

Staff Report

PUD Amendment

February 17, 2009 Planning & Zoning Commission Meeting



Report date	February 13, 2009
Project type	Planned Unit Development (PUD) Amendment, Preliminary Plan for Subdivision
Legal description	Wildwood Resort Subdivision, Lots 1, 2, 3; Tracts AA and BB
Current zoning	Planned Unit Development (PUD)
Address	NA (No addresses assigned)

I Staff Recommendation

Staff is recommending the Town of Avon Planning and Zoning Commission hold a public hearing in accordance with Section 17.12.100 of the Avon Municipal Code, and **TABLE** the subject application to the March 3rd, 2009 hearing. The basis for Staff's recommendation is to allow the applicant time to respond to the referral comments received to date by the Colorado Division of Wildlife, Eagle County and the Town of Avon Engineering Department. Staff and the Planning and Zoning Commission can then formulate a fully-developed recommendation to the Town Council at a future meeting.

Staff would like to take this first meeting opportunity with the Planning and Zoning Commission to become familiar with the proposed mix of land uses, development standards, general site layout, and to fully understand the comparison of the proposed development standards with the existing entitlements.

II Introduction

The applicant, Zehren and Associates, along with Jay Peterson, representing the owner of the property, Tanavon Corp, are proposing to amend the existing Wildwood Resort PUD Plan and Guide documents; and to further subdivide the existing Wildwood Subdivision, Lots 1, 2, and 3, into a total of six (6) lots and two tracts.

The subject property is located on the northeast corner of Nottingham and Buck Creek Roads, is presently zoned as the "Wildwood Resort SPA" (Specially Planned Area), and is platted as the Wildwood Resorts Subdivision. The proposed amendments would modify the existing approved land uses, and would modify the existing platted lot configurations.

The southern most lot, currently platted as Lot 1, would be split into two lots: Lot 1A and Lot 1B. A new Fire Station and separate administration building are proposed for Lot 1A with the administration building located at the corner of Nottingham and Buck Creek Roads. Lot 1B

would include eleven (11) residential units in a town home/duplex configuration. Further to the north, Lot 2 is proposed for the remaining thirty-one (31) whole ownership residential units, also in a town home/duplex configuration. All of the residential units are proposed to be a maximum of 2,700 square feet of gross floor area.

The applicant is proposing to construct a campus for the Gore Range Natural Science School on Lot 3, the northern most property in the subdivision. The uses proposed for this lot are consistent with the uses allowed in the Government, Park, and Employee Housing (GPEH) zone district. Lot 4 is to remain open space. Lot 5 is proposed to be used for a Montessori school and associated office use.

The current allowed uses for the development site are detailed in the governing zone document, Ordinance No. 85-4, Series of 1985 and are referenced below in Section III - Background of this report. In addition to what is outlined above, the applicant is proposing to further define and modify the allowed uses that are detailed in the governing ordinance and the accompanying plat.

III Background

In 1985, Section 36, Inc., a Colorado corporation, and Wildridge Development Company, a Colorado partnership, applied to the Town of Avon for certain amendments to the Zoning District Map and Zoning Code, and these amendments were eventually approved by Ordinance No 85-4, which is attached to this report as Exhibit A. Pursuant to Ordinance No 85-4, the Town of Avon Zoning District Map was amended to permit the "following uses" on Lots 1, 2, 3 and 4 of the Wildwood Resort Subdivision, respectively, in addition to specifying restrictions for Tracts "AA" and "BB":

150 hotel, motel and/or lodge (accommodation) units, together with accessory uses and related commercial uses as allowed in the NC (Neighborhood Commercial) zone district, to be located on Lot 1, Wildwood Resort.

Private park and recreation and related commercial uses including clubhouse building for indoor and outdoor sports activities and customary support facilities: swimming pools, tennis courts, archery range, restaurant/lounge, pro shop and other similar activities or services to be located on Lot 2, Wildwood Resort.

50 residential multiple family dwelling units, together with accessory uses, located on Lot 3, Wildwood Resort.

The only uses permitted on Lot 4, Wildwood Resort, shall be open space, drainage, landscaping and signage.

The only allowed uses permitted on Tract AA, Wildwood Resort shall be snow storage, landscaping, drainage, signage and open space.

The only allowed uses permitted on Tract BB, Wildwood Resort shall be snow storage, landscaping, parking, drainage, signage and open space.

These permitted uses are also listed "for information purposes only" on the final plat. The final plat was approved by the Avon Town Council on April 9, 1985, establishing the Wildwood Resort as an SPA (Specially Planned Area). Accordingly, the Wildwood Resort's current



development rights exist as explicitly listed within Ordinance No. 85-4 and detailed upon the corresponding plat. Any proposed amendments involving additions or changes to the uses listed in Ordinance No. 85-4, and the reconfiguration of the subdivided lots depicted on the corresponding plat, constitute a fundamental rezoning of the subject property.

Section 17.20.110(j)(1) of the Town of Avon Municipal Code specifically states, with regard to "precise or specific" development plans, " ...terms, conditions, and agreements contained within those PUDs shall continue to be binding upon the applicants thereof and the Town". It is evident that the precise or specific terms of the Wildwood Resort development plan as a whole remain binding on both the Town and the developer as approved by the Town in the form of Ordinance No. 85-4 and the corresponding Wildwood Resort final plat.

IV Surrounding Land Uses

The existing land use and zoning for the surrounding properties are as follows:

- North: Trails / Open Space
- South: Vacant Building, Coastal Mart / Neighborhood Commercial
- West: Low Density Residential / Open Space
- East: Open Space, Commercial / Open Space

V Referral Comments

The subject application is a noticed public hearing with written notice provided to property owners within 300' of the subject property. To date, staff has received no public comments regarding the applicant's request. In addition to the required public notice, Staff has transmitted the application material to the following agencies, with their comments summarized below:

Eagle River Fire Protection District

Comments were received from Carol Gill-Mulson, Deputy Chief of the District. According to her comments, revisions have been made to better accommodate ladder trucks in the residential areas. Additionally, hydrant locations have been discussed in a preliminary manner.

Colorado Department of Wildlife

While the DOW acknowledges the lesser impact of this amendment proposal, they cited impacts to winter range habitat for mule deer migration. They recommend enhancement projects to replace the loss of winter range, and closing access to the power line road that is accessed from the east side of the property.

The DOW takes exception to the stream setback requests due to the negative impacts that these encroachments present. There is no clear rationale for the requested setback variances, and their letter states that the PUD does not provide any mitigation for the impacts to wildlife.

Eagle County School District Comments

To date, staff has not received a response to our request for comments.

Eagle River Water and Sanitation District

To date, staff has not received a response to our request for comments.

Colorado Department of Transportation

To date, staff has not received a response to our request for comments.

Eagle County Planning Department

Staff has received comments from the Planning and Engineering Departments of Eagle County and they are attached hereto.

Eagle County Health Services District

To date, staff has not received a response to our request for comments.

ECO Trails

To date, staff has not received a response to our request for comments.

United States Forest Service

To date, staff has not received a response to our request for comments.

In addition to the agency referral comments summarized above, and attached hereto, the Public Works and Transportation Department and Engineering Department comments are attached to this report for your review and consideration. Please refer to Exhibit C.

As stated above, no public comments have been received in response to the Public Notice mailed to all property owners (or associations) within 300' of the subject property.

VI PUD Design Criteria

According to the Town of Avon Zoning Code, Section 17.20.110, the following criteria shall be used as the principal criteria in evaluating a PUD. It shall be the burden of the applicant to demonstrate that submittal material and the proposed development plan comply with each of the following design criteria, or demonstrate that one or more of them is not applicable, or that a particular development solution is consistent with the public interest.

Included in the applicant's binder is a detailed response to the following criteria:

1. Conformance with the Town of Avon Comprehensive Plan's Goals and Objectives.

The areas within the Comprehensive Plan that offer policy direction relative to the proposed land uses are the Future Land Use Plan, the District special area policies, and the General Goals and Policies of the Plan.

The Future Land Use Plan designates the proposed site by the delineation of each existing, platted lot as follows: Lot 1 is *Neighborhood Commercial*; Lot 2 is *Residential - low density*; and Lot 3 is designated for *Civic/Public* land uses.

The *Neighborhood Commercial* land use designation is described as follows: *These areas are intended to provide neighborhood-focused retail and service uses (such as markets, childcare, restaurants, and cafes) that are conveniently located near and connected with surrounding residential neighborhoods.* Staff will recommend that both the Future and Existing Land Use maps be amended if this application is approved, to better reflect the proposed mix of land-uses on this lot.

Residential low-density calls for a maximum density of 7.5 dwelling units per acre. Given the fact that this proposal contemplates a density more in line with the Residential medium-density standard, this area of the map should also be amended.

The *Civic/Public* land use designation, which Lot 3 currently falls into under the Town of Avon Comprehensive Plan, does contemplate school uses within these areas, but also



includes the following language: *"Each proposed public use should be evaluated separately in terms of its land area and topographical constraints, as well as its compatibility with adjacent uses"*.

The subject property is also located within *District 13: Nottingham Road Commercial District* under the Town of Avon Comprehensive Plan, which designates the area as a secondary commercial district and contains specific planning principles to be applied for this area. This application adheres to the following *District 13: Nottingham Road Commercial District* planning principles:

- *Limit Access points on Nottingham Road to simplify traffic movements*
- *Limit building heights to that which is compatible with the existing surrounding development.*
- *Development intensity and activity should diminish when traveling north on Buck Creek Road.*

There are several Goals and Policies contained in the Comprehensive Plan which can be applied to this property. Staff is in agreement with the majority of the Goals and Policies highlighted in the applicant's binder, with a particular emphasis on the following:

Goal C.1.6 – *Include sufficient land for public uses such as schools, recreation, community facilities (such as childcare), and government services near the people who use them.*

Goal D.1 – *Ensure that development and redevelopment is compatible with existing and planned adjacent development and contributes to Avon's community image and character.*

Goal H.4.3 – *Require use of innovative and environmentally friendly appliances and building techniques including water conservation approaches for new and existing development.*

Goal J.2.5 – *Develop neighborhood and community-based childcare facilities and include youth in the programming of community or public facilities.*

2. *Conformity and compliance with the overall design theme of the town, the sub-area design recommendations and design guidelines of the Town.*

With respect to establishing and maintaining a design theme, this submittal is clearly in conformance with the 'theme' and level of quality established with recent Town of Avon projects, and is consistent with the overall design theme of the Town.

While the level of detail varies depending on which portion of the project you are reviewing, the conceptual architectural studies generally comply with the Design Guidelines of the Town. A more detailed review will follow with the standardized Sketch and Final Design review processes.

3. *Design compatibility with the immediate environment, neighborhood, and adjacent properties relative to architectural design, scale, bulk, building height, buffer zones, character, and orientation.*

There has been a deliberate attempt to not only respond to the topography and constraints of the site, but to the greater design of the immediate environment and adjacent properties.



The 6,726 square foot "Mountain Discovery Center", part of the GRNSS campus, is requesting the permittance of an encroachment into the Town's standard 30' setback from the mean annual high water mark of Buck Creek.

The east end of the building would encroach between 20' – 25' lineal feet into said setback. An at grade porch would also encroach into this setback. Please refer to either Sheet C2.1 or Sheet C2.5 of the J&K Plan Set for a detailed view.

The Avon Municipal Code defines "Stream Lot Setback" as:

"a thirty-foot strip of land measured horizontally from the mean annual flood high water mark on each side of any live stream located within the boundaries of a proposed subdivision and shall be protected in its natural state, with the exception that footpaths, bridges, irrigation structures, flood control and erosion protection devices may be constructed thereon...Underground utilities may be located in such protected area, provided that there is no practical alternative location for such utilities, that the plans are approved by the Town Council through its designated representative and that all construction scars are revegetated."

On Sheets C2.1 and C2.5 you will also find a building encroachment, to a lesser extent than the Discovery Center, for a portion of the 1,233 square foot Learning Studio building. It is understood that these encroachments were intentional in the effort to bring students closer to the living river environment, as stated by the applicant and property owner.

As mentioned above, the architectural designs are compatible with the neighborhood and adjacent properties. The scale of development has been significantly decreased compared to the existing entitlements, especially at the southern end of the PUD with the elimination of the 150 unit hotel building.

The building heights proposed with this submittal are as follows:

Lot 1A (Fire House)	50 feet; 60 feet for architectural projection
Lot 1B (11 Townhomes)	44 feet
Lot 2 (32 Townhomes)	44 feet
Lot 3 (GRNSS Campus)	45 feet
Lot 4 (Open Space)	N/A
Lot 5 (Montessori School)	35 feet

These building heights should be generally compatible with the surrounding properties and are appropriate for buildout. While this site is surrounded by lower, the buffer space between development and the orientation of the structures appears to be compatible with the immediate environment and neighborhood.

4. Uses, activity, and density provide a compatible, efficient, and workable relationship with surrounding uses and activity.

The uses and density with this master planned development provide a compatible, efficient, and workable relationship with surrounding uses and activities. The density has been reduced from current approvals, and the intensity of use has also been diminished with the elimination of the hotel.

The surrounding uses and activities include Swift Gulch and Buck Creek Roads, Pizza Hut, the Goodyear building, and two gas station/convenience stores. There are also two vacant



Neighborhood Commercial (NC) zoned parcels immediately south of the proposed Fire Station lot on Nottingham Road.

The surrounding lands to the east, west, and north are primarily open space in nature.

5. Identification and mitigation or avoidance of natural and/or geologic hazards that affect the property upon which the PUD is proposed.

The Preliminary Geotechnical Study, as required by the Subdivision Code, is provided in the Appendices section of the applicant's binder. The soils report provided prepared by HP Geotech identifies sever soil stability issues and construction challenges, as well as identifies the need for a geologic hazards report. A Geologic Hazard report has not been submitted. Please refer to the Engineering Department comments for additional comments related to the identification and mitigation of natural and geologic hazards.

6. Site plan, building design and location and open space provisions designed to produce a functional development responsive and sensitive to natural features, vegetation and overall aesthetic quality of the community.

The general site layout produces a functional development. The final building locations will likely need to be modified from what the current drawings due to several factors. First, the future potential round-a-bout constructions at Nottingham/Buck Creek and Nottingham/Swift Gulch Roads will require land from Lots 1A and 1B. This must be taken into account at this stage of review in order to ensure a functional development that responds to changing conditions in the immediate area.

Additionally, Staff would ask that the Planning and Zoning Commission consider the Division of Wildlife's comments with respect to limiting disturbances and encroachments into the 30' live stream setback. The GRNSS buildings that are currently depicted as encroaching this setback should be reviewed in detail. Perhaps the discussion should be framed around the acceptable level of encroachment that the Commission feels appropriate, if any.

The existing open space lot (Lot 4) remains as open space, and this appears to be appropriate given the existence of the pond and associated wetlands in the area.

7. A circulation system designed for both vehicles and pedestrians addressing on and off site traffic circulation that is compatible with the Town Transportation Plan.

The internal vehicular circulation system is functional. Of concern to staff is the lack of pedestrian circulation both on and off site. Internal sidewalks are not provided, and accessibility to existing surrounding circulation systems (i.e. sidewalk on north side of Nottingham Road immediately to the east) is not demonstrated. The circulation system for pedestrians must be more clearly defined and compatible with surrounding systems.

8. Phasing plan or subdivision plan that will maintain a workable, functional, and efficient relationship throughout the development of the PUD. The phasing plan shall clearly demonstrate that each phase can be workable, functional and efficient without relying upon completion of future project phases.

A construction phasing plan is included in the applicant's binder. Please refer to Sheets CE.1 – CE.4 of the "Preliminary Construction Plans", prepared by J&K, Inc. The plan for Phase I is to construct traffic control measures, retaining walls associated with Buck Creek Lane, utilities necessary to serve the Gore Ranch Natural Science School (GRNSS), and the GRNSS campus in its entirety.

All forty-two (42) "townhome" units, and associated utility improvements, would be constructed as part of Phase II of this development. The phasing demonstrates that each phase can be workable, without relying upon completion of future project phases.

9. Adequacy of public services such as sewer, water, schools, transportation systems, roads, parks, and police and fire protection.

Some of the appropriate public service entities have submitted letters stating that they are willing and able to service the areas subject to this amendment. While the water demand of this proposal appears to be less than that of the current entitlements (118.6 SFE), this must be certified with further analysis. It is important to note that this submittal does not contain evidence of approval by utilities for water and sewer services, as required by the Avon Municipal Code.

10. That the existing streets and roads are suitable and adequate to carry anticipated traffic within the proposed PUD and in the vicinity of the proposed PUD.

The internal street, Buck Creek Lane, is designed to meet the Town of Avon Standards and Specifications. Surrounding the property are three public Rights-of-Way: Buck Creek Road (west), Nottingham Road (south), and Swift Gulch Road (east). According to the Engineering comments, a right turn lane to enter the property off of Buck Creek Lane should be provided.

A Revised Traffic Impact Study prepared for Tanavon Corporation by Kimley-Horn and Associates can be found in the Appendices of the applicant's binder.

11. That the PUD or amendment to PUD requested provides evidence of substantial compliance with the following public purpose provisions, as outlined in Section 17.28.085 of the Avon Municipal Code:

A. The application demonstrates a public purpose, which the current zoning entitlements cannot achieve.

There is a public purpose inherent with educational facilities which are not currently possible with the existing zoning. By relocating a regional fire station onto the property from the Town Core, the Town's long-term Town Center West Implementation plans will continue to evolve and be made possible.

B. Approval of the zoning application provides 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.

The approval of this zoning application should not cause any adverse impacts to the long term economic, cultural or social well being. There are cultural and social community benefits inherent with the construction of an improved/expanded Fire Station, GRNSS, and Montessori (or early education) school.

C. 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.

This zoning application will undoubtedly increase the amount of public benefit the property can offer over current entitlements. While cultural resources are preserved and enhanced



within educational land-uses, the impact on environmental resources must be reviewed carefully.

If you have any questions regarding this project or any planning matter, please call me at 748-4413, or stop by the Community Development Department.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Matt Pielsticker", written over a light blue circular stamp or watermark.

Matt Pielsticker
Planner II

VIII Report Attachments

Exhibit A: Ordinance No. 85-4, Series of 1985

Exhibit B: Wildwood Resorts Subdivision Plat (1985)

Exhibit C: Referral Comments

Exhibit D: Applicant's Revised Proposal Binder