a Commercial zone

Summary: Stewart Brummett, applicant, and Steve Michonski, owner(s) of record, are requesting a Conditional Use approval for 4 units with two bedrooms and two units with 1 bedroom residential. The development, at full build-out, will cover 73% of the site. Dimensional Standards for Minimum Lot Coverage in the Old Town Character Area Commercial zone is 80%.

Discussion: The applicant has submitted the required documentation for a Conditional Use Application as stated in the Town of Minturn Zoning regulations. The application is complete and is found to comply with the guidelines, codes and other regulations of the Town.

Recommendation: *Considering the findings and other information provided herein, the staff recommends approval of this application **favorably** subject to the following:*

1. The Planning and Zoning Commission grant a recommendation for approval to the Town Council for a Conditional Use permit with conditions.
2. The applicant making any modifications to the plan document as requested by the Planning Staff, Building Inspector, and Eagle River Fire Protection District prior to Certificate of Occupancy.
3. The applicant shall pay all required fees and charges related to development of the subject property
4. The applicant is required to attend, with the appropriate design professionals, a pre-construction meeting with the Town of Minturn Building inspector before any grading, digging or construction can proceed.

W. Smith introduced the applicant and their request for approval for a Conditional Use of residential use in a commercial zone. Applicant has already been in front of previous Planning and Zoning Commission and Design Review was approved; tonight the applicant is seeking approval for residential use in a commercial zone.

Stewart Brummett, Avon, CO, summarized the applicant's plans as follows:

- Four commercial units on the ground floor opening up onto Main Street; three will be businesses, mercantile, and the fourth would be a café. They do not have tenants lined up at this time.

- Each commercial space is required to have two parking spaces; eight have been provided plus an additional handicap space. Also there are two guest parking spaces (one is required) available with one being used as snow storage during the winter.
- Five residential units which are located on the second and third floors; four two-bedrooms and one three-bedroom unit with each unit having a single-car garage. Minturn code requires two parking spaces per residential unit;
 - three of the ten spaces are in tandem behind the owner's garage, five spaces are within the garage and the other two are assigned at the rear of the lot.
- Nineteen required parking spaces and applicant has provided twenty-one with five being on street parking.
- Additional elements: within the 35' maximum commercial height zone which is from grade to the mid point of any gable. 2'6" to 3'6" below the maximum height.
- Set back will be 12' 6" which is more than any comparable building in Minturn.
- From street front looks like three separate buildings

W. Woodruff inquired about the garages for unit's four and five asking if there is a standard, a formula or a radius to make sure a vehicle can make that turn.

W. Woodruff requested assurance that they have followed some sort of standard that says a vehicle can make that turn. Mr. Brummett referred to the extra (snow storage/extra guest) space that could be designated as a turn around for garage unit four. Architectural standards, (full size SUV or a automobile) which is what they go by, says this is adequate for one way traffic for a back out as long as we provide a portion of that snow storage as a turnaround.

W. Woodruff the space is only from the garage door to the front of the lot behind it so if there is a car or snow in there they aren't going to be able to come any further. So you are saying by standards that a vehicle will make that corner? Mr. Brummett responded that the porch area would be an extension of the parking area. As required the back of that car can over hang onto the porch and make that turn around.

W. Woodruff asked W. Smith if this is an issue; W. Smith responded no.

J. Brinkerhoff suggested switching unit three parking with unit four parking so that the residents would block themselves instead of another resident. Mr. Brummett corrected his presentation stating that unit three parking is actually unit five parking. Units one, two and three's second parking space is in tandem. The two assigned parking spaces on the lot are for units four and five.

E. Glesner inquired if the commission can ask questions besides the Conditional Use; such as the materials on the front; W. Smith directed the commission to review pages four and five of the staff report and guided them to ask themselves if the Conditional Use meets these findings.

W. Woodruff restated that the question in front of them is should residential be allowed in this building?

Public Hearing opened at 6:02pm and with no public comments the Public Hearing closed at 6:03pm. Commission had no additional concerns or comments.

Motion by J. Brinkerhoff, second by L. Teach, to **approve** the Conditional Use request for Minturn Lofts LLC with the following conditions:

1. The Planning and Zoning Commission grant a recommendation for approval to the Town Council for a Conditional Use permit with conditions.
2. The applicant making any modifications to the plan document as requested by the Planning Staff, Building Inspector, and Eagle River Fire Protection District prior to Certificate of Occupancy.
3. The applicant shall pay all required fees and charges related to development of the subject property
4. The applicant is required to attend, with the appropriate design professionals, a pre-construction meeting with the Town of Minturn Building inspector before any grading, digging or construction can proceed; **Motion passed 5-0**

6. Discussion/Action Items – Planned Unit Development Concept Plan - Continued from 7/12/06 Public Hearing.

Applicant: Ginn Battle North, LLC, Ginn Battle South, LLC, Ginn – LA Battle One, Ltd., LLLP
Owner(s) of Record: The Ginn Company
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 applicant 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. Woodruff noted that L. Teach had a comment prior to the presentation of this applicant.

L. Teach disclosed that she had visited the site on July 21, 2006 and that the applicant made a standard presentation and that she asked no questions at the time and will ask any questions that she formed tonight as part of this meeting. W. Woodruff noted for those not aware that L. Teach was not able to attend the July 14, 2006 Site Visit with the rest of the commission.

W. Smith introduced the applicant Ginn Battle North, LLC, Ginn Battle South, LLC, Ginn – LA Battle One, Ltd., LLLP who is seeking approval for a Planned Unit Development Concept Plan between Minturn and Red Cliff, commonly known as Battle Mountain, which is located in unincorporated Eagle County. 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. 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. This is a continuation of the 7-12-06 meeting which was continued to 7-14-06. W. Smith also read into the record a response letter has been received from the planning consultant MPG responding to the Staff comments.

Dominic Moreillo, 5601 #A Wildwood Ridge, Avon, CO a planning consultant for Ginn began a recap on the Site visit and was asked by the Town Attorney to stop due to a procedural issue. A brief discussion on procedure ensued regarding the Minturn Municipal Code; as there are members of the public who signed up to speak they need to speak prior to the applicant's response. There was general discussion on if the applicant will be answering the questions that were asked at the previous meeting; A. Ferguson responded that the applicant does not have to respond but if they do they will respond at the completion of public testimony. The public may raise additional questions tonight but once they have spoke, public testimony is over. Then it is up to the commissioners to ask the questions that they feel are appropriate to pursue.

David Norbett, 2020 Popular Street, Leadville, General Manager of the Silver King Inn, managed by Providence Hospitality Partners in Denver CO

- Very interested in the project
- They applaud the Town and Ginn Company for their forward thinking
- Bringing tourism, a green industry to this part of the country, is a great thing to do
- Leadville and Lake County hope to benefit from that as the area is developed.

Lynn Feiger declined to speak.

Matt Sherr, 511 Main Street, Minturn, CO

- Here to show support for the project
- Interested in the recreational aspect specifically the bike path in cooperation with ECO trails trying to connect up and down the valley and ask Ginn to support and accelerate this.

Teresa Olson, 731 Tennessee Pass, 975 Forest Service Road, Tennessee Pass, CO and also lives part time in Lakewood, CO

- Traffic on Highway 24
- Scenic byway and how that will be affected
- Many employees will come from Lake County. Lake County will not benefit from the tax base but the project will affect law enforcement, social services, etc.; how will Ginn address outlying communities.
- Water
- Alternative energy sources (solar, wind)
- If questions are not answered tonight when will they be answered?

W. Woodruff responded that this is a three-step process; Conceptual Plan, Preliminary Plan and then a Final Plan.

Jim Olson declined to speak.

Public comment was then closed as there were no additional speakers when W. Woodruff inquired of the audience.

Dominic Mauriello, Mauriello Planning Group, 5601 #A Wildridge Road, Avon, Colorado

- Concept Plan Criteria that the commission is required to evaluate at this point in the process and determine if the applicant should move forward.
- Tab 19 Page 42 – 45 show that all of the criteria have been addressed
- Question: why are there three owners of the property; three separate parcels as that is how the property was acquired and divided into plan areas.
- Question: what is the status of the additional 1,000 acres that is not included in the PUD or the annexation; that acreage was not included due to state law that has a three-mile limit in terms of annexation. That land is outside of the applicant's ability to annex in the first year but it will be annexed in the subsequent year. Much of that land is looked at as a buffer and much of it will be put into a land bank or conservation type easement.
- Question: what about the secondary access to the project property that goes up Willow Creek through Red Cliff; will that be used for access to the property during and after construction. The applicant's intent of that access that it is purely a secondary access that is really required by the Fire Protection District. It is an emergency access that will be gated and will not provide secondary access to public or residence of the property.
- Question: what about the ECO plan for the community trail; the applicant wants to participate and has been looking at it, connecting Minturn and Red Cliff. Some of the land Ginn owns and some they do not. They are moving forward with this and want to participate in the future trails.
- Question: approval of individual buildings and homes within the PUD; the applicant will bring forward a PUD Guide or a community plan that will be adopted along with the PUD. This will include guidelines and standards along with a process in which projects will be approved, as the HOA will have their own design review board. When permit is requested P&Z will not have to review every single one as P&Z will have already approved the basic guidelines. This will be very clear at Preliminary.

- Question: how is the applicant addressing housing for employees; a housing plan is being developed that will be provided with the Preliminary Plan application along with implementation phases. The housing for employees will be above and beyond the 1700.
- Question: what is applicant's position regarding Union Pacific (UP) and their plan to park railroad cars in Minturn; although the applicant is not a party to the existing discussions going on between Avon and Minturn with respect to UP storing cars, the applicant is open to discuss with UP about the rail line and the usability of that.
- Question: will Shrine Pass and Tigwon Roads stay open; yes, they will be maintained and they will stay open.
- Question: how does the applicant see the project's commercial property linking to Minturn; the applicant will have about 90,000 sq ft of support commercial that includes restaurants, resort retail, meeting rooms, primarily used by the residents and their guest. The types of uses that the applicant is talking about won't necessarily be competing with Minturn as they won't be able to just drive up, pop out, and buy something. They hope to compliment Minturn businesses. The commercial sites will be up on the mountain, at Gilman, and located at Bolts Lake, broken up between the three pods.
- Question: will there be building envelopes; it is not required by current Minturn Municipal Code but the applicant plans on having building envelopes for sensitive areas.
- Question: what type of lighting will be used for the project; the applicant noted that lighting is part of the final design (on final DRV checklist) but stated that the applicant's plan includes sensitive lighting, low wattage in residential, down lighting and some time restrictions as to when lights can be on.
- Question: will the project be visible from Minturn and Red Cliff; a consolidated view shed analysis using six locations in town (one just outside of town) to show what might be seen. This analysis is from ground level elevation, it does not include vegetation. Another analysis was completed on the view shed from highest location in Willow Creek pod and went up as high as an additional 180' and Red Cliff was not affected.
- Question: Cultural resources or Archaeological Issues were voiced as concerns; Mr. Mauriello introduced Mike Metcalf, Metcalf Archaeological Consultants to respond.

Mike Metcalf 1301 Brush Creek, Eagle, CO, Metcalf Archaeological Consultants, it is an unusual project as there are no defined legal mandates for a survey to be done. Ginn wanted to identify any potential issues now rather than later. It was decided that they would do the study as if it were under US Forest Service jurisdiction because they have a clear set of guidelines, a checklist of what would be recorded, with a timeline. With the study area being so steep and rugged the normal procedure is an intensive walkover with qualified people spaced about 60 feet apart on all of the land that is less than 30 degrees in slope. Anything greater than 30 degrees slope would be flown on a reconnaissance basis. What would be looked for on the steeper slopes are features such as those that are related to European American history, and mining sites in particular. They looked at a little over 2000 of the 5000-acre area that was designated for their study. He doesn't know how that corresponds with what was put into the application but he knows that it covers all of it or maybe more than all of it.

What was found: fourteen archaeological or historic sites (two are prehistoric), thirty-three isolated finds (single or several artifacts found together) and that includes prospecting evidence which there are a lot of on the site. There are two prehistoric sites and possibly camp sites in the

bottomlands along Eagle River. They did not find any prehistoric sites up high or even along Turkey Creek. That fits the pattern of the high country finding very dispersed use of the area by the prehistoric people. If Ginn was the first to be looking for the prehistoric occupation along the river prior to mining and all of the activity that has taken place since, there probably would have been more in the way of prehistoric sites. But most of the good area that would have been occupied for seasonal camping has pretty much been leveled with the mining, highway and other activity. Of the sites that they did identify and feel are important are Gilman and Eagle Mine, elevated survey pipeline (there are not many like it that are still standing in Colorado and it is interesting engineering.

Mr. Metcalf continued his summary referencing the Power Point Presentation on the screen

Prehistoric Site 1 located along the river. This particular site is located in an area where there are no plans right now within the development. It is also the better preserved of the two sites.

Prehistoric Site 2 also located along the river but it is in an area that has been bladed, graded and degraded. Tiny sliver of land that has not been disturbed by the previous mining related activity and there are just a few chips of stone. Not really any potential for anything to be there as it is pretty disturbed.

Five abandoned cabin sites, which are in pretty bad states of repair. For the most part they are related to mining history. They don't feel they are historically significant, there are a lot of these in the mountains, but they do encourage using them and preserving them within the design. There are other options as well, doing more detailed documentation of them if they don't fall into an area where they can be preserved.

Charcoal Kiln on Turkey Creek is among just a handful that are this well preserved in Colorado. They feel these are important and should be further documented and preserved if possible.

Elevated Water Line, engineering feat that is unusual. We recommended that parts of this be preserved if possible but that was before we knew that it was a part of the designated clean up for the Super Fund because it was used to carry a slurry that has left residual toxins which will probably conflict with the idea of NC2 preservation. We will need to be working on a plan; can any part of it be preserved and if not what sort of photographic or engineering drawing documentation would they recommend for preserving a record of it.

Eagle Mine and Minturn (Minturn s/b *Gilman*) Both of these are important and they too suffer in terms of preservation from being a part of the Super Fund clean up. They recommend that an archaeology quality photography program and mapping be done which would include two different kinds of photography; Digital and medium format that is an archival quality that would be used to document the town to provide good record of what was there.

Ken Wayshee, 3435 Meadow Glen Lane, Sedalia, CO he is a principal with Environmental Resource Management (ERM). ERM was retained to conduct the environmental studies on the site and they have been doing that for the past 18 months. ERM work is being performed in accordance to a work plan submitted to and approved by the Region ADPA and the Colorado Department of Health (CDH). ERM meet monthly with ADPA and CDH and talk with them weekly, to go over progress reports. The work is currently ongoing; field sampling is complete but lab analysis is ongoing. Interim reports representing work done in 2005 were prepared as part of the Ginn application.

Mr. Wayshee continued his summary referencing the Power Point Presentation on the screen

North Property or Bolts Lake Area is a former tailings disposal site primarily in the Rex Flats area. The Rex Flat area and the old tailings piles subsequently re-mediated by VIACOM under consent decree or order by the EPA and placed in the consolidated tailings pile (CTP).

Question from last meeting: what was the relationship between this area, Gilman area and the Belden area; from an operational perspective this site was historically the waste area. The waste was transported to this area down the water transport pipeline. The mine operations were primarily conducted at the town of Belden and Gilman was the operational headquarters and residential area with access to the mines by the Volk's Bar Shaft as well.

ERM has focused their studies on this area, as this is the area subject to the EPA clean up orders of 1986. Gilman still has significant residual contamination in that area and it is restricted access by the EPA order that is due to residual levels of elevated metals in the soils at that area. That same limitation exists currently on the North property boundary; that is that site access is required to be limited due to the concerns with residual mining related metals. ERM's task in the redevelopment plan is to assess that residual contamination and develop a remediation plan so that the use can change from one of restricted access into approved residential use. With regards to the area of Belden, the mine operation areas, that will remain the responsibility of VIACOM has agreements as well with the CDH and the EPA to continue their remedial efforts in monitoring at the development area and we have no plans on getting involved in that area.

Remedial features: trenches to divert surface water that would flow from the west to the east onto the old tailings pile. The concern is the water ponding leaches metals and that can impact the water quality of the Eagle River. As part of ERM studies they have collected approximately 600 soil samples, installed numerous ground water monitoring wells, and performed surface water testing and air quality testing. The preliminary findings have been provided in the interim reports, which you have, that is for 2005. 2006 results are being compiled now. There won't be much difference between the 2005 and the 2006 reports. We know that because VIACOM has been out there studying this for ten years and ERM has ten years of VIACOM records and the findings are similar and consistent.

Surface Water Monitoring Stations and Sampling Stations: CBS VIACOM had initiated four with EPA and ERM has upgraded that to seven as suggested by the regulatory agencies to give more detailed monitoring in the area of the historic tailings pond. Station 13C and 13B were added as well as Stations 11A, 11B, and 11C. At the same time as monitoring surface water ERM also takes flow measurements during the summer months whenever flow is less than 200 cfs so they can look at the relationship between stream water concentration, ground water contribution and river flow. The blue wells (referencing a slide on the screen) are new wells that were added by ERM and the other dots are wells, ground water monitoring wells, installed by CBS VIACOM. There are a lot of sampling stations and a lot of sampling data out there that ERM is taking a look at and reviewing. Ground water samples were taken on a monthly basis for last two summers and measured for what we call in the primary metal parameters that are indicative of some of the mining concerns; arsenic, cadmium, chromium, lead, copper and zinc. What they found from those wells is that river flows down hill and ground water flows down hill into the river frankly. It is not too much of a surprising concern but it is what you would expect as it is coming off of the ridges and flowing towards the Eagle River. Same way at the OTP, you have an orderly component and then join the river that way so it is just what you would expect. The only area not portrayed is Rex Flats and with the river coming in at the southern end ground

water flows to the north in that direction as well. That is from September 2005 monitoring but the data from March through September it closely mirrors that flow direction.

Wetland Delineation of North Property: ERM with Eric Petterson and Lisa Sagota performed a wetlands delineation of the north property. Preliminary wetlands delineation was submitted to the U.S. Army Corp of Engineers (USACE) and the US EPA. The delineation initially was performed in July/August of last year (2005) and a site tour was done with them in May. As a result some additional areas were flowing that were not following in August so the report has been updated and the USACE has replied that they basically don't have any disputes with the delineation. Initially USACE had suggested that ERM add some areas (which has been done). There was some water flow in (this area) which we call the Highlands Area and it was also added to the delineation. Approximately fifty acres of wetlands were identified and many of these will be a part of the remediation. The wetlands, the old tailings pile and Rex Flats areas are of what we would low functional value; they are impacted significantly with mining related metals. The wetlands at the CONSOLIDATED TAILINGS PILE on the side, very small, about a quarter of an acre but the remedial activities for these areas will include the placement of buildings and soil cover, same with Bolts Lake which will be excavated prior to being filled. The remediation will impact (*not audible due to distortion from microphone*). Maloit Park is largely avoided with the exception of (this area here) indicated we did have elevated metals in soils testing and that will be an area where there will be some golf features in the redevelopment.

Riparian area: Mr. Mauriello added that in addition to these topics there was a question on the Riparian area. Ginn is studying that, Minturn has a set back requirement of 35' of most rivers within the Town and Ginn is maintaining that or better, depending on the localized conditions. It is more of a condition where you look out at the land and contour it according to what you see out there. Obviously there are some areas that require remediation that are within that Riparian area so that will be included as part of the remediation efforts and also be included in their preliminary plan application which will show more detail in terms of where development sites are located.

Eric Petterson, 222 Bobcat Lane, Redstone, Colorado, Principal of Rocky Mountain Ecology Services (RMES) summarized some of the questions from the previous meeting.

- Question: is there an overview or a brief of the wildlife report, specifically the wildlife report addressing some of the state listed *Threatened, Endangered, and Species of Concern* as well as federally listed species listed on the *Endangered Species Act* and Elk as a major species of concern specifically with the Division of Wildlife (DOW) as well as the black bear that poses issues with residential development.

Overview of Wildlife Report

Species addressed in report:

Elk

Black bear

Bald Eagle (Federally threatened)

Boreal Toad (State endangered)

Canada lynx (Federally threatened & State endangered)

Colorado river cutthroat trout (State species of concern)

Peregrine falcon (State species of concern)

River otter (State threatened)

Uncompahgre fritillary butterfly (Federally endangered)

Project Impact on Elk is the questions that he heard most often; the Elk herds in the area during the summer months generally stay 9,000 feet and above, for the most part. They generally show up on the property and start coming out of the mountains in October and November, mostly pushed down by snow but also from significant hunting pressure on public and Forest Service lands. From Bolts Lake area down valley is actually winter range for probably three or four different Elk herds in the area including Tigwon area, Notch Mountain, as well as herds coming down from Vail Mountain ski area and Shrine Pass and they all converge down in the Eagle River Valley. A lot of the animals start moving through the property (along this area) as well as coming down from Tigwon (down into here) mostly in November. Because of the way the snow comes in the fall with snow fall events and subsequent melting a lot of times the Elk will move back into mountains with melt events. It is important to realize that when the Elk come down into the lower valley, they don't necessarily stay in one area, they mingle, they move around quite a bit in the area depending on snow events and melt events during the winter. Elk generally will follow the native vegetation profiles on the property, which is through (here) as well as down through the Maloit Park area. And there is another fairly significant area where the Elk move across over by the Forest Service compound south of town. They are following the native vegetation profiles. There is some Elk movement across Rex Flats, OTP, CTP area, however given the number of Elk in the area which could range from 200 Elk in the whole lower Eagle River valley south of and around Minturn. It comes down to a few individual Elk that will actually cross the large, open expanses of the Super Fund site. The Elk will generally stay on the south facing slopes taking advantage of shallower snow depths and native vegetation where they can browse. There is also significant Elk winter range in here on Rock Creek and just north of Town of Minturn and then going up Shrine Pass on these south facing slopes. The majority of the development on the mountain does avoid Elk winter range, which is mapped by the DOW as Winter Range, Severe Winter Range and Winter Concentration Areas. The project does impact a margin of forested winter range on (this edge here) and there will be impact to the Elk winter range down in the Bolts Lake area. He feels that most of that impact is going to be, not necessarily from conversion of habitat to non-Habitat but more of the elevated human use in the area as a winter resort. The conversion of the consolidated tailings piles here to a golf course, they are working with the golf course architects to increase topographical relief in this area so that they have more south facing slopes that would create more, better possibility for Elk foraging in this area in the winter than the current existing conditions of the capped tailings pile.

Wildlife Overpass Ginn Company, RMES, and DOW are still reviewing the idea of a wildlife overpass across the highway. However the data that they are seeing, the slow speed of the vehicles coming off of the "S" curves, they are not seeing a lot of Elk mortality in this area. RMES is not going to recommend to the Ginn Company to put in a wildlife overpass just for political reasons. He feels that if it justified by Elk mortality from vehicle collision then we should do it. But in order to have a wildlife overpass function in this area you will need to fence off quite a bit of the road on either side to guide the Elk to an overpass. Both he and the DOW feel that there would be a detrimental impact to other wildlife species by that fence because it would be affectively fencing off a significant portion of the Eagle River. If it is justified they will do it, if it is not, then they will look at other mitigation options.

Peregrine Falcon have been nesting on the site for the last five years. Peregrine do not use the same nest site year after year, they generally move it around. (This) is a quarter mile buffer

around this potential nesting area; the DOW has now requested half-mile buffer. This year they have seen the Peregrine in the area however we failed to detect any nesting activity; not sure if they have abandoned the nest site, if they attempted a nest and were unsuccessful and moved on, or if they selected another nest site in the area, possibly Two Elk or above the town of Minturn. The continued remediation and clean up of the Super Fund site and the subsequent redevelopment of that property would increase the level of human activity and noise in the area which may further exclude Peregrine use of that cliff site. It is really going to depend on the Peregrine pair that is using that area, as you know Peregrines have been known to use areas such as downtown Denver, Chicago, and Calgary, Canada as nesting sites. The Ginn Company has agreed to abandon skiing and residential development within this pod as long as the Peregrine are (not) nesting in that area. And the DOW have indicated that if the Peregrine don't nest in this area for approximately five years they would likely consider that nest site abandoned and then at that time they would look at a possible skiing development in this area. The Peregrine Falcon has been de-listed off of the Endangered Species list by US Fish and Wildlife Service (FWS) It is considered a Species of Concern by the DOW and they track its nesting within the State of Colorado. DOW did have technicians out this summer and they were monitoring that nest site. He has not spoke with them at this time to find out what their results were on that site.

Canada Lynx is currently listed with FWS Threatened Species and therefore impacts to Canada Lynx habitat may be considered a "take of the species" and therefore requires an analysis and permitting by FWS because of the potential impacts to the Lynx habitat. FWS indicated that Ginn will be going through an Environmental Impact Statement and Habitat Conservation Plan under Section 10 of Endangered Species Act. In 2005 RMES did a extensive mapping of potential Lynx habitat on the property and FWS delineates different habitat qualities: **1) Denning Habitat**, which is characterized as dense, spruce or fir stands with high mounds of course woody debris that Lynx could create dens underneath the piles of logs. **2) Winter Forage Habitat** similar to Denning definition but it doesn't have a lot of logs. This provides good prey base habitat for snowshoe hair. **3) Other Habitat type** is generally forested habitat that has carnivorous cover but doesn't provide good winter foraging for Denning habitat. Because of historic mining activities in the area a lot of the forested types were logged for mine timbers, construction materials, therefore a significant part of the property is dominated by "other" habitat; lodge pole pine. This property does contact Denning habitat that is more on the upper elevations contiguous with Forest Service land and Winter Forage Habitat. The potential impact on those habitat types is mostly from ski area development not necessarily residential development. Over the last two years they have been conducting snow surveys for Lynx tracks; they have not detected any on the property. However DOW data from collared Lynx that were released indicated that one was hit (this area of the property) and there is some historic evidence during Vail Cat Three expansion they detected some lynx tracks (in this area-blue area) approximately ten-twelve years ago, prior to release of the Lynx. Those native Lynx were considered a population level so low that they were no longer viable within the State.

Re-vegetation of the property in areas disturbed by either clearing of runs, associated skiing activities and infrastructure the Ginn Company has committed to using local native plant species to try to mimic the existing conditions on the property. This is in prior condition that other wildlife species besides big game, which usually gets most of the attention, including migratory birds, humming birds, finches, micro teen rodents, and other species that are also of value, using these local native species mimicking local native habitat types will help keep these habitat types as viable as possible for these other non-game wildlife species. They are currently using various

revegetation plant species on the site now following the mountain pine beetle removal and they will be seeding in a lot of the native species this fall when it is suitable to do that.

TAPE CHANGE - MISSED A FEW WORDS OF MR. MAURIELLO'S LEAD IN

Mr. Mauriello added that the sewer, drainage facilities whatever is required is all being maintained and constructed by the applicant. Where there is a service provider like Holy Cross or someone like that, once constructed, many of those facilities are maintained by those service providers. What is unique about this project is that all of it is maintained in perpetuity by the Ginn Homeowners Association (HOA) that will be formed upon approval of the project. There is really no long-term burden being put on the town of Minturn or the public to come in and maintain those facilities.

- Question: in terms of the HOA how do we know that that gets funded; The HOA dues generate revenue that will be able to cover the cost of not only maintaining all of that infrastructure but any other infrastructure that is proposed on the property; common facilities, ski operations, golf course maintenance, etc. There is a significant dues structure within the project that guarantees basically that the HOA always maintain that and that there are funds available to do that. You will be seeing those documents in terms of the PUD guide and also the HOA documents are required when they come to Final Plat. It will all be detailed in that process which is required.
- Question: there were a lot of questions about the **Wastewater Agreement** it doesn't really have much to do with the Concept Plan. In being responsive to that question there was a Wastewater Agreement that has been signed by the applicant and the Town; that has been adopted by the Town. Ginn pays for all of the design and construction of a wastewater plant and that happens whether this property is annexed or if this PUD is ever approved; that requirement is there. Ginn is paying for the acquisition of the property, the property to put the plant on is something the Town has to find location but once they find a location Ginn will pay for that property.
- Question: will service fees be increased at that time; the existing service fees will not be increased due to the construction of that plant for a period of time. In the future if there are expansion or other things not related to Ginn's operation then service fees can be increased, and those, that excludes, over this period of five years, excludes inflation. If there are inflationary reasons why fees have to be raised then obviously that would occur whether there was expansion of the plant or not. They just wanted to make it clear that that agreement is in place and that Ginn is responsible for building that facility.

Mr. Mauriello then introduced Dr. Scot Leftwich of Leftwich Consulting Engineers and Maureen Pas de Araujo of HDR Engineering.

Scot Leftwich, 2151 Science Drive, Orlando, Florida began by giving some requirements for the Traffic Studies. It is required for the PUD Preliminary Plan Application; it is not a Required Element of PUD Concept Plan Application. What they have done so far is that they have developed methodology for the study, which has been agreed to by CDOT. They also have a meeting scheduled for tomorrow (July 27th, 2006) with CDOT. Two weeks ago CDOT sent some comments on the methodology. They are corresponding with CDOT and will have the comments back to them at that meeting. At that particular time they will report to CDOT with not only an agreement on the methodology but also a report.

Traffic Study Report

Report Contents

Introduction

Project Description

Existing facilities and traffic conditions (what is going on out there in the summer)

Trip Generation (how many trips you generate per day)

Trip Distribution (not only for people on the site, but also employees who are coming to the site and also the people who are already on the road)

Modal Split (auto, shuttle or if you are on site a gondola, ski lift)

Traffic Assignment (how you get from your origin to your destination)

 Background Traffic and Futures Conditions (years 2010,
 2015, 2020, 2023)

 Future Contributing Traffic

One of the last things that they will do is mitigation of traffic. There are some additional issues that need to be addressed; look at construction impacts during the phasing of the project, where the batch plant will be, what effect the railroad will have on it and also the time of day. The time of day is important for the type of traffic either the peak in the morning or the peak in the afternoon. They will then look at what will happen for Hwy 24 and how they can mitigate that. Also again, he was at the meeting two weeks ago and took extensive notes; he is here tonight taking extensive notes again to make sure they addressed everything that is required in our traffic studies, also in our involvement with Minturn. They met with Wiley Smith, Town Planner last year and Carter & Burgess in 2006. HDR is a major member of the team for traffic so we have a lot of players that we will be coordinating and working with.

Mr. Mauriello introduced Ford Frick from BBC Research & Consulting to discuss the Fiscal Impact Analysis and the population analysis.

Ford Frick, 200 S Cherry Street, Denver, CO Managing Director of the firm BBC Research & Consulting, he directs Resort Development, Economic Practice and he co-manages their public sector financial analysis practice. BBC has been in business doing studies like this for thirty-six years and Mr. Frick has worked in most of our neighboring communities, certainly in all of the resorts in the west. He stated he is here to provide an overview of the report council has and some conclusions on how this project will influence the financial health of Minturn with some observations about some of the sensitivities we did on testing this project under various conditions in our projections. Fiscal Analysis simply has three components. Our goal here is to project the cost of servicing a project like this from the towns prospective and the revenues that will be generated to see if this will be a positive or negative impact on the community. The first is to develop an Economic Model that basically replicates the process of building and developing this project; infrastructure comes in, lots are sold, units get built and those units get occupied. Then over that, projection of development itself, they interject the projection of the number of units that will come on, what sort of populations will come with that, what kind of visitor populations, what sort of commercial development, how is all of that timed and so what is the pace and the amount of those human activities. Then finally with that model apply the Town's tax rate and service cost structure to project revenues and public sector cost. As you read through this you can see that our overall conclusion is that this project will be very beneficial for

Minturn from a financial prospective, startlingly so. This project was easy to get up, it produces revenues far in excess of cost under any conceivable scenario. There are some very basic reasons for that, Minturn has:

1. A very high tax structure; unusually high property mil levy at 17.9, 18 mils and is one of the dozen highest municipal mil levies in Colorado, certainly on the Western Slope
2. A high sales tax 4% so any commercial activity; any sales taxable activity brings an unusual amount of revenues.
3. A Lodging Tax
4. A Real Estate Transfer Tax (RETT). There are twelve or thirteen communities that have RETT in Colorado. They are disallowed under Tabor now, so no one else can have them. They are remarkably beneficial to those communities that have them.

Minturn has a high tax structure and now you are applying that to a very high property valued project. Battle Mountain property comes in here with very high property values, it will induce numerous real estate transfers, and it will have a retail sales tax base that we have not had here to enjoy in Minturn. So there will be a reasonable amount of sales tax. On the other side of the equation, as Dominic alluded to, the town will not be responsible for most of the traditional cost of local government. This will have supplemental services, a HOA who will do street maintenance, public works, landscaping, and additional security that will be in support your police operations. Police are one thing that cannot be delegated away from the police powers of the municipalities. The town will have responsibility of police services in the area. But much like Eagle County works with Beaver Creek, there will be supplemental security at this area and integration with our services shouldn't be burdensome. You have heard about the IM review and a lot of those sort of planning and building department cost which will either be covered here or covered by a series of fees that you will charge at the time through the building department. Very low service cost, very high revenues, this is a very easy equation. When building this model we have to make a series of assumptions and I just remind you about what some of these are and there is a full accounting for all of these in the report and some documentation.

Some of the more important ones (*slide 58*): 470 Single Family Homes, 1000 condominiums, 230 One-Bedroom Suites which will be brought on over the course of fifteen year build out period. The lots sales on the Single Family Homes are averaged at 1.7 million dollars with a completed home coming in at about 4 million dollars. So just to illustrate what something like that does simply with your RETT; there is a sale of a lot of \$1.7 million that means upon the sale of the lot you (the Town) get \$17,000. No one lives there, you have no service obligations and now you have \$17,000. Currently your general fund is about \$1 million a year, which equates to approximately \$2,000 per household, what it cost you to provide services to this community right now. This project has started out, it has written you a check for \$17,000 and it requires no services from you. Someone builds a home there, a developer; private developer builds a home and perhaps resale that product when it is done. It is a \$4 million home they write a second check, eighteen months to two years later, when the home is done and sold to another person. So at \$4 million, 1% is a \$40,000 check. So the town is in excess of \$50,000 and we still don't have anyone living there yet. It is very unusual to have a situation like this; the RETT really changes the fiscal equation in Colorado communities. On top of that you have the 18 mil levy which is inducing revenues all of the time and as the units get occupied they will produce sales and lodging tax.

Just sort of illustrating how this process works and why this thing produces this unusual level of activity you can read through some of these assumptions. We have assumptions about Occupancies Levels, which are very much in keeping with the practices that Ginn sees and the practices in this valley. We have values for all of the different units and then some expectations of retail sales per square foot which are actually quite low just to be conservative in comparison to what common performance is in this valley.

The project will be developed over time in the first year infrastructure development activity and lot sale activity would start the second year after annexation and occupancy would probably not occur until three or four years when the units are actually finished and constructed. To illustrate how this works, with the development occurring over time, the project going on, occupancy, taxes and service cost being applied. Here are two illustrations (*slide 60*) of your current town budget which is including all funds, \$1.3 million, you can see where you derive that sales tax, property tax, RETT are low but you do have a series of fees and now compare that to the annual revenues with complete build out of Ginn property; property tax 4.8 million, sales tax a smaller amount but in the green there RETT. What is nice about RETT is you not only get it at the time of the lot sale and then if a new home is built on it the time of that. But usually in resort communities homes will sale every seven years or so, so basically it repeats itself every seven years and you become the beneficiary of any appreciation that goes on, so it becomes an annuity if you will, it becomes a constant income stream over time. And what they have found is even when real estate markets cycle, that that level of transaction continues to go on in a very steady state.

On the Expense (*slide 61*) side we looked at the services you currently provide and he thinks they made some very liberal estimates at what services this town would still have to provide in that area. Even though there will be all of these supplements, we have still burdened you, at least in this model, with the provision of certain services; police, general administration. There is no question you will have obligations, this is a large project and it will cause you to spend money and provide services. But we have a budget that we are saying represents your town's cost at \$2.6 million just for this project that is roughly twice the level of the town's budget today even though we keep acknowledging that there is a supplemental service up there. So he thinks they have been liberal on expenses and conservation on revenues and still have this kind of extraordinary production of revenue over cost. With cost rising as this thing begins to reach build out at slightly over \$2 million revenues up to \$10 million, you are talking about an annual net revenue to the community of \$8 million a year. (*slide 62*) This is a community with a budget of a little over a million dollars your greatest challenge here will be either a) reduce or eliminate some of our taxes or b) what you could possibly do with those kinds of revenues.

A reasonable question to ask since this is a modeling exercise is what should we be worried about, what could go wrong with this project where these benefits may not be realized? In this report they do a number of sensitivities (*slide 63*) and there are a number of things that in a typical project that he look out for. Often in a mixed use project where a town is a risk is when a developer is saying "don't worry, we are going to lead with our retail producing commercial component which will produce sales tax and then residential will come on later and that is where most of your service delivery cost appear. So often, he is looking for commercial and residential and the timing of those things. We don't really have that issue here, it has a modest retail

component and it doesn't come on line until the residential is already there. So no one is trying to lead with the commercial, it would make no sense to lead with the commercial. They will need some commercial up there early to service the guest, but they have very low expectations of the sales performance of that commercial. So if the commercial doesn't perform in the way they expect or the commercial comes on late, this revenue is affected in a very minor manner.

The assessment process itself and how the county assessor looks at this property and develops its assessed value upon which he will develop property tax revenues. That is an area in the first few years that is very complex depends literally on what month it comes in as an annexation and your property tax levy starts to apply. It depends on how the assessor chooses to value this unique beast of a private ski area and that is open to some question. There is something called a subdivider's discount that the assessor applies here. It is also affected by the phasing the developer chooses to go with. In trying to do this sort of analysis at a conceptual stage we are burdened in that they do not have the full detailed development plan so he can't do some of those earlier property tax projections with a great deal of precision. He has been reasonable and conservative with this and they have assumed that a lot of the property will remain in agricultural designation in the early years and therefore will not be, that portion will only produce very light property taxes. Some of that remains to be seen so there could be some wiggle in the early years of property taxes but really in the early years what saves you is RETT. So you are not really at risk or concerned about property tax.

Property values could be lower, so maybe the lots don't sell for \$1.7 million, they only sale for \$1.2 million. Radically lower, never the less, we are talking about a modest proportional loss in value but still with those three very high tax variables there and so much excess revenue out of this project, we just can't come up with a scenario with this town is somehow at risk of being burdened by this project. And in all reasonable scenarios, this is an extraordinary revenue producer. I rarely get to stand up in a situation like this and say this one is very easy, and all the reports are good from the community's prospective. You will have the revenues you need to provide services and you will have revenues in excess of that where you can reduce property tax, reduce any other taxes or fund other issues.

In the course of this there has been discussion about what happens to the town, the existing town of Minturn, as this project comes on. Should we expect hyperinflation? Should we expect a loss of value? What will be the impact on the existing community from a financial prospective? *(slide 64)* And there are subtleties to that and I don't know if any one can look to you and say with certainty here will be the affects. This community is well already positioned between two of the largest ski resorts in the west. You are already in that sort of satellite of resort influences. Adding this marginal additional project, because it is not readily publicly accessible will have a much lesser impact then the resorts that have already occurred. Living in close proximity to Beaver Creek or Vail is very valuable because you can use it as a recreation source. Living in close proximity to this project will not be particularly valuable because you don't have access to it unless you are staying there as an owner or guest. So he doesn't expect that usual ski area impact that we can witness in many places around the west to occur in this situation. Over time he would expect increased residential values in particularly commercial because the employment opportunities and the demand for services here will create most likely demand for your commercial for people saying it would make sense to me to locate my business in Minturn so I

can serve not only up valley, down valley but now the Ginn property. Would expect some commercial pressure as this project evolves and some rise in commercial property values and some modest rise in residential property values as well. But again, rising property values are not usually considered a problem by most people, but if there are those that see that as a detriment, with the revenues generated here you will have all of the leeway in the world, the town's decision on how to adjust the tax rates, tax burden, fees, and charges, or any other instruments you have and how you want to adjust that as these new revenues come in. The town has all of the flexibility it needs if it wants to respond to those kinds of concerns. He doesn't think that the existing residents should be in anyway burdened by this project, in fact they should be significantly benefited just because they are the town.

Mr. Mauriello began by mentioning he wanted to follow up on something that Mr. Frick did talk about, we have obviously wrote out the commitment there in the packets there will be some kind of special access for residents of Minturn to obviously be able to access some of the amenities on the site. Mr. Weber referred to it as some type of special type of situation where you may not get a tee time at 7am on a Saturday but it may be at 2pm on a Thursday, that kind of thing. Much the same thing that they do at Gypsum with a lot of the projects they do up there. Following up on Mr. Frick's presentation he wants to clearly delineate a lot of the benefits the town will receive. Obviously the revenues sources will really be immediate, the minutes this property it is taxed and that taxable property value comes to the town. With these additional revenues the town can decide what it wants to do with its money. The Battle Mountain project pays for itself, there is no subsidy being asked for by the town, we aren't asking you to stick your arms or necks out to build this project. It maintains its own infrastructure forever so it is not a long-term burden to the town; it is actually beneficial to the town. Ginn is constructing the Wastewater Treatment Plant that is a commitment, which is already been made, even before the project has even been approved. In his experience this is very unique in terms of a developer coming into a community. You also have the added benefit of the remediation of two Super Fund sites that sit just adjacent to the town of Minturn. Approved long term water and air quality conditions, improves the long term health of Eagle River and it will improve conditions to adjacent properties due to those remediation activities.

From their plans you can see that they have done careful site and open space planning in order to reduce impacts to our neighbors and to the communities of Red Cliff and Minturn, trying to keep things as innocuous as possible on the property. They provide, we believe that the PUD has been developed in substantial harmony with the neighboring properties. It does not detrimentally affect in that the mass and scale of the buildings and the density that they are proposing is really consistent with the scale of the property and the location of the property and doesn't create really a, overly too many impacts to the town. There is substantial recreational amenities provided on the property for those people who live on the property or members of the property, that is one of the town's criteria, is that the residents and guest have access to recreational amenities; so with the skiing and open space, and golf that is provided we are obviously are providing them with adequate recreational facilities. They are also providing adequate treatment to the Eagle River to keep the Eagle River Corridor as a community asset and a focal point. They have talked about the community trail that they want to participate in again, that is a community facility that everybody can enjoy and have access to through the property as well as maintaining those accesses that they have to maintain anyway; the Shrine Pass road and Tigwon. We believe that the development phasing is occurring over a reasonable period of time, it is again one of the

criteria that you are looking at given the size and scope of the project they believe that the build out schedule they have provided in the application materials is really very reasonable.

Would like to move forward in this process be able to have a decision made so that we can move forward with submitting the preliminary plan application which is required to be submitted within 90 days, which is not a very long period before you will have a lot of those detailed questions that are on your mind, they will be able to provide those answers because they will have a much more definitive development plan for you to review at that time.

W. Woodruff requested a break from 8:05pm to 8:15pm

W. Woodruff stated that Town Staff Response is the next step and inquired if W. Smith had a response.

W. Smith's microphone was off, his response was inaudible.

Questions for Clarification:

L. Teach: responded that for concept plan I have most of my questions answered between the site visit, tonight and the last meeting. She will have a lot more questions when it gets more detailed.

E. Glesner: when the digging starts and they start moving the dirt and disturbing the metals that are in the ground, is there a way that it will be contained? Or is there any worry that it is going to be dug up and leach back into the pits where the excavating is actually taking place?

Mr. Wayshee, ERM, that is all still being worked out, part of the study is the feasibility study. Generally a concept used at most Super Fund sites is placing a cap on top of contaminated areas. In this incidence the purpose for all the soil testing is to identify those areas of the soils, which exceed what we believe, what we call Risk Based Standards. That is standards above an acceptable limit of risk to humans. Those soils they will tend to excavate, remove and encapsulate somewhere on the property at a location as yet not finally selected. And it may come from several areas. So the worst soils, and some of the boulders you have probably seen on the southern ends of the property, they expect to break up and move to an area where they can be encapsulated and covered to prevent human exposure. Now they would still have soils that have residual levels that maybe don't pose as great of a risk but still aren't at a level where the Regulatory agencies will allow them to remain on surface and still have residential use. Those soils will be covered by likely a combination of additional soil cover, building foundations and mats, and/or lined reservoirs or impoundments. All of that will be done under conditions of wetting; it is a pretty common technique used at many of the Super Fund sites, it is one that they have employed at the Robinson Brick site which is radioactive site in Denver that was clean up that way. So that is the plan, that all has to be done, the risk assessment numbers, the site investigation, and the final engineering remediation has to be approved by the State's Super Fund section of the CDH and the Region 8 EPA.

E. Glesner: so once you determine where you are actually going to put the buildings you will go in, test the soils right in that area and when you encapsulate you take it out and possibly do a liner underneath it and then cover it with dirt, that is one of the ways to encapsulate it.

Mr. Wayshee responded yes, that is exactly the concept. And the soil cover not only reduces the dermal contact to people to it which the concern is then that you are eating food and it is an ingestion hazard. It reduces fugitive emissions, and also a minimum cap that would be, if that is the only thing considered, a minimum cap would be generally a meter of soil reduces the evapo transpiration, increases evapo transpiration and reduces infiltration of water, surface water, which then leaches into the metals and attach the soil particles, transport that to the ground water and then the ground water flowing by those flow lines to the Eagle River. By addressing the soils contamination we also address ground water and surface water as well.

J. Brinkerhoff: what is VIACOM status and their responsibilities? Will that be impacted at all by what you are doing; are they going to get off the hook?

Mr. Wayshee acknowledged that J. Brinkerhoff had asked that question last week about the triad of the three sites; Gilman, Belden, and the Bolts Lake parcel. The answer varies with regard to each parcel. With regards to Belden, that is and will remain CBS VIACOM responsibility. They are under a descent decree at all three areas for the responsibility of that site. With regards to Gilman they are and will remain responsible for remedial activities there. Now then, the town of Gilman, the EPA remedy was an institutional control of restricted public access. No public access is allowed to the town of Gilman due to elevated lead concentrations in the soil. Since the town was closed additional environmental health hazards have arisen; the Hunta virus because the building are loaded with mice droppings, asbestos, and safety hazards such as broken glass, etc. The later issues, the construction debris issues and some of the soil issues of course in Gilman when the Ginn Company is prepared to move onto that part will have to be addressed. But right now, it is and remains the responsibility of CBS VIACOM. On the north property it is the responsibility of CBS VIACOM, they have a consent decree with the Region 8 EPA where they continue to do ground water sampling and river sampling. Many times when we were out there over the last two years we would split samples with them and we have been sharing information. Obviously as this project goes forward there would be monitoring activities perhaps shared or picked up between the parties and that issue would have to be revisited. At this point, there hasn't been any other definition with them as the project moves forward. But it is something that would have to be worked out through redevelopment because the development activities are going to impact some of the activities that they do and their activities would impact some of the actions and redevelopment.

J. Brinkerhoff: from our standpoint we don't want them off the hook and obviously you guys don't either.

Mr. Weber: we meet on a monthly basis with the EPA, the Colorado folks, the attorneys. We have had, through our attorneys, dialogue with VIACOM. We don't want VIACOM off of the hook either. If he was sitting at CBS I would love to give as much of this to Ginn as possible so I think you really have a "belt and suspenders" because you've got VIACOM and if we come in there, we plan on coming in there, we are going to be on the hook for something somewhere down the line when something gets disturbed.

E. Glesner: how deep do the fields of the tailings go down, some of the deeper ones; 30 feet?

Mr. Wayshee responded that it varies by area. The Rex Flats area historically the tailings were in the fifteen-foot range. In the OTP area the waste tailings were a little deeper, in the twenty-five to thirty-five foot range. The remediation conducted by CBS VIACOM removed probably 90-95% of the tailings.

E. Glesner; did they take it somewhere and encapsulate it?

Mr. Wayshee yes, they moved it to what we all the CTP (Consolidated Tailings Pile). The history of the mining is they used to take the waste down the waste trestle and discharged it into the old tailings pile. That area started to get full and they also had fugitive emissions concerns so they maintained a pond of water on top of that.. They discharged into Rex Flats. When that area became full in the 1950's they moved to the New Tailings Pile, which is at the location now of the current consolidated pile. During the clean up the waste and tailings were removed from Rex Flats and the old tailings pile and all of it was moved over to the consolidated tailings and placed with a cap and vegetated cover. Similar to what we would propose. Now, what was left was residual contaminated soils beneath those old tailings pond areas. So where the tailings sat on top of the ground basically metals, over the sixty to eighty years they were there, leached out and flowed through the soils and impacted the ground water and then would migrate to the Eagle River. That mechanism and driver still exist today. So there was a dramatic improvement in it and you have seen the results of that tailings removal upon the water quality in the Eagle River. It is improving and it improved significantly from the remediation. But that driver of soils to ground water to the river is still present beneath Maloit Park area , Rex Flats area and that is the area where as part of this redevelopment further remediation would be preformed. To change the standard that was done in the old remedy which was clean up to address the zinc concentration levels in the river, that was preformed and the zinc concentrations are decreasing. But as I noted before it was not taken to a level where human risk was reduced to an acceptable level to allow basically access to the property, and certainly not residential access to the property. That is the next step and that is why we have to negotiate these clean up levels with the EPA and the State.

J. Brinkerhoff: the water reports indicate that the discharge from the CTP into the Eagle River had much higher zinc content then a lot of your samples; that impacts fish greatly is there something that can be done about that?

Mr.Wayshee: they are still in the process of evaluating that. From what he understands the CTP there are two extraction trenches that removes and intercept ground water on the east side where water from that tailings pile flows to the Eagle River and on the north side. Those trenches will have be improved and that improvement plus the additional soil that will be placed on top will significantly decrease water transport to the river and improve its quality.

E. Glesner: do they ever mitigated and haul this stuff away and not keep it on site? Can't you just lock it inside some giant concrete vault somewhere?

Mr. Wayshee: the problem is that nobody wants the vault. So that is why the CTP, if you are a long time resident of Colorado, you are familiar with the uranium mill tailings around the site. That was done with a number of the waste piles in the State where they were consolidated into one pile at select locations around the state. And that is the same protocol that the EPA required

VIACOM to employ here. A number of scattered tailings piles at this property, what were called “roaster piles”, were all transported to the CTP and that is the final repository for a lot of those wastes. That was cleaned up to 1986 standards basically, and the residues, it was a significant improvement, probably a 95% improvement but it still requires restricted public access to the properties that remain. The goal here is to finish the job and take that restriction off so that you can have unrestricted public access to these areas. That is higher level of clean up, a significantly higher level of clean up.

W. Woodruff: In talking to some of the old miners, there are 300 miles of tunnels underneath Battle Mountain that goes all the way back under Black Lake by Vail Pass; a huge labyrinth of tunnels underneath. They are closed out and full of water and if you walk up to Belden there are a couple of places that the water is coming out of the mine right there at the river. Are those picking up these residual metals? Are they part of the responsibility of the people who own Battle Mountain and what if anything can be done about that because it is dumping straight into the river?

Mr. Wayshee: your understanding of the problem is correct, he understands that it is in the range of 65 to 75 miles of tunnels. But there are a significant amount of workings beneath the mountain and a number of the areas that have been listed as Super Funds site in mining districts; California Gulch, Idarado Mine, Del Mine, Eagle Mine, Captain Jack Mine, Summitville Mine. Anytime you take sulfide-bearing ores and you mine them out, you expose those sulfide ores to oxygen and the result is you get weak sulfuric acid. That sulfuric acid is what further leaches metal out of the rock (acid mine drainage) and that increases the metal loadings to the river. Now part of the initial solution was to bulkhead a number of the mines beneath Battle Mountain and what the EPA and VIACOM found was that of course the water levels rose within the mine and a lot of weeps developed and they had the same characteristics as the mine drainage. The solution that was implemented has proven very affective near Rock Creek below Gilman. That is where the water is basically siphoned off and transported via the trestle down to the water treatment plant for treatment. Tunnels above that location tend to be dry and as long as they can be prevented from flooding. The EPA is having continued discussion with VIACOM about some of the continued seepage that is occurring and it may be a topic that they revisit in an update to the consent decree to address some of those issues on Rock Creek.

W. Woodruff: so the trestle is still carry water that needs to be treated, that is what is inside the old pipes?

Mr. Wayshee: yes, it is carrying acid mine drainage from the mine. There are two primary sources of water that are being treated at that water treatment plant; water coming from the mines via the trestle and the second is ground water being intercepted by the two extraction trenches around the tailings pile, both of those make the influent into that plant for neutralization treatment and prior discharge, subsequent discharge.

J. Brinkerhoff: does that mean the trestle stays or you figure out another way to get the water to the pond?

Mr. Wayshee: the latter. The engineers are assessing alternative measures to get the water to the plant to address the trestle. If you look at some of the mineralogy and ore deposits beneath Battle Mountain there are four ore bearing seams. There was an excellent write up about it last year in Rock and Mineral magazine. It is quite a famous historic mining district and a lot of ore taken out of there. But there are four deposits trending up the mountain and that is where the majority of the mine workings tend to parallel underneath the mountain. Of course at the surface as you have seen at Gilman and as deep as 2,200 feet beneath the center axis of Battle Mountain. Many of those are flooded and that is the water that is being collected for treatment, used to be a large mine pool that fluctuated, from what they understand from talking to VIACOM, and talking to the State, the mine pool has stabilized and they have an increase slightly in Spring but they maintain the mine pool at a fairly static level for treatment into the plant.

W. Woodruff: and that will go on perpetually?

Mr. Wayshee: They will have to manage that in perpetuity or until some other form of treatment of the acid mine drainage is addressed. They have looked at alternative measures; cutting off fresh water coming in from lets say at the Liberty Mine by Red Cliff. That has been intercepted, water is pumped out of there and is discharged at Turkey Creek rather than flowing through the whole mine system encountering the mine pool. They continue to look at methods to manage that acid mine drainage.

J. Brinkerhoff: when do you expect to get your approval from the EPA?

Mr. Wayshee: approval is unknown. They expect to submit their reports this fall in September but for the environmental reports you have seen in the interim reports those are submitted to the EPA in September, I believe those go through an internal review, they will provide us with some initial comments and concerns, which we address, and then they allow a thirty day public comment period on all of their reports. And they also refer to all other State and Federal agencies that want to take a look at it.

E. Glesner: in regards to the Peregrine Falcon did you say that the boundary had been increased up to ½ mile from ¼ mile? Is that going to affect anything at the end of town like Rex Flats, development wise?

Mr. Petterson: because of the status of Peregrine Falcons that is delisted, activities within that ½ mile buffer, the DOW provides recommendations on how to minimize impacts regarding clean up activities

E. Glesner: so if you were close to the ½ mile buffer they would probably just let you do it and just give you a recommendation to not make too much noise at a certain time?

Mr. Petterson: I imagine it would be something like that.

E. Glesner: what about the coyotes, has anyone done any studies?

Mr. Petterson: with so many Elk herds wintering in that area it becomes a big grocery store for coyotes.

E. Glesner: there have been problems with coyote and human contact. People have been confronted face to face

Mr. Petterson: yes I understand that happened there as well as in Red Cliff

E. Glesner: with coyotes so the more population that comes in there may be issues with that.

Mr. Petterson: that is something we would have to work with the DOW on and if it does become a problem, we would have to work with the Division to address those issues.

W. Woodruff: you mentioned otters, are there any historically or currently in this river system?

Mr. Petterson: the core of the otter population area is down by the Gypsum and Dotsero, it is a big river, you have the Colorado and the Eagle confluence there, there is a lot of fish; that is where they like to hang out. Up in these stretches (referencing slide 70) of the Eagle you have significant icing in the winter, which affectively blocks off their ability to use banks for bank dens. There are not a lot of fish for various reasons. There have been fairly recent sightings of Otters in Camp Hale, which he feels, are dispersing juveniles coming from down stream. Whether or not they are going to be able to persist in the area, he doubts it, but you probably can't discount the possibility of Otters coming into the area. The habitat conditions aren't exactly conducive and throughout the State they really don't use these higher elevation smaller streams that much.

J. Brinkerhoff: with the potential abandonment of this overpass does that mean that would not have any fencing east and west of the Eagle River so that the migration can go up and over the golf course area so they are not penned in?

Mr. Petterson: right now that is the direction that he is leaning, there are other mitigation options that could provide mitigation to decrease potential mortality. Just having traffic slow down in that area, specifically heavy construction traffic. With smaller vehicles if an Elk runs out in front of you, you have an opportunity to hit the brakes and avoid it. What has been shown in a lot of areas where you have lots of heavy equipment traffic like down in oil and gas country down by Rifle, large trucks don't slow down too well they don't swerve too often. There are options where you can reduce that Elk mortality without having to fence off the Eagle River. There are a lot of other wildlife species that want to access that river as well as angling, fishing opportunities. They should work with the Division some more and look at what is the appropriate option there for that site.

J. Brinkerhoff: the area that surrounds the CTP (golf course) there are huge stands of pine trees and it seems to be a nice cover as the CTP is not the greatest looking thing in the world. He suggest looking at that in terms of what you are doing in terms of your mitigation plan because the beetles are tearing it down pretty fast right now.

Mr. Petterson: yes, we talked about that today, you bet...

Mr. Weber: it has been brought to our attention and we had a meeting today as to what an appropriate way of addressing the Pine Beetles down in that area. I don't know if it is to continue the logging operation down there or to start to spray down there. But within the next week or so between Eric and Mike and a couple of the other folks we will have a plan for it. It will be addressed.

K. (Boullé) Bloodworth: no questions at this time.

W. Woodruff: You put up \$1.7 million for a lot that is 25-30 miles up a twisty road up on top of a mountain, how did you get to that number which really becomes the basis of the revenues we would get on the RETT?

Mr. Weber: our Controller, Donn Wolfertz, who is not here tonight, every Friday, does a comp search of what lots are selling, not only here in the Eagle Valley are but through Colorado and other places. Where they think they have added value to their lot versus a lot in Beaver Creek, a lot in Eagle or a lot anywhere is because you are becoming a part of the Ginn Clubs and Resorts. Yes, you are paying \$1.7 million and you can buy another one down the road for it. But their rationale and how we have been able to command the prices they have gotten throughout the Ginn World is that you are now going to be part of a private ski-in/ski-out community, part of a private golf course, you will have reciprocity with our other properties so that if you go to Vermont or North Carolina you will be afforded the same lifestyle. So really you are not just buying a piece of dirt, you are buying a lifestyle. So that is how we can easily justify those prices.

L. Teach: do you know what the average size of a lot might be?

Mr. Weber: yes, and it is very deceiving. You might get a 5-acre lot, we have 5-acre lots, 2-acre lots, 1-acre lots and we have some ½ acre lots. The deceiving part of that is, most lots, Dominic talked about building envelopes when he was up here earlier, you'll have a rather small building envelope because of slope, because we are going to require that vegetation get saved, etc. So right now we have anything from ½ acre to 5-acres

Mike Larson (inaudible from his seat in the audience) perception of the lot is one of separation and removal from other homes without impacting the view. So affectively they feel larger than that.

L. Teach: so therefore the price of the lots would vary according to the size of the lots.

Mr. Weber: yes and for the record, we will get you an address that was Mike Larson, the principal of IAD.

J. Brinkerhoff: the \$4 million homes, how big are they?

Mr. Weber: again it will depend, an average home up there I would guess around 4000 sq ft.

J. Brinkerhoff: \$1000 a foot.

Mr. Weber: again, we talked earlier about comps, take a look at what other stuff is selling for.

Mr. Frick: let me add just one other thing, a lot of the transactions, remember, there are 1000 condominiums up there, with the average price on them of \$1 million, a less ambitious price in this market. One of the things that we did is test pricing and the pace of sales for just those same sorts of reasons. What if it doesn't perform at that level? And with the level of coverage we have here what it does is slows down. If the property sales for half the value we will have the same proportional loss in the RETT and property tax. We can't get anywhere close so the bottom line is rather than \$8 million a year under some unforeseen scenario it is \$4 million a year, or \$5 million a year net above cost revenues. It is hard to depress this to the point where it is anything but than extraordinarily positive.

J. Brinkerhoff: it looks like you are selling lots out in the first five years. It looks like you are not building out all of your homes for sixteen years. Does that mean there is a high degree of speculation that people buy lots and not build on them for ten years?

Mr. Frick: it is not unusual at all for a high end buyer to purchase a lot, then it takes awhile to line up an architect, and design your home and it takes a couple years to...

J. Brinkerhoff: sixteen years? Jim directed his question to Mr. Weber inquiring how it is you do business, seems like someone buying a lot in year five and not building on it for ten years, I'll be pretty old by the time that happens, it wouldn't work with my horizon. Do you have speculators that follow you around?

Mr. Weber: we do have some speculators, 67% of their buyers already own property in one of our locations. Most of them occupy the homes, but there are people out there speculating. I think part of that is done for conservatism. In the report I'd rather tell you are going to get it in ten years rather than three years; under promise, over deliver scenario.

J. Brinkerhoff: a question on this report is golf and ski ticket sales are not part of the sales tax; is that because they are part of the lodging cost? If you are a guest and you come in and you pay \$275 a night is the skiing and golf included?

Mr. Weber: correct. The premises to participate in the amenities you have to be a member. If you are a guest of the member you would have the same amenities available to you. So we are not going charge somebody over and above. That would be in a rental fee or purchase price or Club dues. Nobody asked the question about "hey there is going to be so much money in the HOA to maintain our roads and everything" and where it coming from. It is coming from Club dues. There is a Club membership price to get in it, you buy a hunk of land, but now you are buying a membership and then there is a monthly membership fee.

J. Brinkerhoff: who is paying the \$275 a night to stay in units. Is that anybody from outside that can book; resort private?

Mr. Weber: it is a guest of the member. A guest of the member could, the member could of put his unit into the rental pool and he could rent it.

J. Brinkerhoff: so it is open to the public if it is in the rental pool?

Mr. Weber: semantics; it is open to a guest, yes sir.

J. Brinkerhoff: \$275 a night sounds like a pretty good deal for a \$4 million house.

Mr. Weber: conservative

Mr. Frick: We don't anticipate, I think we only had 10% of the single family homes in the rental pool, we didn't expect those to be active.

J. Brinkerhoff: his biggest issue is a proforma; he has done a lot of them. At a later date he would like to see a really downsized scenario, he does to make sure that the town is never in a position of being hurt. He would like to see the downside scenario, with our fiduciary responsibility we have to the town, I only see one scenario that is conservative in some areas and pretty aggressive in others it shows RETT with \$300 million in sales, which is one third of Vail Valley right now.

Mr. Frick: as this project matures and we get a little further along phasing and agricultural exemptions that might come with the annexation and the additional 1,000 acres, which he hasn't really modeled and we can do that and we will have more precision in the whole thing. We can provide you scenarios with any number of assumptions. It is hard to fashion a scenario that will give you any concern.

J. Brinkerhoff: lets try.

Mr. Frick: we would be happy to.

W. Woodruff: this is the first time he has heard mention of a residual membership within the Ginn World as you called it. How does that work?

Mr. Weber: he would be a guest of a member here, he would pay the \$275 a night to avail himself to the amenities. He would be way ahead in the pecking order if we were built out and it was a supply and demand issue versus me. It is not a Ritz Carlton Super Club membership, it just gives you position within the Ginn communities.

W. Woodruff: so as a member you have access to the other communities as an insider guest.

Mr. Weber: yes sir.

W. Woodruff: there has been a lot of concern about traffic since day one. Being a bicyclist and seeing the bicyclists that go up Battle Mountain in the summer on any given day, it is a big deal. Are you including non-vehicular traffic?

Scot Leftwich: no we have not taken a bike count out there or projected bikes. We have done that for pedestrians in Florida and bikes. But in this case we are mostly putting vehicles and looking at the split that you would have. The gondolas are a major advantage up there on the mountain.

W. Woodruff: the direct benefits to Minturn are obvious. But we also have a responsibility to think about our other community members. In the last five to eight years since the US has been winning the Tour de France, biking has exploded. A lot of the people in the community are older, they are baby boomers and they see biking as a good way to keep in shape with low impact. This is going to continue to grow through the valley. We need to look at this not just in terms of people within the resort get around but also the access through the resort. I know this gets back to the bike path but as far as the numbers of cyclist the road thing, you might want to try to find a way to see if that fits in.

Mr. Mauriello: they recognize this as well and they are impressed with the comments about the ECO Trail and we want to participate in that. That trail system coordinated with other groups could actually address the issue you are talking about and reduce the conflicts between vehicular traffic and bicycle traffic. We agree and we want to study that trail.

J. Brinkerhoff: would you be willing to set up or get involved with a group of citizens from Minturn who know a lot more about the beauty and logistics of this environment right here than most likely Eagle County?

Mr. Weber: yes, we had met with some of the folks from the town. We have a meeting next week with folks from the town to get their input.

E. Glesner: with the sewer plant it would be five years that we would not occur any cost, would our rates be any different than they are now?

Mr. Weber: In the deal that has already been approved; Ginn is responsible for securing the land after the Town locates it, we work with the town engineers, spec it, build it, the town permits it, the first year the operate it, it will be farmed out as we are not in that business. Four to five years after the first year Minturn operates it Ginn is subsidizing it. After five years of them subsidizing it, your council was concerned that we come in and put a big bump into your water cost. After five years, it should be business as normal but that is very subjective but the town is running it, the town is managing it and the town will be doing the billing on it.

J. Brinkerhoff: will you be able to describe the logistics of transferring water and sewer at preliminary?

Mr. Weber: no sir, not until the town has selected a site. The site has to be purchased, etc. no they cannot provide the logistics at preliminary. This will be built in various in stages. It gets

even more convoluted about size, etc. Mike Gamba designed it, your council has reviewed it, but flows, effluence, couldn't be anywhere close by.

J. Brinkerhoff: I think we would like to hear from Mike but we aren't done with Scot yet.

Mr. Weber: the Wastewater Treatment Plant is totally unrelated to annexation.

A. Christensen.: unrelated.

J. Brinkerhoff: I believe the PUD says there has to be a connection to water and sewer. Unless I am reading it wrong.

A. Ferguson: the plant will exist whether or not they get PUD approval.

J. Brinkerhoff: PUD says they have to have reasonable access to Water and Sewer and I am just asking about access to that.

L. Teach: he is asking what it will disrupt.

J. Brinkerhoff: what is the access, where is it. There is no access because it is not there. When are we going to find out where it is going to and how the access is going to be?

W. Woodruff: good question lets direct that to W. Smith; do we know the location of Wastewater Treatment Plant?

W. Smith: no

E. Glesner: is anybody studying it?

A. Ferguson: can we say that are a variety of sites being looked at, there is a committee that is doing it, your staff is also looking at it. Because of the different sites and the different negotiations with the other entities who are involved in this, it is larger than a town affair, right now, Mr. Weber is correct; it is a little bit of a moving target. We should know more in the next week or so because of the meetings that will be taking place. I hate to be so vague but it picking these sites there is a lot of sensitivity regarding who owns them. That is why we are not parading all of the sites right now.

W. Woodruff: the process is what I was inquiring about, is there a process.

A. Ferguson: yes, there are committees.

A. Christensen: you have the Enterprise that has been meeting regularly with other entities.

W. Woodruff: I think we should stay out of it.

A. Christensen.: that is why it is unrelated to what you are approving.

J. Brinkerhoff: it is not unrelated to me. It is related. He has read the code and he wants to know wants to know exactly what the deal is at some phase of the approval. There will be positive and negative impacts.

J. Brinkerhoff: traffic is the most important thing. CDOT is looking over your plans but

W. Woodruff: who is looking out on traffic for us?

W. Smith: We have hired a consultant firm, Carter & Burgess, but they can't begin to evaluate it until they get the document from Ginn.

Mr Leftwich:: After we go to CDOT we will give them the document, we met with them last year but we do need to go through that process.

J. Brinkerhoff: in terms of your analysis I saw a concrete batch plant.

Mr Leftwich: yes we want to see where the plant is according to construction we want to see where the construction vehicles; normally we don't look at construction vehicles; we look at the build out of the actual project. In this project we are looking at both and what happens during the project. According to where the Batch Plant is located is according to if the traffic goes through Minturn or not.

J. Brinkerhoff: the more we can have stuff like this to the south...

Mr.Weber: this is already a matter of public record.

J. Brinkerhoff: there is more than the batch plant. Whatever you can get to the south of town and close by it cuts a lot of traffic out of here.

Mr. Weber: It is a matter of public record at council meetings. We are working with town and Lafarge so there will not be cement trucks down the middle of Minturn.

E. Glesner: exclusively used just for you because if they are heading to Eagle they will still be heading through town.

Mr. Weber: that would be a Lafarge decision but the way it is conceptually, I don't think they would have the capacity with all the yards that are going to be required with this project.

W. Woodruff: would you mine your own gravel or bring it in?

Mr.Weber: to be determined, I honestly don't know.

J. Brinkerhoff: that would be a good thing to look for structural fill...

Mr. Weber: I don't think its gravel I want.

J. Brinkerhoff: there is a gravel yard south that the masons could use.

J. Brinkerhoff: we are interested in existing analysis and where we are at today. I think we would like to look at the impact during construction, during full accompany, and with the muttle of services today, which are excellent, we have a small town rush hour. I don't know if it is going to be marginally worse. And to the extent that is a lot worse I think we should look at using different density levels on the project. Just so we can understand what the mitigation is? I don't have any predisposed idea of density other than we don't want to have an avalanche of traffic.

Mr. Leftwich: we work on a lot of projects for lots of different developers. Some being 20,000 or 40,000, this is Florida, and other resort developments such as this. This is a resort development that is unique as they have a lot of amenities on site and lots of uses for multi modal; gondola, ski lifts, a transit or some type of shuttle that you would take from the property owners so that they can come back to the uses in Minturn or Vail or Avon Park. All of these different areas that would have transits, we are looking at those and the amount of trips and the interaction and the internalization of trips on Battle Mountain for all of the different sites; Bolts Lake, Gilman and the interaction between those and then take all of those along with Minturn and the others. We have already presented that to CDOT and we are going to have to look and it and explain it tomorrow. Very complex but we can break it down and say how many are on the gondola, how many are on the transit, that gets back to your density question. Level of service, direct relationship.

E. Glesner,: I think construction traffic is going to be worse than when people are actual up there. When the gondola is in use and it is in full build out I don't think the impact is going to be nearly as much as it is during construction when you are going to have five times as many people going in and out of there. This is a bottleneck here and with 500 guys coming in weekly with dump trucks and stuff it is just going to get jammed in here. Maybe phase the project a certain way or have times of day of transit. We don't want a big line of cars, we already have a line of cars from Leadville traffic.

Mr Leftwich: one of the keys is time of day phasing. Construction vehicles try to do that.

Mr. Mauriello: have them park at the rail yard and then bus them to the site.

J. Brinkerhoff: attracting employees from Lake County has a good impact on traffic. Not that they shouldn't come from Minturn as well.

Mr Leftwich:: we are looking at that. Your county has a model called "transportation planning" and we have gotten that model from the county and looked at it in relationship to what will happen from Lake County back up to Leadville and Red Cliff and we will take a split as far as employees. And Ginn is also looking at shuttles or vans to also look those employees coming back onto the site.

E. Glesner: the shuttle is a pretty good idea.

W. Woodruff: anymore questions? What is our next step?

J. Brinkerhoff: I have a statement to make. When we were up on the mountain I think it would be very difficult to see anything. I walked to the far reaches of a couple of areas and with the tree cover, maybe if you had binoculars from the China Bowl, you may get a hint. But I just wanted to go on record saying that we did that tour, that diligence and I don't see how you could readily see houses up there. Another thing, at R10 and Holy Cross, the northern part of that, a lot of it is steep and northwest facing. I would suggest you have someone look at that again. South facing would be preferably, it is just a thought that you might want to look at. And we talked about lighting and you addressed it very nicely here, muted. It sounds good. Someone had asked a question if you were going to fund your improvements through an improvement district and I think the concern was if there was going to be a mil levy on the town of Minturn.

Mr. Weber: for the record, no sir.

J. Brinkerhoff: would you use a bond for your property?

Mr. Weber: we historically have not, there is one community in Florida that we did but the balance of Ginn properties are our money or ours investor's.

W. Woodruff: anything else?

J. Brinkerhoff: unfortunately I don't think I have anything.

W. Woodruff: we are at a point here to discuss among ourselves.

J. Brinkerhoff: wait I do have one more thing and it is relative to discussing amongst ourselves. There was a document that asked for some changes in the conditions. And it looked to me like it was not material whether they were in there or not in there, whether it should be at concept level or preliminary level. I see the same conditions here tonight.

Mr. Mauriello: I think ours were semantic related to us so that the conditions were very clear. In general we didn't have that strong of a feeling on the conditions and how they were worded.

W. Woodruff: let's start by looking at Wiley's conditions. We have three choices to vote; we can approve the conditions or deny these conditions.

W. Smith: on page 4 are the concept plan evaluation criteria. You would compare with what you heard tonight with findings. Look at the criteria and the findings and if there is something there that you find is contentious or not compatible with the findings or criteria then you need to discuss that. And on page 7 there is a draft motion of what you would like to review tonight to help you towards what you would recommend or deny.

Mr. Mauriello: it might be prudent to look at our application, section 19, page 42-46 if perhaps you believe that we have addressed this criteria adequately if you could in your motion make a finding that you agree with those as submitted by the applicant, that would be helpful.

General discussion amongst commission members ensued.

J. Brinkerhoff: if we make a condition of traffic with A, B, and C that they have to comply with that as a condition of their application for preliminary and Wiley has to accept that.

A. Christensen: that is correct.

A. Ferguson: it is adding additional criteria to the preliminary plan criteria that is set forth in the code, you are absolutely right.

E. Glesner: so these conditions won't be addressed until preliminary?

A. Ferguson: the preliminary plan is submitted not only does it have to comply with the requirements in the code but they will also have to address the conditions that are set forth in your conceptual plan approval. For example, one of the conditions is to provide an environmental impact report. For Wiley to find a preliminary application complete he will have to note that that report is including so that he can place a check next to that condition. And then it is up to you, in further review to make sure you have enough information with respect to the satisfaction of those conditions.

W. Woodruff so this is our basic list of what information we need to address at the next level.

General discussion amongst the commission members ensued.

A. Ferguson: one thing to remember you can also approve a preliminary plan with conditions. For example a condition would be that they have to put the overpass in for Elk migration. What consistently happens is you express these conditions, not only do they have to report what the state of affairs are and what the impacts will be, but if they don't suggest mitigation of the impacts, you are going to require mitigation of the impacts and that becomes a almost a negotiation. So your concern, is not only having an appreciation of what the impacts are, as Woody's is, before you can ask the next question, we don't even know what the mitigation might be because we are not sure what the impacts are. But the mitigation will be most likely among the conditions of any approval you would get. That mitigation could come from staff recommendations based on the review that Wiley does with the town's consultants in response to what the applicant has come up with and you can impose some conditions that the applicant may not necessarily agree to and they have to make a decision about that. But you do have an opportunity in the future.

E. Glesner: we don't have anything to work with right now at all. There was nothing given to us on traffic, they are waiting to meet with CDOT.

J. Brinkerhoff: will Carter & Burgess be involved in this traffic study prior to us getting it; prior to the preliminary application?

W. Smith: yes, they will be part of the outside review that we will give them a copy of that traffic study. It will become part of the staff report. So you have that to review and look at while you are looking through all of the other documents.

J. Brinkerhoff: will we have the chance to give Carter & Burgess input prior to?

W. Smith: I don't know at this time.

J. Brinkerhoff: can you look into that for us?

W. Smith: I think what we need to do is look at that report first and make a determination of where it would go and who would look at it. In regards to when you would look at it, that is something we would have to look at with the attorneys.

J. Brinkerhoff: this says preliminary traffic plan, can this traffic plan be close to final when it is submitted? It is science, it is based on density, construction and he is wondering, next time we see you we want a lot of meat.

Steve: we will give you a lot of meat. The reason it is preliminary is because we have to go through stages; Wiley has to review it, Carter & Burgess have to review it, we are working with HDR and CDOT. We have a lot of players. I understand CDOT concerns are not your concerns but we have to balance a lot of issues here and we want to make sure everybody gets a shot at it, obviously the town because you live here and your consultants. But we will give you the information that you want but it is called preliminary because that is what we do first. We put all of the information that we know at that time for the development, how it will be built up by phasing, how many employees will be there by phase, how much commercial and retail by phase because that helps us internalize the traffic, what is in specifically by phase as far as gondolas, shuttles, employment where they are coming from (Red Cliff, Leadville), all of that will be in the report, in detail. It is preliminary but it is more than that.

J. Brinkerhoff: there has been a lot of testimony, a lot of statements of promise that are in the record. We have pulled a lot of things out and I don't expect to make them conditions because they are a part of the record, so I would expect that they would be complied with.

A. Ferguson: traditionally one of the first conditions of any approval is that all representations made by the applicant either in their presentation orally or in their materials will be complied with. Typical, standard, conditions.

General discussion amongst commission members ensued

J. Brinkerhoff does a detailed phasing and construction schedule gets submitted at preliminary stage?

W. Smith: I can't answer this. A phasing schedule would have to be determined by the builder. What we would be getting is, as Dominic has said, they will be starting at different places on the site and that is the information that we have. Certain places and then working up, in a period of

years, where these other pods are going to be built out. It depends on the market and everything else. They can't pin that down, but what they can give us is a phasing schedule in a general sense.

J. Brinkerhoff: would it be appropriate to ask for a detailed schedule of applicant's best guess, subject to market conditions.

W. Smith: I think we can ask.

A. Ferguson: a requirement for the submittal of the preliminary development plan is that the development is proposed in current phasing then financial guarantee shall be proposed to ensure the project's improvement and amenities are constructed as presented and approved. Typical, subdivision approval, type agreement. I think that they are going to be required to present a phasing plan at preliminary plan and particularly at a final plat approval of any phase. They have not determined whether or not they are going to come in with phases on a final plat as opposed to, there will be a phase development in phase infrastructure construction to satisfy the phases, they are going to have to make that presentation to us, otherwise they are going to have to come in with financial guarantees for all of the infrastructure for the whole development at once.

J. Brinkerhoff: at preliminary?

A. Ferguson.: yes.

K. (Boulle) Bloodworth: condition #7 would be: all representations made by the applicant during the conceptual plan application process and all related meetings are a part of the public record and consequently shall be complied with and acted upon as represented.

Sarah Baker: we would request that be revised to specifically incorporate only those public hearings, I think you had a "and any related meetings", I am not sure exactly what that refers to.

K. (Boulle) Bloodworth.: I just said "and all related meetings", I meant public hearings. We can change that to public hearings.

W. Woodruff: specifically this public hearing that has continued over three meetings.

Ms. Baker: the public hearing on the PUD concept plan application. All representations made by the applicant in the written materials and any oral presentation at the PUD Concept Plan public hearing are to be complied with.

K. (Boulle) Bloodworth.: ok

W. Woodruff: it just went into the record.

J. Brinkerhoff: there is a shooting range down here close to the property and I think that there was some mention the water had a higher content of lead

Mr. Wayshee: soils, yes.

J. Brinkerhoff: does that impact the river?

Mr. Wayshee: I don't believe so. You may notice when we pulled our background samples we have 19 when we used to have 20. The 20th sample was taken in the vicinity of the shooting range because we specifically wanted to see how high the lead level was there and it was sufficient high that it skewed statistical calculation for background for lead, out of what we believe to be a reasonable range and what the EPA believed to be a reasonable range so that sample was stricken.

J. Brinkerhoff: so it doesn't impact the fish; and doesn't impact the river.

Mr. Wayshee: it is very isolated; it is a very surface source from powder on top of the ground. Our samples were taken 0-6" and where that is distinguished from the mining's related impact is you have impact from 0' to 30' deep of the mining related metals in some cases.

W. Smith: one thing he would like to make clear what Jim said regarding phasing. They will have to give us a detailed plan with Final plat and plan that tells us within that phase, three phases, and at certain parts, phase one, we would need a build out schedule to determine when the water, streets, when everything gets built. The specifics of how long that phase would last and when the next phase would start or if it would start while the first phase was being built out; I don't know.

J. Brinkerhoff: I was just suggesting we get a detailed infrastructure and sales and construction phasing that is not, subject to market conditions obviously, but in the applicant's mind what that is going to be because we are going to drive our traffic studies off of that. And it would be helpful for us.

Mr. Weber: we did agree to do that.

J. Brinkerhoff: the other condition I would like to see if the worst case scenario on this fiscal analysis, we owe it to the town, like the gentleman says, I don't think you can make it bad enough but I would like him to try.

W. Woodruff: there isn't a fiscal analysis in the staff recommendations; there is not anything on fiscal.

A. Ferguson: there are two fiscal requirements in the preliminary plan submittal requirements in the code. The first is economic data and supporting market analysis to justify any proposed commercial and industrial elements and a fiscal impact analysis of the estimated demands for town services and a statement of projected town tax revenues based on the historic town tax levy and a schedule of projected revenue.

J. Brinkerhoff: and we saw that tonight. I'm just asking to look at the not rosy picture if we have a recession and we get started.

A. Christensen: on the record they agreed to do that, Mr. Frick did.

J. Brinkerhoff: do we need to read the page and a half of recommendations from you; do we need to read that into the record?

W. Smith: no, as stated by staff. You concur with staff; you tailor a motion according to what you have added to it.

W. Woodruff: they are actually conditions.

Motion by J. Brinkerhoff, second by L. Teach, to approve the application for the Ginn Company's Battle Mountain PUD Concept Plan that we the commission have read all of the information, heard all of the testimony, have read the staff report and find ourselves in agreement with the PUD application plan subject to the conditions as stipulated in the staff report for tonight's meeting:

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 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.

and to include an additional condition brought to the commission's attention by K. (Boulle) Bloodworth and worded by Sarah Baker as condition number 7:

7. All representations made by the applicant in its written submission and presented by or on behalf of the applicant at the Public Hearing on applicant's PUD Concept Plan application shall be complied with; **Motion passed 5-0**

J. Brinkerhoff: written and verbal

W. Woodruff: by the applicant

A. Ferguson: by or on behalf

A. Christensen: she said by or on behalf

A. Ferguson: that includes all of the consultants.

W. Woodruff: does that include all of our comments?

A. Ferguson: no because those were not their representation

E. Glesner: may I ask what Ms. Baker wants to say while discussing this motion

W. Woodruff: no, we are done with them, it is just us.

J. Brinkerhoff: we are done discussing.

A. Ferguson: the motion itself says that they agree with the findings of staff. I think the findings of the criteria are incorporated in the motion.

Ms. Baker: just wanted that point of clarification.

New Business

W. Smith: two weeks ago we had a request by J. Brinkerhoff in asking for the official transcript of that first meeting. In talking with the attorneys, I wanted to give you an option that has not

been done. What we usually do is the minutes from the secretary. There is a hefty cost involved to get the minutes recorded and printed back. J. Brinkerhoff would not be the only one to get it, everyone on the Commission will get those minutes which will add to that cost.

E. Glesner: isn't it just printing cost, once we get one we just print out.

A. Christensen.: said she is here, she can tell you what it is.

Rosie Stahl, R.P.R., Breckenridge, CO \$660

A. Christensen \$660 for the last meeting, July 12th.

W. Woodruff: to get the whole transcript. What would you do with the whole transcript?

J. Brinkerhoff: The transcript is a verbatim document that records these sessions, Torrey's notes are not, she is taking notes; there are a lot of really important issues that have been discussed tonight that they have promised. It is a very valuable document. Every single promise, every single detail. I've used them in New Jersey when I was an applicant, I got a copy, everyone got a copy.

K. (Boullé) Bloodworth: do we need to get it now versus when...it would always be available.
Several people talking at once, individuals not audible.

J. Brinkerhoff: we only need one

E. Glesner: you can or you can't make a copy.

Ms. Stahl: the cost that I mentioned
Ms. Stahl's microphone was not on, inaudible
Several people talking at once, individuals not audible.

W. Woodruff: assuming that someone questions our process here and sues, we will have to do that anyone and we will already have it done. We will be able to use what we pay \$600 now for instead of \$600 when somebody sues us.

Several people talking at once, individuals not audible.

J. Brinkerhoff: somebody could get it themselves anyways and we wouldn't have it.

A. Christensen: once it is printed it is public record, everybody can have it.

E. Glesner: is that the reason you are hesitant to have it printed?

A. Ferguson: it is more the president of doing this for every concept plan that comes before you from here on out. What makes this different from any other application before you? You have to treat all applicants the same, what distinguishes this from...

J. Brinkerhoff: huge difference, huge degree of complexity, by a factor of 10,000.

A. Ferguson: but where do you draw the line?

J. Brinkerhoff: you would draw it here and I don't think you will ever have to draw it again.

A. Ferguson: we are just suggesting that is a consideration because you are going to make every approval you have that the representations made by the applicant have to be complied with, that is going to be a standard thing.

J. Brinkerhoff: we don't need a transcript for all future, typical PUDs, Torrey's notes are fine for 99.95 of all of them.

Lynn Figert, 494 Eagle Street, Minturn, CO

- Question for the lawyers: it is my understanding ordinarily in other legal proceedings if there is a transcript recorded party of the dispute can order a copy of the transcript so if anybody wanted to dispute the decision that was made or if Ginn party wanted to dispute what they did or didn't promise, they would always have the right to order the transcript.

Am I mistaken about that? A. Ferguson or A. Christensen.: nope.

Given that that is true, it seems obvious to me that of course you need the transcript, it is only \$650 and that is the only way that you can verify what the promises were that were made so that it helps you to come to a better decision, J. Brinkerhoff is exactly correct about that. Secondly, if there is a possibility of a dispute down the road and you would want to have access to this anyway.

With regard to the issue about whether or not you treat, you are providing this application with special treatment and where you draw the line, I think that is nuts, it is obvious. How many PUDs does the town of Minturn consider that involves 1,700 units or complexity? If they were to get a second PUD application that say only involves 900 units and involved only half the units, half these kinds of issues involved, then without question the commission would want to pay \$600 and order a transcript of that hearing as well. But that is just my thoughts sitting in the audience.

L. Teach: are we saying we will need it for the July 14th meeting and tonight's meeting or is that all considered one transcript.

A. Christensen oh no, that is just the first one.

L. Teach: those two weeks

E. Glesner: that is one transcript

L. Teach: including...

W. Woodruff: continuation

W. Smith: just the one hearing on the 12th.

L. Teach: so tonight's is separate. So when they come to preliminary

E. Glesner: that is another transcript.

L. Teach: does the trip visit to the site get in there at all?
Several people talking at once, individuals not audible.

W. Woodruff: the entire meeting is on video tape

A. Christensen.: we got it, I think you would just have to hit print I think. It has been delivered.

L. Teach.: so we are saying that during this entire process we might have ten or twelve of these.

W. Woodruff: and if we get sued we will definitely have ten or twelve.

A. Christensen.: Ginn pays for it if we get sued; we are paying for it right now.
Several people talking at once

Motion by J. Brinkerhoff second it E. Glesner for every meeting we do on the Ginn project at the concept and preliminary level, then the council can decide if they want it at the final level;

Motion passed 5-0

L. Teach: \$822 for tonight 138 pages, \$6 a page

W. Woodruff: a couple grand

Ms. Stahl: inaudible

E. Glesner: when would you have these?

Ms. Stahl: two or three weeks.

L. Teach: if we vote this in, does it go through?

W. Woodruff: oh yes, sure

L. Teach: and Jay comes up with the money

W. Woodruff: and Jay comes up with the money!

A. Christensen well, we will find out.

J. Brinkerhoff: council fires me if they don't like the way I am spending their money.

A. Christensen.: I don't think that is an issue.

W. Woodruff: I don't think it is a money issue. The only reason not to do it is setting precedent. The fact that we have brought a court reporter to this hearing is setting a precedent.

K. (Boulle) Bloodworth: that is already setting a precedent.

W. Woodruff did the court reporter take a transcript of the first part of this meeting; no. So we are not setting any kind precedent.

A. Christensen: until someone like Lynn comes in and tells you, you have. She will make that argument very precisely; I'll bet she could make it right now.

W. Woodruff: if there is a persuasive argument to do it again, then we would take in that argument and do it.

A. Christensen: that is why we did it because you have a 99.8% chance of getting sued over this.

W. Woodruff: if we have the transcript to look through, you don't have to, but we have it there.

J. Brinkerhoff: I was being turned down at trying to add conditions so I want this document because those are all the conditions, they are promising. None of us are going to remember exactly.

K. (Boulle) Bloodworth I have a lot of notes but they are not verbatim.

More general discussion

7. Old Business: None

8. Informational: None

9. Attachments: 1. Application for 421-431 Main Street Conditional Use.
2. Criteria for Battle Mountain Planned Unit Development Concept Plan.

10. Items to be added to future agendas / work session:

11. Set Future Meeting Dates

1) Planning & Zoning Meetings

- August 9th
- August 23rd
- September 13th, 2006

2) Council Meetings

- August 2nd
- August 16th
- September 6th

3) Other

Adjournment

Motion made by K. (Boulle) Bloodworth., and second by E. Glesner to adjourn at 10:30pm;
Motion passed 5-0

Chairman, Woody Woodruff

ATTEST:

Town Clerk, Jay Brunvand