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Eagle River Station File

Please submit this as part of the record regarding the process issues related to the review of the Eagle River Station files by the Planning & Zoning Board from July 2011-October 2011. Although we know the planning and zoning members put a lot of time on the file, we do not believe the proper procedures were followed and a proper review was completed. Included with this information is a list of documents for these issues. We understand they have a legal right to come back with a new project but this is not being reviewed as a new project.

For reference: PUD = Planned Unit Development, EACP = 2010 Eagle Area Community Plan

A. Prior voter denial:

A project consisting of 532,000 square feet and 550 housing units was denied by the voters in January 2010 after a lengthy review of the project in public meetings. Before the hearings started for the new proposal, it was stated at a joint work session of the Board of Trustees and Planning and Zoning Board in summer of 2011 by the Mayor of Eagle, Mr. Woodland, the project has not substantially changed so the development agreement should not have to substantially change.

- Contention 1: if the project has not substantially changed as stated, why are we reviewing the project again as the majority of citizens voted no in a special referendum?
- Contention 2: since Phase II was not even sketched, the Town is essentially reviewing the same project which was denied in a special election by the voters. The project should be considered the same especially given the developer's comments of their lack of intentions of building or even considering Phase II for some time in the future.
- Contention 3: several areas of the file did not need minimum review because they had been "worked out by previous boards": Any previous board approval is null and void because of the denial of the project by the special election in January 2010. Any previous board approval is irrelevant since both the planning and zoning board as well as the Board of Trustees had several new members due to the April 2010 Trustee election. In addition, if the previous board actions were to be considered, the previous conditions from those same boards should have been discussed and provided as part of the public presentation which did not happen even after a citizen request.

B. Timeframe of meetings:

The time schedule for these meetings was inadequate to review the information presented, especially before the final deliberations given the volume of public comment received related to the PUD guide and EACP concerns; especially considering the other large file being reviewed at the same time. And given the short time frame and the number of changes to the documents, commission members did not have up to date documents in their packets or were presented something different than in their packets at the meeting on which they based their decision. The examples below related to the commission members are in no way to take away from their effort but to illustrate the amount of the information taken in in such a short time frame and the issues that cause.

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- Contention 1: Commission member Jim Jose referenced a page in his packet during the final meeting which was no longer valid as he had an outdated page in his packet. He stated something like, there were so many pages, it was hard to keep track.
- Contention 2: The quality of the audio CD's is poor so the members were not able to hear all testimony presented by the staff, other members, and the public for those meetings missed.
- Contention 3: The number of meetings missed by the board members, the short time frame did not allow for good consideration of the information. The list of the meeting missed on the affidavits that the Town staff presented was somewhat incorrect again illustrating the confusion over so many meetings in such a short time frame.
- Contention 5: Commission member Joe Knabel requested information of the applicant (for an expert to come present) which was actually part of another file being reviewed at the same time (Haymeadow).
- Contention 6: Approximately 35 public comments were received within less than 10 days of the final deliberation referencing several areas of the EACP and PUD guides. We do not believe these items were addressed sufficiently even though many related to the guiding documents.

Documents review:

We do not believe the full documents were reviewed adequately as required by our Town standards. These documents include the PUD guide, the EACP, Eagle River Watershed Plan, and the Eagle County Comprehensive Plan.

- Contention 1: The EACP was not reviewed in full. Commission member Jim Jose stated he had serious concerns about 25% of the EACP related to the project. There was only one issue of the concerns he had that was discussed. It was per the direction of the Town attorney that they did not document these concerns since he would be a dissenting voice and since the other 75% (a substantial portion) was ok. However, no determination was done as to how they valued each "point" in the EACP so the 75% was not a valid barometer for substantial approval.
- Contention 2: The EACP specifically calls for the East Eagle area to be reviewed as one PUD guide. No details were provided for Phase II as was voiced as a concerned by Sig Bjronson at the final deliberation hearings on October 18, 2011. He even offered a bit of professional surprise that at least a sketch could not be provided for this Phase.
- Contention 3: Eagle County's comments were not received as part of the review even though the EACP is a jointly adopted plan. This seemed a byproduct of the short timeframe referenced above and was asked for by a citizen during public comment prior to the final deliberations. It is referenced as should be considered on the EACP, page 2 (top right).
- Contention 4: PUD: there were pictures/references related to the project denied by the voters in January 2010. These discrepancies presented by members of the public were not discussed or addressed as part of the discussion by the Commission.
- Contention 5: The Eagle River Watershed Plan was never reviewed. We believe the impacts to the Eagle River are of great concern as was addressed through public comment. The impacts of the Eagle River were not discussed in any detail even though the Eagle River is referenced as

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important throughout the EACP and the plan is noted as should be considered on page 2 of the EACP (top right).

- Contention 6: Lighting standards presented on 10-18-11 was not in a PUD guide format. It is unclear to us if this replaced the entire section or not or what exactly the commission was approving as this was the final night of deliberations and we question if this was clearly presented.

D. Staff issue:

In early 2010 after the controversial vote, a staff member of Trinity Red Development, Tom Boni was hired on as the Town's planner. Tom Boni was then the lead staff of the Town of Eagle presenting approval on the same project he worked on for an extended time.

- Contention 1: This seems like a conflict of interest.

E. Invalid vote:

One planning and zoning commission member resigned 3 weeks prior to the final vote. He then showed back up for the vote without being reappointed by the Board of Trustees. Any comments he made for or against the application should be void and should not have been considered as part of the project. And the hearings were not valid since he would be considered a public citizen and not a member of the Board.

- Contention 1: a member of the public cannot participate once the hearing is closed to the public.

F. Normal process was not followed:

In comparison to the Haymeadow File which was another land use file presented at the same time of the Eagle River Station new proposal, the projects did not follow the same process.

- Contention 1: Haymeadow went through a sketch plan process first while Eagle River Station went through a combined joint review process of a zoning/development plan pud and subdivision sketch plan. Again, if the project was new, it should have followed the same path as a new project or like Haymeadow, a file submitted at the same time.

Thank you
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