

**TOWN OF AVON, COLORADO**  
**AVON REGULAR MEETING FOR TUESDAY, MAY 22, 2012**  
**MEETING BEGINS AT 7:30 PM**  
AVON TOWN HALL, ONE LAKE STREET



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	<b>PRESIDING OFFICIALS</b>
<b>MAYOR</b>	<b>RICH CARROLL</b>
<b>MAYOR PRO TEM</b>	<b>KRISTI FERRARO</b>
<b>COUNCILORS</b>	<b>DAVE DANTAS, CHRIS EVANS, TODD GOULDING</b>
	<b>AMY PHILLIPS, ALBERT "BUZ" REYNOLDS, JR.</b>

**TOWN STAFF**

<b>TOWN ATTORNEY: ERIC HEIL</b>	<b>INTERIM TOWN MANAGER: PATTY MCKENNY</b>	<b>DEPUTY TOWN CLERK: CATHERINE MYTHEN</b>
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ALL REGULAR MEETINGS ARE OPEN TO THE PUBLIC EXCEPT EXECUTIVE SESSIONS  
COMMENTS FROM THE PUBLIC ARE WELCOME DURING CITIZEN AND COMMUNITY INPUT AND PUBLIC HEARINGS  
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AGENDAS ARE POSTED AT AVON TOWN HALL AND RECREATION CENTER, ALPINE BANK, AND AVON LIBRARY  
THE AVON TOWN COUNCIL MEETS ON THE SECOND AND FOURTH TUESDAYS OF EVERY MONTH

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- 1. CALL TO ORDER AND ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST**
- 4. COMMUNITY & CITIZEN INPUT**
- 5. CONSENT AGENDA**
  - a. Minutes from May 8, 2012
- 6. RESOLUTIONS**
  - a. **Public Hearing** on Resolution No. 12-09, Series of 2012, Resolution Approving the Condominium Map of Traer Creek Plaza, Lot 2, The Village at Avon) Filing No. 1, Town of Avon, Eagle County, Colorado (101 Fawcett Road) (*Matt Pielsticker, Planner II*) *Review condo map that would subdivide Lot 2 and Traer Creek Plaza Building into several interests / This item was continued from the May 8<sup>th</sup> meeting*
- 7. ORDINANCES**
  - a. **Public Hearing** on Ordinance No. 12-06, Series of 2012, First Reading, Ordinance Approving a Permit for Areas and Activities of State and Local Interested (1041 Permit) for the Eagle River Water and Sanitation District for an Expansion of the Avon Wastewater Treatment Plant (*Justin Hildreth, Town Engineer, Jared Barnes, Planner I*) *Review of 1041 Permit Application related to ERWSD expansion of Avon Wastewater Treatment Plant*
  - b. **Public Hearing** on Ordinance No. 12-07, Series of 2012, First Reading, Ordinance Approving an Amendment to the Gandorf PUD to Remove the Requirement for Deed Restricted Housing and Construction of a Pedestrian Path (*Matt Pielsticker, Planner II, Jared Barnes, Planner I*) *Review proposed PUD amendment request related to two conditions of current PUD 1) pedestrian access easement, 2) sale of one dwelling unit to full time resident of Avon*
- 8. NEW BUSINESS**
  - a. 2011 Comprehensive Annual Financial Report (*Scott Wright, Finance Director*) *Review preliminary draft report of the 2011 Comprehensive Annual Financial Report (CAFR)*

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**9. TOWN MANAGER REPORT**

**10. TOWN ATTORNEY REPORT**

**11. MAYOR REPORT**

- a. Future Agenda Items


**12. ADJOURNMENT**

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**FUTURE COUNCIL AGENDA DATES & PROPOSED TOPICS:**

- June 4<sup>th</sup>:           **Special Town Council Meeting** beginning at 5 PM for consideration of the Village at Avon Consolidated, Amended and Restated Annexation & Development Agreement and Amended and Restated Planned Unit Development Guide*
- June 12<sup>th</sup>:           Budget 2013: Electronic Packets, Town Council Budget Objectives  
Village at Avon: Resolution on Preliminary PUD*
- June 19<sup>th</sup>:           **Special Town Council Meeting** beginning at 5 PM for consideration of the Village at Avon Consolidated, Amended and Restated Annexation & Development Agreement and Amended and Restated Planned Unit Development Guide*
- June 26<sup>th</sup>:           Budget 2013: Personnel & Benefits, Transit  
Village at Avon: Public Hearing on 1<sup>st</sup> Reading of Ordinance on Village at Avon Consolidated, Amended and Restated Annexation & Development Agreement and Amended and Restated Planned Unit Development Guide*
- July 10<sup>th</sup>:           Budget 2013: Revenues, Fleet & Equipment Replacement, Asset Management  
Village at Avon: Public Hearing on 2<sup>nd</sup> Reading of Ordinance on Village at Avon Consolidated, Amended and Restated Annexation & Development Agreement and Amended and Restated Planned Unit Development Guide*

**To** Honorable Mayor and Town Council  
**From** Jared Barnes, Planner I  
**Thru** Patty McKenny, Interim Town Manager  
Eric Heil, Town Attorney  
**Date** May 22, 2012 Meeting  
**Re** First Reading: Ordinance No. 12-06, Series 2012: An Ordinance Approving A Permit For Areas And Activities of State And Local Interest (1041 Permit)  
Avon Wastewater Treatment Plant Expansion – PUBLIC HARING



**Summary:**

The Eagle River Water and Sanitation District (ERWSD) is proposing to expand the Avon Wastewater Treatment Plant (the Project). The Permit Application for Areas and Activities of State and Local Interest (1041 Permit) is submitted pursuant to the Town of Avon's 1041 Regulations ((Title 7, Chapter 7.40, Avon Development Code ("ADC")) which requires a permit for "major extensions of existing domestic water and sewage treatment systems".

This permit application requests approval to construct a Chemically Enhanced Primary Clarification (CEPC) Facility at the Avon Wastewater Treatment Plant (WWTP) and increase the Avon WWTP's organic capacity by twenty-five percent (25%). The CEPC Facility will be located within the existing Avon WWTP's building footprint located at 950 W. Beaver Creek Blvd (the Property) which is zoned Public Facility (PF).

Accompanying this memorandum is the complete Application, dated March, 2012 (**Exhibit A**). The Application document includes all of the submittal information required by the ADC, including but not limited to: executive summary; summary of alternatives; detailed plans and specifications; federal, state, and local permits and approvals; environmental impacts and mitigation; need for proposed project; and, technical and financial feasibility. Town Staff had concern over the lack of in-house expertise to review technical documents related to wastewater treatment facilities. Michael Lutz of Dewberry was chosen as a consultant to work with Staff and provide third-party review. A Memorandum dated May 9<sup>th</sup>, 2012 from Michael Lutz, Dewberry, summarizes their review and is attached as **Exhibit B**. The final attachment is Ordinance 12-06 (**Exhibit C**) which would approve the Permit request with conditions and findings.

**Process:**

Pre-Application conference. A pre-application conference with the Applicant to discuss the 1041 Regulations and the permit process was conducted on January 23, 2012.

Application Submittal. The application was determined to be complete on April 16, 2012, at which time all of the mandatory application copies were accepted by Staff. The submittal requirements are governed by, ADC Section 7.40.220, *Application Submittal Requirements*.

Agency Referrals. Outside agency referrals were solicited via e-mail with a link to the complete application on the Town's website ([www.avon.org/referral](http://www.avon.org/referral)) on April 24, 2012. Agencies included in the referral were: Eagle County Planning Department, Eagle County School District, ECO Trails, Eagle River Fire Protection District, and Eagle County Health Service District. Staff has not received any comments from the referral agencies.

Published Notice. As required by ADC Section 7.40.250, *Public Notice Requirements*, a public notice was published, on April 22, 2012 in the Vail Daily newspaper, at least 30 days in advance of the Town Council public hearing.

Public Hearing. The formal permit hearing with Town Council is set for May 22, 2012. The Council shall either approve or deny the permit by acting on Ordinance 12-06 at the hearing after all relevant testimony has been heard.

**Review Considerations:**

According to ADC Section 7.40.660, *Approval of Permit Application*, the Council shall consider the following:

- (a) All of the provisions of the 1041 Permit application procedure set forth in Article III of these Regulations have been complied with;
- (b) Demographic trends demonstrate a need for the Special Water and Wastewater Project (SWWP) in order to timely serve existing and future residents and businesses within the Town;
- (c) Desirable local and regional community land use patterns will not be disrupted due to the location of the proposed construction, expansion, or modification of the SWWP;
- (d) The construction, expansion or modification of all dams or other impoundment structures required by the SWWP, if any, will comply with engineering requirements specified by the Colorado Water Conservation Board and the Office of the State Engineer.
- (e) The proposed SWWP is not subject to significant risk from earthquakes, floods, fires, subsidence, expansive soils, avalanches, landslides, or other natural hazards.
- (f) The proposed SWWP will not present an unreasonable risk of exposure to toxic or hazardous substances within the impact area.
- (g) The proposed SWWP will not significantly deteriorate floodplains, wetlands or riparian areas in the impact area.
- (h) The proposed SWWP will not significantly degrade existing visual quality, noise and vibration levels, or odor levels in the impact area.
- (i) The proposed SWWP is technically and financially feasible.
- (j) The proposed construction, expansion, or modification of the SWWP will not directly conflict with the Comprehensive Plan, or other applicable local, regional, and state master plans, including, but not limited to storm drainage and flood control plans and storm water quality plans and programs;
- (k) The SWWP promotes the efficient use of water.
- (l) The existing wastewater treatment facilities or water treatment facilities within the Town of Avon and which serve the service area must be at or near operational capacity, or will be within five (5) years from the date construction of the SWWP is initiated, based on then-current demographic trends.
- (m) The proposed construction, expansion, or modification of the SWWP will not increase water pollution levels in violation of applicable federal, state, and local water quality control standards and will result in no net loss of wetland values and functions;
- (n) The applicant has the technical and financial ability to develop and operate the proposed project in a manner that is consistent with the permit conditions and the public health, safety and welfare.
- (o) The nature and scope of the SWWP will not compete with existing water or wastewater treatment services or create duplicative services within the Town boundaries.

**Request:**

The expansion involves constructing a new CEPC Facility, which in turn will increase the organic capacity of the Avon WWTP by twenty-five percent (25%). The request will allow the Avon WWTP to increase the permitted organic waste load from the existing limit of 9,400 pounds per day (ppd) to 11,750 ppd of biological oxygen demand at standard five day test conditions (BOD<sub>5</sub>).

The need for the expansion stems back to the winter months of 2008-2009 when the Avon WWTP experienced two (2) periods of stronger than anticipated influent loading conditions. These occurrences combined with ERWSD planning documents dictated the need for the Avon WWTP expansion. Various alternatives were analyzed (Page 4 of **Exhibit A**) with most options requiring a portion of the existing Autothermal Thermophilic Aerobic Digestion (ATAD) process to be converted and combined with an additional process. In each instance the alternative options were cost prohibitive, with the most economical option nearing \$9 million. The CEPC process was selected and in September, 2010, a pilot facility was constructed.

The CEPC system will increase primary solids removal and reduce the quantity of secondary waste activated sludge (WAS) when the CEPC system is operation. The reduction in organic and solids loading on the existing activated sludge treatment process will effectively increase the liquid stream capacity, allowing for a twenty-five percent (25%) increase in influent organic loading without having to expand the existing treatment process. The Avon WWTP has a current ATAD system that is the most limiting factor in increasing the plant capacity. The ATAD system is a solids stabilization process that intakes primary sludge and produces a Class A biosolids (i.e. compost) product. The inclusion of the CEPC system will help pre-treat the sludge and allow the ATAD system to be more efficient, which in turn allows a greater amount of primary sludge to be processed. All excess waste sludge from the Vail and Avon WWTPs that exceed the maximum amount the ATAD system can process are discharged into a sewer to the Edwards WWTP.

The CEPC system will use a coagulant chemical that will be injected into the system during the initial stage of treatment. A variety of coagulants exist, but the Applicant is proposing to use Ferric Chloride ( $\text{FeCl}_3$ ). The Applicant is proposing to store the chemical in two (2) double-walled tanks, each having a capacity of 1,550 gallons. The tanks are proposed to be located in an old chlorine storage room, which is no longer in use.

**Staff Analysis:**

As stated previously in this report, Staff hired Mike Lutz, Dewberry, as a consultant to provide an independent analysis of the proposed improvement. Mike Lutz was directed by Staff to review the proposed application to verify the proposal from ERWSD, but also to analyze how the improvements would affect the Town's main concerns of odor generation, water quality, and effect on the general health, safety and welfare.

The Town's main concern with the proposed improvements to the Avon WWTP is odor generation. An increased amount of wastewater being processed at the Avon WWTP will increase the potential for odor generation. Based on the report from Mike Lutz, Dewberry, (**Exhibit B**) the CEPC system will work in conjunction with the additional odor mitigation systems of the Avon WWTP. The coagulant will help prevent the release of odor compounds into the air and help reduce hydrogen sulfide corrosion of steel, concrete, mechanical and electrical equipment in or near the primary clarifiers.

The Applicant is only proposing to use this process during peak seasonal times. Mike Lutz suggests that the Town could derive some additional odor control benefit if the CEPC system is also used as a rapid response to odor incidents. Page 12 of his report (**Exhibit B**), suggests that metering ferric chloride into the primary clarifiers when an odor incident occurs could reduce the odorous compounds significantly within a few hours of the chemical addition.

An additional concern of the Town is the use of Ferric Chloride and its effect on water quality and impact on adjacent properties. Ferric Chloride is a corrosive, non-flammable chemical that has a health hazard of 3 and reactivity of 2, with both categories having a maximum number of 4. This chemical is commonly used worldwide dating back to the 1970s. Locally the chemical is used by the Southgate Sanitation District in Denver as well as the Littleton-Englewood WWTP. The chemical will be stored in double-walled tank which will help contain the chemical in case it corrodes the first wall of the tank. In addition to the double-walled tank, the chemical will be stored in an old chlorine storage room which is equipped with a concrete floor that drains to an existing abandoned chlorine contact basin. If the tanks fail the chemical will drain to this area and can be pumped to the headworks.

As outlined in the ERWSD application (**Exhibit A**), the installation of a full-scale CEPC system along with bulk storage will help decrease the need for deliveries, thus reducing the impact on neighboring properties. Mike Lutz' report (**Exhibit B**) states the use of Ferric Chloride will have an impact on water quality as it will add dissolved solids to the effluent and increase salinity. This will have an adverse effect on freshwater aquatic life, however at the recommended dose the chloride concentration would increase by approximately 11 mg/L. This amount of increase when compared to typical

concentrations of 400 to 500 mg/L in WWTP effluent is a negligible amount and the effect will not be significant.

**Financial Implications:**

This application was accompanied by an initial deposit of ten thousand dollars (\$10,000) toward a processing fee. Staff has used a portion of this fee to hire Mike Lutz, Dewberry, to review the proposed expansion and provide a third-party analysis. In addition to hiring a consultant, Staff has been tracking hours to review and process this application. The combination of these review fees are less than the initial deposit and no additional fees will be necessary to finalize this permit. The remaining excess balance will be returned to the applicant within one hundred and twenty (120) days following the date on which the Council makes a final determination regarding the application.

**Recommendation:**

Staff recommends that Council approve the first reading of Ordinance No. 12-06 and schedule a public hearing and second reading on Jun 12, 2012.

**Town Manager Comments:**



**Exhibits:**

- A. ERWSD Avon WWTP 1041 Permit Application Binder – March, 2012
- B. Memorandum dated May 9, 2012 from Mike Lutz, Dewberry
- C. Ordinance No. 12-06, Approving a permit for areas and activities of state and local interest (1041 Permit) for the ERWSD expansion of the Avon Wastewater Treatment Plant.



## MEMORANDUM

DATE: May 9, 2012  
TO: Justin Hildreth and Jared Barnes, Town of Avon  
FROM: Mike Lutz  
SUBJECT: Avon Wastewater Treatment Plant CEPC Project 1041 Permit Review

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**EXECUTIVE SUMMARY**

Eagle River Water and Sanitation District (ERWSD) plans to construct a Chemically Enhanced Primary Clarification (CEPC) Facility at the Avon wastewater treatment plant (WWTP). ERWSD has submitted a 1041 Permit Application to the Town of Avon for proposed CEPC improvements at the Avon WWTP. The CEPC Facility will increase the organic capacity of the Avon WWTP by 25 percent.

Key issues of concern to the Town for the proposed CEPC improvements include reliable operation of the Avon WWTP with increased waste loads, potential odor emissions from the WWTP, impact on water quality, traffic and noise impacts, and potential adverse impacts on property values.

The proposed CEPC system will increase primary solids removal and reduce the quantity of secondary waste activated sludge (WAS) when the CEPC system is operating. The CEPC system will reduce the organic and solids loading on the existing activated sludge treatment process which will effectively increase the liquid stream capacity in the existing WWTP and allow a 25 percent increase in influent organic loading without expansion of the existing treatment processes. The Avon WWTP has sufficient capacity to thicken WAS and dewater biosolids that will be produced by the Avon ATAD (Autothermal Thermophilic Aerobic Digestion) reactors with and without CEPC system operation.

The existing Avon ATAD system will be operated at its' current capacity by treating a constant daily amount of primary sludge (base load). All excess waste sludge from the Vail and Avon WWTPs that exceeds the Avon ATAD system capacity will discharge into the sewer to the Edwards WWTP. The recently upgraded Edwards WWTP has sufficient capacity to accept all of the anticipated waste solids from the Vail and Avon WWTPs. Operating the existing Avon ATAD system at a constant feed rate with primary sludge will improve performance of this ATAD system and reduce odor potential at the Avon WWTP site.

Operation of the proposed CEPC system will reduce odor generation in the primary clarifiers, ATAD reactors, and biosolids dewatering building whenever the CEPC chemical metering system operates. The odor control systems at the Avon WWTP have proven capability to treat exhaust air odors effectively. The existing odor control systems are expected to achieve equal or better performance after implementing CEPC than previously.

The proposed CEPC system will not create any appreciable traffic or noise impacts, and is not expected to adversely affect property values near the Avon WWTP.

Based on the evaluation of the benefits and potential impacts of the proposed CEPC system, approval of the Avon WWTP 1041 Permit Application is recommended.

## INTRODUCTION

Eagle River Water and Sanitation District (ERWSD) owns and operates the Avon Wastewater Treatment Plant (WWTP) under the Colorado Discharge Permit System (CDPS) Permit, No. CO-0024431. The Avon WWTP is approaching its current rated organic loading capacity during seasonal peak loading conditions. ERWSD plans to construct new Chemically Enhanced Primary Clarification (CEPC) Facilities to increase the organic capacity rating of the Avon WWTP by 25 percent.

ERWSD has submitted a 1041 Permit Application to the Town of Avon for proposed CEPC improvements at the Avon WWTP. This memorandum provides a technical evaluation of the proposed improvements at the Avon WWTP to assist the Town of Avon in reviewing the 1041 Permit Application.

## PROJECT UNDERSTANDING

The ERWSD intends to construct facilities at the existing Avon WWTP to implement Chemically Enhanced Primary Clarification (CEPC). The CEPC facilities will have the ability to operate continuously. However, ERWSD intends to operate the CEPC facilities only during seasonal peak loading periods which historically occur during the winter and summer holidays.

The ERWSD will request a 25 percent increase in the permitted organic waste load for the Avon WWTP based on the reduced loading applied to the existing activated sludge treatment process. The ERWSD request will increase the permitted organic waste load from the existing limit of 9,400 pounds per day (ppd) to 11,750 ppd of biological oxygen demand at standard five day test conditions (BOD<sub>5</sub>). The proposed CEPC improvements and the increase in permitted capacity for the existing WWTP will allow ERWSD to treat high seasonal peak waste loads without expanding the existing treatment processes at the existing Avon WWTP for several years. The permitted hydraulic capacity of the Avon WWTP will remain unchanged at 4.3 million gallons per day (mgd).

**Table 1 - Avon WWTP Requested Capacity**

Parameter	Hydraulic Capacity, mgd	Organic Capacity, ppd BOD <sub>5</sub>
Current	4.3	9,400
Proposed	4.3	11,750
Increase, %	None	25

The proposed CEPC improvements would decrease the organic waste loading to the existing activated sludge treatment process when the CEPC chemical addition facilities are in use. The decrease in the organic waste loading to the existing activated sludge system would result in an increase in the organic waste loading to the solids stabilization process.

The Avon WWTP has an ATAD (Autothermal Thermophilic Aerobic Digestion) solids stabilization process. The ATAD process currently has the most limited capacity of any



treatment process at the Avon WWTP. To accommodate the increased amount of waste sludge produced when the CEPC system operates, the ATAD system at the Avon WWTP would treat primary sludge up to its' current capacity during peak loading periods. All excess waste sludge which exceeds the treatment capacity of the Avon ATAD system, would be conveyed through an existing sewer from the Avon WWTP to the Edwards WWTP for treatment. The ATAD system at the Edwards WWTP was expanded and upgraded to provide the capacity to treat waste sludge from the Edwards WWTP and additional waste sludge from the Vail and Avon WWTPs during holidays and seasonal peak loading periods.

**1041 REVIEW PROCESS**

The Town Council has designated site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems as matters subject to review and approval through the 1041 review process. The following key issues are of concern to the Town for the proposed improvements to the Avon WWTP:

- Capacity of the existing ATAD process to operate reliably with increased waste loads
- Capacity of the existing biosolids dewatering and loading equipment to operate reliably with increased waste loads
- Impact of CEPC improvements on odor emissions from the WWTP
- Impact of CEPC improvements on effluent water quality
- Traffic, noise, air and water pollution impacts
- Adverse impacts on property values

**DOCUMENTS REVIEWED**

To develop this evaluation of the Avon WWTP CEPC improvements for the 1041 review process, the documents listed Table 2 were reviewed.

**Table 2 - Documents Reviewed for the 1041 Permit for the Avon WWTP CEPC improvements**

Documents Reviewed	Author and Date
1041 Permit Application for Avon WWTP CEPC Project	CH2M HILL, March 2012
Site Application for Avon WWTP, Regulation 22	CH2M HILL, March 2012
Avon WWTF Improvements Project Process Design Report	Frachetti Engineering, Feb 2012
Basis of Design (30 %) memorandum for ferric chloride system	CH2M HILL, March 7, 2012
Chemically Enhanced Primary Clarification Pilot Study Results	CH2M HILL, May 27, 2011
Avon WWTP Capacity Evaluation and Re-Rating Study	CH2M HILL, March 30, 2010
Avon CEPC Project Drawings	CH2M HILL, Jan. 2010
CEPC Final Design Report	CH2M HILL, Nov. 2009
Sewer Operations – Multi-year Financial Model	Bernstein Assoc., Oct 5, 2011
2008 Wastewater Master Plan Update	Kennedy-Jenks, Jan. 28, 2010
Avon Municipal Code, Chapter 7.40, 1041 Regulations	Town of Avon, 2012
CDPS Permit Number CO-0024431 for Avon WWTP, amended	CDPHE, April 29, 2011
General Permit Number COG-650000 for Sewage Sludge	USEPA, Oct. 19, 2007
2002 Eagle River Water Quality Management Plan	NWCCOG, 2002
Avon WWTP Odor Emissions Characterization	Integra Engineering, Apr. 22, 1997

**MODIFICATIONS TO THE 1041 APPLICATION AND SITE APPLICATION FORM**

In the appendix to the 1041 Application, the original letter to CDPHE requested a 10 percent increase in BOD<sub>5</sub> capacity for the CEPC improvements. To prevent having two different versions of the same document, this letter was submitted ‘as is’. After the original letter to CDPHE, further full-scale tests demonstrated that 25 to 30 percent additional BOD<sub>5</sub> removal could be achieved. Therefore, the 1041 Application was revised to request an increase of 25 percent capacity from the current organic rating of 9,400 ppd to 11,750 ppd.

The site application form in the 1041 Application was also revised to request an increase of 25 percent BOD<sub>5</sub> capacity (11,750 ppd) for the Avon WWTP on page 1 of 9. The original 1041 permit application mistakenly included an outdated copy of the site application form which requested a 15 percent BOD<sub>5</sub> increase to 10,810 ppd.

**DESIGN CAPACITY**

Site Approval 4004 lists the design capacity for the Avon WWTP as 4.3 million gallons per day (mgd) for hydraulic flow (30-day average) and 9,400 pounds BOD<sub>5</sub> per day for organic loading (30-day average). The activated sludge treatment process at the Avon WWTP was originally rated for an organic loading 6,600 pounds BOD<sub>5</sub> per day based on a volumetric loading criteria of 40 pounds BOD<sub>5</sub> per 1,000 cubic feet of aeration basin volume. The design capacity for the Avon WWTP was increased to 9,400 pounds BOD<sub>5</sub> per day in 1995 due to the capability of the new primary sedimentation basins and ATAD process to reduce the organic loading on the activated sludge treatment process.

**FLOWS AND LOADS**

Flow and waste loads to the Avon WWTP vary throughout the year. Current average flow is approximately 2.1 mgd and peak day flows are 3.5 mgd.

Table 3 summarizes future (year 2025) estimated influent flows and loads to the Avon WWTF for both a low growth rate (1.9 percent annually) and a high growth rate (4.1 percent annually) (Frachetti Engineering, Process Design Report, Feb. 2012). The proposed CEPC project does not rerate the hydraulic capacity of the Avon WWTP or provide treatment capacity for the projected 2025 flows and loads.

**Table 3 - Estimated Influent Flow and Loads for Year 2025**

Parameter	Influent Flow, mgd		Mass Loads, ppd		
	Low Growth	High Growth	BOD <sub>5</sub>	TSS	NH <sub>3</sub>
Annual Growth, %	1.9	4.1			
Annual Average	2.7	3.7	8,390	12,160	590
Winter					
Maximum Month	3.1	4.1	16,880	24,390	1,050
Peak Day	4.9	6.7	22,840	29,610	1,460
Summer					
Maximum Month	--	5.2	10,140	16,190	640
Peak Day	--	6.6	11,700	21,430	740

Source: Avon WWTF Improvements Project Process Design Report, Frachetti Engineering, Feb 2012.

**FACILITY DESCRIPTION**

The Avon WWTP was upgraded in December 1996 to its current nominal hydraulic capacity of 4.3 mgd. The facility has a headworks process with mechanical screens and aerated grit chamber, rectangular primary clarifiers, activated sludge aeration basins, secondary clarifiers, tertiary submerged fixed-film nitrification cells, and ultraviolet disinfection prior to discharge to the Eagle River. Table 4 summarizes the existing Avon WWTP process units.

Primary sludge is pumped to an autothermal thermophilic aerobic digestion (ATAD) process. Waste activated sludge produced at Avon WWTP is thickened by gravity belt thickeners (GBT) before being pumped into the ATAD reactors. The ATAD process produces a Class A biosolids product when the solids residence time (SRT) is sufficient. Filtrate produced by thickening and dewatering is stored in equalization basins prior to blending with primary effluent. Digested sludge is dewatered by centrifuges.

The Vail WWTP is located upstream from the Avon WWTP. The Vail WWTP has no waste solids stabilization process and discharges primary sludge and settled waste activated sludge (WAS) to a gravity sewer to the Avon WWTP. Primary sludge and settled WAS from Vail WWTP is captured and thickened in the Avon primary sedimentation basins and is pumped to the ATAD reactors along with the Avon primary sludge.

The original pumped venturi aeration system installed in the ATAD reactors at the Avon WWTP had limited mixing capabilities for thick sludge and limited oxygen-transfer capabilities. Low dissolved oxygen concentrations in the ATAD reactors likely resulted in anoxic and anaerobic conditions which generated odors. The original pumped venturi aeration system was upgraded to a more robust jet mixing system to improve oxygen-transfer capabilities and reduce odor potential. In addition, the ATAD system at the Avon WWTP is now base loaded mainly with primary sludge at its rated capacity and excess peak WAS loads are diverted to the sewer for treatment at the Edwards WWTP. Base loading of the Avon ATAD system is expected to minimize potential for anoxic and anaerobic conditions and therefore to reduce odor potential in the ATAD exhaust air.

**Table 4 – Avon WWTP Process Units**

Process	Number of units	Volume, MG	Maximum month capacity, mgd
Mechanical bar screens	2		12.48
Aerated grit tanks	2		6.24
Primary Settling Basins	2		5.3
Aeration Basins	4	1.218	3.8
Secondary Clarifiers	2		4.0
Nitrification Cells	8	0.431	5.5
Equalization Basins	2	0.245	
Ultraviolet disinfection	2		5.4
Gravity belt thickeners	2		7.5
ATAD Digesters	4	0.320	2.9
Dewatering centrifuges	2		7
Odor control biotower	1		
Ozone contact chamber	1		
Chemical Scrubbers	2		

Maximum month capacity obtained from Avon WWTP Capacity Evaluation and Re-Rating Study, CH2M HILL, March 30, 2010). Secondary Clarifier capacity based on Aeration Basin MLSS = 3500, SVI = 140.

**SOLIDS STABILIZATION AND RESIDUALS MANAGEMENT**

The Avon and Edwards WWTPs use autothermal thermophilic aerobic digestion (ATAD) to treat and stabilize waste sludge and produce Class A biosolids. The Vail WWTP has no biosolids stabilization or disposal capabilities. All waste solids from the Vail WWTP are transferred to the Avon WWTP through the sewer.

The existing “first generation” ATAD system at the Avon WWTP was designed with a rated hydraulic capacity of 6.4 mgd based on a solids retention time (SRT) of approximately 7 days. However, the existing Avon ATAD system does not produce Class A biosolids during winter peak loading conditions which result in a short SRT. To achieve Class A biosolids during all months of the year using the current ATAD reactor volume (assuming 20 percent reduction in ATAD reactor volume due to normal grit deposition and foam), the existing ATAD system would need to be de-rated to a hydraulic capacity of 2.9 mgd (CH2M HILL, March 30, 2010). Alternatively, the existing ATAD system could be expanded to a “second generation” ATAD system utilizing a minimum SRT of 13 days and be upgraded with better mixing and operational control.

Instead of upgrading the ATAD system at the Avon WWTP, ERWSD will send all excess biosolids, both primary sludge and waste activated sludge (WAS), from the Vail and Avon WWTPs to the Edwards WWTP. The primary sludge sent from the Avon facility downstream also includes the WAS from Vail WWTP, which has no biosolids stabilization or disposal capabilities.

The existing ATAD system at the Avon WWTP will be base loaded mainly with primary sludge, which will improve performance of this “first generation” ATAD system. The new larger “second generation” ATAD and solids processing facilities at the Edwards WWTP will handle the majority of the solids stabilization for the ERWSD service area.

Waste solids from the Vail and Avon WWTPs can be treated by the new Edwards ATAD reactors are shown in Table 5. The Edwards WWTP is expected to produce Class A biosolids at maximum month conditions even with the additional flow and load from Avon. The Edwards WWTP sludge stabilization capacity is based on 13,300 ppd maximum month loading, primary sludge thickening in a gravity thickener, and WAS thickening in rotary drum thickeners (RDTs) as designed (CH2M HILL, 2009).

**Table 5 - Surplus Capacity at Edwards WWTP**

Year	Edwards WWTP Surplus Capacity, ppd	
	ATAD	Gravity Thickener
2012	6,464	1,994
2015	5,086	586
2020	2,789	

Capacity for 13,300 ppd maximum month load.

Dewatered digested biosolids are trucked to the Biosolids Composting Facility (BCF) located near the Eagle County Landfill at Wolcott (located approximately 9 miles from the Edwards WWTP). The proximity of the Edwards WWTP to the landfill will minimize costs for hauling dewatered biosolids to the BCF. Dewatered digested biosolids are stored in windrows on a 2 acre concrete pad at the BCF site. During the dry season, biosolids windrows are mechanically turned over to produce a dried Class A product. The drying pad is not covered which limits the

ability to dry the biosolids during wet winter and spring weather. Dried biosolids are given to local landscapers for soil amendment or to the landfill for use as cover.

### **ODOR CONTROL FACILITIES**

The 1996 expansion of the Avon WWTP included a new 22,000 cfm packed bed chemical scrubber to treat odorous exhaust air from headworks building, primary clarifiers, GBT room, and the ATAD process. After startup of the ATAD process, the new 22,000 cfm chemical scrubber proved inadequate to prevent off-site odors. Post-startup testing revealed that the exhaust air from the ATAD process contained high concentrations of ammonia, up to 50 ppm of methyl mercaptan, 17 odorous sulfur compounds, and amine compounds (Integra Engineering, 1997). Several of these compounds were exhausted from the existing chemical scrubber with concentrations high enough to cause odors in the community.

To mitigate off-site odor impacts, a multi-stage odor control system was constructed to treat the high strength ATAD exhaust. The ATAD multi-stage odor control system consists of a packed bed biological scrubber, an ozone contact chamber, and a 3-stage chemical scrubber operating in series. The biological scrubber is wetted with secondary effluent which supports growth of a biofilm that reduces the concentration of all of the odorous sulfur compounds observed in the ATAD exhaust, except carbon disulfide. The biological scrubber removes approximately 95 percent of the hydrogen sulfide, 80 percent of the dimethyl disulfide, and 60 to 75 percent of the methyl mercaptan in the ATAD exhaust air. It also removes 30 to 70 percent of the dimethyl sulfide and up to half of the carbonyl sulfide. The ozone contactor and chemical scrubber remove nearly all of the remaining sulfide and mercaptan odors (Integra Engineering, 1997).

Exhaust from the ATAD multi-stage scrubber system mixes with other foul air exhausts and discharges into the existing 22,000 cfm packed bed chemical scrubber. A new structural cover and exhaust air system was constructed to contain odorous emissions from the existing 60-foot diameter biosolids dewatering filtrate storage tank. These modifications eliminated off-site odor impacts.



Since the original multi-stage odor control system was installed at the Avon WWTP, it has been modified to remove bottle necks and provide additional standby equipment to enhance reliability. The original main foul air fan was replaced by two 50-hp fans which allowed some booster fans to be removed while also maintaining negative pressure within the odor control system to prevent leakage. An ionizing odor control unit was installed in the biosolids truck loading bay. A separate odor control system was installed for the activated sludge aeration basins and nitrification cells, which reduced the exhaust air flow rate through the ATAD multi-stage odor control system to enhance odor treatment for the rest of the plant. To maintain aerobic conditions in the ATAD reactors consistently, the original venturi aerators in the ATAD reactors

were replaced with a jet mixing and aeration system. ERWSD plans to continue improving the odor control systems during the summer of 2012.

Currently, all of the odor control systems at the Avon WWTP are operated continuously except for the ozone contactor in the ATAD multi-stage system. The addition of a jet mixing for aeration in the ATAD reactors reduced odor generation and enabled ERWSD to operate the odor control systems without needing to use the ozone system. The ozone system can be restarted at any time if needed. The chemical dosing required for the chemical scrubbers varies seasonally from approximately 100 gallons of sodium hypochlorite per day in the summer to 400 gallons per day in the winter.

**Odor Control Systems Monitoring.** The odor control systems have been equipped with monitoring sensors which provide operational status and alarm capability to the plant supervisory control and data acquisition (SCADA) system. The SCADA system accumulates real time data, calculates averages values, and stores this data in the i-Historian daily reports. This improved SCADA monitoring has allowed ERWSD to prevent odor releases and correct operational problems when they occur.

Odor control data is accumulated in the SCADA system in real time. The air flow rate through the main chemical scrubber system and pH and oxidation-reduction potential (ORP) are monitored continuously. The pH and ORP alarms on the chemical scrubbers notify operations staff if these parameters deviate from the control set points. If odor control alarms occur during unstaffed times at night, the SCADA system notifies an auto dialer to call the on-call operator.

ERWSD monitors and tracks daily hypochlorite usage for the chemical scrubbers, the amount of sodium hypochlorite on site, time of chemical deliveries, and quantities of chemical delivered. Daily hypochlorite usage for the chemical scrubbers has been collected, stored, and tracked on the annual process control spreadsheet (Avon Info) for over five years.

**Odor Complaint Log.** The Avon WWTP staff investigates all odor complaints that are reported and promptly adjusts treatment units and odor control equipment to eliminate odors generated by the Avon WWTP. ERWSD has been responsive to each complaint and has assisted the Town in tracking several odor sources that did not originate at the WWTPs. In March 2012, ERWSD modified the odor response protocol to improve response efficiency and began compiling odor complaints in a single spreadsheet to track odor events and trends yearly.

#### **MLE SECONDARY PROCESS IMPROVEMENTS**

ERWSD plans to construct the proposed Secondary Treatment Aeration and MLE Improvements Project at the Avon WWTP in 2012. This project will replace existing fine pore diffusers in the activated sludge aeration basins and modify the existing system to operate as a Modified Ludzack-Ettinger (MLE) process (Frachetti Engineering, Process Design Report, February 2012). Existing aeration basin diffusers will be replaced with 4,608 new membrane disk diffusers. The proposed improvements will maintain the current rated hydraulic and organic capacities. An amendment to an existing Site Location Approval for the Avon WWTP was

submitted (dated February 2012) for the proposed MLE project. The MLE project will not modify the rated hydraulic or organic capacity of the facility.

The MLE project is intended to improve the reliability and efficiency of the activated sludge process and to reduce effluent total inorganic nitrogen (TIN) to meet future effluent limits. This MLE upgrade would add internal mixed-liquor recirculation (IMLR) from the final aeration basin to an anoxic tank at the head of the activated sludge process. The anoxic tank would operate at a low dissolved oxygen (DO) concentration and would use carbon in the primary effluent as a food source for biological denitrification (to convert dissolved nitrate to nitrogen gas) of the nitrate in the recycled mixed liquor. Denitrification will decrease effluent TIN, reduce energy costs by decreasing aeration demand, recover about half of the alkalinity consumed during nitrification, and improve sludge settleability.

The MLE improvements are intended to be operated seasonally when flows and loads to the activated sludge process are low enough to allow adequate volume and solids retention time (SRT) for BOD<sub>5</sub> removal, nitrification (oxidation of ammonia to nitrate), and denitrification (conversion of nitrate to nitrogen gas). During seasonal peak flows, the activated sludge system would be operated as a conventional non-nitrifying process. Effluent ammonia concentrations will increase seasonally in the conventional non-nitrifying activated sludge operating mode due to the reduced aerobic SRT which would not sustain nitrification.

ERWSD intends to divert excess primary sludge and WAS from the Vail and Avon WWTPs to new biosolids stabilization facilities at the Edwards WWTP. This approach is expected to reduce the effluent TIN at Avon to below the 2016 permitted value without modifying the existing Avon activated sludge process. Therefore, the addition of the MLE configuration is not required to meet the 2016 TIN permit. The MLE upgrade will be implemented to achieve other performance benefits which include improved sludge settling, reduced oxygen demand, reduced energy consumption, and increased alkalinity that will occur as a result of reducing the effluent TIN to the greatest extent possible within the existing bioreactor volume.

#### **CHEMICALLY ENHANCED PRIMARY CLARIFICATION (CEPC)**

ERWSD intends to construct chemical storage and metering facilities to implement chemically enhanced primary clarification (CEPC). Addition of coagulant chemicals such as ferric chloride (FeCl<sub>3</sub>), ferric sulfate (Fe<sub>2</sub>(SO<sub>4</sub>)<sub>3</sub>), or alum (Al<sub>2</sub>(SO<sub>4</sub>)<sub>3</sub>) can increase capture efficiency of total suspended solids (TSS), BOD<sub>5</sub>, and phosphorus in the primary clarifiers. By removing higher percentages of the TSS and BOD<sub>5</sub> in the primary clarifiers, the amount of waste transferred in the primary sludge to the ATAD reactors would increase and the amount of waste transferred in the primary effluent to the activated sludge treatment process would decrease. Chemical addition will be operated seasonally during the peak ski season and summer tourist season. CEPC will defer expansion of the activated sludge aeration basins needed for seasonal peak flows.

**Primary Clarifier Performance.** The performance of the existing primary clarifiers is expected to change in the future as the proportion of waste activated sludge (WAS) from Vail which is discharged to the Avon WWTP declines from approximately 38 percent of the Avon influent TSS load in 2008 to only 23 percent of the Avon influent TSS load by 2030. This Vail waste

sludge has favorable settling properties resulting in 80 percent TSS removal that has been observed at the Avon WWTP. By 2030, the primary clarifier TSS removal is expected to decrease from 80 percent currently to approximately 60 percent removal. Adding a CEPC chemical feed system would maintain the high level of TSS removal currently being achieved in the primary clarifiers. The proposed CEPC system will maximize primary solids removal and counteract the effects of the decreasing proportion of Vail WAS in the Avon WWTP influent. The proposed CEPC system will also increase the hydraulic capacity of the two existing primary clarifiers, which will defer the need for a 3rd primary clarifier for the next 20-years.

**Secondary Treatment Process.** The proposed CEPC system will maximize TSS and BOD<sub>5</sub> capture efficiency in the primary clarifiers which will significantly reduce the organic and solids loading on the existing activated sludge treatment process. The reduced loading applied to the activated sludge treatment process will effectively increase the capacity in the existing system by maintaining a safe operating SRT for nitrification.

**Improved ATAD Performance.** CEPC would increase the ratio of primary sludge to secondary WAS. This rebalancing of the influent organic load would benefit the activated sludge process and would reduce nuisance foaming in the ATAD reactors.

**Odor and Corrosion Control Benefits.** Addition of ferric chloride or ferric sulfate to the primary clarifiers would prevent the release of odor compounds into the air and reduce hydrogen sulfide corrosion of steel, concrete, mechanical and electrical equipment in or near the primary clarifiers. Implementing CEPC would reduce odor potential in the primary clarifiers, ATAD reactors, and biosolids dewatering building.

**Deferred Biological Phosphorus Removal Upgrades.** Addition of coagulant chemicals such as ferric salts can reduce phosphorus concentrations to less than 1 mg/L with low capital costs. Jar test graphs developed during CEPC pilot tests at the Avon WWTP showed that a ferric chloride dose of 30 mg/L or greater could reduce settled water ortho-phosphorus concentrations below 0.5 mg/L. The equipment required to implement CEPC consists of chemical storage, metering and mixing which have relatively low capital costs. CEPC would provide near term chemical phosphorus removal which would enhance treated effluent quality while also deferring construction of future biological phosphorus removal facilities and optimizing management of financial resources.

**Water Quality Impacts.** Addition of coagulant chemicals such as ferric salts used in CEPC causes an increase in the dissolved solids (chloride or sulfate ions) in the effluent which increases salinity in the receiving stream. The quality of the water the receiving stream would be slightly impaired by the increased salinity which has an adverse effect on freshwater aquatic life. However, at the recommended 17 mg/L FeCl<sub>3</sub> dose for CEPC, the effluent chloride concentration would increase by approximately 11 mg/L. This amount of additional chloride in the treated effluent is not significant (< 3 percent) compared to the typical total dissolved solids (TDS) concentrations of 400 to 500 mg/L of TDS in the WWTP effluent. Municipal wastewater effluent will have TDS concentrations approximately 250 to 300 mg/L greater than the potable water source for that system.



**CEPC PILOT TEST RESULTS**

Results of CEPC pilot tests at the Avon WWTP are summarized in Table 6. The first phase of the full-scale CEPC pilot testing from December 15, 2010 to April 15, 2011 resulted in 75-80 percent TSS removal and approximately 70 percent biochemical oxygen demand (BOD<sub>5</sub>) removal with chemical addition. The ferric chloride dose varied from 15 to 60 mg/L (optimum dose at 17 to 22 mg/L) combined with 1.25 mg/L anionic polymer. Due to the success of the first phase of pilot testing, a second phase of full-scale CEPC testing was started on February 16, 2012.

**Table 6 - CEPC Pilot Test Summary, Phase 1**

Parameter	Baseline (no CEPC)	CEPC	Increase (decrease)
Pilot testing start date	Dec 15, 2009	Dec 21, 2010	
Pilot testing end date	April 30, 2010	April 26, 2011	
Optimum FeCl <sub>3</sub> dose, mg/L	none	30	
Polymer dose, mg/L		1.25	
Primary Clarifier TSS removal, percent	52.5	79.5	27
Primary Clarifier BOD <sub>5</sub> removal, percent	45.6	70.4	25 - 30
Aeration Basin BOD <sub>5</sub> Loading, ppd	2,880	1,930	(33)

**DESIGN CRITERIA FOR CHEMICAL COAGULANTS ADDED TO PRIMARY CLARIFIERS**

Addition of chemical coagulants to primary clarifiers has recently been included in the most recent draft of the Colorado Design Criteria for Domestic Wastewater Treatment Works (Colorado Department of Public Health and Environment, March 2012). The design criteria require that pilot plant testing with chemical coagulants be conducted to determine acceptable primary clarifier surface overflow rates or be based on results of similar full scale applications. The Avon WWTP conducted pilot testing and full scale testing of addition of chemical coagulants to the Avon primary clarifiers during 2010, 2011 and 2012. Therefore, the Avon CEPC improvements will be in compliance with the new Colorado Design Criteria when they are adopted later in 2012.

**PROPOSED FULL SCALE CEPC FACILITIES**

The recommended FeCl<sub>3</sub> dose for CEPC at Avon WWTP is 17 mg/L. FeCl<sub>3</sub> storage tanks will be double-walled high density cross-linked polyethylene construction. Each FeCl<sub>3</sub> storage tank will contain 1,550 gallons for a total of 3,100 gallon storage capacity at 38 percent FeCl<sub>3</sub> concentration.

At the recommended 17 mg/L FeCl<sub>3</sub> dose (24 gallons per day) and average influent flow of approximately 2.4 mgd, the proposed 3,100 gallons of chemical storage would provide a 129 day supply of ferric chloride. The shelf life of 38 percent ferric chloride is over 12 months when stored inside.

Ferric chloride is corrosive, non flammable, has a health hazard of 3 and reactivity of 2. Ferric chloride is a hazardous material under International Building Code (IBC). The amount stored that is exempt from code requirements in a closed system is 500 gallons with an increase to 1,000 gallons if in approved containers and room.

Storage tanks for  $\text{FeCl}_3$  will be located in an old chlorine storage room which is no longer needed since chlorine disinfection has been replaced by UV disinfection. Storage volume of 3,100 gallons of  $\text{FeCl}_3$  will require an H4 occupancy per the 2009 IBC. The chemical storage room will need fire separation walls from adjacent areas and require a new fire sprinkler system. The existing concrete floor has a drain to the existing abandoned chlorine contact basin below. Ferric chloride that drains to the existing abandoned chlorine contact basin can be pumped to the headworks.

#### **FERRIC CHLORIDE FOR ODOR INCIDENT RESPONSE**

ERWSD currently intends to operate the CEPC metering facilities seasonally during the peak ski season and summer tourist season only. The Town could derive some additional odor control benefit if the CEPC system were also operated as a rapid response to odor incidents at the Avon WWTP. By metering ferric chloride or ferric sulfate into the primary clarifiers when an odor incident occurs, the release of odorous sulfur compounds into the air could be reduced significantly, probably within a few hours of starting the chemical addition. The CEPC system could provide an additional response method to terminate odor incidents relatively quickly when the root cause of the incident might take longer time to correct.

Ferric chloride has been used for odor control in many wastewater collection systems and WWTPs. The Littleton-Englewood WWTP located in the Denver metropolitan area has successfully operated a ferric chloride metering system for many years to prevent odors at the primary clarifiers. The Southgate Sanitation District which is also located in the south Denver metropolitan area has a chemical metering station to control odors from the main interceptor sewers. The Southgate chemical metering station used ferric chloride for several years to control interceptor odors.

#### **CEPC EXPERIENCE AT OTHER WWTPS**

CEPC has been used for decades at many WWTPs worldwide. Representative full scale CEPC facilities are listed in Table 7. European development of CEPC technology started in the early 1970s mainly in Scandinavia to control algal blooms by reducing phosphorus in the effluent. More than two dozen WWTPs in Norway had implemented CEPC by the 1990s. The Metro Wastewater Reclamation District in Denver, Colorado has also used CEPC as an interim upgrade while constructing other improvements.

**Table 7 – Representative Full Scale CEPC Facilities**

Facility	Location	Capacity, mgd	CEPC coagulant
Point Loma WWTP	San Diego, CA	240	iron salts
Hyperion WWTP	Los Angeles, CA	350	FeCl <sub>3</sub>
Sutton Wastewater Reclamation Facility	Cobb County, GA	60	FeCl <sub>3</sub>
Deer Island WWTP	Boston, MA	365	FeCl <sub>3</sub>
Columbia Boulevard WWTP	Portland, OR	300	FeCl <sub>3</sub>
Greater Nanaimo Pollution Control Centre	British Columbia, Canada	29	FeCl <sub>3</sub>
Stonecutters Island Sewage Treatment Works	Hong Kong, China	370	FeCl <sub>3</sub>

**DISCHARGE PERMIT COMPLIANCE SCHEDULES**

The current discharge permit for the Avon WWTP includes the compliance schedules summarized in Table 8. The compliance schedules are related to temperature monitoring in the Eagle River, Mixing Zone Study, TIN and arsenic discharge limits, and construction progress reports. None of these items are expected to affect the proposed CEPC improvements.

**Table 8 - Avon WWTP Discharge Permit Compliance Schedules**

Code	Event	Description	Due Date
04301	Install Temperature Meters	Certify continuous temperature monitoring equipment is installed and operational.	4/30/2011
50008	Submit Mixing Zone Study Results	Collect and analyze site-specific data to determine if the facility qualifies for Mixing Zone Exclusion. If a low flow condition is not reached on the receiving water during the first year, submit study results the following year.	1/1/2012, 1/1/2013
CS011	Activities to Meet TIN and Total Recoverable Arsenic limits	Submit a report summarizing the results of the nitrogen study on the Eagle River. Also submit information on the possible sources of arsenic and activities taken to reduce or eliminate these sources.	1/31/2012, 1/31/2013, 1/31/2014
CS010	Status/Progress	Report progress in selecting an alternative to meet final permit limitations.	1/31/2015
CS016	Complete On-Site Construction	Complete construction of facilities or other appropriate actions to meet final discharge limitations.	12/31/2015

**CONCLUSIONS**

Solids stabilization in the ATAD process was identified as a capacity limiting process at the Avon WWTP (Capacity Evaluation and Re-Rating Study, CH2M HILL, March 30, 2010). To achieve Class A biosolids consistently, the hydraulic capacity of the existing Avon ATAD system will be de-rated and the system will be base loaded with primary sludge at a constant feed rate up to the de-rated capacity. All excess waste solids, both primary sludge and waste activated sludge (WAS), from the Vail and Avon WWTPs will be discharged into the sewer to the Edwards WWTP. Base loading the existing Avon ATAD system mainly with primary sludge will improve performance of this ATAD system and reduce potential to generate odors.

Since the original pumped venturi aeration system was replaced with a jet mixing system, the modified Avon ATAD reactors are expected to maintain the dissolved oxygen control set point and therefore to have reduced potential to generate odors.

The proposed CEPC system will maximize removal of suspended solids in the primary clarifiers. When the CEPC system is operating, the quantity of primary sludge will increase and the quantity of secondary WAS will decrease. Because all excess primary sludge and WAS will be discharged into the sewer to the Edwards WWTP, operation of the proposed CEPC system will not increase the solids loading to the existing Avon ATAD system (which will be base loaded with primary sludge).

Operation of the proposed CEPC system will reduce the release of odor compounds from the ATAD reactors and reduce hydrogen sulfide corrosion. Implementing CEPC would reduce odor and corrosion potential in the primary clarifiers, ATAD reactors, and biosolids dewatering building.

The Avon WWTP has a number of odor control systems which have proven capability to treat exhaust air odors effectively. The proposed CEPC system will reduce odor generation in the primary clarifiers, ATAD reactors, and biosolids dewatering building whenever the CEPC chemical metering system is operating. The existing odor control systems are expected to achieve equal or better performance after implementing CEPC than previously.

The proposed CEPC system will maximize TSS and BOD5 capture efficiency in the primary clarifiers which will significantly reduce the organic and solids loading on the existing activated sludge treatment process. The reduced loading applied to the secondary treatment process will effectively increase nitrification capacity in the existing activated sludge process by maintaining a sufficient operating SRT to maintain the nitrifying biomass.

The existing Avon WWTP has sufficient process equipment capacity to thicken WAS and dewater biosolids that will be produced by the Avon ATAD reactors. The recently upgraded Edwards WWTP has sufficient ATAD reactor capacity and thickening and dewatering capacity to accept all of the anticipated waste solids from the Vail and Avon WWTPs.

Operation of the proposed CEPC system at the recommended  $\text{FeCl}_3$  dose would require less than 6 truck loads of  $\text{FeCl}_3$  chemical per year, even if operated continuously. The minimal number of chemical truck deliveries will have no appreciable effect on noise at the Avon WWTP or on traffic through the Town.

Based on the evaluation of the benefits and potential impacts of the proposed CEPC system, approval of the Avon WWTP 1041 Permit Application is recommended.

## ACRONYMS AND ABBREVIATIONS

ATAD	Autothermal Thermophilic Aerobic Digestion
BCF	Biosolids Composting Facility
BOD <sub>5</sub>	Biological oxygen demand at standard five day test conditions
CDPHE	Colorado Department of Public Health and Environment
CDPS	Colorado Discharge Permit System
CEPC	Chemically Enhanced Primary Clarification
DO	dissolved oxygen
ERWSD	Eagle River Water and Sanitation District
GBT	gravity belt thickeners
gpd	gallons per day
IBC	International Building Code
IMLR	internal mixed-liquor recirculation
mgd	million gallons per day
mg/L	milligrams per liter
MLE	Modified Ludzack-Ettinger process
NWCCOG	Northwest Colorado Council of Governments
ORP	oxidation-reduction potential
ppd	pounds per day
RDT	rotary drum thickener
SCADA	supervisory control and data acquisition
SRT	solids residence time
TDS	total dissolved solids
TIN	total inorganic nitrogen
TSS	total suspended solids
UV	ultraviolet
WAS	waste activated sludge
WWTP	wastewater treatment plant

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**TOWN OF AVON, COLORADO  
ORDINANCE 12-06  
SERIES OF 2012**

**AN ORDINANCE APPROVING A PERMIT FOR AREAS AND ACTIVITIES OF  
STATE AND LOCAL INTEREST (1041 PERMIT) FOR THE EAGLE RIVER WATER  
AND SANITATION DISTRICT FOR AN EXPANSION OF THE AVON WASTEWATER  
TREATMENT PLANT**

**WHEREAS**, the Town of Avon (“Town”) is a home rule authority municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law; and

**WHEREAS**, Chapter 7.40 of the Avon Municipal Code authorizes the Town to review permit requests for areas and activities of state and local interest (1041 Permits); and

**WHEREAS**, Eagle River Water and Sanitation District (“the Owner”) has submitted an application for a 1041 Permit to expand the Avon Wastewater Treatment Plant; and

**WHEREAS**, pursuant to Section 7.40.660, *Approval of permit application*, Avon Municipal Code, the Town Council has considered the applicable review criteria; and

**WHEREAS**, the Town Council held public hearings on May 22, 2012 and June 12, 2012 after posting notice of such hearing in accordance with the requirements of Section 7.40.250, *Public notice requirements*, Avon Municipal Code, and considered all comments provided before taking action; and

**WHEREAS**, it is the Town Council’s opinion that the health, safety and welfare of the citizens of the Town of Avon would be enhanced and promoted by the adoption of this ordinance; and

**WHEREAS**, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply with the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on first reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this ordinance;

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO**, the following:

**Section 1**     **Recitals Incorporated.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.



**Section 2**      **Approval of a 1041 Permit.** The 1041 Permit for the expansion of the Avon Wastewater Treatment Plant as outlined in the Staff Memorandum dated May 22, 2012 is hereby approved with the following conditions:

1. In addition to its use during peak seasonal periods as determined by the Eagle River Water and Sanitation District, the Chemically Enhanced Primary Clarification system will also be operated as a rapid response to odor incidents at the Avon Wastewater Treatment Plant.

**Section 3**      **Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 4**      **Effective Date.** This Ordinance shall take effect thirty days after final adoption in accordance with Section 6.4 of the Avon Home Rule Charter.

**Section 5**      **Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 6**      **No Existing Violation Affected.** Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

**Section 7. Publication by Posting.** The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the Town and posting at the office of the Town Clerk, which notice shall contain a statement that a copy of the ordinance in full is available for public inspection in the office of the Town Clerk during normal business hours.

**INTRODUCED, APPROVED, PASSED ON FIRST READING, ORDERED POSTED AND REFERRED TO PUBLIC HEARING** and setting such public hearing for 5:30 on **June 12, 2012** at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado, on May 22, 2012.

\_\_\_\_\_  
Rich Carroll, Mayor

Published by posting in at least three public places in Town and posting at the office of the Town Clerk at least seven days prior to final action by the Town Council.

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Patty McKenny, Town Clerk

\_\_\_\_\_  
Eric Heil, Town Attorney

**INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING** on June 12, 2012.

\_\_\_\_\_  
Rich Carroll, Mayor

Published by posting by title in at least three public places in Town and posting by title at the office of the Town Clerk.

ATTEST:

\_\_\_\_\_  
Patty McKenny, Town Clerk

To Honorable Mayor and Town Council  
From Jared Barnes, Planner I  
Thru Patty McKenny, Acting Town Manager  
Eric Heil, Town Attorney

Date May 17, 2012

Re Gandorf PUD Amendment Regarding Deed Restricted Housing and Construction of a Paved Path



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### Summary

Gandorf Tract B LLC, the Owner and Applicant, is requesting a Planned Unit Development (PUD) amendment to remove the requirements for one Deed Restricted Housing Unit and the construction of a paved path on Tract B, Block 1, Wildridge Subdivision (the Property). The amendment request is in response to conditions of approval placed on the Property during the Gandorf PUD Amendment approval in 2009. The application is being processed as a Minor Amendment to a Final PUD.

Attached to this memo are Ordinance No. 09-14 (**Attachment A**), Letter of Request from Sean Reynolds, Gandorf Tract B LLC (**Attachment B**), and Draft Ordinance No. 12-07 (**Attachment C**).

### Process

The PUD request is being processed as an Amendment to a Final PUD. Section 7.16.060(h), *Amendments to a Final PUD*, Avon Municipal Code (AMC) refers to §7.16.020(g), *Minor Amendment*, for determining when a proposed amendment may be treated as a "minor" amendment and processed administratively. The Director has determined that the requested modifications to the PUD do not result in an increase in density or a change in the housing mix, and therefore the Minor Amendment process is applicable. However, the provisions of the Minor Amendment section also allow the Director to refer an application to the decision-making body responsible for the original approval if the Director determines that the amendment may result in a material change to the approved development application. The requested removal of one deed restricted housing unit is a material change to the approved Gandorf PUD; therefore, the Gandorf PUD Amendment application is referred to the Town Council for review. A PUD Amendment requires that all property owners within three-hundred feet (300') be noticed of the request via a mailing. The mailing was completed on May 4<sup>th</sup>, 2012 by Town Staff.

### Background

In November, 2009, the Town Council approved Ordinance 09-14 (**Attachment A**) approving a PUD amendment for the Property. The PUD amendment included modifying the previous zoning of Light Commercial use with four (4) accessory apartment units to four (4) dwelling units. Also included in the PUD amendment were the following conditions of approval:

1. Tract B shall be limited to four dwelling units in the format of two duplex structures developed in a townhouse configuration;
2. Two of the dwelling units shall be limited to a maximum residential floor area of 1,500 sq. ft. and the other two dwelling units shall be limited to a maximum residential floor area of 1,900 sq. ft. Garage area is excluded from this calculation;
3. Building height on the easternmost duplex shall be limited to 33' and 27' on the westernmost duplex;
4. Site coverage shall be limited to 25% of the total site area;
5. Landscape area shall have a minimum area of 40% of the total site area;
6. A six foot wide pedestrian access easement as depicted on the plan and a paved path shall be provided from the edge of pavement on Old Trail Road to the park parcel to the south;
7. An easement as depicted on the plan shall be provided for future community mailboxes; and,
8. The applicant agrees to offer one dwelling unit on the site for sale to full-time residents of the Town of Avon. This one unit will be offered for sale with a deed restriction ("Deed Restriction") restricting its occupancy and resale to full-time residents of the Town of Avon in the form attached to this ordinance as **Exhibit B: Form of Deed Restriction**. The Owner of the Tract B, Block 1,

Wildridge Subdivision, Avon, Colorado, shall execute and record the Deed Restriction as a condition of approval of the Gandorf PUD. The imposition of the Deed Restriction shall be required as a condition of issuance of a certificate of occupancy or temporary certificate of occupancy for the earlier of the third dwelling unit or second duplex structure.

#### **Previous PUD Review Criteria**

At the time of the PUD approval, the governing code was Title 17, specifically Chapter 17.20.110, *Planned Unit Development*. Subsection (h), *Design Criteria*, AMC, contained some of the PUD review criteria. The final criteria (12) stated: "That the PUD or amendment to PUD requested provides evidence of substantial compliance with the public purpose provisions of the Zoning Code as specified in Section 17.28.085." The section reference helped further define "public purposes" by using the following three (3) criteria.

1. The application demonstrates a public purpose which the current entitlements cannot achieve.
2. Approval of the zoning application provide long-term economic, cultural or social community benefits that are equal to or greater than potential adverse impacts as a result of the changed zoning rights.
3. The flexibility afforded in approval of the zoning application will result in better siting of the development, preserving valued environmental and cultural resources and increasing the amount of public benefit consistent with the community master plan documents.

As is evidenced throughout each of these separate code sections, the PUD approval requirements used the terms "public purpose" and "public benefit" to continually state that a PUD was intended to allow for greater flexibility in zoning in exchange for a tangible public benefit that could not be achieved through the current zoning. As listed below, the review criteria for reviewing PUD and PUD amendment requests have changed. Eligibility Criteria #5 requires that a public benefit be provided by the application. While the language has been modified from the previous zoning code, the intent of the criteria remains the same.

#### **Current PUD Review Criteria**

Pursuant to Section 7.16.060(e)(4), *Review Criteria*, AMC, the PZC and Town Council shall use the following review criteria as the basis for recommendations and decisions on applications to establish a new PUD or amend an existing PUD:

- (i) The PUD addresses a unique situation, confers a substantial benefit to the Town, and/or incorporates creative site design such that it achieves the purposes of this Development Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments.
- (ii) The PUD rezoning will promote the public health, safety, and general welfare;
- (iii) The PUD rezoning is consistent with the Avon Comprehensive Plan, the purposes of this Development Code, and the eligibility criteria outlined in §7.16.060(b);
- (iv) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- (v) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (vi) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and
- (vii) Future uses on the subject tract will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject tract.

Subsection (iii) above refers to §7.16.060(b), *Eligibility Criteria*, which is included below:

- (1) **Property Eligible.** All properties within the Town of Avon are eligible to apply for PUD approval.

- (2) **Consistency with Comprehensive Plan.** The proposed development shall be consistent with the Avon Comprehensive Plan.
- (3) **Consistent with PUD Intent.** The proposed development shall be consistent with the intent and spirit of the PUD purpose statement in §7.16.060(a).
- (4) **Compatibility with Existing Uses.** The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the Development Code or planned for in the Avon Comprehensive Plan.
- (5) **Public Benefit.** A recognizable and material benefit will be realized by both the future residents and the Town as a whole through the establishment of a PUD, where such benefit would otherwise be infeasible or unlikely.
- (6) **Preservation of Site Features.** Long-term conservation of natural, historical, architectural, or other significant features or open space will be achieved, where such features would otherwise be destroyed or degraded by development as permitted by the underlying zoning district.
- (7) **Sufficient Land Area for Proposed Uses.** Sufficient land area has been provided to comply with all applicable regulations of the Development Code, to adequately serve the needs of all permitted uses in the PUD projects, and to ensure compatibility between uses and the surrounding neighborhood.

### **PUD Approval**

During the PUD amendment application in 2009, the Applicant proposed public benefits including: a sidewalk easement and accompanying sidewalk; a mailbox easement; reduced building heights; reduced site coverage; increased minimum landscaping; and limitations of unit sizes. Some of the proposed benefits were limitations on development of the property that fit within the anticipated development plan, while others were encumbrances placed on the property for the community.

During the PUD amendment review, the PZC discussed a potential deed restriction and ultimately recommended approval of the PUD Amendment with a condition that one dwelling unit on-site is offered for sale to Eagle County Residents or Employees for a 90-day period after the final design approval. The condition further discussed that the restriction would carry no income restrictions or appreciation caps, and if there were no purchasers within the 90-day period the restriction would be lifted. The PZC recommendation of approval also included the other proposed benefits as previously discussed.

This recommendation was presented to Town Council, who also discussed the deed restriction and how the Town could keep at least one unit available for locals. The Council felt that the time period was an ineffective way to implement the deed restriction as that would allow the developer to hold off a sale for 91-days after final design approval. In either review, little discussion occurred on the proposed sidewalk easement and accompanying sidewalk construction. The Town Council ultimately approved Ordinance 09-14 (**Attachment A**) with an occupancy-only deed restriction (**Exhibit B to Attachment A**). The additional proposed public benefits were included in the approval as well.

### **Proposed PUD Amendment**

The proposed PUD Amendment requests two reliefs from Ordinance 09-14: (1) Lift the deed restriction clause from the Property; and, (2) Lift the requirement to construct the sidewalk. The Applicant is not proposing any alternative benefit for either request and has provided a letter (**Attachment B**) overviewing their request.

The applicant has successfully complied with conditions 1-5, as outlined previously in this report, by receiving design approval of a development plan on May, 4<sup>th</sup> 2010. Condition #7 was completed during the subdivision process. The recorded plat depicts a ten foot (10') wide by twenty-eight foot (28') long "community mailbox easement" that is dedicated to the Town. Condition #6 was partially completed during the subdivision process, by platting a "six foot (6') wide pedestrian & access easement", which was also dedicated to the Town. The remaining portion of this condition has not been completed and the Applicant is requesting relief of the requirement. Condition #8 is another non-completed item that the Applicant is also requesting relief from.

Council should note that the criteria for review PUDs and PUD Amendments has changed with the adoption of the Avon Development Code in November of 2010, as stated above in this report and restated below:

- (i) The PUD addresses a unique situation, confers a substantial benefit to the Town, and/or incorporates creative site design such that it achieves the purposes of this Development Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments.
- (ii) The PUD rezoning will promote the public health, safety, and general welfare;
- (iii) The PUD rezoning is consistent with the Avon Comprehensive Plan, the purposes of this Development Code, and the eligibility criteria outlined in §7.16.060(b);
- (iv) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- (v) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (vi) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and
- (vii) Future uses on the subject tract will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject tract.

Staff has provided the Town Council with an Ordinance (**Attachment C**) approving the PUD amendment if the Council has determined the requested modifications meet the Review Criteria. Due to the impact of this decision on the overarching policy implications with deed restricted housing and public benefits, Staff is seeking Council's direction. Staff would prefer input from the Town Council on their views of these issues and provide direction that will assist Staff in informing applicants of potential public benefits on future applications.

#### **Recommendations**

If the Town Council is satisfied with the PUD Amendment request, they should approve the first reading of Ordinance No: 12-07 and schedule a second reading for June 12, 2012. If the Town Council is not satisfied with the PUD Amendment request, then they should move to deny the Gandorf PUD Minor Amendment

#### **Town Manager Comments:**



#### **Attachments**

- A. *Approved Council Ordinance No. 09-14, Approving the Planned Unit Development (PUD) Application for the Gandorf PUD, Tract B, Block 1, Wildridge Subdivision*
- B. *Letter from Sean Reynolds outlining the requested PUD Amendment*
- C. *Draft Council Ordinance No. 12-07*

**TOWN OF AVON, COLORADO  
ORDINANCE NO. 09-14  
SERIES of 2009**

**AN ORDINANCE APPROVING THE PLANNED UNIT DEVELOPMENT (PUD)  
APPLICATION FOR THE GANDORF PUD, TRACT B, BLOCK 1, WILDRIDGE  
SUBDIVISION, TOWN OF AVON, EAGLE COUNTY, COLORADO, AND SETTING  
FORTH DETAILS IN REGARD THERETO**

**WHEREAS**, Dominic Mauriello of Mauriello Planning Group, representing the owner of Tract B, Block 1, Wildridge Subdivision, has applied for a Planned Unit Development (“PUD”) Amendment, pursuant to Section 17.20.110 of the Avon Municipal Code;

**WHEREAS**, pursuant to the notice required by law, the Planning & Zoning Commission of the Town of Avon held public hearings on August 4<sup>th</sup> and September 1<sup>st</sup>, 2009, at which time the applicant, the Planning and Zoning Commission, and the public were given an opportunity to express their opinions and present certain information regarding the proposed PUD Amendment application;

**WHEREAS**, the Planning & Zoning Commission forwarded a recommendation of conditional approval of the PUD Amendment Application to the Town Council through Resolution 09-13;

**WHEREAS**, the Town Council has considered and found this application is substantial compliance with the criteria in Title 17.20.110(h) of the Avon Municipal Code,, or has determined that not all design criteria may be applicable.

**WHEREAS**, Ordinance 09-14 approves and incorporates by reference the PUD Development Plan attached hereto as **Exhibit A: Gandorf PUD Development Plan**; and;

**WHEREAS**, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply with state law and the AMC by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on first reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies the proposed zoning.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COUNTY OF EAGLE, STATE OF COLORADO**, the following:

**Section 1. Planned Unit Development Amendment.** The Gandorf PUD Amendment application for Tract B, Block 1, Wildridge Subdivision is hereby approved subject to the following conditions:

1. Tract B shall be limited to four dwelling units in the format of two duplex structures developed in a townhouse configuration;

2. Two of the dwelling units shall be limited to a maximum residential floor area of 1,500 sq. ft. and the other two dwelling units shall be limited to a maximum residential floor area of 1,900 sq. ft. Garage area is excluded from this calculation;
3. Building height on the easternmost duplex shall be limited to 33' and 27' on the westernmost duplex;
4. Site coverage shall be limited to 25% of the total site area;
5. Landscape area shall have a minimum area of 40% of the total site area;
6. A six foot wide pedestrian access easement as depicted on the plan and a paved path shall be provided from the edge of pavement on Old Trail Road to the park parcel to the south;
7. An easement as depicted on the plan shall be provided for future community mailboxes; and,
8. The applicant agrees to offer one dwelling unit on the site for sale to full-time residents of the Town of Avon . This one unit will be offered for sale with a deed restriction (“Deed Restriction”) restricting its occupancy and resale to full-time residents of the Town of Avon in the form attached to this ordinance as **Exhibit B: Form of Deed Restriction**. The Owner of the Tract B, Block 1, Wildridge Subdivision, Avon, Colorado, shall execute and record the Deed Restriction as a condition of approval of the Gandorf PUD. The imposition of the Deed Restriction shall be required as a condition of issuance of a certificate of occupancy or temporary certificate of occupancy for the earlier of the third dwelling unit or second duplex structure.

**Section 2. Vested Property Rights.** The approval of the Gandorf PUD Amendment application shall not create any vested property rights because the Gandorf PUD does not include a development agreement and therefore does not meet the definition of a *site specific development plan* as set forth in AMC Section 17.14.020.

**Section 3. Correction of Errors.** Town Staff is authorized to correct any typographical, grammatical, cross-reference, or other errors which may be discovered in any documents associated with this Ordinance and documents approved by this Ordinance provided that such corrections do not change the substantive terms and provisions of such documents.

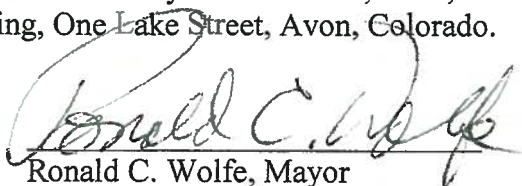
**Section 4. Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.



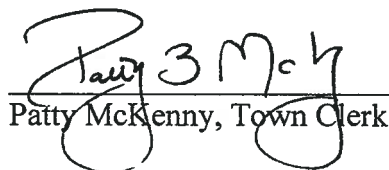
[signature page follows]

**INTRODUCED, APPROVED, PASSED ON FIRST READING AND ORDERED POSTED:** the 13<sup>th</sup> day of October, 2009, and a public hearing on this ordinance shall be held at the regular meeting of the Town Council on the 10<sup>th</sup> day of November, 2009, at 5:30 P.M. in the Council Chambers, Avon Municipal Building, One Lake Street, Avon, Colorado.



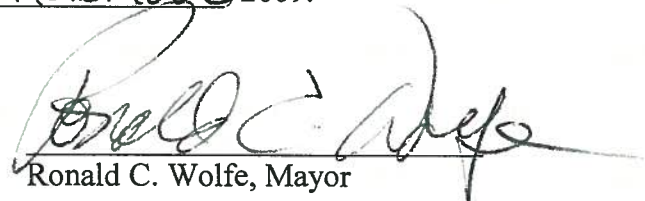
  
Ronald C. Wolfe, Mayor

**ATTEST:**

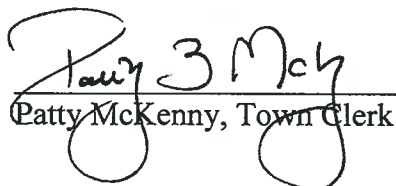
  
Patty McKenny, Town Clerk

**INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED POSTED:** the 24<sup>th</sup> day of November 2009.



  
Ronald C. Wolfe, Mayor

**ATTEST:**

  
Patty McKenny, Town Clerk

**APPROVED AS TO FORM:**

  
Eric Heil, Town Attorney

**TOWN OF AVON  
FULL TIME RESIDENT HOUSING DEED RESTRICTION  
NON-PRICE CAPPED**

THIS DEED RESTRICTION ("Deed Restriction") is made and executed this \_\_\_\_\_ day of \_\_\_\_\_, 2009 by \_\_\_\_\_ ("Owner"), whose address is \_\_\_\_\_, for the benefit of the Town of Avon, a Colorado home rule municipality ("Town").

**WHEREAS**, as a condition of a planned unit development amendment application submitted by \_\_\_\_\_ in \_\_\_\_\_ 2009 to change the use of Tract B, Wildridge PUD, ("Property") to allow two duplex lots for a total of four residential units (two duplexes) the Town Council of the Town of Avon required that one residential unit be subject to and encumbered by a Full-Time Resident Housing Deed Restriction and which Property shall be burdened and restricted by covenants which limit the ownership and use of the residential unit to full-time residents of the Town of Avon, in accordance with the terms set forth in this Deed Restriction.

**NOW, THEREFORE**, for value received, the Owner does hereby declare and impose the following covenants on the real Property described below, which covenants shall burden and run with the Property in perpetuity for the benefit of the Town until modified or released by the Town.

**COVENANTS**

**1. Property.** The parcel of real estate described as \_\_\_\_\_, according to the plat thereof recorded at \_\_\_\_\_ in the office of the Eagle County Clerk and Recorder, Colorado ("Property") is hereby burdened with the covenants set forth in this Deed Restriction.

**2. Definitions.** The following definitions shall apply to terms used in the Deed Restriction:

**a. Full-Time Resident** shall mean a natural person who holds title to the Property and uses the Property as the primary residence of such person and which primary residence status shall be determined by the Town which may consider the rules for determining residence for voter registration purposes in the State of Colorado as set forth in Colorado Revised Statutes §1-2-102, and which primary residence status may be evidenced by voter registration, driver's license registration, motor vehicle registration, utility bills, federal and state tax returns, business pursuits, location of employment, residence of children and spouses, situs of personal property, existence of other residences and the amount of time spent at each residence, and other information which the Town deems is relevant to the determination of primary residence.

**b. Non-Qualified Owner** shall mean any person who does not meet the definition of Qualified Owner including persons who originally qualified as a Qualified Owner but whose circumstances change and who no longer meet the definition of Qualified Owner.

c. **Owner** shall mean the Owner of the Property and may include either a Qualified Owner or Non-Qualified Owner, as the context requires.

d. **Part-Time Resident** shall mean a natural person who does not meet the definition of Full Time Resident.

e. **Qualified Owner** shall mean a natural person who is a Full-Time Resident of the Town that possesses an ownership interest in the Property in compliance with the terms and provisions of this Deed Restriction and whose qualifications to own the Property have been certified by the Town at the time the Owner takes title to the Property, or shall mean the Town of Avon, Colorado or its designee.

f. **Second Home** shall mean the status of the Property when used by any person who has a primary residence that is other than the Property.

g. **Short Term Rental** shall mean the rental or lease of the Property for a period of time that is less than thirty (30) days.

3. **Use of the Property.** The use of the Property shall be limited to occupancy by a Qualified Owner, immediate family members of a Qualified Owner, lessees and temporary invitees who do not provide compensation for temporary residence at the Property. A Qualified Owner may rent or lease rooms in the Property or may rent all of the Property to a natural person or persons who meet the definition of Full-Time Resident(s) and is a Qualified Lessee for periods of thirty (30) days or longer. Occupancy of the Property by a Part-Time Resident shall not be allowed and is prohibited. Use of the Property as a Second Home or for Short Term Rental shall not be allowed and is prohibited. Any use of the Property which is not allowed or is prohibited by this Deed Restriction shall constitute a default and shall be subject to the enforcement provisions and remedies contained herein.

4. **Re-Sale Controls.** The Property may not be sold or otherwise transferred to any person other than a Qualified Owner in accordance with the procedures for prior verification contained in this Paragraph 4.

a. Owner shall deliver to the Town a written notice of intent to sell the Property which notice shall include the name(s) of the buyer(s) and all information required to determine whether the buyer(s) is a Full-Time Resident and would meet the definition of Qualified Owner.

b. Buyer(s) shall submit an administrative fee in the amount of ONE HUNDRED AND FIFTY DOLLARS (\$150.00) to the Town to pay for the cost of reviewing and rendering a determination as to whether a prospective Buyer(s) meets the definition of Full-Time Resident and would meet the definition of Qualified Owner.

c. Once the Town has received complete information concerning the prospective Buyers(s) and has received the administrative fee, the Town shall review the information and make

a written determination as to whether the buyer(s) meets the definition of Full-Time Resident or Qualified Owner within a reasonable time and not to exceed thirty (30) days.

- d. The Town may require the Buyer to reimburse the Town for any additional costs that are incurred in the review and determination of whether a buyer(s) meets the definition of Full-Time Resident and would meet the definition of Qualified Owner, including but not limited to legal costs, title review costs, and investigation costs.
- e. The Owner may sell and convey the Property to the Buyer(s) that is determined in writing by the Town to be a Full-Time Resident and will be a Qualified Owner.

**5. Default by Owner.** A default by Owner shall include breach of the covenants set forth in this Deed Restriction, including without limitation any of the following:

- a. Transfer or conveyance of the Property to a person or entity that is not a Qualified Owner.
- b. Acceptance of the Property by a person or entity that is not a Qualified Owner.
- c. Transfer or conveyance of the Property to a person who is a Qualified Owner prior to obtaining certification from the Town that such person is a Qualified Owner.
- d. Lease of the Property to a person or entity that is not a Full Time Resident.
- e. Lease of the Property to person who is a Full Time Resident prior to obtaining certification from the Town that such person is a Full Time Resident and Qualified Lessee.
- f. Failure to make payments and comply with the terms of any deed of trust placed on the Property.
- g. Executing a deed of trust, lien or other encumbrance which encumbers the Property with an indebtedness or obligation that exceeds eighty-five (85%) of the loan to value ratio of the Property at the time of executing such deed of trust, lien or other encumbrance.
- h. Any action by the Owner to encumber the Property in a manner that conflicts with the terms of this Deed Restriction or renders compliance with the terms of this Deed Restriction impossible or impractical.

**6. Notice and Cure.** In the event a violation of this Deed Restriction is discovered, the Town shall send a written notice of default to the Owner detailing the nature of the default and providing sixty five (65) days for the Owner to cure such default. The notice shall state that the Owner may request in writing a hearing before the Town Council of the Town which may be held no sooner than ten (10) days after the date of mailing the notice of default. If no hearing is requested in writing and the violation is not cured within sixty-five (65) days of mailing the notice of default, the Owner shall be deemed to be violation of this Deed Restriction. If a

hearing is held, the decision of the Town Council of the Town shall be final for the purpose of determining if a violation has occurred. In the event of any lease to a Part-Time Resident or use of the Property as a Short Term Rental, any amounts collected or receipt of other things of value by the Owner or assigns under such leases shall be paid to the Town as a material requirement of curing the notice of default.

**7. Remedies.** In the event of non-performance, default or breach of any term of this Deed Restriction, either party shall have the right to enforce the other party's obligations herein by an action for any equitable remedy, including injunction or specific performance, as well as pursue an action to recover damages. In addition, any amount due and owing to the Town shall bear interest at the rate of one percent (1%) per month, compounded monthly, until paid in full. The Town shall be entitled to recover any costs related to enforcement of this Deed Restriction, including but not limited attorney's fees, court filing costs and county recording costs. In addition to any other remedy provided by law or equity, the Town may attach a lien for any amount due to the Town upon the Property and enforce the lien as a general mechanic's lien in the manner and according to the procedures set forth in Colorado Revised Statutes, Title 38, Article 22, and the Owner expressly waives any objection to the attachment of a lien or enforcement as a general mechanic's lien for amounts due to the Town. In the event of a transfer or conveyance of the Property which violates the terms of this Deed Restrictions and constitutes a default, both the grantor and grantee shall be jointly and severally liable for any damages and costs due under this Deed Restriction.

**8. Liquidated Damages.** The parties acknowledge and agree that in the event of a default by the Owner, the determination of actual monetary damages would be difficult to ascertain. Therefore, the Town and Owner hereby agree that liquidated damages shall be calculated and applied in the amount of THREE HUNDRED DOLLARS (\$300.00) per day for each day that the Owner is in default of this Deed Restriction and has failed to cure the default. Liquidated damages shall be in addition to the Town's ability to recover costs as stated in Paragraph 8 above. Liquidated damages shall be in addition to the Town's right to seek equitable remedies of injunction and/or specific performance. In the event of any lease to a Part-Time Resident or use of the Property as a Short Term Rental, any amounts collected or receipt of other things of value by the Owner or assigns under such leases shall be paid to the Town as additional liquated damages above and in addition to the amounts specified above.

**9. Release of Deed Restriction in Event of Foreclosure or Deed in Lieu.** In the event of foreclosure or acceptance of a deed in lieu of foreclosure by the holder of a deed of trust this Deed Restriction shall be automatically and permanently released and terminated and shall be of no further force and effect if, and only if, the conditions in this Paragraph 10 are satisfied. In the event of release and termination of the Deed Restriction, the Town, or its authorized successor, shall cause to be recorded in the records of the Clerk and Recorder for Eagle County, Colorado, a full and complete release of this Deed Restriction.

The conditions which must be satisfied prior to the release and termination of the deed restriction shall be as follows:

- a. The deed of trust, lien or other encumbrance against the Property must have previously been recorded in the Clerk and Recorder's Office of Eagle County, Colorado.

**and,**

- b. The holder of the deed of trust, lien or other encumbrance has given to the Town notice of Owner's default of the deed of trust or lien, which includes:
  - i. The legal description and physical address of the Property;
  - ii. The Owner's name;
  - iii. The name, mailing address, e-mail address, phone number and contact person of the holder of the deed of trust or lien;
  - iv. A copy of the recorded deed of trust, lien or other instrument creating an encumbrance on the Property; and,
  - v. Copies of any and all notices of default, notice of foreclosure or correspondence between the holder of the deed of trust or lien and the Owner.

**and,**

- c. The deed of trust, lien or other encumbrance placed on the Property did not exceed eighty-five percent (85%) of the loan to value ratio of the Property when considered with all existing deeds of trust, liens or other encumbrances at the time of recording such document.

**and,**

- d. The Option Period as set forth in Paragraph 11 below has expired without exercise of the Option to Purchase by the Town or assigns;

**or,**

- e. The Town has exercised the Option to Purchase but failed to close or perform under the Option to Purchase.

**10. Option to Purchase.** In the event of default by the Owner which is not cured, or upon receipt of a notice of foreclosure or other notice of default provided by the holder of a deed of trust or other encumbrance as provided in Paragraph 10 above (whichever is earlier), the Town shall have the option to purchase ("**Option to Purchase**") the Property in accordance with the procedures and terms set forth in this Paragraph 11 as follows:

- a. The Town shall have an Option to Purchase for sixty-five (65) days ("**Option Period**").

- b. The Town shall have right of entry onto and into the Property during the Option Period to inspect the Property.
- c. The Town shall have the right to purchase the Property for the amount due to the holders of any deeds of trust, liens or other encumbrances up to the maximum amount defined in Paragraph 6.g. above, which amounts shall be paid in order of priority of the holders of such deeds of trusts, liens or other encumbrances provided that this Deed Restriction shall remain in effect and burden the Property after acquisition by the Town and upon re-conveyance to a subsequent Qualified Owner.
- d. The Town shall have the right to assign the Town's right to purchase the Property to any Qualified Owner provided that this Deed Restriction shall remain in effect and burden the Property.
- e. Upon payment by Town or assigns, Owner shall convey title to the Property by a special warranty deed in accordance with Colorado Revised Statute §38-30-115 and shall include the words, "and warrant title against all persons claiming under me."
- f. Normal and customary closing costs shall be shared equally between the Owner and Town or Town's assigns. The Town or assigns shall be responsible, at its cost, for any and all title insurance fees, document fees, and recording fees of the deed. Taxes shall be prorated based upon taxes for the calendar year immediately preceding closing.
- g. If the Town or assigns do not exercise the Option to Purchase during the Option Period, then the holder of a deed of trust shall be entitled to a release and termination of this Deed of Trust in accordance with Paragraph 10 above. In the event that Town's Option to Purchase arises from a default by Owner and not a notice of foreclosure or notice of default submitted by the holder of a deed of trust to the Town, then the Town may unilaterally extend the Option Period until such time as Town, or assigns, exercise the Option to Purchase or the Owner cures any and all defaults.

**11. Tax Sale.** In the event of a tax sale this Deed Restriction shall remain in full force and effect, shall run with and burden the land, and shall constitute a condition of the subdivision and land use approval which shall survive and sale of the Property through a tax lien sale process.

**12. General Provisions.**

- a. **Severability.** If any term, provision, covenant or condition of this Deed Restriction is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Deed Restriction shall continue and remain in full force and effect.
- b. **Counting Days.** If the final day of any notice, default or other event falls on a Saturday, Sunday or legal holiday recognized by the State of Colorado, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

- c. **Waiver.** No waiver of one or more of the terms or provisions of this Deed Restriction shall be effective unless provided in writing. No waiver of any term or provision of this Deed Restriction in any instance shall constitute a waiver of such provision in any other instance. The Town Council may provide a waiver along with any conditions of the waiver with regard to any of the terms and provisions in this Deed Restriction where unusual or unforeseen circumstances exist and the Owner is diligently seeking to cure a default and such waiver, with conditions if any, supports the purpose and intention of this Deed Restriction.
- d. **Amendment.** This Deed Restriction may only be amended in writing by the mutual agreement of the Owner and the Town and recorded with the Clerk and Recorder's Office of Eagle County, Colorado.
- e. **Recording.** The Owner shall record this Deed Restriction in the Property Records of Eagle County, Colorado and the original executed and record documents must be returned to the Town.
- f. **Assignment.** The Town may assign this Deed Restriction and all rights and obligations, without consent of the Owner, to any other public entity, non-profit corporation or other entity which is organized and exists for the purpose to provide and promote affordable housing for full time residents.
- g. **No Third Party Beneficiaries.** Nothing contained in this Deed Restriction is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party.
- h. **Choice of Law.** This Deed Restriction shall be governed and construed in accordance with the laws of the State of Colorado. Venue for any legal action arising from this Deed Restriction shall be in Eagle County, Colorado.
- i. **Successors.** Except as otherwise provided herein, the provisions and covenanted contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties. The covenants shall be a burden upon and run with the Property for the benefit of the Town or the Town's assigns, who may enforce the covenants and compel compliance therewith through the initiation of judicial proceedings for, but not limited to, specific performance, injunctive relief, reversion, eviction and damages.
- j. **Section Headings.** Paragraph or section headings within this Deed Restriction are inserted solely for convenience of reference and are not intended to and shall not govern, limit or aid in the construction of any terms or provisions contained herein.
- k. **Gender and Number.** Whenever the context so requires in this Deed Restriction, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.



- I. **Notice.** Any notice, consent or approval, which is required to be given hereunder, shall be given by either depositing in the U.S. Mail with first class postage pre-paid; mailing by certified mail with return receipt requested; sending by overnight delivery with a nationally recognized courier service that delivers to the physical address of the intended recipient; or, by hand-delivering to the intended recipient. Notices shall be provided to the Town of Avon at P.O. Box 975, One Lake Street, Avon, CO 81620. Notices shall be provided to Owner at the address provided by the Eagle County Assessor's office or may be hand-delivered to any occupant at the Property who is over eighteen (18) years of age.

*[signature page follows]*

**IN WITNESS WHEREOF**, the Owner and Town have executed this instrument on the day and the year first written above.

**OWNER:**

By: \_\_\_\_\_

[*print name*]

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

**TOWN OF AVON, CO:**

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

Attest: \_\_\_\_\_  
\_\_\_\_\_, Town Clerk

STATE OF COLORADO )  
 ) ss.  
COUNTY OF EAGLE )

Subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2009, by \_\_\_\_\_, as Mayor, and \_\_\_\_\_, as Town Clerk of the Town of Avon, a Colorado home rule municipal corporation.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

To Whom it may concern:

This letter is in regards to the Gandorf Tract B development that is being constructed at 2101 Old Trail Road. The owners of the project would like to propose a PUD amendment for the project. Initially the deed restriction was bought up in a Planning and Zoning meeting. The intentions of the board were to help "locals," or as they originally worded it "people who lived or worked in eagle county" to have the option of purchasing a property before it was available to the public. Initially the board also proposed that there would be a set amount of time that this restriction would be in place. Their goal was to not hinder the sale of the project in anyway, and in turn not encumber, not only the builders, but any person who owned this property in the future.

This restriction was modified and became a deed restriction that is permanent and has since created many tribulations. So far it has succeeded in pushing away buyers, all of which have been "locals." It has become a factor that has burdened surrounding residents who have become concerned about potential effects on their own property. Furthermore it has put a stigma on the area where there were previously no deed restricted properties.

For this PUD amendment there would be no changes to the building in anyway, everything would still be in compliance with all codes and regulations adopted by the Town of Avon. There will be no changes to the environment or any negative affects to any surrounding property. The only changes would be positives for the community. It would promote the struggling real estate market in the whole community. It would help to create a stronger community by promoting another family unit to join the community rather than promoting another empty home with either, 'for sale' signs draped all over it or a unmaintained depleting eyesore of a structure. We believe that removing this restriction will help improve the general welfare of the community. Removing this restriction will not impede the development or use of any of the surrounding properties. Conversely, promoting this deed restriction could impede future families from wanting to join this community. Because this is not anything tangible there is not a material benefit that the town or community will be able to see. Instead there are many benefits that can potentially

develop with the removal of this restriction. An unintended consequence of this deed restriction has been a public nuisance to the community which we would like to remedy.

The second part of this letter is in reference to the proposed bike path across the Gandorf property. In the PUD it is stated that the builder must install a bike path along the southeast side of the property, in order to provide easier access to the park. The builder has many concerns about this path. First it would be a public path on private land thus making the maintenance and upkeep very complicated. The legal ramifications for such a path are numerous as well. Many Town of Avon employees have expressed concerns over the proposed path. There are also concerns of an existing electrical pedestal that would create construction issues. Furthermore there are drainage concerns that the path would cause. Gandorf LLC is not asking to take the easement away, in the future the dynamics of the community could change and there could be a potential need for the path. We understand that and are willing to keep the easement. But currently this path is unnecessary and would create many problems for the owners of the property and more so for the Town of Avon. We would like the town to reconsider the installation of this path as a requirement of the PUD.

Sincerely,

Sean Reynolds

On behalf of: Gandorf Tract B LLC

**TOWN OF AVON, COLORADO  
ORDINANCE 12-07  
SERIES OF 2012**

**AN ORDINANCE APPROVING AN AMENDMENT TO THE GANDORF PUD TO  
REMOVE THE REQUIREMENT FOR DEED RESTRICTED HOUSING AND  
CONSTRUCTION OF A PEDESTRIAN PATH**

**WHEREAS**, the Town of Avon (“**Town**”) is a home rule authority municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority and privileges to which it is entitled under Colorado law; and

**WHEREAS**, the Town of Avon approved a Rezoning from PUD for the Wildridge Subdivision to PUD for Tract B, Block 1, Wildridge Subdivision, by Ordinance No. 09-14; and

**WHEREAS**, Gandorf Tract B LLC (the “**Owner**”) has submitted an application for a PUD amendment to remove a condition of approval requiring one deed restricted dwelling unit on-site and requiring construction of a pedestrian path; and

**WHEREAS**, the Town Council held public hearings on May 22, 2012 and June 12, 2012 after posting notice of such hearing in accordance with the requirements of Section 7.16.020(d), *Step 4: Notice*, Avon Municipal Code, and considered all comments provided before taking action; and

**WHEREAS**, pursuant to Section 7.16.060(h), *Amendments to a Final PUD*, and Section 7.16.060(e)(4), *Review Criteria*, Avon Municipal Code, the Town Council has considered the applicable review criteria and has determined that removal of the condition for one deed restricted dwelling unit and removal of construction of a pedestrian path will allow for sale of the residential unit on a free market basis, that the property was already approved as a PUD and therefore meets the PUD eligibility requirements, that the development and sale of free market duplex units for this property is consistent with the Avon Comprehensive Plan and compatible with the scale and future uses of other properties in the vicinity, that adequate utilities are sufficient to serve the property, and that the PUD Amendment will not result in any significant impacts to other properties in the vicinity of the tract ; and

**WHEREAS**, the Town Council finds that the health, safety and welfare of the Avon community will be enhanced and promoted by the adoption of this Ordinance; and

**WHEREAS**, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply with the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on first reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this ordinance;

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO,** the following:

**Section 1      Recitals Incorporated.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

**Section 2      Amendment to Gandorf PUD.** The Gandorf PUD Amendment application for Tract B, Block 1, Wildridge Subdivision is hereby approved as follows:

- A. The requirement for providing and on-site Deed Restricted unit, as outlined in Ordinance 09-14 condition #8, is removed; and,
- B. The requirement for construction of a paved path, as outlined in Ordinance 09-14, Condition #6, is removed.

**Section 3      Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

**Section 4      Effective Date.** This Ordinance shall take effect thirty days after final adoption in accordance with Section 6.4 of the Avon Home Rule Charter.

**Section 5      Safety Clause.** The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

**Section 6      No Existing Violation Affected.** Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered,

entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

**Section 7. Publication by Posting.** The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the Town and posting at the office of the Town Clerk, which notice shall contain a statement that a copy of the ordinance in full is available for public inspection in the office of the Town Clerk during normal business hours.

**INTRODUCED, APPROVED, PASSED ON FIRST READING, ORDERED POSTED AND REFERRED TO PUBLIC HEARING** and setting such public hearing for 5:30 on June 12, 2012 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado, on May 22, 2012.

\_\_\_\_\_  
Rich Carroll, Mayor

Published by posting in at least three public places in Town and posting at the office of the Town Clerk at least seven days prior to final action by the Town Council.

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Patty McKenny, Town Clerk

\_\_\_\_\_  
Eric Heil, Town Attorney

**INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING** on June 12, 2012.

\_\_\_\_\_  
Rich Carroll, Mayor

Published by posting by title in at least three public places in Town and posting by title at the office of the Town Clerk.

ATTEST:

\_\_\_\_\_  
Patty McKenny, Town Clerk

# Memo

**To:** Honorable Mayor and Town Council  
**Thru:** Patty McKenny, Acting Town Manager  
**Legal:** Eric Heil, Town Attorney  
**From:** Scott Wright, Finance Director  
**Date:** May 17, 2012  
**Re:** 2011 Comprehensive Annual Financial Report

Initials



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**Summary:**

Included in the Council packet is a preliminary draft of the 2011 Comprehensive Annual Financial Report (CAFR). Staff's intention is to present the CAFR on May 22 and to receive comments on the report at that time. Comments and suggestions will be incorporated into the final report for presentation by McMahan and Associates and acceptance by Council on June 12.

**Town Manager Comments:**

Attachments:  
A – 2011 Annual Comprehensive Financial Report