

TOWN OF EAGLE REFERRAL RESPONSE SUMMARY REPORT

ISSUED: June 27, 2018

Project Name: Reserve at Hockett Gulch PUD
Owner: Red Mountain Ranch Partnership, LTD
Applicant: Mervyn Lapin
Prepared by: Carrie McCool, Planning Consultant for the Town of Eagle

The Eagle Community Development Department is issuing the following Referral Response Summary Report as the referral period has expired. Both internal (Town Staff) and external referral responses received to date can be found in the "Referral Comments" section of this report. The "Next steps" section describes the approaching steps in the development review and approval process. If you have any questions or concerns regarding any comment, contact me or the individual agency contact to clarify the statement and reach an understanding. It is in the applicant's best interest to contact each internal and external referral agency directly in order to streamline the development review process.

REFERRAL COMMENTS SECTION

Community Development

Carrie McCool, Town Planning Consultant

carrie@mccooldevelopment.com

The following comments are based on the standards and requirements of PUDs per §4.11.030, Subdivisions per §4.12.010, and Annexations per §4.15.010 and C.R.S. Article 12, Title 31.

General

1. While much of the information that is required for a Subdivision Sketch Plan is illustrated on the PUD concept plan or provided in the supplemental reports, these are not one in the same and should be treated as separate application packages with different materials and maps that will be reviewed based on different criteria. Please refer to §4.12.010 for Sketch Plan Submittal Requirements and provide the pertinent information required by Code with your resubmittal.
2. Much of the information provided within the written narrative's project description should be moved to the PUD Guide document as this is the overall zoning document for the property and would supersede all land use regulations found in the Town's Land Use and Development Code and other areas of the Municipal Code. Please revise the PUD Guide to incorporate standards related to roads, circulation & traffic; utility services; phasing; land dedication; fire protection & emergency services; local employee residency program; architectural design; and drainage into the PUD Guide.
3. Revise "parcel" labels to be "planning areas" instead of "parcels" as to not confuse the zoning with subdivision or annexation plats.
4. As per the April meeting with CDOT and final determination by the Town of May 14, 2018, an Access Master Plan is required with your resubmittal.

Annexation Agreement

Since the Town Board has accepted the resolution for annexation, please begin working with Staff to draft the Annexation Agreement. The agreement shall address required public improvements that are necessary to provide streets, water and sewer, storm drainage, crossings, public land dedication, public services and the like, as not to cause undue burden on existing residents or the Town. For your convenience, an Annexation Agreement Template is attached to this Referral Response Summary Report.

Annexation Impact Report

1. The utility information is difficult to read on the concept plans that were provided with the Annexation Impact Report, which have been provided to fulfill C.R.S. 31-12-108.5. Please revise so that present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches, and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation are clearly shown, in addition to boundaries and land use patterns as required.
2. Include a letter from the school district documenting the effect of annexation upon the school district and estimated school land dedication required. The Annexation Impact Report shall reflect the specific requirements of the school district.
3. Please note – Town Staff will need to complete a revised copy of the Annexation Impact Report at least 20 days prior to the Town Board hearing on the annexation. As such, it is imperative to address comments 1 and 2 above in your resubmittal.

PUD Zoning and Density

1. Provide a Planning Area Summary Chart that delineates the following per Planning Area:
 - Uses
 - Gross Acreage
 - Percentage of total site
 - Maximum FAR
 - Maximum DU per acre
 - Maximum DUs
 - Maximum site/lot coverage
 - Common open space
 - Private open space
 - Percentage active recreation open space
2. Every PUD shall be divided into one or more PUD zone districts with one more of the designations allotted in §4.11.030.B. Based on the written narrative you have provided, it appears that you desire the zone the entire 130-acre site to Residential PUD (R/PUD). Staff is concerned that some of the uses proposed throughout are not consistent with residential zoning and are more commercial in nature. Please evaluate the uses and explore the incorporation of Commercial PUD (C/PUD) zoning on Parcels 2 and 3, which are noted on the concept plan to be reserved for “The Farm” and a “Nature/Education Center” or provide justification for more residential-based PUD zoning. Whether or not C/PUD zoning is proposed, the floor area ratio for a commercial PUD should be consistent with PUD Code which limits commercial FAR to 1.7:1; and the maximum floor area shall not exceed 30,000 feet within commercial planning areas combined. Please provide density and dimensional standards for the commercial uses proposed within each planning area. FAR should be presented in the same fashion within the PUD (1.7:1) versus setting forth maximum square footages (See Comment #10 on page 4 regarding requested relief from minimum Code requirements).

3. Please revise the Uses by Right and Special Uses throughout the PUD Guide to match the terminology of uses defined in §4.04 of Town Code. For example, utility service structures and buildings should be listed as “utility substation” per §4.04. R/PUD permitted uses shall be the same as those set forth for R, RR, RL RM, RMF and RH zone districts, plus other uses which the Planning Commission and Town Board find to be compatible.
4. Some of the proposed uses do not match the designation of permitted or special use per §4.04, and some are not typical uses listed in Code. For example, restaurant and retail uses are considered special uses in typical residential zone districts, but they are proposed as permitted uses by right in your PUD; and greenhouses are proposed, but are not a typical use in Town Code nor have they been defined in the PUD Guide. As such, please re-evaluate the use list to match R, RR, RL RM, RMF and RH zone districts (or commercial CBD, CL or CG, if parcels 2 and 3 are revised to C/PUD per comment 2 above) or revise your written narrative to specifically identify which uses are unique to your development, ensure each use is clearly defined (either by Code or in the PUD Guide), and outline the request for deviations from Code narrative for consideration by the Planning Commission and Town Board.
5. Please remove the Use by Right listed as “Additional uses determined by the Town Planner to be similar in uses by right listed above” as this is inconsistent with the uses allotted for PUD’s in §4.11.030.B.1. If you would like to keep a flexibility statement for uses, please revise to state, “Other uses which the Planning Commission and Town Board find to be compatible.”
6. Please delete references to function in the use listings (i.e., irrigation, ditches, and landscaping, temporary construction staging areas, landscaping improvements, day use parking, etc.).
7. Dimensional standards need to be included in the PUD documents to address maximum du/ac, minimum lot area, minimum lot area per dwelling unit, minimum usable open space per dwelling unit, etc. Maximum site/lot coverage should be allotted for in each commercial and park/open space planning area, in addition to residential. The lot/site coverage as currently proposed appears to be lower than standard code requirements, and Staff is especially concerned for areas that allow a wide array of uses. For example, parcel 1 includes no maximum coverage or minimum lot area restrictions, but allows for single-family, two-family, and multi-family dwellings. It is essential for yards, landscaping, open space and buffers be allotted for each site. To allow flexibility, Staff recommends incorporating dimensional standards by use, rather than by planning area.
8. The future design standards should define the relationship of buildings to the street, paths, and other amenities. This must be adequately addressed considering the PUD is proposed to serve as the zone district regulations for the PUD and would supersede all land use regulations found in the Town’s Land Use and Development Code and other areas of the Municipal Code. Staff is concerned about the reliance on a design review board, as it can become cumbersome and difficult for the Town to regulate/implement. Instead, the incorporation of more detailed design standards within the PUD Guide is required to ensure review, implementation and regulation by the Town. Additionally, design standards shall be reviewed prior to the Development Plan phase, to ensure uniformity throughout the overall development, instead of a parcel-by-parcel basis. If creating a design review board is still desired, please provide justification for creating the design review board and include a description of their role in the development review process, staffing and funding.
9. Since multi-family, two-family, and single-family dwellings are proposed in multiple planning areas, consider setting forth maximum densities for each with provisions for a 10% density transfer within/between the planning areas to allow for flexibility in addressing market conditions. There is a concern that there are limited design standards to address the

different characteristics of the differing residential land uses and densities. For example, the entire planning area could develop as a single-family residential development on any size lot – there are no minimum lot area requirements delineated. Per §4.05.010.A.3.a, multiple-family dwellings are allowed at a maximum density of one dwelling unit per 2,000 square feet of lot area provided that in addition to all other applicable standards and requirements, the lot area shall include a minimum of 300 square feet of useable open space as defined in this Title, per dwelling unit. If multifamily, two-family and single-family dwelling are allowed by right, there needs to be design and dimensional standards (minimum lot area requirements, lot frontage, percentage of usable open space per dwelling unit, etc.) set forth for each use accordingly.

10. When relief from minimum Code requirements are requested (i.e., uses, parking, park and school land dedication, water rights, tap fees, lighting, building heights, etc.), provide justification/evidence that the requested variation will produce a public benefit over strict application of the regulation varied from, and that such variation is not detrimental to the public good and does not impair the intent and purpose of §4.11 (see §4.11.010).

Open Space

1. Please delineate slopes of open space areas to meet the requirement for seventy-five percent (75%) of common open space shall have a slope of 10 percent (10%) or less and shall lend itself to utilization for recreational purposes.
2. At least one-half (1/2) of said common open space shall be developed for active recreation which may include play fields, tennis courts, picnic sites, and similar recreation sites. Please provide detailed area calculations to show how this criteria is being satisfied.
3. Provide standards for trails (i.e., trail width, materials, construction, etc.).
4. Please revise the PUD Guide to state that the open space areas are zoned for open space. The dedication of an open space easement can be dedicated at time of platting.
5. Provide a Municipal Land Dedication Table and Map. The table shall delineate the planning area, acreage, percentage of site, use, party/organization that would be accepting the dedication (i.e., BLM, Walking Mountain, Town, etc.). The map shall depict all of the land dedication within the project area.
6. Once all open space comments above are addressed, we will be in a better position to discuss the municipal land dedication provisions to be set forth in the PUD Guide.

PUD Perimeter

Please provide perimeter landscape standards within the PUD Guide. The Town would like to see landscape standards that require native plantings and efficient landscaping with specific limitations on installation of sod.

Street Standards

Please provide street standards within the PUD Guide.

Maintenance & Commonly Owned Land

Please provide the draft HOA covenant with your resubmittal, which clearly defines proposed ownership and maintenance of common land, and details of the design review board composition.

Phasing

Please revise the phasing schedule within the PUD Guide to show when each stage of the project will be started and completed, on and off-site improvements constructed, and the required open space and recreational areas are installed. The planning area boundaries should match the phasing plan. As a reminder, a proportional amount of the required open space and recreation areas shall be included in each phase, such that the project as it is built, will comply with the overall density and open space requirements of the Code at the completion of each phase of development. Phasing shall be accomplished such that at the completion of any phase of the development is consistent with the Town's goals and policies.

Parking and Loading

Deferring to Town of Eagle parking standards for uses proposed within the PUD is supported. Please note that the current proposal does not indicate any parking on the concept plan in relation to park/open space uses; however, the written narrative eludes that some parking will be provided. Please clarify intended parking requirements for all uses on the concept plan.

Local Employee Residence Program

1. Please address the Local Employee Housing Residency Requirements in more detail in the PUD Guide. While you have noted in your narrative that the 10% requirement will be met, Staff is still unsure of how and where the housing will be located based on the materials provided, except that 6 of the 16 required affordable housing units will be designated on parcel 3. Per §4.04.120.E.3, Local Employee Residences shall be distributed throughout the proposed development, to the extent possible. Please provide justification/evidence on why this would not be possible.
2. Per §4.04.120.F, please submit a Local Employee Residency Plan. The Plan shall contain sufficient information to allow the Town to determine the Plan's compliance with Chapter 4.04 and the Town's Local Employee Residency Requirements and Guidelines (see §4.04.120). The local Employee Residency Plan shall include, but shall not be limited to, the information specifically required by the Town's Local Employee Residency Requirements and Guidelines (i.e., number of local employee residences provided, mix of units, location and character of local employee residences, schedule for construction of local employee residences and deed restrictions).

Eagle Area Community Plan

Please revise all plans and provide a point-by-point response on how the comments from the Eagle County Planning Commission have been or will be addressed throughout all required planning documents. (See attached Eagle County Planning Commission Memorandum).

Open Space

John Staight

john.staight@townofeagle.org

1. I very much support the idea of combining the boat ramp, farm-to-table dining / outdoor entertainment area, Walking Mountains nature center, and potential campground into one consolidated area.
2. I do feel the boat ramp should be concrete ramp that can accommodate rafts.
3. The campground should have a bathroom and sites that are for tents, vans, and pop-up style campers. This the style of travel boaters and mountain bikers typically prefer. The demand for large bus-like RV's is already met by the River Dance RV park west of Gypsum.
4. Bicycle access from the boat ramp area to the ECO Trails paved recreation path need to occur.
5. The farm-to-table restaurant should have the river as a focal point and should be and attractive outdoor patio style venue.

Section 2.2.G 'Street Standards'

1. This section states that the design of the internal parking and street system will generally meet the Town of Eagle street design standards, will remain private and be maintained by the appropriate neighborhood HOA. Experience has shown that many HOAs later request that private streets be made 'public' and that the local jurisdiction take over maintenance (repair, plowing etc.) If the Town's street design standards are not explicitly followed, any future request for the streets to be made 'public' should be denied.

Section 3.11 'Roads and Circulation/Traffic' and Appendix D – 'Traffic Analysis'

1. An initial 'trip generation' analysis has been prepared for Parcels 1 & 2 only (copy in Appendix D). The application states that detailed traffic analyses will be provided for future parcels as these are submitted for development permit. Proposed development for those parcels is relatively minimal (13 units or less per parcel) as shown on the current plans dated 5/16/2017.
2. The report should eventually analyze all proposed access locations and need for auxiliary turn lanes.
3. The report should be updated if the number of access points or unit densities are revised.
4. Adequate sight distance analysis will need to be provided for each entrance during development permit review, at latest.

Section 3.12 'Utility Services' and Appendix F – 'Utility Report'

1. Owner proposes to connect Parcels 1 & 2 to the Town's water and sanitary sewer system. An updated hydraulic analysis will need to be prepared if unit densities are increased during future plan revisions.
2. The proposed sanitary system serving Parcels 1 and 2 will connect to the existing public system on Nogal Road via a pump station and force main. The proposed sanitary sewer lift station, force main and all gravity sewer lines connecting to the lift station shall be privately owned, maintained and operated. The Town will not accept ownership of, nor maintain the system.
3. Additional analysis of the existing sewer main at Nogal Rd may be required to verify adequacy during development permit review.
4. The proposed 12-inch waterline loop connection from Parcel 1 to Marmot Lane should be moved eastward and tie to the existing waterline at the east end of Chambers Ave.

Appendix G – 'Drainage Report'

1. The proposed methodology is acceptable.
2. Due to the project's proximity to Eagle River, it is recommended to grant a waiver of requirements for stormwater quantity control.
3. If infiltration/percolation is proposed for stormwater quality control, additional soil testing may be required to verify infiltration rates.

Eagle Police

Joe Staufer, Chief of Police

jstaufer@townofeagle.org

- Annexation should continue from Nogal Road to the land. I would not recommend annexing any portion of HWY 6, as the hillside between Church/Eby Creek roundabout east up HWY 6 to the bridge has always been unstable. CDOT should put in a retaining wall. It would be the responsibility of the Town if we took HWY 6. Additionally, I don't think the Town needs another bridge to maintain.

- A large roundabout or traffic signal should be installed at Nogal Road and HWY 6 for continued flow into the Red Mountain Ranch area. Emergency access routes should be considered for each “neighborhood” within the subdivision, as proposed.
- I would caution driveway access onto HWY 6 east of Nogal Road, as the elevation changes on the Highway provide for limited distance and sighting. The speed limit right after Nogal Road increases to 55 MPH. A traffic/speed study could reveal additional limitations.
- I would encourage the entire subdivision having privately maintained roadways. This would provide for HOA control of the area, lower liability for town improvements and street maintenance, as well as resolving parking/sidewalk shoveling matters via HOA rules (as opposed to using TOE bandwidth).
- A private neighborhood “pocket park” would be a great addition.
- Please complete a chart regarding impact fees for public safety for all minor and major developments and include a strategy based on the following:
 - Use 1.8 police officers for each 1K residents (national numbers are 2 officers per 1K, but -.02 change based on rural area & number CFS).
 - Unless you already have a standard in place, please calculate the 1.8 officer/1K residents based on the following: studio and one bedrooms = 2 residents, single family homes with two bedrooms = 3 residents, three bedrooms = 4, four bedrooms =6. Any auxiliary unit or one bedroom finished basement = 2.
- Camping considerations
 - I recommend an upper-scale campground with facilities
 - A volunteer or part-time camp host is necessary
 - A sustainability plan should be presented
 - A code enforcement officer may assist with the camp host
 - Additional addendums to our TOE Code should be considered to help alleviate issues and concerns associated with campgrounds
- Check the 100 year flood plan to ensure homes/camp ground locations are not in the “path.”
- I believe the developer was going to add a project which would “benefit the community.” A daycare center would be a nice consideration.
- If a reconsideration for a multi-family building is considered in a subsequent phase, could you please determine if the developer would be willing to sell a unit at cost for TOE employee housing.

I think this is a good project and should add to the character of our community!

Colorado Geological Survey

Kevin McCoy

kemccoy@mines.edu

The Colorado Geological Survey (CGS) has reviewed the Red Mountain Ranch PUD zoning plan and subdivision sketch plan application referral. With this referral, CGS reviewed the following documents:

- Schematic plans for Red Mountain Ranch (Red Mountain Land, 11-8-2017; 7-sheets)
- Red Mountain Ranch PUD Zoning Plan & Subdivision Concept Plan Application (Pylman & Associates, Inc., June 14, 2017), including:
 - Preliminary Subsoil Study Parcel 1, Red Mountain Ranch (HP Geotech, February 29, 2016)
 - Preliminary Subsoil Study Parcel 2, Red Mountain Ranch (HP Geotech, February 29, 2016)
 - Preliminary Subsoil Study Parcel 3, Red Mountain Ranch (HP Geotech, February 29, 2016)
 - Preliminary Subsoil Study Parcel 4, Red Mountain Ranch (HP Geotech, February 29, 2016)

The proposed development includes a mix of housing, commercial, recreation, and open space preservation on approximately 130.8 acres of land along the Eagle River extending approximately 2.05 miles east from the Highway 6 bridge crossing. CGS understands that housing and commercial development would occur on the terraces and former gravel mine areas between Highway 6 and the Eagle River with recreation and open space areas occupying the lower-lying areas extending down to the north bank of the river, and that development south of the Eagle River would be limited to recreation and open space. The documents indicate that Parcels 1 and 2 will be connected to the Town municipal water system and that provision of municipal water service to Parcels 3 through 7 for in-house use will depend on as-yet unplanned extension of Town services. The applicant proposes to utilize on-site well and wastewater facilities for in-house use if Town services are not extended within a five year time frame.

CGS reviewed the above-listed documents and performed a “desktop study” using publicly available geologic and soils data and high resolution (~ 1-m) lidar-based digital terrain data. CGS visited the proposed development area on April 11, 2018. General observations for Parcels 1 through 6 were made from outside the property boundary along the shoulder of Highway 6. A public fishing access point was used to access Parcel 7 for more detailed inspection of a potential sinkhole feature spotted while driving on Highway 6. CGS’s review comments follow.

CGS agrees with HP Geotech that compressible soils, potentially unstable steep slopes (between the terraces and the river), potential for sinkhole development, and flood potential of low lying areas are potential hazards and/or constraints to development that affect most of the parcels to varying extents. CGS has the following additional comments regarding potential hazards and/or constraints:

1) Potential for Sinkholes/Evaporite Karst

Based on the available information, sinkhole development associated with the Eagle Valley Evaporite could potentially occur on any of the parcels. HP Geotech’s reports identify the potential for sinkhole activity, but indicate that no sinkholes were observed. CGS observed three potential sinkhole features in Parcel 7 during the April 11th field visit, two of which are also visible in the lidar data (Figure 1). Past re-working of surface soils in the other parcels (especially in the old aggregate quarries) may have covered up evidence of sinkholes in the other parcels.



Figure 1. A conspicuous sinkhole in Parcel 7 is visible in the lidar data (left, red arrow) and in the field (right); the pictured sinkhole is approximately 18 feet in diameter at the surface based on GIS measurements using the lidar data. Another very subtle feature observed in the field that may be a completely filled sinkhole is also visible in the lidar data

(left, yellow arrow). These two features are approximately in line with a relatively recently repaired section of pavement on Highway 6. A much smaller sinkhole feature that was also observed in the field cannot be easily identified on the lidar data.

In addition to the potential hazards posed by surface collapse of previously unidentified underground voids, the variability of soil properties within old buried sinkholes can lead to structural damage from uneven foundation settling. Based on the potential for past and/or future sinkhole activity, it would be prudent to perform additional evaluation of sinkhole hazard, and to evaluate the feasibility of mitigation alternatives to reduce subsidence-related risks. Typical mitigation techniques include engineered, rigid foundation design, geotextile ground reinforcement, strain isolation trenches, stabilization by grouting and backfilling, and/or deep foundations.

Historical evaporite-related sinkhole activity in Colorado has been initiated or renewed by the addition of surface water from activities such as flood irrigation and irrigation ditch leakage. CGS is not aware of any studies on the relationship between septic leach fields and sinkhole development, but cautions that any activity that leads to increased or ongoing addition of new water to the subsurface in areas underlain by Eagle Valley Evaporite has the potential to exacerbate evaporite-related sinkhole activity.

Future owners/managers/ operators of the proposed residences/facilities should be made aware of the potential for sinkhole development, since early detection of building distress and timely remedial actions are important factors in reducing the cost of building repairs should an undetected subsurface void start to develop into a sinkhole during or after construction.

2) Potential for Compressible or Collapsible Soils

HP Geotech identified some soils with low bearing capacity and potential for collapse upon wetting. HP Geotech has made reasonable recommendations for mitigating hazards associated with compressible or collapsible soils, which should be followed.

3) Slope Stability and Potential for River Erosion/Undermining

CGS agrees with HP Geotech that potential instability of the slopes at the edges the terraces near the river are potential hazards, especially during floods. HP Geotech suggests developing setbacks from these slopes based on a 1.5 horizontal to 1 vertical line from base of slope; CGS agrees that this is a reasonable recommendation and should be followed. CGS further recommends an evaluation of potential bank erosion that may occur along the base of these terraces during flooding of the Eagle River to identify any areas that may be subject to destabilization by undercutting. Engineered erosion control measures should be recommended for any such areas identified.

HP Geotech's recommendations regarding grading and erosion protection of permanent cut and fill slopes should be followed. HP Geotech indicates that rockfall from embankment construction may be a concern and should be considered; CGS agrees that any construction activities and/or post construction conditions that create new hazards to the proposed development should be mitigated. CGS also recommends evaluating and mitigating any potential hazards (e.g. rockfall) to users of the riparian recreation and open space areas that may be created or exacerbated by development on the terraces.

4) Low-lying areas near the 100-yr. floodplain boundary and Shallow Groundwater

While CGS recognizes that proposed residential and commercial development is outside the mapped 100-year flood plain, CGS is concerned about potential for inundation of areas that may be very near the 100-year flood elevation and/or exposed to bank erosion during flooding.

CGS is also concerned about feasibility of basements in the lower-lying areas like Parcel 4, or the western portions of Parcel 1. Shallow groundwater encountered by HP Geotech was generally limited to the western part of Parcel 1 during their field investigation, but CGS is also concerned about potential elevated groundwater levels associated with flood conditions. CGS recommends a minimum three foot (preferably five foot) separation distance between shallowest seasonal water levels (including maximum anticipated flood stage of the Eagle River) and lowermost floor levels of habitable structures. Due to risks of water infiltration into below-grade spaces, damp/moldy conditions, and hydrostatic loads on below-grade walls and floors, below-grade construction (crawl spaces and basements of any depth) should not be considered feasible in any part of the proposed development area where this separation cannot be ensured.

5) Uncontrolled/Undocumented Fill

HP Geotech encountered various thicknesses of uncontrolled fill during their investigation, with significant thicknesses (up to ~20 ft.) in parts of the old aggregate quarry areas. Any uncontrolled or undocumented fill should be completely removed and re-compacted following HP Geotech's recommendations. If removal of the significant thicknesses of fill is infeasible, alternative foundation designs should be considered (e.g. deep foundations).

6) Foundation Design

HP Geotech's recommendations regarding engineered, reinforced foundation elements, or deep foundations should be followed. The applicant's geotechnical engineering consultant should evaluate the need for corrosion protection for any deep foundation elements that contact or penetrate the Eagle Valley Evaporite unit.

7) Wells and Water Quality

CGS does not regulate water quality issues and does not typically comment on wells, water quality, or water supply in our land use reviews; however, because of the nature and extent of the Eagle Valley Evaporite beneath the site, CGS is concerned that individual groundwater wells may not be feasible. As shown on the geologic map and cross-section (USGS MF-2361), the site is underlain by relatively shallow alluvial deposits over considerable thicknesses of Eagle Valley Evaporite. Based on HP Geotech's borings, it is unlikely that a well would encounter any appreciable water bearing unit (e.g. alluvial aquifer) that was not within the Eagle Valley Evaporite. According to the Groundwater Atlas of Colorado (CGS SP-53.), groundwater in the Eagle Valley Evaporite is "generally not usable for domestic, agricultural, or livestock use" with Total Dissolved Solids in excess of 10,000 mg/L, Sodium + Potassium concentrations in excess of 3,700 mg/L, and Chloride concentrations in excess of 5,500 mg/L. CGS recommends that the Town request the applicant to evaluate groundwater quality/feasibility of well water as a drinking water source, or explore alternative water sources before attempting to develop areas that will not be immediately tied into Town utilities.

Thank you for the opportunity to review and comment on this project. If you have questions, please contact me by phone at 303-384-2632 or e-mail kemccoy@mines.edu.

Eagle County Paramedic Services

Peter Brandes

pbrandes@ecparamedics.com

I have reviewed the sketch plan and don't have any issues with it from our standpoint.

Eagle River Watershed Council

Holly Loff, Executive Director

Bill Hoblitzell, Water Resources Program Advisory Staff

loff@erwc.org

bill@lotichydrological.com

Thank you for the opportunity to provide comments regarding the Red Mountain Ranch (RMR) proposed annexation and PUD project. Eagle River Watershed Council (ERWC) advocates for the health and conservation of the Upper Colorado and Eagle River basins through research, education and projects. Vigorously protecting our aquatic systems ensures they will continue to provide their numerous social, economic, and ecosystem benefits in perpetuity. Although a project like RMR will impact the community of Eagle in a variety of ways, our comments remain specifically concerned with potential impacts to stream and aquatic ecosystem health.

The sketch plan proposes a variety of housing types and densities between Highway 6 and the Eagle River east of Town of Eagle, although the final number and layout across the 7 contiguous parcels is not yet determined. Although wetlands and 100-year floodplain limits (more often referred to currently as the Special Flood Hazard Zone) are indicated on the sketch plan, at the level of current planning it is difficult to understand the exact acreages of these ecologically important aquatic systems that will be directly impacted. We look forward to completion of the Riparian Management Plan specified for new PUDs in the River Corridor Plan.

Recognizing the numerous positive values associated with healthy streams by area residents, Eagle County and its municipalities have incorporated a number of protective measures in its zoning and development statutes. Eagle County zoning code includes 75' stream setbacks, limitations to floodplain development, stormwater treatment requirements, and other rules. Town of Eagle has instituted a less-protective 50' setback (TOE Zoning code 4.04.100 H-2 Live Stream Setbacks), which is specifically identified as the building setback target by the plan authors. Once annexed, the development will be subject to town code rather than county.

It should also be noted, that even within an undeveloped setback, maintenance of naturalized riparian vegetation and wetland conditions maintain strongly functional water quality buffers from the development, but the incursion of soft surface trails, pedestrian access, pets, etc. will likely permanently diminish these areas' values for terrestrial and aquatic-dependent wildlife. ERWC recognizes that within municipal areas, protecting water quality and realizing socially desirable values like stream access will sometimes outweigh additional aquatic-dependent values like wildlife.

Recognizing the inherent value of the river corridor to both town and county residents, ERWC strongly recommends the more stringent 75' setback requirement be inherited from county zoning onto any newly annexed town lands, especially in the clustered residential zones identified by the Eagle River Corridor plan to the east and west of the urban core. In fact, US EPA has previously recommended an even larger 100' undeveloped riparian corridor for the protection of water quality. We understand that special use areas such as the river park and boat ramp will necessarily require incursions to near stream habitats and exemptions from some zoning in order to ensure social values like recreation access are successfully maintained, but we greatly discourage other similar exemptions for general development with the project-at-large.

Currently in the Towns of Vail and Avon, water quality impacts to aquatic life have been identified and linked to near-stream development, increases in near-stream impervious areas, and lack of functional riparian buffer. Gore Creek has been placed on the state's 303(d) of impaired waters and the town is currently investing several million dollars in attempted corrective actions. It would be short-sighted to further transmit similar impacts to the still-developing communities downstream, when the knowledge and regulatory opportunities exist to proactively avoid water quality degradation.

As development plans proceed, we hope that developers and municipal planners will continue to maintain high commitments to Low Impact Development techniques to reduce site stormwater runoff and promote infiltration of site runoff to alluvial groundwater rather than direct to receiving streams. Both the RMR sketch plan and Eagle River Corridor Plan identify these goals, but until actual final engineering plans are developed and approved, we are aware that much

can change in the name of efficiency and costs, and we hope all parties will remain vigilant in achieving these stream-protective goals.

We have additional concerns with the potential for Individual Sewage Disposal Systems (ISDS, or septic tanks) specified for the eastern-most parcels. Septic systems are frequent sources of non-point source pollution to groundwater and nearby surface streams, including increased levels of nitrates, fecal coliform bacteria and other infectious pathogens. Although these areas are low-density residential clusters, their near-stream location and the inevitable continuing creep of development east of the existing Chambers Avenue commercial areas makes it questionable as to why any ISDS use should continue to be allowed east of town. We recommend any annexation and PUD approval specify that all development is required to be on city sewage.

We look forward to the additional level of detail in any continuing development plans to better understand the full level of aquatic impacts that may arise as Eagle continues to grow along the river corridor. If you have additional questions on our comments or require additional information, please contact ERWC.

Eagle County Environmental Health

Raymond Merry

ray.merry@eaglecounty.us

Thanks for the opportunity to comment on this file. I tried to locate an official Eagle County response but was unable to find anything. Since this development is adjacent to a couple of miles of the Eagle River, and since phases 3 - 7 may involve the use of on-site wastewater treatment systems (OWTS), I thought it would be appropriate for me to comment on behalf of Environmental Health. I understand that sketch plan is a conceptual level of review so I'll try and keep my comments brief and high level as well.

Regarding the use of OWTS, it will be very important at subsequent phases to understand the best locations for soil treatment areas and design the rest of the uses (structures, roads, paths, etc.) around these areas. Eagle County requires a site and an alternate site for soil treatment areas be identified through our subdivision process. This may be a good idea for you to consider so there is adequate area available in the event the primary area fails. Alpine Engineering makes reference to a specific manufacturer and type of OWTS to be considered.

I think it would be important to specify that all OWTS be designed to accomplish a treatment level of TL3N. This level of treatment can be accomplished through the use of the technology recommended by Alpine Engineering, if the system is plumbed using a specific configuration. It is also very important to consider having all OWTS managed by a single entity that can design, install, maintain and replace them while providing periodic reports regarding their functionality and performance.

It will be very important to mitigate the non-point source pollution caused by urbanization in general. It is noted that there is a network of soft paths that run the entire length of the development. Inasmuch as the riverine environment is a popular amenity, our experience is that access to the river from adjacent paths is one of the factors contributing to stream impairment as evidenced in the Gore valley. The Riparian Management Plan (RMP) as proposed by Alpine Engineering is a good tool to help protect the riparian and wetland areas, but should include restoration provisions should unanticipated damage occur. Restricting river access to specifically designed and designated areas should also be incorporated into the RMP. I'd recommend that you also consider provisions be placed in the PUD guide to regulate the use of pesticides and avoid manicured lawns beyond the river setback. Alpine Engineering's Drainage Plan is designed to intercept pollutants to help protect water quality but it doesn't hurt to have things like this addressed in the PUD for added protection and local enforcement. We encourage the Town to work with the applicant to develop a water quality monitoring program that can demonstrate to you that the Best Management Practices (BMPs) recommended for the

development are performing as expected. This additional water quality information can feed into our watershed-wide efforts to understand temporal changes to water quality and aquatic life as we urbanize while allowing us to better direct and prioritize mitigation strategies.

Please contact me should you have further questions or would like to discuss.

ECO Transit & Trails

Jared Barnes

jared.barnes@eaglecounty.us

On behalf of ECO Transit and ECO Trails, please accept the following comments regarding the Red Mountain Ranch PUD Zoning Map/Development Plan and Subdivision Sketch Plan:

1. ECO Transit: ECO Transit's current transportation services, and near term growth plans, do not serve or intend to serve this development parcel. The proposed PUD plans do not appear to provide any infrastructure for mass transportation which is consistent with ECO Transit's service.
2. ECO Trails: The Eagle Valley Trail's alignment is across Highway 6 as depicted in the conceptual plans provided. The applicant is proposing 2 connection points to the Eagle Valley Trail across I-70 and the UP Railroad Corridor. ECO Trails supports these connections and the overall pedestrian connectivity in the conceptual plan. However, the obligation to construct the connections should not be the responsibility of ECO Trails, but that of the developer or Town of Eagle.

Please let me know if you have any questions or concerns.

Greater Eagle Fire Protection District

Randy Cohen

rcohen@GEFPD.org

-
1. Road sizes accessing home sites must be in accordance with IFC 2015, including apparatus turn arounds (2015 IFC, appendix D)
 2. Homes not on the TOE municipal water supply must have an NFPA 1142 water cistern to allow for rural firefighting.

Colorado Division of Water Resources

Megan Sullivan

megan.sullivan@state.co.us

Thank you for the opportunity to review and provide comments regarding the water supply for the above referenced project. From the information provided in the application materials, this application is for approval of a PUD zoning plan, subdivision sketch plan and annexation for a 130.835 acre parcel just east of the Town of Eagle (Town) along the Eagle River. The proposal is comprised of seven individual planning parcels with a total of 153 dwelling units, 3,200 square feet of commercial space, an environmental education center, public and private open space, active and passive park parcels, recreation areas and trails.

From the application materials, the Town's municipal water and sewer services are currently able to serve Parcels 1 and 2. The Applicant indicated that ability to serve letters will be acquired from all utility providers under Preliminary Plan of Development Permit. As proposed, the Town will provide only the potable supply for in-house use and outdoor usage will be provided by a non-potable irrigation system that will draw water from the Eagle River. The Applicant has indicated that the non-potable system will be provided under water rights owned by Red Mountain Ranch. Since the details of the water rights were not provided, we can only note that the water rights must be operated in accordance with the decree(s) granting the water right(s) and they will be administered within Colorado's water rights priority system. Depending on their priority, the

water rights may be subject to curtailment at times when the available supply in the river is insufficient to fulfill water rights that are senior in priority to the Applicant's.

The other parcels, Parcels 3-7, currently do not have municipal water and sewer service available. The Applicant has indicated that an extension of water and sanitary sewer into and through the Eagle River Station parcel may allow for the future extension of these services to Parcels 3 and 7. However, this application proposes that Parcel 5 be allowed to develop at any time utilizing on-site wells and on-site sewage disposal system. Parcel 5 is proposed to have ten single family lots. Concurrent with the development of Parcel 5 would be the dedication of a town park on a 2.9 acre Parcel 5B, which may be developed with a well and septic system or vault system. The types of water use and water demands for the park were not identified.

Parcels 3, 4, 6 and 7 would be restricted from development until municipal water and sewer services are available to serve the parcel or until the proposed five year utility extension period has ended. If municipal water and wastewater service are not available within five years from the date of annexation, then the Applicant has indicated that these parcels would be served by on-site wells and wastewater disposals systems. Parcel 3 is proposed to become an Environmental Education Center. Parcels 4, 6 and 7 will have single family lots (thirteen on Parcel 4, ten on Parcel 6 and seven on Parcel 7). The amount irrigation (if any) proposed for Parcels 3-7 was not indicated.

Wells in this area would withdraw groundwater that is hydraulically connected to the Eagle River which is tributary to the Colorado River. The Colorado River basin is over appropriated in this area. Since any wells within this project would be considered to be a junior diversion in the water rights priority system, the withdrawal of groundwater to serve any part of this project would cause out of priority depletions to the stream system and injure senior water rights. Therefore, wells used to provide water for any part of this project could not be constructed and operated without a Water Court decreed plan for augmentation and well permits. Please be aware that the timeframe for obtaining approval from the Water Court can be a multi-year process. Well permits that allow for the construction and subsequent operation of wells will only be issued after Water Court approval of a plan for augmentation is obtained. We recommend that the Town require the Applicant to provide a copy of an approved plan for augmentation prior to final approval of any parcel that would be supplied by wells. Please also be aware that permits for wells that are exempt from administration in the water rights priority system would not be available for any of the parcels.

If you or the applicant has any questions concerning this matter, please contact me in this office for assistance.

Western Eagle County Metropolitan Recreation District

Janet Bartnik

jbartnik@wecmrd.org

All in all, there is a nice use of nature/the river. The amount of open space dedication proposed helps with the lower amount of parkland dedication proposed....much of the open space is on the south side of the river, inaccessible to homeowners without driving west on Hwy 6 to cross the river on the west end of the development. I like the foot path, although I hope the soft surface will be along the river and anything within the development will be chat or paved to ensure it meets ADA accessibility requirements. Anyhow, here are some comments to consider:

1 – I don't know how this works in Colorado, but I'd like to see if there is a way for appropriate segments of open space dedicated to the Town or Eagle County Open Space to ensure it can be available to the general public. I've already seen here where open space held by private HOAs can be seen as private open space by the residents and that can be tricky for the public to know where to go and where not to, or can cause hiccups in accessing open space from one parcel the to the adjacent ones. Maybe that is already a given, but I thought I'd toss it out there.

2 –The amount of public park land (“Eagle River Park”) is really pretty small (only 2.9 acres couched between parcels 4 & 5). Worse, the “pocket parks” and “HOA common ground” spaces definitely favor the more expensive housing, creating disparity across the development in proximal access (a potential social equity issue). Parcel one projects 97 dwelling units with access to approximately 1.7 acres split across 2 spaces, while parcel 6 offers .57ac for 10 dwelling units, and the 7 dwelling units in parcel 7 have the benefit of 1.3 acres.

From a density perspective (using SF/MF density averages I used to use in MO):

Parcel 1 97DU x 2.0people/DU = 194 people accessing 1.7 acres

Parcel 6 10DU x 2.6people/DU = 26 people accessing .57 acres (more than double the amount of park space per Parcel 1 resident)

Parcel 7 7DU x 2.6people/DU = 18 people accessing 1.3 acres (more than 10 times that of parcel 1 residents)

3 – The “pocket parks” drawn on westerly parcels are not defined as to ownership. They should indicate whether they are to be dedicated to the Town or if the HOA will retain ownership.

4 – If the “pocket parks” are to be dedicated to the Town, I recommend you not accept them.

Maintenance on such small parcel strewn across a 2.5mile stretch would be challenging.

5 – A little crazy talk here.....is there any way the developer could be coaxed into providing a pedestrian bridge somewhere along the river corridor to allow access to the open space proposed for “public access”? I would be more inclined to allow the developer to use the acreage as justification for less park land dedication if there were easier access to it.

6 – Just a question – has Walking Mountains already been approached and confirmed interest in accepting the Parcel 3 nature center space?

Colorado Parks and Wildlife

Perry Will

Craig Wescoatt, Wildlife Manager

craig.wescoatt@state.co.us

Colorado Parks and Wildlife has had an opportunity to review the Red Mountain Ranch proposal and appreciates the opportunity to provide the following comments and recommendations. While there is no designated “critical wildlife habitat” within the proposal boundaries this should not diminish the importance of the Eagle River corridor as both a movement corridor for mule deer and elk, a variety of smaller mammals, and as the most diverse habitat available for Colorado’s wildlife. Almost 90% of all the wildlife species within Colorado have spent a portion of their life in riparian habitat.

There is one aspect of this proposal that needs additional addressing. The Eagle River Fishing Lease, a lease in perpetuity, is an intricate part of this property. While the east end of this proposal is outside that lease there is substantial section of “leased” river that adjoins and is accessed through this property. Within the lease are three designated access points for the public to cross private property and access the river. There had been no direct conversation between Red Mountain Development and CPW to discuss if the conditions of the lease; access points and signage shall remain the same or if there needs to be some consensual changes. This is an important public fishing lease and should remain a viable aspect of the development.

This proposal should be commended for certain aspects from a wildlife perspective. First, the “clustering” of the development on the west end of the property and nearer the Town is a recommendation that is often proposed by CPW,

secondly the phasing of the development so portions of the property remain undisturbed (or disturbed only at current level) is also beneficial to wildlife, and the incorporation or future incorporation of bear proof trash plans and dog control are also proactive and beneficial.

The primary wildlife value within this property is maintaining or improving the riparian to preserve wildlife movement, wildlife diversity, and provide high quality habitat for a variety of species which often get overlooked, small mammals, nesting birds, raptors, amphibians and reptiles. The concern with this proposal is the river is the focus for most other activities, trail systems paralleling and accessing the river for the public a boat ramp, new fishing access and home development. Without structured management of these activities; this property's wildlife values become diminished. Riparian habitat has been devastated along the Eagle River from previous PUD developments and that should be regulated.

The proposal states that there is a very low density of dwelling units per acre being proposed, a total of 1.17/acre overall and substantially less units per acre if you look at the last and furthest east phases. While the number of units is fairly low the roads and internal pedestrian trail connection systems, the small commercial complex, and other amenities will all greatly increase the impacts on the property. Even the low density housing on the east end of the proposal may fragment the property to the point that there are no wildlife values.

While well over the recommended percentage of property has been set aside as open space, there is minimum value to wildlife. The acreage on the South side of the river which currently sees minimal disturbance will become an access point from Town to the river, an increase to impacts to wildlife. The "significant" areas of sensitive lands to preserve the north-south movement of wildlife are not large enough to be considered actual movement corridors for migrating ungulates (deer and elk) and south to north to south movement will probably become a moot point as the property known as Eagle River Station will as some time also be developed. The movement needs to preserve within the river corridor and the north south movement occurs on the east end of the property; if wildlife movement is a concern.

The proposal has designated that the portion of river through the development will be "flies" only and a designated catch and release fishery. This will not be in accordance with the regulations on the remainder of the Eagle River and has not biological basis. This can be developed as a PUD or Town of Eagle recommendation but there is no legal enforcement from CPW. The same would be true of the catch and release regulation. If data can be obtained to support this recommendation, then that could be presented to the Wildlife Commission for a regulation change.

There are currently boat ramps and take outs in fairly close proximity to this property. Adding a boat ramp at this location is just one more impact to the riparian and should be assessed to determine the actual need and value this provides to a community.

Colorado Parks and Wildlife would make the following recommendations concerning the Red Mountain Ranch Development PUD:

- Maintain or increase setbacks from the riparian to a minimum of 75 feet
- Develop the pedestrian trail outside the wetland and riparian habitat designations and maintain vegetative screening between the path and river
- Designate and limit access points to the river from the development, plant or restore native vegetation to discourage unlimited and unplanned river access
- Consider seasonal restrictions on trail use dependent upon wildlife use of the river corridor
- Cluster homes on all parcels, even the low density eastern end, to minimize fragmentation and allow a movement corridor for wildlife

- River parking and access, consider a reservation system (on-line) to reserve use on sections of this property, control of fishing pressure and parking availability could be addressed
- Living with Mountain Lions and Black Bear information should be provide to all buyers
- CPW will be indemnified from all damages to plantings
- Landscaping should be comprised of native riparian species for all shrubs and trees
- Fencing should be prohibited, minimized and if deemed necessary constructed to wildlife friendly standards unless for human safety reasons.

As a referral agency we hope to provide recommendations and provide concerns that may help make this proposal more successful. CPW will attend any meetings that we are requested and provide explanations or further information regarding our comments; please let us know. Contacts for CPE on this project will be Craig Wescoatt, craig.wescoatt@state.co.us or 947 0354 or Taylor Elm at taylor.elm@state.co.us.

Eagle County Planning Commission

Cliff Simonton, Eagle County Acting Agent/Senior Planner

Comments/Recommendation attached.

Next Steps

The Town is committed to assisting applicants through the development review process. We are looking forward to collaborating with the Project Team on how to best address the comments to ensure the purpose of §4.11 is captured in the PUD documents thereby facilitating an efficient public hearing process and ultimate build out of a vibrant mixed-use development. As such, Town Staff will make themselves available for weekly conference calls to collaborate on how to best address comments or issues as they arise. Since the Development Review Team meets on Tuesdays, Staff suggests we schedule weekly conference calls on Mondays. Please contact Carrie McCool, Town Planning Consultant to schedule regular conference call times. For formal resubmittals, the Project Team shall address all of the Town Staff, and external referral agency comments then resubmit the following:

1. A point-by-point letter which states how all of the comments (including external referral comments) have been addressed; and
2. Revised PUD, Sketch Subdivision Plat, and other documents along with digital files.

If you have any questions concerning comments on your project or the development review process, please feel free to contact Carrie McCool at 303.378.4540 or via email at carrie@mccooldevelopment.com.

ATTACHMENTS

1. Annexation Agreement Template
2. Eagle County Planning Commission Memorandum

ANNEXATION AGREEMENT

This Agreement is made and entered into this ____ day of _____, 2017, by and between _____, hereinafter referred to as ("Owner"); and the Town of _____, a Municipal Corporation in the State of Colorado, hereinafter referred to as (the "Town").

WITNESSETH:

WHEREAS, the Owner desires to annex to the Town the property more particularly described on Exhibit A attached hereto and incorporated herein by reference ("the Property"); and

WHEREAS, the Owner has executed a petition to annex the Property; and

WHEREAS, it is to the mutual benefit of the parties to enter into this Annexation Agreement (this "Agreement"); and

WHEREAS, Owner acknowledges that upon annexation, the Property will be subject to all ordinances, resolutions and other regulations of the Town, as they may be amended from time to time.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE PREMISES AND THE COVENANTS HEREINAFTER SET FORTH, IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. The Owner shall be required to subdivide the property and dedicate additional right-of-way for _____ build out of _____ feet from its current boundaries to the Town of _____ prior to or concurrent with the submittal of a Development Plan.
2. Annexation shall be contingent upon the incorporation with the _____ Sanitation District for sewer servicing.
3. The Owner shall dedicate necessary land area for utilities as required by the Town of _____ to accommodate the undergrounding of overhead power lines prior to or concurrent with the submittal of a Subdivision Plat.
4. The Owner shall be responsible for all future utility extensions and public improvements

associated with future development of the Property.

5. Nothing contained in this Agreement shall constitute or be interpreted as a repeal of the Town's ordinances, resolutions, or policies or as a waiver of the Town's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of the Town and its inhabitants; nor shall this Agreement prohibit the enactment or increase by the Town of any tax or fee as authorized by law.
6. In the event of a material breach of any provision of this Agreement, the non-breaching party may ask a court of competent jurisdiction to enter a writ of mandamus, temporary or permanent restraining orders, temporary or permanent injunctions, or orders of specific performance, to compel the breaching party to perform its duties under this Agreement.
7. The parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement, and will execute such additional documents as necessary to effectuate the same.
8. This Agreement and all amendments shall be recorded with the Clerk and Recorder of _____, Colorado, and shall be a covenant running with the land, and shall be binding upon all persons or entities having an interest in the Property.
9. This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations, or agreements, either verbal or written, between the parties. This Agreement may be amended by the Town and the Owner. Such amendments shall be in writing.
10. As used in this Agreement, the term "Owner" shall include any transferees, successors, or assigns of the Owner, and all such parties shall have the right to enforce this Agreement, and shall be subject to the terms of this Agreement, as if they were the original parties thereto.
11. As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town ordinance, resolution, or policy is intended to refer to any

subsequent amendments or revisions to such ordinance, resolution, or policy, and the parties agree that such amendments or revisions shall be binding upon Owner, and the Property, subject to any applicable provisions for valid, pre-existing non-conforming uses.

- 12. The Owner acknowledges that the annexation of the Property is subject to the legislative discretion of the Board of Trustees of the Town. No assurances of annexation have been made or relied upon by the Owner. In the event that, in the exercise of its legislative discretion, the annexation of the Property is not approved, this Agreement shall be null and void and of no further force and effect.
- 13. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in the County of _____, State of Colorado.
- 14. Notices. Written notices shall be directed as follows and shall be deemed received when hand-delivered or emailed, or three days after being sent by regular first class mail:

To the Owner:

To the Town:

- 15. In the event it becomes necessary for either party to bring any action to enforce any provision of this Agreement or to recover any damages from the other party as a result of the breach of this Agreement, including, but not limited to, defective work, and the party that prevails in such litigation, the other party shall pay the prevailing party its reasonable attorney's fees and costs as determined by the court.

TOWN OF _____

By: Mayor _____

ATTEST

By: Town Clerk

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The above and foregoing was acknowledged before me this ____ day of _____,
2017 by _____ as Mayor of the Town of _____.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: _____.

Notary Public

PROPERTY OWNER

By:

By:

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The above and foregoing was acknowledged before me this ____ day of _____,
2017, by _____ as Owner of the Property.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: _____.

Notary Public



MEMORANDUM

EAGLE COUNTY PLANNING COMMISSION

To: The Town of Eagle Planning and Zoning Commission and the
Town of Eagle Board of Trustees

From: Eagle County Planning Commission
Acting Agent, Cliff Simonton, Senior Planner

Date: December 1, 2011

RE: Request for Exception to Eagle Area Community Plan, proposing modification to
the Town of Eagle's Urban Growth Boundary as part of the Red Mountain Ranch
development proposal.

Red Mountain Ranch Partnership Ltd. is proposing residential development on 130 acres located along the Eagle River beginning just east of Eagle at the US Highway 6 Green Bridge and ending approximately two (2) miles further east (upstream). Conceptual plans propose a mix of dwelling unit types clustered along the river in "parcels" of decreasing density moving from west to east, with the greatest density and intensity of use occurring on Parcel 1 (closest to town). Space for a riverfront park, a boat ramp, an educational center and an integrated trails system is proposed. Access to developed areas would be from US Highway 6. At this time, domestic water and wastewater service from the Town of Eagle is proposed for development on Parcels 1 and 2; no domestic water or wastewater service is proposed for parcels further east.

The land in question is presently located in unincorporated Eagle County, and annexation of the property to the Town is being requested as part of the proposal. Much of the land is located within the Town's Urban Growth Boundary (UGB), as established by the 2010 Eagle Area Community Plan, but development parcels 6 and 7 are located outside of (to the east of) the UGB. Incorporating Parcels 6 and 7 into the Town's UGB would extend the UGB approximately one (1) mile further east than its present location.

The 2010 Eagle Area Community Plan provides future land use guidance for the property in question. As assigned by the Community Plan, the land proposed for development that is within the UGB has a Future Land Use (FLUM) Designation of “Conservation Oriented Development”; the land outside the UGB to the east has a designation of “Agricultural Rural”. Intents and character expectations for these FLUM designations are detailed in Chapter 4 of the Plan. Additionally, land within the growth boundary is located in the River Corridor Special Character Area; the land outside is located in the Eastern Gateway Special Character Area. Chapter 5 of the Plan provides “planning principles” that further define master planning expectations for each of these “special character areas”.

During their initial review, Town of Eagle Planners determined that the proposed expansion of the UGB to the east along the Eagle River varied enough from purpose and intent of the Master Plan that the granting of “Exception to the Master Plan” should be required as part of the Town’s approval process. Upon review, County Staff agreed with the Town’s position on this matter. Appendix A of the Eagle Area Community Plan provides guidance relative to the Granting of an Exception to the Plan, and lists six (6) criteria, all of which must be met for an exception to be granted. In terms of process, the following is detailed:

“Proposals for **Exceptions to the Plan** will be reviewed by both the Town and County Planning Commissions. For those Exceptions proposed within the Town of Eagle Urban Growth Boundary, or those involving annexation of properties to the Town, the Town Planning and Zoning Commission will take the lead, obtain comment from Eagle County and ultimately render a decision. For those Exceptions outside the Urban Growth Boundary that do not involve annexation to the Town, the Eagle County Planning Commission will take the lead, obtain comment from the Town of Eagle and ultimately render a decision.”

The Eagle County Planning Commission met at its regularly scheduled meeting the afternoon of November 15, 2017, to review the above referenced Request for Exception. Following careful evaluation of the proposal, the Eagle County Planning Commission offers the following recommendations for each of the 6 criteria, all of which must be met:

Criteria # 1: *The proposal is the result of a unique or extraordinary situation or opportunity that was not anticipated or fully vetted when the Plan was adopted.*

Discussion: A number of development schemes have been developed and proposed for the Red Mountain Ranch property through the years, and some level of development was anticipated on that part of the property closer to town during the 2010 master planning process. The Town’s Urban Growth Boundary (UGB) was established to indicate the possible future annexation of the property between Highway 6 and the river as far east as the then-planned eastern boundary of the Eagle River Station. The Eagle River Station development has since failed to materialize. Residential development outside the Urban Growth Boundary (represented as Parcels 6 and 7 in the development application) was not considered or advocated by the 2010 Master Plan.

No substantive changes have occurred to land use or services available east of the Town of Eagle that would support the need to expand the present day Urban Growth Boundary further east. To the degree that future extensions of the Town's domestic water and wastewater systems to this area might represent a "unique or extraordinary situation or opportunity", Criteria # 1 could possibly be met. The opportunity to comprehensively plan for the development (and preservation) of properties under unified ownership along the Eagle River might also represent a "unique or extraordinary situation or opportunity", although it is noted that present-day ownership patterns in the area were in place when the UGB was drawn in 2010.

Planning Commission Recommendation, Criteria #1.

Since the adoption of the 2010 Eagle Area Community Plan, no substantive changes have occurred to land use or services available east of the Town of Eagle that would create "a unique or extraordinary situation or opportunity that was not anticipated or fully vetted when the Plan was adopted" As such, the proposed expansion of the Town's Urban Growth Boundary further to the east along Highway 6 to accommodate residential development would **not** be the result of a "unique or extraordinary situation or opportunity that was not anticipated or fully vetted when the Plan was adopted". The opportunity to comprehensively plan for the development (and preservation) of properties under unified ownership along the Eagle River east of the town **could** represent a "unique or extraordinary situation or opportunity that was not anticipated or fully vetted when the Plan was adopted".

Criteria # 2: *The location and design of related improvements have been made to conform to the goals, policies and strategies of the Plan to the greatest degree possible.*

An extension of the Growth Boundary further east would result in development of homes in a "conservation oriented" configuration along the Eagle River on Parcel 6, and in three "conservation oriented" pockets of homes on a bench elevated above the Eagle River on Parcel 7. Homes on Parcel 6 may be largely out of view from Highway 6, but residential activity in close proximity to riparian habitats will result. Homes on Parcel 7 will be highly visible from Highway 6.

The Planning Commission evaluated the nature of improvements proposed as part of the proposal to extend the growth boundary further east relative to the goals, policies and strategies of the 2010 Eagle Area Community Plan, and also reviewed FLUM designation descriptions and the Special Character Area "Planning Principles" provided by Chapters 4 and 5 of the Plan, and would offer the following assessment and recommendation:

From Chapter 3, Land Use

Policy 2.1 *Future Development should occur within the Town's established Urban Growth Boundary.*

An exception to the plan is being considered for the expansion of the Town's Growth Boundary to the east. Should the UGB be allowed to expand, development on Parcels 6 and 7 would occur within the Town's Urban Growth Boundary.

Policy 2.2 *New development should be compact, pedestrian friendly and located within or adjacent to existing development to minimize infrastructure and service needs.*

Development on lands located to the east of the present growth boundary could be designed to be compact, preserving open space and attributes of high conservation value. It is not anticipated that lands proposed to be included in the extended Town Boundary will be adjacent to other developed areas within the foreseeable future. It is similarly not anticipated that town infrastructure and/or services will be extended to these properties.

Policy 3.1 *Assure adequate access to and appropriate mobility options within all developed areas.*

Lands proposed to be included in the extended Town Boundary have good access to State Highway 6, but mobility options for future residents will be limited given the considerable distance of the properties to daily service destinations. No public transportation is presently available along Highway 6 east of Eagle. The regional bike trail travels on the north side of the Railroad ROW north Highway 6 and, and if connected in a safe fashion to proposed development would provide biking connectivity to the town, but again, the distance is considerable. The development of the Eagle River Station property may one day bring services closer to the subject properties. Until that time, residents on lands proposed to be included in the extended Town Boundary would be highly reliant on the personal automobile.

Policy 4.1 *Preserve high quality agricultural lands, public lands, wildlife resources, forest resources and viewsheds.*

Development on lands located to the east of the present Growth Boundary could be designed in a manner that would preserve riparian and other native vegetation (wildlife resources) and may be configured in a manner that preserves quality viewsheds, although development on Parcel 7 will change the nature and quality of views on that property.

Policy 5.2 *Avoid/correct improvements and land uses that are not compatible with natural systems or features of the natural landscape.*

Development on lands located to the east of the present growth boundary could be designed in a manner that would be compatible with natural systems and/or features of the natural landscape.

From Chapter 4, Future Land Use Map (FLUM)

Lands located to the east of the present growth boundary have been provided a FLUM designation of Agricultural/Rural. The Master Plan lists a number of “intents” for areas with this FLUM designation, including several pertinent to this proposal:

A. Preserve the rural open character

Development proposed on Parcel 6 could be largely hidden from view, and as such could have minimal impact on rural character experienced by travelers on Highway 6. The rural character presently experienced by river recreationalists may be negatively impacted on this parcel, however, given the close proximity of homes to the river. Development on Parcel 7 will be highly visible, introducing clustered residential development into an open rural area where no development presently exists.

B. Avoid up-zoning (retain Resource zoning)

If approved and annexed by the Town, these properties will be obviously be re-zoned to meet Town zoning requirements.

E. Preserve /manage the quality of natural resources

Improvements on Parcel 7 would be located away from sensitive river environments. Developed areas on Parcel 6, however, may not provide adequate buffer between sensitive habitats and residential activities. On-site septic systems, as may be required, would be a concern given close proximity to the Eagle River.

K. Support Town ordinances related to water service in these areas

Staff is concerned that much of the development proposed is not slated to receive domestic water or waste water services from the Town. The County is not familiar with Town ordinances relative to the operation of on-site septic systems within Town boundaries.

Chapter 5, Special Character Areas

Criteria # 5 expressly targets Chapter 5, *Special Character Areas*. Please see related discussion under the Criteria # 5 heading on pages 9 and 10.

No applicable policies were found in Chapter 6, *Community Design and Appearance*, or Chapter 7, *Transportation, Mobility and Circulation*

From Chapter 8, Natural, Scenic and Environmentally Sensitive areas:

Policy 1.4 *Development should avoid impacts to environmentally sensitive areas*

Please note earlier comments regarding potential impacts to riparian zones on Parcel 6. The development area defined for Parcel 6 could be altered to provide a more significant buffer to protect sensitive river environments.

Policy 1.5 *Protect and enhance wildlife habitats and movement corridors*

Again, the development area on Parcel 6 could be located to preserve a more significant natural buffer along the Eagle River, protecting riparian habitat and safe routes for wildlife movement along the river corridor.

Policy 1.6 *Maintain the quality of valued viewsheds and view corridors.*

Development on Parcel 6 could be strategically clustered to generally preserve the quality of existing viewsheds and view corridors. Development on Parcel 7 will be highly visible, and will change the nature and quality of views in the area.

From Chapter 9, Open Space, Recreation and Trails

Policy 1.1 *Protect lands of high conservation value or recreation value as open space*

Development on lands east of the existing growth boundary (Parcels 6 and 7) could be designed with open space that protects lands of high conservation value, particularly lands harboring native vegetation in proximity to the Eagle River. Public parking spaces will enhance safety for fishermen seeking to access the river, but homes in close proximity to the river and may diminish the existing quality of river recreation experiences.

Policy 1.2 *Support enhanced or expanded parks, trails and recreation*

Parks and trails on lands east of the present Growth Boundary may be included in future development plans. Some public parking for river access is proposed.

Policy 2.1 *Acquire appropriate access to open space and river/stream corridors*

Access to the Eagle River is already allowed through most of the river corridor east of the Town of Eagle through a lease agreement between the property owner and Colorado Parks and Wildlife. Enhancements to that access are proposed, allowing river users to park in areas other than in turn outs along US Highway 6. Future access points should be tailored to protect sensitive environments.

From Chapter 10 Housing

Policy 1.1 *Address the need for affordable housing.*

It is assumed that affordable/workforce units by definition will not be available on Parcels 6 or Parcel 7. Affordable/workforce housing would be less appropriate on these properties given their remote location, distance from services.

Policy 1.2 Promote the creation of a wide range of housing units, single family, multi-family, etc.

A variety of housing types could be included in development designs for Parcels 6 and 7. It is anticipated these properties will support higher-end housing.

No directly applicable policies were found in Chapter 11, *Economic Development*, Chapter 12, *Historic Preservation*, or Chapter 13, *Public Services and Infrastructure*

The above sampling may have missed policies and strategies in the Eagle Area Community Plan that are relevant to the process of granting an Exception to the Master Plan for the extension of the Town's Urban Growth Boundary to the east. ~~Additional study and review of the goals, policies and strategies of the Master Plan prior to a final determination by the Town is strongly recommended. Should this request for Exception be approved, a thorough review and analysis of all guiding statements in the Eagle Area Community Plan is strongly recommended.~~

Planning Commission Recommendation, Criteria # 2:

The location and design of improvements east of the current Growth Boundary **could be** made to conform to the goals, policies and strategies of the Plan (as selected from Chapters 3, 4, 8, 9 and 10) to the greatest degree possible. Strategic clustering and the preservation of a significant open space buffer along the river corridor is strongly encouraged to this end.

Criteria # 3: *The proposed land use is clearly in the public interest, and addresses a viable public need.*

Lands east of the Urban Growth Boundary are highly valued for their open rural character, as are riparian zones along the Eagle River for their contribution to wildlife, water quality, ecosystem integrity and recreation. Parcels 6 and 7 would not be appropriate for affordable housing given lack of mobility options and distance from services. Public parking spaces proposed for river access provide minimal additional benefit to a small user group in an area that is already open to the public for fishing. ~~We do not believe that the expansion of the Town's Urban Growth Boundary to the east is in the public interest, nor will related improvements address a viable public need.~~ If it can be demonstrated that development on Parcels 6 and 7 will be necessary to offset the cost of providing public benefits on Parcels 1, 2, 3, 4 and 5, then a link to "public interest" and "viable public need" could be established, supporting the proposed expansion of the UGB.

Planning Commission Recommendation, Criteria # 3:

~~The proposed expansion of the Town's Urban Growth Boundary to the east that would allow residential development on lands of rural character and/or in close proximity to sensitive riparian habitats is not "clearly in the public interest" nor would it address a viable public need.~~

~~This assessment does not consider any "benefit relationships" that may exist between development on these lands and development proposed within the Town's present day growth boundary to the west.~~

If it can be demonstrated that development on Parcels 6 and 7 would be necessary to offset the cost of providing public benefits on Parcels 1, 2, 3, 4 and 5, then a link to "public interest" and "viable public need" **could be** established, supporting the proposed expansion of the UGB.

Criteria # 4: The proposed land use or activity is of a nature that negative impacts to natural resources, traffic, visual quality, infrastructure, recreational amenities or Town or County services are minimal and/or clearly outweighed by the public benefits of the proposal.

While negative impacts resulting from the extension of the Growth Boundary could be largely minimized through conscientious site design, others may persist. While public benefits associated with development further east than the present day Growth Boundary have not been clearly identified, "public interest" and "viable public need" for the expansion of the UGB to capture lands further east **could be** established if it is determined that development on Parcels 6 and 7 would be necessary to offset the cost of providing public benefits on development parcels closer to town.

~~All properties developed should be served by the Town's domestic water and wastewater systems, such that County services are not unduly burdened.~~

Planning Commission Recommendation, Criteria # 4:

Potential impacts to natural resources, traffic, visual quality, infrastructure, recreational amenities or Town or County services from development **may be** minimized on properties east of the Town's present day Urban Growth Boundary. While the public benefit of development in this area has not been clearly demonstrated, "public interest" and "viable public need" for the expansion of the UGB **could be** established if it is determined that development on Parcels 6 and 7 will be necessary to offset the cost of providing public benefits on development parcels closer to town.

Criteria # 5: If the Exception is for land that is contained within a character area as defined in Chapter 5 of this Plan, the application must adhere to the planning principles for that character area to the greatest degree possible.

Lands east of the present day urban Growth Boundary are located within the *Eastern Gateway Character Area*. Applicable “Planning Principles” from Chapter 5 include:

C. Promote the conservation of private properties as open space.

Considerable open space is proposed as part of this development application. Please note earlier comments regarding the need for strategic placement of open space to achieve resource protection and recreation enhancements.

D. Limit new development to that provided by current zoning, with improvements positioned and designed to preserve the open rural character of the area.

As this is a proposal to extend the Urban Growth Boundary of the Town, zoning would clearly be modified should this adjustment be approved. Residential development in this area would impact the open rural character that presently exists.

F. Preserve the quality of the Eagle River Corridor and related habitats.

Please note earlier comments regarding potential impacts to river corridor character and sensitive habitats. The quality of the corridor and associated riparian habitats may be diminished by the introduction of homes in close proximity.

It is difficult to fully assess adherence to this criteria given the conceptual nature of information submitted. An adjustment of the growth boundary to the east would necessitate a similar extension of River Corridor Character Area boundary as well, requiring adherence to related guiding principles detailed in Chapter 5.

Planning Commission Recommendation, Criteria # 5:

With careful consideration of river corridor character and the need to protect related habitats, development east of the present day Growth Boundary **could be** made to adhere to the planning principles for the East Gateway Special Character Area, and subsequently the River Corridor Character Area, to the greatest degree possible.

Criteria # 6: If the target property is located on the periphery of the Growth Boundary, the consolidation of densities and/or a transfer of development rights on a larger

piece of land has been provided such that the vast majority of the land is left in open space with adequate protections in place.

The target property is located on the periphery of the existing Growth Boundary. No separate larger piece of land has been identified upon which a consolidation of densities and/or a transfer of development rights will be provided such that the vast majority of the land will be left in open space with adequate protections in place. However, significant open space is being proposed within the development boundary.

Planning Commission Recommendation, Criteria # 6:

The target property **is** located on the periphery of the Growth Boundary. ~~, but~~ If it is determined that open space set aside within the development boundary satisfies “the consolidation of densities and/or a transfer of development rights on a larger piece of land ~~has not been provided~~ such that the vast majority of the land is left in open space with adequate protections in place”, then this criteria for granting an exception **could be met.**