

Town of Minturn Planning and Zoning Commission Meeting Minutes

Wednesday, February 14, 2007
6:00pm Minturn Town Center
302 Pine Street, Minturn, Colorado

1) Call to Order/Roll Call

The meeting was called to order at 6:04pm by Chairman Woody Woodruff. Roll call showed Lynn Teach, Jim Brinkerhoff, Ernie Glesner and Kristie Bloodworth present.

Also present was Town Planner Wiley Smith, Town Planner I Chris Cerimele, Town Attorney Allen Christensen, Attorney Arthur “Boots” Ferguson, and Public Works/Planning Department Assistant Torrey Maxwell and Court Reporter Rosie Stahl.

2. Approval of Agenda Items

W. Woodruff noted that there is a typo so number two and three get dropped; they are repetitious. We will see how it goes but we have some things to put on the record as far as the Preliminary Subdivision Plat.

Motion by L. Teach, second by K. Bloodworth to **approve** the agenda as **amended**; **Motion passed 5-0**

3. Approval of Minutes – Minutes from January 24, 2007

Motion by E. Glesner, second by L. Teach to **approve** the minutes of January 10, 2007 (E. Glesner’s motion was to approve the minutes of January 10th per the agenda. *Note: incorrectly stated January 10, 2007 minutes, should have read January 24, 2007*); **Motion passed 5-0**

4. Discussion/Action Item – Design Review Approval of a Residential Duplex in the Game Creek Character Area

C. Cerimele, Town Planner introduced Gary Prupis, the applicant, is requesting Design Review approval for a residential duplex with an attached garage at 532 Taylor Avenue on Lot 15 of the Taylor’s Addition to the Town of Minturn in the Game Creek Character Area. The site is approximately 7,594 square feet or .174 acres. Total Floor Area of the proposed duplex is 3,886 square feet. 24%. Staff finds the proposed residential use in a residential zone district appropriate and any future changes will require approval from the Planning Director and Design Review Board.

Required parking, set back requirements, and height requirements have been addressed for the Town of Minturn Zoning Code. Design review submittal requirements have been addressed for the Town of Minturn Zoning Code, Chapter 16, Appendix B Minturn Design Standards and

Guidelines. Considering the findings and other information provided, the Staff recommends approval of this application subject to the following:

1. The applicant obtains a Conditional Use Permit
2. The Design Review Board grants final approval to the applicant meeting in the general fashion, design and other regulations of the Town.
3. The applicant, making any modifications to the plan, document as requested by the Planning Staff, Building Inspector and Eagle River Fire Protection District prior to Certificate of Occupancy being issued.
4. Also the applicant pay all required fees and charges related to the development of the subject property.

Gary Prupis, 1063 Vail View Drive, Vail, Colorado summarized that the project is a duplex with a one bed unit on one side and a two bedroom unit on the other side. One side is for himself and the other side will be his parent's second home. Mr. Prupis showed samples of the siding, roofing (asphalt), windows (Anderson) and window colors.

L. Teach asked for more explanation of the drainage.

Mr. Prupis responded that he has the latest report from the engineer which has a picture of how they are addressing the drainage.

W. Woodruff inquired if it is a relatively flat lot?

Mr. Prupis responded that it is flat now that Kenny (Mr. Chadwick) flattened it. It had a house on it before.

W. Woodruff said I can see that it's going to be backed up in the rear of the property.

Mr. Prupis responded that is a railroad tie wall, and it looks like it hasn't moved in one hundred years.

E. Glesner inquired if the drains that he is indicating are those in the ground.

Mr. Prupis responded there is full drainage.

E. Glesner inquired where do they daylight?

Mr. Prupis noted that they come out but does not know where. Maybe Mr. Ken Chadwick can help me.

W. Smith asked that Mr. Prupis introduce Mr. Chadwick and he stated that everything Mr. Prupis has shown as exhibits to the commission has to stay here and will be introduced into the record.

Kenneth Chadwick, excavator, 442 N. Taylor Minturn, CO stated that he demolished the house that was on the lot, we made it flat and we determined that the footer drains, since there is an

upgrade slope, will daylight on the street side. We don't know exactly where as of yet because it has not had an instrument put on it, and he hasn't seen the plans.

L. Teach inquired is there any space between the deck and the retaining wall?

Mr. Prupis responded that one of the decks goes above the retaining wall because the first garage is 13' high and the second unit on the right go up to the retaining wall, because it is only an 8' ceiling.

L. Teach stated she sees one area of landscaping on here, is there any lawn or yardage?

Mr. Prupis answered just that one spot to the side and right in between the two properties on the other side. It is mostly asphalt coming in.

E. Glesner inquired if Mr. Prupis had any other building elevations that show the back of the house or the side similar to the two car garage comparable height to street height for drainage?

Mr. Prupis responded that he did not think so.

Mr. Chadwick added that there is roughly 6' difference from the bottom corner to the proposed elevation that we figured out.

W. Woodruff inquired if they were going to fill it so it would be completely flat all the way back?

Mr. Prupis responded yes.

Mr. Chadwick responded affirmatively.

W. Woodruff asked if they were changing the swing on this front door.

Mr. Prupis responded yes.

W. Woodruff added there is a note that you want it to swing in.

Mr. Prupis said yes, I did not understand why it was swinging the other way.

W. Woodruff inquired that Mr. Prupis isn't going to have any access out the back, just the one door on the side. Are you running any kind of door straight out the back?

Mr. Prupis responded that is the rear of the RV garage; no, he only put the one there because it is such a long garage that he was worried if there was a fire you would want to be able to get out either side, front or back.

W. Woodruff inquired of C. Cerimele if all the parking is taken care of.

C. Cerimele responded yes.

J. Brinkerhoff stated he is looking at the west elevation, second level floor height of the duplex it says it is at 9' above grade. And then the floor height on the floor above that is 17' above grade. By the time you put your structural system in it would be closer to 7' ceiling height.

Mr. Prupis responded no, there should be an 8' high ceiling in each level.

General discussion ensued regarding the ceiling height, overall height of the building, noting that there does not appear to be enough space for the structural system.

W. Woodruff asked W. Smith and the commission; do we make him go back, redo the plans and come back to us or do we approve it with the condition that he takes to W. Smith the 8' ceiling and the proper height not to go over 28'. What would be the best way to handle this?

J. Brinkerhoff interjected that what he sees is a lack of detail on this plan. Some plans come in with a lot more detail. There is no real civil detail here. If you look at the elevations we are not looking at existing grade, we are looking at just a flat elevation. I don't see drainage plans; I don't see a lot of things that would help us better critique the plan. This is a very rudimentary plan and maybe that is the way the system is set up right now, but I would like to, at some point, talk about minimum requirements for applications.

W. Woodruff added that we had started that process and W. Smith has a draft of what we were talking about before more pressing projects began taking up the commission's time. He suggested Mr. Prupis sit down with W. Smith and get a better idea of the kind of things that J. Brinkerhoff is talking about to make this a more complete plan. Can this be done and come back in two weeks?

Mr. Prupis responded yes and that they are planning on starting in the spring.

W. Smith suggested that what the commission can do is call this the Preliminary Plan and if you approve this then he can come back with a Final Plan.

Motion L. Teach, second by E. Glesner to **accept** the plans submitted today as a Preliminary Plan with the condition that he will come back with a Final Plan for the commission to approve; amended by J. Brinkerhoff adding subject to also meeting with W. Smith and fulfilling the minimum standards for the requirements for application that are under consideration of the Town of Minturn; **Motion passed 5-0**

5. Discussion/Action Item: Battle Mountain Planned Unit Development Preliminary Plan

W. Smith noted that we are opening up as a continuation of the January 24 meeting.

A. Ferguson clarified for the record that this particular file is the Planned Unit Development Preliminary Development Plan (PUD PDP) and there will be two subsequent hearings on the other applications that are pending in respect to this. The applicant will complete their initial

presentation this evening and then there will be public comment and we will follow the codes requirements thereafter where the applicant then responds, and then Staff will respond. We will now continue with the hearing from the previous meeting.

Sarah J. Baker, on behalf of the applicant, 1914 Bear Creek Trail, Edwards, CO, began by noting that this is a continuation of the hearing on file number PUD PDP 06-01. The applicant has a short presentation of ten minutes or so before we get to public comment tonight. She stated that she would be confirming what we have in the record and she has some supplemental information to provide for the record which she will provide to W. Smith.

- Notebook of responses to Referral Agency Comments which was submitted to W. Smith on February 9, 2007 submitted as Exhibit AA.
- Environmental Impact Report Addendum: Human Health Risk Assessment and Remedial Alternatives Feasibility Summary, prepared by Environmental Resources Management submitted as Exhibit BB
- Environmental Impact Report Addendum: Wetlands ARAR Summary, prepared by Environmental Resources Management submitted as Exhibit CC
- Wildlife Mitigation and Enhancement Plan submitted as Exhibit DD
- Response to CDOW Referral Comments submitted as Exhibit EE
- Photographs of Physical Model which was present for the January 24, 2007 hearing submitted as Exhibit FF

The Evidence of Record that the applicant is submitting for this file;

- Application and supporting reports and plans
- All exhibits introduced
- Request that all exhibits that have been offered, but may not yet be admitted, be so admitted
- All testimony presented by and on behalf of Applicant
- Written correspondence to Town Planner; and
- Transcripts of hearings

Finally we would request, as you all are aware that there are two hearings that have been opened up; the first on the Preliminary Development Plan (PDP)/EIR and the second is the Amendment to Zone District Map (AZDM) we would ask that all evidence that has been submitted into the record on the PDP application also be incorporated in the AZDM record and visa versa.

Dominic Mauriello, on behalf of the applicant, 5601 Wild Ridge Road, Avon, CO provided clarification on two items that had been asked at the last meeting.

- Employee housing being listed as a use in PUD Guide and it was being allowed as a permitted use in the Recreation Open Space (ROS) zone district. We would like to propose a revision to that; to list it as a Conditional Use (CU) permit in the ROS zone district knowing that there are certain areas where it might be an acceptable type of use in ROS and then there are other areas were it might not be acceptable. What the CU allows is an additional Town review step to determine suitability of the site that would be chosen. We offer that change to our PUD Guide.

- RH Zone; a small 13 acre area on the PDP in the Holy Cross Character Area (HCCA) that basically allows for single family and other types of residential uses and it also allows for a myriad of other uses; utility corridors, trails, etc. The lot sizes are allowed to vary in that, there is no minimum lot size required. There is actually no density or units today designated for that area but it has sort of been set aside in case there arose a plan to do development there. Any units that would be proposed there would come out of the 1,700 total units that are allowed. And there are provisions for this in the PUD Guide that allows this. The Plat that you will see later on, it is actually platted as one track; it is not divided into individual lots, so there is some flexibility being allowed there. It is more being identified as a super parcel than it is an actual development site.

W. Woodruff asked for clarification that Ginn is going to leave it in the HCCA and not move it to the Bolt's Lake Character Area (BLCA).

Mr. Mauriello responded that is right and the reason it is in the HCCA is because it is on ...

W. Woodruff interjected stating he understands.

Mr. Mauriello responded that is correct.

W. Woodruff continued that you are going to amend the list of uses because HCCA was listed as just these large lots, so you are going to have this little side thing so that you can do all of these other things.

Mr. Mauriello clarified there are actually two zones in the HCCA and the RG has specific requirements and RH has different requirements and they can be two different districts within that overall area. And with that we will open it up for Public Input or back to you.

W. Woodruff provided the ground rules for public comment; cell phones off, if you have comments to make to anyone else, please take it outside, try to limit to five minutes, if you find that someone ahead of you has said what you wanted to say or at least a part of what you wanted to say, please do not repeat what has already been said.

C. Cerimele handed W. Woodruff a faxed question that the Planning Department had received.

W. Smith stated that he would like to have that read into the record.

A. Ferguson noted that technically we have three different public hearings on this manner; this is the first, it is the PDP/EIR and the second would be the application for AZDM and the third would be the application for Preliminary Subdivision Plat (PSP). In the interest of efficiency we intend to incorporate all of the public comment that are made during this first hearing into each of the second hearings, so you do not need to feel compelled to repeat everything, three times for each hearing. Of course, because the applications are all different, if you have something to add that is application specific, please feel free to during the public comment period during the subsequent public hearings on those files.

Pete Vance, 562 Main Street, Minturn, CO inquired if the Fish and Wildlife Service signed off on their report about the Ginn application yet.

W. Woodruff they are working on it and they have not finished it. There are some things in all of this material that we have got that are being amended and as Ginn talks back and forth with different entities, Fish and Wildlife being one of them, we get updates on where they are at.

Mr. Vance stated that in that case and it is not done, doesn't it have the potential to be drastically limited in size and scope from what they are submitting right now? And aren't we spending hundreds and hundreds of hours on this application process when we might have to start from scratch with a total different set of parameters when the Fish & Wildlife Service present their report? That doesn't need to be answered tonight it is just something for you to think about.

W. Woodruff responded we have thought about it, absolutely. We will consider your comments.

Mr. Vance read a prepared letter which is attached and referred to as *Attachment Vance*.

Ryan Bidwell, 760 True Creek, Durango, CO, Director of Colorado Wild, a non-profit organization based in Durango that works to protect and restore the native plants and animals of the Southern Rockies, statewide. We have been involved in a discussion about this very piece of property for about nine years now, during which time it has changed ownership several times. Throughout that period of time our concern has primarily been the importance of what we then called the Gilman Track, which we are now calling the Ginn Property for wildlife as well as a host of other public resources. With that in mind my comments here tonight represent the concerns of more than 930 paying members of my organization and I am sure, many other organizations as well. My first comment, seconding what Mr. Vance said, is that I believe that the developer's application for PUD PDP is quite premature at this time. The US Fish & Wildlife Services is just one of several federal agencies currently involved in reviewing and will make decisions on the activities that can take place on Mr. Ginn's property. The US Fish & Wildlife Service review relates primarily to lynx, a species that is listed as threatened under the Endangered Species Act. Although it is unclear what action the agency will take, they have the authority to drastically alter the scope, scale, location, or development or other activities related to the development. Approving a development plan in the absence of this federal decision is entirely premature as changes could be so large that a Preliminary PUD approval could no longer be applicable. It is my understanding that is actually quite difficult to then change your Preliminary PUD approval after the fact once it has already been approved. Furthermore and an entirely separate federal decision is being made by the Environmental Protection Agency (EPA) in cooperation with the Colorado Department of Public Health and Environment (CDPHE) related to the Super Fund Site (SFS) on a portion of which is on Mr. Ginn's property. That decision relates to the activities that the Ginn Company is proposing for redevelopment of those areas. Again, that is a federal decision that will determine whether or not any activity and if so, what activity and under what conditions that activity can move forward in those areas. That could have major implications for the development as proposed.

Finally, I feel it is entirely premature to approve a Preliminary PUD when the developer does not know where he will obtain the water that will be used to supply this development. Seems in the

state of Colorado where water is for fighting, that fight should be fought first. With all of these issues in mind I'd like to move on to some specific things in the application that we have concerns about above and beyond the fact I feel the application is premature. I want to add also that it is my intent to follow this up with a written set of comments to the Commission and to the Town so that I can substantiate these concerns in much more detail. I hope that will be useful and I will try to do that within the next week.

First of all, I think, fortunately the Commission when it approved the Concept Plan for the Ginn Development last July required an Environmental Impact Report (EIR) to be prepared for this project. The Ginn Company has prepared an EIR although it is woefully inadequate. Inadequate in the way it fails to address the town's requirements for an EIR, inadequate in that it fails to inform the public about the actual impacts of what this project would do. The EIR never analyses any alternatives to the development even though that it says that it will. It identifies alternatives but never considers them. The EIR mistakenly confuses mitigation measures with impact minimization which is the difference in reducing the impacts of something and mitigating for the impacts that you do create. A confusion that is significant. It does not in any clear way identify irreversible environmental changes that would result from the implementation of the project as is required by the Town's Code. As a result I feel that the EIR ought to be redone and made more adequate so that the Town, the Commission and the public can be more informed about what the impacts of the project should be.

Furthermore, when one starts to go through all of the individual supporting reports that were prepared by the Ginn Company that feed into the EIR it becomes clear that there is a tremendous amount of uncertainty, I will try to go quickly, thank you, related to just about every impact of this project. Traffic impacts appear to be drastically understated as is made clear in the comments of several other agencies that have presented comments to the Town. I was particularly disturbed when I sat in this room three weeks ago, I believe it was James (J. Brinkerhoff) that directly asked the Ginn Company about construction impacts and the representatives of the Ginn Company refused to answer the question even though their Traffic Impact Study (TIS) says that 274 trucks a day, for three years will be required to bring or remove soil for the Super Fund remediation, besides the fact that it is spelt out in the TIS but not revealed to the public despite a direct question.

Furthermore I believe the TIS is drastically understated because of the under estimate of the number of employees that would actually be coming and going from the resort. Those numbers are incredibly important, not just for economic impact of employment but also because traffic has a huge impact on the quality of life here in town and traffic are also incredibly important for wildlife impacts. I will conclude by just saying thank you for entertaining these comments, I appreciate the Ginn Company's commitment to doing this job right and to the Town's commitment to doing this job right. I don't think there is adequate information in the Preliminary PUD application for anyone to make an informed decision on what the impacts of this project would be.

Darla Goodell; not present.

Rich Ranieri; not present.

Bill Andree, Colorado Division of Wildlife, 1790 Castle Peak Ranch Road, Eagle, CO stated that a couple of people have already touched on it and we had it in our letter that there are several reviews by several other agencies that need to be completed. For that reason we weren't really able to provide you with a complete wildlife analysis simply because we don't know what the project is going to look like until those other permits are done. We are also concerned that we did not feel that the EIR met any of the requirements that the Town set forward. We felt that their discussion on wildlife for a project this size is probably the smallest that they have ever seen in Eagle County or from Minturn.

In their Conceptual Plan they had close to thirty houses within the buffer for the Peregrine Falcon. For their Preliminary Plan they simply cut that down to 15; they did at least have the buffer right this time for a one half mile buffer. For those of you who don't know this is the oldest site within a fifty mile radius of this site. There are only twelve other known nest; four of these nest are considered marginal and the other eight are fairly productive. These twelve sites comprise about 78% of the known population for Peregrines. Peregrines were just removed, delisted; they are still a State special concern species but they don't have any federal protection. This site has been active since 1997 and we have had 100% occupancy. We have been losing our time and budget to have people up here to specifically watch the nest to see how many are fledged each year. This site has been successful in fledging every year but one and this year remained an unknown because we did not have the manpower to have people up there watching it.

There were several animals left off; the Bald Eagle was left off; it did not include the Eagle River and Piney. The Piney River's Bald Eagles have been observed feeding on elk carcasses at both Dowd and Two Elk area. The Division did agree with their Mule Deer assessment in that there is really very little Mule Deer winter range. There is some migration through there but we do agree that other than the loss of habitat and road kills it will be a fairly minimal impact.

We felt the impact on Elk was totally understated. It was tough to come up with a real assessment of this. The packet that we were given had several plates that were missing, several that were mis-numbered. We were never sure if we were reviewing the correct, newest plate or plan that was given. As far as the winter range they estimated at 650 acres of winter range would be lost. They did not come up with how they came up with that number or what type of range; Winter Range, Severe Winter Range, or Winter Concentration Areas. Each one of the ranges is of a totally different value to the Elk.

Probably the biggest thing we have seen missing on all of this for Deer, Elk, Lynx, and any of the other species have been the impact from roads. We agree that the impact from roads is greatly understated. The analysis is based on 50% of the traffic coming from North of Minturn and 50% coming from South of Minturn. There is no analysis of what is going to happen if that isn't the way it works out. For anyone who has been in Beaver Creek and Bachelor Gulch; their roads are fairly well controlled but we still have road kill, even on roads with 20 mph that have buses and a fairly high lever of traffic. To think that road kills aren't going to increase along Hwy 24 with this type of impact would be somewhat misleading.

There was no real discussion, in fact we didn't know after reading all of the plans that we are looking at a 30' wide bike path with retaining walls. Some of these retaining walls, depending on their height, will directly impact the ability of animals to move across Hwy 24.

The biggest impact that we saw missing was their whole discussion on Fisheries and impact of water and specifically the impact of Whirling Disease (WD) which affects the fish; Rainbow Trout and Cutthroat Trout are some of the most susceptible and can lead to death. It is difficult for us to understand how this impact was left out. The impact is specifically related to the development of a reservoir system that could, at some point, drain into the Eagle River.

The other thing that we did not have in our letter that we have learned since then; saleable units is an interesting word to use in the application. I guess I missed it as saleable units and then at one of the meetings I heard that now we have caretaker accessory units, rental units, motels and the employee units. The employee units were called out as not being a part of the 1,700. Best that I can tell is that their traffic and wildlife impacts were based on a number of 1,700. The whole impact of the number of employees I believe has been understated. I read recently that they are now talking about using the Willow Creek Road as an employee access, where in the plan that was simply going to be an emergency, secondary access, not a normal route of travel.

W. Woodruff offered for Mr. Andree to come back at a future time to address these issues.

W. Smith inquired if Mr. Andree wanted to leave what he had read from as an official part of the record.

Mr. Andree stated that he pretty much read it from the letter. The only thing that wasn't in there was the number of units.

W. Woodruff asked if we could have a copy for the record.

Mr. Andree responded that we already have a copy of their letter.

David Clapp, 392 Taylor Street, Minturn, CO stated that he had signed up for this last week and he wasn't really prepared to talk tonight. He believes the development as proposed is too large for our small town and the town will lose its small town characteristics and its autonomy. A building standing 190 feet tall at the Bolt's Lake area is not fitting in with the rest of town and I don't know if it fits in with the rest of the county. I am not sure what the tallest building in the County is but I am pretty sure it is not 190 feet. And then as far as the autonomy goes, with the current population of 1,100 in Minturn we will lose that the day all of those sites 1,700 are built. Just one person per site will lead to a bigger population then the current town now holds.

Stuart Brummett, 414 West Beaver Creek Drive, Avon stated he is a local architect with a vested interest in Minturn, hopefully living here by this summer. What people love about this town is the story this Town has, the story that the rest of Vail Valley doesn't have. Vail is prefabricated notion of some European town that has no relevance on the state of Colorado, our history, where we came from or where we are going I don't think. With all of the issues on whether or not the development should happen, that is a whole set of issues in itself. I think they are legit and quite

clearly we will lose a substantial part of the natural terrain, so much of what we have come to expect and love about Hwy 24 and what we have. It is your decision on if it happens and how large.

Two issues I would like to raise; Gilman is clearly this ghost town but it did have a story. If anyone drives Hwy 24 as a tourist who has never driven it before, 99% are going to stop, pull over and take a photograph of the historic Gilman Mine Shaft building. Some people think it is blight on the landscape it is a part of the story of what Minturn, what Gilman, what Eagle County was about, our history. I think it is important that that element be saved. I realize there are issues with soil contamination and I am not saying it has to remain a big empty building or never be a reclaimed mine shaft. There are lots of examples of historical reuse; buildings such as that being made into lofts, restaurant, or a museum to the mining industry that occurred in this area. I do think that this emblematic and iconic form of this mine shaft and that upper portion of Gilman should be saved. And I think that unless this is specifically called out there is nothing to really ensure that that building will be saved and that part of our history will be retained.

I would also like to talk briefly about the scale of Gilman, these little bitty mining cottages. If this is going to be affordable housing in this area lets keep the scale of these houses and keep that feel the Gilman town somewhat true to what it was, historically it was. I realize that so much of that is going to have to be torn down because of the contamination and the state of the buildings, but if the PUD could be more specific on how that town is really going to be rebuilt in such a fashion that it does keep in touch with the Colorado history and try not to create a history that is something else. Whether it is the standard being built in Arrowhead, Vail, or Singletree; but that it stays true to Colorado. In the same respect, the trestle pipe line that runs through BLCA. It is such an iconic element, such a neat thing to see. I don't know if it is going to be guaranteed to be able to be saved. Even if the golf course is built around it, how great would it be to have that as another element of this golf course and again, it creates a story. The story of where we came is as important as where we are going and whether or not we are going in a development such as Ginn. We need to recall these things from our past and hold them sacred and do something to retain them. Have that in legal verbiage.

There are a couple of issues that he has with the PUD that he wants to bring to their attention; 195 heights building at BLCA; similar buildings around the Vail Valley the Crossroad Building at Vail which is Solaris, was incredibly controversial product it ended up being 114 feet. It is in an urban core in the middle of a town and it is still incredibly controversial. Also 35-50' for the single family residential building heights; comparison to the maximum height in Vail is 33', 35' at the mid point eve to gable height in Beaver Creek, 35' at the mid eve to gable height in Eagle County, and 25' at the mid eve to gable height in Garfield County. I want to urge that as you are going through this PUD, once it is established there is very little you can do to come back and change density and height. So really consider what is being requested and what is comparable, what is appropriate. 195' building being nestled into the BLCA as has been described is a little preposterous. One last comment is this miscellaneous free form PUD area that is supposedly HCCA but is next to the BLCA I would highly encourage you to consider what that is going to be. If it is going to be a wall of houses right at the giant switch back I think we really try to keep these development areas; the big one up on hill that we can't really see and we have one in BLCA, but try to keep them confined to these areas. The outlying thing that we were discussing

earlier today really should define what that is. Are there going to be houses on the hill that concerns me a little bit just having that out there as to what that might be.

Fred Haslee; not present

David Many, 465 Spruce Street, Red Cliff, CO stated he has some concerns starting out with the employee housing in the area of Red Cliff. It sounds like what is being proposed is going to double the immediate population of the Red Cliff area. Red Cliff has historic, not designation, but it is what it is and I think putting in that much employee housing in the immediate vicinity of Red Cliff is ludicrous. Of course we have Hwy 24 congestion, the congestion on Hwy 24 of the trucking vehicles and the impact that is going to have on anyone who makes a daily commute through that area. Additionally the Willow Creek Access (WCA), when Mr. Ginn came up to Red Cliff for the initial meeting he stated that the WCA would be explicitly an emergency vehicle access only. On the second meeting when I asked more questions about that it seemed that Ginn's representatives were backing out of that.

Another question that I have is when it comes time to put this annex to vote are you folks going to turn this over to a public vote? I think that it needs to be, as important as this is I don't think that just the Town Council should be voting on something this big, this important and this long term to this area.

Additionally, my understanding is that the Eagle County Commission (ECC) is unanimously against this.

My last comment is in regards to the Peregrine Falcons. If the construction scares away the birds from their nesting site at a ½ mile distance it sounds like they can move their development into that immediate vicinity. I propose that that area be closed off long term in case the Peregrine wants to return post construction.

Tim Parks, 236 Eagle Street, Red Cliff, CO stated he is co-owner of Mango's Mountain Grill and hopefully the future Green Bridge Inn, both right there in the heart of Red Cliff. Somebody would probably take what I have to say with a grain of salt because I may have future financial benefit but I would urge you to try to listen to what I think might be the bigger picture of how we are all going to be affected. I am a supporter of the Ginn development, I think it is extremely well delineated, well thought out and there are numerous reasons why I support the further development of Battle Mountain. One thing that I think is ironic is that it is private land; we have all treated it like it was our own, we have all had a lot of fun up there. And I suppose a lot of people could have stepped up and purchased it for the poultry sum of \$33 million for 5,300 acres which I suppose in the development world is not very much. But there are a lot of reasons that they paid that amount of money; it's beauty, location, but they inherited a lot of problems that they are going to have to mitigate before they get to move forward. I can't remember when I came to the first meeting but I think it was two years ago we weren't even sure how to pronounce Bobby Ginn's name, we were pretty sure it was Gin and at the same time it was named Ginnturn which I think is a pretty interesting name. I think we are really quite lucky that it was the Ginn Company that purchased this land. It could have been a very inexperienced, under capitalized developer that we would have been having a lot of problems with for a lot of

decades to come. In this case they are just the opposite; they are as well capitalized as we find out more and more about the Ginn Company that anything is possible that we can figure out in this room. They have hired numerous well known experts in the area, some of the experts have been involved in cleaning up Rocky Mountain Flats and the one thing that I think is important to know about the Ginn Company is that they are not going to come in and build a bunch of slocky (sp) stuff, sell it and hit the road. They are here to run it for the income that they can produce from that which means they have to do a good job, they have to create a great experience, they have to make sure that the guest that come to the Ginn Resort can go through nice areas that are functioning towns and that is what I think Red Cliff as well as Minturn will be. I think they are long term partners and I really think that the citizens of Minturn, that I think probably will have a chance to vote on this in the future are quite lucky that they have the opportunity to annex them in so that they can help shape the resulting resort. Many of us are on the outside kind of looking and I can tell you if Minturn isn't interested in doing it Eagle County is probably interested in doing it or Red Cliff could be interested in doing it, so it is coming one way or the other.

The one thing that I find is the big picture, the huge benefits to all of the surrounding area foremost in my mind is the clean up of two EPA Super Fund Sites. If we had to wait for local, state, or national government to clean up two EPA SFS we would all be dead. There is a grid lock in government and that would be a task that they just can't take on. Further clean up of the Eagle River will be a result of that and now we can have somebody new to point fingers at; "Ah, it is the Ginn Company, they need to clean up the river, they are the ones". And you know what; they've got deeper pockets than Minturn, Eagle County or Colorado so I think we are in good shape having them as partners. You can't clean up the Eagle River without addressing some of Red Cliff's problems. Red Cliff has sewer and water problems and our problems become their problems. It is already your problem. I remember buying the land that Mango's was on and that very weekend the Town of Red Cliff's Sewer Plant was on the front page of the Denver Post with 240 citations in the last four years for dumping whatever comes out of our sewers into the river.

I think we will have probably a 1,000 year round, full time well paying jobs with good benefits to our community and those people become tax payers. That is only going to improve the situation. And also they are contributors to the town, there might be new members on the committees and not to mention, the good news, bad news is we are going to have hundreds if not thousand of construction jobs for the next few years. They are going to have to figure out how to get them up on the mountain and not disturb the towns of Minturn and Red Cliff and I think they probably already got plans to do that.

And then there is improvement of what we call the Leadville 500, Hwy 24. It is only going to get worse but they are going to have to step in and widen areas, make passing lanes, improve guard rails, etc. When you start doing the math about the Ginn Company you take a look at 700 ski in-ski out lots that the minimum price will probably be a million dollars; 700 million dollars that they can bring in on a sale and with that if they had to spend \$100-200 million to fix up an EPA SFS, I think that they can do it and we can't.

And then talking about the population our Mayor Montoya and I have had some conversations and I don't know where he stands on this development, he really has to have a pretty tight lip about it and I don't because I am not a City Councilmember. But in 1920 Red Cliff had about

10,000 residents and Gilman at its peak had 8,500 residents. So development on this hill is not new. They had hospitals and bowling alleys. So with the increased tax revenues I think we are going to have more property tax, more transfer tax, sales tax, income tax and the result could be better schools, better public streets, and better public amenities. So the Town of Minturn could become the wealthiest per capita government in the state of Colorado. I've taken tours of the Minturn area, of Ginnturn with the Minturn planners and they are already trying to mitigate some of the beetle kill threat. I don't see any public government making much progress in that area.

I urge tough and frank, and earnest negotiations with the Ginn Company. We are counting on Minturn's leadership and wisdom to blend what is probably going to be a world class resort into the surrounding communities. I think we can all make it work.

Roger Brown, 1055 Cotton Wood Pass Road, Gypsum, CO stated I think there is an opportunity here that people aren't talking about much. There is a need for rail, people talk about rail going from Denver to Vail or Eagle Airport, but the real need for rail is from Leadville to Rifle. And the real serious need is from Minturn to Gypsum. The Ginn Company probably has more to benefit than anybody, if you hear all of the discussion about problems with transportation. I would suggest that the people here address the rail issue seriously and talking to Union Pacific (UP) and other people to see if Ginn can't lead the way into rail that would solve congestion and pollution problem which are only going to get worse and are pretty serious now.

The second thing I don't hear much discussion about is that there is 60 miles of mine shafts under the ground here; it is all fantastic geothermal energy and no one is using it at all. That geothermal energy could heat every building in Minturn, Ginnturn, and melt all of the snow on the roads in the winter; it just takes some imagination to figure out how to harness it. I'm sure it can be harnessed, a fellow named Moffitt in Glenwood Springs is working with some people in Silverton on a hotel that is already, I believe using geothermal mine shaft energy very successfully and saving a lot of money. I'd just like to introduce those two ideas and hope that Minturn and Ginnturn can get it to be a part of the public discussion.

Ruth Borne, 39 Pinnacle Point, Edwards, CO stated she is here as Town Planner/Attorney on behalf of the Town of Red Cliff but she is also going to talk about some personal observations that she has as. Initially when we started hearing about this annexation proposal the town has said consistently "hey, we are going to work with the Town of Minturn we hope to make this work because it is going to benefit both communities". So what I am going to do is kind of gloss over some of the issues we are primarily concerned about. Our hope is that we can continue to work with you guys to make this project happen; and if it happens, great, but we need to protect the Town of Red Cliff and if all of you were in our shoes you would have grave concerns. Mr. Vance congratulated the Ginn Company on Affordable Housing. 40% is only based on the full time residents it is not about all of the employees that will be servicing the project. The Employee Housing is being proposed, in the back door of the Town of Red Cliff, doubling the size of Red Cliff and it is also being proposed in the future, one year and a day from the time this annexation is approved, in fact it is not even a part of your annexation that you are looking at today. It is on the plate but it is not part of the annexation in terms of your PUD that you are approving. We have consistently expressed this and continue to have concerns about that.

It has already been mentioned by Mr. Andree regarding the access up to Willow Creek, it has been inconsistent and this issue needs to be clarified. We are not adverse to it we just want to work with you guys to understand what is going to happen in our community. What does that access look like? The proximity of Willow Creek to Red Cliff is less than two miles and we are convinced that that access will be used by either employees, emergency access or eventually become access for two hundred vehicles that will be parked up there and 232 dwelling units. Again, please listen to us and take our concerns into consideration.

In regards to our Water Shed, we have a Water Shed Ordinance that requires a permit whenever there is impact to our water shed. Contrary to public opinion or belief, we have not been under any water orders for over three years in the Town of Red Cliff. We welcome the opportunity to work with you and hope to maybe have some public work session with you all to accomplish and protect our community.

On a personal note all of you guys sitting here are facing one of the largest annexations this county has seen in a very long time. I don't envy your position, it is not an easy position to be in, but as the first level of review and recommendation, I urge you to take your time, be thorough, and listen to what people are saying to you. Because once you make this approval, it is done. And as someone who has to work with executing and living with these development agreements, it is not a pretty picture when you missed a big issue and you can't fix it. And you can't go back to the developer and say "oh, I'm sorry, we should have thought about this, we should have thought about what transportation was really going to mean". What does this taxing really mean to us, what are our public improvements and maintenance over time, what is it going to mean to this community. Once you approve this project this community has to live with that approval forever. So again, we are here, there are other members in this community that are willing to provide input based upon their experiences, good and bad on development agreements and large annexations.

J. Brinkerhoff requested a question of clarification; can you clarify what you mean by the water issue, I don't understand what the issue is with that.

Ms. Borne responded that we have Water Shed Ordinance that requires any development to obtain a permit from the Town of Red Cliff where there is an impact based upon our Water Shed. So obviously we have grave impact to Turkey Creek with this development.

W. Woodruff called for a break. Break was from 7:30pm to 7:42pm.

Lynn Feiger; not present

Mark Tamberino, 1232 Main Street, Minturn, CO and is owner of J.B.'s BBQ at 474 Main Street began by saying that they had a very nice meeting with the Ginn Club this morning; a bunch of business owners, they went over some really good aspects of what they are out there to do and to make a partnership between this town and what they are trying to do up the hill. And to make sure everyone is comfortable with everything that is going on. We went over some really good points as to how that is going to happen. What I walked away with this morning and really thought about over the past six hours was that Minturn as a community should feel pretty

fortunate that somebody like Ginn Club and Resorts is taking on this project. This town could be a lot worse off with a lot different developers. I think we all know that they are a first class, top notch developer and we should embrace that. I really feel, like the attorney from Red Cliff said, take your time and make sure every aspect of this annexation is followed to a "t" because coming back on it that we want to do. I have a little bit of experience in developing, I'm an ex-engineer and I have seen it before where things get pushed through and rushed through, and they are done the wrong way. I think that with the direction of our Planning & Zoning committee that we can achieve everything that Ginn has entitled or assessed that they want to do and that it can be done the right way. I urge the town to support this and embrace it because there have been a lot of years here where this town has been on that line where we are ready to take this next step as a town and we just haven't made it. I think this is our shot and I urge the community and the committee to just make sure that we are making the best possible decisions that we can possibly make and hopefully get this passed. I am on the fence because I am a resident and a business owner; it is a double line for me. I got to say that without it being a top notch company like the Ginn Company, I could be on the other side of the fence. But I have faith in these people and I do believe that just by the fact that they are taking on a SFS and doing what they will be doing and meeting the EPA standards and levels that it is the best thing that can happen rather than just ignore it for another 25 years.

Lynn Figert 494 Eagle Street Minturn CO stated she is speaking on behalf of the Minturn Bike Trail Committee and have just a couple of comments to make in regards to the ECO Trail which is part of the PUD. Basically we have three comments and that is after very careful review of the bike trail, walking the entire length of the trail, numerous meetings with the Ginn folks, the Ginn engineer and attorney. We feel it is important that the trail be extended to Dowd Junction; we feel that it is appropriate to require the Ginn Company to pay for this, to mitigate the traffic and safety issues that are resulting from their planned development. And it also provides a significant benefit to Minturn, Eagle County and it serves the additional function, which we believe is a good one, to integrating the development with the existing town of Minturn and the rest of the Eagle County community.

Our second recommendation has to do with the bike trail as proposed from the Gilman section to where it crosses over the highway; this is the section right above Gilman. As proposed the bike trail right now probably going to be a raised bridge way that sits on the shoulder of the highway. We feel it is much more desirable for the trail to follow the recommendations of the ECO Trail's folks and the County to follow along the route of the old highway; which is on the other side of the road and we understand that the Ginn Company does not own this property but we would urge as a condition of the PUD that the Ginn Company be required to assist in the further planning as to whether or not having the trail along the old highway is going to work out and to also to assist or pay for the cost of the acquisition of that land, so that the trail can follow the old highway.

The third condition that we feel is important that we note that many of the details of the bike trail have not been worked out yet and that any final route be conditioned on approval by the ECO Trail's folks and the Town of Minturn in terms of the final details of where, of how that trail is laid out.

Michelle Zimmerman, Director of the Southern Rockies ECO System Project (SRECOSP), 1536 Wine Coop Street, # 200, Denver, CO stated that the SRECOSP is a science based conservation organization focused on protecting and restoring habitat connectivity throughout the Southern Rockies of Wyoming, Colorado and Mexico. We have spent the last 15 years looking at, conducting scientific research throughout the Southern Rockies and the past four years conducting scientific research on specific landscape linkages and wildlife linkages throughout the state of Colorado. The Ginn property is located within one of our high priority linkages; a Lynx linkage. It is also located in the southern approach for the proposed Wildlife Bridge at West Vail Pass. CDOT has posted the scope of work for the design phase of that bridge just two weeks ago. Our concerns are specific to the wildlife impacts to that linkage as well as the southern approach to the bridge. I think the main concerns (Ms. Zimmerman passed out a map which is attached to these minutes and referred to as *Attachment Southern Rockies ECO System Project*) are that what the Ginn development has currently proposed, is likely to adversely impact numerous wildlife species, I won't list them, they are the species listed in the CDW letter, in and around the project due to habitat loss, reduced connectivity of habitats, increased traffic, vehicular collision as well as increased human presence on the landscape. The map she is going to hand out shows the Lynx habitat in the Minturn area. The way our map works is that we represent a linkage with a line with two arrows. That is just the representation; it does not mean that linkage is just the width of the line.

Dick Cleveland, Vail, CO here as the Chairman of the ECO Eagle Valley Trails Committee. Back on December 19th I sent a letter in response to the PUD application and it should be in the file. What I am going to talk about tonight is really just a summary of that letter and additional comments from Ellie Carol who is the trail manager for ECO Trails.

Our request is that the trail's conditions be more specific in the PUD as this moves forward. It should include things such as the scope, timeline of responsibilities of the applicant and all of the other parties involved. We would like to see the plan define the boundaries of the developer's responsibility and we would like to see that responsibility include the Dowd Junction to Red Cliff area; the reason for that is as Lynn Feiger already said, the impacts from both construction traffic and permanent traffic on that road will create safety issues for all recreational users. We see this as an opportunity to mitigate some of that impact. We would like to see the applicant provide the engineering route studies to the Town regarding these options, especially between the Cemetery Bridge, Maloit Park and the base of Battle Mountain Tigiwon for further review to ensure that the trail that is being constructed meets all of the needs of the Town of Minturn. We would like to see the developer continue to be involved in acquiring necessary land, acquiring the permits, working with DOW and all of the other agencies involved. Eco Trails is willing to assist with any of these sorts of things especially as a public liaison to public entities and private land owners.

We would like to see the entire trail included in phase one of the project and not continued into phase two. Our recommendation is that the old highway 24 route to Gilman be the preferred route assuming all the engineering and acquisitions can be done. We want to leave this up to the Town of Minturn to evaluate this, but we need to, the purpose of that is that it then impacts an area immediately adjacent to Hwy 24 which is already impacted, reducing the need for impacts outside of already impacted areas as it comes to wildlife, transportation and that sort of thing.

We think that the PUD should require the applicant to continue to deal with the geological hazards and provide the associated trail routes and wildlife impacts that are based addressed by those. The trail plan should meet the entire requirements contained in the ECO Eagle Valley Regional Trail's Master Plan which all of the Towns and the County have signed off on a number of years ago.

We would like to see the PUD define the seasonal use and year around use of the trail both inside and outside of the area. In the past what we have always done is that the partnerships; people who owned the property whether it be the county, a municipality or private property, maintain those areas. We hope that the Town of Vail, the Town of Minturn and their Council will make the final recommendation on alignments and schedule and responsibilities on this. Right now the plan is generally covered within the PUD, but we are asking that the trail segment be expanded to include these specific instances and again, all of the things I've talked about tonight, you guys have received in writing.

Aggie Martinez; not present

Jeff Houston; not present

Kaye Ferry; she thought it was a sign in sheet.

Jim Gonzalez, 472 Main Street, Minturn, CO started by stating that he still lives in his home town and asked for a show of hands of who in the audience still lives in their home town; one. The point I am trying to make with that is that there used to be a popular t-shirt that said "Vail, Minturn's Fastest Growing Suburb". It seems like development has passed up Minturn till now and you know the old saying "if it sounds like a duck it is a duck". I urge everybody to cross the "t", dot the "i"s and get as many experts as you possibly can to make sure this is a good thing. Take a look around; look at Beaver Creek, Bachelor Gulch, go to Cordillera, our wildlife has been impacted to the point it is just terrible. Bill Andree has a lot more to say about this and I am not an expert. But there are a few things I am proud of; I was the Chairman for the Elk Foundation for ten years and we raised over \$400 thousand for wildlife. That being said I know a little bit about what it takes to get something done. We approached CDOT to start an "Adopt a Fence" Program, for five years and it didn't happen. I made them a promise that if even one elk got killed on that highway that I would do something about it. It took a lot to get something done but we have a new fence now (*clapping from audience*). I urge every one of you whether you are for it or against it I urge you to be passionate, passionate about what you believe in. Volunteer for what you believe in, stand up for it. The Town of Minturn and the Town of Red Cliff, every citizen here, you all came from somewhere. I've lived here all of my life and people say I am lucky to have lived here all my life. I don't feel that way anymore, there is too much crime, too much traffic, and we have a chance now to make sure that we cross the "t"s and dot the "i"s and make sure this is a very good program. Ginn Company has asked me more than once about my opinion about the wildlife situation and I am going to be involved with them as much as I possibly can. The big thing I want to say is get the experts, as many as you need to and get involved. Don't just sit back and let someone else do the dirty work. For it or against it, get involved. And all you guys (commission) got to do it right.

Rob Davis, 1796 Main Street, Minturn, CO stated that this has been coming down the pike for a little while now it appears that it is truly going to happen one way or the other. I think that if it doesn't happen through Minturn, or the Town of Red Cliff, it will go through the County. I don't see any indication that the County would do much different looking at Cordillera, Arrowhead, the other developments that they were in charge of. I think that the best option is for the town to control it as much as possible.

Of utmost importance I believe is traffic; it is huge, maybe not as much when it is fully developed twenty years down the road. I am talking about the construction and coming down from Leadville and Vail as far as Eagle, and coming up Battle Mountain. I am concerned about our streetscape plan that hasn't really been implemented, but I think we need to start thinking about the streetscape plan and how to use the mechanical devices of road engineering, without widening the road, to control and keep the traffic and pedestrians safe.

There is a group out of Pueblo called "Dark Skies" but it is an attempt to keep the skies dark so you can see the stars. How many stars do you see in Avon these days? I lived in Avon 25-30 years ago and I can remember seeing stars at night. Now as you approach Avon all you see is a glare and beyond that glare you see the glare of Cordillera. I would like to see the town adopt a "Dark Skies" program and for the Ginn Company to embrace it. We have already talked about the wildlife that is going to be impacted and about the importance of doing everything correctly. I agree that everyone should stay involved and any idea that you may have that could improve the project could turn out to be a big idea.

Michael Wassmer, 201 Main Street, Minturn, CO started by saying that he is impressed with this group here (audience) as well as this group here with their ability to express themselves, to say things that are hard, get up in front and to speak to the Ginn Company. I talked with members of the Ginn team myself, one on one, and I feel like they have listened well. It has been acknowledge before they have the ability to do what they want to do with our guidance, with what we ask for. So as much as this is meant for every one to come speak here I think we have one more task and that is to go out and talk to our neighbors, tell them that we were listened to here by this P&Z Board who is working very hard, they need us as much as we need them. Have more of our neighbors come and tell them that our vote does count. Everything we say becomes a matter of record, I trust the people on this board, I know some of you, and it really does make a difference. That is our next turn here is go out and tell people that it isn't just going to happen. That has been said in some ways, that the Ginn Company is going to do something here, I agree, we have a good partner here, but they are going to do something in partnership with us if we tell them what we want and need. There is no hurry. Lets get more people involved and the biggest thing we have to fight is apathy and the sense that it is a done deal and there is nothing that we can do about it because that just isn't true.

Carm Trigg, 304 Eagle Street, my wife has been coming to the meetings and I have been watching the kids, now I am here and she is watching the kids. On behalf of her and myself, I think when you are planning something like this you do have the opportunity with a guy with a lot of money to do it in a way that hasn't been done before and to make it a little friendlier on the environment. Keep that in mind, there are a lot of experts out there that can help you guys come up with some great ideas.

I think it is a little too big, it doesn't need to be as big as they are proposing, which is my personal opinion. It is a big decision for all of you guys so do a good job.

W. Woodruff asked if there was anyone else who would like to speak; there was none. He then stated that after speaking with the lawyers, they are going to leave public comment part of this until the next meeting, it is Valentine's Day and he knows of some people who could not get here and save their marriage (laughter) so we will give them a chance to speak at the next meeting which is the 28th of February, right here. We might have to go to a bigger venue but I think we have the room laid out where we can accommodate everybody. Tell your friends and neighbors we want to hear more. We have heard a lot of good things here which have gotten his wheels turning and I am sure the rest of the members here. It is nice to know. We have been sitting here a bit like a vacuum as we aren't really allowed to discuss it with each other, reading this material, looking at the wildlife, looking at the traffic, listening to the presentations and now it is nice to hear from you folks to know that; you know, I am sitting here thinking "oh, yeh, I thought about that two weeks ago" or "I agree" or you mentioned that but I read this week that they took care of that. It is nice to know you guys are a part of it. Come back, we will let you get back up if there is something different that you want to say, encourage your friends and neighbors to come, this is your shot and we are listening.

W. Woodruff then read a question that was faxed into the Planning Department from:

Greg Caretto, Nova Guides, 7088 US Hwy 24, Red Cliff, CO faxed questions were read into the record by W. Woodruff. Please see attachment referred to as *Attachment Caretto*.

Motion by K. Bloodworth, second by L. Teach to **continue** the public comments to the February 28th, 2007 at 6pm at 302 Pine Street, **Motion passed 5-0**.

W. Woodruff stated we are going to open the Public Hearing on the Amendment to Zone District Map PUD Preliminary Development Plan, Battle Mountain.

A. Ferguson stated that the first order of business is to incorporate by reference all of the evidence and testimony and documents that were submitted into the record at the previous file and the hearing for the Preliminary Development Plan. In addition to that this hearing is now open for public comment; would anyone like to add additional comments?

Steve Lynn, Vail Daily, wondering where people can send letters and comments; to what address? Address and email was provided to Mr. Lynn.

Motion by K. Bloodworth, second by L. Teach to **continue** the hearing on the Amendment to Zone District Map to February 28th, 2007 at 6pm at 302 Pine Street; **Motion passed 5-0**

W. Woodruff called to open the Preliminary Subdivision Plat, Battle Mountain Plan Unit Development Preliminary Plan.

W. Smith stated that this is a request by Ginn Battle North, LLC, Ginn Battle South, LLC, Ginn – LA, Battle One, Ltd., LLLP for approval for a Preliminary Subdivision Plat. The applicant has demonstrated an understanding of the submittal requirements as stated in the Battle Mountain Preliminary Plat filings one through five and supporting reports as required by the MMC. A Preliminary Subdivision Plat requirement checklist that was used is based on the MMC Section 17.6.7. Staff recommends approval to the application subject to the conditions of the Staff Report.

There are several changes to incorporate into the record from the Staff Report:

- Under X Recommendation Staff: “the Staff considering the findings and other information provided, the Staff recommends approval of this application subject to the following: items that must be addressed prior to **Preliminary Final** Plat.
- Condition # 2: The applicant will address Staff comments along with outside review comments as a condition of Preliminary Subdivision Plat approval that all review comments be appropriately addressed or corrected before **Final** Subdivision Plat is accepted for review and processing.
- Condition #10 to Draft Motion: “**The applicant will coordinate with the Town Staff and consultants to develop appropriate engineering standards specifically for the project that will be submitted with the application for Final Plat and approved as a part of the Final Plat.**”
- **Condition # 10: “The applicant will identify and designate for dedication the locations for facilities for Fire, Emergency Response, and Police Services to be located in the areas outside of the Bolts Lake Area.”**
- And he would like to add an item to the official record which is a Supplement to the Preliminary Subdivision Plat which is a summary of comments from outside referral agencies.

Ms. Baker, on behalf of the applicant, we are now on Preliminary Subdivision Plat PUD PP 06-01 and for the record I will go through how the applicant has complied with the submission requirements. As a technical matter she request that they have in the AZDM files and the PDP that all evidence in the record for those files also be incorporated into the PSP file.

MMC sets forth Pre-Submission Requirements for PSP.

- Pre-Application Conference; MMC §§ 16.15.11 and 16.21.6.C
- Requested by Applicant on August 21, 2006 (Exhibit A)
- Confirmed by Planning Director on August 23, 2006 (Exhibit B)
- Held on August 24, 2006
- Confirmed by Planning Director on August 30, 2006 (Exhibit C)
- Interpretations re Submittal Requirements Requested by Applicant; §§ 16.21.4.E and 16.21.7 Interpretation request initiated by Applicant by submission on September 18, 2006 (Exhibit D)
- Town Response rendered on September 29, 2006 (Exhibit E), within 21 calendar days of receipt for request; MMC § 16.21.7.E

Preliminary Subdivision was submitted November 1, 2006:

- Contemporaneous with Preliminary Development Plan application submission and the Amendment to Zone District Map. MMC 17.6.1 requires that application be made at least 30 days before Planning Commission review
- The submission includes requirements of the MMC 17.6.7 Submittal Requirements
 - (See Section 30 of Battle Mountain application sets forth how they have met all of those requirements)

Submission contents include Battle Mountain Application and all of the supporting materials identified in their written application.

On November 13, 2006 the Town Planner issued a determination of application completeness (Exhibit F)

Upon acceptance of the application as complete, the Planning Director referred the application to Town Staff and other agencies pursuant to MMC 17.6.2 and as W. Smith mentioned the Town has received many referral comments back from agencies, those are included in the record. Also Exhibit AA in the Preliminary Development Plan file applicant has provided written responses to all of those referral comments.

Applicant has also complied with the notice requirements of the MMC 17.6.4.(Exhibit G) is the Notification to Mineral Interest Holders.

Notice of tonight's hearing was published in the Vail Daily December 13, 2006 and was also published in the Eagle Valley Enterprise December 14, 2006 (Exhibit H) § 16.21.6.M and CRS § 31-23-304

On December 20th, 2006 the applicant provided the required notice to all adjacent Landowners (Exhibit I) 1

We are also required to post the property, signs giving notice of tonight's meeting have been posted on the property since December 22, 2006 (Exhibit J)
MMC requires that at least three members of the Planning Commission conduct a site visit of the property that is the subject of the application. That site visit was held on February 8, 2007. We did a DVD recording of that (Exhibit K)

As W. Smith has mentioned, he has prepared a Staff Report for the PSP application that was disclosed to the applicant on February 13, 2007 pursuant to MMC 16.21.6.

In the Staff report Staff concludes that the application satisfies the requirements of the MMC. Staff recommends approval of the application, subject to the conditions which W. Smith has just revised.

Section 17.6.7 of the MMC sets forth the Review Criteria that the Planning Commission must consider when it considers the PSP application. Section 30 of the Battle Mountain Written application sets forth applicant's response on how they have satisfied each of the review criteria.

Evaluation Criteria is set forth in MMC 17.6.8.

- Information requested or required by the town; we satisfied all of the requirements of the code. No additional requests were made.
- Whether the proposed subdivision conforms to these and other applicable regulations, policies and guidelines of the Town; Section 29 of the written application sets forth how we satisfied that criteria.
- The Planning Commission is required to review of reports on file together with the guidelines and recommendations of review agencies; Section 29 of the applicant's written response demonstrates how each of those evaluation criteria have been satisfied

For the record we have some additional information, submittal documents for the record that she offers tonight: Exhibit L - The Battle Mountain Water Master Plan, Exhibit M – Battle Mountain Sewer Master Plan, Exhibit N – Battle Mountain Predevelopment Storm Water Master Plan, Exhibit O – Battle Mountain Post Development Storm Water Erosion and Sedimentation Master Plan, Exhibit P – Bolt's Lake Drainage and Erosion Control Master Plan, Exhibit Q – Bolt's Lake Slope Master Plan, Exhibit R- Bolt's Lake Water Master Plan, and Exhibit S - Bolt's Lake Sanitary Sewer Master Plan. I offered each of those as exhibits for the record.

Ms. Baker noted that at this time they can take direction from the Planning Commission. If they wish we can go through their responses to each of the proposed conditions. We have not received the revised conditions. We can do this tonight or at the continuation of this hearing.

A. Ferguson responded that given the order that the code sets out for public hearings, the applicant has an opportunity to respond to public testimony and to other evidence that has been presented after the public comment period. My thought is that we should have your response to both staff and comments from the public and other evidence that is submitted be made at that time, at the close of public comment..

Ms. Baker stated the applicant is receptive to that. In addition we have not provided for the record of copy of tonight's presentation, I will submit that in writing tomorrow, copies of this to the Town Planner to be included in the record of all three hearings; PUD PDP 06-01, AZDM 06-01 and PP 06-01. The applicant is prepared to close the applicant presentation on PUD PP 06-01 and commence with the public testimony part of the preliminary Plan hearing at the continued February 28th, 2007 hearing.

W. Woodruff for this application we are going to open for Public Comment.

A. Ferguson added that all public comments, both written and oral form to the previous two files during the public hearing and any evidence received from the public or referral agencies that has been submitted to the Planning Department that are now contained in those files for the PDP and AZDM are hereby incorporated into this record as if fully set forth in this hearing.

Motion by K. Bloodworth, second by L. Teach **to continue** the public comment on the PUD Preliminary Subdivision Plat until February 28th, 2007 at 6pm at 302 Pine Street; **Motion passed**
5-0

W. Smith updated the Planning Commission that the anticipated three mile plan that was being revised was going to be a part of the packet this evening however we are going to forestall that for another date uncertain.

W. Woodruff adjourned the meeting at 8:35pm.