



Town of Minturn Planning and Zoning Commission Agenda
Wednesday, May 9, 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 6:09pm by Chairman Woody Woodruff. Roll call showed Woody Woodruff, Lynn Teach, Ernie Glesner and Kristie Bloodworth present. *(Note: Jim Brinkerhoff was absent and excused)*

Also present was Interim Town Planner Chris Cerimele, Town Attorney Allen Christensen, Annexation Attorney Arthur “Boots” Ferguson, Public Works/Planning Department Assistant Torrey Maxwell and Court Reporter Leann 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 L. Teach to **approve** the agenda as presented; **Motion passed 4-0** *(Note: Jim Brinkerhoff was absent and excused)*

3. Approval of Minutes – Minutes from April 25, 2007.

Motion by L. Teach, second by E. Glesner to **approve** the minutes of April 25, 2007 as presented; **Motion passed 4-0** *(Note: Jim Brinkerhoff was 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 opened the public hearing for PUD PDP 06-01 Battle Mountain Planned Unit Development Preliminary Plan and Environmental Impact Report for the applicant Ginn Battle North, LLC, Ginn Battle South, LLC, Ginn – LA Battle One, Ltd., LLLP

Dominic Mauriello, 5601A Wild Ridge Road brought copies of Exhibit SS depicting the 50’ setback on Cross Creek. We have had some discussions with your council on conditions of approval and we basically have no problem with the conditions or the intent of those conditions that you are going to forward on. So we are comfortable having you run through the conditions

A. Ferguson clarified that he met with counsel for the applicant and discussed some issues that he will highlight as they discuss these conditions. Counsel and Staff both agree that #1 and #2 of Preliminary Development Plan “Administrative” be removed as so as not to include some code at the exclusion of other codes when applicant

has to follow code anyways. A. Ferguson requested that Guy Patterson, CB (CB), keep a version that has all of these conditions and then a clean version once this meeting is over; G. Patterson agreed.

Preliminary Development Plan
Administrative:

- ~~1. The applicant agrees to fulfill the requirements of Section 16.15.24., PUD Final Development Plan application and checklist as conditioned by these recommendations.~~
- ~~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.~~

W. Woodruff began reading each condition and discussions ensued (deleted text are noted with lined out text and additions are noted by underlined text).

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

A. Ferguson noted that there will be a homeowners association with fees and it needs to be understood that those fees are separate from the town's fees.

- 4. Any and all material representations of the applicant orally in its presentation at public hearings or in the materials presented shall be adhered to and are made conditions of approval.**

Commission and Staff:

- 1. All staff and outside agency review comments will be appropriately addressed, mitigated, or corrected before PUD Final Development Plan is accepted for review and processing.**
- 2. As a part of its PUD Final Development Plan submission, applicant agrees to address the Planning Commission conditions and recommendations.**

A. Ferguson your conditions go along with your recommendation as to how you want the file saying that you approve the file with conditions, you don't get to approve it, you get to recommend approval to council and these are your recommended conditions.

- 3. The applicant must make 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 the issuance of Certificates of Occupancy for any improvements.**

The applicant agrees that it has satisfied the requirement of Section 16.15.16, PUD Preliminary Development Plan Submittal Requirements subject to the conditions set forth herein and subject to such other reasonable requests that may be made by the Town in order to obtain more detail on selected requirements; the following conditions will be addressed with the PUD Final Development Plan submission:

Outside Agencies:

1. Prior to the recording of the first final subdivision plat, Applicant will pay to Eagle County School District the amount of the fees-in-lieu of school land dedication based upon the calculation of those fees

as set forth in the School District's letter dated March 15, 2007 or as otherwise agreed between the applicant and the school district.

A. Ferguson noted that adding this gives the applicant the ability to discuss with the school district phasing of payment of the fees or not.

2. Applicant must obtain appropriate U.S. Army Corps of Engineers or EPA authorization and/or Section 404 permits or other appropriate federal authorization for any activities involving wetlands or navigable waters prior to conducting dredge or fill activities in regulated waters and provide copies of same to the Town prior to the commencement of any such activities.

A. Ferguson explained that the Dept of Health is only involved as a coordinating agency with the EPA in regards to the SFSs. The jurisdiction over wetlands is generally the Corp of Engineers however when a SFS is involved the EPA has the superior jurisdiction.

W. Woodruff inquired how the Environmental Impact Report (EIR) document is coming along that was provided to CB.

Rob Singer, CB, 707 17th, Denver, CO answered that CB is reviewing that document right now and when we finish with that review we will provide additional information.

A. Ferguson noted that to the extent that they will have additional information it would be good if the commission had it by the time the packets went out for the next meeting so that your review does not hold up the proceedings.

Mr. Singer stated that he has a meeting tomorrow addressing exactly this issue.

W. Woodruff inquired if they expect to be able to provide this information on the Friday prior to the next commission meeting.

Mr. Singer replied that assuming the comments are minor he would say yes. If they are more significant he will at least know that before the next meeting and he will pass it on to A. Ferguson.

W. Woodruff stated that the commission wants some kind of report by the next commission meeting.

Mr. Singer responded that CB can provide a status update on the EIR for the next commission meeting.

W. Woodruff added that whether CB has all of the answers or not the commission wants at least the status to know if there are any problems that need to be addressed prior to it going to council.

Sarah Baker, 1914 Bear Creek Trail noted that Ginn had submitted the Feasibility Study and the Human Health Risk Assessment to CB for review as opposed to the EIR.

W. Woodruff stated he was stating that as all a part of the environmental impact to the project that we want to address.

A. Ferguson added that Elizabeth Mitchell of Holland & Hart is the Town's counterpart to Becky Alman and has been working with Ms. Alman in regards to that and the various issues that the EPA and CDPHE are dealing with.

W. Woodruff stated that the document is part of that document or is it a separate document, it is not clear.

Ms. Baker replied that the EIR is a separately so titled document; it is not the EIR itself. It is part of our application that supports the EIR requirement, but it itself is not the EIR.

A. Ferguson added that the submission of it to the Town is in response to one of the earlier iterations of our conditions related to the SFS and that condition has changed as a result of the provision of those documents.

W. Woodruff inquired where are we at with the EIR itself.

A. Ferguson inquired of Ms. Baker if a supplement was to be provided.

Ms. Baker responded that a supplement has not been provided, a so titled supplement. A lot of our presentation during these eight or so hearings has been to support that EIR. We can do a supplement incorporating everything we have presented, if you wish, but we did not intend, at this point a supplement to the EIR.

A. Ferguson suggested that the applicant submit to the commission a index of all of what it views in total, comprises it's EIR as submitted and supplemented with reference to exhibits, documents that were submitted with the application. Then we would have a clear definition of what that report is.

Ms. Baker inquired if the commission is looking for summary of actual substance of the presentation or simply a summary of the documents and the exhibits that form that EIR.

A. Ferguson responded that he doesn't think they need to summarize each of the documents that are currently a part of the record. We just need to know what you feel is the EIR so that the commission has an appreciation when it makes a determination about that as to what the status is and what it is comprised of.

Ms. Baker responded absolutely, it was just a question of clarification on her part so that they will provide you with what you are looking for. A. Christensen used the word "index" so we will provide an index for the next meeting.

W. Woodruff interjected if the commission can get it ahead of time.

Ms. Baker responded that they will do their best to get it to the commission ahead of time.

K. Bloodworth noted that if they only get an index they will have to go back through exhibits and stuff to pull out....

W. Woodruff if we feel there is something in the index that needs to be looked at.

A. Ferguson summarized to get the index submitted and to the extent that any of the members of the commission want copies they can contact Chris who will compile any of the documents that we have as part of the record.

3. The applicant will work with the Division of Wildlife to prepare a Memorandum of Understanding (MOU) between the Division and applicant that sets forth those issues that the parties agree upon regarding wildlife and wildlife mitigation and enhancement. Applicant will

submit a final Wildlife Mitigation and Enhancement Plan for addressing wildlife impacts and mitigation, which plan will be an exhibit to the PUD Guide and recorded therewith. The Plan will include the agreed upon elements of the MOU and will include such additional provisions as applicant deems appropriate to address the comments of the Division though not agreed upon by the Division. The submission of the Plan will include a cover memorandum that articulates those matters that the Division and applicant could not agree upon for inclusion in the MOU, that sets forth the position of the Division on such matters and that sets forth applicant's proposal on such matters.

A. Ferguson stated that all wildlife issues that have been raised will be addressed in one fashion or another. What we heard last meeting was that there were two or three areas it was felt that there were some distance between the parties and they would not come together. Mr. Andree, Division of Wildlife (DOW) stated that an approach would be to reach a MOU on those wildlife issues that DOW has articulated, then the other issues that remain unaddressed; Peregrine Falcon, Whirling Disease and Formula to be used to calculate payment, the commission can have that articulated but ultimately council has to make the decision on those.

W. Woodruff noted that one thing not touched on is when and where places will be closed; Golf Course, Club House, outlying migration areas, etc.

Bennett Raley, 6573 South Heritage Place East, Centennial, CO stated that we will provide a map and articulate with specificity the closure times and zones that will supplement what we have already presented to you. While I am up here, this condition looks entirely appropriate to us and I think we are all going to have to be flexible because it is undetermined what DOW as an institution can agree to. We will do everything we can to close the gap and then they are going to have to work through their process as to whether or not they formally sign something. Your counsel and I have been involved in projects in the past where DOW has said that they can't formally sign something but we will keep trying.

A. Ferguson asked if Mr. Raley could include those as part of the wildlife plan; the maps, dates and times.

Mr. Raley stated yes, they will be included.

4. Applicant will identify and designate for dedication the locations for facilities for fire, emergency response, and police services to be located within the project, the timing of construction and equipping such facilities, the funding for the same, including bridge funding for the additional employees that will be hired during early construction phases, and provide the approval of the same by the fire district, health services district, and Town police department.

A. Ferguson noted that the facility is not there for the project it is there for the public in general as the town increases in size. The Fire and Health districts have obligations to the public in general to address that. The police department is a different matter because it is under the jurisdiction of the Town where Red Cliff is under the jurisdiction of the Sheriff's Department.

5. The approval is subject to any conditions, covenants, or restrictions that may be imposed on the property or project by the U.S. Fish and Wildlife Service and as may be contained in an approved Habitat Conservation Plan. ~~In the event portions of the project property are to be protected for the lynx under any approval by the Service, such protection shall, at a minimum, be provided through the dedication of a conservation easement.~~

A. Ferguson stated that because of the specific types of remedies that the Fish & Wildlife Service (FWS) has, we have a suggested change to this condition that would more reflect what will come out of this service. Second sentence be eliminated as it is redundant to the first and add to the end of the first sentence “and as may be contained in an approved Habitat Conservation Plan (HCP)”. That plan is separate and apart from the Wildlife plan but will be recorded as an attachment to the PUD Guide so every homeowner gets it.

Mr. Raley added that the HCP is for the Lynx and it would be better to leave it broad like this for this reason. There is the HCP but for the FWS to approve a HCP it also has to do what is called a Section 7 Biological opinion which will address all impacts to any listed species. We don’t know what other species might get picked up in the Section 7 consultation that will be a part of the HCP whereas listing them specifically you may miss one. The FWS has primary jurisdiction and is the regulatory agency under the Endangered Species Act (ESA). It has other responsibilities under the FW Coordination Act and some alphabet soup sort of ancillary, statutory schemes, some of which there is overlap with the DOW. This provision is focused on compliance with the ESA and dealing with the Lynx. It captures anything we would do for the Lynx and all of the requirements. The reason he suggest it not be Lynx specific is because of the intricacies of how they approve that, they might sweep up some other species.

A. Ferguson what this does is says whatever the FW does, the project is condition on that including that which is maybe in the HCP etc.

Mr. Raley stated they agree.

6. Applicant must obtain any necessary local, regional, state, or federal authorizations, approvals or permits that may be required in connection with the project prior to commencement of the authorized activity and provide evidence of same to the Town.

A. Ferguson noted that this is in case we miss something; this is the net.

Traffic:

1. Applicant will submit a final Town Traffic Improvement Plan, Resort Guest and Employee Traffic Plan, and Construction Traffic Management Plan with its PUD Final Development Plan submission. Such plans will include improvements to be made, the anticipated funding for the same, and the timing of the construction of the same; the specific implementation of the same will be set forth in the Plan for immediate construction/implementation and otherwise in the appropriate subdivision improvements agreements to be executed in connection with the approval of any final plats. Such plans will include at a minimum the following:

W. Woodruff said we asked for these instead of them going to council.

Ms. Baker stated they assumed it was a condition of approval.

Mr. Mauriello said we had answered all of the questions we could answer and a lot of these are very intricate. We said very clearly at the last meeting that we would not have them at this time.

(Strong discussion ensued between the commission and Mr. Mauriello)

W. Woodruff stated strongly to make it perfectly clear now; we want to see the plans before it goes to council. We want to see the first round of what you plan on doing with the traffic. *(Nodding of head of commissioners)*

a. A parking plan.

A. Ferguson stated that these are things to be included in the plans you just requested.

W. Woodruff noted this is parking on your property but we are also interested in where you are going to park construction workers to bus them through town.

b. Applicant will provide Traffic Management Strategy Reports outlining a plan of the phasing of construction and the handling of the same together with an agreement for the imposition of penalties in the event the Reports are violated and the ability to amend the Report once actual construction is begun to address unforeseen reasonable circumstances, and together with provisions for enforcement of the mitigation measures through appropriate additional means such as withholding certificates of occupancy for buildings or restricting the issuance of building permits.

No comments from commission or applicant.

c. The appropriate plan will define the current levels of service through the Town, on Highway 24 at Bolts Lake, the access road to the east portion of the project, and Gilman, and through Red Cliff, together with a monitoring program that is consistent with the construction phases of the project to insure that mitigation measures can be imposed if the traffic exceeds projections and levels of service are at an unacceptable level. Applicant will include a variety of appropriate mitigation measures as a part of such agreement in order to identify the types of commitments to be made and funded in the future. At each final plat submission, a written report describing the levels of service and status of the projections made that exist at the time of the filing will be provided with the submission together with proposed mitigation measures if required by unacceptable levels of service; to the extent that unacceptable levels of service exist at the time of the approval of a final plat, such approval shall be conditioned upon the imposition of the mitigation measures to return the levels of service to the acceptable level prior to any lots or units being sold, constructed, or occupied.

W. Woodruff stated that as a commission, this is not the solution we are looking at. We want to see projected levels and then the mitigation done ahead of time. The reason for that is if the levels get bad and we have to tear up road to fix it, tearing up lanes to do traffic circles or whatever we come up with, it is just going to make it worse and we are trying to avoid that.

A. Ferguson added that you can get what you want up front, but one of the things that we heard from CB was that one of the problems is that once you get it and then nobody does anything about it. I think that this type of provision is appropriate and gives you ongoing tools to monitor the effectiveness of the mitigation measures. Or that they feel the investment they have made in a certain mitigation measure is not affective then you can adjust. You have made it clear you want things up front but as this goes forward we have to be nimble to the kind of impacts that may evolve. There is some validity to having this type of provision in addition.

K. Bloodworth noted that this is like a back up if all other things fail and it needs to stay in there for that reason.

Mr. Mauriello added that this agreement is not suggesting that you wait until it fails. You are assuming you wait until you get numbers that say “bad” but you can see ahead that you may need to do something if certain mitigation measures are not working.

d. The appropriate plans will include the specifics of the proposed shuttle and transit program for employees and contractors including without limitation the identification of intercept parking lots or facilities, the timing of construction and specifics of the gondola operation, and traffic plan for construction traffic, delivery of materials and development traffic that will be implemented to reduce the traffic through the Town and, as applicable, through Red Cliff. Such plan shall have flexible components to address the different circumstances that will evolve as construction commences and the project builds out.

W. Woodruff inquired how they are coming with the railroad negotiations.

Mr. Weber, 0627 Hernesch Creek Road, Eagle, CO responded that they are doing real good with the railroad. But we are progressing real strong with them, meeting with them on the 16th and they are coming up on the 30th for a tour. He feels they are doing better than they thought they would be. We are dealing with very high echelon people at the railroad; the number two man, Mr. Duffy, out of Omaha who has his staff working on this. We recognize what a good thing it would be for you, for us and for the community at large.

E. Glesner said that in regards to the paragraph that W. Woodruff just read; the appropriate plans, have you started yet, have you found appropriate parking spots, designating where you will have facilities etc.

Mr. Mauriello responded that it is too early to know exactly who is going to be working as far as contractors, etc so it is premature to have that plan finalized

E. Glesner stated that we have hashed this out and now it is going to go to Council who hasn't been in it for the last year. They are going to have to look at it and develop it; if we had some type of preliminary plan that we could pass to them, we would feel a lot better about it.

Mr. Mauriello said that there are so many different parts, for example, with the railroad or without railroad you would have a different plan. It is too premature. They have some really good ideas about using the railroad or not.

E. Glesner asked can we hear those ideas.

W. Woodruff inquired what about a conceptual report.

E. Glesner noted that you only have two plans.

Mr. Mauriello responded that it is too far ahead of time, we don't know where our workers are coming from. Are they coming from Leadville? Until we get further along in our planning it is just too soon.

W. Woodruff stated that the railroad will only carry materials; you have already told us that. Give us a report that tells us that. As part of these three plans we want to see conceptually we can see it.

E. Glesner asked if they would be using the road that runs along the railroad.

Mr. Weber answered that was discounted a long time ago for various reasons. If we are successful with the railroad it will be just for the railroad.

E. Glesner stated that you can't have a solid final plan by any means, but if we did have something conceptual that we could pass on to council to look it, it would be helpful.

Mr. Mauriello added that conceptually this condition really says it; we are going to try to minimize the traffic before it gets to town.

A. Ferguson interjected that now we are getting to the point of semantics. What he sees is this condition not changing much but what we are hearing from the commission is they want a little more flesh on the bones of the ideas we have heard, particularly from Mr. Otero over the months. Just consolidated, articulated as to how they are going to evolve in the plans. We are looking for a conceptual gathering of all of these things so that when it goes to council they will have a starting point which this commission did not have. Mr. Otero, see what you can do for us.

Mr. Mauriello responded that they can have a framework for these plans put together by the next meeting that says here is what the plans is going to contain and it can include but not be limited to these types of things.

e. There shall be no more than 150 construction related heavy trucks generated by the project traveling in one direction through Town per day during the construction phase of the project, with the exception of any such trucks that use or are transported along the railroad tracks which applicant has committed to try to do pending approval of the owner of the railroad.

A. Ferguson stated that Ms. Baker noted that "per day" needs to be added following "through Town". He also noted that heavy truck refers to cement truck, dump trucks, tractor trailer, etc.

There ensued discussion on how to reference these heavy trucks such as dual axel, tandem, etc.

Mr. Mauriello stated that it is typically described by weight. Also, these are trips generated by the project and it might be good to put that in there.

A. Ferguson directed that after "heavy trucks" add "generated by the project".

W. Woodruff noted that if they don't get the railroad there are going to be more than 150 trucks.

A. Ferguson responded that they way it is crafted that they get 150 trucks and if they get the railroad they will get more than 150 trucks because they get to use the railroad.

E. Glesner inquired if they have decided on workdays; seven days a week or is it too early to tell.

Mr. Weber replied yes, it is too early to tell.

- 2. Applicant must submit a detailed evaluation of the anticipated damage to U.S. Highway 24 generated by the project and a program for the repair, maintenance and extra funding for such maintenance and repair and the reimbursement of the Town for its costs associated with the maintenance and repair of the same that it incurs in connection with the exercise of its obligations**

and rights under that certain contract dated November 9, 2005 with CDOT.

W. Woodruff inquired if we need to tie that to the project as we did in the last one.

A. Ferguson directed to add “generated by the project” after U.S. Highway 24.

3. Applicant must obtain appropriate CDOT access permits for Highway 24.

No comments from commission or applicant.

4. The applicant will dedicate an easement for and construct the ECO Trails trail through its project for the use of the public. The design and construction of the ECO Trail by applicant will be based upon standards developed by engineers for applicant and for the Town that will take into account the design standards of ECO Trails (including without limitation such standards pertaining to emergency access). Such construction shall take place during the first phase of the project and applicant will provide financial security for the same acceptable to the Town. The construction of the trail through the Gilman Character Area must be approved by the EPA and CDPHE. The applicant will work with ECO Trails in order to agree on the final alignment for the trail from the project site to Red Cliff: in the event a portion of such alignment is off the applicant's property, a coordinated plan prepared with ECO Trails for addressing the securing of rights of way and funding the construction of such off site portion should be provided together with a time line for the same. It shall not be the responsibility of applicant ~~ECO Trails~~ to secure the rights of way along any alignment that is not located on the project property. Applicant will be responsible for the maintenance of those portions of any trails located on its property. Applicant's internal trail system will be appropriately connected to the ECO Trail ~~trail~~ through the project.

W. Woodruff noted that the town thinks you should help, be a part of, the entire trail, we know that we can't expect you to take full responsibilities but it seems funny to have little sections that are not the responsibility of the project. I would like to find a way to tie you into this and I know it isn't something we can require. We are looking for a commitment from you

A. Ferguson noted that unless the applicant jumps up and says of course we will do that he does not think that in connection with the land use application we can impose ...being very mindful of the importance of this trail connection, from Red Cliff to Dowd Junction, the only suggestion that he has for the commission would be that in conjunction with this condition that there be a note that the commission recommends to the town council that as part of its consideration of the petition of annexation it consider imposing the obligation for the construction of a bike bath to extend from the project north through Dowd Junction. It is the entity that has the opportunity to negotiate this or not.

Mr. Weber added that they agree with what A. Ferguson just said. If it was all on our property I wouldn't have to come up here and talk to you about it. You could make the recommendation a little stronger that we would work with the town committee, the ECO Trail people regarding the location, he has no appetite on securing the properties because it is not our properties, and if appropriate and applicable some financial obligation. I am not willing to save if it is going to be \$5 or \$10 but as we progress, we will work with the town committee and ECO people with the design and where applicable assist financially. And financially he is talking about more in the area of planning and where things go, I don't want to be buying right of ways from people.

W. Woodruff responded that he agrees and that public entities like ECO, the County, the Town are in a better position to get the right of ways.

A. Ferguson stated he will put together some language for the commission's consideration for next meeting.

E. Glesner said that the part of the trail we are looking at is north of Minturn to Dowd Junction and south of Minturn to Red Cliff.

W. Woodruff ECO is identifying different options one of which is the Town is talking about taking over the area that is referred to as County Road from the bridge under Taylor all the way to the Saloon and potentially paving it. ECO has talked about putting a shoulder on it.

Ellie Caryl, 3289 Cooly Mason Road, Program Manager of ECO Trails, which is a partnership of the towns of Gypsum, Eagle, Avon, Vail, Minturn, Red Cliff and Eagle County working together to build this regional trail system. How much work has been done on the section? Not much, because we have been focusing on areas where the population is greater. If you rely on ECO Trail funds to get this section of the trail built it will be many years. There is about \$20 million worth of work left to do with all of the gaps and we take in about \$500,000 a year. It will be a long time before we would be able to get to this section. E. Glesner is correct as far as the route goes; much of the land is either publicly owned or owned by Vail Associates that I think we could work with. We haven't gotten very far with design but we have a conceptual plan and she has given a copy to the Town of Minturn and the consultants. She commented on the actual condition as it is written noting that ECO Trails is happy to work with the applicant for as long as this takes, but ECO Trail's staff is her. Her suggestion is that in the language, a couple of things, if possibly the applicant could fund a section up by Red Cliff the old highway route, as it exits Gilman and goes towards Red Cliff, recognizing that it is a jumble of mining claims, but that the applicant actually assist financially to research the ownership. She has talked with the county assessor's office and they estimated that it is 100 claims and how long it would take and we estimate that the value of that work at \$15 to \$25,000. That amounts to generally another consultant on board with this project and it would be much more efficient than waiting for county staff or a Town of Minturn person to do that research. She is making that suggestion tonight as an efficient exercise. She stated that a time line for this would be that it could take up to one year to get to the bottom of it and to see if that particular situation can move forward or be discarded as an option. In the condition where it states "It shall be the responsibility of Eco Trails to secure the rights of way along any alignment that is not located on the project property", she noted that she wished they had that type of authority but ECO Trails is in fact a department of Eagle County so it is hard for her to take that responsibility as a department.

A. Ferguson interjected that maybe a better way of putting it is that the applicant is not responsible; both agreed.

Ms. Caryl noted that the trail runs from Dowd Junction to the North Bridge it would be primarily located in the CDOT right of way. It would cross the bridge and be located adjacent to the existing County Road. The preferred alternative is to have it run through Forest Service land and then through the railroad yard, on top of the river bank on top of the disturbed area there ending up at the Saloon, but because the railroad has not been a cooperative entity, we started to look at the County Road. Once to that point at the Townhouses, this is one of the areas of detail that has to be worked out, get up on that bench and then you can maintain a pretty good contour on out to the Cemetery and then on out to Two Elk across Forest Service property. She has spoken to the Forest Service, granted there are studies that would have to take place, but they were in initial conversations, supportive.

A. Ferguson noted to let the record reflect that an Eagle County Regional Trails System map was submitted into the records and has been marked ECO Trails Exhibit A. We will make that one change and what you are requesting is assistance with respect to the title work which is something they know nothing about; the issues of mining claims, old roads, and those kinds of details, does the applicant have any comment on that?

Mr. Weber responded that the recommendation last time he was up, that is the kind of things that they could assist in.

A. Ferguson noted he would craft the recommendation accordingly via the alignment up towards Red Cliff with title issues. He reminded Ms. Caryl that is a recommendation that the commission can make to the council but the commission does not have the authority to impose on the applicant. He directed that where it notes “it shall be the responsibility” it should read “it shall not be the responsibility of the applicant”

5. Tigiwon Road and Shrine Pass Road shall remain open to the public without restriction through the PUD.

No comments from commission or applicant.

W. Woodruff called for a short break

Employee Housing:

- 1. Applicant will provide housing on site for 40 percent of the full time equivalent (“FTE”) operational employees of the project. The provision of this housing will be on a phased basis consistent with employment of such employees by the project. During construction and phasing of the project, applicant will develop a schedule to be provided to the Town on a semi-annual basis regarding the hired employees and the timing of the provision of housing for 40 percent of the same. After the original employee housing units are constructed on site, applicant will perform an employee audit every five years to confirm that 40% of its full time equivalent (“FTE”) operational employees are housed on site. To the extent any audit identifies a shortfall; applicant will provide the additional required housing within a year.**

A. Ferguson stated to clarify what employees we are talking about and that is after “(“FTE”) we add “operational” so that it is operational employees meaning those working at the site, on the project. There may be other folks elsewhere that are not project site employees. When you read this, please understand that at the time we were under the impression that the commitment was to on site. The applicant’s commitment has been off site and on site. This paragraph should be amended so that it says on site and off site.

W. Woodruff said he would like to see it all on site.

Mr. Mauriello stated we have always represented that it would either be on site or off site and our goal is to have as much of it on site as possible, but we didn’t want to preclude the opportunity that might exist to provide some off site housing and condition 2 and 3 talk about off site housing.

Mr. Weber stated that we have said from day one, personally stated 40% on site or off site. I don’t want to commit to exactly 40% on site. The site can only handle a certain amount of housing and we need to keep an option for off site. We have comprehended employee housing (EH) off site in our traffic figures.

A. Ferguson added that the commission could impose this as a draft. They could say use reasonable and good faith efforts to house 40% on site. We don't want to set them up to fail.

Mr. Weber added that it behooves us to have staff on site. But at this stage of the proposed project we need to have the option for off site option. What we volunteered exceeds what other people are requiring and what other people are requiring is not on site.

L. Teach inquired if in the future if it were to be offsite property would it be something that you own?

Mr. Weber responded yes. For example if there was a property in Gypsum or Red Cliff, and we had the need for off site employee housing, we would purchase it, build the housing and we would offer the same financial etc that we will up on Gilman.

L. Teach would you consider Leadville rather than bringing them through town again.

Mr. Weber responded yes and it will depend on supply and demand and the biggest commitment, whether on or off, they are going to treat those employees the same.

A. Ferguson stated that the bad news is that early in the game we identified Employee Housing as a very important issue for the town. The town has absolutely no housing requirements in the code for employees. We do not have the authority to impose this on the applicant. We have the ability to request this and get them to agree.

E. Glesner inquired that with this being the PUD, can't we make it up to go with the PUD considering that we are making up other litigation.

A. Ferguson said that what you get to make up with a PUD an overlay of zoning variances to the underlying zoning and that means that you can create your own zoning scenario, your own development plan as it relates to subdivision and zoning issues. The code still restricts the kinds of authority that you have on this. K. Bloodworth may have a different view and he welcomes that but be careful what we impose. W. Woodruff says lets take the hard line I can see that you would want to debate that one way or another, but he is not sure that we have the authority in the code to impose that. Even with the construct of a PUD. It allows traffic, environment, all of the other things we have dealt with, GeoTech.

E. Glesner said that we could demand, if we can, exactly where it is going to go on site and how much is going to be rental and how much ownership. And that is it and that is what we pass as our recommendation on to council as part of the PUD.

A. Ferguson added that oddly enough the proposed PUD plan guidelines has EH authorized in almost every zone. Maybe a suggestion would be to put a condition that the applicant could agree with, that says for example, we want you to use reasonable good faith efforts to locate 40% of your FTE on site, and we could do what we are doing with the ECO Trail. We could say to council that it was the consensus of the commission that this be an absolute requirement, applicant wouldn't agree to it, we didn't think we could impose it and we passed it up to you for consideration with the other matters you are looking at. That might be a middle ground so at least your desires are reflected as a side comment. The council has the authority to go beyond that due to the petitions. He inquired if K. Bloodworth would agree with that; yes. He will construct wording for this and bring to next commission meeting.

Mr. Mauriello suggested that in the last sentence where it states “To the extent any audit identifies a shortfall; applicant will provide the additional required housing within a year” and he noted that they would have to go through a whole conditional use process with the commission to even do it so he thinks one year would be a little bit of a stretch so he would like to either start the process within one year or up it to two years.

A. Ferguson stated that he and Ms. Baker agreed to two years that is reasonable.

- 2. A detailed plan for a final employee housing program including the location and funding of on and off site housing; the financial assistance program for such housing; and the more detailed analysis of the Shrine Pass Road and Gilman employee housing sites in terms of housing types, sizes, numbers, and timing for construction and the extension of infrastructure for utility services for such housing. With regard to off site housing, such plan will include the means by which the employees in such housing will be transported to the project. This component may be included as a part of the traffic plans referenced above.**

No comments from commission or applicant

- 3. Applicant will provide as a part of its offsite employee housing program provisions for the housing or the assistance for housing for those employees that the Town must hire to assist in the service of the project. The Town and Applicant will agree upon the number of employees that will be the subject of this condition. ~~It is understood that any housing will not be in the form of a barracks.~~**

A. Ferguson stated there was a request to strike the last sentence.

Environmental/ Superfund:

- 1. Prior to approval of the Final Development Plan for the Bolts Lake Character Area, Applicant will provide timely to the Town copies of the Proposed Plan, Record of Decision and Remedial Design/Remedial Action documents as they are issued.**

A. Ferguson noted that all of these, except for #9 and #10, have been crafted by the environmental lawyers and are beyond any of us here.

- 2. Prior to commencing construction activities, remediation activities and ground disturbance activities within the boundaries of the Bolts Lake Character Area, Applicant will provide timely to the Town copies of all drafts of the Agreement and Order on Consent relating to the Eagle Mine SFS and a copy of the final executed Consent Decree, as they are issued.**
- 3. Prior to the commencement of construction activities relating to the installation of infrastructure through the Gilman Character Area also known as OU-2 of the Eagle Mine SFS, Applicant will provide to the Town written evidence of approval by EPA, CDPHE and other regulatory authorities of such activities.**
- 4. Prior to approval of the amended Preliminary Subdivision Plat for the Gilman Character Area, Applicant will provide timely to the Town copies of the Remedial Investigation, Risk Assessment,**

Feasibility Study, Proposed Plan, Record of Decision, Remedial Design/Remedial Action documents and draft and final Consent Decrees for the Superfund site, as they are issued.

- 5. Prior to commencing construction activities, remediation activities and ground disturbance activities within the boundaries of the Gilman Character Area other than activities associated with approved infrastructure installation, Applicant will provide timely to the Town copies of the draft Consent Decrees for the Superfund site and a copy of the final executed Consent Decree.**

Some discussion ensued

- 6. All activities, uses, construction, operation and maintenance plans for any areas that are designated areas if the Eagle Mine SFS will comply fully with the remediation, construction, operation and maintenance plans and requirements of the EPA, CDPHE, and the Town; financial assurance, acceptable to the Town, will be provided to the Town for the remediation, operation and maintenance requirements.**
- 7. Use of the remediated Eagle Mine SFS will be restricted by environmental covenants consistent with the requirements of C.R.S. Sec. 25-15-317 through 327 and consistent with the remediation, use, construction, operation and maintenance plans and requirements of the EPA, CDPHE, and the Town; financial assurance, acceptable to the Town, will be provided to the Town for the long term operation and maintenance requirements for such sites.**
- 8. At such time that an amended preliminary subdivision plat is prepared by applicant for the Gilman Character Area, a supplemental environmental impact report (consistent with Minturn Municipal Code Section 16-20-4-9 (2007)) that includes information developed consistent with the National Contingency Plan, including, but not limited to, Remedial Investigation, Risk Assessment, Feasibility Study, Proposed Plan, Record of Decision, Remedial Design/Remedial Action documents and Agreement and Order on Consent, in connection with its efforts with the EPA and CDPHE will be submitted for the Gilman character area.**
- 9. The conditions associated with the approval of the Environmental Impact Report shall be fulfilled.**
- 10. Applicant will install and operate a batch plant for the provision of concrete and other appropriate constructions materials for the project. The Town hereby approves the use of a batch plant within the project so long as such plant is used for this project only and is dismantled at the completion of construction or abandonment of the project for more than 180 days. To the extent possible, all materials for such batch plant operation will be delivered to the plant from the south and not through the Town with the exception of applicant's securing the use of the railroad property for the transporting of such materials through the Town.**

Town of Red Cliff:

A. Ferguson said that we have worked with Ruth Borne, Planner and Attorney for Red Cliff, as the goal here is to not have Minturn impose anything onto Red Cliff that they didn't want. These conditions are put into the context of potential things that might occur. For example, the applicant said that the cars will go up and through the mountain on the other hand, if Red Cliff wants to have traffic go through town. Red Cliff gets to make the determinations on these issues. Condition D relates to the EH proposal for the site and Condition E relates to any other development that may be developed on that property.

1. In connection with its submission of a Final Development Plan, Applicant will articulate its operation and maintenance plan regarding the use of Willow Creek Road. This plan shall include the following components:

- a. emergency services access to the Willow Creek Character Area and other project areas;**

No comment from commission or applicant.

- b. potential construction traffic through Red Cliff and mitigation of the impacts of the same assuming Red Cliff determines that such traffic can go through Red Cliff, which mitigation shall include the appropriate mitigation measures identified in the plans to be submitted to the Town under the Traffic conditions set forth herein, as applicable;**

No comment from commission or applicant.

- c. potential materials and other deliveries through Red Cliff and mitigation of the impact of the same assuming Red Cliff determines that such traffic can go through Red Cliff, which mitigation shall include the appropriate mitigation measures identified in the plans to be submitted to the Town under the Traffic conditions set forth herein, as applicable;**

No comment from commission or applicant

- d. impacts of traffic and mitigation of the same if employee housing is developed at the Shrine Pass Road site and its traffic is routed through Red Cliff, including use of shuttles for the employees, and the use of Willow Creek Road if such traffic is routed up such road as a result of Red Cliff's determination that such traffic should not go through Red Cliff, which mitigation shall include the appropriate mitigation measures identified in the plans to be submitted to the Town under the Traffic conditions set forth herein, as applicable;**

No comment from commission or applicant.

- e. impacts of traffic and mitigation of the same if development other than employee housing, including use of shuttles for employees, is developed at the Shrine Pass Road site and its traffic is routed through Red Cliff and the use of Willow Creek Road if such traffic is routed up such road as a result of Red Cliff's determination that such traffic should not go through Red Cliff, which mitigation shall include the appropriate mitigation measures identified in the plans to be submitted to the Town under the Traffic conditions set forth herein, as applicable;**

No comment from commission or applicant.

- f. incorporation of the traffic monitoring program set forth under the Traffic conditions of this approval.**

No comment from commission or applicant

- 2. In the event that the fire station, ambulance facility, and police facility are located at the Shrine Pass Road site, applicant shall facilitate coordination with the Town police department and the Eagle County sheriff's office regarding the police department's role as a supportive law enforcement agency when emergency circumstances require assist to the sheriff's office in responding to law enforcement needs in Red Cliff.**

No comment from commission or applicant

- 3. In the event that applicant constructs employee housing or any other development that requires wastewater treatment at the Shrine Pass Road site, applicant shall design its wastewater collection and transportation infrastructure in order to collect and transport Red Cliff's wastewater to the Minturn wastewater treatment plant for ultimate treatment upon confirmation by Red Cliff that its wastewater can be so transported and treated.**

W. Woodruff said that is a new one.

A. Ferguson responded yes, Red Cliff has received some funds in a grant to meet some of the immediate needs it has and we think that in the long term, this is good for the whole valley. We have been working with Red Cliff's engineers to get an assessment.

- 4. Applicant agrees that it will annex its remaining adjacent property into Minturn when it legally is permissible to do so as provided in and subject to these conditions and in connection with such effort it shall work with Red Cliff and assist Red Cliff in establishing the boundaries of Red Cliff in so far as they are contiguous to or may include portions of applicant's property.**

A. Ferguson added that the reason for this the applicant's property is mostly made up of mining claims, Red Cliff's town boundaries, old survey, relationship with surrounding mining claims and original town site. They would like to know what their boundaries are and where Minturn will be annexing in they want to make sure that we do not annex in any of Red Cliff.

- 5. To the extent that the project results in impacts not anticipated herein, applicant agrees to cooperate with Red Cliff in the identification of the same and, as appropriate, address the same; this condition does not impose an affirmative obligation on applicant to address such impacts, but requires applicant to work with Red Cliff as neighbors in good faith to identify and implement reasonable mitigation of such impact.**

No comment from commission or applicant.

Planning:

- 1. Submission of a final version of the Design Guidelines that include architectural designs and guidelines regarding bulk, scale, density, and effects on ridgelines and other construction requirements, including without limitation those relating to wild land fires. The revised Design Guidelines will incorporate, as appropriate, its commitments made in connection with the processing of the preliminary development plan and, as appropriate, those conditions set forth**

herein. Applicant's plan for determining and limiting heights of buildings in different character areas designated in the PUD Guide shall be adhered to. In addition, a final of the Design Guidelines containing the same information shall be submitted for the employee housing units. The Design Guidelines for both the employee housing units and all other construction within the Gilman Character Area will be consistent with the historic character of the former and still existing facilities on site.

A. Ferguson noted that "version" should be added right after the fourth word which is "final". This is the PUD Guide and the Design Guidelines are a separate document.

Switched cassette tape and missed first part of Mr. Mauriello's request

Mr. Mauriello said That is one little tweak we wouldn't mind making if it is acceptable to you.

A. Ferguson repeated that what you want is after the word "employee housing units" in the last sentence you want "and all other construction" to be deleted? I think that is consistent with your commitment.

W. Woodruff said that he thought you were going to keep the historic character of the entire town.

E. Glesner said he remembered them saying "the existing houses" there.

K. Bloodworth said she remembered the houses that were taken down would be built back to look like they did.

Mr. Weber said that there is a lot of it that has to go even the stuff that they have committed to and said we would retrofit, they have to go because of contamination. The condo building, the multi-family is not going to be our Florida pink, out of character with Gilman. Our architects are trying to design something to stay in character but is it going to look like the houses do now, no because they are pink, and blue, and yellow now.

W. Woodruff noted that it says consistent with the historical character.

Mr. Weber said that they are talking about the employee housing.

W. Woodruff said we are talking about the whole thing.

Mr. Mauriello noted that in their overall design guidelines we talk about having a character that is consistent with the region, the railroad, that sort of thing, we are not throwing that out the window.

W. Woodruff continued that with the Gilman area a selling point with a lot of the residence was the idea that it would not have the fancy homes up on top and the idea that the whole Gilman character area would look in style that same way that it did. OK? OK! (nodding of agreement from Mr. Weber) We got one!

2. There shall be no more than 1700 residential units of mixed type, excluding designated employee housing units, within the PUD as defined in the application and as approved herein and as the project property is expanded by the inclusion of lands to be annexed into the Town in the future as provided herein.

W. Woodruff inquired what about mother-in-law units?

Mr. Weber responded that they have no caretaker units, detached secondary units. If you want to put a room in your house for your mother-in-law, that is up to you. But we have no lock offs.

Mr. Mauriello one of the revisions we made in the PUD Guide was taking that out.

A. Ferguson responded that is out and it will be in the PUD Guide. The issue was water resource planning.

3. There shall be no ridgeline development, other than ski lifts, that could be seen from a public right of way within the Town or Town of Red Cliff.

No comments from commission or applicant

4. Applicant shall provide copies of its proposed articles of incorporation and bylaws for each property owners association for the project and for the employee housing property owners association together with the master declaration of covenants, conditions, and restrictions for each of the associations.

No comments from commission or applicant

5. No construction of those portions of the project that are located to the east of the rights of way for the railroad and for Highway 24 and no construction of infrastructure, improvements, gondola, or utilities across such rights of way shall take place until the property that underlies the alignment of infrastructure, improvements, gondola, and utilities across such rights of way to serve such portions of the project is annexed into the Town.

A. Ferguson the original quiet title action that really put together the property package that is before you did not include all of the properties that the predecessor and the Ginn entities had interest in, oddly enough the properties that were excluded from the quiet title action were those properties that underlie the railroad and the highway. Our thinking was that they didn't want to deal with the source of ownership or right of way with the Highway or the Railroad. It turns out that the railroad and the highway are on rights of way but are not land which means the underlying fee land is owned by third parties. Some are owned by Ginn entities. They are in the process to analysis those and cleaning the title up with respect to those so that they can then annex those properties into the Town and connect the east side with the west side. This condition specifically addresses that circumstance and it says we are not authorizing anything to go across there until it is in the Town because we don't have jurisdiction to do so.

W. Woodruff said so that means that those properties that are not owned by Ginn and part of his annexation will have to be separately annexed.

A. Ferguson replied that Ginn owns them; they will just have to come in under a separate annexation. He owns the property underneath the railroad. It was a complex thing as some places CDOT owns them and it is fee, other places it is right of way similarly with the railroad. They are cleaning that up. This is to protect the town.

~~**6. Articulation of public recreation facilities, access to project recreation facilities and open lands, and opportunities in the project and outside the project shall be prepared in a specific plan.**~~

A. Ferguson noted that was done and submitted at the last meeting.

6 was decided to be deleted while reading over number 18.

7. Applicant shall dedicate to the public an easement right along and within the ordinary high water line of the Eagle River and Cross Creek through its property for the purpose of fishing and any and all forms of boating such as kayaking, rafting, canoeing, and tubing, provided however that a condition of such easement on Cross Creek will be that portions of such access through the golf course may be closed during those times of year that the golf course is open and operational and provided that temporary access will be allowed on the banks of the Eagle River for those boaters of the above craft who may from time to time become separated from their craft and need to seek the bank of the river for safety if the water level is at high water.

W. Woodruff said we appreciate that.

Mr. Mauriello asked if #6 could be deleted since it was completed.

A. Ferguson said that he thinks it is very important that leaving it in makes sense because it does focus the council on the fact that it was a requirement and that the applicant responded. It sends a message that it was important to you and also it won't get lost in the box of documents that goes to council.

E. Glesner added that in #7 that where Cross Creek goes through the Golf Course, it is only the bank and high water mark; you will still be able to fish in the middle of Cross Creek.

A. Ferguson said yes, you can fish in the middle of Cross Creek, the easement is within Cross Creek but there was a concern at one point that you would have to fish with a hard hat.

W. Woodruff added that Vail closes their section of Gore Creek to fishing when they are hitting balls.

8. Applicant will submit a complete phasing plan with anticipated but flexible timelines that detail the timing and phasing of the implementation of its project, infrastructure, and commitments, which plan will expand up that submitted in the Application, together with the details of the letters of credit that will be used to secure the installation and construction of the infrastructure.

A. Ferguson lets take out the word "up" as he is not sure where it came from.

9. Applicant will submit a revised PUD Guide that incorporates, as appropriate, its commitments made in connection with this Application and the processing of the same and, as appropriate, those conditions set forth herein.

No comments from commission or applicant

10. Applicant will enter into a water service agreement with the Town for municipal water service for the project.

W. Woodruff commented that not just municipal but also irrigation and recreation.

A. Ferguson said we view all of our water and any use under that as being municipal.

11. In connection with its submission of a Final Development Plan, Applicant will provide a more detailed Open Space, Park and Recreation Plan that includes specifics associated with infrastructure installation and construction, maintenance, granting of conservation easements and the budgetary sources of funds from the homeowners association for those common areas within the common interest community and from the project's non-equity club for those other areas that will be open space, parks, and recreation.

A. Ferguson said that a non equity club, a traditional source of the way clubs really are predominately done in Western Colorado, the developers owns the club, you buy membership but you don't buy ownership interest in the club. If you go into the equity business the securities issues are handled by one law firm in the country, very complex. Their view is a non-equity club ownership. The reason for the distinction is the homeowner's association (HOA) will control some of the open lands and the club will control other open lands; that is why there is a reference to both.

Mr. Weber said that an example just to tail on what Mr. Ferguson just said is the club is going to own the Golf Course. Common Areas, trails, etc will be owned by the HOA.

W. Woodruff said that part of the HOA, part of their ownerships requires that they belong to their part of the club as well, is that correct.

Mr. Weber responded that you are not required to but the last time he looked, of all the sales they have had, all but eight people belong to it.

12. In connection with its submission of a Final Development Plan, Applicant will provide a final document of covenants, conditions and restrictions for the common interest community and for the employee housing community.

No comments from commission or applicant

13. In connection with its submission of a Final Development Plan, Applicant will provide a more detailed plan for the provision of fire protection and emergency medical services that includes specifics associated with infrastructure installation and construction and the phasing of the same.

No comments from commission or applicant

14. In connection with its submission of a Final Development Plan, Applicant will provide an agreement with the appropriate utility companies that indicates that utility service can and will be provided to the project and a detailed phasing plan that includes specifics associated with infrastructure installation and construction.

No comment from commission or applicant

15. In connection with its submission of a Final Development Plan, Applicant will provide a more detailed phasing plan that includes specifics associated with infrastructure installation and construction.

No comments from commission or applicant

16. In connection with its submission of a Final Development Plan, Applicant shall investigate and present to Town Council the merits of creating a general improvement district under C.R.S. Sec. 31-25-601 et seq. in order to provide permanent and continuous funding of designated public improvements for off-site traffic mitigation, public transit options, wildlife protection and enhancement, and environmental protection, mitigation and enhancement needs and requirements that exist on or result from impacts associated with the project within the project or within or adjacent to the Town.

W. Woodruff noted that this was J. Brinkerhoff's concern and they will let him look at this upon his return.

17. In connection with its submission of a Final Development Plan, Applicant shall submit a final Water Quality Management Plan incorporating Best Management Practices for the golf course and other irrigated lands.

No comments from commission or applicant

18. In connection with its submission of a Final Development Plan, Applicant shall submit its plan for providing citizen access and use of the recreational facilities and other facilities within the project.

A. Ferguson added that this is redundant to the one we just read (#6) so we should eliminate # 6; agreed

19. Applicant will submit petitions for annexation of its remaining lands contiguous to the project property within one year and a day after the annexation of the project lands has been completed; provided however that the total density for all of applicant's lands that will be annexed shall not exceed 1700 residential units with the exception of those units that are dedicated for employee housing.

A. Ferguson requested that between "property" and "one year" the word "within" be added. He noted that if the commission wants to keep going, the set of conditions that they should discuss in this hearing, because this hearing is combined with the EIR.

EIR:

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

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

No comments from commission or applicant

2. All staff and outside agency review comments will be appropriately addressed and corrected and the identified impacts will be mitigated as may be appropriate before PUD Final Development Plan is accepted for review and processing.

No comments from commission or applicant

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

W. Woodruff stated that this goes back to the index that is going to be provided to the commission.

- 4. The applicant will submit any change in plans to the Planning Department ~~such as adding an accessory unit~~ by following the criteria in Section 16.15.27, Changes to Approved Plans.**

A. Ferguson stated that the “such as adding an accessory unit” should be eliminated.

- 5. As a part of its PUD Final Development Plan submission, applicant agrees to address the Planning Commission conditions and recommendations set forth herein and in connection with the approval of the Preliminary Development Plan and Environmental Impact Report.**

No comments from commission or applicant

- 6. All appropriate and applicable federal, state, regional and Town permits and approvals must be obtained (such as a 404 permit or other wetlands authorization if necessary) and the Final Subdivision Plat will be subject to those approvals and any conditions set forth therein.**

No comments from commission or applicant

- 7. Applicant will incorporate green building practices and other conservation and energy reducing practices and requirements to increase energy efficiency and reduce energy consumptions within the development. These practices and requirements will be included in the final design guidelines. To the extent that there are facilities that are not subject to the design guidelines, the stated practices and requirements will apply to such facilities.**

W. Woodruff stated that over in Summit County they have this really strong green zoning guidelines; counting the square footage of windows, etc. How far are you guys planning on taking this?

Mr. Mauriello responded probably not that far. We haven't fully developed what those green pieces will be but we will include whatever we are going to do in the Design Guidelines.

E. Glesner added that Eagle County is requiring it now also. You buy points back off of your building permits the greener you get. The less green the more you pay.

- 8. Any and all material representations of the applicant orally in their presentation at public hearings, or in the materials presented shall be adhered to and are made a condition of approval.**

No comments from commission or applicant

- 9. At such time that an amended preliminary subdivision plat is prepared for the Gilman Character Area, a supplemental environmental impact report (consistent with Minturn Municipal Code Section 16.20.4.9 (2007)) that includes information developed consistent with the National Contingency Plan, including, but not limited to, Remedial Investigation, Risk Assessment, Feasibility Study, Proposed Plan, Record of Decision and Agreement and Order on Consent, in**

connection with its efforts with the EPA and CDPHE will be submitted for the Gilman Character Area.

No comments from commission or applicant

W. Woodruff stated that this public hearing on File No. 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 will be continued until May 23, 2007 at 6pm here at Town Center.

Do I have a motion to that effect?

Motion by K. Bloodworth, second by L. Teach that the public hearing on File No. PUD PDP 06-01, applications for the Battle Mountain PUD Preliminary Development Plan together with the Environmental Impact Report for the PUD be **continued** until the next regular Planning Commission meeting on May 23, 2007 at 6:00 pm here in the Town Hall; **Motion passed 4-0**

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

W. Woodruff opened the public hearing on File No. PUD AZDM 6-01, application for the Amendment to Zone District Map - Battle Mountain PUD Preliminary Development Plan continued from April 25, 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.

W. Woodruff added that he would like to make a comment on the draft of the Planned Unit Development Community Plan Guidelines. A. Ferguson and I have discussed some of the things in here and rather than get into those details I would like to say keep working on it. I will keep making comments to him and you guys try to work on it. There are things in there in regards to controls.

W. Woodruff stated that we are going to continue this public hearing until the Planning Commission's next regular meeting on May 16, 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 23, 2007** at 6:00 pm here in the Town Hall; **Motion passed 4-0**

6. Action Item – PUD PP 06-01 Preliminary Subdivision Plat – Battle Mountain 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 May 9, 2007 is now open.

A. Ferguson added 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 23, 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 E. Glesner 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 23, 2007 at 6:00 pm here in the Town Hall: **Motion passed 4-0**

7. Approval of 3 Mile Plan

Motion by L. Teach, second by K. Bloodworth to **table** the 3 Mile Plan discussions until the next regular Planning Commission meeting May 23, 2007 at 6:00pm here in the Town Hall; **Motion passed 4-0.**

8. Revisions to site plan checklist- Appendix B

Motion by K. Bloodworth, second by E. Glesner to **table** the Revisions to Site Plan Checklist – Appendix B to the next regular Planning Commission meeting May 23, 2007 at 6:00pm here in the Town Hall; **Motion passed 4-0**

9. Other

C. Cerimele stated that there is an applicant who is interested in developing property on the south end of town that would like to come before the commission at the next meeting to get some feedback, opinions, etc. It was noted that there was a conflict with a railroad meeting which is scheduled at the same time as a work session for this would need to be scheduled. It was agreed that the commission will have an earlier work session at the following meeting; June 13, 2007.

10. Adjournment

With there being no further business the meeting was adjourned at 9:01pm by W. Woodruff.