

**AVON PLANNING AND ZONING COMMISSION
FINDINGS OF FACT AND RECOMMENDATIONS**



**CONCERNING THE
FINAL PLANNED UNIT DEVELOPMENT AMENDMENT APPLICATION
FOR THE VILLAGE (AT AVON)**

The following findings of fact and recommendations are made in accordance with Avon Municipal Code Section 7.16.060(e)(3):

1. **Preliminary PUD Approval.** A Preliminary PUD Application was approved by the Town Council on July 10, 2012. In accordance with AMC Section 7.16.060(e)(3) the approval of the Preliminary PUD granted the applicant the right to submit a final PUD development plan.
2. **Town Staff Comments.** Town Staff provided the Applicant with comments on July 17, 2012. A letter from Eric Heil, Town Attorney, provided additional follow-up comments on Version 10 of the Amended PUD Guide. Included in Staff's comments was a redline-strikethrough of the Amended PUD Guide with comprehensive language revisions and footnoted comments. Additional comments on the Street Standards and Final Plat were provided on July 20, 2012 by Justin Hildreth, Town Engineer.
3. **Application Submitted.** A Final PUD Application (the "Application"), consisting of an Amended Planned Unit Development Guide for the Village (at Avon), Version 14 ("Amended PUD Guide"), and accompanying Memorandum, was submitted to the Community Development Department of the Town of Avon (the "Town") on July 24, 2012 by Kimberly Martin, representing the owners of the Village (at Avon) property (the "Applicant").
4. **Application Forms Submitted.** Harvey Robertson submitted the Final PUD Application (dated July 24, 2012) forms to the Town on July 30, 2012 via e-mail.
5. **Notice of Public Hearing.** On July 24, 2012, pursuant to §7.16.020(d), a notice of public hearing was published in The Vail Daily for the August 10, 2012 Planning and Zoning Commission meeting to review the Traer Creek LLC Village (at Avon) Final Planned Unit Development application. In addition to the published noticed, mailed notice was provided by Staff to all property owners within 300' of the Village (at Avon) property on July 24, 2012.
6. **Staff Report to PZC.** Matt Pielsticker submitted a Staff report to the PZC dated July 31, 2012.

7. **Public Hearing before the Planning and Zoning Commission.** On August 7, 2012 the PZC held a public hearing on the Application. The PZC continued the public hearing for three (3) additional hearings: August 13, 2012, August 21, 2012, and August 27, 2012.
8. **Mandatory Review Criteria.** Pursuant to §7.06.060(e)(4), *Review Criteria*, AMC, the PZC has considered the following criteria as the basis for a recommendation on the Final PUD to Town Council:
 - (1) *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.*
 - (2) *The PUD rezoning will promote the public health, safety, and general welfare;*
 - (3) *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);*
 - (4) *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;*
 - (5) *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;*
 - (6) *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*
 - (7) *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.*

PZC RECOMMENDATIONS:

- A. **Vested Property Rights.** The PZC recommends that Town Council **APPROVE** a 6 year extension to vested property rights based on the following specific findings and with the conditions set forth below:

Findings:

- (1) The extended vested property rights are included in the settlement term sheet which were approved by the Town Council;
- (2) The extended vested property rights make up for lost development time; and
- (3) The extended vested property rights and inclusion of the sunset clauses could create a benefit to the Town and encourage economic development.
- (4) Prior conditions of “Master Developer” provisions have been met by the Applicant in Section H.1(b) of the Amended and Restated PUD Guide, and as drafted the Master Developer control over zoning will expire concurrently with the date of the six (6) year extended vested property rights.

- B. Planning Area J.** The PZC recommends that Council *APPROVE* the change of park land on currently designated Planning Area N south to commercial and other development uses on proposed Planning Area J

Condition:

- (1) The displaced 5.8 acres of park land from N south must be detailed by the applicant and materially equal to the usability of the current site.

- C. OS-5 and OS-6.** The PZC recommends that the Council *APPROVE* the zoning modifications to OS-5 and OS-6 (now referred to as OS-9 and OS-10 respectively) as submitted.

- D. Hillside Density Increase.** The PZC recommends that the Council *APPROVE* the modifications to the PUD Master Plan, indicating more developable primary/secondary “estate” lots in Planning Area K.

Conditions:

- (1) No changes to the Primary/Secondary definition.
- (2) Primary/Secondary will be limited to Planning Area K and RMF-1 exclusively, as approved in the Settlement Term Sheet.

- E. Dedication of Planning Areas B & C.** The PZC recommends that the Council *APPROVE* the consolidation of Planning Areas B and C into one planning area. PZC recommends approval of the allowed uses, special review uses, prohibited uses, and all proposed development standards for Planning Area B.

Finding:

- (1) Parking for Planning Area B must be cooperative between this property and adjoining properties.

F. **Hotel Design Standards.** PZC recommends that Council **APPROVE** the Supplemental Hotel, Motel and Lodge requirements for Planning area J, as amended by the Applicant.

Conditions:

- (1) Section a(ii). Reinsert the following language *“Indigenous natural or earth tones such as brown, tan, grey, green, blue, or red in muted, flat colors”*
- (2) Section d(ii). Replace the word *“wall penetration by a window”* with *“architectural element.”*

G. **2011 Design Guidelines.** PZC recommends that the Council explore implementing the 2011 VAA Design Guidelines with the applicant by making ‘Exhibit E’ to the PUD Guide the 2011 VAA Design Guidelines instead of the 1998 Guidelines.

H. **Road Access to Planning Area M (Proposed I).** The PZC recommends that the Town Council **APPROVE** the map depiction of a road across the USFS property to Planning Area I.

Recommendations:

- (1) Bridge over the river to access Planning Area I is first preference.
- (2) “Lower” road across USFS property is only recommended access if bridge is not feasible. The upper road access studied by the applicant is not an option.

I. **School Site Dedication.** PZC recommends that the Council **NOT APPROVE** the proposed split school site. The PZC makes the following recommendations and findings with respect with the School Site(s):

- (1) School site needs to be at least 7.3 acres contiguous to parkland
- (2) School site should not be located within 500' of gas utility transmission lines per best planning practices
- (3) Proposed planning area E does not have adequate traffic queuing.
- (4) Installation of utilities, infrastructure and improvements should be installed in residential areas as the trigger prior to the start of development of a school
- (5) Town council needs to identify and clarify the trigger for development of the school site

- (6) Town council shall have the responsibility of determining the school use of the proposed school site
- (7) The final approved development plan shall either identify a school site complying with Eagle County School District standards or have language identifying those standards and complying with the conditions noted above; and,
- (8) The spirit of ordinance 06-17 is not being followed (same language as previously written in preliminary findings)

J. East Beaver Creek Boulevard. The PZC finds that phased construction of the road, now being referred to as “Main Street,” is acceptable and recommend that Council *APPROVE* these modifications.

Condition:

- (1) Preliminary level engineering will be provided to ensure that the each subdivision accommodates future phases including roads, pedestrian facilities, drainage and all utilities.
- (2) Pedestrian facilities are constructed with each phase that connects to existing facilities on Post Blvd and East Avon.

K. Drainage Master Plan. The PZC recommends that Council *APPROVE* the inclusion of the Johnson Drainage Plan with the following condition.

Condition:

- (1) Any revisions necessary will be made after a thorough review is completed by the Town.

L. Administrative Subdivision. The PZC finds that the proposed subdivision regulations in the proposed PUD Guide do not provide for adequate review criteria and engineering documents for a new development; therefore PZC recommends that the Council *NOT APPROVE* the revisions.

Finding:

- (1) Exceptions to the subdivision process, particularly the dedication of rights-of-way, prevent a thorough review and evaluation of the application and public improvements and that all standards and requirements in the Municipal Code and PUD are being met.
- (2) The limitation on the submittal requirements is not adequate because many of the plans, specifications and engineering reports would not have to be prepared and

submitted for all of the public improvements of the subdivision and the resulting public improvements may not be designed and constructed to current standards.

- (3) The proposed review criteria does not allow for adequate analysis of the sustainability and adequacy of the proposed subdivision, that the improvements accommodate future phasing of the development, that the utilities will have the capacity to serve the development, the owners association is established in accordance with law, adequacy of the land for the proposed subdivision, and that the subdivision is in compliance with AMC, Comprehensive Plan, or PUD.

M. DRB Powers. The PZC recommends that Council *APPROVE* revisions to the VAA Design Review Board with the following conditions:

- (1) The Town has representation on the VAA Design Review Board;
- (2) Meeting notices are consistent with Town Design Review Board and PZC procedures
- (3) VAA Design Review Board meeting are open to the public;
- (4) Section J.10.A of the PUD Guide is removed from the proposed document;
- (5) Town oversight and review procedures as stated in Section I.7 of the 1998 Annexation and Development Agreement stay in effect;
- (6) The VAA Design Review Board meet at least once a month in a public meeting;
- (7) Adequate public notice of the meeting is required;
- (8) Town Council clarify the referral process as cited in I.7.(d) of the 1998 annexation agreement;
- (9) Town Council clarify the enforcement of the VAA Design Review Board and its decisions;
- (10) All VAA Design Review Board meetings include recording and reporting processes to the Town;
- (11) The proposed design and development of a proposed gateway entrance to the Town in planning areas J and the remainder of the zoning modifications should be available for public comment and be publicly noticed; and
- (12) The citizens of Avon should be heard on the proposed development, specifically those citizens directly adjacent to and/or within close proximity to each development area.

N. Independent Design Review Board for Planning Areas K and RMF-1. The PZC recommends that Town Council *APPROVE* an additional VAA Design Review Board for Planning Area K and RMF-1 as set forth in the PUD Guide.

O. Parkland P1-P4: The PZC recommends that Town Council *APPROVE* the parkland modifications with the following specific findings and with the conditions set forth below:

Findings:

- (1) The proposed PUD Amendment provides less parks on the valley floor west of Post Boulevard than originally approved in the 1998 PUD;
- (2) Existing Nottingham Park and Proposed Planning Area B can serve as destination parks and large parks for the Town;
- (3) The proposed PUD Amendment appears to result in a net loss of a half-acre in total open space/park area;
- (4) Further defining the 5.8 acres for A, C, D, and E will help address further conflicts.

Conditions:

- (a) 5.8 acres should be moved from I, J and K to A, C, D, and E;
- (b) The definitions of Open Space and Parks need to be clarified and further defined;
- (c) The characteristics of parks as outlined in the AMC are not exempt from being applied to this PUD;
- (d) PZC questions the demand for large parks and recommends that linear or pocket parks are a more attractive option for the valley floor;
- (e) PZC accepts changing Planning Area N-south to commercial use;
- (f) Trails in-lieu of formally defined parks is recommended for Planning Area K and is consistent with Wildlife Plans.

P. Review Schedule. Given the accelerated schedule PZC was not afforded sufficient time to review the breadth of proposed changes. Accordingly, the following list includes some, but not all, of the items that were not addressed by PZC:

- (1) Special Review Use process modifications;
- (2) Dedication of Open Space Tracts OS-9 and OS-10;
- (3) 135' height for Planning Area A;
- (4) Road Access and Standards for Planning Area I;
- (5) Increased Hillside Density;
- (6) Consolidation and dedication of Planning Area B;
- (7) Narrowed E. Beaver Creek Boulevard (now "Main Street");
- (8) Administrative Subdivision Process;
- (9) Analysis of Planning Areas C, D, F, G, H, I, RMF-1 and RMF-2;
- (10) Elimination of Commercial Square footage cap;
- (11) Village Residential to Mixed Use and Retail Zoning in valley floor;
- (12) List and understanding of Municipal Code exceptions in Exhibit G;
- (13) Monument Signage;
- (14) Master Developer concept, role, rights, duties, duration and impact on PUD;
- (15) Wildlife Protection regulations and revisions; and,
- (16) Analysis of Mandatory Review Criteria from §7.16.06(e)(4).

Q. Final PUD Recommendation. The PZC is **RECOMMENDING** _____ to the Town Council on the Final PUD amendment dated 7/24/12 with the specific findings and conditions set forth below:

Findings:

(1)

Conditions:

THESE FINDINGS OF FACT AND RECOMMENDATIONS ARE HEREBY APPROVED:

BY: _____ **DATE:** _____
Chris Green,
Planning and Zoning Commission Chairperson