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Town of Minturn Planning and Zoning Commission Meeting Agenda

Wednesday, January 10, 2007 7:00pm Minturn Town Center, 302 Pine Street

1) Call to Order/Roll Call

The meeting was called to order at 7:06pm by Vice Chair Kristi Bloodworth. Roll call showed Lynn Teach, Jim Brinkerhoff, Ernie Glesner and Kristie Bloodworth present. (*Note: Woody Woodruff was absent and excused*)

Town Staff present was Town Planner Wiley Smith, Town Planner I Chris Cerimele, Town Attorney Allen Christensen, Holland & Hart Attorney Arthur "Boots" Ferguson, Public Works/Planning Department Assistant Torrey Maxwell and Transcriptions' Rosie Stahl.

2. Approval of Agenda Items

Motion by L. Teach, second by E. Glesner to **approve** the agenda as presented; **Motion passed 4-0** (*Note: Woody Woodruff was absent and excused*)

3. Approval of Minutes – Minutes from December 13, 2006.

Motion by J. Brinkerhoff, second by L. Teach to **approve** the minutes of December 13, 2006 as presented; **Motion passed 4-0** (*Note: Woody Woodruff was absent and excused*)

4. Discussion/Action Item # 1 Extend Approval of Vista Barranco Planned Unit Development (PUD)

W. Smith, Town Planner, introduced this request from J Fitz Development and Design, LLC, for an extension of two years for an approved Preliminary PUD to build 11 single-family homes.

The applicant has demonstrated meeting the PUD requirements as stated in Section 16.15.22 of the Minturn Zoning Code and the following conditions of the PUD Preliminary Plan. The applicant has also demonstrated meeting the policies of the Minturn Community Plan.

The Planning Staff recommends approval to the application subject to the conditions as stated in the Staff Report.

W. Smith asked for questions and as there were none he introduced the applicant's representative, Shelly Mello.

Shelly Mello, SonesMac Inc., PO Box 115, Avon, CO stated that this is a renewal of an application that was approved a year ago. It has been through the Preliminary process, they have not yet gone through final. Nothing in the application has changed since their approval last year. The reason that they went through the PUD process instead of underlying zoning is that they wish to subdivide the homes so that they have ownership of the land beneath them but everything else remains common. The Minturn Code does not allow for that type of a subdivision but they are in compliance with the Residential Zoning District underlying zoning in every other aspect.

Ms. Mello showed the commission a rendering of four of the houses and what they would look like.

J. Brinkerhoff inquired why the project failed to go to final within the twelve months and why are they now requesting a two year extension.

Ms. Mello responded that they have been unable to reach agreement between the partners but the intention is that the project will move forward within the next twelve to twenty-four months. This is a relatively landlocked property, there are easements and referencing the map she noted properties that are owned by Dr. Stephen Warren, the Christensen's, Duran's so there are cross easements and documents, etc. that need to be obtained.

E. Glesner questioned that it is not an existing easement, that the developer put that in their PUD?

Ms. Mello responded that there is an existing easement to Lot 31 and they are expanding that easement to allow for the use of it to these other units on Lot 29.

E. Glesner inquired where the existing easement is.

Ms. Mello responded that the existing easement is 15' across Lots 1, 2 and 3. So we have a lot of cross easements and utility work that will go on, new water, new sewer lines that will be going through the easements. Normally the request is for one year; we are asking for two years.

J. Brinkerhoff inquired who J. Fitz Development is.

Ms. Mello responded that originally this application was being submitted by Rick Agate and Stephen Warren. John Fitzthum is now representing Stephen Warren and the Christensen's. Rick Agate is no longer involved in the project. Mr. Fitzthum is the developer.

J. Brinkerhoff inquired if all the owners...

Ms. Mello interjected that there is a letter requesting a continuance. It is still going forward.

J. Brinkerhoff inquired what their plan is for starting construction.

Ms. Mello responded that Mr. Fitzthum may be able to give a better answer but her thought is this summer if they can get everything into place, all of the documents, etc. This is an offsite

built product so the field work is the longest part of the project. Six to ten week from foundation to occupancy.

E. Glesner said that he feels the commission should extend it one year and inquired of the applicant why they want two years.

John Fitzthum, 130B Morgan Drive, Edwards, CO responded that it was a suggestion by W. Smith as they have a lengthy process ahead of them. They have to be granted an easement by the Duran's in lew of money. They need to bring the Christensen's and Dr. Warren together in an LLC that will include Mr. Fitzthum as the developer to make this situation work. It is his desire to break ground as soon as the thaw finishes. He is not a rookie in town as he has been involved with the Minturn Towne Homes and as soon as that project is complete he can roll into this one.

E. Glesner noted that nothing has been done on this project in the last year.

Mr. Fitzthum responded that that is correct. He was asked to get involved in July 2006 and he has met with the Christensen's and Dr. Warren, he has run budget numbers and now it is time to get the job done.

Ms. Mello added that the project sat for six months until Mr. Fitzthum got involved.

J. Brinkerhoff agreed with E. Glesner that one year is reasonable and if there is a problem, come back in front of the commission at that time.

K. Bloodworth opened up for Public Hearing. Hearing no public comment the Public Hearing was closed.

Motion by J. Brinkerhoff, second by L. Teach to **approve** an extension of this application for John Fitzthum, Development and Design, LLC, Minturn South Addition Subdivision, South Town Character Area – Residential Use for one year from today for an approved Preliminary PUD to build 11 single-family homes; **Motion passed 4-0** (*Note: Woody Woodruff was absent and excused*)

5. Discussion/Action Item # 2 Battle Mountain Planned Unit Development (PUD) Preliminary Plan

K. Bloodworth provided ground rules for the public hearing noting that the plan is to hear the presentation from the applicant tonight, most likely that will take a good part of the evening. We do not anticipate that there will be time for public comment tonight. There is a public sign up sheet in the lobby if you would like to comment, if we don't get to public comment tonight we will at the next meeting which will be January 24, 2007.

Wiley Smith, Town Planner, introduced this request Ginn Battle North, LLC, Ginn Battle South, LLC, Ginn – LA Battle One, Ltd., LLLP for approval of a PUD PDP, an Amendment to the Zone District Map, and an Environmental Impact Report. Before the first item is introduced

he read into the record the following items for the PUD Preliminary Plan, the Amendment to the Zone District Map, and the Environmental Impact Report:

- Item # 1 – a copy of proof of publication of Public Notice in the Vail Daily and Vail Enterprise
- Item # 2 – a copy of the tax roll list prepared by the applicant
- Item # 3 – a copy of the notice letter that was mailed
- Item # 4 – a copy of certifications of mailing
- Item # 5 – a copy of a letter from the applicant that would pay the cost of the notices
- Item # 6 - a copy of the signs that were posted
- Item # 7 – the affidavits filed by the applicant on Minturn Forms A and B
- Item # 8 – a copy of the website posting together with a statement of the dates it was posted
- Item # 9 – a copy of Mineral Interest notification
- Item # 10 – the January 10, 2007 Staff Reports
- Item # 11 – the Staff Reports sent to the Planning Consultant
- Item # 12 - copies of the Referral Comment letters
- Item # 13 – a copy of a summary of the Referral Comment letters prepared by the Staff
- Item # 14 – a copy of the September 29, 2006 letter to the Planning Consultant

There are three action items scheduled for the Planning Commission approval; Battle Mountain Preliminary PUD Development Plan, Battle Mountain Amendment to the Zoning District Map, and the Battle Mountain Environmental Impact Report (EIR). The EIR is included in the Preliminary PUD Development Plan but it will be discussed and voted on separately. After the introduction by staff the applicant will present their information and the Planning Commission can ask questions for clarification but not for debate. A sign up sheet is available for citizens to speak after the presentation by the applicant and questions by the Planning Commission. Considering the length of the presentations, citizen wishing to speak on the proposal will be offered an opportunity to speak but it may not be this evening.

The Planning Commission will close the meeting for the Battle Mountain PUD Development Plan and open the meeting for the Amendment to the Zone District Map. The EIR will be discussed with the PUD Development Plan but voted on separately.

W. Smith opened up the hearing by introducing the Battle Mountain PUD PDP. 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, a 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 meets the requirement Section 16.15.16, PUD PDP Application and Checklist. Planning Staff recommends approval to the application subject to the conditions in the Staff Report. W. Smith inquired if there were any questions and there were none. W. Smith then introduced Bill Weber.

Bill Weber, 156 Railroad Avenue, Minturn, CO started off by recognizing the commission for their time and effort, the Town Staff, particularly Mr. Smith and his folks, for the professionalism shown to the Ginn staff to date and to those in this room this evening. He noted

he gets paid to miss his supper and be here tonight but he knows a lot of people are here on their own time whether supporting the project or not supporting the project but either way we appreciate you coming. They believe that the more educated the town is the more favorably you will accept the project. What the plan is for tonight is to let you know where we are, how we got there based on the Conceptual PUD, where we are going and how we will get through the Preliminary PUD process. The presenters for this evening will be himself, Bill Weber, Senior Vice President with Ginn Company, Sarah H. Baker, P.C., Attorney for Ginn, Dominic Murriello of Mauriello Planning Group, and Ford Frick of BBC.

Sarah Baker, 1914 Bear Creek Trail, Edwards CO we are here tonight on three different applications; the first is the PUD PDP, supporting that under the Town's requirements is the Environmental Impact Report (EIR). These two applications are the subject of the current hearing. After this hearing we will open a hearing on the application for Amendment to Zone District Map. So that we ensure that the record is clear with respect to each of the applications. As council for the applicant her presentation tonight will largely be to establish a clear record with respect to the legal requirements for our application. The first exhibit she would like to submit is Exhibit "T" which is a copy of their PowerPoint Presentation (PPP) for tonight, for the record. As she mentioned they will be separating the hearings tonight first on the PUD PDP and second on the application for Amendment to Zone District Map because the requirements and considerations you have to take are so closely tracked, we are not going to bore you and present it all twice but she does request that all testimony and exhibits that they give as part of the PUD Preliminary Plan Application hearing also be incorporated into the record for the Amendment to Zone District Map hearing.

The PUD Preliminary Plan follows the PUD Concept Plan hearing and approval that we had July of (this) last year. The Planning Commission has reviewed the PUD Preliminary Plan that Ginn submitted in November, as you may have noticed, that plan is nearly identical yet it provides more detail to the Concept Plan that you approved in July. At this hearing our intent is to go through, not so much present the details of our application, but to demonstrate how they have satisfied the conditions of approval from the Concept Plan. They will also present some information on responses to Staff and Referral comments.

The applications that Ginn submitted in November, four applications the first being the PUD Preliminary Plan and as she mentioned, the EIR goes along with that, under the Town Code they are required to have hearings that the EIR has own hearing though it is not an application in and of itself. They also submitted a PUD Final Plan. As you may be aware, with the approval of the Town, we submitted a combined Preliminary Plan and Final Plan we received approval to consolidate the review of those two. In the course of discussions with Town Staff during the consolidated review process Ginn determined it would be appropriate to table the Final Plan application until after the Planning Commission and Town Council have had an opportunity to take action on the PDP. So while this was a consolidated application, we have tabled the Final Plan application that is not before you tonight.

The third application that we submitted was the Zone District Map Amendment; we will open up that hearing a little later. The fourth application which is required to be submitted with the Preliminary Plan application under the Code is the Preliminary Subdivision Plat; the first hearing

on that application is before the Planning Commission on February 14. This slide (Slide 6) demonstrates process and procedure; the top line is the Annexation process, the middle line is the Zoning process (the PUD process) and the bottom line demonstrates the Subdivision process. As this slide demonstrates we have Annexation, PUD Final Plan approval and PUD Preliminary Plat approval all coming together simultaneously, as we have always committed to, we will be asking for annexation only with the Zoning and Subdivision approval package.

There was a question at the last public hearing on Concept Plan with respect to referendum. She wanted to mention it here that the Town Code requires that Town Council take action, vote on the applications before them. If the citizens want to initiate a referendum after that they can do so, but there is no requirement that the applications go to public vote.

On the PDP there were several pre-submission requirements.

First was approval of Concept Plan (Exhibit A) which is a copy of the August 3rd and August 15th approval letters from the Planning Director approving the Concept Plan.

The second pre-submission requirement is a Pre-Application conference with the Planning Director by letter dated August 21, 2006 (Exhibit B) applicant requested a hearing with the Planning Director. That hearing was confirmed by the Planning Director on August 23rd, 2006 (Exhibit C) and the meeting was held on August 24, 2006. (Exhibit D) is the letter from the Planning Director back to the applicant confirming the discussion at the August 24 Pre-application conference.

Subsequent to that meeting the applicant submitted a request for Interpretations to the Planning Director with respect to certain provisions of the Town Code. The letter requesting the interpretations is (Exhibit E) for the record. Within twenty one calendar days of receipt of the request, as provided by the Town Code, the Planning Director submitted a written response. That written response is included in the record as (Exhibit F).

The PDP was submitted to the Town on November 1st. The Town Code requires that the PDP be submitted within ninety days after Concept Plan approval. November 1st is the 90th day after the August 3rd Concept Plan approval; so we satisfy the requirements of Minturn Municipal Code (MMC) 16.15.15.2

The Town Code requirements for the submission are included in MMC Sec. 16.15.16. Section 27 of what I have referenced in the Battle Mountain Application binder that you all have titled Application for Planned Unit Development Preliminary Plan, Planned Unit Development Final Plan, Subdivision Preliminary Plat, and Amendment to Zone District Map dated November 1, 2006. Section 27 of that binder demonstrates applicant's compliance with Sec 16.15.16. The submission also includes satisfaction of the conditions of approval from Concept Plan; Section 4 of the Battle Mountain Application demonstrates that compliance.

Submission contents there are two categories of requirements in MMC Sec 16.15.16. MMC Sec 16.15.16.1 sets forth general requirements. Section 27 of the written application demonstrates applicant's compliance with those requirements. Section 16.15.16.2 requires some additional

information; first being a community plan and development guidelines, a phasing plan, a subdivision application, which as I mentioned was submitted simultaneously and a Recreation Open Space (ROS) plan. As you'll see from the application and one of the things we like to demonstrate is that over 77% of the project is Open Space, MMC requires 25%. As required by MMC 16.15.15.2 and Section 16.21.6 (g) the Town was required to determine the application complete; that letter went out within ten days of receipt of the application. (Exhibit G), for the record, is the Town Planner's determination of completeness by letter. Upon determination of completeness, as required by the code, the Planning Director referred the application to the Town Council, Planning Commission and other agencies as appropriate. Consistent with the Town Code requirements applicant has also complied with the Public Notice requirements. There are four requirements; the first is the Mineral Interest notification to all owners of subsurface mineral interest where there are severed rights (Exhibit H) which was sent out on December 1st and December 11th, 2006. In addition the applicant was required to publish notice of tonight's hearing (Exhibit I) is the affidavit of payment of publication also including Proof of Publication from the newspaper as well as actual copies of the publications that were in the papers. The third set of notices is the notice to adjacent landowners, all landowners within three hundred feet of the boundary of the Ginn property were given notice of tonight's hearing by Certified Mail that went out on December 20, 2006 (Exhibit J) and is admitted to the record. The final notice was posted notice, the property was posted with signs for tonight's hearings continuously since December 22, 2006 (Exhibit K) is a copy of an affidavit certifying to those posting, as well as providing signs, or copies of the signs, for each day that they were taken. There were three signs; you may have seen them, one at Bolt's Lake, one at Gilman, and one at what they refer to as the Battle Mountain Entrance.

In compliance with the MMC the Staff Report was disclosed to the applicant on January 5th, 2007. Staff concludes that the application satisfies the requirements of the MMC and Staff recommends approval of the application subject to conditions.

Submission requirement considerations that you must take into account, General PUD application criteria are set forth in MMC Sec 16.15.1. Applicant's responses to those criteria are set forth in Section 23 of its written application. Next requirement is consistency with MMC Sec 16.15.8 General PUD standards applicant's response is set forth in Section 24. The specific evaluation criteria that you must make specific findings of on in the course of your approval, at the conclusion of your approval or consideration of this application are set forth in MMC 16.15.18. Applicant has set forth specific responses to each of those criteria in Section 25 of its written application.

The applicant prepared the EIR both as a condition of approval of PUD Concept Plan, back in July; as well it is a requirement of MMC 16.15.16 submittal requirements. The EIR was submitted on November 6th as supporting material to the written application. MMC requires that consultants who assist in preparation of the EIR must be approved in writing by the Town. On August 23, 2006 Dominic Mauriello, on behalf of the applicant, requested in writing, approval (Exhibit L) is a copy of that letter. The (Exhibit M) for the record, is a letter from Wiley Smith approving the consultants. (Exhibit N) is a letter from Dominic Mauriello following up on the written communication from Wiley Smith with respect to approval of the consultants who were preparing the EIR.

MMC 16.20.5 set forth the requirements for the EIR as demonstrated by the Staff memo prepared by the Town Planner. The applicant has complied with each submittal requirement. Upon acceptance of the EIR pursuant to the Town Code the Town Planner has referred the application, PUD and EIR, to any Federal, State and County agencies and other agencies and individuals from which the Town Council and Planning Commission desire comment pursuant to MMC 16.20.8.

As mentioned this hearing is also a hearing on the EIR as required by MMC 16.20.9. Public Notices, the EIR was also noticed with three forms; published notice (Exhibit I) demonstrates notice in the Vail Daily and Eagle Valley Enterprise, the mailings to adjacent landowners (Exhibit J) also included notices of the hearing on the EIR (Exhibit K) which is the posted notice also includes notice of the hearing on the EIR.

On January 5, 2007 Staff disclosed its Staff Report on the EIR to the applicant. Staff concludes that the application satisfies the requirements of MMC. Staff recommends approval of the EIR subject to conditions. The evaluation criteria for the EIR as part of your approval on the Primary Development Plan, you are required to find a favorably finding on the EIR. That requirement is set forth in the MMC 16.15.18.1 and it is included in the general evaluation criteria of the PDP, there is no independent evaluation criteria specified in the code.

This is notification that applicant is requiring vesting for the project given its scope and anticipated time. We will negotiate that with town council. That concludes the legal section.

Mr. Weber reviewed the history of what has transpired to date and then will get into the Preliminary PUD presentation (*request from audience to speak directly into the microphone*) You approved the Concept Plan back in July with approximately fifteen conditions and we have complied with all of those conditions. If we hadn't we would not have proceeded to Preliminary. That applicant is to provide the following with Preliminary Plan applications; 1) traffic and parking analysis, 2) attainable housing analysis, 3) school impact, 4) the EIR that Sarah eluded to, 5) preliminary architectural designs, 6) ECO trail systems, 7) coordinate with the Department of Wildlife on habitat and migration impacts, and another half a dozen of so items which we have complied with all of these or as I said we would not be here to present the Preliminary.

Dominic Mauriello, 5601 Wildridge Road, Avon, CO, Planning Consultant for the applicant and in the room are many of the consultants who have prepared elements of the EIR or the development or the architectural plan that have been submitted. The Staff has recommended approval (*K. Bloodworth interrupted; asking Mr. Mauriello to hold the microphone so that he can be picked up on the tape*). With the remainder of the presentation he will jump right into the conditions of approval that Staff is recommending on the project. We chose to not go back in great detail through the Development Plan although he will go through a brief review of the Concept Plan versus the Preliminary Plan. But we went through many meetings on that and all of you are intimately familiar with what we proposed. Jumping right into the conditions of approval, then a brief overview of the project and then talk about some of the topical areas where we have received comments from staff, referral comments from agencies or permit authorities on the project. We are not going to specifically address every comment that was received in bullet

fashion but we will address topical areas that will touch on and answer many of the comments that were received. We received many different types of comments from the public or from other agencies ranging from philosophical concepts to hard and fast permit regulatory type comments. We didn't feel it was necessary to address all of the philosophical issues so we are breaking it down by topical area. We anticipate this will go long enough that we will have more topical areas to talk about at future meetings. We won't cover all of them tonight and then we also want to be able to hear from you at some point during this review process, not necessarily tonight but at some point, if there are other issues you feel that you need more information that we haven't presented that we will have an opportunity to respond to that.

With that said he began with conditions of approval and provide to you our take on the conditions for approval. We understand the point of many of these conditions of approval but in many instances we believe that either we have addressed many of those conditions of approval already or that we will during this process that we are going through with the Planning Commission.

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.
- An Open Space, Parks and Recreation Plan that shall describe any agreement proposed to preserve the open space/ parks and recreation lands

What we have provided in the Development Plan is a PUD Guide and a Zoning Map that goes with this. The OS areas have been designated Recreation Open Space (ROS) which is one method in which the OS is controlled in terms of what uses are allowed to go there. It prevents development type uses in terms of residential dwellings or commercial type uses. It is very explanatory in the PUD Guide what exactly we are doing in those areas. In addition to that we have Covenants, Conditions and Restrictions (CCR) will be provided as well and includes language that restricts what kind of activity as well as who owns and maintains those areas and what type of funding mechanisms and how these things are funded. We believe that based on the information you have in your packet, and if you need any additional presentation from us as to where it is or how it will function, we believe we have actually complied with that condition or we will be able to satisfy you that we have complied with that condition before we actually get to the point of a vote. So we think that that condition will be rendered unnecessary.

- An Open Space, Parks and Recreation Plan in the project that identifies the areas of common open space and also describes the source of funds for long-term maintenance.

There is a set of CCR that lays out how the property is owned and managed. There are two types of OS here; that that is developed as an amenity which will be controlled by a Ginn Entity and people who buy units in there will be required to buy Club Memberships and those club memberships' dues will actually fund the upkeep and maintenance of those areas. The other areas that are not active recreation, they are more just open areas, or park areas within the residential development area; those will be maintained by association dues. There is a mechanism to charge dues to HO and those funds will be used for long term maintenance of those areas. We believe that condition has been complied with and that you will have a firm understanding of that prior to voting and that there won't be a need to have that condition by the time we reach a vote on this project.

- An Open Space, Parks and Recreation Plan outside the project that identifies the areas of parks and recreation lands and also describes the source of funds for long-term maintenance.

We were confused about this but we wanted to make it clear that we are not proposing any OS parks or recreation uses outside of the project. We are not anticipating that we need this condition as we are not doing any of that as part of this project.

- A parking analysis compared with proposed land use

We believe that what we submitted was adequate but we understand that there have been some questions on our parking analysis. We are prepared tonight to talk a little bit about that and get into more details in terms of our parking analysis as we move through this process. We believe we will satisfy that for you before we get a vote on the project.

- Proposed sidewalks

We believe that our plan complies with this requirement. Sheet L10.03 shows circulation plans, trails, and our sidewalk network. When we get final building plans there will be additional

sidewalks for entrance, exits, etc which will connect into a system of sidewalks. Those will come forth during the construction plan process of the project. But we have, for this level of review at Preliminary Plan; we have provided what we believe is necessary to satisfy those requirements.

- Traffic circulation patterns

Sheet L10.03 shows the circulation patterns throughout the development area. For the Preliminary Plan we believe there is not any additional information that needs to be provided at this time, unless you have questions.

- An agreed upon regional trail system with designated interior paths and trails accessible or closed to the public.

We are working with the ECO Trails Committee and with the Minturn Trails Committee on providing a trail. That trail will be on our property in most locations and all of that trail will be open and accessible to the public. Any connections that connect directly to the proposed development would be private connections for private homeowner use. But the major trail link would obviously be a trail where an easement would be given for public access across our property. We will talk more on the ECO Trail in this presentation tonight and he has an additional letter from the ECO Trails Committee that was sent to them today that he will be handing to the commission as well.

- Specific Design Guidelines addressing Project theme, General Site Planning Considerations, Site Engineering, Support Service Architectural Standards, Commercial Architectural Standards, Single Family Detached Standards and Setbacks, Multi-family Standards and Setbacks, Architectural Character, lighting, fences and walls, and streetscape elements.

We will be providing a detailed set of design guidelines when this comes to Final Plan Approval and again when you get to Final Plat that is where the rubber hits the road and you have to have that final set adopted with your Plat, those will be provided. In addition to that we will be making a presentation on, we gave you an outline of our design guidelines, but we will make a more in-depth presentation on that whether it is at the next meeting or a subsequent meeting to give you sort of an idea as to what we are thinking and the scope of what we are thinking as far as project theme and overall architecture within the project.

- Proposed drainage and grading plan

We believe that those plans have been provided for the Preliminary Plan level of review and those plans, I believe Staff has. We are working with Staff on technical issues trying to move the project forward so that when we get the Final Plan submittal we have all of our “i” dotted and our “t” crossed but we have what is required for submittal now.

- Economic data and supporting market analysis to justify any proposed industrial elements

We are not proposing any industrial land uses within this project so there is no need to provide any kind of justification for that. We are proposing commercial uses restaurant, retail shops, but not in the normal sense. They are more as an owner amenity on the property rather than a strict commercial enterprise. In another words, they don't necessarily have to pull a profit, they are there more as a service to the homeowners on the property and are subsidized by the resort. They are not really a competing commercial enterprise. We don't believe they will compete with local businesses as they are more oriented to provide services on site. They certainly aren't going to eat every meal or buy every shirt at the property.

- Final site plans and architectural forms planned for the first phase of the proposed development

We believe we have provided that. The same sheets that were provided, the 11x17 set that is bound, provide the detail that is necessary or required at this point. We have more than block forms of massing, we show some architectural treatment, some floor plans, and bulk and scale of what is being provided. We do not have every house designed on the property but what we do have is the PUD Guide that contains what the limitations are such as building height, site coverage, square footage and that sort of thing. So you have an idea from the plans of how big the homes will be, you understand how large the lot sizes are and we provided a building envelope plan that describes where a home can be built on each one of those single family lots. All of that has satisfied this condition and at this point it isn't really necessary to carry that over as a condition.

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.

Condition number two talks about that the applicant will address Staff Comments along with any other referral agency comments and concerns that have been expressed. We believe that this open ended comment or condition, we believe that going through this process and answering your questions and any questions that you have regarding any referral comments that you received, we believe that in this forum, maybe not tonight, but in the future meetings we will be able to address and answer any questions that you have to the point that you are satisfied that we have address those and you feel satisfied enough that you could vote and really eliminate this condition overall. That is our goal is to try to address all the concerns or issues that you have. In saying that of course we have to comply with all permit requirements of any permitting agency that may be involved in the project. There are different levels of regulatory review; you are a permit authority, the EPA is a permit authority, the US Fish & Wildlife is a permit authority, the Colorado Department of Public Health & Environment is a permit authority and so of course we have to comply with any of their requirements in order to construct this project.

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.

Referring to their PUD Guide they recognize that accessory dwellings units are allowed within the PUD Guide, it is one of the listed uses that can occur in the residential areas. And we have provided in the PUD Guide a specific process by which the plan can be amended. There are two different processes; a major amendment where it would come back before this body or Town Council or a minor amendment where we would work through Staff for minor tweaks and changes to the plan. That is all delineated in the PUD Guide that was submitted and recently been updated in your submittal. We anticipate eliminating this condition at some point when you feel comfortable with what we are proposing.

4. The applicant agrees to address the Planning Commission comments and concerns as identified within this report.

We haven't heard those yet we don't know what those are, but it is our intent that any comments or concerns that you have that we are able to answer those before you take a final vote on the project. That said, we understand that there could be conditions that you want to impose on the project when you do vote or when you are making recommendations to the Town Council that get carried forward. So if you had a specific concern that is not something that maybe we can address for you, but it is something you want carried forward, we recognize that that can obviously occur. We don't know what those are yet; obviously, we haven't been through this process.

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.

We recognize that we are going to have to do those. What we would like to do, perhaps, the way it is written, it is a little bit, and sounds like it sort of gives the Building Official or somebody unfettered ability to modify the plans. What we would like to propose that that be changed to say that the applicant will comply with any rules and regulations of the Town in order to comply with Fire and Building codes, something along that line of thinking suggesting that we are going to comply with, just because you get approval here doesn't mean there won't be other requirements and things that need to be modified by the Fire Department or the Building Inspector. On that note we have been working very closely with the Fire Protection District and the Ambulance District to make sure that we are going to meet their needs in terms of facility location and making sure that when we design the roadway systems and whatever, we have met with their requirements. And we believe, to date, that they are very satisfied with our plan.

6. The applicant shall pay all required fees and charges related to development of the subject property.

Mr. Mauriello noted that we agree that we are required to do that

7. Employee Housing Final Plat for a piece of property

A separate set of CCR was requested for any employee housing that they have on the site as a different set than you would normally have for a homeowner's association with the project. We

see no problem with that, there is a point in the process where that really happens and it is more relevant to a Final Plat. Once we get to the Final Plat for a piece of property that contains employee housing that is the point at which we will have a draft set of CCR for those developments.

That was basically all of the conditions and comments that were provided as part of the Preliminary Plan. As it was stated earlier, there are three things going on here; the Preliminary Plan, the EIR, and there is also a zone change and there were conditions placed on each one of them. A lot of them are repeats of the same conditions that are on the Preliminary Plan and in many cases; we believe that it is probably more appropriate just to be a condition on the Preliminary Plan rather than being a condition on the EIR or the Zone change. I will go through these a little more quickly in terms of what, how we believe we have complied or what we believe the disposition should be of these.

Discussion/Action Item # 4 Environmental Impact Report – Planned Unit Development (PUD) PDP– Battle Mountain

1. The applicant agrees to the requirement Section 16.20.5 Environmental Impact Report Checklist and Section 16.15.16, Preliminary Development Plan Submittal Requirements.

Mr. Mauriello stated that they believe they have already satisfied that, they have already received a completeness letter, submitted an EIR and so they believe they have already complied with that requirement. They don't know that it is necessary to carry that condition forward.

2. The applicant will address staff comments along with outside review comments as a condition of PDP approval that all review comments be satisfactorily addressed or corrected or mitigated before PUD preliminary plan is accepted for review and processing.

Mr. Mauriello stated that they believe that through this process with the Planning Commission that we will answer any of your comments or concerns that you might have. And of course we will be required to comply with any requirements of any permitting authority that has jurisdiction over the property.

3. The application is missing many details on matters that applicant is currently working on which must be completed and submitted before final approval action. Staff will work with applicant to identify these details.

Mr. Mauriello stated that they took this to mean that there were some, maybe technical things or trouble in terms of locating some of their details. As you are aware in terms of the environmental documents that were submitted on this project, there is probably a two foot thick of paper that went along with that, we can understand the confusion there. The Staff Report on the project in Section 9 ... a condition that needs to get carried through in terms of the EIR.

4. 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.

Mr. Mauriello stated they believe this condition is really more relevant to the Preliminary Plan and doesn't need to be carried forward onto the EIR because it doesn't seem germane to that area, so we recommend that it is deleted here but maintained as we discussed on the Preliminary Plan.

5. The applicant agrees to address the Planning Commission comments and concerns to issues as identified within this report.

Mr. Mauriello stated that they anticipate satisfying any of those as we go through the process here. And any that we don't satisfy that you believe need to be a condition carried forward that is your purview to make something a condition of approval. We believe we will be able to satisfy any of those comments or concerns through this process.

6. 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.

Mr. Mauriello notes they believe that it is relevant to the Preliminary Plan and would refer you back to the Preliminary Plan condition and don't believe this one is absolutely necessary to be placed on the EIR.

7. The applicant shall pay all required fees and charges related to development of the subject property.

Mr. Mauriello stated they have already committed to that.

8. All appropriate and applicable federal, state, regional and Town permits and approvals must be obtained (such as a 404 permit if necessary).

Mr. Mauriello stated that they will of course agree with that condition as well and they understand that they are going through those processes and those permits are required.

Mr. Mauriello stated he wanted to give everybody an update as to what is the Preliminary Plan versus the Concept Plan? He referenced the Context Plan in case some reason you have forgot where the Battle Mountain property was located (referencing PowerPoint) and this shaded area here is the additional one thousand acres that we have talked about we would submit a petition to annex that a year and a day later after this application based on state law requirements in terms of the three mile limit as they call it. This gives you the context of Battle Mountain relative to Red Cliff, relative to Minturn and also gives you some context here in terms of size and location to Vail ski area and the Beaver Creek ski area.

Mr. Mauriello continued by explaining the five character areas;

Bolts Lake Character Area; 541 acres, 702 saleable units, 446 acres open space

Gilman Character Area; 100 acres, 265 saleable units, 22 acres open space
Holy Cross Character Area; 1,262 acres, 83 saleable units, 1,023 acres open space
Rock Creek Character Area; 1,337 acres, 358 saleable units, 912 acres open space
Willow Creek Character Area; 1,100 acres, 292 saleable units, 927 acres open space

Mr. Mauriello stated that they have always capped their density at 1700 saleable dwelling units on the property that was what was approved at Concept Plan. We had more of a range of density that was allowed last time, we sort of nailed it down now and while there is an exact number there in the PUD Guide, there is an allowance for that to have some flexibility. That flexibility means that if I increase the number of saleable units in one area I am decreasing the number of units somewhere else. It is just giving a little flexibility to modify the density. It is expressed here though as an exact number.

Mr. Mauriello noted that the reason they high lighted the OS is as Ms. Baker alluded to earlier, we have 77% of the project as OS and this gives you an idea of where it is.

This next progression of plans shows how the plan has progressed. Referring to his PPP he noted that this was the Annexation Support map submitted in 2005 along with the annexation petition and it shows (stars) development bubbles and it shows areas that are no longer really included within the development scope of the project and we wanted to highlight that change. When we went to Concept Plan you can see very clearly that on the approved Concept Plan none of those development areas exist within this plan. The bubbles shrank and got a little smaller and a little more exact, Bolts Lake was reduced but it is the approved Concept Plan. It is largely the same document that you are looking at today, it isn't as if years have passed since we went through Concept approval, we went through that process this summer ending up with an approval in August and we had, based on your code requirements, 90 days to pull a Preliminary Plan together and get it submitted. That is just a product of what your code says. Really, there was not a whole lot to change, if we would have been allowed a year between there, maybe there would have been some changes. As a consultant he appreciated that the project didn't keep changing and with that quick turnaround you had to maintain the form.

If you look now at what has been proposed in the PDP you can see once again that the areas of development have been reduced in scope, become more exact, closer to an engineering document than what you had with the bubbles. You can see lots delineated, plans that show building envelopes and there are also plans that show how the Golf Course might be developed and how some of the buildings on the commercial core areas might develop. Unless you want to he doesn't feel the need to really get into explaining the entire resort once again but it really is pretty much the same project that you reviewed just a few months ago. Referring to his PPP he noted that this is a development plan or a Master Plan for the site that shows a little more detail in terms of what the Bolts Lake area might look like, what the development might look like, without really showing houses on each one of the lots, we highlighted the single family lots but where you get into a more commercial core, a more village type environment, we have some pretty good detail about building form and mass and location that is provided. In your documents you have some close up pictures of those so you can really see what is going on there.

J. Brinkerhoff inquired if Mr. Mauriello would take a few minutes and just globally summarize the development for those people who were not here during the Conceptual.

Mr. Mauriello responded that this is a mixed use resort development, a private resort. I think that is a key thing that a lot of people don't understand and a lot of the referral comments had a little bit of a misunderstanding about the context of the resort. Private resort means it is a private ski area, we are not selling daily ski passes to the public to come here, so the people who are skiing here, going to the restaurants here, or utilizing the shops here are really those people who are within the project itself. It is different in character in terms of traffic impacts or other types of impacts you might have because it is limited to that scope, it isn't like Beaver Creek where you and I can race up there on a good powder day and go ski. This area here, Bolts Lake, is a 18 hole golf course, this is a Super Fund site area that is being remediated. The Gold Course and the development that we are proposing here are actually the remedy for that. The proposed building here is the centralized resort functions, where a lot of the operational type activities will occur, and some restaurants. This is where there will be a multiple family set of structures to house, the dwelling units that have been proposed. There are also things like aquatics center, meeting rooms, and those types of things uses that are necessary for people who will own here. That is connected to a gondola that takes you up to the mountain top area and that area is really a small area and has designated for it now twenty dwelling units, it is a small core area. There will be some ski school activities, some amenities and restaurant type activities that occur there. That gondola continues down to what we call Willow Creek area, this again is another core area, similar to the Bolts Lake area but smaller in scope. There are some single family lots here and then there are some multi-family development in this location again along with restaurants, amenities, ski school type uses and other logistical type uses that will be common there. The remainder of the area here where the slope is gentler is single family lots of a variety of different sizes they vary from two acres, to five acres to ten acres in some instances. They are broken down into several different types of neighborhoods and locations and then throughout these there are actually ski runs, there are trails, summer trails, winter trails that exist out there. Skiing is represented here by these cuts in the trees, sort of a gilded ski condition here; these are the areas where there will be skiing and ski lifts. Gilman will be developed in similar fashion to Willow Creek and Bolts Lake in terms that it will have mixed use multiply family type use that will go there. Gilman is probably the most difficult in terms of permitting as it is the most contaminated of the properties and is subject to a lot of remediation that will have to occur there. That area is also connected by a gondola to the remainder of the mountain. So if I am standing at any of these areas and I want to go to any one of these other areas I have the option of taking the gondola ride rather than driving. In addition to that there is an extensive shuttle system that will exist for residents and employees on the property moving people around the property. There is also now a proposal to have some onsite employee housing in the Gilman Area as well as in an area that is outside of the PUD at this point, an area that we are considering, when they bring in the other thousand acres they can develop for some onsite employee housing. We will get into a little more detail a little later on.

The ECO Trail basically follows the Old Highway 24 bed until about this point, referring to the PPP and then what we tried to do was maximize the amount of that trail that existed on our property where we had control. There are other areas on this trail that goes onto other people's property. Since we don't control those and we were trying to maximize the length of trail that

we could provide the Town, we actually provided the trail in a different alignment. There are some people who think that the Highway 24 alignment is better, we are not opposed to that, we just can't make a commitment on someone's property.

A lot of the planning that has been going on the last two years of this development is to prevent there from being any ridge line development like you might see in other areas. Where you look up at the hill, beyond the vista, you see buildings sticking up above the ridge line. We have gone through a lot of efforts to development back away from the ridge in both the Red Cliff side as well as the Minturn view side, so that the property, by and large, is concealed within itself. If anyone has driven up Highway 24 and tried to look up this hill, it is pretty steep and most of the development is tucked away in the trees and is far enough away that you are not really able to see it from too many vantage points. We know that there was a view study provided by the counties GIS department and at our next meeting or subsequent meeting we will be getting into a detailed view shed analysis to show you a more detailed analysis as to how they work and from what areas we did that.

Mr. Mauriello, referring to the PPP noted that this was a side by side view of the Concept Plan and the Preliminary PUD Plan just to show you how they are by and large the same plan with some refinements.

Mr. Mauriello continued noting that he would like to talk about some topical areas that were brought up in terms of fiscal analysis, being one of the primary ones we will want to talk about, a lot of the questions and comments have come from different levels of review; permit authority type comments that we have to comply with, comments from agencies providing insight but not necessarily a requirement but more of a suggestion to you or us and then there are other referral comments. We will address some of those tonight and we will address more of them at future meetings. We are not going to go through them one by one but rather deal with them in broad scope comments. As he mentioned there is a different level of comments; for instance, the Town of Vail provided comments, they obviously don't have any permit authority over the Town so they are more philosophical ideas or comments. Eagle County's is really the same way, they don't have any permit authority but they provided suggestions and comments on things that they saw. I thing that I brought up before and I'll bring up again, it was very apparent to us that when you read those comments and you see the analysis that was provided, is that those people writing comments had a misunderstanding of our project. It doesn't surprise us necessarily because you and we and Staff have very intimate knowledge of the project, we know all the details, we know it is a private resort; we have talked about that time and time again about how it is operated and maintained. A lot of these other people who provided comments may not have understood that entirely. It makes a big difference. We you don't have day skiers and you are not a 1,700 room hotel, very different impacts with respect to parking, fiscal, or the need for public services. We just wanted to point that out as we go through some of these, keep that in mind that you can find some clues from people that misunderstood the project.

Mr. Mauiello said that you will note though that the comments that come from agencies that they were required to obtain permits from either had no comments or had very positive or very supportive comments on the project. I think that is largely due to the fact that we have been working with them as long as we have been working with you, that we have been meeting with

those agencies, going through their review processes separately from the Town process so they are intimately aware of our project, they understand it and those that seemed to understand it had fewer comments to make on the project. We thought that was pretty significant.

K. Bloodworth requested a break from 8:28pm until 8:40pm before having Ford Frick present his fiscal report. Meeting was recessed and then reconvened at 8:44pm

Ford Frick, Managing Director of BBC Research & Consulting, (*Ms. Stahl, Court Reporter told Mr. Frick she could not hear him. Mr. Frick stated he was bribed with pretzels to hold the microphone very close to his mouth*) began by saying that this commission has been through this discussion before, the data has not changed since you have seen it but he wants to review the fiscal impact of this project. That is the impact on the existing community of Minturn, what will be the cost of providing services against the revenues that will come from this project back to the town. Couple of things to say in advance; he has never stood up and said with as much confidence of a project that this will be beneficial to a community. There are some very unusual circumstances here which very much accrue to your benefit. Very simply stated, Minturn has very high tax rates, one of the highest property taxes on the Western Slope, you are one of thirteen communities that have a Real Estate Transfer Tax and I believe you have 2% (1%), you have a 4% sales tax which is quite high, and you have a lodging tax. So you will have, if you will, all of your traps are set. You are well prepared to benefit from activity. What you haven't had is activity. What this project then represents is high valued activity that comes into this high taxing district. The other quality of this project which is unusual and makes it difficult to compare with other communities, being the private resort it has a property owner's association, it has a management company and it will have a metropolitan district. It will basically provide most municipal services; it will provide them itself through those entities. It will have another layer of taxation so that those districts or homeowner's associations, property owner associations will be supplementing public services. So in a very intuitive level that is why this works in the manner that it does and it is highly beneficial. Another wonderful quality of the RETT often when a community is faced with an annexation proposal like this is the risk to the town is that it does the annexation and the project doesn't go through in the manner expected. So typically municipalities that rely on sales taxes are at risk for these kinds of annexations. What has to happen is that the residential has to occur before the commercial and retail make sense, and it is only when the retail makes sense and are developed that the municipality gets the sales tax revenue. So there is this lag time of risk for most communities in this situation. This risk is greatly moderated for Minturn because you have this wonderful, what amounts to, sales tax on property transactions, you have a RETT. One of the benefits besides being an additional revenue source is that it occurs early in the project. When the initial property sales occur that is a taxable event. There are no people living up there until units are built. So rather than having a tax, a period, a lag between demand for services and revenues, you have exactly the opposite. You get at least that portion of revenues up front and then the demand for services which really will not be a burden on the town because they are provided by the people themselves; comes later. Unusual circumstance but it works amazingly well for the existing community of Minturn. As we go through this graphic, these are the projections of all general revenue from all sources over a build out period, you can get a rough sense of the scale of the revenues which start sort of come out in the early years at about \$4 million growing to \$9 million against what he thinks are over stated, over represented demands for the cost of the Town's services. We have been very liberal

in saying what will you be doing up there. Your present general fund is a little over \$1 million for general fund operations, I have this thing costed, as you can see, rising up by year ten to \$2 million of cost. If we go through our model I think you will see that we sort of, we have great expectations for cost, I think they are over stated. Nonetheless, I have been very liberal on cost and conservative on revenues and I still have this (referring to PPP). It comes back to this odd circumstance that you are in, odd but pleasant circumstance.

Mr. Frick continued stating that a distribution of those revenues and how they change over time (referring to PPP) this first pie is where revenue comes from in the early years; the second one is in the later years. Property tax is one of those lagging revenues that take awhile for the assessment procedures to kick in, you have a year to contest, another year until the actual revenues accrue. Property tax starts slow but builds over time to a very stable revenue base.

As the project builds out we expect about 10% of units on any given year, actually I think we said 8%, to turnover every year. Remember that RETT is a recurring revenue it is not just one time, it happens early in the project when land first gets sold and then when the unit gets sold and then it happens annually when all of those properties occasionally change hands. Then you have some other things like lodging revenues and of course sales tax revenues, which in this instance are not, a rather small percentage because we are not expecting to have an aggressive retail community in this project.

We ran something we called the disaster scenario, a worst case scenario, at the request of this commission, I think it was Commissioner Brinkerhoff in fact who suggested this. Our reviewers did that as part of an earlier process and I don't think the reviewers were privy to that. Most of our review process that went on here sort of said we ought to question (test) all of these assumptions. The fact is we have done all of that and we will go through the process of responding to those comments. But the great majority of reviewer comments were about well what happens if this does not happen the way they say, which is totally appropriate thing to ask. Again, you are protected because of this array of taxes and because those taxes occur on the sale of land, on property taxes, that will occur no matter the pace of the development. Most projects worry a great deal about pace of development because they got to get to that point where it produces sales tax to be successful. You don't have that risk. We went through that disaster scenario looking at an economic downturn with a 40% reduction in the values of the properties. We looked at assumptions where the pace of the project slowed; sometimes as a municipality you worry about well what if they start off and it doesn't work and then we are responsible for all of that stuff and nothing is going on up there. Perfectly legitimate concern but you won't be maintaining streets up here which is mostly what a municipality would worry about. What if we get stuck with all of those streets and there is no development to provide the property taxes. Those streets will be maintained, they are private streets that you will not be sending people up there to plow or repair, that will be someone else's concerns. So, the lay of the project or some portion of the project occurring before another portion just really does not affect this broad array of tax revenue sources that you have. We looked at lower retail sales, you are not dependent upon retail sales, and we looked at much lower utilization rates, what if people buy but don't come. Again, property taxes and RETT they still work in an empty, or lesser used village then they do in a fully utilized village. It is really sales taxes which are most dependent on utilization and activity levels; you are not vulnerable to that. Even under all of these, if everything turns

south on us, we still have this extraordinary, we have a net revenue benefit, above my high cost that still over twice the size of the town's current budget. It is a remarkable project. This combination of this project against your taxing structure is sort of unusual, humorous almost to look at the kind of revenues that are likely to occur off of this. And the ability therefore for you to either reduces tax levels or to take on service levels or activities that you have never been able to do before. Again, most of the review comments were very appropriately saying you ought to test all of that stuff, we don't think the assumptions are wrong but you ought to test them under different scenarios. They just weren't privy to the fact that we had already provided some of that. And I think all of our assumptions are, well the reviewers didn't say our assumptions were wrong so much as you ought to look at a range of them. No one really questioned and said this is fundamentally wrong, they said the process is correct, the assumptions are reasonable, but. So we look forward sort of providing them that and in the end of all of this, both the town's consultants and we will be able to come to you and say we are in general agreement about this. I don't think this is going to be a difficult issue. It is an unusually fortuitous situation. Ultimately the bottom line here is those revenues are the town's revenues, they are under your control, they do not stay within the homeowner's association, they are not necessarily spent in this village, they are not controlled by developer, they are the communities revenues.

Mr. Frick asked for questions and hearing none turned the microphone over to Mr. Weber.

Mr. Weber stated that this is current events; it is front page news, almost daily in our community, throughout the Valley. A couple of former county commissioners are here who have been intimately involved in employee or attainable housing over the years. The first bullet point that is to be called out so that people won't think there are any games being played. Our approach to employee housing is over and above our 1,700 saleable units. From day one, the first day Bobby (Mr. Ginn) and I were here we said we want to do, we weren't asking for five, we weren't asking for three, all of this stuff. We wanted 1,700. So our employee housing approach is exclusive of our saleable units. The demand number was developed by Mr. Frick's organization and it based on our other private resorts; we have forty projects in the Ginn World right now, some are active, some in the pursuit stage, but we have major club and resort activities in Florida. We have a pretty good knowledge on what it takes to operate our clubs and resorts. Our number, Battle Mountain at build out will require approximately 800 employees. We are confident in our number, this is our business however some of the other folks, agencies or some of the folks who don't really have standing in it, have provided some philosophic comments to you all saying we need significantly more. Our approach is that we will guarantee that either on site or offsite, that 40% of our employees, if our 800 number is correct or if it is some other number down the road, of our full-time Ginn employees involved in Club Operations; we will provide affordable housing for. So that takes out the Olympic scoring method; is it 800, is it 1,200, whatever the number turns out to be, we are guarantying 40% of housing for employees, either on site or off site.

We will commit to provide an audit of our employees every five years through build out, which right now is anticipated at twenty years. We will prove, I don't think it will be an issue by that time, our credibility that we are providing our 40%. At present we have two areas that we are proposing for employee housing; one of them is the Gilman area and one of them is up here (referring to the PPP) east of Shrine Pass, actually southeast of Shrine Pass, kind of above the

Red Cliff town, the Town of Red Cliff. This just calls them out a little bit more so that we can talk about them. We want our employees to live here. There is a motive for our employees living here, if there is an emergency, adverse weather, our people are able to get to work right away. It also takes traffic and reducing traffic because they are here, we shuttle our employees to work. What we are proposing to do and I am starting on the one that would be the last one that would be done because of the environmental clean up, is Gilman. What we are proposing to do is take 50-70, might be 80 units down there, the existing homes that some of you, your families were there, I know I've talked to people that your mom and dad lived there, some of you were born there. We are going to take about 70 units, upon clean up, the area has to be leveled because of the contaminations, and our plan is to retro, I like that word, where we are going to build those buildings to look exactly the way they did in 1983 or 1984 when people were asked to leave. The only difference is that they will be state of the art technology on the interior of the homes where people's Maytags washing machines will be 2008 version, if you will, versus the 1980 but the homes will still look like the 1980's. We like that because of the historical aspect, we talked about the vehicle traffic on it. The Shrine Pass Road area, the area that I called out there, that's not the exact area, it could be the exact area but we have in that thousand acres that is not coming in with the first part of the annexation, it is the three mile limit, there is a thousand acres up there and we are very, very confident that we will be able to find units, another village up there of between 80 and 100 additional dwellings. We will have amenities for our employees. They will be single family duplex and townhouses. That is our plan on employee housing. If we need more employee housing, if the 40% formula that we talked about, we will find a place for them either, probably by that time it would be off property.

Mr. Weber continued that Mr. Mauriello had talked on this earlier; some of the folks didn't realize that this was a private resort and how we operate. I think one of biggest differences and those of you who have been doing this for two years the way he has, two years plus, Mr. Ginn makes a speech all the time and I am paraphrasing him that we are unlike different developers. We buy land from whomever, the farmer or whoever. Most people develop and leave town. Our clubs and resorts are the tail wagging the dog. We stay, we make a very positive impact into the communities that we stay in, and so I think that is one of the things that some of the folks that have commented to you all and to the Staff haven't picked up on that yet in our opinion. That's it for employee housing unless you all have some questions on it.

J. Brinkerhoff added that we will do questions later.

Mr. Webb continued that environmental benefits; sometimes when I talk to people in my office one of my responses is that if for no other reason, you might want to like us because you are getting two super fund sites cleaned up on private dollars. This isn't something that the government paying, it isn't coming out of taxpayer money; this is coming out of the private sector. We are currently under permitting with the federal and state EPA people, Ken Wayshee who has spoken to you before and I am sure we be speaking to you again at subsequent meetings, we have been doing testing for two years on four different media; soil, water, air and water table. I think we are very close to getting approval from the EPA and if for no other reason that is a big, big plus to the community to get something that close to your town that has been in that condition for the last twenty five years or so cleaned up.

ECO Trail, Mr. Weber stated he would turn that over to Mr. Mauriello in just a moment as he has a letter to read from the county on it. We have heard the county folks, we have heard the town committee, we have met with them on numerous occasions, numerous I think is three, that might not be a lot but it is more than one time. I think we are committed on the property that we own to putting in the trail, Mr. Mauriello touched on it earlier, there are maybe better spots for it but at this time, since we don't own the land, it is difficult to go into your backyard and say we are going to put a trail through your yard. So this is something I think we can get even a better trail down the road working with the county folks and the Minturn committee.

Mr. Mauriello added that he does have a letter that he will give to J. Brinkerhoff so he can pass it down. It is a memo he received today from Ellie Caryl, basically just documenting that we have been working with her and with members of, sort of local Minturn trails committee. Just documents that we have been working together, it has been very cooperative approach to doing the trails here and you have received other correspondence from the Board of ECO Trail and you have that as a referral comment, so we take, this was one of your conditions of approval and it is one that we have taken very seriously and it is not something that has been wrapped up with a tight little bow yet, but the commitment is there from Ginn to do this trail. As Mr. Weber mentioned we are supportive of other alignment, not just the one we show on our plan. But we didn't want to presume building a trail on someone else's property so we tried to put it as much on our property where we controlled it as possible. If at the end of the day, the desire is to put it on a different alignment then we will work with maybe the country, or ECO Trails or whoever the agency is, for them to take the lead and pursue easements or whatever they need on other peoples property and we will be there to fully support those efforts. But as it stands now, we are showing it mostly on our property. The timing of the trail is really quite dependant on the environmental clean up; portions of that trail go through the Bolts Lake area which is a super fund site and it also goes through Gilman where the permitting hasn't really progressed at the same level as it has a Bolts Lake because there is a lot more types of contamination there that we have to deal with, could be further out into the future, so that is one of the draw backs in terms of some of the alignments on this project is that there are timing issues. It is not going to be something that we are going to be able to build day one or complete day one it just due to those issues that are outside of our control and the Town's control as well.

Mr. Maureillo, referring to the PPP, noted that this is the circulation map that we have, it is really very difficult at this scale to show you where the trail is, but by and large the trail follows the old Hwy 24 platform, until the point that you get right about here, referring to the PPP, and then the trail moving along Hwy 24 here, crossing the road in some fashion and then being on the east side of Hwy 24, progressing, and then at this point it goes off of the property and again onto property that is not owned by Ginn. That is the alignment that we are showing. I have a blow up here that shows this area near Gilman, you can see that the trail is here, on the other side of Hwy 24, here is where it crosses. Here is the old Hwy 24 roadbed that you can see on this aerial photograph, our property boundary ends right here, and then is on this side of the road. None of this land is under our control whatsoever; it is under different ownership, probably a variety of different ownerships, not just one. It makes it a little more complicated to do a trail there, but at the same time we can't be held or make a commitment to you that we can build a trail on someone else's property, so we are fully committed to whatever alignment is pursued and we will help with that effort.

Mr. Maureillo continued stating that one of the conditions of approval that we discussed earlier is the parking analysis. There has been some discussion about how we are parking the project. We have provided in the PUD Guide a list of how many parking spaces are required for different types of use. It differs slightly from the Town code normally requires but we actually for single family type uses actually require more parking than would normally be required; one space plus a half a space for each bedroom after the first. So if you have a twenty bedroom house you are going to provide a lot of parking on the property to comply with that, we don't anticipate twenty bedroom units and in fact what he did was on a basis of a five bedroom, he figured five bedrooms may be somewhat of a stretch, but maybe not. We had to make some assumptions so when we applied that standard for a single family and to the number of units that we have on the property you end up with, just on the single family homes and in their garages and in their driveways, you end up with about 2,400 parking spaces.

□

Single-family – 1 space per unit plus 0.5 spaces for each bedroom after the first

Condos – 0.75 space per unit

Caretaker Units – 1 space per unit

Commercial/Recreational – As required by internal DRB

We didn't put a specific requirement on commercial or recreational we made it more of something that would be determined by the internal Design Review Board to ensure that there was adequate parking. As he expressed earlier this project as a private resort is very different when you have commercial amenities or a commercial business down in Minturn for example, the general public can arrive there, park there and you have employees that have to park there, whereas here, the people who are likely to use the facility are already parked somewhere. If you are required to have a car and you are parked at your unit, you don't then need another parking space to accommodate that user that is going to that kind of uses, skiing facilities or the other parking. So it is quite different as you would be double or triple parking a project if you assessed every use like you do in the Town of Minturn. In that case we left that open ended to be more of an analyzed on an as needed basis based on whatever facility was being built. If you apply the .75 spaces to the number of condos we have that would require 915 parking spaces so the total of "required" parking spaces for the project would be 3,320 parking spaces. We think the parking for single family is over stated, we think that, a lot of people would think if you own a condo how do you only park .75. There have been a lot of studies done and at a subsequent meeting we will get into this in a little more detail, but if you do utilization studies of resorts that are public resorts during the busiest time of year you end up with a condition that is more like one parking space per unit and if you factor in the private aspect of what I just discussed before, that I can't just drive up and go get my skis waxed type of thing, the .75 is actually a very reasonable amount of parking. With all of that said I know just through what Ginn does they have to provide adequate parking for the people who are going to be members here, that are going to have homes here. They can't skimp so they have to assure that they have enough parking for staff, condo owners, special events, winter events, etc or on the day locals come to ski, we need to have that parking. So while this number of 915 will likely be higher than that, for us, we are not really concerned about whatever we come up with for parking because we know we are going to adequately park the project. Really, there is not as great of a concern on your behalf, it isn't like a project in downtown Minturn that if I don't park my project I am probably parking in

someone else's parking space or out on the public street in a public parking space. In this case we are subject to our own success or not, it is not as if we under parked the project that people are going to be parked out on Hwy 24, the accommodation is going to have to be there. We are not real concerned but if you are and have concerns we are willing to give you any kind of security you need in terms of these parking rates to make you feel comfortable.

Mr. Weber said that we talked about the environmental benefits, we talked about maintaining open space, one of our critics at one of the meetings that we held down at the middle school said you can't build in some of those locations, that is true, but you can also build on a lot of the locations that we have not elected to build on. And we have also talked about the non ridge line development. So when 77% or so remains undeveloped, whether or not we could or couldn't is not real relevant because it's not happening.

Mr. Mauriello added the Mr. Weber has already expressed it earlier about the environmental benefits of the project so he won't go into it, but they have put this into four categories; Town control being one; the town by annexating property and approving this property is really exercising their regulatory control of what happens there, you will have ultimate control over what happens and how the project is developed. You will also have control over how you decide or the Town, Town council decides on how to spend its' revenues and whether they use those revenues to build sidewalks, additional parking for downtown businesses, for parks or other community amenities, you are going to have a significant supply of revenue as Mr. Frick discussed that you didn't have before that you can leverage or just spend outright to improve these facilities. You are in a unique position and you ultimately have control over what you want to do in the future.

Mr. Maureillo continued by stating that economic benefits are pretty clear, you really have a lot of significant revenues coming out of the project.

Mr. Maureillo added other benefits; we have a commitment for employee housing...

Mr. Weber stepped in and said that is the real reason he came up to the podium as he neglected to cover it when he was talking about employee housing. One of the town residents call the Ginn office today and spoke with one of the people on our staff and said that they heard that Ginn is out there looking to buy up all of the real estate in Minturn to use as employee housing. We are not I can assure you, if we were we would not be doing it under the Ginn name because we would be paying a little bit more for that. I think we have talked quite a bit and J. Brinkerhoff said that we would be revisiting housing down the road. But if anyone hears that rumor, we are not looking to buy employee housing on Main Street in Minturn. On the special pass for town residents, we have said this from day one, we plan to be a good neighbor to you, we plan to be a good neighbor to Red Cliff, folks are going to have the ability to use our amenities if you are a resident of Minturn, lived here for a certain period of time, we will come up with something that they residents can live with and that we can live with. He throws out the caveat that if it is golf and he lives in the town of Minturn he wouldn't expect to be playing Saturday at 8am in the summer time but maybe Tuesday afternoon. But you are going to be playing on a world class course at a very, very reduced rate.

One of the things we talked about were quality job opportunities and I think that a lot of our employees we are anticipating the base for those people are going to come right here from Minturn so some people might not have to move and have a pretty good commute.

These next two in here, he vacillated putting them in there, they are not part of the annexation process, whether or not we get approved or not approved, we have a separate agreement with Town council to handle the Waste Water Treatment Plant (WWTP) and as a result some water issues get resolved favorably to the town but they are independent of annexation.

Mr. Maureillo added that he believes this concludes their presentation this evening and they want to continue the discussion to the next meeting. They understand that at this point we probably need to stop and decide if you want to table this to the next meeting before I move into the next topic which is going through the conditions and criteria with respect to the Zone District Amendment application. If you want to have the meeting at 5:30pm instead of 7:00pm we would be happy to accommodate.

E. Glesner inquired if they were going to motion to table.

K. Bloodworth responded yes, if that is what you want to do.

J. Brinkerhoff inquired if we can save questions for the end, close this meeting and open the Zone Amendment meeting.

Arthur "Boots" Ferguson, Holland & Hart, LLP, 600 East Main Street, #104 Aspen, CO said that what he just heard was a request to continue to the extent that you want to ask some questions for clarification that you want the applicant to address, that is a continued hearing and now would be the time to do it. Once this hearing is continued it will terminate for this evening and we will be opening the second public hearing on the Amendment to the Zone District Maps. So any questions that you want to offer with respect to the PDP should be done now.

J. Brinkerhoff said that his thoughts are to summarize some things that they want to see at the next meeting.

B. Ferguson responded that he thinks that that would be a benefit to the applicant and a benefit to the public and it would promote efficiency in the future.

Mr. Mauriello (from the audience with no microphone) said that he can also address our concepts or what we felt we might cover at subsequent meeting, whether it is next time or...

B. Ferguson stated that his suggestion is that the applicant has requested a continuance and the applicant perhaps could help us all by telling us what you are going to do with the continued time in the future and that might give the commission some benefit in terms of giving them focus on whether to ask questions at this time or to wait until next time based on what you anticipated evidence is.

Mr. Maureillo came back up to the podium and started off by saying that maybe Mr. Weber or Ms. Baker could jump in as needed. He thinks that their concept was that at the next meeting that we would get into some other technical issues, we wanted to bring in the view shed analysis and show that. Perhaps present some of the design guidelines and sort of the concept of those and what they will look like. Those don't get hard and fast until you get to final plat but we wanted an opportunity to do that as well, we can talk about traffic at the next meeting. If there is more discussion around parking we could cover that as well. We had sort of three areas that we had, if there are any environmental questions in terms of wildlife we had anticipated maybe making a wildlife presentation at the next or subsequent meeting. And then if there were any sort of technical super fund type environmental questions we could do that as well. They feel they did a pretty significant job of that at the concept plan in terms of the environmental discussion.

Ms. Baker said that she would simply add as well that anticipate adding some visual analysis so that you can one of the requirements under code, is that you can analysis on bulk and scale requirement. We will have some models in here, physical models, and some computer imaging I believe for that as well that goes into the design guideline of bulk and scale and what they will look like ... *not audible*.

Mr. Maureillo added that they basically have the model, you may have seen it, just a terrain model that existed over in the Ginn offices and we modified that model to actual put sort of the development on that and we will have it here for the next meeting so that you will be able to look at a 3d version of the plans. We think that would be very helpful as well.

J. Brinkerhoff said that he would like to follow on with Mr. Mauriello as far as some things that we would like to talk about. Anyway, I'd like to say thank you for giving us a huge amount of information to digest. I have read most of it, I haven't read of it but most of it. It is a very complicated project. Tonight he didn't feel like he learned a whole lot new because we have gone through this a few months back. With that all being said let him digress a little bit, I want to thank a lot of the agencies that did refer reports on this project, that I found fascinating and to a large extent very, very useful. The Department of Health, Eagle County did a lot of work and actually funded some reports that he thinks are incredibly useful. The Town of Vail put some very thoughtful comments, Department of Wildlife and we have a ton of information in front of us that is what he is focused on. The documentation you have given us is very professional it is incredible, so really where the rubber meets the road is impact, at least for him. So one of the questions that come to mind when he looks at some of these referral reports and he knows that some of the entities don't have jurisdiction that doesn't mean that we don't need help, we need a lot of help. You have a lot of people you pay to create all of this, we don't. We found this incredibly important. With that said, we also realize that just because there are forty comments from an agency, it doesn't mean we accept them all. Some of them may be a little harsh or unreasonable, a lot of them were reasonable. He would like to look at those with Ginn. Can we go through these comments in some reasonable fashion and have an understanding on whether there are certain things in there at you can't live with and things that you comply with and I don't know necessarily that is a long discussion, that is why I would like you to look at this before the next meeting. There is a lot of stuff, when it comes down traffic, the traffic report I read, is one, I shouldn't say it was the weakest thing you gave us, but to me it is one of the most important

things to him as an impact to this town. It was hard to understand, there were some things that weren't addressed such as construction, at least vertical construction which have a huge impact, I want to know what is going on in the street just as a practical standpoint. Maybe I am wrong, maybe imbedded in that report it was, but it seemed that several other agencies looked at it and came up with the same conclusion that you didn't address that or they didn't address that and said the same thing, that it wasn't covered.

(The tape ran out here and was not recording before being changed over to second tape)

We aren't in the position to say whether it is or isn't. There is not real mechanism to fix problems if there are problems, in terms of traffic. It is hard to figure or define what the problems are going to be. He would like you to come up with a funding mechanism not just the government traffic improvement but by adding a mil levy that becomes a guarantee fund for transportation and roadway improvement. Interesting solution to what he believes is one of the biggest issues. Would like Ginn to look at it and respond.

One of the referral agencies mentioned because of the Tabor Amendment they do not know if the Town would even get to keep the money?

Another thing close to his heart is the ECO Trail and he would like to see a little more meat on the bone, how much completed at what stages, etc. It is a huge mitigating factor to have a world class walking path when the citizens have additional traffic to deal with. He would like to see less time on the skim milk and more time on what is important; referral agency comments, Carter Burgess comments. He sees some red flags, needs to understand them.

L. Teach had no additional comments.

E. Glesner had no additional comments.

K. Bloodworth had no additional comments.

Mr. Mauriello added that what were are planning on doing was responding to more significant comments and their consultants will prepare written responses. That is what we intend to do and what he hears is that traffic should be item number one.

J. Brinkerhoff said not in the spirit of why we don't need it, but because a lot of it is good stuff. Make sure we do our job and cooperate with everyone in the valley.

W. Smith introduced a couple of exhibits ...

(Second tape was turned on and once again began recording at this point. Ms. Stahl has promised to provide these comments when she completes the legal transcription)

... noted that now you do have it and this is now part of the record for the Ginn proposal.

Ms. Baker added that there is one remaining matter on file number PUD PDP 06-01, just for the record she wants to make sure that Exhibits A-N have been offered into the record as well as Exhibit T which is a copy of tonight's presentation and W. Smith may have just said this, I will mark it as Exhibit U, the memo dated January 10th, from ECO Trails from Ellie Caryl commenting on the status and discussions with the Ginn company. Again for the record, Exhibits A-N, Exhibit T and U.

(some conversations in background while waiting for attorneys to return to room)

Ms. Baker said that it appears that the Town's Council and the Planning Director are out in the hall discussing applicant ...*here they come*...at this point applicant would request that file number PUD PDP 06-01 be continued to a hearing at the Planning Commission's next regularly scheduled meeting which is January 24 as Mr. Mauriello commented we are going to have a lot of material to cover at that hearing and if planning commission would entertain a request to start at some earlier time, applicant would be happy to do that.

(some conversations in background)

Ms. Baker continued by stating that they need to open the hearing on the application for Zone District Amendment and as long as W. Smith is willing, she is willing to cover the Staff Report and we can cover the same legal provisions that she covered with respect to the PDP. She anticipates that hers will take ten minutes so as long as you guys are willing to hang around a few more minutes that would be their intention.

W. Smith stated that he is fine with that, starting at 5:30pm

K. Bloodworth added 5:30pm on the 24th.

Motion by J. Brinkerhoff, second by E. Glesner to **continue** this hearing to January 24th at 5:30pm; **Motion passed by roll call vote 4-0.**

6. Discussion/Action Item # 3 Amendment to Zone District Map – Planned Unit Development (PUD) PDP Battle Mountain

W. Smith started by saying for expediency I can either introduce that or the applicant can continue, it doesn't matter, I can just go up and talk about, introduce the case and then the applicant can continue or...

J. Brinkerhoff added if it is not necessary the applicant can continue.

Ms. Baker noted that given the hour and the information received this evening the public hearing on file number PUD AZDM 06-01 having been opened at this point, given the late hour, we would request that it be continued as well until to January 24th, at 5:30pm.

B. Ferguson asked a question of the applicant; we had discussed at the outset that perhaps those matters that had been presented in the prior hearing would be incorporated by reference into this

hearing and perhaps before we continue this we should have a request to do that so that we make sure this hearing does have the same record as the other hearing.

Ms. Baker responded absolutely, that on the outset of my hearing on file number PUD PDP 06-01 I requested and stated that all testimony and exhibits that had been offered and received by the Planning Commission in the file number PUD PDP 06-01 would also be incorporated into the hearing on file number PUD AZDM 06-01 so at this time I make would make that request. At the subsequent hearings we will also be making a similar request. We have some additional information to present to you on the Amendment to the Zone District Map file ... *not audible*... Standard of review and different publications, different notices so at the continuation of this hearing on the 24th we will be offering that information as well.

K. Brinkerhoff stated that the applicant's request is granted to incorporate everything Sarah.

B. Ferguson added that before we continue the hearing he would like to say for the record that a Staff Report has been prepared and entered into the record on this particular file by the planning director and as a matter of MMC requirements the Amendment to Zone District Map application was filed consistent and simultaneous with the application for the PDP PUD for Battle Mountain. These two files will track directly, since the Amendment to zone district map will general will reflect what is approved or not approved with respect to the PDP file. We want everyone to know and those who are in the audience, that in the future your testimony in the first file, in the PDP will be incorporated into this file so that you don't have to repeat it at each hearing. It will be considered for both.

Ms. Baker noted that on behalf of the applicant she would like to add to that though they are incorporating the testimony from tonight's hearing, to maintain consistency with the procedure in 16.21.6 (u) it would be applicants preference to commence the next hearing on this application, consistent with the procedure, starting with the staff report and then followed by applicant's presentation. At this time we would request a motion to continue file number PUD AZDM 06-01 to January 24, at 5:30pm.

Motion J. Brinkerhoff, second by to **continue** the application for Amendment to Zone District Map PUD PDP PUD AZDM 06-01 to January 24th, at 5:30pm; **Motion passed by roll call vote 4-0.**

As there was no additional business, K. Bloodworth adjourned the meeting at 9:46pm.