

**MINUTES OF THE REGULAR MEETING OF THE AVON TOWN COUNCIL
HELD OCTOBER 9, 2012**

A regular meeting of the Town of Avon, Colorado was held at the Avon Town Hall, One Lake Street, Avon, Colorado in the Council Chambers.

Mayor Carroll called the meeting to order at 5:35 PM. A roll call was taken and Council members Present were Dave Dantas, Chris Evans, Kristi Ferraro, Todd Goulding, Amy Phillips and Buz Reynolds. Also present were Town Attorney Eric Heil, Acting Town Manager Patty McKenny, Town Advisor Larry Brooks, Finance Director Scott Wright, Director PW&T Jenny Strehler, Deputy Town Clerk Catherine Mythen, Dee Wiser, Sherman and Howard as well as other staff members and the public.

APPROVAL OF AGENDA

COMMUNITY & CITIZEN INPUT

1. Eagle River Fire Protection Update (*Jennifer Cartmell-Hays, Chairman ERFPD*) Review November ballot proposal

Mayor Carroll mentioned that the town council was asked to consider the resolution of support for Eagle River Fire Protection District Ballot Question 5A at the October meeting. Michael Cassioppo commented that he was in favor of this ballot question.

2. Jake Wolf introduced himself as a candidate running for the Avon Town Council

CONSENT AGENDA

- a. Minutes from September 25, 2012

Mayor Carroll asked to table the minutes in order to review the recording to ensure that council comments were recorded accurately. Mayor Carroll moved to table the minutes from September 25, 2012; Councilor Evans seconded the motion and it passed unanimously by those present. (Dantas absent)

RECOMMENDATIONS OF PLANNING & ZONING COMMISSION

- a. **Public Hearing** on a Preliminary PUD Application for the Brookside Park PUD (*Jared Barnes, Planner I*) Owner Riverview Park Associates application submittal for a request to modify the list of permitted uses for Lot 1, Brookside Park PUD, to permit up to twenty-four (24) residential dwelling units in place of existing office uses. This hearing is continued from 9/11/12 and 9/25/12 meeting

Jared Barnes, Planner I, presented the preliminary PUD application for the Brookside Park PUD. The applicant requested to modify the list of permitted uses for Lot 1, Brookside Park PUD, to permit up to twenty-four (24) residential dwelling units in place of existing office uses. He noted that at the September 11 meeting Council noted that there needed to be additional public benefits it was continued at the September 25th meeting in order for staff to provide direction to the applicant regarding including public benefits in their application. Rick Pylman, Pylman & Associates the applicant representing Riverview Park Associates the owner commented on the additions that were added 1. Parking spaces would be converted to landscaping 2. Parking spaces on Highway 6 would have additional landscaping installed in a full residential conversion scenario. Mayor Carroll opened the public hearing, no comments were heard and the hearing was closed. Mayor Carroll moved to approve the Preliminary PUD Application for the Brookside Park PUD; Councilor Goulding seconded the motion and it passed unanimously by those present. (Dantas Absent) Councilor Phillips left the regular meeting at 6:15 pm.

- b. **Public Hearing** on Ordinance No. 12-10, Series of 2012, First Reading, Ordinance Implementing Settlement Term Sheet to Resolve Pending Litigation on 2008 CV 385 and 2010 CV 316; Approving the Consolidated and Restated Annexation and Development Agreement; Approving Acceptance of Real Property and Equipment; Approving the Acceptance and Conveyance of Water Rights; Approving an Amendment to Village (at Avon) PUD; Approving a Re plat of Lot 1; Approving Amendments to Chapter 18 of the Avon Municipal Code; Approving the Traer Creek Plaza condominium application; and Taking such other Actions as Set Forth Herein to Implement the Settlement Term Sheet (*Public hearing continued from 9/25/12 meeting*)

Village (at Avon) Topics & Presentations include:

1. *Traer Creek LLC & Traer Creek Metropolitan District "Development Plan Application" including the following items (Developer & Metro District Representatives):*
 - a. *Consolidated, Amended and Restated Annexation & Development Agreement for the Village (at Avon) v 17*
 - b. *The Village (at Avon) Amended and Restated PUD Guide v 18 and Map v 11*
 - c. *Minor Subdivision Application for the Purpose of Resubdividing Lot 1, Amended Final Plat, The Village (at Avon) Filing 1 Avon Colorado, Eagle County*
2. *Review PUD Amendment Application in accordance with Review Criteria and compile Report of Findings (Town Council)*
3. *Public Input*
4. *Review Ordinance No. 12-10 referenced above (Town Council)*

Applicant Representatives: Marcus Lindholm TCMD & Traer Creek LLC, Dan Leary, President Traer Creek Metro District, Munsey Ayers, Otten Johnson Robinson Neff & Ragonetti, representing Traer Creek LLC, Kiberly Martin, Otten Johnson Robinson Neff & Ragonetti, representing Traer Creek LLC, Mary Jo Dougherty, McGeady Sisneros representing Traer Creek Metro District

Mayor Rich Carroll gave a brief overview of the process. Eric Heil, Town Attorney gave a brief update on the CARADA version 17. He noted that there were still outstanding issues to be reviewed. Councilor Dantas arrived at 6:30 pm. The following items were discussed:

Approved Site Specific Development Plan
Section 1.4(A) Vesting term v Term
Section 2.3 Maximum Commercial Space
Section 2.4 Right of Forfeiture
Section 3.2 (b) Public Improvements agreement
Section 3.3 (b) iii Dedication of future roads and Right-of-Ways
Section 3.7 Land Dedication
Section 3.7(b) Snow Storage
Section 4.2(e) Easement to Planning Area I
Section 5.2 PIC Obligations
Section 5.3 Master Developer
Section 6.1 and 6.2 Term
Net Proceeds and Bond Requirements
Section 6.3 (a) Town Real Estate Transfer Tax
Section 6.4(a) (i) and (iii) Sales and Accommodations Tax
Section 6.7(b) Cost of servicing Town Property
Section 6.11 Amount of Replacement Bonds
Section 6.14 Internet Sales Tax
Section 6.15 and 6.16 Accommodations Tax on Accommodation Fee
Section 6.22 Relationship of CARADA to TCMD & VMD Service Plans
Article 7 Defaults and Remedies

Mayor Pro tem Ferraro added some additional items to the discussion

- Agricultural Use Limitations
- Design Standards to include Earth tone colors
- Billboard and highway oriented signs be prohibited
- Delete Junk as Outdoor Storage consistent with SRU in PAA
- Retaining Walls for access to PAA
- Wildlife protection provision should be the same as in the Town of Avon
- Wetlands mitigation needs to be included that had been deferred from 2003
- The Landscape buffer by Eaglebend and Hurd Lane needs to be included with the Town providing water and Tap water

Matt Pielsticker Planner II added some additional comments on the findings of fact

- Amend Section I.8 with the addition of the following clarifying language: "Alternative equivalent compliance requests shall only be available to the sections of the Development Code outlined in 7.16.120(a) , Applicability, as may be amended from time to time"
- Amend the second sentence of Section A (g) (ii) to read as follows" wherever a street abuts a Planning area as shown in the PUD Master Plan, the planning Area boundary shall be the abutting right-of-way line of such street and not the centerline as proposed
- Strike Section B.3 and Section B.4
- Amend section I.3 with the addition of the following clarifying language: " Except for signs in the public right of way, a sign installation permit shall be required per the Sign Code of the Town of Avon, prior to the placing, erecting, moving, reconstructing, altering or displaying of any signs in the Village (at Avon) PUD. Off premises advertising including billboard advertisements as prohibited"
- Amend Exhibit D, Wildlife Protection plan, section 16. Wildlife Mortality with the addition of the following language: In order to lessen the possibility of deer and elk entering the high speed roads, including I-0, a double wide cattle guard shall be installed in line with the game fencing prior to any building permits issued for development wild life plan.

Councilor Phillips returned to the meeting. Mayor Carroll opened the public hearing and the following comments were heard:

- Paul Maloney was not in favor of the current PUD guide
- Carol Kruger commented on the document being submitted on Friday afternoon
- Walter Dandy commented on the language referring to the building heights, he noted that he had several meetings with the developer and they would be supplying the tree buffer and the Town would supply the tap and water
- Ron Wolfe commented that the Council needed to approve or deny with the addition of mayor Pro tem Ferraro's and Matt Pielsticker comments
- Tamra Underwood commented on version 18 of the CARADA and noted that planning and Zoning had not looked at it and the public had not had a chance to review it. She read into the record a letter addressing the amended development
- Bette Todd commented on the PUD Guide and noted that there was some progress but still not enough
- Michael Cassioppo recommended that the Council pass the ordinance on first reading
- Mark Shelby commented that the developer did not meet the application deadline
- Howard Levitt was not in favor of the Ordinance

The Public Hearing was closed at 10:20 PM. Mayor Carroll moved to convene into Executive Session at 10:23 PM to meet with Town Attorney for the purpose of receiving legal advice to specific legal questions pursuant to Colorado Revised Statute §24-6-402(4)(b) related to the pending settlement and litigation with Traer Creek LLC and Traer Creek Metropolitan District. Councilor Reynolds seconded the

motion and it was approved unanimously so the town council moved to another office for confidential discussions. The Regular meeting reconvened at 10:45 pm. Mayor Carroll reviewed the conditions from staff and asked council if they were ok with Matt Pielsticker's recommendations and all were in favor. He reviewed Eric Heil's conditions and all council members were in favor. He reviewed Mayor Pro Tem Ferraro's conditions and additional input was given.

Councilor Goulding moved to approve on first reading Ordinance No. 12-10 as drafted in the council packet with the following revisions:

Please note the following documents will be exhibits to these minutes as follows:

Exhibit A: Avon Town Council Findings of Fact and Record of Decision (V1)

Exhibit B: Memorandum from Matt Pielsticker, Planner II, dated October 9, 2012 regarding "Final PUD Amendment Application for the Village (at Avon) Additional Conditions"

- ✓ Includes Town Attorney's "Findings of Fact & Record of Conditions One through Twenty" (see Exhibit A)
- ✓ Delete condition #9 (see Exhibit A)
- ✓ Add 2 items in condition 18 specifically the 1) retaining walls & 2) wildlife mitigation (see Exhibit A)
- ✓ Incorporate Matt's "additional land use conditions 1 thru 5 " (see Exhibit B)
- ✓ Also update to the 5th condition w/ updated wildlife plan before a building permit is issued (see Exhibit B)
- ✓ Add an additional condition that "outdoor storage will be a Special review use & defined by the municipal code"
- ✓ New condition that "additional landscape buffering" will be installed by the developer including landscaping trees that will be further defined and that a timeframe be identified
- ✓ The building height measurement needs to be reviewed and revised
- ✓ The earth tones are restricted for the hotel
- ✓ Delete the cable and wireless language; should revert back to the existing language
- ✓ Complete revisions to #32 in the Findings of Fact (see Exhibit A)

Councilor Dantas seconded the motion. Town Attorney Eric Heil asked for one addition to the ordinance as follows:

- ✓ Include "whereas recital in the ordinance that refers to the "Finding of Fact and Approval of the PUD"

Councilor Goulding approved the amendment to the motion; Councilor Dantas seconded the motion. After further council discussion, Councilor Goulding noted that he wanted to amend the motion to include that the CARADA 14E is the version that the Town Council would like to approve on second reading. Councilor Dantas approved that amendment to the motion. Town Attorney Eric Heil noted for clarification that the document referred to is titled "Heil revisions to Version 14 of the CARADA dated September 19, 2012". Munsey Ayers, attorney representing Traer Creek, noted that that version is not Traer Creek's application and that their application is version 17. Councilor Goulding noted that for second reading the town attorney's comments should be applied to the applicant's version 17. It was noted that council members are looking for documents that they can approve on second reading. Town Clerk Catherine Mythen called the roll and the motion passed with a six to one vote (Carroll, Evans, Dantas, Ferraro, Goulding, Phillips – yea; Reynolds - nay). Mayor Carroll noted that a second reading would occur at a future meeting.

Tamra Underwood asked if action taken constituted final action under the Charter on the PUD. Eric Heil noted that it did not and that a notice requirement would be met before second reading and final approval.

After further discussion, Councilor Phillips moved to convene into executive session to meet with Town Attorney for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pursuant to Colorado Revised Statute §24-6-402(4)(e) related to the pending settlement with Traer Creek LLC and Traer Creek Metropolitan District; Councilor Evans seconded the motion and another executive session was held at 11:40 PM.

There being no further business to come before the Council, the regular meeting adjourned at 12:20 AM.

RESPECTFULLY SUBMITTED:
Catherine Mythen
Catherine Mythen, Deputy Town Clerk

APPROVED:
Rich Carroll
Dave Dantas
Chris Evans
Kristi Ferraro
Todd Goulding
Amy Phillips
Albert "Buz" Reynolds

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

AVON TOWN COUNCIL
FINDINGS OF FACT
AND RECORD OF DECISION



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

The following findings of fact and record of decision are made in accordance with Avon Municipal Code Section 7.16.060(e)(3), *Reviewing Authority*:

1. **Settlement Term Sheet.** The Avon Town Council approved a Settlement Term Sheet on October 7, 2011, with Traer Creek LLC, Traer Creek Metropolitan District, BNP Paribas, and other parties to the consolidated cases 2008 CV 385 and 2010 CV 316 pending in Eagle County District Court. Implementation of the Settlement Term Sheet included in part the preparation of an application to amend the Village (at Avon) Planned Unit Development Guide and Development Plan in order to implement various terms stated in Schedule 3 of the Settlement Term Sheet.
2. **Application Submitted.** A preliminary PUD Application (“Application”), consisting of an Amended Planned Unit Development Guide for the Village (at Avon) (“Amended PUD Guide”), was submitted to the Community Development Department of the Town of Avon (“Town”) on March 23, 2012 by Harvey Robertson of RMT Architects, representing the owners of the Village (at Avon) property (“Applicant”).
3. **Determination of Completeness.** Pursuant to Avon Municipal Code (“AMC”) §7.16.020(c)(1), a determination of completeness was submitted to the Applicant by letter from Matt Pielsticker of the Community Development Department on April 3, 2012, within ten (10) days of the application submittal. The Applicant was informed that items remained outstanding.
4. **Town Staff Initial Comments.** Town staff provided the Applicant with initial comments on April 27, 2012. A letter from Eric Heil, Town Attorney, provided initial comments regarding title insurance exceptions. Additional comments were provided by Matt Pielsticker of Community Development Department and Justin Hildreth of the Engineering Department.
5. **Application Complete.** On May 7, 2012 the Application was determined to be complete.
6. **Referral to other Agencies.** The Amended PUD Guide was referred electronically via the Town’s website, www.avon.org/referral, to other agencies for review and comment on May 8, 2012 pursuant to AMC §7.16.020(c)(2). The following agencies were notified

for referral: Eagle County Planning, Eagle County School District, ECO Trails, Eagle River Water & Sanitation District, Eagle River Fire Protection District, United States Forest Service, Department of Transportation, Eagle County Health Service District, Department of Wildlife, Colorado State Land Board, Colorado Geological Survey, Colorado Mountain College, Eagle-Vail Metropolitan District, Eagle County Sheriff, ECO Transit, Eagle Valley Library District, Upper Eagle Regional Water Authority, Buffalo Ridge Affordable Housing Corporation, Buffalo Ridge II, Xcel Energy, Holy Cross Electric, Comcast, Beaver Creek Metropolitan District, Beaver Creek Property Owners Association, Beaver Creek Resort Company, Vail Resorts, Union Pacific Railroad, and the Public Utilities Commission. Referral comments were due May 29, 2012, twenty (20) days after referral.

7. **Staff Comment Letters to Applicant.** On May 17, 2012 Matt Pielsticker of the Community Development Department submitted revised Initial Review Comments to the Applicant. On May 21, 2012 Town Engineer Justin Hildreth submitted his second round of comments on behalf of the Engineering Department to the Applicant.
8. **Joint Work Session with Town Council.** On May 8, 2012 Planning and Zoning Commission (“PZC”) and the Town Council held a joint work session for an introductory presentation of the Amended PUD Guide and the Consolidated Amended and Restated Annexation and Development Agreement and overview of the review schedule. Version 8 of the Amended PUD Guide was submitted to both bodies at the May 8, 2012 meeting.
9. **Notice of Public Hearing.** On May 25, 2012, pursuant to §7.16.020(d), a notice of public hearing was published in The Vail Daily for the June 5, 2012 Planning and Zoning Commission meeting to review the Traer Creek LLC Village (at Avon) Preliminary Planned Unit Development application.
10. **Referral Comments Received.** Two referral comments were received by the Community Development Department on May 29, 2012, including: A comment letter by Eagle County School District Board signed by President Jeanne McQueeny and a comment letter by Colorado Parks and Wildlife signed by Department Area Wildlife Manager Perry Will. Colorado Parks and Wildlife submitted comments regarding impacts on habitat and wildlife and lack of mitigation measures to reduce the impacts. The Eagle County School District Board submitted comments regarding amendments to the VAA PUD to change the school site dedication requirements.
11. **Staff Report to PZC.** Matt Pielsticker submitted a Staff report to the PZC dated June 1, 2012. On May 31, 2012, the Applicant submitted Version 9 of the Amended PUD Guide. Due to the receipt of the Version 9 of the Amended PUD Guide late in the day on May 31, 2012, staff was not able to review the changes in Version 9 and include such changes in the Staff report analysis for the application. At the request of Town staff, the Applicant submitted a memorandum on June 1, 2012 detailing revisions to Version 8 that are reflected in Version 9.

12. **Preliminary Public Hearing before the Planning and Zoning Commission.** On June 5, 2012 the PZC held a public hearing on the Application and reviewed the Application for approximately four (4) hours. The PZC continued the public hearing to June 11, 2012 in order to further review the Application.
13. **Applicant Response to Staff Comments.** On the morning of June 8, 2012, representatives of the Applicant and Town staff participated in a four (4) hour conference call with the Applicant for the purpose of clarifying, addressing and resolving staff comments. On June 8, 2012 and June 9, 2012 the Applicant submitted memorandums detailing responses to staff comments on Versions 8 and 9.
14. **Continued Preliminary Public Hearing.** On June 11, 2012 the PZC conducted the continued public hearing and continued with further review of the Amended PUD Guide for approximately six (6) hours. At the conclusion of the meeting, PZC noted that PZC was not able to conduct a complete review of the Application but due to the stipulated schedule submitted to the Eagle County District Court, took action to provide recommendations related to Vested Property Rights, School site dedication, Planning Area J, DRB Powers, and Parkland Dedications. The PZC listed sixteen (16) issues that were not addressed given the amount of time afforded.
15. **Preliminary Public Hearing with Town Council.** On June 19, 2012 the Avon Town Council held a public hearing on the Application and reviewed the Application for approximately five (5) hours. The Council received substantial public input from five (5) members of the public. The Council continued the public hearing to June 26, 2012 in order to further review the Application, then continued the public hearing to July 10, 2012.
16. **Preliminary PUD Approval.** The Preliminary PUD Amendment 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. All information submitted to the Town by the applicant, all comments from referral agencies, all staff reports and all public comments submitted to the Town which were part of the record for the Preliminary PUD Approval are hereby included and are part of the record for Final PUD Approval.
17. **Staff Comment Letters to Applicant.** 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.
18. **Final PUD Application Submitted to PZC.** A Final PUD Application, consisting of an Amended Planned Unit Development Guide for the Village (at Avon), Version 14,

resubmitted PUD Master Plan Version 11, and accompanying Memorandum, was submitted to the Community Development Department of the Town on July 24, 2012 by Kimberly Martin, representing the Applicant for Final PUD Amendment application review by the Planning and Zoning Commission.

19. **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: Monday, August 13, 2012 Special Meeting, Tuesday, August 21, 2012 Regular Meeting, and Monday, August 27, 2012 Special Meeting.
20. **Staff Reports.** Eric Heil, Town Attorney, submitted memoranda to the PZC regarding the Final PUD Amendment Application on August 3, 2012 and August 17, 2012. Matt Pielsticker submitted a memorandum regarding the Final PUD Amendment Application to the PZC on August 10, 2012.
21. **Planning and Zoning Commission Findings of Fact and Recommendations.** The Planning and Zoning Commission adopted Findings of Fact and Recommendations on September 4, 2012 with regard to the Final PUD Amendment Application, which included such additional findings of fact and recommendations which are included herein.
22. **Final PUD Application Submitted to Town Council.** Final PUD Amendment Application to Version 16 of the Amended PUD Guide was submitted to the Town on August 31, 2012. Eric Heil, Town Attorney, submitted a memorandum dated September 7, 2012 and comprehensive comments and revisions to Version 16 of the PUD Guide (referred to as Version 16-E of the PUD Guide) to the Town Council and Applicant's representatives.
23. **Request for Staff Report.** At the September 11, 2012 public hearing, the Town Council direct the Town Staff to prepare a Staff Report in accordance with the requirements of the Avon Development Code.
24. **Staff Reports.** Matt Pielsticker submitted a Staff Report to Town Council on September 25, 2012.
25. **Eagle County School District Report.** Eagle County School District submitted a report "Summary of ECSD Land Needs" dated August 16, 2012 and gave a presentation to the Avon Planning and Zoning Commission at the August 21, 2012 public hearing, and which report is part of the record for the Avon Planning and Zoning Commission final recommendation. Eagle County School District gave a presentation regarding the school site dedication to the Town Council at the September 11, 2012 public hearing.
26. **Reports.** Reports, memorandum, handouts and power point presentations are further listed in Exhibit A: List of Documents and all such documents are hereby incorporated into the record.

27. **Public Comments.** Public comments were submitted to the Avon Planning and Zoning Commission and the Avon Town Council, which are attached hereto as **Exhibit B: Index of Public Comments.** Also, the Avon Town Council received public comment during each of the public hearings held by the Avon Town Council for final PUD review. All such public comments have been considered by the Avon Town Council and are part of the record for the Avon Town Council.
28. **Notice of Public Hearing.** On August 31, 2012, pursuant to §7.16.020(d), a notice of public hearing was published in The Vail Daily for the September 11, 2012 Town Council meeting to review the Traer Creek LLC Village (at Avon) Final Planned Unit Development application.
29. **Public Hearing.** On September 11, 2012 the Town Council held a public hearing on the Application. The Town Council continued the public hearing to September 25, 2012 Regular Meeting, and October 9, 2012 Regular Meeting.
30. **Version 18 of PUD Guide.** Version 18 of the Amended PUD Guide was submitted on Friday, October 5, 2012 at approximately 3:30 p.m.
31. **Time Frame for Approval.** Section 7.16.020(e) provides that the Town Council may continue a public hearing on a PUD application for a maximum of 35 days after the initial public hearing without the consent of the applicant to additional continuance. The Applicant has consented to a continuation of the public hearing hearings beyond 35 after the date of the initial public hearing on September 11 to October 23, 2012.
32. **Implementation of the Settlement Term Sheet.** The Application proposes many revisions to the existing PUD Guide and PUD Master Plan which would implement matters set forth in Schedule 3 of the Settlement Term Sheet and at the same time proposes numerous changes the existing PUD Guide and PUD Master Plan which are not directly related to implementing matters expressly identified in Schedule 3 of the Settlement Term Sheet. The Town Council finds that numerous revisions in the PUD Guide are mutually beneficial to the Town and the Applicant and meet the Review Criteria and therefore approve such revisions. The Town Council also finds that numerous revisions are not in accordance with Schedule 3 of the Settlement Term Sheet, are not beneficial to the Town and are not in compliance with the applicable review criteria as more specifically stated below.
33. **Findings of Fact Related to Specific Aspects of the Application.** The Town Council has considered the Staff Reports, public comments, applicant testimony, and makes the following Findings of Fact related to specific aspects of the Final PUD Application:
 - A. **Extension to Vested Property Rights.** The Council finds that a six year extension of the Vested Property Rights is appropriate due to the size of the project, the timeframe required to finance and construct various public improvements, the limits

of absorption rates for sale of real estate products and the probability that build-out of the project will transcend multiple real estate cycles.

- B. School Site Dedication.** The Town Council finds that the Stone Creek Charter School has stated that Planning Area E is acceptable as a potential school site. The Town Council further finds that the information presented by the Eagle County School District demonstrates that there is not an immediate need for a school site, that existing and planned capacity of school facilities which may serve the Avon community may be sufficient to meet the demands generated by The Village (at Avon) and that possibility of providing a future 7.3 acre school on Planning Area I is incorporated into the Consolidated Amended and Restated Annexation and Development Agreement. The Town Council finds that the school site dedications proposed in the Final PUD Amendment Application complies with the **1996 Avon Comprehensive Plan, A. LAND USE, Policy A1.7** *The community should include sufficient land for public uses such as schools, community facilities, and governmental services,* and **D. COMMUNITY FACILITIES AND SERVICES, Policy D1.5** *Annexations and new subdivisions will include or otherwise provide for community services and facilities based on the increased demand created by those developments.*
- C. Planning Area N-South.** The Town Council finds that due to the construction of the Post Boulevard interchange and Swift Gulch road, existing Planning Area N (a portion of proposed Planning Area J) has become bifurcated by Swift Gulch road which negatively impacts the functionality of Planning Area N as a cohesive regional park site; that the location of existing Planning Area N-South adjacent to the I-70 interchange reduces the utility and attractiveness of this area for outdoor park uses. The Town Council further finds that park areas should be integrated into development, that development plans and designs for Planning Areas J, K, I and RMF-1 do not currently exist, and that the Applicant has proposed to adopt the Town's minimum park siting standards for future development, and that therefore the flexibility afforded in locating and designating the replacement of 5.8 acres in parkland is appropriate. The Town Council specifically finds that the proposed relocation of 5.8 acres of parkland is in compliance with the **1996 Avon Comprehensive Plan, Section G. Parks, Recreation and Open Space** generally and specifically with regard to **Policy G1.1** *New residential and resort developments will incorporate recreational amenities* and **Policy G1.4** *New annexations and development will include or otherwise contribute to land for trails, open space and recreational purposes.*
- D. Hotel Use for Proposed Planning Area J.** The Town Council finds that area is physically suitable for commercial development; that the proximity to the I-70 interchange promotes the viability of commercial development of the property; and that additional construction of public infrastructure is not required for the commercial development of this property. The Town Council further finds that specific minimum standard set forth in **I.10. Supplemental Design Standards: Planning Area J Hotel,**

Motel and Lodge Requirements of the PUD Guide establish appropriate supplemental design standards which are in compliance with **1996 Avon Comprehensive Plan, Subarea 19: I-70 North District** which recommends attention be given to I-70 corridor treatments, visual quality and gateway treatments.

- E. **OS-9 and OS-10 (proposed OS-5 and OS-6).** The Town Council finds that the revisions to the Uses by Right to OS-5 and OS-6 are consistent with the original 1998 PUD Guide.
- F. **Road Access to Proposed Planning Area I (formerly Planning Area M).** The Town Council finds that Planning Area I is currently isolated and surrounded by steep topography, the Eagle River and the Union Pacific Rail Road line; viable alignments for the construction of a road to access Planning Area I are limited and are complicated by property ownership patterns; construction of a road across the Forest Service Village Parcel (situated between proposed Planning Area J and proposed Planning Area I) is likely to be highly visible from I-70 and other locations; and the amount of cut and fill required for construction of an access road can be reduced by reducing the minimum required road width profile and by constructing a pedestrian/recreation path separately from the road in a manner similar to the Swift Gulch road construction. The Town Council finds that the road access is in compliance with the **1996 Avon Comprehensive Plan; E. Transportation, Parking and Circulation**, generally and specifically finds that the road cross-section which allows a narrow road and separated pedestrian, bike and recreation trail will promote **Policy E1.1** *Streets should, to the extent possible, effectively accommodate transit, pedestrian, bicycle, and other modes of transportation.* and **Policy F1.1** *Future development and redevelopment shall minimize degradation of the environment, particularly in sensitive areas.*
- G. **Hillside Density (Proposed Planning Areas K and RMF-1).** The Town Council finds that the existing PUD Guide allows for a maximum of 280 residential units to be served off a cul-de-sac and that the Final PUD Amendment Application is consistent with the stated maximum allowed residential units on a cul-du-sac.
- H. **Planning Area B.** The Town Council finds that the consolidate of former Planning Areas B and C into Planning Area B; the central location of Planning Area B within Planning Area A; and the location of Planning Area B in proximity to the Nottingham-Puder ditch provides better opportunities for a central park and recreational amenity area and provides better opportunities to incorporate water features into such park. The Town Council finds the proposed amendment to Planning Area B in the Final PUD Amendment Application complies with the **1996 Avon Comprehensive Plan, G. PARKS, RECREATION AND OPEN SPACE**, general and specifically **Policy G1.1** *New residential and resort developments will incorporate recreational amenities* and **Policy G1.4** *New annexations and development will include or otherwise contribute to land for trails, open space and recreational purposes.*

- I. Main Street (formerly East Beaver Creek Boulevard).** The Town Council finds that the narrowed cross-section width of East Beaver Creek Boulevard is adequate and sufficient and complies with the **1996 Avon Comprehensive Plan, E. TRANSPORTATION, PARKING, AND CIRCULATION** generally.
- J. Drainage Master Plan.** The Town Council finds that the incorporation of the Johnson Study into Section I.6.(b) of the PUD Guide is appropriate for the purposes of determining calculated stormwater flows; that the incorporation of the Johnson Study will permit the Town to prevent water quality degradation from stormwater run-off; and, that such amendment is therefore in compliance with the **1996 Avon Comprehensive Plan; F. ENVIROMENT, Policy F1.3** *The river corridor will be protected as an important riparian habitat.*
- K. Administrative Subdivision Review.** The Town Council finds that permitting administrative subdivision review for Planning Areas A, B, C, D, E, F and J will promote an efficient and streamlined development application review process and will thereby promote and facilitate beneficial economic development and revenue producing development which is critical to the repayment of obligations of the Traer Creek Metropolitan District and satisfaction of the Town's tax credit obligations under the Consolidated Amended and Restated Annexation and Development Agreement. The Town Council finds that administrative subdivision review is in compliance with the **1996 Avon Comprehensive Plan, B. COMMUNITY AND ECONOMIC DEVELOMPENT**, generally and specifically **Goal B1** *Enhance the Town's role as a principal, year-round residential community and regional commercial center* and **Goal B3** *Maintain a balanced, diverse economic base that provides employment opportunities for residents and a sustainable tax base for the Town* and **Policy B3.3** *Encourage development of additional service commercial uses.*

BASED ON THE FINDINGS OF FACT STATED HEREIN, INCLUDING THE FINDINGS AND RECOMMENDATIONS IN VARIOUS STAFF REPORTS, PUBLIC COMMENTS, AND OTHER MATERIALS CONSIDERED BY COUNCIL, AND BASED ON THE REVIEW CRITERIA SET FORTH IN AVON MUNICIPAL CODE §7.16.060(E)(4), THE AVON TOWN COUNCIL HEREBY APPROVES THE FINAL PLANNED UNIT DEVELOPMENT APPLICATION WITH THE FOLLOWING CONDITIONS:

1. Approval of this Final PUD Amendment application is expressly contingent upon approval of the following, which final approvals, execution, implementation and effectiveness shall occur within the timeframe established in the Closing Escrow Agreement, as adopted in Ordinance No. 12-10:
 - a. The Consolidated Amended and Restated Annexation and Development Agreement,
 - b. Ordinance No. 12-10, and

- c. Implementation and execution of other documents as described in the Closing Escrow Agreement.
2. The Consolidated Amended and Restated Annexation and Development Agreement shall include the language currently proposed concerning the obligation of the EMD to use best efforts to combine parkland dedications with the remaining school site dedication on Planning Area I to provide a school site for the Eagle County School District in the event that a need for such school site is demonstrated in the future.
3. The Consolidated Amended and Restated Annexation and Development Agreement shall include the language currently proposed concerning the obligation of Traer Creek-RP and EMD to dedicate 5.8 acres of park land on Planning Areas J, K, I and/or RMF-1.
4. Amend the fourth sentence of Section A.4.(g)(i) to read as follows:

“The Applicant shall be required to submit engineered road design plans for, and shall be required to construct, only the portion of a street that is necessary to serve the phase and property subject to the applicable Application, and the Applicant shall not be required to extent or continue such street beyond the Property Line of the Site that is the subject of the applicable Application, provided that such street shall terminate in a cul-du-sac which meets Town’s standards.”

SPECIFIC FINDINGS: The Town Council finds that any street or road construction must be designed to satisfy emergency vehicle access and that such require is directly related to promoting the health safety and general welfare of the Avon Community.

5. Amend Section B.1(a) to read as follows:

“Commercial Uses.

650,000 consolidated Gross Square Footage of Commercial Space.”

Delete Section I.16.(b) [which language set forth additional affordable housing mitigation for 900,000 consolidated Gross Square Footage of Commercial Space.]

SPECIFIC FINDINGS: The Applicant has not presented specific information which would explain or illustrate the scale and intensity of development, the benefit to the community or the traffic impacts resulting from increase in Gross Square Footage of Commercial Space. The Town Council finds that it does not have sufficient information to determine if the proposal for additional Gross Square Footage of Commercial Space is in compliance with the **1996 Avon Comprehensive Plan; A. LAND USE, Policy A1.1** *Development and redevelopment will be of a scale and intensity appropriate for the neighborhood in which it is located.*; **Policy A1.3** *Flexible zoning such as Planned Unit Development (P.U.D.) should be encouraged where it results in more effective use of the land. However, such flexible zoning will only be allowed where it provides a benefit to*

the community and is compatible with surrounding development. Variations from standard zoning must be clearly demonstrated, and will be permitted only as needed to achieve effective development. and **E. TRANSPORTATION, PARKING AND CIRCULATION, Policy E1.3** *The Town will endeavor to maintain a peak hour level of services (LOS) of level C or better for all major roadways.*

6. Amend Section B.5. to read as follows:

“Density calculations for development of Residential Uses within Planning Areas A through I, RMF 1 and RMF 2 shall exclude areas with slopes exceeding 40%.”

SPECIFIC FINDINGS: The Applicant has not presented information as to why the proposed language change is necessary or relevant. The Applicant proposed new language on September 9, 2012. The Town Staff was not presented with adequate time to evaluate this proposed language to determine whether it is in compliance with the applicable review criteria.

7. Amend the third line of the chart of residential and commercial ratios in Section B.6.(i) to read as follows:

“	Residential		Commercial	
	Min%	Max%	Min%	Max%
Planning Areas F, G. and H	0%	20%	80%	100%”

SPECIFIC FINDINGS: The Applicant has not presented information explaining the benefit to the community, compliance with review criteria or potential impacts of changing the minimum and maximum ratios of residential and commercial development. The Town Council finds that maintaining a maximum ratio of residential at 20% on Planning Area F will maintain and preserve Planning Area F principally for regional commercial development and further finds that such location remains appropriate for regional commercial development and that regional commercial development would provide important community benefits including but not limited to economic development and increased revenues to support construction and financing of public improvements and required infrastructure, repayment of Traer Creek Metropolitan District debts, and satisfaction of Town’s tax credit obligation under the Consolidated Amended and Restated Annexation and Development Agreement.

8. Amend Section B.8.(i) to read as follows:

“Accommodation Units shall be counted in accordance with the following calculation:

A Hotel, Motel or Lodge room is a room within a Hotel, Motel and Lodge or Extended Stay Hotel used primarily as a bedroom for transient lodging. A Hotel, Motel or Lodge room may include a bathroom, closet and balcony. Three Hotel,

Motel or Lodge rooms will be counted as one Dwelling Unit as long as (a) the average square footage of all rooms in any hotel complex does not exceed more than 600 square feet of interior space, and (b) no more than one indoor cooking facility is included within the three hotel or lodge rooms being counted as one Dwelling Unit. In computation of the total Dwelling Units for a given Hotel, Motel or Lodge project, any fractional value shall be rounded to the next highest integer. Three Extended Stay Hotel rooms will be counted as one Dwelling Unit, in accordance with the conditions state above and notwithstanding the fact that each such room contains an indoor cooking facility.”

SPECIFIC FINDINGS: The Applicant proposed new language on September 9, 2012. The Town Staff was not presented with adequate time to evaluate this proposed language to determine whether it is in compliance with the applicable review criteria.

9. **[DELETED BY COUNCIL]** The designation of “Agricultural Uses (as an Interim Use only)” as a Use by Right in Planning Areas A, C, D, E, F, G and/or H shall be conditioned upon a finding in pending District Court Case No. 2011 CV 828 that such areas have been continuously used primarily for agricultural purposes.

SPECIFIC FINDINGS: The Town Council finds that amending the PUD Guide to define and incorporate Interim Uses is appropriate and mutually beneficial to avoid conflicts; however, such designation is for established and continuing uses. The Town Council is aware that the use of Lot 1, Village (at Avon) as primarily for agricultural uses is currently disputed by Eagle County and is a matter of pending litigation. Until a final determination is made regarding whether agricultural uses is a continuing primary use on Lot 1, Village (at Avon), the Town Council cannot determine that such use is a continue use which should be expressly permitted to continue as a Use by Right as an Interim Use.

10. Amend Section D.2.(b) to add “Hospitals and medical facilities, but not limited to clinics, group and congregate care facilities, nursing homes and hospitals.” as a Special Review Use.

SPECIFIC FINDINGS: The Town Council finds that hospitals and medical facilities are unique commercial uses which have hours of operations, traffic patterns and ingress and egress demands that are not common to most commercial uses and therefore finds that the continuing designation of Hospitals and medical facilities as a Special Review Use will provide beneficial public review of such uses to promote compatibility with nearby properties and land uses.

11. Amend Section D.2.(d)(ii)(2) to read as follows:

“(2) Portions of Planning Area A located 250 or more feet from the southerly boundary of Planning Area A: 80 feet.”

SPECIFIC FINDINGS: The Applicant has not presented specific information which would explain or illustrate the scale and intensity of development or the benefit to the community from a potential increase in Hotel building height. The Town Council finds that it does not have sufficient information to determine if the proposal for additional Gross Square Footage of Commercial Space is in compliance with the **1996 Avon Comprehensive Plan; A. LAND USE, Policy A1.1** *Development and redevelopment will be of a scale and intensity appropriate for the neighborhood in which it is located.* and **Policy A1.3** *Flexible zoning such as Planned Unit Development (P.U.D.) should be encouraged where it results in more effective use of the land. However, such flexible zoning will only be allowed where it provides a benefit to the community and is compatible with surrounding development. Variations from standard zoning must be clearly demonstrated, and will be permitted only as needed to achieve effective development.*

12. Amend Sections D.4.(d)(v); D.6.(d)(v); D.7.(d)(v); and, D.9.(d)(v): to add the following Building Envelope Requirement:

“Minimum Landscaped Area: 20%”

SPECIFIC FINDINGS: The Applicant has not presented information explaining why the Minimum Landscaped Area require for certain planning areas should be deleted from the PUD Guide. The Town Council finds that the continuing requirement of minimum landscaped areas will improve the design and appearance of development, prevent undue congestion, and will promote maintaining a scale and intensity of development which is compatible with the built portions of Avon, and therefore would benefit the general welfare of the Avon community.

13. Amend Section D.8.(e) to read as follows:

“(e) **Residential Density Maximum:** Building permits may be issued for no more than 280 Dwelling Units in the aggregate for Planning Area K and Planning Area RMF-1.”

Amend Section D.9.(e)(ii) to read as follows:

“(ii) **Planning Area RMF-1:** 6 Dwelling Units per acre, provided that building permits may be issued for no more than 280 Dwelling Units in the aggregate for Planning Area K and Planning Area RMF-1.”

SPECIFIC FINDINGS: The Town Council finds that the wildlife impacts are based on a maximum of 280 residential units and that an increase of residential units would present numerous potential impacts, including visual, traffic, congestion, wildlife, and proliferation of individual sewage disposal systems, and would therefore benefit from the public review process required by a formal PUD amendment.

14. Amend Section G. SUBDIVISION to read as follows:

“Subdivision of land and structures shall be regulated by the Development Code with the following exceptions which exceptions expressly supersede the Development Code:

Applications to subdivide land or structures for Planning Areas A through F and Planning Area J shall be processed administratively. The Director shall have the discretion to combine the Preliminary Plan and Final Plat review processes when the Director deems appropriate. Notice of a subdivision shall be posted and mailed to property owners in the vicinity in accordance with the Development Code and the Director shall consider all comments which are provided. Public hearings shall not be conducted unless requested by the Applicant. The Director shall render a written decision on each subdivision and shall post a notice of such decision in the same manner as the posting of ordinances. The Applicant, the Town Council and any other person with standing may appeal the decision of the Director to the Avon Town Council in accordance with Section 7.16.160 of the Development Code. The date of posting notice of the Director’s decisions shall be the final date for the purpose of any appeal. In all other respects not expressly stated in this Section H or elsewhere in the Development Plan, the Development Code shall apply to the subdivision of land and structures.”

SPECIFIC FINDINGS: The Town Council finds that the ability to apply Town’s subdivision regulations, as may be amended from time to time, on a uniform and consistent basis throughout the Town is a central function of responsible and fair land use regulation and thereby promotes the health, safety and general welfare of the Avon Community.

15. Amend Section H.2. **Formal Amendments**. to read as follows:

“Amendments to this PUD Guide which do not qualify for the administrative amendment process described in Section H.3. below shall follow the formal amendment process set forth in Section 7.16.060 of the Development Code, as amended, except that the provisions of Section H.1 above shall apply to all formal amendments of this PUD Guide. Nothing herein shall be deemed to prevent an Applicant from voluntarily choosing to apply for a formal amendment, or from appealing to Council or the courts the Director’s determination of eligibility for administrative amendment and/or denial of a request for an administrative amendment. Formal amendments shall include any application which proposes to eliminate one or more of the following street connections:

- (a) Main Street connection to Chapel Place;
- (b) Main Street connection to Post Boulevard roundabout;

- (c) East Beaver Creek Boulevard connection at northern boundary of Planning Area A to existing East Beaver Creek Boulevard adjacent to the Property;
- (d) East Beaver Creek Boulevard connection at Post Boulevard connecting to Fawcett Road; and
- (e) Connection from westernmost roundabout on Main Street to East Beaver Creek Boulevard.
- (f) Connection across Planning Area J located east of Post Blvd./Swift Gulch roundabout to northeast corner of “Village Forest Service Parcel” located east of Planning Area J.”

SPECIFIC FINDINGS: The Town Council finds that the designation of street connections which can only be amended through the formal amendment process promotes compliance with the **1996 Avon Comprehensive Plan, E. TRANSPORTATION, PARKING, AND CIRCULATION** generally.

16. Amend **Exhibit F.3(f)(i)** to include language to read as follows:

“(i) Roads within Planning Area C must include pedestrian facilities such as sidewalks or trails.”

SPECIFIC FINDINGS: The Town Council finds that requiring pedestrian facilities along major thorough fares complies with the 1996 Avon Comprehensive Plan.

17. Amend **Exhibit I.15(b)** to read as follows:

“Master Developer shall facilitate but not have the obligation to construct the road and associated improvements, including trail or sidewalk, orientated on a generally east-west access, and shall cross the Property solely through Planning Areas I, J, P4, RMF-2 and the most southerly quarter section of Planning Area K. Master Developer shall determine in its sole discretion the location within the Property of such road and associated improvements.”

SPECIFIC FINDINGS: The Town Council finds that requiring pedestrian facilities, trails, bicycle routes and recreational opportunities along major thorough fares complies with the 1996 Avon Comprehensive Plan.

18. Amend **Exhibit G: Municipal Code Exemption** to delete the following provisions:

- 1(f) 7.16.140(g) Forfeiture of Vested Property Rights
- 1(q) 7.28.100(a)(3)(E) Natural Resource Protection, roads crossing 50% slopes

- 1(r) 7.32.101(c)(2) & (6) Engineering Improvement Standards: Standards and Specifications
- 1(u) 7.32.404(c) Paved Trail Design: Minimum Width
- 1(v) 7.32.040(e) Paved Trail Design: Grades
- 1(W) 7.32.080 School Site Dedication
- 1(X) 7.32.090 Park Land Dedication
- 2(d) Chapter 15.30 Outdoor Lighting Standard
- 2.(e) Impact fees enacted or adopted after the Effective Date, the impacts of The Village (at Avon) being adequately mitigated by, among other matters, the payment of the impact fees set forth in [**Section 3.9**] of the Development Agreement.
- 3. Any other provision of the Municipal Code expressly superseded in whole or in part pursuant to any other provision of this PUD Guide.

SPECIFIC FINDINGS: The Town Council finds that designation of specific sections of the Avon Municipal Code which are not applicable to The Village (at Avon) PUD are generally beneficial for the purpose of clarification; however, the certain references are appropriately addressed in the Consolidated, Amended and Restated Annexation and Development Agreement. The Town Council finds that regulation of outdoor lighting is a building code regulation which promotes the health, safety and general welfare of the Avon Community and does not conflict with the existing vested property rights for the Village (at Avon).

19. Amend Exhibit H, definition of Development Code and Municipal Code to read as follows:

“Development Code means Title 7 of the Town’s Municipal Code, as in effect from time to time, unless otherwise stated.”

Municipal Code means the Town’s Municipal Code, as in effect from time to time, unless otherwise stated.”

SPECIFIC FINDINGS: The Town Council finds that the ability to apply Town’s Development Code and Municipal Code regulations, as may be amended from time to time, on a uniform and consistent basis throughout the Town is a central function of responsible and fair land use regulation and thereby promotes the health, safety and general welfare of the Avon Community.

20. Amend Exhibit H to delete the following definitions and revise Version 18 of the PUD Guide to change capitalized words and phrases to lower case words and phrases where appropriate:

- Applicant
- Appurtenances
- Arcade
- Architectural Projection
- Automobile Repair Shop (Major or Minor)
- Awning
- Balcony
- Block
- Building
- Bus Stop
- Cabled Telecommunication Equipment
- Bus Stop
- Cabled Telecommunication Equipment
- Cabled Telecommunication Facility
- Cabled Telecommunication Service
- Child Care Center
- Commercial Parking
- Bus Stop
- Cabled Telecommunication Equipment
- Cabled Telecommunication Facility
- Cabled Telecommunication Service
- Child Care Center
- Commercial Parking
- Community Facility
- Drive Aisle
- Drive-in Use
- Driveway
- Dry utilities
- Dwelling
- Family Child Care Home
- Grocery Store
- Group Home
- Home Occupation Major
- Home Occupation Minor
- Industrial Use
- Infrastructure
- Kennel
- Lots
- Lot Area
- Manufacture Home
- Medical Marijuana
- Open Space
- Outdoor Storage
- Principle Use
- Property Line
- Public Improvement
- Public Facilities
- Religious Facilities
- Restaurants
- Single Family Dwelling
- Site
- Special Review Use
- Temporally Divided Dwelling
- Use
- Use Category
- Vacation Club
- Wireless Telecommunication Equipment
- Wireless Telecommunication Facility
- Wireless Telecommunication Service

SPECIFIC FINDINGS: The Town Council finds that the ability to apply Town's Development Code and Municipal Code regulations, as may be amended from time to time, on a uniform and

consistent basis throughout the Town is a central function of responsible and fair land use regulation and thereby promotes the health, safety and general welfare of the Avon Community.

ADDITIONAL CONDITIONS BY COUNCIL AT OCTOBER 9 MEETING:

21. Incorporate and address the five conditions in Matt Pielsticker's memorandum dated October 9, 2012.
22. Add proposed landscape buffer for Eagle Bend neighborhood.
23. Amend building height to refer to natural grade south of Main Street.
24. Add earth tones to Hotel Supplemental Design Standards.
25. Revise Planning Area Use language to revert to reference to public/private streets and utilities.
26. Delete exemptions for retaining wall standards in Exhibit H except for access road to Planning Area I.
27. Delete exemption of Chapter 8.32 Wildlife Protection in Exhibit H.
28. Require an updated wildlife mitigation plan pursuant to Division of Wildlife's letter.

APPROVED BY THE AVON TOWN COUNCIL BY A VOTE OF _____ IN FAVOR AND _____ OPPOSED on _____, 2012.

By: _____ Attest: _____
Rich Carroll, Mayor Patty McKenny, Town Clerk

Memorandum

To: Avon Town Council
From: Matt Pielsticker, Planner II
Date: October 9, 2012
RE: Final PUD Amendment Application for the Village (at Avon)
Additional Conditions

After reviewing the Draft Findings of Fact provided to Council and the applicant this morning via e-mail from the Town Attorney, I offer the following additional conditions/findings for Council consideration prior to action on the Final PUD application:

1. Amend Section I.8 with the addition of the following clarifying language:

“Alternative equivalent compliance requests shall only be available to the sections of the Development Code outlined in §7.16.120(a), *Applicability*, as may be amended from time to time.”

SPECIFIC FINDINGS: Alternative equivalent compliance is a procedure that allows development to meet the intent of design-related provisions of the Development Code with alternative design, but is not a general waiver or weakening of all Development Code regulations. As drafted in Version 18 of the PUD Guide, it is unclear whether or not the AEC process would be eligible to any provision of the Development Code. The addition of this language will provide clarity to reinforce that the AEC process is only eligible to the following sections of the Municipal Code: §7.20.100, Employee Housing Mitigation; §7.28.040, Mobility and Connectivity; §7.28.050, Landscaping; §7.28.060, Screening; §7.28.070, Retaining Walls; §7.28.080, Fences; §7.28.090, Design Standards; and §7.32.040, Paved Trail Design.

2. Amend the second sentence of Section A.(g)(ii) to read as follows:

“(ii) Wherever a street abuts a Planning Area as shown in the PUD Master Plan, the Planning Area boundary shall be the abutting right-of-way line of such street.”

SPECIFIC FINDINGS: The net effect of changing the Planning Area boundary to run to the centerline of abutting streets is not fully understood. By including right-of-way land in the density calculations, more density could be developed on less land. The degree to which this may affect neighboring properties or future adjacent properties is unclear. The Town Council finds that it does not have sufficient information to determine if this density computation method is in compliance with the **1996 Avon Comprehensive Plan: LAND USE**, Policy A1.1 *Development and redevelopment will be of a scale and intensity appropriate for the neighborhood in which it is located.*

3. Strike Section B.3 and Section B.4

SPECIFIC FINDINGS: The applicant has not presented information explaining why these two new subsections are warranted. The current PUD Master Plan contains Planning Areas grouped by varying density allowances, and resulting intensity of residential land-use. The intent of the PUD Master Plan is to regulate density per acre (i.e. on a site by site basis) rather than on gross acreage with the ability to exceed the prescribed density per acre calculation in some areas of a particular planning area. The Town Council finds that it does not have sufficient information to

determine if adding these sections, and simultaneously allowing areas of higher density in undefined locations, is in compliance with the **1996 Avon Comprehensive Plan** land use goals and priorities. One of the stated purposes of §7.04, Development Code, AMC, also a review criteria, is to “*promote and permit flexibility that will encourage innovative and imaginative approaches in land development....while maintaining density and intensity of use.*”

4. Amend section I.3 with the addition of the following clarifying language:

“Except for signs in the public right-of-way, a sign installation permit shall be required per the Sign Code of the Town of Avon, prior to the placing, erecting, moving, reconstructing, altering or displaying of any signs in the Village (at Avon) PUD. Off premises advertising including billboard advertisements are prohibited.”

Remove Chapter 15.28 Sign Code from Exhibit G.

SPECIFIC FINDINGS: The Sign Code of the Town of Avon establishes a sign code administrator and associated permitting requirements. Retaining permitting authority and sign permits will ensure that signs are installed in a safe manner by qualified professionals that are registered contractors with the Community Development Department. The Council finds that off-site advertisements are a prohibited sign type per the Sign Code of the Town of Avon.

5. Amend Exhibit D, *Wildlife Protection Plan*, Section 16. Wildlife Mortality, with the addition of the following language:

“(c) In order to lessen the possibility of deer and elk entering the high speed roads, including I-70, a double-wide cattle guard shall be installed in line with the game fencing installed in the same area prior to any further development north of I-70.”

SPECIFIC FINDINGS: The Town received comments from the Colorado Parks and Wildlife Division on May 29, 2012. The comments include the recommendation to add a double wide cattle guard to lessen the increased impacts on deer and elk migration on the north side of I-70. The Council finds that adding this requirement is appropriate given the following policies from the **1996 Comprehensive Plan: Policy F1.4** *Development and redevelopment will accommodate wildlife habitat, including deer and elk migration routes, or otherwise mitigate loss of habitat,* and **Policy F1.5** *Major development proposals will be referred to the Colorado Division of Wildlife for review and comment regarding wildlife issues.*

