



Town of Minturn Planning and Zoning Commission Minutes
Wednesday, April 25, 2007 - Regular Meeting 6:00 p.m.
Minturn Town Center – 302 Pine Street

1. Call to Order/Roll Call

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

Also present was Interim Town Planner 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 E. Glesner to **approve** the agenda as presented; **Motion passed 5-0.**

3. Approval of Minutes – Minutes from April 11, 2007.

Motion by L. Teach, second by K. Bloodworth to **approve** the minutes of April 11, 2007 as presented; **Motion passed 5-0**

4. Action Item – Final Design Review Approval; DRB 06-16

Applicant David Clapp, 386 Taylor Avenue, Game Creek Character Area – Residential to gain Final Design Review approval through the Design Review Board. The applicant is requesting Final Design Review approval for a residential duplex. The lot size is approximately 5,922 square feet and the duplex will cover 39.5% of the lot. The applicant has demonstrated an appropriate architectural approach in meeting the minimum requirements of the application for Design Review Procedure as stated in the Zoning Code and Appendix B- Minturn Design Standards and Guidelines.

An issue remains with the primary entrance to the structure as the Code states that the front of the structure and the primary entrance shall be oriented to the street. As it is presently designed the primary entrances are on the side of the building. The entry door between the garages leads only to a storage room. Additionally parking has not been adequately addressed and the present is not acceptable, Section 16.16.12.4 states tandem arrangements for parking shall only be allowed in valet parking lots in non-residential areas or for single family residence in residential areas but shall not be considered as meeting the standards for the zoning code for any

other use unless approved by the Zoning Administrator. As it stands now the two spaces are directly in front of the garage doors, which is considered tandem. He is only required to have four spaces, two per unit so if those spaces were removed and the planting bed redesigned, it wouldn't be a tandem arrangement with the two spaces closer to the street and he could meet the required parking.

Considering the findings and other information provided, Staff recommends denial of this application at the present time.

David Clapp, 392 Taylor Street, Minturn stated that he submitted these plans a month ago and was told an hour and a half hour ago Chris called and told me there were these two problems with the doors and the parking. He brought pictures of duplexes up on Taylor Avenue that don't have doors on the front and argues that the design of his proposed duplex does fit in with the character of the neighborhood. He is willing to make changes by adding doors to the two ends but in doing so he would have to rid the front of the divider which he believes is esthetically pleasing and helps to separate parking between the two. For parking he currently has six spots and he only needs four so he believes that can be worked around.

C. Cerimele read from Appendix B that the "front of the structure and its primary entrances shall be oriented to the street".

General discussion ensued regarding ways to solve the parking issues and it was noted that Mr. Clapp will have to shorten or remove the planter to not inhibit egress. Mr. Clapp can not put an entrance in the setback as he is built right up to setbacks as it is now. The side stair's rise goes from 7'8", 5'8 to 7'8", 7'3", the rise and run is good per his architect. It was also suggested that Mr. Clapp look at snow storage as it is possible he may not have enough. Code states you must have snow storage but does not designate the amount required.

It was decided by the commission that these two items will be added as a condition and that Mr. Clapp does not have to come back in front of the commission if C. Cerimele finds the conditions have been met.

Motion by K. Bloodworth, second by L. Teach in the application for final design review we have read the Staff report, we find ourselves in agreement with Staff findings including all plans and attachments as set forth in the report dated April 20th, 2007 and recommend **approval** of this application subject to the following conditions.

1. The DRB grant final design approval to the applicant, who met, in a general fashion the design and other regulations of the Town.
2. The applicant makes any modifications to the plan document, as requested by the Planning Staff, Building Inspector, and Eagle River Fire Protection District prior to Certificate of Occupancy.
3. The applicant shall pay all required fees and charges related to development of the subject property.

And including the condition to rework the parking so there are no tandem spaces and also to place the primary entrances facing the street; **Motion passed 5-0**

5. Action Item – Conditional Use Approval; CU 06-07

Applicant, David Clapp, 386 Taylor Avenue, Game Creek Character Area – Residential to gain Conditional Use approval for a residential duplex. The applicant is requesting Conditional Use approval for a residential duplex. The applicant has demonstrated in meeting the minimum requirements for an application for Conditional Use Review.

C. Cerimele noted that there are no issues with the CU; all neighbors have been notified, posted and ad was in the newspaper.

Public Hearing was opened and with no one wishing to speak, the Public Hearing was closed.

Motion by L. Teach, second by K. Bloodworth in the application for proposing a CU permit we have read the Staff report and find ourselves in agreement with Staff findings including all plans and attachments as set forth in the report dating November 30, 2006 and recommend **approval** of this application subject to the following conditions; C. Cerimele noted that the date is a typo, the report date should read April 20, 2007. L. Teach asked if it was to approve the application as submitted; C. Cerimele stated yes; **Motion passed 5-0**

6. Action Item – Conditional Use Approval; CU 07-04

C. Cerimele noted that Dusleana Brown on behalf of Torrey Enterprises (Budget Trucks), North Main Street, Game Creek Character Area – PUD Holding Zone is requesting Conditional Use approval for a motor vehicle storage lot on land leased from Union Pacific (UP) Railroad. Conditional Use submittal requirements have been addressed per the town of Minturn Zoning Code, Chapter 16. Staff finds the proposed use in a PUD holding zone appropriate and any future changes will require approval from the Planning Director, Planning Commission and Town Council. Staff recommends approval of this application subject to the conditions stated in the Staff report.

W. Woodruff inquired if there are any issues or is this ongoing.

C. Cerimele noted that the Town Council is requiring all lessees in the UP Rail yard to obtain a CU approval. This use has been there for approximately eight years. He noted that the conditions that are listed must be followed and that includes a dumpster and the screening of the dumpster to keep the site more visually appealing. The commission may add conditions and the Town Council may add conditions.

Dusleana Brown, Budget Car and Trucks, she stated she was told of the conditions previous to the meeting. She has a green fence but it keeps getting knocked down. She does not want a dumpster as it ends up being used by the Turntable customers and others who park in the Municipal Lot. Ms. Brown stated that her customers do not leave trash at the site, if they do it is inside of the trucks and when she is down there to check in the trucks she cleans that out herself. No trash is left on site. Smaller pieces of trash are taken back to the dumpster at her house and if larger pieces are left they are taken to the dump.

J. Brinkerhoff noted that the condition says trash is not to accumulate for more than 36 hours. If Ms. Brown says she cleans it up, that's what we want, we don't want it to accumulate for 36 hours.

K. Bloodworth noted that she often runs through that area and has not seen any trash. The only thing she sees when going by is the trucks.

When asked if Ms. Brown has any other issues regarding the Turntable she stated that the patrons come out and graffiti the Budget trucks; there are police reports, they have had them arrested and they have prosecuted them. They also drink on the property and smash beer bottles, etc. Ms. Brown described the fence that they currently have is a green fence with yellow rope that continually gets knocked down and every couple of weeks she goes and puts it back up. She stated she can not put up anything more permanent because it is leased property from UP. She also noted that the CU stated Budget "Trucks" but that is not all that they have parked on the property. There are customer cars that sometimes park there, they occasionally have Budget "Cars" and large moving vans that park there and shuttle with the smaller trucks into Edwards, etc. And during the Market overflow parking occurs. If servicing of vehicles is needed Shell from Frisco comes out and if they can't fix it within an hour they tow it.

Motion by K. Bloodworth, second by J. Brinkerhoff in the application for CU for Torrey Enterprises “Budget Truck” at North Main Street we have read the Staff report and we find ourselves in agreement with Staff findings including all plans and attachments as set forth in the report dated April 20, 2007 and recommend approval of this application subject to the following conditions (which W. Woodruff read to the applicant):

1. The Parking Area must be clearly delineated by posting rope fencing or other methods as approved by the Town and posted with signage stating that the area is an exclusive parking lot for Budget Rentals.
2. All Parking must be within the leased area
3. Budget Rentals is to provide each client with a map showing the designated parking area
4. Trash and junk accumulated in the parking area must be picked up by the applicant and disposed of daily
5. The parking area shall not be used for repair or maintenance of rental trucks and vehicles
6. The parking area shall not be used for temporary storage of anything other than rental trucks, related vehicles or Market overflow
7. All season use will require site storage of snow and keeping emergency access cleared
8. And Conditional Use be granted as long as the applicant complies with the conditions and has a valid lease agreement with the owner of the property; **Motion passed 5-0**

7. Action Item – Conditional Use Approval; CU 07-03

C. Cerimele noted Penny Harvey on behalf of the applicant, Hi Cranes, Inc. North Main Street, Game Creek Character Area – PUD Holding Zone is requesting Conditional Use approval for a mechanics shop and primary operations building on leased land from UP. Conditional Use submittal requirements have been addressed for the Town of Minturn Zoning Code Chapter 16 and Staff finds the proposed use in a PUD Holding zone district appropriate and any future changes will require approval from the Planning Director, Planning Commission and the Town Council. Considering the findings and other information provided the Staff recommends approval of this application subject to the conditions stated in the Staff report. There are no issues at this time.

Penny Harvey, stated that she would like to see those conditions since she has not seen them.

W. Woodruff read them to Ms. Harvey:

A conditional use permit may be revocable

A conditional use may be granted for a time period or may be granted by other conditions as set forth by Town Council

Conditions may include but shall not be limited to requiring special setbacks, open space, landscaping or screening, fences or walls, landscaping, street dedication improvements, regulation of vehicular access, parking signs, elimination and hours, methods of operation, control of potential nuisance.

C. Cerimele noted that these are the conditions and if you want to impose any, he was going to leave it to Council to prescribe any conditions on this one.

P. Harvey noted she has been there about eight years or so. It is being used exactly how the railroad used it. It is the building that the railroad tracks go through, it was used for the maintenance of large vehicles or engines so they use it now for the parking and maintenance of their cranes and trucks. They have had trouble with people using their dumpster and vandalism.

K. Bloodworth inquired if all of the work done inside?

Ms. Harvey stated that on occasion they have to lift the boom up to move something in the yard; man basket on top of the flatbed. They have not had any complaints.

J. Brinkerhoff inquired why conditions are inconsistent from one to the other.

C. Cerimele noted that they are two different uses and he wanted to leave conditions up to the Council

W. Woodruff encouraged in the future that C. Cerimele put down recommendations that he feels are appropriate instead of giving them a list to pick from if you think there is something that needs to be addressed.

Motion by L. Teach second by J. Brinkerhoff in the application for proposing a CU permit at North Main Street to High Cranes, Inc we have read the Staff report and we find ourselves in agreement with Staff findings including all plans and attachments as set forth in the report dated April 20, 2007 and recommend **approval** of this application; **Motion passed 5-0**

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

W. Woodruff stated the Hearing on File No. PUD PDP 06-01 applicant for Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report continued from April 11, 2007 is now open. The Planning Commission may continue their questions for clarification but not for debate of any member of the public who has testified for the Applicant.

Dominic Mauriello 5601 Wildridge, CO began by answering a question about the reservoir's outfall to river; where fish going to be able to get from the reservoir to the river; the answer is no. The water is not stagnant in the reservoirs as it was explained as that is also a storage facility and water is continually taken from there to the Town's treatment plant

W. Woodruff inquired whether there will be live water from Cross Creek or the Bolt's Ditch into the reservoir. Migration not only into the Eagle River, which is probably contaminated by Whirling Disease, the question is will we have a chance for fish to migrate up stream into Cross Creek which would take a pristine stream and bring in. The outflow we got but what about inflow.

S. Otero, 957 Sylvan Lake Road, CO responded by stating that he does not have an answer for that this evening.

D. Mauriello continued by addressing electrical power and where it is coming from. We have talked to Xcel energy since our last meeting and they have verified that power will come out of a sub station that currently exist at Gilman, so the power will be coming from the south. There will be no need to upgrade or modify any lines through Minturn. Regarding snow making, location of potential reservoirs and would they be within winter range habitat areas; (referring to the PowerPoint Presentation) shows that the reservoirs are not going to be within any winter range area. Snow making is not going to be a big activity with this resort as there is not the pressure you have with public resorts that are pressured to open by a certain time. Another question that was asked was if we are going to seek an Audubon certificate. In our research of this we found that Audubon Society did not protect their name very well and there are private industries out there that are using the Audubon name to certify golf courses and other types of facilities. We are not planning to seek that type of certification.

J. Brinkerhoff stated the Audubon Society does not certify golf courses.

D. Mauriello stated that they spoke to the local Audubon Society and they do not certify golf courses.

Bill Weber added that they did check with the Audubon Society here in Colorado and there is another organization, that for a fee, they will come in and they will say that it is certified and approved by that Audubon. It is not the Audubon Society that we are all talking about. Pretty much pay the fee of between \$7,500 and \$10,000.

D. Mauriello continued by adding exhibits for the record. First is Exhibit PP which is a revised PUD Community and Development guidelines which addresses commercial square footage being capped at 250,000 sq ft which can be developed in the PUD. Also added is some additional lighting restrictions that we not in the first one. Also added was the wood burning conditions and we have clarified our stream set back as well. We believe with that revision, everything that we have talked about up to date is in there. Additionally we have prepared Exhibit QQ, a Battle Mountain Community Partnership Pass Membership Plan which is a plan that allows Minturn and Red Cliff citizens a minimum of 30 days a year access for golfing and skiing. The fee is \$50 for an annual pass. This plan has been all the way up to the top of the organization chain and on a side note this is the first of these that Ginn has agreed to, at their other locations they have allowed limited access such as weddings, etc. Skiing will be free with your \$50 pass, golfing because it is on a reservation system will have to pay green fees which will be based on what is locally being charged but this will be a World Class Golf Course. You have to prove residency for 18 months prior to applying for a pass. Exhibit RR is their written mitigation plan. This is the plan that allows the \$500,000 mitigation fee for winter range impacts plus an additional \$100,000 that was promised to the town in case it needed that additional money. We have drafted the language so that you or the Town Council can decide where that money goes and where it is held. It also codifies their restrictions with respect to the Peregrine Falcon and winter range for the Elk.

Stephanie Larson, 7595 East Peak View Avenue, Centennial, CO an employee with ERM and is not here on behalf of the applicant. A little background on herself; degree in Environment and Policy from Clark University in Massachusetts. She worked for the Department of Environmental Protection in their Wetlands and Waterways section where she helped with permitting. Next job was in Colorado for the Park Service where she assisted the natural resource staff. She has been on the private side consulting for the last ten years, with ERM for the last seven where she has been working as an Environmental Scientist which includes Wetlands work, Wetlands delineation, permitting, working with both the EPA and Army Corp of Engineers. She has worked with the Omaha District, Sacramento District, and the Albuquerque District in Colorado. On a side note, outside her work environment she has also volunteered with Nature Conservancy in the DC area and has also worked with an Ecological Restoration group in Boulder focusing primarily on Wetlands restoration as well as the Thorne Institute doing environmental education with kids.

Four main areas:

- Where they are wetlands primarily in the Bolt's Lake property
- Impacts – Where, Why, How we are impacting.
- Efforts to avoid
- Constraints in the overall designing of this project.

Ms. Larson is referencing the PowerPoint Presentation during her entire presentation.

We went out and located where the wetlands areas are looking at plants, soils, and hydrology. The shaded areas are wetland areas within the property. Field efforts in 2005-06 we marked and submitted wetlands delineation, submitted it. We invited both the Corps of Engineers and the EPA to come out and verify our delineation. We walked all the areas while they had the reports in their hands. They asked us to look at some additional areas

and then the Corp came back and said we agree with your delineation and provided a letter to the EPA stating that.

Delineation results, total wetland acreage 50. 3 main areas of wetland areas are Maloit Park, Bolt's Lake, and the Highlands with some areas in the OTP, Rex Flats and the CTP.

The focus tonight will be on Bolt's Lake but they also did delineation on the mountain property, roughly 4,000 acre site and submitted it to the Corp. Because the mountain property is not a part of the Superfund site the Corp has jurisdiction over this area. The Corp came out met us, walked the site, we came up with 21.2 acres of wetland which are primarily constrained to the drainages located on the mountain property. We received Corp concurrence that they agreed with our delineation and we received that letter this last year. There are no proposed impacts to wetlands on this side of the project.

There are wetland impacts on the Bolt's Lake property. There are 500 acres plus or minus, a total of 50 acres of wetlands and 18.2 acres of wetland impacts. The impacts result primarily from remediation efforts on the Bolt's Lake property; soil excavation, soil placement, ground water trenching for treatment, and there are also impacts resulting from water storage primarily in the Bolt's Lake area, and outside of that we have about 2 acres of wetland impacted by golf.

There were 27 different design alternatives evaluated many of which were found to not be the best use of the property due to various other constraints associated with the project. Aside from wetlands these are a number of constraints that had to be figured into the layout and design of the project itself. Those include the addition of new remediation features necessary to meet human health standards as well as the protection of existing remediation features. What is unique about this property is the topography, lots of steep slopes so there is a limited area in which that can be developed. There are other features such as Eagle River, Cross Creek and set backs that we need to implement. Wildlife as well as habitat, traffic management, tournament design standards, property configuration and boundaries, the historic resource preservation aspect as well as flood plains.

Maloit Park Overview

Within Maloit Park there are 18.3 acres of wetlands. The southern end of Maloit Park, next to the road, is an area that has been historically impacted. Currently there is both soil and ground water contamination and physically what is different water sources within this area that directly support this area are Cross Creek as well as runs off from the CTP in addition to shallow ground water.

Golf Course holes 4, 5, and 6 Fens which are similar to peat bog which is evident of a long standing wetland long time to develop. The impacts result from several things; soil is contaminated as well as ground water and will have to be excavated and/or soil put over them. There are good wetlands in Maloit Park but across from the CTP you see a lower quality, lower functioning wetland type that has not been able to establish as well as the rest of Maloit Park because of soil contamination. Slide shows evidence of seeping contaminates made evident by the red material. While delineating this area they wore latex gloves, washed off boots, to not carry any contaminates with them.

Setbacks; it is her understanding that both holes four and five will be at a 50' set back.

B. Weber 30' added that in response to a specific question last week about those holes having a 30' setback, we have re-evaluated and they both now will have a 50' setback. We have not adjusted this slide but we are committing that both of them will be at 50'. 50' from high water mark. He will provide a drawing showing where they were at 30' and showing where they are moving them to 50'.

Ms. Larson explained that an ordinary high water mark. The Corp has very strong definition for what an ordinary high water mark is; it is physical evidence of where water cuts into the side of the bank.

W. Woodruff asked if the wetlands are part of that or not. What you are talking about is the stream, not the wetlands.

Ms. Larson noted that typically it is a function of an actual stream bed it is not part of wetlands. Golf features were placed on the upland areas except for an area that will be partially excavated as a part of remediation. Additionally through various other designs and thoughts, they understand it is a sensitive area, and as opposed to putting in new homes, utilities other kinds of permanent hard structures they went for an alternate design and therefore golf is in this area.

Two bridge crossings on Cross Creek, both are for the golf cart paths. The first one represents a bird's eye view looking down at the bridge. The bridge abutments for the bridges themselves are outside of wetland areas and Cross Creek. Any impacts to hydrology which is an important feature to wetlands has been avoided and water sources are avoided and in no way is the design interfering with shallow ground water, water coming from Cross Creek or storm water from CTP. The designers minimized impacts with elevated golf cart course between holes four and five. The bridge will be put on piers through the wetlands through this area. Another way of minimizing impact is the use of retaining walls. It would be sloped down to the natural surrounding contours to help transition between golf and the natural surroundings. The wall blends in very naturally, you are not taking the feature out, and you are just allowing the wetlands to occur without adding additional impacts.

Buffer areas will be established so that wetlands will either be planted up to the green for a natural area that leads to the wetlands. There will be golf course management plans that will manage run off so that fertilizer and nutrients will not impact the surrounding areas, wetlands or not. Constraint and designs in this area have to do with Elk and by leaving it open Elk habitat will continue.

CTP here we have about .3 acre of wetland and we don't have any impact.

Bolt's Lake Area current conditions show that the lake has been drained for some time at least since the mid 1990. As a result of the draining, wetlands has started to appear at the lake's bottom and has been generally supported from snow melt and storm water run off coming down Bolt's Ditch. There are approximately 9.2 acres of wetlands in this area. The black represent not only wetlands but wetlands impact. Physical constraints regarding Bolt's Lake is it is really the main area on site that is not contaminated so a large area of clean fill source will be taken for remediation purposes. In addition to that there are pretty steep side slopes so the area itself is constrained and as a result of that is fully impacted at 9.2 acres.

OTP there are 5 acres of wetlands primarily supported by seeping water from Bolt's Ditch, snow melt in the spring. The soil is very compacted from prior mining events and waste disposal and full of contaminated soil and ground water. In general the wetlands are low quality. The primary impact to wetlands here is remediation; soil excavation, soil placement or as a result of ground water treatment through trenching. In addition to remediation water storage design as well as topographical constraints, high side slopes, working within the topography and the Eagle River. Because the first impact to the wetlands in the OTP is a result of remediation there is not a lot that could be avoided. But areas that were not affected by remediation were avoided and minimized by bridges. In the OTP there are four acres of wetland impacts.

Rex Flats has 2.8 acres of wetland primarily supported by the Eagle River and shallow ground water. There is a mix of wetland quality within the area we have both soil and ground water contamination. The interior

wetlands are not so great but along the edges of the Eagle River they show better conditions. Primary impact will be remediation; soil excavation, soil placement or ground water treatment along with the constraints of the Eagle River and Hwy 24. The designers avoided wetlands with three bridge crossings which avoid the river and spaced in such a way to avoid or have minimal impacts of wetlands. The bridge to the Icon Building has avoided wetlands and the river. Overall in Rex Flats is 2.2 impacted acres of wetlands.

The Highlands has 13.2 acres of wetlands which are located to the west of the OTP and they are primarily supported by either Cross Creek, snow melt and in general the ponds in this area are seasonal. They fill both from the side slope drainage and as the season goes on they dry out. Generally the area has not been contaminated from activities from the Eagle Mine and they are really nice wetlands. The constraints from a physical standpoint are topography, steep side slopes and wetlands. Outlined in black is where our wetlands are located. The design has gone around the wetlands. The designers preference would be to have 12 and 14 to be longer but as a way to minimize impacts they shortened hole 12 and they cut an area out of hole 14 which was an EPA request. As part of the design review the golf cart to avoid and minimize, very similar to what they have in Maloit Park. When the golf cart path construction goes into play it will be a build as you go concept so equipment stays out of the wetlands. They will build the bridge, the equipment will rest on the bridge, and a crane will be used to build the bridge from that point forward. The walls will be built from the inside up whereas a normal construction you would start on the outside and build up. Designers have avoided impacts to hydrology and buffer areas with natural vegetation.

J. Brinkerhoff requested Ms. Larson summarize what the mitigation to the wetlands is.

Ms. Larson we talked about mitigation in several different ways and a standard ratio is; 1 acre of wetland impact : 1 acre of replaced wetlands. What we proposed for the Bolt's Lake area is that areas with wetlands with low value, low function and contamination, we propose a 1:1 mitigation ratio and in the areas where there are better quality wetlands we have proposed a 1:2. Depending on what the ratio comes out as, as much as possible will be mitigated on site but there are other options as well. There could be mitigation banking, mitigation enhancement along the Eagle River so it may not be all limited to on site.

A. Ferguson noted that Bolt's Ditch and Bolt's Lake storage are very critical to the Water Plant that the Town Council has. So the Bolt's Ditch because of the water rights associated with it and the decreed water rights associated with Bolt's Lake are key components to the water resource planning for the project. This was the subject of discussions today with the applicant in working out some of the water resource and water service agreement issues.

W. Woodruff inquired if Bolt's Ditch feeds from above the Highlands?

Ms. Larson responded traditionally yes but there is an intake at Cross Creek west of the actual property boundary. Bolt's Ditch starts at the intake and wraps down through the Highlands and eventually empties into Bolt's Lake. Currently there is a shut off there and water has not been flowing down from Cross Creek through the entirety except for high water and some storm events.

W. Woodruff asked what the plan is for the water storage at Bolt's Lake? What will the side slopes be? Copper Mountain has some very ugly steep sides.

S. Otero currently because those reservoirs are proposed as a water storage they will fluctuate so there are two transition zones; natural transition down to high water and those will all be natural, native vegetation, and then again because we don't want it to be a mud bog mosquito haven when the water starts to go down which will

typically occur in the winter when Cross Creek is at its low point, there are walls there that will expose themselves and also because it is lined, they act as protection for the liner at the bottom of it

W. Woodruff inquired what the set back is that they are using for Willow, Turkey Creek?

D. Mauriello responded that we don't have anything even close to the creeks other than roads. We don't have any buildings or structures that come anywhere close to the creeks.

C. Cerimele noted that Eagle River is 30' and Cross Creek is 50'.

D. Mauriello spoke while seated in the audience and could not be heard.

J. Brinkerhoff restated that contaminated wetlands are they going to be excavated, cleaned, seems like we are going to have a better quality wetland once this is done.

Ken Wayshee 1703 Cutty Sark, Silverthorne, CO answered yes, where we have exceedance of clean up standards in soils we are mandated by the EPA to clean those up, we must excavate or cap those in order to have an unrestricted use for humans. Where you have ground water, seeps and springs occurring if you excavate it, you contaminate it so we want to control it from the source by using capping which a lot of the golf course features provide.

W. Woodruff noted that at hole nine which seems to provide a buffer from the contaminated ground water coming out of the tailings pile.

K. Wayshee responded not all of that area is due to soil contamination, some is ground water, and the remedy there is not only capping with the golf course feature which will provide an immediate human buffer, but also by placing the soil cap on top of the CTP the source of ground water contamination, emanating and seeping beyond barrier trenches that have been installed by VIACOM, they have a ground water extraction trench. However ground water during the spring goes around that or sometimes under that and exits into these locations. Our remedy is by placing a soil cap that will eventually dry out. So the next question is if that dries out are you affecting the hydrology of the wetlands. The majority of the water flow to this is Cross Creek but we are also taking water from irrigation of the golf course on the CTP and it is being stored in this area. Which supplements and restores water on line so that water can return back, under hole six and it is uncontaminated.

W. Woodruff concerned about the red stuff, mitigate and slow that down.

K. Wayshee stated that they are equally concerned with human exposure.

D. Mauriello noted that this is the end of their presentation this evening.

L. Teach inquired again about golf balls.

B. Weber answered that the best practice is that you leave them alone. If it gets dry enough to take them out, you take them out.

W. Woodruff requested that B. Andree from DOW come up.

A. Ferguson suggested that procedural context questions need to be asked because we are not at the Public Testimony juncture but we are at the juncture where you have to ask questions and you can ask questions of any one who has given testimony and of the applicant.

W. Woodruff inquired of B. Andree that when we last spoke with you we discussed that you would be getting together and trying to come up with an agreement with DOW and the applicant over elk and habitat issues. How is that process coming?

B. Andree responded that they did meet on April 11 in Glenwood Springs with Bennett Raley, Rick Thompson, Eric Thompson and himself. They presented some new maps to the DOW that showed some different impacts from what they showed the first time. We reviewed them but at the end of the meeting we were still not in agreement where elk are concerned. The DOW stands by the half mile buffer for the Peregrine so we are at an impasse, we did not come to agreement on Peregrine Falcon. The applicant would still like to have roads, houses and a ski lift inside it at our meeting that morning. We still stand by our recommendation for no permanent occupancy within that habitat.

W. Woodruff inquired of B. Weber if they hadn't moved the houses back ½ mile.

B. Weber stated that he does not believe that they have houses and/or roads within ½ mile buffer. The issue for the DOW was the ski assembly.

L. Teach noted that that she had gotten the feeling that if that nesting area was vacated that then there was the possibility that you could come back and use it.

B. Weber responded that they have no long or short time development plans in that area. That is basically the cliff area, pipeline area coming down into Minturn.

W. Woodruff stated that we need an agreement between the two of you.

A. Ferguson interjected that you want to be careful because sometimes there are conflicts in the interest the town may have and those the DOW have that may or may not be in this circumstance. We want to be careful not to give the DOW veto over the project. We have to be mindful that putting an agreement requirement there may constitute that and he is not sure that the DOW has entered into many specific with very many projects in this community.

W. Woodruff noted that J. Brinkerhoff had given him a document where something like that was done.

J. Brinkerhoff noted the document had a lot of input from DOW and it may have been with a third party wildlife firm that facilitated the agreement.

W. Woodruff inquired of B. Andree do you have any input on how we might come to an understanding that would keep you at the table but not give you veto power but require the applicant to work with you.

B. Andree responded we don't have veto power because we are only a recommending agency but what we have done in almost all of the big projects in the valley is generally before we got to the County Commissioners there was generally an agreement and a memorandum of agreement drawn up between the DOW and the applicant. Lots of times it did not cover everything but things that we could agree on and remove from further discussions we would put in there. He can get the Town a copy of the CAT 3 which included DOW, F&W, Forest Service and he can also get copies of Bachelor Gulch, Arrowhead, that talk about all of those. We can do a

Memorandum of Understanding (MOU), but you are not bound by that MOU. If we agree to it but you don't like it, you can still say we aren't going to do it that way.

B. Andree noted that with the Forest Service specifically on CAT 3 is that Vail Resorts and DOW agreed to things and some of those items the Forest Service said we are going to include that condition in your approval but these other items we are not, that is an agreement between you and Vail Resorts and you guys work it out.

W. Woodruff asked if B. Andree had any other thoughts he would like to share on wildlife.

B. Andree responded that Whirling Disease (WD) is a huge issue for DOW. Paramount, CBS, or VIACOM have spent millions of dollars to clean this up. There are meetings for the next two years on what the standards are going to be and we are pushing that Rainbow Trout be one of those standards as they don't survive WD. The Frying Pan River has been the poster child for WD. WD hit Colorado in the 1990 from a bunch of fish that came in from a private fish hatchery from Idaho and it ended up in our hatcheries. We did stock two places in Eagle County with WD positive fish one was Black Creek on top of Vail Pass and the other was Sylvan Lake in Eagle. To date, when we finished our Eagle River shocking for the mine, we took heads from ten fish from each site; they will be analyzed to determine what the concentration levels of WD so we have a baseline in the Eagle River. The good thing about the Eagle River is that it maintains in areas outside of the mine impact, areas of naturally producing rainbows. Rainbows are up at Arrowhead, the mine and Red Cliff. He stated he can get the reports for the last fifteen years concerning WD. He continued noting that somehow the water has got to come in the reservoir and however it comes in you have to come up with a way to keep fish from coming back out. He assumes that based on their comments that there have been some changes to the outflow. He has never seen a reservoir built that doesn't have an emergency spill way. You could have a concern with spores getting out if you received 3" of rain in an hour like Denver just did. DOH worked on the clean up had this as one of their items and is certain that when they release their documents for public comments it will get addressed in there. They were happy to see us taking samples for baseline data. The only other issue is the fact of how to do a mitigation plan or how to fund it. We have a difference of opinion between the Ginn representatives and the DOW. They like a 5% and DOW likes 2.5%. The most recent project done and Dominic worked on it; we tried to fix the problems we had. He will provide the Commission with the written copies from the Wildlife Heritage Associate showing what the interest rates have been for the last fifteen years. This last year they were five percent but they have been as low as 1 percent. In perpetuity you have good days and you have bad and that is why we use the 2.5%.

W. Woodruff inquired if there is a way to tie it to prime.

D. Mauriello stated that the last twenty year T-Bill rates have been in excess of 5%. We talked to the director of the Heritage Foundation and they did in excess of 5% currently and in the last five years they have average about 5%. They did have years where it went down but she did not indicate any lower than 4%. We gave you examples of two funds that Colorado Municipalities can invest in and both of those are getting returns of around 5% and have historically. The intent of the additional \$100,000 is to have another source of funds available if there were any shortfalls.

W. Woodruff noted that having a safety valve built in wouldn't be of much risk to you.

B. Andree stated he will have Karen Ballard, the Director of Heritage, email him the history of returns. He also noted that this money has to be liquid in case something comes up and they want to sell the Homestack Valley, you have to be able to get your money out. At times we get offers from the Mule Deer or Elk foundation, they'll match \$30k to do a project so you can't tie up money for three or four years. Some of the higher rates are not available to us. We are not the stewards of it, the Wildlife Heritage is but if they ever lost the money in

a no guaranteed T-Bill, then they are on the hook to that developer for what happened to their mitigation funds. We have been suggesting and trying to push forward because it has been such a success is the Eagle Ranch where they used 2 tenths of a percents on Real Estate Transfer Tax. One of the nice things about that is that it adjusts itself for inflation and it addresses all wildlife. Currently we are talking about mitigation for Elk. If we start to have problems with the streams or the Peregrine Falcon and we need to do something, we don't have any funds set aside to take care of it. This money is set aside for Elk habitat.

W. Woodruff added we have talked about a tax which we will get to which will address some of that.

B. Andree stated that those are the majority of the disagreements we discussed. We did discuss that Minturn is in a unique situation that these Elk are trapped here. When we deal with Arrowhead or Cordillera, those Elk do have the ability to move somewhere else. In Minturn unless they hop onto I-70 and head east or west, they have a hard time maintaining that speed limit for very long. Also if you look up onto the hillside you see that it is covered with Toad-Flax, the yellow flower and you can't fertilize that because it will triple its production so you have to kill it which is about a five year project. That is another reason you have not seen a burn in the last ten years, the Forest Service hasn't totally figured out how to control the Toad-Flax. Every time we burn it spreads, every time we fertilize it spreads.

W. Woodruff said that in defense of the applicant he can't remember a golf course that doesn't have houses around it.

B. Andree noted that the only other one is Wolcott Eagle Springs.

W. Woodruff summarized that the conditions and agreements that the commission is trying to come up with have been this "big blob" of information that we have been trying to track. We have been working with Guy Patterson from Carter Burgess and Boots Ferguson and have come up with a tracking list to make sure we understand. Water for example, we can't hold this up here, we need to get it passed on to Council so we make those kinds of things conditions. His favorite example is the down lighting which is something that they have agreed on but it still needs to be on this tracking list because it is something we have agreed to. So, when Council gets this or our citizens, if it goes to a vote, they can take this document and see what the applicant has already agreed to. We are open to how we deal with these, we can go over one by one, and there are 120.

A. Ferguson noted that as a matter of procedure, given that this is the Public Hearing that is focused on the application for Preliminary Development Plan, we should make sure that during this hearing only those conditions that are proposed or otherwise appropriate with respect to the Preliminary Development Plan should be considered. When we open up the Public Hearings for the Amendment to Zone District Map and the Preliminary Subdivision Plat that should be the context in which we consider the conditions for those particular files. You will notice that the proposed findings that you have are separated into those three categories. Just want to make sure that when we go through these that we do not discuss Plat conditions during the Development Plan hearing.

W. Woodruff cautioned the commission that they can take this home and work on them individually but we are not to talk about these among our selves outside of this forum.

D. Mauriello noted that they have not received these conditions until this evening and they see that some of the wording has changed, so we would like to have a look at them to understand the exact wording. We agree that probably 50 out of 70 we have already read and understand.

A. Ferguson said to the applicant that the planning commission agenda conditions that were proposed and that you have is where this chart came from. The chart does not track them numerically as they are presented and there is not a cross reference to the numbered condition so we are going to have to somehow take this working document and flip it into the conditions as they are proposed for the final resolution and findings. Just so everyone knows this is a working document and right now it is set up where we can't directly track one under the under. But the changes that will be made to this document will be reflected in future conditions. His suggestion is to track changes in bold, italics and if there are conditions that the applicant doesn't agree with we could speak on those at the end and be put in an isolated fashion.

W. Woodruff added that if we can get an "X" in that "E" column then it becomes part of the PUD document so that we don't have to have it as a condition.

A. Ferguson that makes sense unless the applicant is required to do additional work or provide additional information that might be part of a future guide but right now it is not appropriate for a guide; for example, one of the conditions recommends that we have three transportation plans submitted. Until they are submitted that condition needs to stay. At the time they are submitted then those can become part of a PUD guide or part of the ultimate resolution.

J. Brinkerhoff where will they be reflected in the PUD guide and when?

A. Ferguson responded that ultimately it has to be done when at Town Council and then it would become part of the document. W. Woodruff's goal is to reduce the list of conditions down to where there is no more work product to be done although remember it is a Preliminary Development Plan and there are some things that are appropriate to put off to final.

J. Brinkerhoff said to use this as an example; let's say we said tonight that they need to stay 50' away from the Cross Creek; A. Ferguson responded that goes right into the PUD guide.

J. Brinkerhoff continued so then the applicant has to come back with a new guide before we finalize our hearings.

A. Ferguson for example, the guide we just got took two of the proposed conditions out that we had before; the lighting and the wood burning. It doesn't mean those are acceptable, you can look at the guide. But they are no longer conditions as they are in an approval document. Two documents are really going to govern; Zoning, the PUD Guide and the second being the approval resolution as conditioned assuming there is an approval.

J. Brinkerhoff stated his goal would be that after tonight that by the next meeting 95% of this will come back in a new Exhibit RR.

A. Ferguson responded that yes we could do that, however in some ways the Council doesn't get the full benefit of your thinking, they have to look at the guide. So having some of this as conditions is a very helpful tool for Council so that they can go through the conditions and see what the commission was focused on and other homework they have asked you to do. They are going to be in one or the other so they will both govern the project.

E. Glesner noted that he thinks we should let the applicant take these and review it.

A. Ferguson stated that is a good idea. One of the things we are going to do on the next meeting because there was not full coordination on the chart that you have. We want the chart to be in the same format as the findings.

The reason we put the findings together the way we did was we broke things out by topic. So when we get to planning items, we are all talking about planning items in a row.

Sarah Baker, 1914 Bear Creek Trail, Edwards, CO added that we received the agenda version of the conditions. We have had a chance to look at them but not all of our consultants have had that chance. She guesses that they will not have a lot of substantive changes. The agenda organizes by topic and it includes the timing elements. For many of these conditions it will specify that this is an item to be taken care of and addressed prior to final development plan. I don't know if that is in this list but that is something we need to sort though. We may have some changes, but quite frankly she doesn't think we are going to have a lot of issues/changes to the conditions as phrased in these two lists.

A. Ferguson the environmental superfund conditions that have been presented to you have been subject to discussions that have involved not only the land use lawyers but the superfund lawyers for both the applicant and the town, so they reflect the status of the workings with the EPA. That is an ongoing process that the conditions have kind of changed, for example the last meeting we received a feasibility study, a risk assessment for human health, so that changed one condition. The environmental conditions we have basically agreed upon and we have some subsequent meetings to make sure we refine those to reflect the federal laws. Some of these, the more technical in nature, we have some agreement on so for your purposes, if you are comfortable with a condition, the word smithing is pretty much taken care of.

W. Woodruff agrees that rather than getting into the list, lets let you review it, get familiar, maybe check off on column E. We will continue to try to cross reference this to these documents, resolutions so that we can keep track better.

S. Baker added that she also believes that is the most expeditious use of all of our time.

A. Ferguson added that what we will do to make everybody's job easier because of the use of this format, we will recast this so it tracks identically with the proposed resolutions, and so you have three separate documents so that you can consider each of them at the appropriate hearings. And as we go through we have this and the proposed resolution can change accordingly. We will this document to everyone by email and we will make sure it becomes part of the public record so that the public can get copies also.

J. Brinkerhoff noted that there are a few things that they can add that were brought up tonight; bringing power from the south, commercial square footage, setbacks on Cross Creek, etc. What about wildlife; are we going to try to get a Memorandum of Understanding like a condition to council so if they are playing referee and they feel there are some conditions that are not going to get resolved, so that we know that 95% of them are taken care of and we have an agreement between the DOW and applicant.

A. Ferguson based upon what the applicant presented and represented and Bill Andree's comments on the remaining issues the DOW has, his suggestion is that to the extent that we can get an MOU on all issues but the three, it isolates the issues for your consideration and so that we can pass on to council. If we could achieve that it would be helpful.

J. Brinkerhoff noted that it can wait until council if they would agree to the process.

A. Ferguson agreed.

S. Baker added to not be too specific about the one topic but for example with respect to wildlife, the 95% agreement is reflected in the wildlife mitigation plan, but the applicant certainly agrees to that portion of the plan.

J. Brinkerhoff few things; condition 9 where it talks about the applicant agrees to address the planning commission conditions and recommendations. Aren't those these conditions?

A. Ferguson noted that that happens to be a Plat comment that came from Wiley. That will get incorporated into the Plat hearing but yes. It was a standard provision that Wiley had basically said you have to agree to and will agree to comply with these conditions. Whether they agree or not, if they want the approval, they take them subject to the conditions.

J. Brinkerhoff requested clarification on condition 12 preliminary recommendations will be subject to revisions depending on further evidence submitted in the public hearings and the record.

A. Ferguson said we put that in because these conditions were set forth as a part of every agenda and we wanted everyone to understand that at the end of the day that condition would fall out because we have arrived, but as more evidence and more testimony comes in, we are tweaking the conditions or getting them resolved.

J. Brinkerhoff continued that condition 13 where there is a condition of all oral and written presentation is incorporated into the approved record. How does that work, there has been a lot of testimony, do all of the notes go into the record.

A. Ferguson what we have done how do we take that agreement of 50' setback, what do we do with that. That is representation by the applicant and it may not have otherwise been required so how do we incorporate that. Guy has been charged with making a list of those commitments and consolidates those either into the recommendations or the PUD guide. What we could do to help you to produce that list to you that are a set of promises so we can cross check each other. Ultimately what we had before was transcript. It is an absolute catch all, it is an absolute catch all provision and in fact that language was pulled directly out of Eagle County's approval conditions. If we missed something but you committed, you are still committed.

Guy Patterson, Carter Burgess explained that the bottom portion of this spread sheet is that rolling list of commitments from the applicant.

J. Brinkerhoff another question to the applicant on item 34-35 there is a condition of dictating a public easement for fishing in the Eagle River can we extend that to Cross Creek as well?

A. Ferguson we can take a look at it and see.

J. Brinkerhoff on item 40 at such time as an amended preliminary subdivision plat is prepared by the applicant for the Gilman area. They are going to get a subdivision and then go back and do an amended one later?

A. Ferguson responded that the way Gilman is conceived of at this juncture is being plated as a super parcel or as one parcel meaning the Gilman Parcel. It is not being the subject of the normal preliminary plat process in the sense that is subject to the EPA is going to say, they really can't go there. And here to move this along create that as a parcel, what we are doing it saying you still have to come back and go through the preliminary subdivision plat procedures for any further subdivision in that parcel to create lots and blocks, etc. And go through all of the procedures associated with what we have just done to do that. It is a putting off of that particular procedure for that particular site because of the individual circumstances they are not as far along

and they have not done the basic work with the Gilman area from a superfund site assessment prospective as they have done at Bolt's Lake. That is why you will see the conditions reflect the difference between the status of Gilman and the status of Bolt's Lake. One thing you will also notice is both the infrastructure to service the mountain and portions of the proposed ECO trail are planned through Gilman, so we have a specific condition that addresses the location of infrastructure through Gilman separate and a part from the development of Gilman because Gilman is a necessary link so we wanted to isolate issues associated with infrastructure location as opposed to development.

J. Brinkerhoff have we really covered terms of density. We have three different main areas, what is the applicant's ability to move density from one area to another.

A. Ferguson noted that there is a proposal in the PUD guide to move density around. The PUD guide that was just submitted to us I recommend that we all look at it very carefully as it is the governing zoning document. I need to focus on it and visit with Sarah and I think each of you should focus on it. There is a density transfer provision in there with limitations or opportunities.

D. Mauriello added that for example in some of the residential pods the PUD guide as submitted from day one of the process has talked about that the density there can flux by 1.5 times the density shown. So there could be 50% more lots. That density would have to come out of somewhere else so you would never exceed 1700 total saleable units but you can shift it around, even between character areas. If you decided to maximize one of the residential pods in the Holy Cross area, you could take that density away from one of the other core areas, you could transfer that. Not commercial but in the mixed use zones. In the Mountain top character area does allow a little bit more, we showed 20 dwelling units and we are allowing a greater amount of density there so it can go up from 20 to 80 units. That is the only one that has that drastic...

J. Brinkerhoff inquired what the minimum density is for Gilman.

D. Mauriello responded that they don't have a minimum density but right now what we are showing it at is 265.

A. Ferguson you would have a minimum by virtue of what you could transfer out of it.

J. Brinkerhoff on condition 42, the batch plant the wording says to the extent feasible

A. Ferguson responded that is his wording because the zoning that is proposed that would allow for a batch at Bolt's Lake, the reason we said to the extent feasible and that materials are located on the site is we did not have information to determine whether or not there was in fact material on site that would support a batch plant or not. The whole point of having a batch plant is to reduce construction traffic. One issue was because of contamination we didn't know how much soil was available and two we didn't want to have them come in, set up a batch plant, and service the county. That is why there is an abandonment clause in there.

J. Brinkerhoff you don't necessarily need materials on site right, you can set up a batch plant and bring sand and gravel in from the south and avoid a lot of traffic. What are you guys thinking about that?

B. Weber a couple of things we would like to bring as much from the south as possible. Is Bolt's Lake the appropriate site, it may be better served if we had it at Gilman but it would be to the benefit of the community and to the applicant to have an on site batch plant. It may move, it could start at Bolt's Lake, we get remediated and we move it somewhere else.

J. Brinkerhoff this is sort of what we are looking for is for you to commit to it, but it is an important mitigation and I don't care if you move it two or three times and most of the materials come from the south of town, that is great; A. Ferguson stated he will work on the wording. Condition 52 what is FTE; Full Time Equivalent. He suggested spelling it out. Condition 64 on the ECO trail we talk about ECO standards I'm not sure what those are. There are different standards wherever to go. Wouldn't it be better to have our own standards, we talked about approving the construction drawings.

A. Ferguson what we could do and it is something we have done with other engineering standards where the town didn't have them because of topography, we could require the applicant and the town's engineers to agree upon a set of standards to be submitted with the final development plan for the trail.

J. Brinkerhoff later in that paragraph it states that the applicant will coordinate with the town to establish other public trail and path connections at the boundaries of the property and extend the Eagle County network of planned trails and work with ECO trails...what are the referring to and where are those.

A. Ferguson I am not sure either. I would say that it is my understanding that there is only one trail and as opposed and distinct from Tigiwon Road and Shrine Pass Road which some people may view as part of the trail or trail system, but we can clarify that since there is no such plan. Is there an internal trails plan? He will redraft the condition.

J. Brinkerhoff condition 76 regarding annexation of the remaining land one year and one day after, we should confirm that there isn't going to be anymore density requested.

B. Weber yes sir done.

D. Mauriello clarified that we do have the employee housing that would be in the area.

J. Brinkerhoff condition 89 regarding the general improvement district use of funds and it mentions ongoing remediation efforts. He doesn't want it to sound like we have any interest in spending any money on remediation.

A. Ferguson stated that the reason they put that in there, because of the concept that there might be ongoing financial obligations associated with the remediation efforts and we thought it would be appropriate if there was going to be consideration of general improvement district that the one would be a benefit of the public and fit within your concept of the types of things you thought the district might be appropriate for funding down the road once the developer is gone.

J. Brinkerhoff he wants to make sure, environmental protection measures and mitigation enhancements, it gives us kind of a broad range and it doesn't put us in too much of a box. Wildlife issues should be addressed in the CC&R in terms of dos and don'ts.

A. Ferguson the wildlife mitigation plan has got this kind of standard type of dogs, fences, types of things like that. Our intent was that the document be not only a part of the CC&R but be a exhibit to the PUD guide so it is recorded as part of a zoning document so not only do the homeowners have the obligation to enforce themselves but the town by virtue of it being a part of the zoning document, it gives the town an enforcement capability also in the event the homeowners don't do it themselves. The other thing that is very critical about that and having it as a recorded document, is that it is going to come up on every title, and we want every prospective purchaser to get a copy of the PUD guide and the wildlife management plan so that they understand bear proof

trash containers and the rest of the obligations that are there on the outset before they buy the property. That is how we thought we would use it and make it a part of the public record.

E. Glesner inquired if condition 104 if 150 trucks a day is that seven days a week

J. Brinkerhoff inquired are those trucks that are actually bringing in materials.

D. Mauriello when we stated trucks we were talking about trucks carrying materials, we were not talking about transportation. We will address both types of traffic, construction as well as truck traffic.

W. Woodruff inquired if there was anything else from commissioners at this time; no.

W. Woodruff noted that we will continue this public hearing until the Planning Commission's regularly scheduled meeting on May 9th at 6pm, here in the town hall.

Motion by K. Bloodworth, second by L. Teach on the public hearing for File Number PUD PDP 06-01 application for the Battle Mountain Preliminary Development Plan together with the Environmental Impact Report for PUD to be **continued** to the next regularly scheduled planning commission meeting, May 9th, 2007 at 6pm here in the town hall; **Motion passed 5-0**

9. Action Item – PUD AZDM 6-01 Amendment to Zone District Map – PUD Preliminary Development Plan – Battle Mountain

Ginn Battle North, LLC, Ginn Battle South, LLC, Ginn – LA Battle One, Ltd., LLLP located between Minturn and Red Cliff and commonly known as Battle Mountain, Unincorporated County to seek approval for a Planned Unit Development Preliminary Plan

W. Woodruff noted that the public hearing on file number PUD AZDM 6-01 Amendment to Zone District Map – PUD Preliminary Development Plan Battle Mountain continued from April 11, 2007 is now open.

A. Ferguson stated that the record for the public hearing on the Battle Mountain PUD Preliminary Development Plan and Environmental Impact Report is hereby incorporated herein.

W. Woodruff stated that the Planning Commission members may ask questions of clarification but not for debate of any member of the public who has testified or the applicant.

There being none, we are going to continue this public hearing until the Planning Commission's next regular meeting on May 9, 2007 at 6:00 p.m. here in the Town Hall. Do I have a motion to that effect?

Motion by K. Bloodworth, second by L. Teach that the public hearing on File No. PUD AZDM 6-01, application for the Battle Mountain PUD Amendment to Zone District Map – Preliminary Development Plan be **continued** until the next regular Planning Commission on May 9, 2007 at 6:00 pm here in the Town Hall; **Motion passed 5-0**

10. Action Item – PUD PP 06-01 Preliminary Subdivision Plat – Battle Mountain Planned Unit Development Preliminary Plan

Ginn Battle North, LLC, Ginn Battle South, LLC, Ginn – LA Battle One, Ltd., LLLP, located between Minturn and Red Cliff and commonly known as Battle Mountain, Unincorporated County to seek approval for a Planned Unit Development Preliminary Plan

W. Woodruff stated that the public hearing on File No. PUD PP 06-01, application for the Battle Mountain PUD Preliminary Subdivision Plat continued from April 11, 2007 is now open.

A. Ferguson stated that the record for the public hearing on the Battle Mountain PUD Preliminary Development Plan and Environmental Impact Report is hereby incorporated herein.

W. Woodruff noted that the Planning Commission members may ask questions of clarification but not for debate of any member of the public who has testified or the applicant.

There being none, we are going to continue this public hearing until the Planning Commission's next regular meeting on May 9, 2007 at 6:00 p.m. here in the Town Hall. Do I have a motion to that effect?

Motion by K. Bloodworth, second by L. Teach that the public hearing on Files No. PUD PP 06-01, application for the Battle Mountain PUD Preliminary Subdivision Plat be continued until the next regular Planning Commission on May 9, 2007 at 6:00 pm here in the Town Hall; Motion passed 5-0

11. New Business: Discussion of Appendix "B" Design Review Board and interpretation of Minor design review

C. Cerimele stated that this is an amendment to Appendix "B".

Motion by K. Bloodworth, second by L. Teach to **table** review of the discussion of Appendix "B" Design Review board until our next regularly scheduled meeting May 9th, 2007 at 6pm; **Motion passed 5-0**

J. Brinkerhoff inquired when council is going to discuss civil engineering; C. Cerimele noted that it will be the second meeting in May. He will make sure it gets on that agenda.

13. Adjournment

W. Woodruff adjourned the meeting at 10pm