

**From:** Robin Smith [raksmithjr@yahoo.com]  
**Sent:** Thursday, February 09, 2012 4:43 PM  
**To:** tomboni@townofeagle.org  
**Subject:** Eagle River Station

Tom Boni Feb. 9, 2012

Tom,

Much of what I say here is probably 101 to you but my overwhelming concern is that the developers be held personally responsible financially so that they will take great care (in a way that developers have managed to avoid over the last few decades) to make sure the project is a success for all concerned. I believe that there is on the town board enough legal and real estate skill to structure the deal so RED's developers and investors cannot personally avoid the consequences of failure, cannot limit their liability, cannot go into a corporate bankruptcy shell, cannot flip the project until finished, must put upfront enough money into Escrow to cover much of the cost of failure. If they don't want to do that, which they will surely initially resist, then we should consider suspending the project. I believe that if this can be done and the town's residents are clearly told this most will buy into the project. Certainly there will be holdouts but their agenda seems to be largely to resist all development to an unrealistic point.

My second major point is that this should not be touted as a "jobs" project. It should stand on its own. If it produces jobs, great, but that is not what will make a lot of new buildings a long term success. A few short term jobs will not cover the costs of failure to the community's financial or social wellbeing. The public should not be manipulated here as it has been in many projects elsewhere. There is no WPA aspect to this as far as I know.

So let me reiterate by saying that as an Eagle Ranch resident I am not against the notion of development per se. I don't think we can remain a sweet and somewhat dilapidated town. We are after all the county seat with a huge, sophisticated and international clientel to be dealt with. We must keep improving in ways that enhance our interconnectedness as a town and as a part of the Vail Valley community. We need to somehow to find opportunities to address the fact that physically as a town we are neither very attractive nor conveniently structured for residents. We suffer from the same problems as Avon with commercial and housing scattered across major roads and a river. Basic town planning courses would have warned about that, especially with pathetic sidewalks and bridge connections between. Our "Walk Score" would not be high I suspect and walking to get the basics has usually been a plus for small towns. In many small European towns minibuses also run around frequently on set schedules as useful supplements to walking. That could be part of what the town proposes and the developer has to build into the land use aspect.

Developers are not likely to worry about our general problems unless we make them do so. For example, they will happily accept people and businesses who shift from current Eagle accommodations to theirs. We need to worry about the empty square footage left behind and the tax revenue changes the might follow. Since we are essentially part of a long semi-urban corridor from Vail to Gypsum, we need to take into account our impact and "retaliation" by our sister communities due to our success or failure in this venture. Rightly or wrongly these sibling communities in Eagle County function as competing businesses and in a time of stress are likely to get quite seriously competitive via taxes and other inducements for developers and shoppers.

As a nation we have recently learned how easy it is for businesses and consumers to take advantage of weaknesses in the regulatory systems. In fact they helped make those weak regulations. We are going to have

to be tough in dealing with RED or any other developer. The goal should not be to block them but to make sure it is well thought out and as successful as it can be, while still improving what we need to in Eagle and protecting our major assets. However, the old developer formulas are not likely to work in the future. We need to examine and continuously examine this project's financial models as the economy improves, or doesn't. We should avoid getting locked into a model that no longer works. Say "no" to business as usual and remind ourselves that "Build it and they will come" is obsolete. The town officials must assume that RED is likely to make planning errors and the town must be as expert as they are in all aspects.

RED has made a very positive move in continuous adaptation by recognizing economic changes that have led to a shift from ownership units to rentals. We should recognize also that the changes were made possible in part because of the project's previous denial. Somehow further adaptation needs to be possible along the way, too. RED shouldn't be able to freeze their plans nor change them without our input and we shouldn't force changes on them without their input. Mutually agreed upon adaptation should be possible and expected. This has not been typical or easy in developer/government relations. In the short run that will cost more but in the long run it should save money and reduce risk of missing changes in the needs of the community.

Who will be attracted by rental units of the sizes and quality contemplated? What services might they need that we don't have or have sufficient of? What impact on health services, on security measures, on transportation needs? Should we be providing mini bus service around Eagle and more bus service to Avon, Vail, etc. Should we encourage public transport rather than car usage and might Eagle County help? What could knit the new residents together with the rest of Eagle and the valley and what infrastructure needs to be developed to do that and who will be responsible for doing it, seeing that it is done and assuring it cannot be reneged upon. How can this be done to improve the long term viability of the town? What are the unit sizes and rental rates? What amenities? Will it be zoned to be converted to ownership units? What regulations about rental periods and the number of occupants per unit?

As for the commercial aspect, I believe that the town and the county need to have non-retail enterprise growth. I think that Red should be one source. My presumption is that we have neither the personnel, expertise nor the funds to find those businesses. On the other hand Red is in the business of finding tenants of all types and we should not make it a wish but a criteria that they fill a very significant portion of the commercial space with new non-retail businesses (and those should not be predominantly pulled from other parts of Eagle.) We should also get the county's help in finding ways to encourage other enterprises to balance our almost totally resort based economy. If this project is so viable but Red won't sign on with the non-retail criteria, then another developer should be brought in who will work with us on that. If RED is the only developer interested in a big project in Eagle that in itself should be a major warning sign that the project is either not viable or not timely. There is no evidence that RED is a genius organization uncovering previously undiscovered niches in real estate development and armed with financing innovations.

Is a big box store still contemplated? If so, we are all aware that not all of them have had great economic success of late. What role does the town play in accepting the store(s) and the terms. What do Eagle and RED need from a major lessee to be sure that the project should proceed? A letter of intent hardly seems adequate. How much of the total commercial space should be firmly signed before approving the project? What terms are to be given to the lessees and for how long? Does the town also vet the commercial tenants?

Finally, as I said above the best guarantee of a carefully thought out business project is personal financial commitment by the developers and transparency by the government officials decisions so they can be held accountable. There have been so many ways for business developers to escape the consequences of failure that being held personally accountable financially may be the only way left. Ratings agencies have been proven to be useless. To the extent that the town's voters choose to bankroll the project, we should be responsible but beyond that the developers should be personally responsible for the additional funds needed to make the town whole if this project fails in part or altogether. Escrow in a large amount needs to be set aside to clean up and

possibly knock down the project if things don't work out. The town needs to be reimbursed for infrastructure built for the project if we have not voted specifically to incur those expenses whatever the success. Traer Creek should be a warning to us as should be Cordillera and on a smaller scale Eagle Ranch's commercial area. The problems with these projects surfaced long after they were well underway or finished and were not entirely or significantly due to the recession. The original developers should not be able to just bail out leaving the community or an unsuspecting buyer to hold the bag. In the past developers and overloaded government officials have been financially protected by various legal liability techniques. They get rewarded and praised for starting things and disappear before the long term success is known. We have to find ways to guard against that.

This is still a risky time, regardless of the project. Considering the shambles Eagle has along Hwy. 6 as people drive to the airport or Cosco, Eagle cannot afford to have a sloppy or ill-conceived project serve on Hwy. 70 as another sad billboard for our community.

Thanks for your consideration of these issues. I'd be happy to grab a lunch and chat about these issues to see if there is any way I could help. I will call you in a couple of days.

Robin Smith  
31 E. Dewey Park  
970-390-2495

No virus found in this incoming message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 9.0.927 / Virus Database: 271.1.1/4198 - Release Date: 02/09/12 02:54:00