



Town of Minturn Planning and Zoning Commission Agenda
Wednesday, April 11, 2007, Study Session 5:30pm, Regular Meeting 6:00 p.m.
Minturn Town Center – 302 Pine Street

1. Call to Order/Roll Call

The regular meeting was called to order at 6:01pm by Chairman Woody Woodruff. Roll call showed Woody Woodruff, Lynn Teach, Jim Brinkerhoff, Robert Martinez and Kristie Bloodworth present. *(Note: Robert Martinez is alternate for Ernie Glesner who is absent and excused)*

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

2. Approval of Agenda Items

- a. Items to be pulled from the Consent Agenda
- b. Items to be pulled from Action Items
- d. Emergency Items to be added
- e. Order of the Agenda Items
- f. Approval of the agenda

Motion by K. Bloodworth, second by R. Martinez to **approve** the agenda as presented; **Motion passed 5-0.**
(Note: Robert Martinez is alternate for Ernie Glesner who is absent and excused)

3. Approval of Minutes – Minutes from March 28, 2007.

Motion by K. Bloodworth, second by J. Brinkerhoff to **approve** the minutes of March 28, 2007 as presented; **Motion passed 4-0** Robert Martinez abstained as he was not present for March 28, 2007 meeting *(Note: Robert Martinez is alternate for Ernie Glesner who is absent and excused)*

4. Action Item – File No. PUD PDP 06-01 Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report

W. Woodruff announced that the Public Hearing for File Number PUD PDP 06-01 applications for the Battle Mountain PUD Preliminary Development Plan together with the Environmental Impact Report for the PUD Preliminary Development Plan continued from March 28, 2007 is now open. The Planning Commission members may continue their questions of clarification but not for debate of any member of the public who has testified for the applicant. W. Woodruff then inquired if Staff had any comments.

W. Smith stated he would like to enter three items into the record: a fax received from John Patrick Elliott supporting the Ginn Annexation, correspondence from Monte Elliott in support of the Ginn Annexation and the third, correspondence from Chris & Tessa Manning.

Boots Ferguson stated he had a document to enter into the record; a letter addressed to him from James Stern, representing the EPA requesting to withdraw a previously submitted document that was sent to the applicant by faxing it to the town pertain to this particular application, we put into the public record, and EPA has requested it be removed. He articulated in this request that the letter was undated and basically it was not authorized to be sent to us; they are not participating or submitting applications to this process. Mr. Ferguson notified James Stern that his request will be entered into the record but that the letter he is referring to will not be withdrawn but we will make note that EPA has requested that we disregard.

Sarah Baker, 1914 Bear Creek Trail, Edwards, CO noted she has four additional documents to add to the record; Exhibit KK Revised PUD Guide dated April 11, 2007 which was submitted yesterday and it reflects some of the changes that they have committed to; building height at Bolt's Lake, single family building height is another and it also changes employee housing from a "use by right" to a "conditional use" in the ROS changes in the ROS zones. Exhibit LL which it titled "Remediation Feasibility Study" dated February 16, 2007, Exhibit MM "Human Health Risk Assessment" dated February 2, 2007 and Exhibit NN a memorandum from Trout, Raley, Montañó, Witwer & Freeman, P.C which discusses water supply options and presents a technical memo supporting the water supply options for the project.

Rebecca Alman, Environmental Lawyer for the applicant, 115 Jersey Street, Denver, CO noted that in previous submittals the commission had received a remedial investigation from the applicant which identified the contaminants of concern at the Bolt's Lake parcel

- Human Health Risk Assessment
- Feasibility Study

These are the final documents that the applicant needed to provide to the EPA. There are final and approved by the EPA and the State. This Feasibility Study is the final, preferred remediation plan or activities that Ginn has proposed. They take Ginn's preferred plan and they put it into a "Proposed Plan" that the EPA presents to the public and puts out for a sixty day comment period. Ginn's intent is to delist this site which has never been done in the State of Colorado and the EPA is thrilled to have this additional work done. The EPA will respond to comments made during the comment period and this is called an EPA Responsiveness Document which will be provided to the public. In this document the EPA will justify their choice. From there they will issue a Record of Decision (ROD) and require Ginn to perform all of these activities. Ginn has been meeting weekly with the Attorney General's Office; the State Attorney General's Office, the CDPHE, and the USEPA and has been for two and one half years.

Ginn would like to address cleanup in a phased approach given the remedial construction season; wet or frozen contaminated soil we need to address certain issues since it is not your typical construction site. Two seasons will probably be required to accomplish all of the excavation and capping that is required. There is not a set standard of when it should be done, they just want to make sure it does get done. Once this ROD is approved it does require Ginn to do all of the remedial items. Ms. Alman continued that there are codified regulations that the EPA will require and they will be part of an agreement with the USEPA. Once the ROD is in place, Ginn will sign an agreement stating that they in fact will perform all of these activities and also have financial backing to do so.

A. Ferguson interjected that has also been included is a proposed separate condition for the Town regardless of what the EPA requires.

Bennett Raley, 6573 South Heritage Place East, Centennial, CO introduced two people, Eric Pederson, a biologist that has worked on this from the beginning and author of many of the documents Ginn relies on. Rick Thompson, lead biologist for the HCP for the Lynx. Mr. Thompson came up with a mitigation formula that uses a conversion ratio; if you impact one acre of winter habitat for Elk the formula says you increase that by a factor of 1.0 to 1.57. Mr. Raley continued by stating that Ginn has had nine meetings and many phone calls with the Division of Wildlife (DOW) and then have been able to close the gap on the remaining 5%. This stack of material, which is already in the record, is the Environmental Review that has been prepared on this project. We have done our work on this.

Key Elements of Battle Mountain Wildlife Plan Starts with our land planning to avoid and minimize impacts to wildlife; over 70% of land as open space, concentration/clustering of density in core areas, avoiding ridgeline development, maintaining wildlife movement corridors, and enhancing with Superfund Site Clean-up and Bolts Lake habitat enhancement. Ginn has a wildlife plan that is equal to or better than other recent plans. The most important of these tonight will be the seasonal closures and the mitigation fund because they relate to two of the priority resources that need to be addressed in our mitigation plan.

Mr. Raley continued that Ginn's perception is that there are three priority issues but before he goes into these he would like to address "Whirling Disease". It has been around a long time and the largest single source of Whirling Disease in the streams of Colorado was the Division of Wildlife itself because it was stocking diseased fish for a number of years after it was discovered. Whirling Disease is something that is there, it is in varying concentrations and it is a pretty strange disease because the researches don't fully understand all of it's mechanism, pathways, etc. Ginn's commitment is that they will fully comply with any and all regulations the DOW puts into place for dealing with Whirling Disease. We don't think it is a priority issue but we wanted to mention it because you have heard something about it.

Mr. Raley continue stated that they would not be spending a lot of time on Lynx tonight because as we told you before Ginn has committed to proceed with the development obtaining the approval for a Habitat Conservation Plan under the Federal Endangered Species Act for the Lynx. It is an extensive process and it takes a long time and it is extremely detailed. In the environmental area, it is comparable to what the team is going through on cleanup.

Peregrine Falcon, Refer to slide, that band here is the ridge and the importance of the band, because Ginn has pulled back off of the ridgeline, there is hundreds of feet of topographical separation between the nesting site and any of Ginn's activities. If you were to sit on the nesting sites you would never see any of the activities over the top of the cliff. That is important because one of the concerns is visual impacts to nest sites.

Battle Mountain Protection of Peregrine Falcon

- Substantially modified development plan to avoid and minimize impacts
- Reduced ski terrain/lifts in proximity to nest
- Reduced development and avoided ridgeline
- Low profile lifts and gondolas to reduce collision risk
- Seasonal use and construction restrictions

W. Woodruff inquired if the squared out area on the slide exist today, where is the lift to be located and where will it terminate; Mr. Raley responded that it is a simulation of the ski terrain that is proposed and Dominic Mauriello responded that the lift terminates inside the ½ mile. Mr. Raley continued that Ginn is proposing restrictions on activities that will address that and to remember that those are functional driven recommendations, not a hard and fast legal requirement. What we have done is proposed restrictions on activities could potentially impact the nest when it is important. The important time period is from March when

you start seeing hording and nesting through the end of June when you have the nesting, hatching and some feeding. This is the critical time and there is not going to be any construction activities or other activities within the ½ mile zone. The month of July is also important because you have feeding and fledging activities, although once the peregrines have gotten this far, there sensitivity is lower and there is a lot of fidelity to that nest zone. We have the protection zone and the time frame where we can clear trees for the half mile, no visual impact to the nest site even during the month of July. After the Peregrines migrate south in October it won't be a sensitive area and we can then have unrestricted access in regards to what we need to do at the site during that time. There will be no helicopters while the Peregrines are at the site.

The impacts to the Peregrine's hunting areas will be relatively minor. Peregrines primarily eat small birds – swifts, doves, nighthawk and wetland associated birds – ducks, robin, blackbirds. They catch birds in flight and in open areas. They hunt in canyons, large meadows, ponds, rivers, and above the tree-line, they don't typically hunt below forest canopy. Their hunting range is from 5-10 miles. Open terrain, around the site. You can see that there are substantial sites in the range. The canyon itself is probably their preferred site to hunt.

Elk has been an issue from the beginning and what is the appropriate mitigation. The pattern in the state, in the mountain counties differs; Eagle County does the most, other counties avoid and minimize and that is it. They don't necessarily have a mitigation payment. Eagle County does, not that we are following their legal requirements, but that is the practice here and we are very happy to follow it. The issue is how you calculate what the mitigation payment is. We have gone back and looked at our prior analysis. When we were in front of you before, we showed you some maps and we have updated them. This is a very specific analysis; the line color is elk winter range that they use for bedding. The deeper yellowish elk winter range that they use for foraging. Bedding zones here are not the limiting factor. The critical factor is forage impacts. Referencing a slide what we are showing you is Elk winter range habitat and then we superimposed our development on top of it. You can see that much of it is outside; we worked very hard to minimize and avoid impacts. But there are some impacts. Some of the ski terrain is within both bedding and forage habitat. We went back and looked at our numbers and talked to the people designing the ski areas, this is an area that we concluded that we had missed and there are a significant number of acres there. We had not counted that as impacted lands. We put that in the category of winter range impacted lands because Mr. Weber and Mr. Ginn have said lets not skate on the edge. Another thing we did was go back to a bunch of small places where there was interspersed impact habitat and untouched habitat and we drew a circle around it and made a blob out of it and didn't get down and exclude areas that didn't technically have an impact if they were in-between zones that did. Those added up and we will mitigate for them. Here is the mitigation formula that has been used in this region:

- A) Impacted Acres of Winter Range multiplied by
- B) Mitigation Replacement Ratio of 1.57:1 multiplied by
- C) Fee per Acre to Enhance = Total Cost to Enhance Habitat every three years

The fee per acre is driven by the cost of aerial fertilization.

$(\text{Total Cost}) / (3 \text{ years}) = \text{Average Cost per Year}$

$(\text{Average Cost per Year}) / (\text{Annual Rate of Return}) = \text{One Time Mitigation Payment}$

Fee per acre every three years fertilize and at the end of three years you go in and do it again. You want funds available for providing those in perpetuity. If you go back over the last five years, there is not one standard practice. We took what we thought was a fair example of each of the factors of the formula and used that to develop the \$94,000 that our prior offer added up to. The range in the last five years or so elsewhere is \$69-100 and the factor has always been 1.57 although the DOW has said maybe that factor doesn't work and it may need to be higher but there is nothing recorded or any literature increasing that. Regarding interest rate, there is one small project that used 2.5%, many have been at 5%. This is the range of factors used in similar mitigation plans elsewhere in this area. There are two options, option two is what we don't want to do but we are prepared to do if we have to gut it out and wrestle on every single element.

Option 2 relies on a detailed and specific analysis of the actual impacts to Elk Winter Range Forage Areas. Remember we talked about forage versus bedding areas; the mitigation payment is not used to touch or do anything to the bedding areas. The mitigation payment is designed to be adequate to replace the lost forage values. We have mapped both and we totaled them. If they overlap it is appropriate to count bedding area as forage because you are going to fertilize it. Why distinguish between forage and bedding habitat? Bedding habitat is not a limiting factor. Bedding habitat is available on property and surrounding areas. Mitigation payment formula is driven by costs of fertilizing or enhancing forage habitat. No reason to fertilize bedding habitat that is not also forage habitat. Cordillera Wildlife Plan distinguished between forage and bedding Habitat. Battle Mountain will actually affect only 178 net acres of Elk winter range forage habitat □ If we took a technical approach, our mitigation payment would be for 178 acres of impacted forage habitat

Option 1 - Ginn's Preferred Option. Option 2 forage versus bedding. Mitigation is lost forage not bedding. Fertilize it. Option 2 Extremely Bedding Forage; total impact of winter range we only affect 178 acres of forage habitat. We would have 213 impacted acres of foraging habitat; we are going to use the \$100 per acre even though prices have gone down. Ginn will mitigate for all 472 acres x 1.57 x \$100 = \$457,000 and Mr. Weber said round it up to \$500,000 and pay it based on impact on all winter range not just forage. Why 5% and why are we talking about it. Mr. Andree has demanded that we use a 2.5% interest rate but that has a direct impact on the outcome. The money from mitigation payments is invested in the Colorado Wildlife Heritage Foundation and their average rate of return 5.15% over the last couple of years. There are two other sources of Trust Funds that are only available to public entities; their rate of return has been 5.25 and 5.11. T-Bill twenty year averages are 5.93 averages. We see no reason to go to 2.5%. We also propose to provide \$100,000 wildlife reserve fund that is controlled by the Town. The Town can use it or not use it, it will be available if DOW comes in and says we need to do some improvements, it is there.

J. Brinkerhoff what does the 2.5% rate of return take it to, over \$1million; Mr. Raley replied well over.

W. Woodruff once this money is in place, the 5% return provides the income for the ongoing mitigation, who fertilizes, who makes sure it gets done; Mr. Raley replied that the DOW handles the planning and fertilizing.

W. Woodruff inquired if on the ski trails where you are using natural plants to stop erosion is that going to be elk food; Mr. Raley responded that they are going to plant elk friendly vegetation wherever possible, but we have counted all of our ski trails as impacted ground and we haven't taken back any percentage for any foraging value that might be provided by the ski trails.

W. Woodruff inquired that he sees there is a lot of impact to bedding and to calving as well; Mr. Raley responded no impact to calving areas. There is impact to winter bedding zones but in this area they simply move and bed elsewhere. There is not a shortage of bedding in this valley.

W. Woodruff inquired about inflation in the formula; Mr. Raley responded that they are putting in a lump sum based on a 5% assumption. DOW gets what ever that yield is. If we are going to have prices sky rocket, generally interest rates go up as well.

J. Brinkerhoff inquired how long the money is intended to last with the intent of having fertilization annually just off of the interest payments; Mr. Raley responded in perpetuity.

W. Woodruff inquired how they intend to build the ski lift in this area without the use of helicopters; Mike Jackson responded that the area is right above the nesting areas. That terrain is not difficult to traverse in other modes of transportation. Surface lift, it can be brought in from the top surface.

Mr. Raley pointed out that it is no helicopters within the ½ mile until the falcons fledge.

W. Woodruff inquired about the five years abandoned site issue that nobody knows if there were any peregrines up there last year.

Eric Pederson, 0222 Bobcat Lane, Red Stone, CO replied that he and the DOW monitored the nest site and they failed to detect a nest site along the cliff. We did detect Peregrines in the area we just don't know where the nest was. As far as the five years, if the Peregrine do not nest there for five consecutive years the DOW will consider that site abandoned.

W. Woodruff inquired if Ginn will consider it abandoned; Mr. Pederson replied yes.

Mr. Raley replied that Ginn is not going to be doing anything in this ½ mile, it is a functional base, you aren't going to see anything from that nest site.

W. Woodruff inquired so you won't move into that area if they are not detected in five years; Mr. Weber responded that Ginn has no short term or long term plan for development in that area.

W. Woodruff inquired if they have a plan for snow making and how will it affect the elk; Mr. Raley responded that a reservoir will require a 404 permits and Ginn will go through the entire permitting for that. We can't do that now because we don't know where the reservoir is going to be yet. Are there wildlife plan issues if we build a reservoir in it? Mr. Weber can't give an answer when he doesn't know where the reservoirs are going to be.

Sam Otero, 957 Sylvan Lake Road, Eagle, CO tonight we will look at Roadway Conditions (existing and future), management plans and real discussions relative to town.

Travel Analysis

- Volumes
 - Counts (Every hour of every day)
 - Intersections (Ginn had cameras stationed at intersections)
 - Access (driveways, etc)
- Performance/Operations
 - How does the road handle the volumes
 - **Configuration of Roadway**
 - ROW, geometry and travel lanes width(s)
 - Drainage
 - **Character of Corridor**
 - Consistency (expectations of those using the corridor)
 - Expectations of those using the corridor

Starting at 1am and ending at 12am they monitored North Main Street through the center of Minturn which is Harrison and through to High Street in Red Cliff. What they found was very low travel from 1am to 5am, two main peak times; the morning is about one hour plus and the afternoon is from 5:30-7pm. 50% of that traffic is Lake County coming into Eagle County and visa versa in the afternoon. 9am to 4pm is mostly traffic generated by Minturn, the ebb and flow of Main Street.

Rights of Way

- Legal right-of-way boundaries do not match as-built conditions (CDOT has said that they would like to reestablish the right of way through town to basically follow and mirror the on site conditions. Where properties have encroached they would like to almost grandfather. Survey, monument the right of way through town to match existing conditions)

• **Peak Hour Operations**

- Grouping of cars coming from south (“school bus effect”) He witnessed that all of the way from Red Cliff to Minturn. During the peak hour it minimizes gaps that you have to get out of driveways, access points
- Speeding – noticed a lot of speeding both ways
- Illegal/dangerous passing – people want to pass before they get to switch back
- Almost half the vehicles on the road during this time come to/from Lake County

• **Non-Peak Hour Operations**

- Most trips are generated by in-town uses
- Seems to function very well “for vehicles”

• **Geometry**

- Lines of sight at intersections/access points
- Drainage

• **Access**

- Driveways
- Coordination

• **Pedestrians**

- Crossings
- Sidewalks

• **Character**

- Presents confusion to those using the corridor

• **Travel Analysis**

- Volumes; counts intersections

• **Counts**

• **Intersections**

• **Peak hours**

- Performance/Operations

- How must we manage traffic to ensure future “supply meets acceptable demands”

Giving a more detailed look at numbers that were generated:

Blue line existing w/regional growth

Maroon with project (no reductions for gondola, shuttle, etc is the maroon)

White is with project and their management to reduce by using shuttle, gondola, etc.

He looked at the project numbers, occupancy, main indicator of traffic is occupancy. The converse of that are other public resorts. The solutions that are developed need to support the Town, CDOT and Ginn objectives.

There are three plans that need to mesh together in order to provide a better, safer roadway in the future. Yes, there will be higher numbers of traffic but it can still operate at a higher level.

Three plans; Town Improvement Plan, the Ginn Resort and Employee Guest Plan and the Construction Plan.

We have stated that there is a monitoring program, we like that the monitoring program is long term but it is not the catch all for everything the town is looking for. The monitoring program does allow some continued communication with CDOT and Town. It also establishes a metric and measuring stick on how plans are performing.

Recommendations – Town

Town Traffic – Improvements Plan

Lines denote increased effort.

ROW (re-establish based on existing conditions)

Reduce grouping in peak hours (passing lanes south of town)

Line of sight improvements (start at north end)

Pedestrian mobility (safety, directness and connections)

could have two shifts, and the range could go to 200-700 employees scattered out, when you look at the 300 number and those employees are in there, 25% based on our project of the employees will drive all of the time (dentist appointment, kids doctor appointment) when those people will come in, before 7am, 5-10 buses for those who will transit, south side you could have That number that I have does include deliveries, all of the things we could think of and possibly pick up.

J. Brinkerhoff said at his site he has 35 employees for one house, Cordillera so many cars 1000 vertical type employees, 150 trucks, in transit, good thing. Not look at what could go wrong; it could be a lot more employees, lot more traffic, unless you are not committed to let it go through town.

Mr. Otero stated that railroad, negotiations, and his decisions with Bill we are committed to keep it in the range and not allow it DIA and TREX covers a lot of area Carter burgess 10000 people on that property is al lot. Tried to count trucks, people it varies, trades arrive in the morning, etc.

J. Brinkerhoff are you going to guarantee no more than 175 trucks through town.

Mr. Otero yes. There is another staging area at the south of town and they either have to stay there or go the other direction. Material Management on site, we are looking on how to use the mediation 2million yards for redevelopment 600 though sand is coming from remediation from the CTP, trucks, Gilman, waste material from Gilman, drag line it down the road down to Bolt's Lake and down to the highway.

J. Brinkerhoff material management concept, not defined right now, don't really know what you can use or not use.

Mr. Otero replied cut and fill contours and we have geo tech information on golf course, underneath where we will have crushers.

J. Brinkerhoff what percentage of the dirt on site is going to come from on site?

Mr. Otero replied over 50-75% overall. Top soil, specialty sand and aggregate from the south, our folks can generate composting, etc on site. Materials management, 15-20 superfund sites he has worked on, least number of trucks we can put on the site. Some of that didn't include residential.

J. Brinkerhoff what level of control will the town have in each of these three plans;

Mr. Otero replied that the Town – very key for the town and having involvement in those. Monitoring plan isn't just every five years, we need to sit down with the town and figure out what those are.

Ms. Baker interjected that it depends on how we draft them, whether they are conditions of approval, there can certainly be a monitoring, and a what if it goes wrong, identifies what if, responds to what if, express those. Would anticipate those three go into three different plans.

J. Brinkerhoff added it sounds like a trust me, town isn't involved it is a trust me, hold you to a certain level if we don't know what is out there, at the same time it is one of the key impacts that everyone is scared about. Monitoring do you have a document on having used this before.

Mr. Otero replied that the State of Florida where Dr. Leftwich requires that, monitoring program here has two components; they will have their approved document as part of our access permit. Some of the keys, this is a trigger, monitoring program fairly we can bring them and show you.

W. Woodruff stated that as far as shuttle to and from work site that it is my understanding that BC employees get onto the bus, they don't have a choice. We were thinking that is a good idea here.

J. Brinkerhoff added if they show up at the gate, BC doesn't let them in.

W. Woodruff added at the north and south end of town, the town is north will go down Main Street. Seems to make sense, enforce, no incentive, just require it. Oz is already talking about it.

Sean O'Hearn, Carter Burgess (CB), Town's Designated Engineering Firm, 707 17th Street, Denver, CO explained about who CB is, being located downtown Denver, 300 engineers, architects, 3,400 employees, set the stage overview of the CB staff that is working with the Town staff, Boots Ferguson, Entitlement Process, Guy Patterson, specialist, Tim Sedeckie who plays that roll, community, making sure the division we have grant and funding specialist, Karen Stewart also Mayor of Broomfield, Troy Thompson large role in reviewing economical analysis if it is propose. Mike Gill, Transportation Planning, Transportation Design Specialist, helping in that regard. Water and Wastewater is big issue, specialists, water loss specialists, environmental, storm water, etc.

Another chart was referred to with regards to entire project team, specialist Oz, Leland Consulting Group, there are a lot of technical documents, what we wanted to share with you briefly, how they are first looked at, town code, extensions of town code, significant, town council, general public, residents, assessing, go through the process, 50 pages of comments after being looked at by Boots Ferguson, 38 points of approval, comments to conditions of approval, the Town and the commission talk briefly about it.

Rob Singer, 1707 17th Street, Denver CO a lot of documents, two criteria, does it meet town code and the extensions of the town code, additional conditions that are associated with that; identified in town code but are important as far as engineering, spreadsheet, submittal by Ginn, look at it for compliance, code reference, text of the code, character areas and submittal Willow Creek, Rock Creek, Bolt's Lake, etc, does what they submitted meet code compliance, if it is yes, if the answer is no, one of the things we have to do is go back to the drainage, what will happen, meetings come to conclusion, get into additional information meet code requirement that column is green and yes they have met code requirement. No, should that item be a condition of approval or is it something that really has to be addressed now...answer really more it is important final and get those answers we make that a condition of approval, approval conditions with the town, if it shouldn't be a condition of approval you move into the no category, the applicant supplied a lot of information today that will require a lot of digestion, school busing, look at that from that stand point, reiterate, the yes are things we feel comfortable with where they are. Some areas need to be addressed which we have been talking to Boots about. That gives you an idea of what we are talking about. 100 year flood plain, etc. Where are we at this point of the environmental process?

Mr. O'Hearn added that to date there is nothing that we have seen to relegate a no. Everything has met the intent and the spirit of the code and a lot of the concerns that we have heard, has it met all of the concerns, no, but that is a process. We have made good headway, the information has been provided when asked, we feel the process is working, as it makes its way to the end point.

J. Brinkerhoff have you looked at the entire drainage plan for Battle Mountain potential impact of rain and melt off at one time. There are houses that are in the flood plain.

Mr. Singer responded that a snow melt and a March event and yes, we are looking at it and yes there are problems, we are working on it, we need additional information. Fatal flaws, no. Engineering standards do they have to have every culvert, every crossing under every road identified. No, not at this point.

J. Brinkerhoff what is the goal 100 hundred year events. Are you going to see to it that we are not going to have water hit the river to have flooding?

Mr. Singer confirmed the goal is no negative impact to property down river.

A. Ferguson noted that the town code wasn't designed to address the complexities this project proposes. The town consultants and staff will work with the developer to develop engineering standards that have to be developed and submitted. Some of that took place but it is extensive enough that we can not do all of that before we get through preliminary.

Mr. Otero said they help mitigate existing conditions. Issues now, how can we use this process to mitigate a good condition.

J. Brinkerhoff asked about sewer; have you looked at the ultimate routing. Are sewer lines run in some awkward places getting to ... is the main trunk line going to be relocated? Expanded? Refurbished?

Mr. Otero stated that is part of the annexation process; contemplates the existing trunk that goes along the highway. That is where that direction is where we are headed.

J. Brinkerhoff inquired if it will go through people's yard and property.

Mr. Otero said it will be the path of least resistance.

Mr. Otero complex project, environmental, engineering is the least complex (there are ways to engineer, roadways, mitigate storm water impacts,) the important thing for the commission to know is we have specialist that best suit the town and the applicant as well.

W. Woodruff stated that we asked Dominic to bring a slide on the golf course and the wet lands issue.

A. Ferguson a condition you will see a water quality management plan will be put together, construction, post construction, management golf course, fertilizers, pesticides, etc. Prohibit the use of pesticides, herbicides, snow mold, tees, greens and fairways.

W. Woodruff said that Cross Creek you have proposed (stood up and pointed) the golf course comes in and there is a hole there, that fence represents the wetlands the town code is a 50' set back.

W. Woodruff nothing about back fills from tee. Where are you going to put it, bridge?

RA because this is a listed superfund site, local municipalities don't have a participation in that process, we are complying with them, the statutes are for the federal government.

A. Ferguson we understand that and we will have our own, different from the EPA and you still need land use approval

RA responded just be aware we are going above and beyond that.

Ken Wayshee, 1703 Cutty Sark, Denver, CO noted that part of your question, car paths are elevated in those areas, in addition golf course features, hydraulic flow, cross creek, into the not to interfere with the hydrology.

W. Woodruff noted this is a touchy situation for everybody and the wetlands are very important existing wetlands.

J. Brinkerhoff said a little more to it than two tee boxes, wooden cart path, piers across the wetlands, across Cross Creek, tee box to another green on the other side and then it will cross back over. It may not be in compliance because you can't put in golf, there is only so much ground, three holes that are impacted around that area, although he understands why a golf architect would want to do that because it is beautiful.

Mr. Weber added that our goal is for this to be championship quality constraints

J. Brinkerhoff inquired if they have thought about it being an Audubon rated course. Audubon will give you an endorsement.

Mr. Weber said that we have bragged on Bobby's relationship and we have a very good relationship with Audubon here in Colorado. I'm sure our designers have spoken to them.

J. Brinkerhoff asked if Mr. Weber would ask them please if they have or haven't; yes.

W. Woodruff no one wants to stop it from being a world class it would help locally. Make sure for our own reasons it makes sense.

L. Teach asked about flying balls going into the wetlands, how will you get them out.

A. Ferguson offered his Labrador Retriever.

Mr. Weber noted that we aren't going to let that kind of golfer play golf here (laughter)

W. Woodruff continued that the golf club house is going to be right there. That hill which you talked about described as a fed lot for elk, lots of elk traffic. What are your plans during the elk season are you going to be able to shut it down completely.

Mr. Weber stated that we also recognize a good portion will require some refurbishing after the season, That part of course not be available during the off season.

W. Woodruff continued there is some concern whirling disease impounded fish being more susceptible than fresh fish. Where is the water coming from to feed Bolt's Lake and where will it go. How will the fish feed back into the water and into the Eagle River? Have you dealt with that?

Mr. Weber said that our experts right now, you identified it; source of the water is an issue.

Ms. Alman stated that the reservoir is not going to discharge into the Eagle River.

Mr. Otero added the water will move down as the water is needed for the town. Water will fluctuate. There will be outlets to allow fish to move in and out. Its primary goal is water storage and supply.

J. Brinkerhoff inquired how minnows or small fish will be able to connect to the Eagle River.

Ms. Baker said we will get back to you on that....wildlife mitigation plan as well as recommendations we would certainly comply with regarding whirling disease.

J. Brinkerhoff inquired about the density of commercial space?

A. Ferguson stated the application has specific square footage amounts; we assumed it was a cap in virtue of water resource

Ms. Baker stated it does not describe a maximum we will get back to you with a map of the square footage. The number is out there.

J. Brinkerhoff inquired if they have considered their power and where it is coming from? Is it coming from the south or the north?

Mike Gamba noted we have had initial discussions with Xcel, they don't know which direction; we will continue to have those discussions with them and let you know.

J. Brinkerhoff asked if it comes from the north, overhead lines, buried, underground.

Mr. Gamba said they have Holy Cross electric he believes it will be coming from the south.

J. Brinkerhoff noted that citizens are curious about the usage rights, cost, etc are.

Ms. Baker responded that at the next meeting she will have the drafted corporate review.

Motion by K. Bloodworth, second by J. Brinkerhoff move to **continue** this hearing on the applications for File No. PUD PDP 06-01 Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report to the next commission meeting April 25, 2007 6pm; **Motion passed 5-0**

5. Action Item – File No. PUD AZDM 6-01 Amendment to Zone District Map – PUD Preliminary Development Plan – Battle Mountain

W. Woodruff opened the Public Hearing.

A. Ferguson noted for the record that all information, testimony, etc that was presented and heard from the hearing on the PUD Preliminary Plan and Environmental Impact Report for the record will be included and considered a part of the hearing on File No. PUD AZDM 6-01 Amendment to Zone District Map – PUD Preliminary Development Plan.

Planning commission members may ask questions. Hearing none the public hearing was closed.

Motion by K. Bloodworth, second by J. Brinkerhoff motion to **continue** this hearing on application File No. PUD AZDM 6-01 Amendment to Zone District Map – PUD Preliminary Development Plan – Battle Mountain until the next commission meeting, April 25, 2007 6pm; **Motion passed 5-0**

6. Action Item File No. PUD PP 06-01 Preliminary Subdivision Plat – Battle Mountain Planned Unit Development Preliminary Plan

W. Woodruff opened the Public Hearing.

A. Ferguson noted for the record that all information, testimony, etc that was presented and heard from the hearing on the PUD Preliminary Plan and Environmental Impact Report and the Amendment to Zone District Map – PUD Preliminary Development Plan – Battle Mountain and that for the record will be included and considered a part of the hearing on File No. PUD PP 06-01 Preliminary Subdivision Plat – Battle Mountain Planned Unit Development Preliminary Plan.

Planning commission members may ask questions. Hearing none the public hearing was closed.

Motion by K. Bloodworth, second by L. Teach to **continue** this hearing on the application File No. PUD PP 06-01 Preliminary Subdivision Plat – Battle Mountain Planned Unit Development Preliminary Plan until the next commission meeting, April 25, 2007 6pm; Motion passed 5-0

7. Action Item – Amendment to Zone District Map – U.S. National Forest Service

W. Smith summarized that this is a request from the Town of Minturn, applicant is requesting approval on an Amendment to the Zone District Map to allow a 4.59 acre parcel of U.S. National Forest property adjacent to Highway 24 at the United States Forest Service storage yard located in the Cross Creek Character Area in Minturn, Colorado to be rezoned from Federally Regulated Zone to Open Space and Recreation Zone. The location and boundaries of the character areas and zones established by this Code are shown upon the Character Area and Zone Map of the Town of Minturn which is incorporated into this Code. The Character Area and Zone Map, together with all data shown thereon and all amendments thereto, is by reference made part of this Code.

J. Brinkerhoff inquired who is asking for this to be rezoned.

W. Smith responded that the Forest Service is proposing to sale property that is forest service land in the town. The town wanted to be able to control this, in this case the Town manager, the Town Attorney and it is the consensus of the Town Council.

A. Ferguson consistent with other parcels in town and there was some concern of it being shift from federal to town it was thought to put it through open space to over lay it to protect it. The Council would love to be able to purchase it but the FS

J. Brinkerhoff so we are making a statement.

A. Ferguson yes.

W. Smith noted that Staff recommends approval of this request by the Town of Minturn.

W. Woodruff opened the public hearing.

Marcie Yeager of Eagle Vail stated that if this is the Forest Service property and they are trying to sell it, don't they have anything to say about it. They will get less money.

W. Smith according to the code, any applicant, the administration, the commission, the owner, can request a zone change.

Marcie Yeager said so they know?

W. Smith responded that the Town has posted it and followed all procedures.

W. Woodruff added that we asked for a seat at the table with regards to the sale and they said no. They did give us any chance so we are making a play.

The public hearing was closed.

Motion by K. Bloodworth, second by L. Teach to **approve** the applicant's request for a zone change from "Federally Regulated Zone" to "Recreation and Open Space Zone" for the property located on approximately 4.59 acres of land adjacent to Highway 24 at the United States Forest Service storage yard in the Cross Creek Character Area; **Motion passed 5-0.** (*Note: Robert Martinez is alternate for Ernie Glesner who is absent and excused*)

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

1. The applicant will address staff comments along with outside review comments as a condition of Preliminary plan approval that all review comments that relate to zoning regulations, uses and restrictions for each character area be appropriately addressed, mitigated, or corrected before the zone district regulations, uses and restrictions are finalized for inclusion within the Municipal Code.
2. 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.
3. The applicant agrees to address the Planning Commission comments and concerns as identified within this report.
4. 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.
5. The applicant shall submit in a form that is consistent with the Chapter 16 Municipal Code Character Area zoning regulations the zoning regulations for each character area of the project.
6. These preliminary recommendations will be subject to revisions depending upon the further evidence submitted in the public hearings and into the record.
7. Any and all representations of the applicant orally in their presentation at public hearings, or in the materials presented are made a condition of approval.

8. Old Business

A. Ferguson recommended that each person read the Three Mile Plan within the next three or four weeks, understand the nature of it, and then request that it is tabled until you are finished with the other process.

A. Ferguson visited with Ms. Baker today, Design Guidelines, Sign provisions, etc those things go into the guidelines instead of the town approval, design guidelines will be approved by the town. Secondly when we send this document to you, use it for your own study and own work, do not email back and forth among yourselves until we do it in the public forum.

Motion by R. Martinez, second J. Brinkerhoff to **table** the Three Mile Plan; **Motion passed 5-0**

9 Adjournment

W. Woodruff adjourned the meeting at 9:37pm