



TOWN OF AVON, COLORADO
TOWN OF AVON MEETINGS FOR TUESDAY, MARCH 8, 2016
AVON LIQUOR AUTHORITY MEETING BEGINS AT 5:00 PM
REGULAR MEETING BEGINS AT 5:05 PM
AVON TOWN HALL, ONE LAKE STREET

AVON LIQUOR LICENSING AUTHORITY MEETING BEGINS AT 5:00 PM (SEE SEPARATE AGENDA PAGE __)

REGULAR MEETING BEGINS AT 5:05 PM

- 1. CALL TO ORDER & ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENT – COMMENTS ARE WELCOME ON ITEMS NOT LISTED ON THE FOLLOWING AGENDA**
- 4. PRESENTATION – AVON POLICE DEPARTMENT LIFESAVING AWARDS (POLICE CHIEF BOB TIGER)**
- 5. ACTION ITEMS**
 - 5.1. PUBLIC HEARING** AMPLIFIED SOUND PERMIT APPLICATION FOR APRÈS AVON SPRING CONCERTS ON POSSIBILITY PLAZA ON THE MAIN STREET MALL (PEAK PERFORMANCE INC. – MIKE O'BRIEN)
 - 5.2. FIRST READING OF ORDINANCE NO 15-11, AN ORDINANCE AMENDING THE AVON MUNICIPAL CODE TABLE 7.16-1 AND SECTION 7.16.060(H)(1) CONCERNING AMENDMENTS TO WILDRIDGE PUD APPLICATIONS – CONTINUED FROM NOVEMBER 17, 2015 (PLANNING DIRECTOR MATT PIELSTICKER)**
 - 5.3. PUBLIC HEARING** RESOLUTION 16-05, APPROVING A MINOR PUD AMENDMENT TO THE RIVERSIDE PUD (PLANNING DIRECTOR MATT PIELSTICKER)
 - 5.4. PUBLIC HEARING – FOR THE POLICE DEPARTMENT AT THE PUBLIC SAFETY FACILITY - SECOND READING OF ORDINANCE NO. 16-02, AUTHORIZING THE FINANCING OF CERTAIN PUBLIC IMPROVEMENTS OF THE TOWN, AND IN CONNECTION THEREWITH AUTHORIZING THE LEASING OF CERTAIN TOWN PROPERTY AND THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE LEASE, A LEASE PURCHASE AGREEMENT, A DISCLOSURE CERTIFICATE, A PRELIMINARY OFFICIAL STATEMENT AND OTHER DOCUMENTS AND MATTERS RELATING TO CERTAIN CERTIFICATES OF PARTICIPATION, SERIES 2016; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE FINANCING; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HERBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO (TOWN ATTORNEY ERIC HEIL)**
- 6. WORK SESSION**

REVIEW OF A PURCHASE AND SALES AGREEMENT FOR THE TOWN TO PURCHASE THE MOUNTAIN VISTA OFFICE BUILDING FROM POINTS OF COLORADO, INC., FOR \$1.5 MILLION AND COUNCIL REPORT
(TOWN ATTORNEY ERIC HEIL)
- 7. ACTION ITEMS**
 - 7.1. RESOLUTION 16-04, APPROVING THE UPDATED FEE SCHEDULE FOR ZONING, SUBDIVISION, AND DESIGN AND DEVELOPMENT REVIEW APPLICATIONS (PLANNING DIRECTOR MATT PIELSTICKER)**
 - 7.2. MINUTES FROM FEBRUARY 23, 2016 MEETING (TOWN CLERK DEBBIE HOPPE)**
- 8. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR**
- 9. MAYOR & COUNCIL COMMENTS**
- 10. ADJOURNMENT**



TOWN OF AVON, COLORADO
TOWN OF AVON MEETINGS FOR TUESDAY, MARCH 8, 2016
AVON LIQUOR AUTHORITY MEETING BEGINS AT 5:00 PM
AVON TOWN HALL, ONE LAKE STREET

CALL TO ORDER AND ROLL CALL

- 1. APPROVAL OF AGENDA**
- 2. PUBLIC COMMENT**
- 3. PUBLIC HEARING SPECIAL EVENTS PERMIT**
 - 3.1. Applicant Name: Bright Future Foundation
Event Name: Après Avon Spring Concerts
Event Dates: March 18 & 25, 2016; 12:00 p.m. until 10:00 p.m.
Location: Main Street Mall and Possibility Plaza
Event Manager: Casey Angel
- 4. MINUTES FROM FEBRUARY 9, 2016**
- 5. ADJOURNMENT**



REPORT FOR AVON LIQUOR LICENSING AUTHORITY

To: Avon Liquor Licensing Authority
From: Debbie Hoppe, Town Clerk
Meeting Date: March 8, 2016
Agenda topic: SPECIAL EVENTS PERMIT APPLICATION – PUBLIC HEARING

The Town Council serving as the Local Liquor Licensing Authority will consider a Special Events Permit Application for the upcoming *Après Avon Spring Concerts*. A public hearing is required before final action is taken.

Applicant Name: Bright Future Foundation
Event Name: *Après Avon Spring Concerts*
Event Dates: March 18 & 25, 2016; 12:00 p.m. until 10:00 p.m.
Location: Main Street Mall and Possibility Plaza
Event Manager: Casey Angel

The applicant has submitted the appropriate materials required by the State of Colorado Liquor Enforcement Division and all materials are in order. Bright Future Foundation is applying for malt, vinous, spirituous liquor and fermented malt beverage (3.2% Beer) permit to serve/sell beverages at Main Street Mall and Possibility Plaza for the March 18th and March 25th *Après Avon Spring Concerts*. The premise has been posted with notice of the public hearing for this application. The event manager will be present to answer questions about the application. There are local liquor licensing fees associated with the special event permit; the applicant has submitted the appropriate local fees.

Special Events permits are issued by the Local Licensing Authority to allow particular types of organizations, municipalities, and political candidates to sell, serve or distribute alcohol beverages in connection with public events. Because of their temporary nature, needs and desires (reasonable requirements of the neighborhood) are not considered by the licensing authorities as a condition of issuance. Applications are made directly with the local licensing authority having jurisdictions over the place of the event. Article 48 of Title 12 regulates the issuance of special events permits. Note that these permits may only be issued for prescribed hours during the day and for not more than 15 days in any one calendar year.

SPECIAL EVENTS PERMIT APPLICATIONS ATTACHMENTS:

The applicants for the special events permit have submitted the following materials:

- ✓ Application for a Special Events Permits (State form DR 8439)
- ✓ Alcohol Management Plan
- ✓ Diagram where liquor will be served
- ✓ Certificate of Good Standing
- ✓ Proof of Insurance
- ✓ Police Report on Background Checks

APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT
AND ONE OF THE FOLLOWING (See back for details.)

- | | | |
|------------------------------------|--|---|
| <input type="checkbox"/> SOCIAL | <input type="checkbox"/> ATHLETIC | <input checked="" type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER | <input type="checkbox"/> POLITICAL CANDIDATE |
| <input type="checkbox"/> PATRIOTIC | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS |
| <input type="checkbox"/> POLITICAL | <input type="checkbox"/> RELIGIOUS INSTITUTION | <input type="checkbox"/> FACILITIES |

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:
2110 ☒ MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY
2170 ☒ FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY

DO NOT WRITE IN THIS SPACE

LIQUOR PERMIT NUMBER

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE

Bright Future Foundation for Eagle County

State Sales Tax Number (Required)

84-0938374

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE
(include street, city/town and ZIP)

PO Box 2558
Avon, CO 81620

3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT
(include street, city/town and ZIP)

Apres Avon
Avon, Colorado 81620

NAME

DATE OF BIRTH

HOME ADDRESS (Street, City, State, ZIP)

PHONE NUMBER

4. PRES./SEC'Y OF ORG. or POLITICAL CANDIDATE

Dr. Casey Angel, Psy D.

1060 W Beaver Creek Blvd Suite 201, Avon, CO 81620 970-949-7097

5. EVENT MANAGER

Dr. Casey Angel, Psy D.

1060 W Beaver Creek Blvd Suite 201, Avon, CO 81620 970-949-7097

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN
ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?

☒ NO ☐ YES HOW MANY DAYS? _____

7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?

☐ NO ☒ YES TO WHOM? _____

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED? ☒ Yes ☐ No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date 3/18/2016

Date 3/25/2016

Date

Date

Date

Hours From 12:00 p.m.
To 10:00p.m.

Hours From 12:00p.m.
To 10:00p.m.

Hours From .m.
To .m.

Hours From .m.
To .m.

Hours From .m.
To .m.

OATH OF APPLICANT

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE

TITLE

Clinical Director

DATE

2/19/16

REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

THEREFORE, THIS APPLICATION IS APPROVED.

LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

☒ CITY

TELEPHONE NUMBER OF CITY/COUNTY CLERK

☐ COUNTY

(970) 748-4001

SIGNATURE

TITLE

DATE

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

LIABILITY INFORMATION

License Account Number

Liability Date

State

TOTAL

-750 (999) \$

(Instructions on Reverse Side)

APPLICATION INFORMATION AND CHECKLIST

THE FOLLOWING SUPPORTING DOCUMENTS MUST BE ATTACHED TO THIS APPLICATION FOR A PERMIT TO BE ISSUED:

- ☒ Appropriate fee.
- ☒ Diagram of the area to be licensed (not larger than 8 1/2" X 11" reflecting bars, walls, partitions, ingress, egress and dimensions.
Note: If the event is to be held outside, please submit evidence of intended control, i.e., fencing, ropes, barriers, etc.
- ☐ Copy of deed, lease, or written permission of owner for use of the premises.
- ☒ Certificate of good corporate standing (NONPROFIT) issued by Secretary of State within last two years; or
- ☐ If not incorporated, a NONPROFIT charter; or
- ☐ If a political Candidate, attach copies of reports and statements that were filed with the Secretary of State.

- ☐ APPLICATION MUST FIRST BE SUBMITTED TO THE LOCAL LICENSING AUTHORITY (CITY OR COUNTY) AT LEAST THIRTY (30) DAYS PRIOR TO THE EVENT.
- ☐ THE PREMISES TO BE LICENSED MUST BE POSTED AT LEAST TEN (10) DAYS BEFORE A HEARING CAN BE HELD. (12-48-106 C.R.S.)
- ☐ AN APPROVED APPLICATION MUST BE RECEIVED BY THE LIQUOR ENFORCEMENT DIVISION AT LEAST TEN (10) DAYS PRIOR TO THE EVENT.
- ☐ CHECK PAYABLE TO THE COLORADO DEPARTMENT OF REVENUE

(12-48-102 C.R.S.)

A Special Event Permit issued under this article may be issued to an organization, whether or not presently licensed under Articles 46 and 47 of this title, which has been incorporated under the laws of this state for the purpose of a social, fraternal, patriotic, political or athletic nature, and not for pecuniary gain or which is a regularly chartered branch, lodge or chapter of a national organization or society organized for such purposes and being non profit in nature, or which is a regularly established religious or philanthropic institution, and to any political candidate who has filed the necessary reports and statements with the Secretary of State pursuant to Article 45 of Title 1, C.R.S. A Special Event permit may be issued to any municipality owning arts facilities at which productions or performances of an artistic or cultural nature are presented for use at such facilities.

If an event is cancelled, the application fees and the day(s) are forfeited.

Après Avon

Alcohol Management Plan

Submitted February 8, 2016

Event Dates – March 18 & 25

Event Overview:

On March 18th & 25th, Possibility Plaza will again be activated with the Après Avon concert series. Taking place on Fridays, from 4pm-9pm, Possibility Plaza will host live music, local food vendors and a bar tent.

Optimum Events, a nationally recognized concessionaire will be managing one bar location not to be larger than 10X20ft in size.

Who We Are:

Peak Performances – Peak Performances is a Colorado based events company who has put on multiple events in Colorado including events in Summit and Eagle Counties.

Optimum Events & Entertainment – Optimum is an Eagle, Colorado based company which has been contracted to assist in the alcohol management of the upcoming Après Avon events. Optimum has facilitated alcohol at similar events and on a national level for both music festivals and sporting events.

Licensed Premise:

Please see attached map – Special Event Liquor boundary outlined in red.

Entrance / Exits:

There will be three entrance/exit ways to the Possibility Plaza venue. Each entrance/exit is marked on the attached map in green.

Bar Staff Experience:

All bar staff working at the bar service location will be TIPS or Serve Safe Certified and all certification cards will be on file with Optimum should TOA ever want or need to see the physical credentials.

Control of Premise:

At all times during the service of alcohol and, or the presence of alcoholic beverages, there will be three licensed security personnel in the Possibility Plaza venue. The main focus of security will be to make sure no outside alcohol is brought into the license perimeter and that no alcohol sold by the event concessions leaves the venue.

Optimum will be checking ID's for all persons who appear to be under the age of 30 years old. Upon a positive ID check, all attendees wishing to purchase alcoholic beverages will be issued a highly visible wristband which will show that they have been ID checked and are approved to buy and consume alcoholic beverages. Anyone who has a wristband but appears to be under the age of 25 will be ID checked again at the time of purchase.

The sale of alcoholic beverages whether beer, wine or spirits will be limited to two beverages per person and the service vessel will be no larger than 16oz.

All onsite bar tenders and Optimum staff as well as security reserve the right to refuse alcohol service for any reason including but not limited to any person who seems intoxicated, any person who cannot validate their age by the presence of a current state driver's license or state I.D. Other acceptable forms of I.D. include a valid US or other countries passport or valid military I.D.

Days and Hours of Operation:

Friday - March 18, 2016 – Hours of Alcohol Service - 4:30PM – 8:45PM

Friday – March 25, 2016 – Hours of Alcohol Service – 4:30PM – 8:45PM



Liquor Boundary

Entry / Exit Location

Security Personnel

Bar Location

Stage

© 2016 Google

Google earth

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO
CERTIFICATE OF REGISTRATION

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

BRIGHT FUTURE FOUNDATION FOR EAGLE COUNTY

is a **Charitable Organization** registered to solicit contributions in Colorado as required by the Colorado Charitable Solicitation Act, Title 6, Article 16, C.R.S.

This organization has been assigned a registration number of 20033001886.

The status of its registration is **GOOD**, and this status has been in effect since 07/07/2015.

The organization's registration is or was due to be renewed by 08/15/2016.

Registrations in good or delinquent status remain valid until the registration becomes suspended or revoked. An organization whose registration has been suspended is prohibited by law from soliciting contributions, providing consulting services in connection with a solicitation campaign, or conducting a solicitation campaign in Colorado.

This certificate reflects facts established or disclosed by documents delivered to this office electronically through 02/19/2016.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the Great Seal of Colorado, at the City of Denver on 02-19-2016 14:33:37



Secretary of State of the State of Colorado



CERTIFICATE OF LIABILITY INSURANCE

BRIGFUT-01

SMARES

DATE (MM/DD/YYYY)

10/8/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Colorado Nonprofit Insurance Agency 789 Sherman Street, Suite 260 Denver, CO 80203	CONTACT NAME: PHONE (A/C, No, Ext): (303) 894-0298 FAX (A/C, No): (303) 894-0161 E-MAIL ADDRESS: info@co-ni.org														
INSURED Bright Future Foundation for Eagle County PO Box 2558 Avon, CO 81620	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A : Alliance of Nonprofits for Ins</td><td></td></tr><tr><td>INSURER B : Pinnacol Assurance</td><td></td></tr><tr><td>INSURER C :</td><td></td></tr><tr><td>INSURER D :</td><td></td></tr><tr><td>INSURER E :</td><td></td></tr><tr><td>INSURER F :</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Alliance of Nonprofits for Ins		INSURER B : Pinnacol Assurance		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSURER C :															
INSURER D :															
INSURER E :															
INSURER F :															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	X		2015-09907	09/20/2015	09/20/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 LIQUOR LIABILITY \$ 1,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X		2015-09907	09/20/2015	09/20/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			2015-09907-UMB	09/20/2015	09/20/2016	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ \$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	3061556	10/01/2015	10/01/2016	PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Eagle County Health & Human Services, its associated or affiliated entities, its successors and assigns, elected officials, employees, agents and volunteers are listed as Additional Insured for their interest in General Liability & Auto Liability.

CERTIFICATE HOLDER**CANCELLATION**

Eagle County Health & Human Services
Eagle County Government
PO Box 660
Eagle, CO 81631

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**Avon Police Department
Liquor License Application**

Individual Name(s): Casey Angel

Name of Business: Bright Future Foundation

Type of License: ☐ Hotel & Restaurant
☒ Special Event Permit

Event Name: Apres Avon

Date of Event: March 18 & 25 2016; 12:00p.m. until 10:00p.m.

Location of Business: Possibility Plaza
Avon, Colorado 81620

Date Received: 02/24/2016

Photographs/Fingerprints: ☐ On File
☒ Special Event – N/A

Investigation by:
☐ Detective Sergeant Jonathan Lovins
☒ Detective Jeremy Holmstrom

Date: 02/24/2016

CBI Criminal Investigation (attached): No Problems

Local Criminal Investigation: No Problems.

Comments:

Liquor Code Violations in the past calendar year: ☐ Yes ☒ No

If yes, explain: _____

Smoking violation in the past calendar year: ☐ Yes ☒ No

If yes, explain: _____

☒ Background investigation conducted with no problems and or areas of concern.

N.C.I.C. database not accessed on this applicant.

Investigation Time: 2 hours.

Administration Time: 1 hour.

R/J

2-29-16



TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING MINUTES FOR TUESDAY, FEBRUARY 9, 2016
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER AND ROLL CALL

Chairman Fancher called the meeting to order at 5:00 p.m. A roll call was taken and Board members present were Sarah Smith Hymes, Scott Prince, Megan Burch, Matt Gennett, Jake Wolf. Buz Reynolds was absent. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Assistant Town Manager Scott Wright, Police Chief Bob Ticer, Executive Assistant Preston Neill and Town Clerk Debbie Hoppe.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. PUBLIC COMMENT – COMMENTS ARE WELCOME ON TOPICS NOT ON THE AGENDA

No public comments made.

4. RENEWAL OF LIQUOR LICENSES

- 4.1. APPLICANT: SVO COLORADO MANAGEMENT, INC. D/B/A SHERATON MOUNTAIN VISTA
LOCATION: 160 BEAVER CREEK WEST
TYPE: HOTEL AND RESTAURANT LICENSE
MANAGER: DAVID WEISS

Board member Prince moved to approve the Hotel and Restaurant License for SVO Colorado Management, Inc. d/b/a Sheraton Mountain Vista; Board member Gennett seconded the motion and it passes unanimously by those present. Board member Reynolds was absent.

- 4.2. APPLICANT: FIESTA JALISCO NUMERO TRES, LLC D/B/A FIESTA JALISCO
LOCATION: 240 CHAPEL PLACE B-12
TYPE: HOTEL AND RESTAURANT LICENSE
MANAGER: RICARDO ARAGON

Board member Gennett moved to approve the Hotel and Restaurant License for Fiesta Jalisco Numero Tres, LLC. d/b/a Fiesta Jalisco; Board member Burch seconded the motion and it passes unanimously by those present. Board member Reynolds was absent.

5. REPORT OF CHANGES – CHANGE IN MANAGER

- 5.1. APPLICANT: FIESTA JALISCO NUMERO TRES, LLC D/B/A FIESTA JALISCO
LOCATION: 240 CHAPEL PLACE B-12
CURRENT MANAGER: RICARDO ARAGON
NEW MANAGER: JOSE G. RODRIQUEZ

The application was presented with no concerns. Board member Prince moved to approve the Change in Manager application for Fiesta Jalisco Numero Tres, LLC d/b/a Fiesta Jalisco; Vice Chairman Wolf seconded the motion and it passes unanimously by those present. Board member Reynolds was absent.

6. MINUTES FROM JANUARY 26, 2016

Vice Chairman Wolf moved to approve the Minutes from January 26, 2016; Vice Chairman Wolf seconded the motion and it passed unanimously by those present. Board member Reynolds was absent.



TOWN OF AVON, COLORADO
AVON LIQUOR LICENSING AUTHORITY MEETING MINUTES FOR TUESDAY, FEBRUARY 9, 2016
AVON TOWN HALL, ONE LAKE STREET

7. Adjournment

There being no further business to come before the Board, the meeting adjourned at 5:05 p.m.

RESPECTFULLY SUBMITTED:

Debbie Hoppe, Town Clerk

APPROVED:

Jennie Fancher

Jake Wolf

Matt Gennett

Megan Burch

Albert "Buz" Reynolds

Scott Prince

Sarah Smith Hymes



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Robert L. Ticer, Chief of Police

Meeting Date: March 8th, 2016

Agenda

Topic: Avon Police Department Lifesavings Awards Presentation

ACTION BEFORE COUNCIL

Avon Police Chief Robert L. Ticer will be presenting the Department's Lifesaving Award to Officers Aurion Hassinger, Toby Baldwin, and Tyler Churches for their actions in saving the life of a community member on August 10th, 2015 in the Town of Avon.

BACKGROUND

During the late evening hours of August 10th, 2015, Officers Hassinger, Toby Baldwin, and Churches responded to a report of a young lady threatening to end her life by jumping from the railroad bridge onto southbound Avon Road. Officer Baldwin had located this person at this specific location after building previous report and via cellphone with her. Upon arrival, Officer Baldwin noticed that the subject had crossed a large gap of approximately 4 feet between the bridge and railing and was now dangerously on the outside of the wall over Avon Road. Officer Baldwin directed Officer Churches to block the southbound lane of traffic on Avon Road in case the subject fell. The subject was now barely hanging onto the railing with her fingers.

Due to the gap distance between the railroad bridge and the railing, Officer Hassinger held onto Officer Baldwin's exterior bullet resistant vest to steady him so he could cross the dangerous area and grab ahold of the subject. Both officers were then able to grasp the subject and steady her after a struggle to prevent her from jumping and falling to Avon Road below. Officer Churches ensured fire rescue and ambulance personnel were in route before he responded to the railing to assist. Meanwhile the subject was still struggling and trying to pull away. After the subject tired and stopped trying to pull away, Officers Hassinger and Baldwin were able to lift her up to officer Churches who was able to steady himself and safely transport her across the gap to safety.

The officers turned this young lady over to the Ambulance District where she was transported for mental health treatment.

The location of this incident presented a dangerous set of circumstances with the railings, and gap distance between them that opened up to the ground below. The distance to the asphalt on the roadway below is approximately 27 feet. If the subject would have fallen, she would have surely sustained serious injuries or death.

Without the heroic and selfless actions and strong teamwork by Officers Hassinger, T. Baldwin, and Churches, the young lady would likely have jumped to her death. For these reasons, it is my honor to present these fine officers with Avon Police Department Lifesaving Award.



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Danita Dempsey, Director of Festivals & Special Events
Meeting Date: March 8, 2016
Agenda Topic: Public Hearing for Amplified Sound Permit Application for Après Avon Spring Concerts at Possibilities Plaza on the Main Street Mall

ACTION BEFORE COUNCIL

The Town Council is asked to consider approving an Amplified Sound Permit to allow the Outdoor Use of Amplified Sound on Friday, March 18 and Friday, March 25, 2016 between the hours of 4:15 p.m. and 5:25 p.m. specifically for sound check purposes; and, between the hours of 5:30 p.m. and 8:45 p.m. for band performances, at the *Après Avon Spring Concerts*. The events are to be held at Possibilities Plaza on the Main Street Mall and the applicant is Peak Performances, Inc.

PROPOSED MOTION

I move to approve/approve with amendments/deny, the Amplified Sound Permit Application for the *Après Avon Spring Concerts* on Friday, March 18 and Friday, March 25, 2016, as presented; and to condition the application with the Town Manager being able to require the producer to lower the volume of the amplified sound, when, in her discretion, the music is louder than appropriate for the surrounding properties.

BACKGROUND

A Public Hearing is required for Outdoor Use of Amplified Sound for events that will be using amplified sound systems in the Main Street Mall. It is recommended that the following restriction be considered:

The Town Manager may require the producer to lower the volume of the amplified sound, when, in her discretion, the music is louder than appropriate for the surrounding properties.

Town staff has completed outreach, beyond that required by Avon Municipal Code, to properties adjacent to Possibilities Plaza with notice of tonight's Public Hearing.

Subject to Council approval of the Amplified Sound Permit Application, the Town Manager has approved the following bands to play at the *Après Avon Spring Concerts*:

1. Friday, March 18, 2016 – Long Run – A Tribute to the Eagles
2. Friday, March 25, 2016 – Forever in Blue Jeans – A Tribute to Neil Diamond

A PUBLIC NOTICE was published, as required in Avon Municipal Code, for the Public Hearing on Wednesday, March 2, 2016. The applicant has been invited to attend the meeting.

Information for Issuing Amplified Sound Permits:

The Ordinance 15-07 amending AMC 5.24, Section 9.12.080 provides the framework for issuing this type of permit.

The Council, in making its decision to issue the Amplified Sound Permit, may consider the following:

- 1.1. Comments by the public.
- 1.2. Necessity of the permit for the cultural, historical or social benefit of the community.
- 1.3. Proximity of the proposed location to residential neighborhoods.
- 1.4. Proposed direction of sound projection.
- 1.5. Screening of sound from neighboring properties.
- 1.6. Compatibility with other uses and activities in the vicinity.

The Town Council may prescribe any conditions or requirements deemed necessary to minimize adverse effects upon the community or surrounding neighborhood.

Attachments:

- ✓ Application for Outdoor Use of Amplified Sound Equipment for *Après Avon Spring Concerts*
- ✓ Site Map for *Après Avon Spring Concerts* in Main Street Mall Showing Amplified Sound Projections



**PERMIT APPLICATION FOR
OUTDOORS USE OF SOUND AMPLIFICATION SYSTEM**

1. NAME OF APPLICANT Michael O'Brien
 2. REPRESENTING BUSINESS/ORGANIZATION Peak Performances Inc.
ADDRESS AND/OR MAILING ADDRESS:
440 D Street Golden, CO 80401
 3. ADDRESS OF PREMISE OR LOCATION WHERE SOUND IS TO BE PRODUCED Possibilities Plaza on Main Street Mall
 4. TELEPHONE NUMBER 970 418 2121
 5. EMAIL ADDRESS mike@gigdigger.com
 6. PURPOSE FOR OUTDOOR USE OF SOUND AMPLIFICATION SYSTEM Live Sound for Apres Avon Bands
DATE/S OF PROPOSED USE March 18, 2016 and March 25, 2016
TIME/S OF PROPOSED USE Soundchecks from 4:15pm - 5:25pm and Performances from 5:30pm - 8:45pm
 7. ATTACH A MAP OR DIAGRAM DEPICTING THE PROPOSED LOCATION OF SOUND AMPLIFICATION EQUIPMENT, DIRECTION OF SOUND PROJECTION AND POTENTIAL SOUND PROJECTION DISTANCE.
 8. DESCRIPTION OF SOUND AMPLIFYING EQUIPMENT Professional Public Address System appropriate to audience of 1200 patrons.
- SIGNATURE OF APPLICANT Michael O'Brien DATE 02/15/16

THE PERMIT APPLICATION IS APPROVED BY THE TOWN OF AVON AS NOTED BY THE SIGNATURES BELOW. THE APPLICANT MUST COMPLY WITH CHAPTER 5.24 OF THE AVON MUNICIPAL CODE AS OUTLINED ON THE BACK OF THIS APPLICATION.

TOWN CLERK

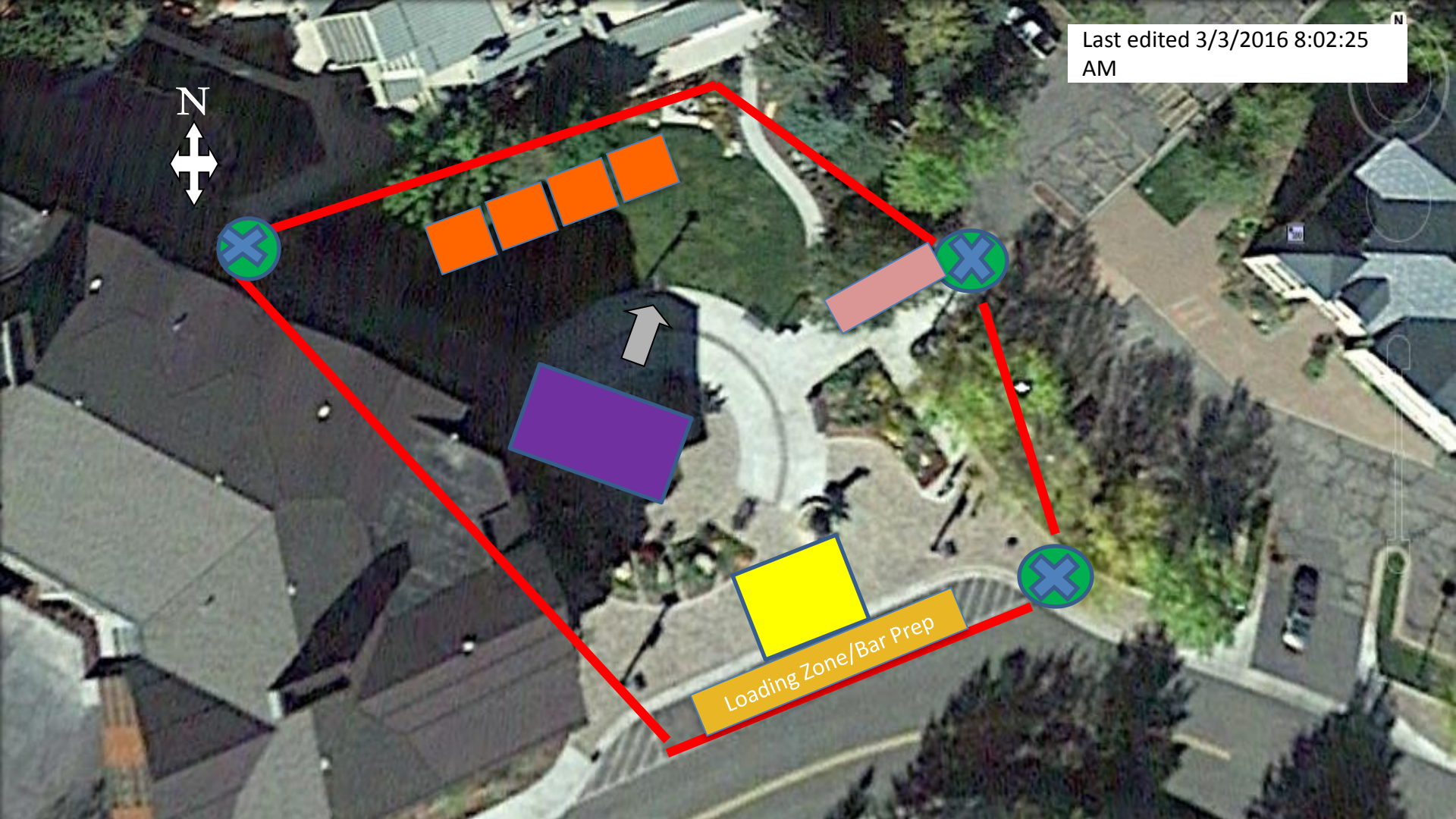
DATE

DIRECTOR OF FESTIVALS & SPECIAL EVENTS

DATE

AVON POLICE CHIEF OR DESIGNEE

DATE



	Liquor Boundary		Toilets
	Entry / Exit Location		Vendor
	Security Personnel		Sound direction
	Bar Location		
	Stage, back stage, front of house		



To: Honorable Mayor and Members of Town Council

From: Matt Pielsticker, AICP, Planning Director

Meeting Date: March 8, 2016 Town Council Meeting

Agenda Topic: **PUBLIC HEARING** and First Reading of Ordinance 2015-11, An Ordinance Approving a Code Text Amendment related to Minor PUD Amendments in the Wildridge Subdivision

ACTION BEFORE COUNCIL

Vote on an Ordinance that changes the development review considerations for PUD Amendment Applications in the Wildridge PUD.

PROPOSED MOTION

"I move to approve Ordinance 2015-11 (**Exhibit A**), thereby approving Case #CTA15001, an application for a code text amendment pertaining to the Wildridge Subdivision, to add a new Section 7.16.060(h)(1)(iii) *Amendments to Wildridge PUD* to the Avon Development Code and edit Table 7.16-1 accordingly, together with the findings of fact."

SUMMARY

The attached Ordinance provides amendments to the Avon Municipal Code. The amendments create a new set of guidelines for property owners within the Wildridge Subdivision who propose to change their development rights from a duplex structure to two (2) single-family homes. The amendments create a new category called "Lot Split PUD Amendments," and continue to require public hearings before the Planning and Zoning Commission and Town Council for final decision. It should be noted that these regulations only apply to undeveloped lots in the subdivision.

These code amendments were originally reviewed by Council on November 17, 2015, and were continued in order for the Planning and Zoning Commission to hold additional hearings and vet the changes with the public. Based on public comments received at three different hearings, the Ordinance was amended and are once again presented to Council for consideration. The Planning and Zoning Commission recommended approval (**Exhibit B**) after further modifications were made. For a complete background of the Wildridge Subdivision and a summary of the PZC/Council joint work session from June 2015 that prompted the contained amendments please see attachments (**Exhibit C**).

If approved, future PUD amendment proposals for Lot Splits would need to address specific site characteristics unique to the Wildridge neighborhood to demonstrate that a development proposal is not more impactful than development proposed under the existing site allowance. The language is intended to provide PZC (and ultimately Council) with ample discretion to review proposals on a site-by-site basis.

§7.16.040(c), CODE TEXT AMENDMENT REVIEW CRITERIA

Town Council shall use the following review criteria as the basis for a final decision on Ordinance 15-11:

- (1) The text amendment promotes the health, safety and general welfare of the Avon Community;*
- (2) The text amendment promotes or implements the goals and policies of the Avon Comprehensive Plan;*
- (3) The text amendment promotes or implements the purposes stated in this Development Code; or*
- (4) The text amendment is necessary or desirable to respond to changed conditions, new planning concepts or other social or economic conditions.*

Staff Response: The amendments appear to implement the goals and policies of the Avon Comprehensive Plan by “*Siting buildings of varying sizes along the street to maximize sun exposure, protect views, be compatible with existing surrounding development, and break up building bulk*” (Planning Principles | District 24: Wildridge Residential District, Avon Comprehensive Plan). By providing the potential for smaller building footprints and reduced building heights, where compatible with existing surrounding development, the new design criteria for lot splits achieve these goals of the Avon Comprehensive Plan. Additionally, the Planning and Zoning Commission cited conformance with the following goals and policies:

- *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.*
- *Policy D.1.5: Update and enhance the Avon land use regulations so that development is subject to a thorough, rigorous set of development criteria.*

The Planning and Zoning Commission identified several advantages to the amended language, including the following:

- A more structure process with added review criteria; this adds up-front direction to property owners, applicants, and Town Staff when reviewing these applications.
- Reduced massing, where appropriate and compatible with neighboring developments, to address wall-effect of some of the larger, linear, duplex structures that have patterned in some areas of the Subdivision.
- Potential for smaller building footprints, where compatible with homes in the vicinity.
- Reduced building heights if warranted to address adjacent existing development.
- Transparent, thorough process with Public Hearings at PZC and Town Council that give time to work with adjacent property owners when needed.

ATTACHMENTS

Exhibit A: Ordinance 2015-11, as amended by PZC

Exhibit B: PZC Resolution 16-01, Recommending Approval

Exhibit C: Wildridge Background and Joint PZC/Council Work Session

Exhibit D: Written Public Comments



**TOWN OF AVON, COLORADO
ORDINANCE 2015-11**

**AN ORDINANCE AMENDING AVON MUNICIPAL CODE
TABLE 7.16-1 AND SECTION 7.16.060(h)(1) CONCERNING
LOT SPLIT PUD AMENDMENTS TO WILDRIDGE PUD**

WHEREAS, the Avon Town Council initiated an application (“Application”) to amend the text of the Avon Development Code (“ADC”) in accordance with Section 7.16.040 of the ADC;

WHEREAS, the Application would amend Sections 7.16.060(h)(1) *PUD Amendment Categories* and 7.16.060(h)(2) *Reviewing Authority* and Table 7.16-1, *Development Review Procedures*, in accordance with the Code Text Amendment;

WHEREAS, the Avon Planning & Zoning Commission held a public hearing on September 29, 2015, after publishing and posting notice as required by law, considered all comments, testimony, evidence and staff reports provided by the Town staff, considered such information prior to formulating a recommendation;

WHEREAS, the Avon Planning & Zoning Commission held additional work sessions on January 5, 2016 and January 19, 2016 to consider additional public comments, testimony, evidence and staff reports provided by Town Staff;

WHEREAS, after conducting the noticed Public Hearing and additional work sessions, PZC approved Resolution 16-01 and made the required findings to recommend approval of the application to the Town Council;

WHEREAS, the Town Council of the Town of Avon held ~~a~~-public ~~hearing~~hearings on ~~November 17, 2015~~January 26~~March 8, 2016, and February 9~~March 22, 2016 after posting notice as required by law, considered all comments, testimony, evidence and staff reports provided by the Town staff prior to taking any action on the Application;

WHEREAS, pursuant to AMC §7.16.040(c), *Review Criteria*, the Town Council has considered the applicable review criteria for a Code Text Amendment and found the Application in compliance with the review criteria, and specifically finds that the text amendment is necessary or desirable to respond to changed conditions, new planning concepts or other social or economic conditions and promotes the health, safety and general welfare of the Avon community; and,

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Town Council desires to comply with state law, the Avon home rule charter and the Avon

Development Code by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on first reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies the proposed zoning or other matters in this Ordinances.

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

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

Section 2. Amendment to Table 7.16-1: Development Review Procedures and Review Authority. Table 7.16-1, Development Review Procedures and Review Authority, of the ADC is amended to insert a new horizontal cell row adjacent to the category for Planned Unit Development, located below “Minor PUD Amendment” and above “Major PUD Amendment” and shall read “~~Minor~~Lot Split PUD Amendment ~~to~~for Wildridge PUD” together with a cell for “R” under the Director column; a cell for “H-~~DR~~” under the PZC column; and a cell for “~~A~~H-D” under the TC column, to read as follows:

Minor <u>Lot Split</u> PUD Amendment to <u>for</u> Wildridge PUD	R	H- DR	A <u>H-D</u>
--	---	------------------	-------------------------

Section 3. Amendment to Add a New Section 7.16.060(h) is hereby repealed in its entirety and re-enacted to read as follows:

- (1) PUD Amendment Categories. Categories of PUD amendments are established and defined as follows for the purpose of determining the appropriate review procedure:
 - (i) Administrative Amendment. A proposed PUD amendment is considered administratively if it provides for the correction of any errors caused by mistakes that do not materially alter the substance of the PUD development plan as represented to the Town Council.
 - (ii) Minor Amendment. A proposed PUD amendment is considered minor if it meets the following criteria for decision and has been determined as such by the Director:
 - (A) The PUD amendment does not increase density, increase the amount of nonresidential land use or significantly alter any approved building scale and mass of development.
 - (B) The PUD amendment does not change the character of the development and maintains the intent and integrity of the PUD.

(C) The PUD amendment does not result in a net decrease in the amount of open space or result in a change in character of any of the open space proposed within the PUD.

(iii) ~~Minor~~Lot Split Amendment to Wildridge PUD. A proposed PUD Amendment to the Wildridge PUD to permit a lot split of a duplex lot into two lots is considered a ~~Minor~~Lot Split Wildridge PUD amendment if it meets the following criteria for decision and has been determined as such by the Director:

(A) The proposed duplex lot split is located in the Wildridge PUD Subdivision on a vacant, undeveloped lot.

(B) The proposed minor PUD amendment meets the criteria for a Minor Amendment in Section 7.16.060(h)(1)(ii).

(C) The minor PUD amendment proposes to split one lot permitting a residential duplex dwelling into two lots permitting one detached single-family-residential dwelling on each lot.

(iv) Major Amendment. A PUD amendment that is not classified as an administrative ~~or amendment~~, minor amendment or ~~minor~~Lot Split PUD amendment to Wildridge PUD is considered a major amendment. A PUD amendment to split a duplex lot in the Wildridge PUD with an existing structure shall be processed as a Major Amendment.

(2) Reviewing Authority.

(i) Administrative Amendments. The Director shall review and render decisions on Administrative Amendments. A decision of the Director may be appealed to the Council pursuant to Section 7.16.160, Appeal.

(ii) Minor Amendments. The general procedures set forth in Section 7.16.020, General procedures and requirements, shall apply to minor PUD amendment applications. The PZC shall review all minor PUD amendment applications and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall review and render a final decision, through a resolution, on a minor PUD amendment application after conducting a public hearing.

(iii) ~~Minor~~Lot Split Amendments to Wildridge PUD. The general procedures set forth in Section 7.16.020, General procedures and requirements, shall apply to ~~Minor Amendment~~Lot Split Amendments to Wildridge PUD applications. The PZC shall review all Lot Split Amendments to Wildridge PUD amendment applications and shall provide a recommendation to the Town Council after conducting a public hearing. The Town Council shall review and render a final decision, through a resolution, on a ~~qualifying~~Lot Split Amendments to Wildridge ~~minor~~PUD Amendment application after conducting a public hearing. ~~A decision of the PZC may be appealed to the Council pursuant to Section 7.16.160, Appeal.~~

(iv) Major Amendments. The general procedures set forth in Section 7.16.020 shall apply to major PUD amendment applications. All major PUD amendment applications shall be processed as preliminary PUD and final PUD applications.

(3) Review Criteria. The PZC and Council shall review a PUD amendment according to the same approval criteria listed above for a preliminary PUD development plan.

(4) Additional Review Criteria. The PZC shall review a ~~minor amendment~~ Lot Split Amendment to the Wildridge PUD application and Major Amendments in the Wildridge PUD that include a Lot Split according to the following criteria in addition to the review criteria for a preliminary PUD development plan:

(i) The application results in less total site coverage and contains restrictions on building envelopes when deemed appropriate to minimize site ~~disturbance~~ coverage;

(ii) Driveway disturbance is minimized and a shared driveway curb cut is utilized when feasible and when a shared driveway curb cut would reduce site disturbance;

(iii) Areas not appropriate for development are designated on the PUD plan;

(iv) The proposed development of the site avoids disturbance of slopes greater than 30% or reduces potential disturbance of slopes greater than 30% compared to the existing PUD designation; and,

(v) The PUD plan incorporates requirements and/or restrictions as deemed appropriate to minimize or mitigate impacts to properties in the vicinity, including but not limited to:

(A) enhanced landscaping;

(B) increased building setbacks (i.e. minimum 20' separation between buildings and a minimum 10' setback between properties);

(C) designated building footprints; and,

(D) designated architectural massing, including ~~but not limited to maximum~~ building square footage designation."

Section 4. Codification of Amendments. The codifier of the Town's Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 5. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 6. Effective Date. This Ordinance shall take effect thirty days after final adoption in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 7. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

INTRODUCED, APPROVED, PASSED ON FIRST READING AND ORDERED POSTED on ~~November 17, 2015~~ March 8, 2016 and a public hearing on this ordinance shall be held at the regular meeting of the Town Council on ~~December 8, 2015~~ March 22, 2016, at 5:00 P.M. in the Council Chambers, Avon Municipal Building, One Lake Street, Avon, Colorado.

Jennie Fancher, Mayor

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

ATTEST:

APPROVED AS TO FORM:

Debbie Hoppe, Town Clerk

Eric Heil, Town Attorney

INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING on ~~December 8, 2015~~ March 22, 2016.

Ordinance No. 2015-11 – Minor PUD Amendment to Wildridge PUD

FIRST READING ~~–November 17–~~ March 8, 20152016

Page 5 of 6

Jennie Fancher, Mayor

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

ATTEST:

Debbie Hoppe, Town Clerk



**TOWN OF AVON, COLORADO
PLANNING AND ZONING COMMISSION RESOLUTION 16-01
SERIES OF 2016**

**A RESOLUTION RECOMMENDING TO THE AVON TOWN COUNCIL APPROVAL OF ORDINANCE 15-11,
AS AMENDED; AN ORDINANCE TO CREATE A NEW PUD AMENDMENT CATEGORY FOR THE
WILDRIDGE SUBDIVISION**

WHEREAS, the Avon Town Council and Planning and Zoning Commission held a special meeting on June 3, 2015, where interest was expressed in adopting additional review criteria for applications that propose to split a duplex lot into two single-family properties; *and*

WHEREAS, the Avon Town Council initiated an application ("Application") to amend the text of the Avon Development Code ("ADC") in accordance with Section 7.16.040 of the ADC; *and*

WHEREAS, the Avon Planning and Zoning Commission held work sessions to discuss revised regulations for lot splits in Wildridge on August 18, 2015, September 1, 2015, a noticed Public Hearing on September 29, 2019, and additional work sessions on January 5, 2016 and January 19, 2016, where additional public input was received and considered; *and*

WHEREAS, the Planning and Zoning Commission makes the following findings with respect to Ordinance 15-11:


1. The code text amendments are desirable to respond to changed conditions in the Wildridge Subdivision.
2. The code text amendments are intended to mitigate negative impacts to adjacent property by providing additional review criteria for lot split applications and further promote the health, safety and welfare of the community.
3. The code text amendments help to minimize or mitigate the potential impacts of developing two single-family homes on a duplex zoned property by incorporating added requirements for consideration (i.e. increased building setbacks, designated architectural massing such created with maximum building square footage).
4. The code text amendments provide added assurances to the community and adjacent existing development that compatibility with the neighborhood must be demonstrated with applications for duplex lot splits,
5. The code text amendments result in additional opportunities for public input when an application to add a single-family home to an existing lot with a single-family residence is processed as a Major PUD Amendment.
6. The code text amendment promotes the goals and policies of the Avon Comprehensive Plan for the Wildridge Subdivision , including and not limited to:
 - a. *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.*
 - b. *Policy D.1.5: Update and enhance the Avon land use regulations so that development is subject to a thorough, rigorous set of development criteria.*

7. The code text amendments are in compliance with the review criteria for text amendments codified in Section 7.16.040(c), *Review Criteria*, as outlined herein.

NOW THEREFORE, BE IT RESOLVED, that the Planning and Zoning Commission hereby recommends that the Town Council of the Town of Avon Approve Ordinance 15-11 (**Exhibit A**) as attached and amended.

ACCEPTED, APPROVED, AND ADOPTED THIS ____ DAY OF _____, 2016
AVON PLANNING AND ZONING COMMISSION

SIGNED:



Jim Clancy, Chairperson

Exhibit C
Wildridge Background and Joint PZC/Council Work Session

Background

Since the original platting of the Wildridge Subdivision, there has been a steady trend toward single-family development; either in the form of a single-family structure constructed on a duplex zoned property, or in several cases zoning amendments and corresponding subdivisions to create new single-family lots. Several examples of this type of development have been processed and/or constructed over the years, including the following:

- Wildridge Acres – A Resubdivision of Lot 13, 14, 15, Block 2, Wildridge
- Foxx4 – A Resubdivision of Lot 2, Block 5, Wildridge
- Beaver Creek Point – A Resubdivision of Lot 111, Block 1, Wildridge
- Grandview – A Resubdivision of Lot 45, Block 2, Wildridge
- Longsun - A Resubdivision of Lot 42, 43, Block 4, Wildridge
- Saddleridge – A Resubdivision of Lot 47, 48, Block 1, Wildridge
- O’Neal – A Resubdivision of Lot 10, 11, Block 2, Wildridge
- Western Sage – A Resubdivision of Lot 54, 55, 89, Block 4, Wildridge
- Dry Creek – A Resubdivision of Lot 4, Block 2, Wildridge
- Gandorf – A Resubdivision of Tract B, Block 1, Wildridge
- Minervini – A Resubdivision of Lot 15, 16, Block 4, Wildridge
- Wildridge Point – Lot 1, 2, 3, A resubdivision of Lots 33 & 34, Block 4, Wildridge
- June Creek Point – A Resubdivision of Lot 25, Block 2, Wildridge
- Gasperlin PUD – Lot 10, Block 3, Wildridge
- 4290 Wildridge – A Resubdivision of Lot 26, Block 3, Wildridge
- 5151 Longsun – A Resubdivision of Lot 48, Block 4, Wildridge
- 4250 Residences – A Resubdivision of Lot 21, Block 3, Wildridge

A number of discussions with Town Council and PZC questioning the adequacy of current development regulations resulted from some recent proposals. Notably, the review of an application for six (6) single family residences on Lot 38/39, Block 4, Wildridge suggested that there could be a need to address this type of replatting and zoning change. While that application was ultimately denied based upon conflicts with the review criteria, it prompted a joint work session with Town Council and PZC on June 3, 2015 to further discuss the subdivision. At that meeting Council and PZC indicated interest in adopting additional review criteria for duplex lot split PUD Amendments to help mitigate potential impacts, and to codify best practices incorporated in past lot split PUD amendment approvals.

Additional direction from the June 3, 2015 joint work session with Council and PZC included:

- “Coast to Coast Duplex” - Review the duplex design standards and recommend Development Code amendments to address this undesirable structure design.
- Covenants – Do not pursue re-establishment of covenant restrictions such as maximum building square footage cap.
- Development Standards – Review 1980 Design Guidelines and determine possible elements that may benefit from incorporation into the Development Code (i.e. steep slope, massing).
- Accessory Dwelling Units – First, work with water district to determine appropriate standards. Explore ways to streamline process for existing units and evaluation a Conditional Use permit process (i.e. Silverthorne).

Exhibit C
Wildridge Background and Joint PZC/Council Work Session

“Coast to Coast” Standards

Currently, no codified development standards exist to prevent a “coast-to-coast”, or “setback to setback” duplex design. PZC discussed this topic to identify concerns and determine if additional standards could be crafted to address this less desirable building form. At this time PZC has no recommended changes to the existing Duplex design standards. The existing standards require a unified, coordinated design of a duplex structure with compatible materials and colors.

Wildridge Design Guidelines

At the November 17, 2015 Council meeting, Council requested that PZC reconsider adopting parts or the entire original design guidelines for the Wildridge subdivision. The PZC reviewed the design guidelines and ultimately determined that the guidelines were not necessary based on the adequacy of the existing Title7: Development Code, design standards. In particular, all development in the Town must adhere to existing steep slope requirements and grading/retaining wall standards. There is a noted exception to the driveway orientation standard of 90 degrees perpendicular for these steep properties to allow for angled driveway entrances in order to further reduce site disturbance related to driveway access.

Accessory Dwelling units

Staff has been evaluating how other Towns regulate accessory dwelling units, especially in well-established communities. The Planning and Zoning Commission will review draft standards this summer before providing a recommendation to Town Council for consideration.

Public Input

At the January 5, 2015 PZC meeting several comments were fielded for duplex lot split regulations. The following members of the public spoke before PZC: Gary McBride, Jeff Manley, Gary McBride, Rick Petrillo, Mike Farr, Dave Dantas, David Strandjord, Harry Greenberg, and Bruce Baca. The public raised concerns with Ordinance 15-11 as drafted, and generally supported keeping the process as it exists today with Council making the final determination in all instances of re-subdivisions in Wildridge. Other comments included:

- Minimum square footages may be more appropriate than maximum square footages in order to maintain consistency with neighboring development.
- Some recent lot splits look crowded because the homes are too close together.
- No interest in working class homes (i.e. 5151 Longsun Lane)
- The process seems to be working today, and these applications do not change density
- Perhaps a minimum width of new structures should be considered to ensure compatibility.
- Looks like we are headed in the right direction with draft language.
- Adjacent properties must be taken into consideration with lot splits.
- The regulations may benefit builders more than citizens.
- Perhaps there should be a distinction between upper and lower Wildridge for these matters.

All written public comments received by Staff and PZC are attached (**Exhibit D**) and made part of the public record for this file.

2010 Lot Split Language

In addition to considering public comments, PZC reviewed the 2010 draft language that was part of Title 7, *Development Code* hearings. During the drafting of Development Code, Town Staff worked toward a set of standards to address the same circumstance of a duplex lot being split into two single-family lots and structures. Below in *blue text* is the 2010 code language (never adopted),

Exhibit C
Wildridge Background and Joint PZC/Council Work Session

referenced for consideration. After a review of these previously drafted regulations by the Commission, they found that the majority of the old draft language was simply too restrictive. The draft language did not appear to be necessary to ensure sensitive development, except for the requirement to provide building separation as identified in Section 3(ii) below.

Wildridge Duplex PUD Amendment Criteria. *The purpose of this section is to establish criteria for the review of duplex subdivisions which propose to break-up the bulk and mass of potential duplexes on duplex lots in the Wildridge Subdivision and by creating two (2) single-family homes of a limited size which result in two (2) smaller structures, rather than one (1) large monolithic structure and which are sited with adequate separation between the two buildings. A proposed subdivision of a duplex lot which does not meet the criteria in this section must follow the “Major PUD Amendment” process.*

- 1. Minimum Lot Size:** *one (1) acre.*
- 2. Maximum Unit Size:** *The two proposed single-family homes shall not be of a combined gross floor area greater than 6,000 sq. ft. and shall be configured in a primary/secondary arrangement with the primary structure comprising at least sixty-percent (60%) of the total floor area and the secondary structure comprising a maximum of forty-percent (40%) of the total floor area.*
- 3. Building Envelopes:** *Any request to build two (2) single family homes on a lot platted and zoned for a duplex must be accompanied by a Duplex Subdivision Plat depicting two (2) separate building envelopes which meet the following standards:*
 - (i) are each no greater than 1,800 sq. ft. in area,*
 - (ii) are at least twenty (20) feet apart,*
 - (iii) conform to setbacks,*
 - (iv) are sized, configured, and located in a manner consistent with surrounding development,*
 - (v) respond to natural contours to minimize site disturbance,*
 - (vi) and avoid steep slopes which exceed thirty percent (30%) grade where practical and in no case include steep slopes which exceed forty percent (40%) grade.*
- 4. Compatibility:** *The newly proposed single-family lots shall be compatible with the average size of the ten (10) closest lots to the subject property; and, shall be configured and placed on the lot in a manner which responds to the natural topography without causing excessive grading and site disturbance.*
- 5. Access & Easements:** *A single access easement shall be located and depicted on the proposed Duplex Subdivision Plat in accordance with §7.28.030, AMC.*

Recent Lot Splits

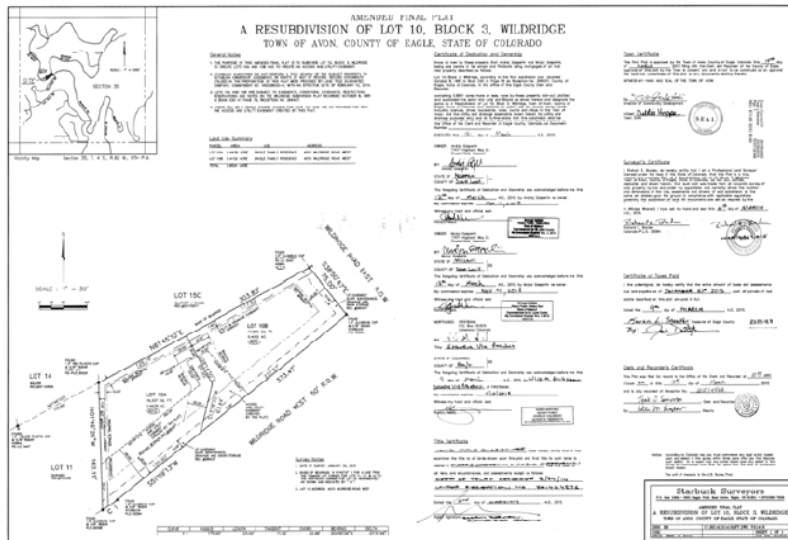
Recent projects that embody the spirit of Ordinance 15-11 and the enhancement of sensitive planning principles listed above include:

- Gasparlin Residences on Lot 10, Block 3, Wildridge. This project divided a duplex lot into two single-family lots, each with a building footprint limited to 2,900 sq. ft. for each lot. The livable area was limited for each property, and by splitting the duplex into two properties, the views of the neighboring existing development above the project were carefully taken

Exhibit C

Wildridge Background and Joint PZC/Council Work Session

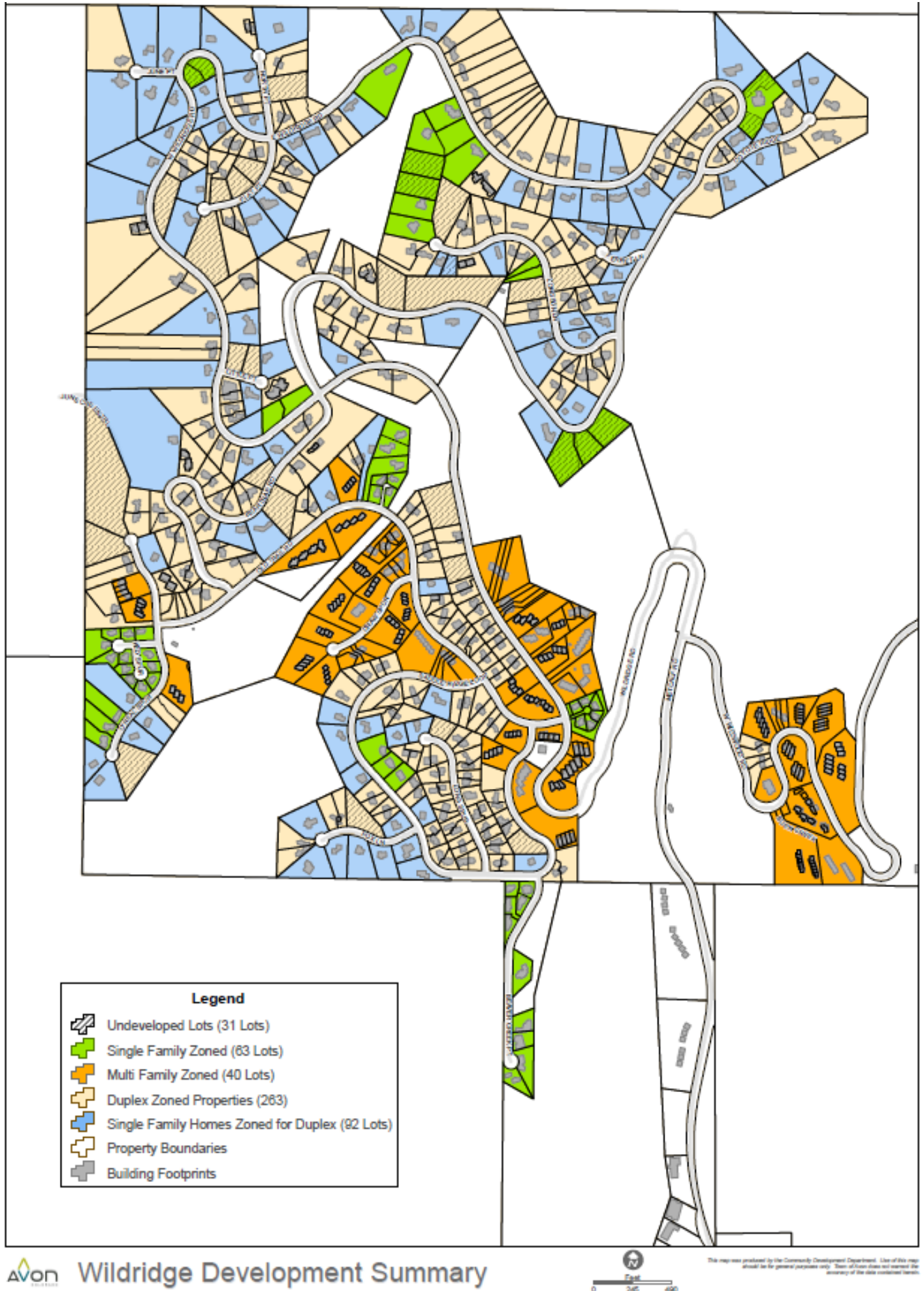
into account and preserved to a larger degree. As can be evidenced with the project nearing the end of construction, the layout of the project is responsive and compatible with neighboring development.



- **4250 Residences at Lot 21, Block 3, Wildridge.** Again, this project split a duplex lot into two single-family lots. The review process included ample time to address neighboring concerns (primarily views), as well as the massing of the development as it relates to other construction in the area. In addition to shifting the placement of the proposed buildings during the review process, the building heights were reduced (i.e. from 35' to 30' and 33' respectively) and floor area maximums were added to provide assurance the units will be compatible when constructed.



Exhibit C
Wildridge Background and Joint PZC/Council Work Session



Matt Pielsticker

From: Dominic Mauriello <dominic@mpgvail.com>
Sent: Monday, January 04, 2016 12:35 PM
To: Matt Pielsticker
Cc: Allison Kent
Subject: Wildridge Development Standards

Hi Matt and Planning and Zoning Commissioners:

I noticed that the Wildridge Development Standards are on the agenda again for discussion on January 5. I have a conflict and cannot attend the meeting but would like to participate in the discussion. If this item could be discussed again in the future meeting before becoming final, that would be greatly appreciated.

Below are some comments and suggestions based on the proposed language and what triggers a Major PUD Amendment:

- Today, a major amendment and a minor amendment for a lot split have exactly the same process: PZC recommendation and Town Council final approval. I realize the PZC recommended a process by which a minor amendment could be approved by the PZC but perhaps it would be easiest to allow the Town Council the final approval authority and eliminate this new set of criteria which makes an application more complicated.
- I am not sure I understand the ultimate issue. 90% of the applications for lot splits that have come through the process have ultimately been approved by the PZC and the Town Council. In the last 10 years, there has been two applications that were controversial. Neither was approved. It seems to me the Town is spending a lot of time trying to fix something that is not broken.

- The minimum lot size of 1-acre seems rather limiting and its not clear whether that's the existing lot that must be 1-acre or the resulting two lots, each with one acre;
- The maximum unit size is also very limiting and somewhat arbitrary. A larger one-acre lot can support a greater floor area than a smaller lot. Perhaps this should be a sliding scale based upon the lot area. A one-acre lot should be able to support two homes of 7,500+ sq. ft. total (3,750 each)
- I am not sure why a 60/40 split is important. This concept has not achieved any sort of goal or positive community outcome in the 50 years it has existed in Vail other than making one owner pay more for snow removal on a shared driveway. It adds a layer of regulation without any real measurable outcome. I would recommend eliminating this requirement.
- Building envelopes:
 - Is an actual plat application required or will a diagram like we have done previously suffice? This is added expense to only find out the application is denied for the split.
 - 1,800 sq. ft. will almost never work - again this should be reflective of the lot area. The smallest possible is probably in the 2,500 sq. ft. range with the need for a garage
 - Some lots today have 40% slopes as the existing condition, so this limit probably does not work.
- Compatibility. Are we talking the average size of the two split lots or the original lot? I am not sure average lot size really allows one to find compatibility since lots can be of varying shapes and sizes. There are some huge, steep lots that have been developed next to smaller less steep lots. In these cases the lot sizes were more reflective of buildability. This kind of standard might work in a traditional

Public Comments

neighborhood, on the valley floor, developed in a typical grid system but its not very applicable to a mountainous subdivision like Wildridge which has hugely variable lot sizes. I would change this measure of compatibility. Just because a few land owners decided not to build a duplex should not have a bearing on what another neighbor can develop.

I hope this assists in your deliberations.

Thanks,

Dominic F. Mauriello, AICP

Mauriello Planning Group, LLC

PO Box 4777

2205 Eagle Ranch Road

Eagle, Colorado 81631

970-376-3318 cell

www.mpgvail.com

Matt Pielsticker

From: Rick Petrillo <poohcaso@gmail.com>
Sent: Monday, January 04, 2016 9:28 PM
To: Thad Pryor; Kim & Rudy Vulpe; Henry Rischitelli; marto@vail.net; Mitch Chambers; Jacob Brege; Mike Farr; skibunny@earthlink.net; Beverly McBride; isom@vaillaw.com
Cc: Matt Pielsticker
Subject: Planning and Zoning Commission meeting

There is a meeting tomorrow night for the Planning & Zoning Commission of Avon.

The topics of discussion that effect Wildridge are:

- 1) The rezoning of vacant lots. Currently vacant lots zoned for single family and duplex homes in Wildridge would be rezoned to allow two single family structures to be built.
- 2) On lots where there is an existing single family home, the commission is proposing that the owner would be allowed to sub divide the lot and build an additional smaller single family home on the lot.

In my opinion this will ruin view corridors, crowd Wildridge and most importantly destroy our property values along with the peacefulness of living up here. Apparently, the commission now sees a need for affordable housing in Wildridge. Currently, we have affordable housing in Wildwood and the town of Avon. Wildridge is not the place to create additional affordable housing.

I would encourage you to do the following. Pass this email along to all Wildridge residents, attend the meeting tomorrow night at 5:30 at the town offices and compose an email to Matt Pielsticker. His email address is: mpielsticker@avon.org and is copied on this email. If you do send an email, please cc me as I will be attending the meeting tomorrow night.

Thank you,

Rick Petrillo
970.376.0052

Matt Pielsticker

Subject: FW: Planning and Zoning Commission meeting

From: Jackie Work [mailto:jackie.work@mountainci.net]

Sent: Tuesday, January 05, 2016 11:36 AM

To: 'Kim Vulpe'

Cc: 'Thad Pryor'; 'Kim & Rudy Vulpe'; 'Henry Rischitelli'; marto@vail.net; 'Mitch Chambers'; 'Jacob Brege'; 'Mike Farr'; skibunny@earthlink.net; 'Beverly McBride'; isom@vaillaw.com; Matt Pielsticker; 'Rick Petrillo'

Subject: RE: Planning and Zoning Commission meeting

Hi Kim. I understand your and Rick's concerns. Les and I have been doing our research on the lot splitting. As you know we've been doing a bit of carefully planned building in Vail and Wildridge. From our research and what we've observed from the new build and resale markets, we believe the lot splitting actually serves Wildridge residences well by providing a better mix of different sized homes, and introducing more single family into the neighborhood. Wildridge has a lot of very large and older duplexes giving the appearance of a very dense neighborhood due to their sheer mass. The problem with the existing zoning is that it allows for too many duplexes which create a much bigger mass structure on a property. Avon is being progressive in trying to alleviate some of this on lot sizes that are larger by reviewing the lot splitting as a positive to the community, and at the same time help to alleviate the problem of fewer residential housing, which is a big problem in Vail.

The idea of lot split is to provide an efficiency to the land use and providing a more open feel. The town of Avon Planning has a stringent review process with criteria with the purpose of breaking up the bulk and mass of potential development. The Planning department reviews the application with the goal of addressing most of these goals.

- The application results in less total site coverage
- The application contains restrictions on building envelopes to reduce site disturbance.
- The application contains limitations to livable area for each home.
- The application has height limitations more than what is required by code.
- The driveway disturbance is minimized by a shared driveway curb cut is utilized when feasible and when a shared curb cut would reduce site disturbance.
- The application has increased building setbacks
- The application has enhanced landscaping to provide more than landscape minimums.

Remarkably, what we've learned from building in Wildridge is that view corridors **are not** protected by the town code, **BUT** the planning department encourages the input of the neighbors and interaction with the planning process. As a recent example, we had two neighbors to our Wildridge lot development (where we split one large lot zoned for a **10,000 plus sq ft** duplex) complain based on view restriction. We were able to show the town and the neighbors that by carefully designing the two homes, and careful placement on the lot, the mass of the two structures was actually LESS than if we had designed and placed a duplex on the lot. It actually allowed for unrestricted views between the houses, which would not have happened if we planned for the allowed duplex. We also worked with the neighbours and shifted the homes to minimize view impact. The Town was very encouraging on this process, and our neighbours have given their approval.

On the projects that we have presented to the town, we have presented 3D images to demonstrate the positives of the creation of the broken up masses to the views and to the overall effect on the neighbors. This is an affirmation that the process of the Town of Avon's planning review is working to preserve the goals of the community. I understand the concern of those who are speaking out, that there will be two large homes where there was planned to have one large duplex. This is not allowable under the current review process. The Current Zoning does only **minimally limit the size of**

Exhibit D
Public Comments

the duplex that can be built or where it can be built within the setbacks. The split is helping to control light and air, the massing and size of the development to occur while still meeting the real estate demands of the community.

The result in splitting duplex lots is not increasing the planned density in Wildridge or diminish home values. Most people if given the choice, for the same price, or even slightly more, would rather buy and live in a small detached home than a duplex; especially if the driveway is shared. This has been proven when looking at days on market home sales. As for housing values, we can argue this until the cows come home. For evidence, look at the resale value and length of time on the market of all the older duplexes in Wildridge. The duplex you and Rudy built with your friends is still for sale, and it is a beautiful duplex!

Newer and renewing neighborhoods housing values are higher, because people are more demanding now if interior and exterior looks and finishes. Wildridge is an aging neighborhood with many odd looking older homes and duplexes. New construction and renovations do not drive down land values. It's cheaper to build a duplex than two single families, but if they don't sell as fast, or are not valued as high by the buyer, that cost has to be factored in. And not many people can get financing to build their own home, or even a duplex to keep one half for themselves and sell the other side.

Some may argue that there are still buildable lots not developed. Believe me, we've looked to buy whatever is available to build on. Of those that people were willing to sell, the lots are so steep in grade that the cost of construction do not make them viable as a spec build in the current markets. It will be interesting to see if the Builder who is doing the duplex on the top of Wildridge on the north side is able to get his money out of it once it sells.

I think the town of Avon is very cognisant of the issues, and are trying to seek a balance. They will make sure they address issues through the land application and stringent design and approval processes they have in place. Compared to the processes and lack of design review boards on our projects here in Ontario, I think Avon and even Vail, have actually come up with an accessible process and common sense approach.

~Jackie Boris-Work

From: Kim Vulpe [<mailto:vailbum@comcast.net>]

Sent: Tuesday, January 05, 2016 1:09 AM

To: Jackie Work <jackie.work@mountainci.net>; Marcie Glowacki <marcieglowacki@yahoo.com>; Jill Palazzo <jillgems@aol.com>

Subject: Fwd: Planning and Zoning Commission meeting

Matt Pielsticker

From: Amy Watson <asbwatson@yahoo.com>
Sent: Wednesday, February 17, 2016 10:06 AM
To: Matt Pielsticker
Subject: Fwd: Wildridge Restrictions

I would like to add my name to this letter.

Additionally, I would like to point out that the lot across the street from my house is one which is currently assigned as a duplex lot and would be divided into two single family sites. The integrity of the hillside across the street from my house is already compromised as is evidenced by the fact that both houses on either side of my have experienced concerning earth movement issues. Any additional challenges to that hillside will potentially impact my house, as cracks are beginning to appear in my basement.

This issue must be addressed.

Thank you,
Amy Watson
4255 Wildridge Road West
281.731.5923
asbwatson@yahoo.com

Sent from my iPhone

Begin forwarded message:

From: Beverly J McBride <bevjmcbride@yahoo.com>
Date: February 16, 2016 at 4:06:25 PM MST
To: Matt Pielsticker <mpielsticker@avon.org>
Cc: David Strandjord <david@strandjord.com>, Scott Rella <scott@fearnoice.com>, Mitch + Robin Chambers <mrschambers81@gmail.com>, Pooh <poohcaso@gmail.com>, Grant Rogers <redball@comcast.net>, Brian Nolan <brian@rmcl-usa.com>, "asbwatson@yahoo.com" <asbwatson@yahoo.com>
Subject: Re: Wildridge Restrictions

Thank you, Matt.

Sent from my iPhone

On Feb 16, 2016, at 3:58 PM, Matt Pielsticker <mpielsticker@avon.org> wrote:

Thank you Beverly – Copies are made for PZC tonight and Council will get copies as well when the Ordinance hits their desk.
<Matt

From: Beverly McBride [<mailto:bevjmcbride@yahoo.com>]
Sent: Tuesday, February 16, 2016 8:51 AM
To: Matt Pielsticker
Cc: David Strandjord; Scott Rella; Mitch + Robin Chambers; Pooh; Grant Rogers; Brian

Nolan; asbwatson@yahoo.com
Subject: Wildridge Restrictions

Dear Mr. Pielsticker,

This is a follow-up to the revised, proposed Avon Ordinance 2015-11 which addresses zoning matters in the Wildridge Subdivision.

We wish to thank you and the Planning and Zoning Commission for the most recent revisions to the proposed ordinance; notably, no longer designating lot splits as "minor," and continuing to provide final approval of proposed lot splits by the Avon Council. The opportunity for the public to be heard at the Wildridge "Open House" on January 27, 2016, was also appreciated.

As you know, Wildridge is a beautiful area that is important to Avon. In that light and consistent with comments we have made and our long-time work in zoning, we sincerely think the following should be incorporated into the proposed ordinance before it goes to the Avon Council on March 8th:

1. Language to the effect that in order to obtain a lot split, the topography of the site must be such that building under the existing zoning would not be possible. Among other things, zoning is designed to be reliable; to protect the public health, safety and welfare; and to encourage and enhance investment in communities. Planning and investments that have taken place should never be lightly

overturned and only if there is a compelling reason for doing so. This provision would both honor the basis for zoning and provide opportunity where needed.

2. In order for an existing lot to be split, the existing lot must be at least one-half as wide at the front building line as the lot is deep. Otherwise, new lot(s) may be created that are so narrow that a wide single-family home or duplex consistent with the character of Wildridge cannot be built on the new lot(s).

3. The present provision that if an existing lot is split, the split is required to result "...in less total site coverage...to minimize site disturbance" almost requires either small single-family homes or tower-type (vertical) building. Neither small homes nor vertical building should be preferred or, effectively, required. Neither is consistent with the manner in which most single-family homes and duplexes have been developed in Wildridge. This existing provision needs to be examined, discussed and revised.

4. Importantly, language should be added to the effect that the proposed lot split and development must be compatible with the neighborhood in which it is located. This is a commonly used standard and provides for an appropriate amount of discretion in the exercise of the City's police and, thus, zoning power.

We have not belabored the reasons for the above but we would be happy to further explain at any time. We submit that these provisions are essential for good development and have been used successfully elsewhere.

Please provide copies of this email to the PZC members and your staff at your earliest convenience. Again, anyone is welcome to contact us at any time. Thank you for your cooperation.

Beverly and Gary McBride
Post Office Box 6543
5156A Longsun Lane
Avon, Colorado 86021
419-509-5032 or
419-509-5830

Exhibit D
Public Comments

From: [Beverly McBride](#)
To: [Avon Council Web](#); [Brian Garner](#)
Subject: Fw: Avon Council Considers Change of Process for Wildridge PUD Amendment
Date: Monday, November 16, 2015 6:32:58 AM

To the Members of the Avon Town Council:

Please accept the following comments re: Proposed Ordinance 2015-11 (hereinafter, the "Pro.Ord.") up for its first reading on November 17, 2015:

While we applaud the stated desire to define criteria for proposed amendments to the Wildridge PUD, the stated desires and the Pro.Ord. are not consistent. Some of the problems may be corrected by simple rewording; others are significantly inconsistent with the stated intent and not in the best interests of development in Wildridge.

Problems that can be corrected by rewriting include:

1. One of the criteria listed for allowing a PUD change in Section 7.16.040(c)(4) is "changed conditions." However, the Pro.Ord. has a finding in the next to last "Whereas" clause stating that the amendment is in response to "changed conditions." This is also incorporated within the body of the Pro.Ord. (Section 1.) This adopting ordinance should not state that circumstances have changed. That issue needs to be looked at as a criteria; not as a given fact. For example, if the U.S. suddenly finds itself at war in Syria and again in Iraq, the Avon area could presumably be in or near a military area where duplex and multi-family housing would be significantly needed. No ordinance should decide a criteria in advance.
2. Language in new section 7.16.060(h)(i)(ii)(A) defines an application as "minor" if it does not increase the amount of nonresidential land use. By implication, the language appears to be saying that an application will be deemed "minor" if it does increase the amount of residential land use. It would be less ambiguous if "minor" were defined as not increasing commercial, service or professional uses in a residential area.

Significant Problems that Should NOT Be Adopted:

3. The Pro.Ord. treats lot splits as a "minor" amendment. (Section 3.(1)(iii)(C))
Even though it currently is a "minor" designation, it is inconceivable that a split of a lot could be treated as a "minor" event. A lot split affects owners beside, in front of, behind, at an angle, up and down the hills and those just driving past. The designation of "minor" wrongly tells residents it is not so much of a change that they need to look into it. People need to be appropriately told when a lot is to be split. The incorrect designation of "minor" has been adamantly objected to during previous lot split hearings. NOW is the time to provide that a lot split is not defined as "minor."
The "Summary" provides that lot splits are of great concern and a reason for adding more criteria. To continue them as "minor" is altogether wrong. Wildridge is a platted subdivision with subdivision rules and regulations and is governed by existing zoning. It is inappropriate to create additional lots through "minor" splits. The

Exhibit D
Public Comments

practice of granting lot splits, in general, should be prohibited let alone considered "minor." The true effect of the lot splits that have occurred and may be considered is the replatting of an existing platted subdivision and should receive careful scrutiny by Council as the "major" exercise it is.

4. Of equal concern is the proposal that the decision of the PZC will not automatically go to City Council for a final determination! This is absolutely unfair and an abdication of Council's duties. The PZC is not elected; the residents of Wildridge will be deprived of the right to exercise the balance of control built into our democratic system of government. Council has a role because they have a far more comprehensive view of the totality of the City, are responsible to the citizens and should be able to add wise heads to the decision. Absolutely do NOT cut out an automatic final decision by City Council!

While this Pro.Ord. may be well intentioned, it needs reworking. There is no emergency. Please send it back for additional work consistent with these comments.

Thank you,
Gary and Beverly McBride
P.O. Box 6543
5156A Longsun Lane
Avon, Colorado 81620
419-509-5032
bevjmcbride@yahoo.com

,

----- Forwarded Message -----

From: Town of Avon Community Development <listserv@civicplus.com>

To: bevjmcbride@yahoo.com

Sent: Friday, November 13, 2015 4:26 PM

Subject: Avon Council Considers Change of Process for Wildridge PUD Amendment

Notify Me



Avon Town Council to Consider Change of Process for Wildridge PUD Amendments

For Immediate Release | November 13, 2015
Contact: Brian Garner, Town Planner
970-748-4423 | bgarner@avon.org

Exhibit D
Public Comments

Avon, CO— The Avon Town Council, at its November 17th meeting, will consider changes to the Avon Development Code pertaining to PUD amendments within the Wildridge Subdivision. Recent development within the Wildridge subdivision has prompted a number of discussions with Town Council and the Planning & Zoning Commission regarding the adequacy of current development regulations. Of particular concern are PUD amendment applications that result in lot splits and change the building type from a duplex (or more attached units) to single-family-detached units. Council and PZC indicated interest in adopting additional review criteria for review of lot split PUD Amendments to improve mitigation of potential impacts to affected properties and to codify best practices incorporated in past lot split PUD amendment approvals.

Among the changes, a new category of review criteria specific to minor PUD amendment applications that result in lot splits in Wildridge is prescribed to better address the specific needs of that environment. PUD amendment proposals will need to address specific site characteristics unique to the Wildridge neighborhood to demonstrate that a development proposal is not more impactful than development proposed under the existing site allowance. The language is intended to provide the Planning & Zoning Commission with ample discretion to review proposals on a site-by-site basis.

Most notable of the proposed code text revisions is a change in the review and final decision that is now proposed to be completed by the Planning & Zoning Commission, rather than Town Council, for applications to amend the Wildridge PUD. However, applications that propose significant deviation from the Wildridge PUD (i.e. zone change from residential to commercial) will continue to be a Town Council consideration and approval process. A proposed minor amendment to the Wildridge PUD will be considered by the PZC only if it meets the established criteria for decision by the PZC and has first been determined as such by the Director.

First reading of the ordinance and a public hearing on this date will be followed by a second reading and final action scheduled for the December 8th regular meeting. If you have questions or would like more information, please contact Brian Garner, Town Planner at (970)748-4023 or bgarner@avon.org.

#

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TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Matt Pielsticker, AICP, Planning Director

Meeting Date: March 8, 2016 Meeting

Agenda:

Topic: **Public Hearing** on Resolution 16-05, A Resolution Approving a Minor PUD Amendment Application to the Riverside PUD

ACTION BEFORE COUNCIL

Vote on a Resolution concerning a Minor PUD Amendment Application for the Riverside PUD.

PROPOSED MOTION

"I move to approve Resolution 16-05, A Resolution approving a Minor PUD Amendment Application to the Riverside PUD."

BACKGROUND

The Property is part of the Riverside PUD which was originally slated for Residential High Density Commercial, highway oriented commercial use. There were zoning amendments in the 1980s that changed the rights to all residential. The Eaglebend III housing project on Lot 1 completed the central portion of the PUD. Lot 2 has remained vacant and until late last year, remained under Vail Associates' ownership.

In the fall of 2015, Red House LLC acquired the Red House parcel and applied for an extension to the vested property rights. During Town Council's review of the vested rights request, the adjacent parcel came to attention as a possible public access parcel. Council at that time directed Staff to work with the applicant to ensure public access from the future ECO trail down to the Eagle River through Lot 2, Riverside. Between first reading and second reading of Ordinance 2015-12 Red House LLC acquired the Property.

It was later discovered that the Property is a development parcel allowing for up to 8 timeshare - condominium units, and not zoned for open space as indicated on the Town of Avon Zoning Map. Based on the new information and the desire to safeguard river access in the vicinity, action on Ordinance No. 15-12 was continued from December 8, 2015 to the January 12, 2016 meeting in order for more time to work with the applicant on river access possibilities.

Ordinance No. 15-12 was amended based on discussions between Staff, the applicant and the Town Attorney. Since the future potential path connection and other desired amenities were not part of the Red House PUD, it was determined that a PUD Amendment application was necessary. Ultimately the vested rights extension and Ordinance No. 15-12 was approved conditionally upon the submittal of this Minor PUD Amendment application. Town Staff put together the application and

brought the file to the Planning and Zoning Commission for their review and recommendation as required by Code.

PZC REVIEW

The Planning and Zoning Commission held a Public Hearing on February 16, 2016. They voted with unanimous recommendation to approve the Application as presented and attached. The Staff report to PZC includes a thorough analysis of the mandatory review criteria for Council to consider when reviewing and acting upon this Application.

ATTACHMENTS

Resolution 16-05, Approving Riverside PUD Amendment
PZC Findings and Recommendation
Staff Report to PZC and Application Materials



**TOWN OF AVON
RESOLUTION NO. 16-05
Series of 2016**

A RESOLUTION APPROVING FILE #PUD16001, A MINOR PUD AMENDMENT TO THE RIVERSIDE PUD, TOWN OF AVON, EAGLE COUNTY, STATE OF COLORADO

WHEREAS, a Minor PUD Amendment Application (“Application”), was submitted to the Community Development Department of the Town on January 4, 2016 by Red House Avon LLC (“Applicant”); and

WHEREAS, the Application requests to amend the zoning of Lot 2, Riverside Subdivision, to remove eight (8) assigned residential development rights, and allow public access to the river through the property, as well adding the right to construct a “recreation cabin” for private use on the property, in addition to other uses specified in the January 4, 2016 application; and

WHEREAS, the Application was reviewed as a “Minor PUD Amendment” pursuant to code section 7.16.060(1)(ii), Avon Development Code.

WHEREAS, the Planning and Zoning Commission held a public hearing on February 16, 2016 after posting notice of such Public Hearing in accordance with the requirements of Section 7.16.020(d), *Step 4: Notice*, Avon Municipal Code, and considered all comments provided; and

WHEREAS, the Planning and Zoning Commission recommended that the Town Council approve the Application; and

WHEREAS, the Avon Town Council held a public hearing on March 8, 2016, and after posting notice as required by law, considered all comments, testimony, evidence and staff report prior to taking action on the Application; and

WHEREAS, the Avon Town Council has examined the review criteria set forth in §7.16.060(e)(4) and made the following findings regarding the Application:

- (1) The Application was processed in accordance with §7.16.060(h), *Amendment to a Final PUD*, which allowed the application to be processed as a minor amendment pursuant to §7.16.060(h)(1)(ii), *Minor Amendment*, and utilized the review criteria set forth in §7.16.060(e)(4), *Preliminary PUD Review Criteria*; and,
- (2) The Application is in substantial compliance with §7.16.060(e)(4), *Preliminary PUD Review Criteria*, AMC based upon review of the Application, the Town staff report and other evidence considered by the Avon Town Council at the public hearing; and,

- (3) The Application will not result in adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated; and,
- (4) Building impacts on-site are reduced by removing the assigned eight (8) timeshare/condominium rights, and adding restrictions on the height of a potential recreation cabin.
- (5) The Application is in conformance with policy recommendations in the Avon Comprehensive Plan, including securing and maintaining “*appropriate public access along the river*” in the Nottingham Station/Eaglebend Residential District.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF AVON, that PUD16001, a Minor PUD Application for the Riverside PUD, Town of Avon, State of Colorado, is hereby approved.

ADOPTED March 8, 2016, **AVON TOWN COUNCIL**

By: _____
Jennie Fancher, Mayor

Attest: _____
Debbie Hoppe, Town Clerk

**PLANNING AND ZONING COMMISSION
FINDINGS OF FACT AND RECCOMENDATION TO TOWN COUNCIL**



DATE OF DECISION: February 16, 2016
TYPE OF APPLICATION: Minor PUD Amendment
PROPERTY LOCATION: Lot 2, Riverside
FILE NUMBER: #PUD16001
ADDRESS: N/A
APPLICANT: Avon Red House LLC
PROPERTY OWNER: Avon Red House LLC

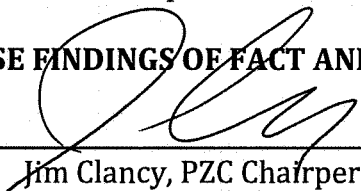
These findings of fact and record of decision is made in accordance with the Avon Development Code ("Development Code") §7.16.020(f):

DECISION: Recommendation for Approval. Passed with 6-0 vote

FINDINGS:

- (1) The Application was process under §7.16.060(h), *Amendments to a Final PUD*, Development Code.
- (2) The Application was reviewed and found to be in conformance with development review considerations found in §7.16.060(e)(4), *Review Criteria*, Development Code.

THESE FINDINGS OF FACT AND RECORD OF DECISION ARE HEREBY APPROVED:

BY: 
Jim Clancy, PZC Chairperson

DATE: 3/1/16

Staff Report – Minor PUD Amendment

February 16, 2016 Planning & Zoning Commission Meeting



Report date	February 12, 2016
Project type	Case #PUD16001 - Minor PUD Amendment
Legal description	Lot 2, Riverside
Zoning	PUD
Address	N/A
Prepared By	Matt Pielsticker, AICP, Planning Director

Introduction

The Owner of the Red House property and adjacent Lot 2, Riverside (the Property), Red House LLC, is applying for a Minor PUD Amendment. Currently, eight (8) Timeshare-Condominium units are permitted on the property. The Application is requesting the ability to use a portion of the Property for private use with a small cabin as an amenity to future condominium owners of the Red House development. Attached to this report is the Application (Exhibit A) materials and Ordinance 2015-12 (Exhibit B), an Ordinance which necessitated the submittal of this application.

Background

The Property is part of the Riverside PUD which was originally slated for Residential High Density Commercial, highway oriented commercial use. There were zoning amendments in the 1980s that changed the rights to all residential. The Eaglebend III workforce housing project on Lot 1 completed the central portion of the PUD. Lot 2 has remained vacant and until late last year, remained under Vail Associates' ownership.

In the fall of 2015, Red House LLC acquired the Red House parcel and applied for an extension to the vested property rights. During Town Council's review of the vested rights request, the adjacent parcel came to attention as a possible public access parcel. Council at that time directed Staff to work with the applicant to ensure public access from the future ECO trail down to the Eagle River through Lot 2, Riverside. Between first reading and second reading of Ordinance 2015-12 (Exhibit B) Red House LLC acquired the Property.

It was later discovered that the Property is a development parcel allowing for up to 8 timeshare-condominium units, and not zoned for open space as indicated on the Town of Avon Zoning Map. Based on the new information and the desire to safeguard river access in the vicinity, action on Ordinance No. 15-12 was continued from December 8, 2015 to the January 12, 2016 meeting in order for more time to work with the applicant.

Ordinance No. 15-12 was amended based on discussions between Staff, the applicant and the Town Attorney. Since the future potential path connection and other desired amenities were not part of the Red House PUD, it was determined that a PUD Amendment application was necessary. Ultimately the vested rights extension was approved conditionally upon the submittal of this Minor PUD Amendment application.

Process

Minor PUD Amendment Process

This application is processed under §7.16.060(h), *Amendments to a Final PUD*, AMC. Subsection (1)(ii), sets forth criteria for a Minor Amendment, while subsection (2)(ii) sets forth the review procedures for the same process. The application, as submitted, meets the criteria for a Minor Amendment. The February 16, 2016 meeting completes the public hearing requirements with the PZC. Another public hearing is required with the Town Council and action by Council is by resolution.

Public Notification

In compliance with the Public Hearing and noticing requirements, a mailed notice was provided to all property owners within 300' of the property. Additionally, a notice was published in the Vail Daily newspaper on February 3, 2016.

Proposed PUD Amendment

The Application (Exhibit A) is limited to changes in use and permitting private and public access to the Property. The proposal would allow for a new structure and footpath from the Red House parcel to the approximate location of the existing abandoned structure that exists. The Application also proposes to formally permit public access from the future Eagle Valley Trail segment down to the river tract by footpath. The Application satisfies the requirements of Ordinance 2015-12.

Staff Analysis

After reviewing the PUD review criteria below, Staff finds the Application is in conformance with the purpose of the Development Code, review criteria, and there appears to be no negative impact to neighboring properties. Maintaining the open space character of the Property is important to the river corridor aesthetic; a small “fisherman’s cabin,” or similar structure, should maintain the character of the area. Gaining another point of public access to the river is invaluable to the Town and all users of the Eagle Valley Trail who might wish to go down to the large boulders and view the river environment with distant views up the Eagle River.

PUD Review Criteria

Pursuant to §7.16.060(e)(4), *Review Criteria*, AMC, the PZC shall consider the following criteria when forming the basis of a recommendation:

- (i) The PUD addresses a unique situation, confers a substantial benefit to the Town, and/or incorporates creative site design such that it achieves the purposes of this Development Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient***

provision of streets, roads, and other utilities and services; or increased choice of living and housing environments.

Staff Response: The application confers a benefit to the Town in the form of a permanent easement with public access that connects directly to Tract A – the open space river parcel. It complies with the stated purposes of §7.04, *Development Code*, AMC, and §7.16.060, *PUD*, AMC, includes statements regarding the implementation of the Comprehensive Plan; regulating intensity of use; avoiding increased demands on public services and facilities; and providing for compatibility with the surrounding area, among other statements.

The proposed amendment does not increase demands on public services, and provides compatible land use with surrounding development. All other applicable development standards would remain intact and the proposed structure would not exceed 20’ in height. The Comprehensive Plan is analyzed below.

(ii) The PUD rezoning will promote the public health, safety, and general welfare;

Staff Response: The Application does not appear to negatively affect the public health, safety and welfare. The Property is not suitable for residential development without significant degradation of the natural habitat of Beaver Creek and the Eagle River.

(iii) The PUD rezoning is consistent with the Avon Comprehensive Plan, the purposes of this Development Code, and the eligibility criteria outlined in §7.16.060(b);

Staff Response: As outlined in the Application, the neighborhood district in which the Property is located is supportive to the proposed land uses. The following planning principles from District 27: Nottingham Station/Eaglebend District directly support the approval of this application:

- Provide a public access easement, where appropriate, within building setback areas in development adjacent to the Eagle River for public enjoyment of the river and construction of a public recreational trail.
- Building should be oriented to capitalize upon the Eagle River as an amenity. Parking areas, trash containers, and other uses that could potentially disrupt the quality of the river environment should be located away from the river and designed to have the least impact on the river corridor. Set buildings back from the river to preserve its natural character, and step building facades back away from the river to avoid creating a ‘canyon effect’.
- Limit building height to a scale that is subordinate to the Town Center and compatible with the existing development and river environment. Buildings should be designed to step down in height as they near the river and in response to the natural topography.
- Encourage landforms, landscaping and sidewalks between residences and U.S. Highway 6.

There are other goals and policies supportive of the Application, including but not limited to:

Policy I.1.1: Require new residential and resort developments to incorporate recreational amenities that are accessible to the public.

- Policy I.1.2:** Continue to evaluate and acquire parcels or easements for open space, trails, and recreation.
- Policy I.1.3:** Integrate the town's recreational trail system with the regional trail systems (ECO Trails, U.S. Forest Service, and BLM).
- Policy I.1.4:** Require new annexations and developments to include or otherwise contribute to land for trails, open space, and recreation purposes.

(iv) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

Staff Response: This PUD amendment has no incremental impact on public facilities or services; therefore, the existing services can adequately serve the property.

(v) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

Staff Response: The proposed Minor PUD Amendment should not result in any adverse impacts upon the natural environment, wildlife, vegetation, or air. Carefully siting of a new structure would be required by the Avon Development Code, with care to not disturb the natural vegetation and setting that exists.

(vi) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and

Staff Response: Approval of the PUD amendment would not result in significant adverse impacts upon other property in the vicinity as the proposed PUD Amendment maintains visual and physical access to the river.

(vii) Future uses on the subject tract will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject tract.

Staff Response: A small structure would be compatible with scale with use or the future potential condominiums on the Red House parcel, which sit much higher to the west.

Staff Recommendation

Staff requests that the PZC conduct a public hearing, consider public comments, and direct Staff to prepare a formal Findings of Fact, Record of Decision, and Recommendation to Council pursuant to Section 7.16.020(f)(3), *Findings*. Based on the analysis provided in the Application and this report, Staff recommends approval of the Application.

Attachments

- A:** Application Materials
B: Ordinance 2015-12
C: Vicinity Map

RIVERSIDE PUD AMENDMENT



Minor PUD Amendment

Lot 2, Riverside | Parcel 2105-124-07-003

Submitted:

January 4, 2016

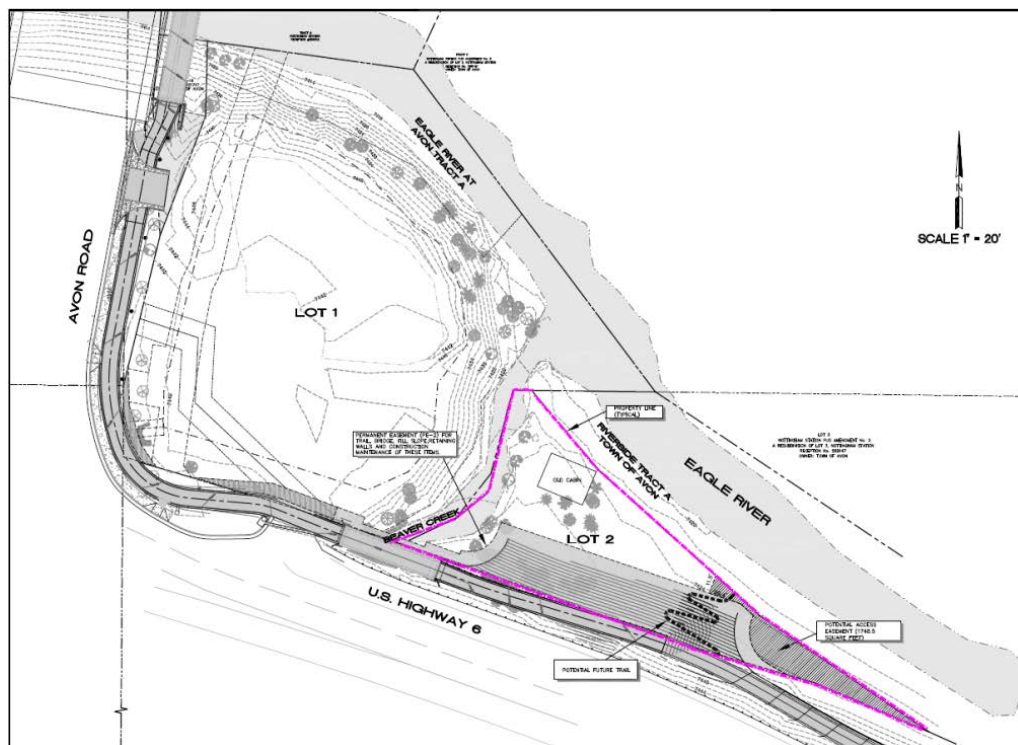


A. INTRODUCTION

The applicant and owner, Red House Avon, LLC, is requesting a Minor PUD Amendment for Lot 2, Riverside. The Riverside PUD currently in effect identifies Lot 2 as an 8 unit lot, allowing for a total of 8 residential development rights in the form of "Time-share, Condominium." The applicant is requesting the Town of Avon allow for the removal of the 8 assigned residential development rights, and adding the right to permit the construction of a recreation cabin structure in a similar location to the old cabin structure on-site. Additionally, the ability for public access to the Eagle River was requested by the Town of Avon, and that has been made part of this application formally. Because the lot is located within the Riverside PUD, a minor amendment to the PUD is required.



The property is .3711 acres and is surrounded by Beaver Creek to the West, the Eagle River to North and East, and Highway 6 to the South. Because the property is located significantly lower than Highway 6 and the Town of Avon is planning construction of the Eagle Valley Regional Trail in the summer of 2016, access to the property for Residential land use is inhibited. The platted easements related for the Eagle Valley Regional Trail also heavily encumber the Property. Since acquiring the "Red House" property to the West, it became apparent that the potential for a private use (i.e. fishers cabin) could be a beneficial use for owners and guests on that



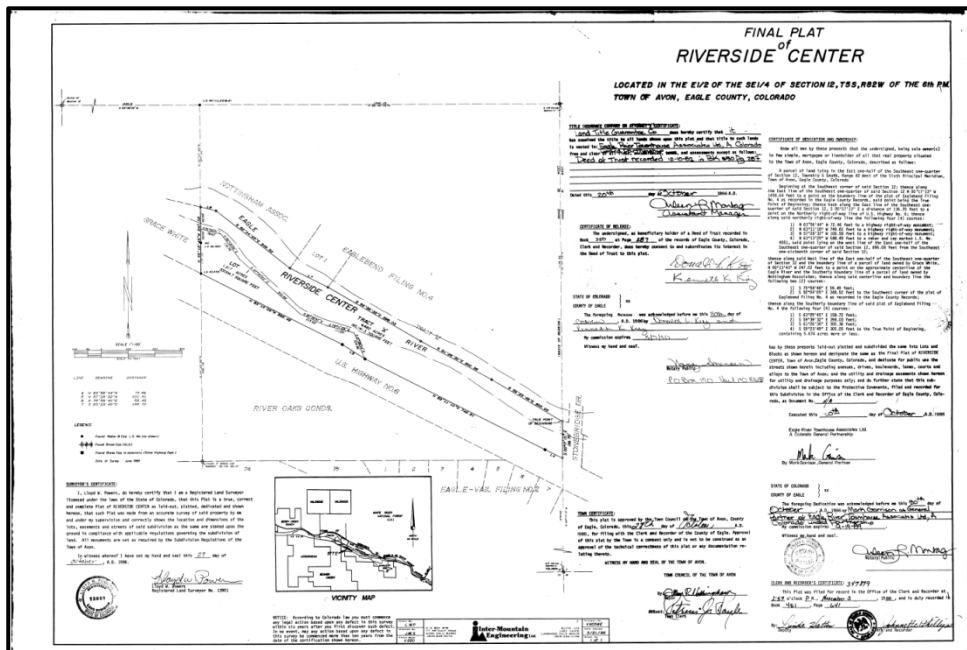
property.

Through the vested rights extension request for the “Red House”, the Town of Avon requested the potential to access to the Eagle River from the Eagle Valley Regional Trail. The concept is for a switchback footpath dropping down to Tract A, an Open Space river parcel. Submittal of this application was required by approval of Ordinance 2015-12, the Ordinance approving a vested rights extension for the “Red House” parcel. The Ordinance was approved with the following conditions:

1. The PUD amendment application shall be submitted no later than April 30, 2016.
2. The amended PUD Plat shall include the conveyance of a 1,748.5 sq.ft. easement across Lot 2, Riverside PUD, Avon, CO, as shown on the attached Exhibit A, for the purpose of public access as an unimproved or natural foot path to be maintained by the Town, which conveyance shall occur by an instrument acceptable to the Town.
3. Owner, as owner of Lot 2, Riverside PUD, shall abandon the existing development rights on as provided on Lot 2 of the Riverside PUD and apply for the right to use Lot 2, Riverside PUD for recreation cabin as a private amenity, built in the location of the remains of the current cabin structure, or in a similar location, and with a similar square footage, bulk, size and height, or such square footage, bulk, size and height as may be proposed by the Owner and for the right to use Lot 2, Riverside PUD private open space and private passive recreation uses.
4. The Town shall waive any application and associated fees provided that the application for a PUD amendment application is timely submitted and provided that such application meets the conditions stated herein.
5. Nothing contained herein shall restrict or infringe upon the discretion of the Avon Planning and Zoning Commission and Town Council to review and act upon an application to for an amendment to a planned unit development.

B. BACKGROUND

The Town of Avon approved the annexation of the property in in 1983 with the approval of Ordinance 1983-40. Given the properties relatively narrow shape, adjacency to Highway 6, and river frontage, the original concept was for highway oriented commercial development with some residential component. It was therefore designated with High Density Residential and Commercial zoning classification. A few years later the Town approved Ordinance 1989-5, providing for the amendment of the Zoning District Map which included Lot 2 of Riverside. The Property was under ownership by Vail Associates for several years before acquisition by Red House LLC, with the understanding it might have some value as open space and some private use given its proximity to the "Red House". The Final Plat for Riverside is wedged between Highway 6 and the Eagle River as shown below:



C. ZONING ANALYSIS

Development Standard	Existing	Proposed
Density:	8 Units (Timeshare/Condo)	0
Setbacks:	<u>Front:</u> 25 feet <u>Side & Rear:</u> 30 feet from Mean Annual High Water Line of Beaver Creek and Eagle River	<u>Front:</u> 25 feet <u>Side & Rear:</u> 30 feet from Mean Annual High Water Line of Beaver Creek and Eagle River
Maximum Height:	7,500' U.S. Geological Survey Datum	20' as measured per Town Code
Allowed Uses	Time-share, Condominium	Private Path, Open Space, Landscaping, Public paths, Bike Paths, Picnic Areas

D. CRITERIA FOR REVIEW

Section 7.16.060.4 establishes the criteria for review of a PUD amendment. Section 7.16.060.4 states:

Review Criteria. The PZC and Town Council shall consider the following criteria as the basis for a recommendation or decision to rezone a property to PUD Overlay, and approve a preliminary PUD plan, or process a PUD amendment:

- (i) ***The PUD addresses a unique situation, confers a substantial benefit to the Town, and/or incorporates creative site design such that it achieves the purposes of this Development Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments.***

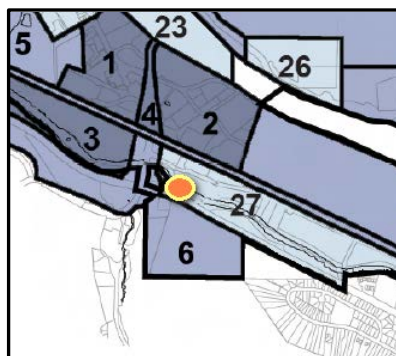
Applicant Response: The proposed amendment to the Riverside PUD to remove residential development rights is appropriate and an improvement given the natural setting of the property and the forthcoming Eagle Valley Trail extension. By eliminating any potential for residential construction open space is preserved, and the riparian corridors are conserved. Additionally, trees and vegetation will be maintained or mitigated and could be enhanced further.

- (ii) ***The PUD rezoning will promote the public health, safety, and general welfare;***

Applicant Response: Preservation of the property will promote the public health, safety, and general welfare. Open space is being preserved and public river access is achieved with this Minor PUD Amendment application.

- (iii) ***The PUD rezoning is consistent with the Avon Comprehensive Plan, the purposes of this Development Code, and the eligibility criteria outlined in §7.16.060(b);***

Applicant Response: The Property is located in the Nottingham Station/Eaglebend Residential District according to the Avon Comprehensive Plan. This district speaks to design issues for development in the area to address visibility from Highway 6, as well as the protection of the riparian environment along the Eagle River. The Avon Comprehensive Plan also talks about “appropriate public access along the river” in the Nottingham Station/Eaglebend Residential District, which is achieved with a platted access easement for another informal river access point of the regional trail network.



The purpose of the Development Code is provided in Section 7.04.030 Purposes of the Avon Development Code:

The Development Code is intended to promote and achieve the following goals and purposes for the Avon community, including the residents, property owners, business owners and visitors:

- (a) Divide the Town into zones, restricting and requiring therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for trade, industry, residence and other specified uses; regulate the intensity of the use of lot areas; regulate and determine the area of open spaces surrounding such buildings; establish building lines and locations of buildings designed for specified industrial, commercial, residential and other uses within such areas; establish standards to which buildings or structures shall conform; establish standards for use of areas adjoining such buildings or structures;*
- (b) Implement the goals and policies of the Avon Comprehensive Plan and other applicable planning documents of the Town;*
- (c) Comply with the purposes stated in state and federal regulations which authorize the regulations in this Development Code;*
- (d) Avoid undue traffic congestion and degradation of the level of service provided by streets and roadways, promote effective and economical mass transportation and enhance effective, attractive and economical pedestrian opportunities;*
- (e) Promote adequate light, air, landscaping and open space and avoid undue concentration or sprawl of population;*
- (f) Provide a planned and orderly use of land, protection of the environment and preservation of viability, all to conserve the value of the investments of the people of the Avon community and encourage a high quality of life and the most appropriate use of land throughout the municipality;*
- (g) Prevent the inefficient use of land; avoid increased demands on public services and facilities which exceed capacity or degrade the level of service for existing residents; provide for phased development of government services and facilities which maximizes efficiency and optimizes costs to taxpayers and users; and promote sufficient, economical and high-quality provision of all public services and public facilities, including but not limited to water, sewage, schools, libraries, police, parks, recreation, open space and medical facilities;*
- (h) Minimize the risk of damage and injury to people, structures and public infrastructure created by wild fire, avalanche, unstable slopes, rock fall, mudslides, flood danger and other natural hazards;*
- (i) Achieve or exceed federal clean air standards;*
- (j) Sustain water sources by maintaining the natural watershed, preventing accelerated erosion, reducing runoff and consequent sedimentation, eliminating pollutants introduced directly into streams and enhancing public access to recreational water sources;*
- (k) Maintain the natural scenic beauty of the Eagle River Valley in order to preserve areas of historical and archaeological importance, provide for adequate open spaces, preserve scenic views, provide recreational opportunities, sustain the tourist-based economy and preserve property values;*
- (l) Promote architectural design which is compatible, functional, practical and complimentary to Avon's sub-alpine environment;*

(m) Achieve innovation and advancement in design of the built environment to improve efficiency, reduce energy consumption, reduce emission of pollutants, reduce consumption of non-renewable natural resources and attain sustainability;

(n) Achieve a diverse range of attainable housing which meets the housing needs created by jobs in the Town, provides a range of housing types and price points to serve a complete range of life stages and promotes a balanced, diverse and stable full time residential community which is balanced with the visitor economy;

(o) Promote quality real estate investments which conserve property values by disclosing risks, taxes and fees; by incorporating practical and comprehensible legal arrangements; and by promoting accuracy in investment expectations; and

(p) Promote the health, safety and welfare of the Avon community.

As demonstrated within this document, the proposal is consistent with and in substantial compliance with the purpose of the Development Code by reducing the number of dwelling units located in a sensitive riparian area that will remain mostly open space, with river access provided by the Town.

The eligibility criteria for a PUD are outlined in Section 7.16.060(b) and state the following:

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

(2) Consistency with Comprehensive Plan. The proposed development shall be consistent with the Avon Comprehensive Plan.

(3) Consistent with PUD Intent. The proposed development shall be consistent with the intent and spirit of the PUD purpose statement in §7.16.060(a).

(4) Compatibility with Existing Uses. The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in the Development Code or planned for in the Avon Comprehensive Plan.

(5) Public Benefit. A recognizable and material benefit will be realized by both the future residents and the Town as a whole through the establishment of a PUD, where such benefit would otherwise be infeasible or unlikely.

(6) Preservation of Site Features. Long-term conservation of natural, historical, architectural, or other significant features or open space will be achieved, where such features would otherwise be destroyed or degraded by development as permitted by the underlying zoning district.

(7) Sufficient Land Area for Proposed Uses. Sufficient land area has been provided to comply with all applicable regulations of the Development Code, to adequately serve the needs of all permitted uses in the PUD projects, and to ensure compatibility between uses and the surrounding neighborhood.

As demonstrated within this document, the proposal is consistent with the eligibility criteria for a PUD. The proposal is consistent with the Avon Comprehensive Plan and compatible with existing uses. The access easement will provide public access into perpetuity, gaining valuable public access to Tract A.

(iv) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

Applicant Response: Utilities, if needed for the private recreation cabin, are available from the adjacent property.

- (v) ***Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;***

Applicant Response: The proposal is not likely to result in significant impacts to the natural environment. If a future proposal for a recreation cabin is submitted, it must comply with Natural Resource Protection provisions outlined in the Avon Development Code, which safe harbor the Town and public from any such impact.

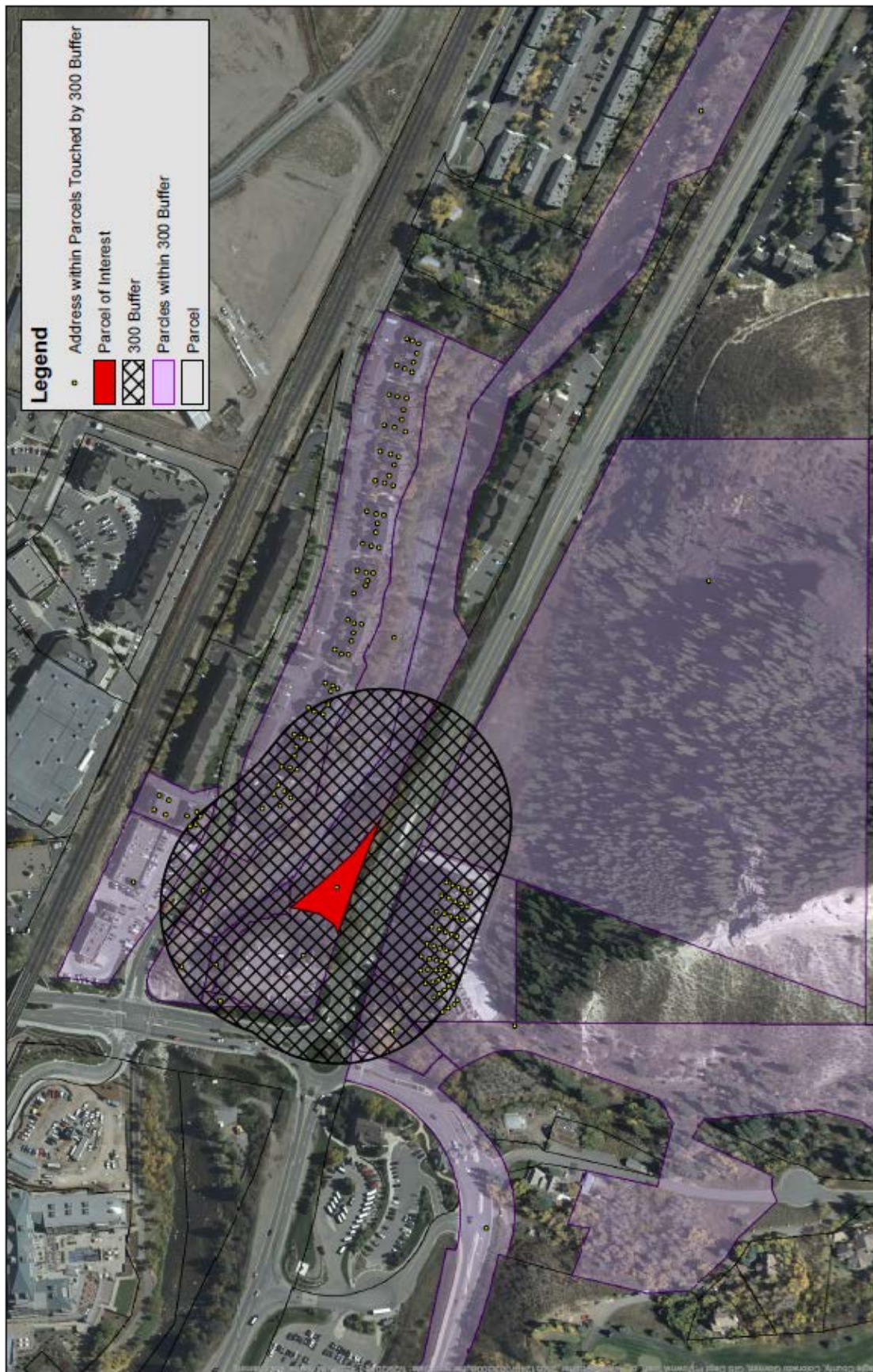
- (vi) ***Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and***

Applicant Response: Red House LLC owns the neighboring property and intend to develop the fifteen residential townhomes. This proposal is compatible with residential and open space uses that surround the property.

- (vii) ***Future uses on the subject tract will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject tract.***

Applicant Response: As stated, future use of a private cabin for owners of the "Red House" makes this a compatible use.

E. ADJACENT ADDRESSES (within 300 Feet)



**TOWN OF AVON, COLORADO
ORDINANCE 2015-12**

**AN ORDINANCE AMENDING THE ANNEXATION AND
DEVELOPMENT AGREEMENT THEREBY EXTENDING
THE EXISTING VESTED PROPERTY RIGHTS FOR THE
RED HOUSE PUD PROPERTY LOCATED AT LOT 1,
EAGLE RIVER AT AVON SUBDIVISION, TOWN OF
AVON, STATE OF COLORADO**

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

WHEREAS, Dominic Mauriello, Mauriello Planning Group on behalf of Red House Avon, LLC (“Applicant” or “Owner”) has submitted a Vested Property Rights Application (“Application”) to amend the Annexation and Development Agreement approved by Council through Ordinance 09-07 (“Development Agreement”), thereby amending the term of the Development Agreement as defined in Section 3.1 of Article III; and

WHEREAS, the Application amends Section 3.1 of Article III of the Development Agreement to extend the expiration date for an additional three (3) years to then expire July 28, 2019; and

WHEREAS, pursuant to Section 7.16.140(f), *Extension of Vested Property Rights*, the Town Council finds the Application eligible for consideration since the Application was submitted at least six (6) months prior to the expiration of the vested property rights; and

WHEREAS, pursuant to Section 7.16.140(e)(2), Avon Municipal Code, the Town Council has considered the applicable guidelines for the Application; and

WHEREAS, the Town Council of the Town of Avon held public hearings on November 17, 2015 and January 12, 2016 after posting notice of such hearings in accordance with the requirements of Section 7.16.020(d), *Step 4: Notice*, Avon Municipal Code, and considered all comments provided before taking action; and

WHEREAS, the Town Council makes the following specific findings as the basis for its decision as required by Section 7.16.020(f)(3) of the Avon Development Code:

The Application meets the review criteria set forth in Section 7.16.140(e)(2), specifically:

(ii) and (iii) Property values and the real estate market experienced a significant downturn for several years, commencing locally in early 2009 and continuing for several years during the

initial vested rights period and market conditions for the construction of new multi-family residential product have improved only recently; and,

(iv) There have been no changes to the Avon Comprehensive Plan or other community planning documents that affect the project as originally approved in 2009; therefore, the project continues to comply with the Avon Comprehensive Plan and other community planning documents; and,

(v) The project has provided a portion of the required public amenities through the dedication of land for recreation and preservation of the Eagle river and the terms of the Development Agreement require additional amenities including road way improvements, school land dedications, water rights dedications, landscaping improvements and employee housing mitigation; and,

(vii) The extended duration of the vested property rights for an additional five (5) years is reasonable considering the local, state and national economic recovery and local market conditions for new construction of multi-family residential product and considering the conditions related to integration of Lot 2, Riverside PUD, adjoining the current property; and,

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

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

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

Section 2. Red House Annexation and Development Agreement Amendment. The Town Council gives conditional approval to the extension of the vested property rights as set forth in Section 3 below. The Red House Annexation and Development Agreement is hereby amended by replacing the language in Article III – Term, Section 3.1 in its entirety to read as follows:

“3.1 Term. In recognition of the nature of the development contemplated under this Agreement, the investment and time required to complete the development of the Property, the potential for phased development of the Property, the possible impact of the recent economic downturn and other economic cycles, and poor market conditions at the time of approval, and in recognition of the current severity of the economic recession and uncertainty of economic recovery, the term of the Vested Property Rights shall

commence on the Effective Date and shall continue through and including the twelfth (12th) anniversary of the Effective Date (“Term”) and shall expire on July 28, 2021. Expiration or earlier termination of the Term shall not (a) affect any other obligations of the Parties contained in the Agreement, (b) affect any right arising from the issuance of a building permit (but limited to the building for which it is issued) or common law vested property rights obtained prior to the expiration of the Term, or (c) without additional action, result in the termination or rescission of any other legislative, quasi-judicial or administrative approvals occurring prior to the expiration of the Term.”

Section 3. Conditions of Approval. The Town Council approval of the extension of the Vested Property Rights is subject to conditions as described in this section. In the event that the conditions are not satisfied on or prior to December 31, 2016, the Town Council may repeal this ordinance by ordinance and thereby revoke the extension of Vested Property Rights. The conditions of approval include the following:

The Owner shall submit an application to amend the Riverside PUD, which application shall include the following:

1. The PUD amendment application shall be submitted no later than April 30, 2016.
2. The amended PUD Plat shall include the conveyance of a 1,748.5 sq.ft. easement across Lot 2, Riverside PUD, Avon, CO, as shown on the attached Exhibit A, for the purpose of public access as an unimproved or natural foot path to be maintained by the Town, which conveyance shall occur by an instrument acceptable to the Town.
3. Owner, as owner of Lot 2, Riverside PUD, shall abandon the existing development rights on as provided on Lot 2 of the Riverside PUD and apply for the right to use Lot 2, Riverside PUD for recreation cabin as a private amenity, built in the location of the remains of the current cabin structure, or in a similar location, and with a similar square footage, bulk, size and height, or such square footage, bulk, size and height as may be proposed by the Owner and for the right to use Lot 2, Riverside PUD private open space and private passive recreation uses.
4. The Town shall waive any application and associated fees provided that the application for a PUD amendment application is timely submitted and provided that such application meets the conditions stated herein.
5. Nothing contained herein shall restrict or infringe upon the discretion of the Avon Planning and Zoning Commission and Town Council to review and act upon an application to for an amendment to a planned unit development.

Section 4. Correction of Errors. Town Staff is authorized to insert proper dates, references to recording information and make similar changes, and to correct any typographical, grammatical, cross-reference, or other errors which may be discovered in any documents

associated with this Ordinance and documents approved by this Ordinance provided that such corrections do not change the substantive terms and provisions of such documents.

Section 5. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

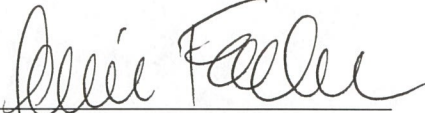
Section 6. Effective Date. This Ordinance shall take effect thirty days after final adoption in accordance with Section 6.4 of the Avon Home Rule Charter.

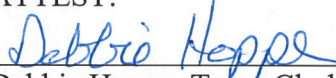
Section 7. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 8. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

[EXECUTION PAGE FOLLOWS]

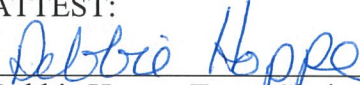
INTRODUCED, APPROVED, PASSED ON FIRST READING AND ORDERED POSTED on November 17, 2015 and a public hearing on this ordinance shall be held at the regular meeting of the Town Council on January 12, 2016, at 5:00 P.M. in the Council Chambers, Avon Municipal Building, One Lake Street, Avon, Colorado.

BY: 
Jennie Fancher, Mayor

ATTEST: 
Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on January 12, 2016.

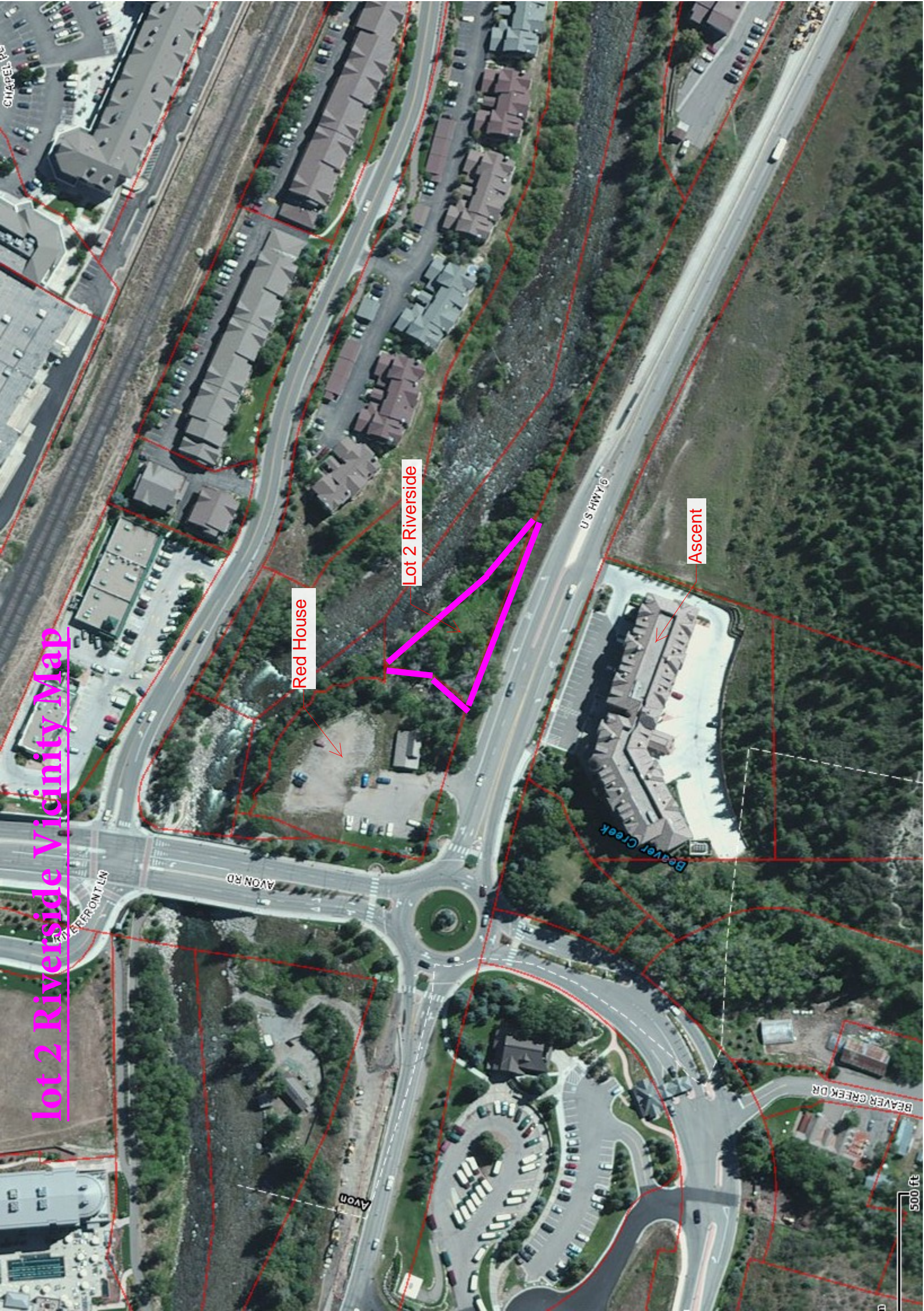
BY: 
Jennie Fancher, Mayor

ATTEST: 
Debbie Hoppe, Town Clerk

APPROVED AS TO FORM.

Eric J. Heil, Town Attorney

lot 2 Riverside Vicinity Map



Red House

Lot 2 Riverside

Ascent

Beaver Creek

BEAVER CREEK DR

500 ft

TO: Honorable Mayor Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Ordinance No. 16-02 Approving Certificate of Purchase Financing for Police Station
DATE: March 3, 2016

SUMMARY: On February 23, 2016, Council adopted Resolution 16-03 to refer a ballot question concerning financing for a police station to a special election on May 3, 2016 ("**Ballot Question**"). The proposed financing is through "certificates of participation" ("**COP**") in a principal amount not to exceed \$6.5 million. A companion Ordinance No. 16-02 was also presented and approved on first reading which includes the authorization, terms and limitations of the COP financing. The Ballot Question seeks approval of Ordinance No. 16-02.

Ordinance No. 16-02 is presented to Council for Second and Final reading. The effectiveness of Ordinance No. 16-02 depends upon the outcome of the May 3, 2016 Special Election.

Accompanying this memorandum is are memoranda from Justin Hildreth discussing the cost estimate for the police station and from Scott Wright discussing the financing terms for a bond issuance through COP financing.

The referred Ballot Question for the police station financing is coordinated with the efforts of the Eagle River Fire Protection District ("**ERFPD**") to refer its own ballot question to its regular special district election May 3, 2016. The ERFPD will seek voter approval for debt authorization and a supporting mill levy. The coordinated effort is the implementation of the Intergovernmental Agreement, dated April 28, 2015 ("**IGA**"), to construct a "**Joint Public Safety Facility**" on Lot 1B, Buck Creek Subdivision, on the north side of I-70 (adjacent to the medical office building under construction).

Last year the ERFPD was able to sell Lot 1A and acquire Lot 1B which resulted in a reduction of the ERFPD's outstanding debt on the property by approximately \$1.4 million. As part of the IGA to pursue the construction of a Joint Public Safety Facility, the Town of Avon provided temporary financing to assist the ERFPD with the sale of Lot 1A and acquisition of Lot 1B. The IGA contemplates cost sharing to reduce the overall cost of a regional fire station and new police station by sharing the land costs and certain site improvements.

The construction of a regional fire station to replace the existing Avon fire station was an identified goal of ERFPD since the Town joined the ERFPD and transferred all of Avon's fire protection equipment and assets to ERFPD. The Town owns the existing fire station building in Avon and has leased the building to ERFPD at no cost since joining the district. The direct benefits to the Town of the new regional fire station are (1) moving the fire station to a better location for improved response time, (2) constructing a facility that can accommodate the ladder truck and thereby move it up from Cordillera to Avon, (3) constructing a larger regional facility that is planned to serve the community for the next 40-50 years, and (4) vacating the existing fire station owned by the Town so that the Town may reuse this property.

The proposed police station is 10,419 sq.ft. and is sized to meet the needs of the Avon Police Department for the next 40-50 years. The size and configuration of the police station are based on upon programming analysis conducted during the initial design process and based upon a review of comparable police stations in peer communities.

The most current cost estimate for construction is \$4,324,914. A 10% contingency, soft costs, land acquisition, architectural and engineering fees result in a total estimated Project cost of \$6,248,112. (See Justin Hildreth's memorandum for more information.) The costs of bond financing is approximately \$150,000, which results in a total expected cost of \$6,450,000. The referred Ballot Question and Ordinance No. 16-02 proposes a total principal amount of \$6.5 Million based on the current total project cost estimates and the estimated financing costs.

A public presentation and open forum for the proposed Joint Public Safety Facility is scheduled for February 23, 2016, in Town Council Chambers, immediately prior to the Avon Town Council meeting, which presentation will include additional detail on the Joint Public Safety Facility project. Additional public outreach meetings are scheduled for March 23, April 11 and April 27. In addition, a Town of Avon community meeting will be held on March 2, where the Facility will be one of the topics expected to be discussed.

In order for the Joint Public Safety Facility project to proceed this summer, both the Town of Avon Ballot Question and Eagle River Fire Protection District ballot question must receive voter approval on May 3, 2016. Should one or both of the ballot issues fail, the ERFPD and the Town of Avon will meet to evaluate how to proceed thereafter.

PROPOSED MOTION:

"I move to approve second and final reading Ordinance No. 16-02 AUTHORIZING THE FINANCING OF CERTAIN PUBLIC IMPROVEMENTS OF THE TOWN, AND IN CONNECTION THEREWITH AUTHORIZING THE LEASING OF CERTAIN TOWN PROPERTY AND THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE LEASE, A LEASE PURCHASE AGREEMENT, A DISCLOSURE CERTIFICATE, A PRELIMINARY OFFICIAL STATEMENT AND OTHER DOCUMENTS AND MATTERS RELATING TO CERTAIN CERTIFICATES OF PARTICIPATION, SERIES 2016; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE FINANCING; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO"

REFERRED BALLOT QUESTION: The Avon Town Council is authorized by the Avon Home Rule Charter and by state statute to refer a ballot question to a special election. The Avon Town Council must take action to refer the Ballot Question at least 60 days prior to the election date (March 4 deadline for May 3, 2016 election). The Ballot Question would authorize Ordinance No. 16-02. If approved by the Avon voters, Ordinance No. 16-02 would be effective upon certification of the election results. Ordinance No. 16-02 is not subject to a citizen's petition for referendum because it is referred to the Avon voters

The proposed Ballot Question is as follows:

Police Station Financing

Without raising any taxes, shall Ordinance No. 16-02 be approved and shall the Avon Town Council thereby be authorized to use certificate of participation financing, with a principal amount not to exceed \$6.5 million, to construct a new police station facility in accordance with the terms of Ordinance No. 16-02?

Council has discretion to determine the Ballot Question language. The Ballot Question is not subject to the Tax Payers Bill of Rights (“**TABOR**”) and therefore is not required to follow the prescribed language for ballot questions set forth in TABOR. The proposed Ballot Question is worded to begin with the phrase “Without raising any taxes,” because the Ballot Question does not propose to raise any existing tax rates in the Town of Avon. The repayment of the COP financing would occur through existing revenues. The remainder of the Ballot Question includes approval of Ordinance No. 16-02 and authorization of COP financing for a new police station facility in a principal amount not to exceed \$6.5 Million.

CERTIFICATE OF PARTICPATION FINANCING AND TABOR: The ballot question seeks authorization for financing through the use of COP financing. COP financing is not a general obligation of the Town, a “constitutional debt” or a “multi-year fiscal obligation” and therefore is not subject to TABOR. COP financing uses an arrangement whereby the lending institution obtains a leasehold interest on the public property, then leases the public property back to the public entity for the duration of the bond repayment. The obligation of public entity to pay the annual lease payment is “subject to annual budget and appropriation”. In the event that the public entity does not appropriate and pay the annual lease payment, the lending institution has the right to “evict” the public entity, obtain possession of the public property, and re-let the property for the duration of the leasehold to obtain revenues to pay the remaining loan amount. COP financing is a common method of financing used by local governments throughout Colorado. The Town has used COP financing on multiple occasions (e.g. Transit Facility in 2010 and Street Improvements in 2014). The Town has never defaulted on COP financing payments.

ORDINANCE NO. 16-02: Ordinance No. 16-02 was prepared by bond counsel for the Town of Avon. The Ordinance specifies that the location of the Police Station will be on Lot 1B, Buck Creek Subdivision, Avon, Colorado (adjacent to the medical office building under construction) **IF** the Eagle River Fire Protection District ballot question passes and if the Joint Public Safety Facility project proceeds this summer. If this does not occur, then Ordinance No. 16-02 would authorize the construction of a Police Station on other land owned or leased by the Town of Avon within the Town’s boundaries. Ordinance No. 16-02 also states that the use is for a Police Station **or other lawful uses**. The reference to **other lawful uses** is to accommodate requirements that lending institutions have to permit any lawful use during the term of the leasehold interest and repayment of the bonds. Under federal law there are many restrictions on the use of public facilities financed with tax exempt bonds.

PLEASE NOTE that Ordinance No. 16-02 references a form of Lease Agreement, Site Lease, Trust Indenture and Continuing Disclosure Statement. Due to the volume of pages, these documents are provided on-line on the Town’s website and several hard copies will be provided to the public at the Council meeting. Hard copies will be provided to Council members on request.

FAIR CAMPAIGN PRACTICES ACT: The Fair Campaign Practices Act establishes restrictions on Town to advocate for or against a referred ballot measure. Once the Ballot Question is referred to an election, the Town may not spend more than \$50 advocating for or against the passage of the ballot issue. The Town may provide a factual statement to the public provided that the factual statement is objective, does not advocate for or against the ballot issue, and includes arguments for and against the ballot issue. The relevant statutory authorization for a factual statement is reprinted as follows:

CRS §1-45-117(1)(b) (I) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state, or any political subdivision thereof from expending public

moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the jurisdiction. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues that will appear on an election ballot in the jurisdiction.

Thank you, Eric

ATTACHMENTS:

Memorandum from Justin Hildreth

Memorandum from Scott Wright

Ordinance No. 16-02 Authorizing Certificate of Participation Financing for a Police Station



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Justin Hildreth, Town Engineer
Virginia C. Egger, Town Manager
Meeting Date: February 23, 2016
Agenda Topic: Cost Estimate for Joint Town of Avon Police and Eagle River Fire Protection District
Public Safety Facility

SUMMARY: The Town has been working on a Joint Public Safety Facility that includes the Town of Avon Police Station and Eagle River Fire Protection District (“ERFPD”) Regional Fire Station to be located at Lot 1B, Buck Creek Subdivision. Last fall, a schematic design for the police station portion of the facility included 19,099 SF building plus 2,173 SF in shared space. The design included 22 underground parking spaces, with a total construction price of \$6,675,224, including all fees and contingency.

The Council, during its November 10, 2015 meeting, voiced concerns about the size and cost of the project and directed staff to eliminate all the structure parking and reduce the scope of the project. To meet the objectives, other police stations were surveyed in mountain communities and the Breckenridge Police Station was found to be the most comparable having a current staff of 29. The Breckenridge station was constructed in 1996 and is 11,240 square feet. All vehicle parking is outdoors, with patrol cars provided canopy outdoor parking. A review of the Breckenridge space program met or exceeded all the programmatic needs identified for a new Avon Police Department.

At Council’s December 8, 2015 meeting, Council approved a Police Station not to exceed 11,300 square feet with surface parking. The total estimated cost was \$4,688,656, and was derived using the same \$315.00 square foot cost estimate from the larger building. The Council also approved the continuation of the building’s revised schematic design in order to provide the best pricing prior to setting the ballot question to allow the use of Certificates of Participation.

Upon receipt of the schematic design package, Evans Chaffee Construction Group (“ECCG”) solicited competitive bids from numerous qualified sub-contractors in each trade and completed pricing of the project on February 15, 2016. Exhibit 1 summarizes the construction cost for the entire Joint Public Safety Facility. Table 1 summarizes the pricing for The Town of Avon Police Station portion of construction costs. Table 1 shows that even though the square footage of the building has been further reduced by 881 square feet, the estimated cost, with surface parking, has increased by \$707,000, with competitive pricing. The cost of the facility, with surface parking, however, still remains \$1,300,000 less expensive than if developed with structured parking.

Chris Evans reports the increase construction pricing is a result of actual competitive pricing versus an estimate based upon limited schematic plans; the high cost of retaining walls for the surface

parking designated for the police station; and, the compaction of the police program into a smaller area.

Staff has been in early discussion with Chris Evans to identify cost savings. Additional savings will be identified over the next six weeks and prior to the final Guaranteed Maximum Price being contracted.

A 10% construction contingency is included in the project budget at this time to cover any cost adjustments as the plans are developed into final construction plans and for unforeseen circumstances encountered during construction such as poor soils or dewatering. Contingency can be released once the foundation and site work are completed since that contains the most risk.

TABLE 1
Avon Police Station at Buck Creek Public Safety Facility
Total Maximum Square Footage: 10,419
August 1, 2016 Ground Break

Facility	General Contractor Pricing – Jan 25, 2016 Schematic Design 10,419 SF	12/8/2015 Project Budget SF Schematic Design 11,300 SF
Police Building & Parking	\$4,302,498	\$3,669,342
Contingency at 10%	\$430,250	\$355,950
Sub-total: Building & Parking Costs	\$4,732,748	\$4,025,292
Soft Costs Estimate: Utility fees, dewatering, survey, signage, IT, moving, legal, FFE, etc.*	\$309,224	\$309,224
Total Building & Parking Construction Costs	\$5,041,972	\$4,334,516
Architectural & Engineering Fees; & GC Pricing for Redesign	\$354,140	\$354,140
Total Construction Project Costs	\$5,396,112	\$4,688,656
Land Acquisition Cost	\$852,000	\$852,000
Total Estimated Project Costs	\$6,248,112	\$5,540,656

SCHEDULE: Upon approval by Town Council of the ballot language at the February 23, 2016 meeting, the Davis Partnership Group will move forward with design development and preparation of final construction plans. The design development plans, which will be at approximately 2/3 completion of

final construction plans, will be done by March 23rd and submitted to ECCG for another round of pricing with the sub-contractors. The design development pricing will be used to develop the Guaranteed Maximum Price (“GMP”) for the project and included in the ECCG Construction Contract. The construction plans will be completed on May 20th, 2016. Assuming the May 3rd election is successful; the contractor will then obtain the building permit and will mobilize around August 1, 2016. Construction can be completed and the building occupied by the end of 2017.



Figure 1 – View from Swift Gulch Road



Figure 2 – View looking southeast of the apparatus bay

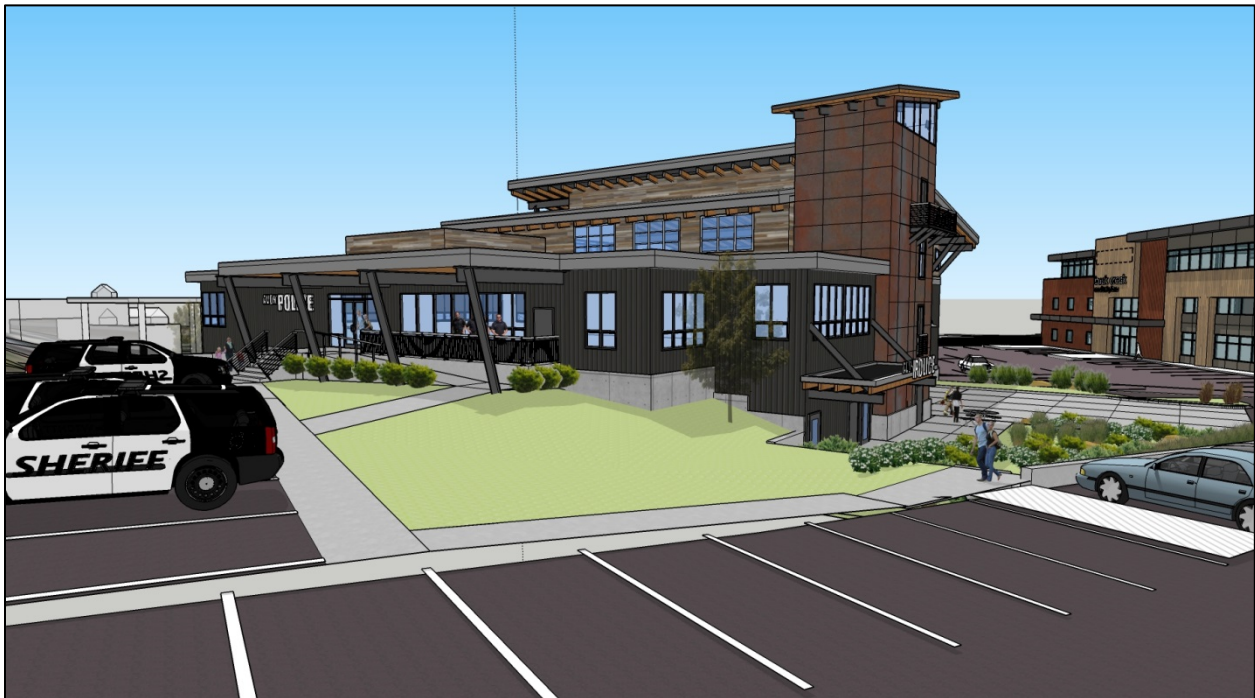


Figure 3 – View of public police station entrance on north side of building

EXHIBIT A – ECCG Avon Public Safety Facility VE Pricing Recap

EXHIBIT A Avon Public Safety Facility VE Pricing Recap

Previous Pricing

1 - Base Estimate Per Plans

Square Footage

	Gross Cost	Fire	Police	Previous	Fire	Police	Shared	Gross
Fire	\$3,163,799	\$3,163,799		Level 1	9,192	9,224	868	19,284
Police	\$1,940,142		\$1,940,142	Level 2		7,985	3,646	11,631
Shared	\$7,974,366			Level 3	6,877		1,464	8,341
				Gross	16,069	17,209	5,978	39,256
Fire	55% \$4,385,901	\$4,385,901						
Police	45% \$3,588,465		\$3,588,465					
50-50 Split	\$1,727,763							
Fire	50% \$863,882	\$863,882						
Police	50% \$863,882		\$863,882					
Project Totals:		\$8,413,582	\$6,392,488					
Cost per SF (including 50% Shared):		\$441.47	\$316.49					

Current Pricing

1 - Base Estimate Per Plans

Square Footage

	Gross Cost	Fire	Police	Current	Fire	Police	Shared	Gross
Fire	\$4,675,267	\$4,675,267		Level 1	8,276	3,601	526	12,403
Police	\$3,011,339		\$3,011,339	Level 2	375	6,818	256	7,449
Shared	\$1,465,514			Level 3	6,648		244	6,892
				Gross	15,299	10,419	1,026	26,744
Fire	55% \$806,033	\$806,033		Net Change:	(770)	(6,790)	(4,952)	(12,512)
Police	45% \$659,481		\$659,481	% Change:	-4.8%	-39.5%	-82.8%	-31.9%
50-50 Split	\$1,308,188							
Fire	50% \$654,094	\$654,094						
Police	50% \$654,094		\$654,094					
Project Totals:		\$6,135,394	\$4,324,914					
Cost per SF (including 50% Shared):		\$388.02	\$395.62					
Net Change:		(\$2,278,188)	(\$2,067,574)					
% Change:		-27.1%	-32.3%					

Includes	\$48,000	Irrigation Ditch Work
	\$30,000	Thicker asphalt
	\$314,418	3' Over-Ex per soils rpt
Total:	\$392,418	



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Scott Wright, Asst. Town Manager
Date: February 23, 2016
Topic: Ordinance No. 16-02 – Authorizing the Financing of Certain Public Improvements

SUMMARY: This memorandum addresses the terms of the financing and the timetable regarding the bond issuance. The proposed funding source of Real Estate Transfer Taxes, and other sources of current taxes as may be appropriated, **allows the Town to bond for the police station without raising taxes or increasing taxes.**

BONDING SCENARIOS: The flowing table identifies the differences between including or excluding the architectural and engineering fees, as well as the difference in term between a 15-year and a 20-year term financing. NOTE: "TIC" refers to *Total Interest Costs*, which includes all costs of the transaction, not just the stated interest rate (or coupon interest).

PUBLIC SAFETY FACILITY - AVON POLICE DEPARTMENT				
UPDATED FEBRUARY 12, 2016				
DEBT SERVICE				
	Projected Cost 2/12/2016 General Contractor Pricing - Super SD Design (Includes Architectural and Engineering Fees)		Projected Cost 2/12/2016 General Contractor Pricing - Super SD Design (Excludes Architectural and Engineering Fees)	
TOTAL COST - BOND PROCEEDS	\$6,425,000		\$6,065,000	
DEBT SERVICE	DEBT SERVICE	TIC	DEBT SERVICE	TIC
20 YEARS	413,224	2.60%	390,104	2.60%
COP (average interest rate)	2.547%		2.548%	
15 YEARS	505,297	2.23%	477,018	2.23%
COP (average interest rate)	2.147%		2.147%	

CAPITAL PROJECTS FUND: On September 15, 2014, the final debt service payment was made on the bonds that were used to finance the Avon Recreation Center. The final debt service payment was \$465,248. The amounts highlighted in yellow represent annual debt service payments that are within staff's recommended limit of \$450,000 to be paid for from real estate transfer taxes out of the Town Capital Projects Fund. This amount has previously been

approved in the Town's 5-year long-range CIP plan. To be clear, Certificates of Participation do not increase any current Town tax or require that a new tax be approved. The appropriation will be planned as an expense of the Capital Projects Fund, which receives its monies from real estate transfer taxes, however, the bonds can be paid from any and all Town revenues.

ARCHITECTURAL AND ENGINEERING FEES: It is common in these types of projects to include architectural and engineering fees in the financing in order to reimburse the Town for these out-of-pocket costs. These fees are currently budgeted in the Capital Projects Fund because of the necessity of planning and designing the project prior to the election and issuance of the bonds. Because of the low interest rate environment, staff is recommending that these fees be included in the financing.

BOND PARAMETERS AND ELECTION QUESTION: Attached as an Exhibit to this memo is a schedule of Sources and Uses of the proposed Certificates of Participation financing. The bond issuance is subject to a successful election and therefore will not close for several months. The parameters of the financing are included in Section 4 of Ordinance No. 16-02. The parameters allow for a small degree of adjustment in the event that financing conditions change over the next four months.

The table below compares the parameters under current financing compared to proposed parameters that are recommended in Ordinance No. 16-02 to allow for changes in financial conditions in the next four months.

	COP Financing based on Current Rates and Bond Insurance	COP Financing Parameters Included in Bond Ordinance
Aggregate Principal Amount	\$6,425,000	\$6,500,000
Maximum Annual Repayment Amount	\$415, 791.50	\$450,000
Total Repayment Cost	\$8,311,464.83	\$8,450,000
Maximum Net Effective Interest Rate	2.76%	3.50%

TIMETABLE (EXHIBIT B): Attached is a timetable of events for the issuance of the Certificates of Participation. The table shows the process beginning right after a successful election and concluding with a closing and delivery of bond proceeds on July 1, 2016.

Exhibits:

A – Sources and Uses of Funds

B – Draft Timetable for COP Issuance

Exhibit A
Sources and Uses of Funds

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Town of Avon, Colorado
Certificates of Participation, Series 2016

Police Facility - Scenario 1 - Including architectural and engineering fees

Preliminary Rates as of February 18, 2015
(20-years/AAA +50 bps)

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Bond Debt Service	3
Bond Summary Statistics	4

SOURCES AND USES OF FUNDS

Town of Avon, Colorado
Certificates of Participation, Series 2016

Police Facility - Scenario 1 - Including architectural and engineering fees

Preliminary Rates as of February 18, 2015
(20-years/AAA +50 bps)

Dated Date 08/01/2016
Delivery Date 08/01/2016

Sources:

Bond Proceeds:	
Par Amount	6,425,000.00
	<hr/>
	6,425,000.00

Uses:

Project Fund Deposits:	
Project Fund	6,272,769.00
Cost of Issuance:	
Other Cost of Issuance	70,000.00
Delivery Date Expenses:	
Underwriter's Discount	51,400.00
Bond Insurance	<hr/>
	29,090.13
	80,490.13
Other Uses of Funds:	
Additional Proceeds	1,740.87
	<hr/>
	6,425,000.00

BOND PRICING

Town of Avon, Colorado
 Certificates of Participation, Series 2016

 Police Facility - Scenario 1 - Including architectural and engineering fees

 Preliminary Rates as of February 18, 2015
 (20-years/AAA +50 bps)

Bond Component	Maturity Date	Amount	Rate	Yield	Price
Serial Bond:					
	12/01/2017	270,000	0.880%	0.880%	100.000
	12/01/2018	275,000	1.020%	1.020%	100.000
	12/01/2019	280,000	1.130%	1.130%	100.000
	12/01/2020	280,000	1.230%	1.230%	100.000
	12/01/2021	285,000	1.330%	1.330%	100.000
	12/01/2022	290,000	1.510%	1.510%	100.000
	12/01/2023	290,000	1.700%	1.700%	100.000
	12/01/2024	295,000	1.880%	1.880%	100.000
	12/01/2025	305,000	2.030%	2.030%	100.000
	12/01/2026	310,000	2.160%	2.160%	100.000
	12/01/2027	315,000	2.280%	2.280%	100.000
	12/01/2028	325,000	2.370%	2.370%	100.000
	12/01/2029	330,000	2.470%	2.470%	100.000
	12/01/2030	340,000	2.570%	2.570%	100.000
	12/01/2031	345,000	2.660%	2.660%	100.000
		4,535,000			
Term Bond:					
	12/01/2032	355,000	3.000%	3.000%	100.000
	12/01/2033	365,000	3.000%	3.000%	100.000
	12/01/2034	380,000	3.000%	3.000%	100.000
	12/01/2035	390,000	3.000%	3.000%	100.000
	12/01/2036	400,000	3.000%	3.000%	100.000
		1,890,000			
		6,425,000			

Dated Date	08/01/2016	
Delivery Date	08/01/2016	
First Coupon	12/01/2016	
Par Amount	6,425,000.00	
Original Issue Discount		
Production	6,425,000.00	100.000000%
Underwriter's Discount	-51,400.00	-0.800000%
Purchase Price	6,373,600.00	99.200000%
Accrued Interest		
Net Proceeds	6,373,600.00	

BOND DEBT SERVICE

Town of Avon, Colorado
Certificates of Participation, Series 2016

Police Facility - Scenario 1 - Including architectural and engineering fees

Preliminary Rates as of February 18, 2015
(20-years/AAA +50 bps)

Period Ending	Principal	Coupon	Interest	Debt Service
12/01/2016			46,990.83	46,990.83
12/01/2017	270,000	0.880%	140,972.50	410,972.50
12/01/2018	275,000	1.020%	138,596.50	413,596.50
12/01/2019	280,000	1.130%	135,791.50	415,791.50
12/01/2020	280,000	1.230%	132,627.50	412,627.50
12/01/2021	285,000	1.330%	129,183.50	414,183.50
12/01/2022	290,000	1.510%	125,393.00	415,393.00
12/01/2023	290,000	1.700%	121,014.00	411,014.00
12/01/2024	295,000	1.880%	116,084.00	411,084.00
12/01/2025	305,000	2.030%	110,538.00	415,538.00
12/01/2026	310,000	2.160%	104,346.50	414,346.50
12/01/2027	315,000	2.280%	97,650.50	412,650.50
12/01/2028	325,000	2.370%	90,468.50	415,468.50
12/01/2029	330,000	2.470%	82,766.00	412,766.00
12/01/2030	340,000	2.570%	74,615.00	414,615.00
12/01/2031	345,000	2.660%	65,877.00	410,877.00
12/01/2032	355,000	3.000%	56,700.00	411,700.00
12/01/2033	365,000	3.000%	46,050.00	411,050.00
12/01/2034	380,000	3.000%	35,100.00	415,100.00
12/01/2035	390,000	3.000%	23,700.00	413,700.00
12/01/2036	400,000	3.000%	12,000.00	412,000.00
	6,425,000		1,886,464.83	8,311,464.83

BOND SUMMARY STATISTICS

Town of Avon, Colorado Certificates of Participation, Series 2016

Police Facility - Scenario 1 - Including architectural and engineering fees

Preliminary Rates as of February 18, 2015
(20-years/AAA +50 bps)

Dated Date	08/01/2016
Delivery Date	08/01/2016
Last Maturity	12/01/2036
Arbitrage Yield	2.563606%
True Interest Cost (TIC)	2.599542%
Net Interest Cost (NIC)	2.617086%
All-In TIC	2.761305%
Average Coupon	2.547670%
Average Life (years)	11.525
Duration of Issue (years)	9.843
Par Amount	6,425,000.00
Bond Proceeds	6,425,000.00
Total Interest	1,886,464.83
Net Interest	1,937,864.83
Total Debt Service	8,311,464.83
Maximum Annual Debt Service	415,791.50
Average Annual Debt Service	408,760.57
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	8.000000
Total Underwriter's Discount	8.000000
Bid Price	99.200000

Bond Component	Par Value	Price	Average Coupon	Average Life	PV of 1 bp change
Serial Bond	4,535,000.00	100.000	2.147%	8.662	3,465.50
Term Bond	1,890,000.00	100.000	3.000%	18.394	2,853.90
	6,425,000.00			11.525	6,319.40

	TIC	All-In TIC	Arbitrage Yield
Par Value	6,425,000.00	6,425,000.00	6,425,000.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount	-51,400.00	-51,400.00	
- Cost of Issuance Expense		-70,000.00	
- Other Amounts		-29,090.13	-29,090.13
Target Value	6,373,600.00	6,274,509.87	6,395,909.87
Target Date	08/01/2016	08/01/2016	08/01/2016
Yield	2.599542%	2.761305%	2.563606%

EXHIBIT B

Draft Timetable for COP Issuance

\$_____*

Town of Avon, Colorado
 Certificates of Participation, Series 2016
 Draft Timetable of Events
 As of January 19, 2016

May-16						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Jun-16						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Jul-16						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

DATE	EVENT	RESPONSIBLE PARTY
5/3/16	Election	A
5/4/16	Kick-off/begin drafting legal documents	ALL
5/9/16	Send around first draft of legal documents	BC
5/11/16	First reading of POS/document review session	ALL
5/16/16	Comments on first draft of POS due to BC	ALL
5/19/16	Second document review session	ALL
5/23/16	Complete Legal and Offering Document Preparation	BC
5/25/16	Send Rating Agencies and Insurance Providers Information	U
5/31/16	<ul style="list-style-type: none"> Rating Calls Packets Due for Second Reading 	A/U
6/8/16	<ul style="list-style-type: none"> Receive Ratings Public Hearing, Second Reading of Ordinances Received bids back from rating agencies 	U
6/15/16	Post POS	BC
6/22/16	<ul style="list-style-type: none"> Price Certificates of Participation Continued Public Hearing/Second Reading (if necessary) 	A
6/27/16	Post Final Official Statement	BC
6/30/16	Pre-Closing (30 Days after Final Readying for Referendum)	All
7/1/16	Closing and Delivery of Proceeds	All

A = Town of Avon
 BC = Bond Counsel (Butler Snow)
 U = Underwriter (Piper Jaffray)

*Subject to Change

PiperJaffray®

**TOWN OF AVON, COLORADO
ORDINANCE NO. 16-02**

AUTHORIZING THE FINANCING OF CERTAIN PUBLIC IMPROVEMENTS OF THE TOWN, AND IN CONNECTION THEREWITH AUTHORIZING THE LEASING OF CERTAIN TOWN PROPERTY AND THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE LEASE, A LEASE PURCHASE AGREEMENT, A DISCLOSURE CERTIFICATE, A PRELIMINARY OFFICIAL STATEMENT AND OTHER DOCUMENTS AND MATTERS RELATING TO CERTAIN CERTIFICATES OF PARTICIPATION, SERIES 2016; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE FINANCING; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO.

WHEREAS, the Town of Avon, Eagle County, Colorado (the “Town”) is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the Town (the “Charter”); and

WHEREAS, pursuant to Chapter XIV of the Charter, the Town is authorized to enter into one or more leases or lease-purchase agreements for land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, the Town is authorized by Article XX, Section 6 of the Colorado Constitution, its Charter, and part 8 of Article 15 of title 31, Colorado Revised Statutes (“C.R.S.”), to enter into rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, for the functions or operation of the Town, it is necessary that the Town finance the construction of buildings and improvements for a police station facility (“Police Station”) and the acquisition of real property if needed, as authorized by law, for police operations and other lawful Town purposes (collectively, the “Project”); and

WHEREAS, the Town owns, or will own, in fee title, the Site and the premises, buildings and improvements located thereon (the “Leased Property”), as further described in the Site Lease and the Lease (hereinafter defined); and

WHEREAS, the Town Council of the Town (the “Town Council”) has determined, and now hereby determines, that it is in the best interest of the Town and its inhabitants that the Town lease the Leased Property to UMB Bank, n.a., as trustee under the Indenture (the “Trustee”) pursuant to a Site Lease between the Town, as lessor, and the Trustee, as lessee (the “Site Lease”), and lease back the Trustee’s interest in the Leased Property pursuant to the terms of a

Lease Purchase Agreement (the “Lease”) between the Trustee, as lessor, and the Town, as lessee; and

WHEREAS, pursuant to the Lease, and subject to the right of the Town to terminate the Lease and other limitations as therein provided, the Town will pay certain Base Rentals and Additional Rentals (as such terms are defined in the Lease) in consideration for the right of the Town to use the Leased Property; and

WHEREAS, the Town’s obligation under the Lease to pay Base Rentals and Additional Rentals shall be from year to year only; shall constitute currently budgeted expenditures of the Town; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, charter, statutory limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, the Trustee will enter into an Indenture of Trust (the “Indenture”) pursuant to which there is expected to be executed and delivered certain certificates of participation (the “Certificates”) dated as of their date of delivery that shall evidence proportionate interests in the right to receive certain Revenues (as defined in the Lease), shall be payable solely from the sources therein provided and shall not directly or indirectly obligate the Town to make any payments beyond those appropriated for any fiscal year during which the Lease shall be in effect; and

WHEREAS, the net proceeds of the Certificates are expected to be used to finance the Project; and

WHEREAS, there has also been presented to this meeting of the Town Council the form of Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”); and

WHEREAS, there will be executed and distributed in connection with the sale of the Certificates an Official Statement (the “Official Statement”) in substantially the form of the Preliminary Official Statement (the “Preliminary Official Statement”) relating to the Certificates as approved by the Finance Director of the Town; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes, as amended (the “Supplemental Act”), provides that a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act; and

WHEREAS, there has been presented to the Town Council and are on file at the Town offices the following: (i) the proposed form of the Site Lease; (ii) the proposed form of the Lease; and (iii) the proposed form of the Continuing Disclosure Certificate to be provided by the Town (the “Disclosure Certificate”); and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease; and

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

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

Section 1. Short Title. This ordinance shall be known and may be cited by the short title “2016 COP Ordinance.”

Section 2. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

Section 3. Location. The location of the Police Station shall be on a portion of Lot 1B, Buck Creek Subdivision, Avon, CO, (“Lot 1B Property”) if (1) the ballot question referred by the Eagle River Fire Protection District for financing of a regional fire station on the Lot 1B Property passes (“ERFPD Ballot Question”) and (2) the Eagle River Fire Protection District proceeds to construct its portion of the “Joint Facility” as described in the Intergovernmental Agreement for a Joint Fire-Police Station Facility between the Town of Avon and the Eagle River Fire Protection District, dated April 28, 2015 (“IGA”). If either the ERFPD Ballot Question does not pass or ERFPD does not proceed to construct its portion of Joint Facility in accordance with the IGA, then the Police Station may be constructed on any land owned or leased by the Town within the municipal boundaries of the Town of Avon.

Section 4. Use. The Police Station constructed with the certificate of participation financing authorized by this 2016 COP Ordinance may be used as a Town of Avon police station or any other lawful purpose.

Section 5. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Town Council or the officers, agents or employees of the Town Council or the Town relating to the Site Lease, the Lease, the acquisition, construction, installation or improvement of the Project, and the execution and delivery of the Certificates is hereby ratified, approved and confirmed.

Section 6. Finding of Best Interests. The Town Council hereby finds and determines, pursuant to the Constitution, the laws of the State of Colorado and the Charter, that the acquisition, construction, and installation of the Project, and the financing of the costs thereof pursuant to the terms set forth in the Site Lease and the Lease are necessary, convenient, and in furtherance of the Town’s purposes and are in the best interests of the inhabitants of the Town and the Town Council hereby authorizes and approves the same.

Section 7. Supplemental Act; Parameters. The Town Council hereby elects to apply all of the provisions of the Supplemental Act to the Site Lease and the Lease and in connection therewith delegates to each of the Mayor, the Town Manager or the Finance Director the authority to make any determination delegable pursuant to §11-57-205(1)(a-i) of the Colorado Revised Statutes, as amended, in relation to the Site Lease and the Lease, and to execute a sale certificate (the “Sale Certificate”) setting forth such determinations, including without limitation, the term of the Site Lease, the rental amount to be paid by the Trustee pursuant to the Site Lease, the term of the Lease, and the rental amount to be paid by the Town pursuant to the Lease, subject to the following parameters and restrictions:

- (a) the term of the Site Lease shall not extend beyond 40 years;
- (b) the aggregate principal amount of the Base Rentals payable by the Town pursuant to the Lease shall not exceed \$6,500,000;
- (c) the Lease Term shall not extend beyond 30 years;
- (d) the maximum annual repayment cost of the Base Rentals under the Lease shall not exceed \$450,000, and the total repayment cost shall not exceed \$8,450,000; and
- (e) the maximum net effective interest rate on the interest component of the Base Rentals relating to the 2016 Certificates shall not exceed 3.50%.

Pursuant to §11-57-205 of the Supplemental Act, the Town Council hereby delegates to each of the Mayor, the Town Manager or the Finance Director the authority to sign a contract for the purchase of the Certificates or to accept a binding bid for the Certificates and to execute any agreement or agreements in connection therewith. In addition, each of the Mayor, the Town Manager or the Finance Director is hereby authorized to determine if obtaining an insurance policy for all or a portion of the Certificates is in the best interests of the Town, and if so, to select an insurer to issue an insurance policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. Each of the Mayor, the Town Manager or the Finance Director is also hereby authorized to determine if obtaining a reserve fund insurance policy for the Certificates is in the best interests of the Town, and if so, to select a surety provider to issue a reserve fund insurance policy and execute any related documents or agreements required by such commitment.

The Town Council hereby agrees and acknowledges that the proceeds of the Certificates will be used to finance the costs of the Project and to pay other costs of issuance.

Section 8. Approval of Documents. The Site Lease, the Lease, and the Disclosure Certificate, in substantially the forms presented to the Town Council and on file with the Town, are in all respects approved, authorized and confirmed, and the Mayor or Mayor Pro Tem of the Town is hereby authorized and directed for and on behalf of the Town to execute and deliver the Site Lease, the Lease, and the Disclosure Certificate in substantially the forms and with substantially the same contents as presented to the Town Council, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance.

Section 9. Approval of Official Statement. A Preliminary Official Statement and a final Official Statement, in substantially the form of the Official Statement relating to the 2010 Certificates of Participation, which such updates and revisions as hereafter approved by the Mayor, the Town Manager or the Finance Director, and as hereafter presented to the Town Council and on file with the Town, is in all respects approved and authorized. The Mayor is hereby authorized and directed, for and on behalf of the Town, to execute and deliver the final Official Statement in substantially the form and with substantially the same content as the Preliminary Official Statement, with such changes as may be approved by the Town Manager or the Finance Director. The distribution of the Preliminary Official Statement and the final Official Statement to all interested persons in connection with the sale of the Certificates is hereby ratified, approved and authorized.

Section 10. Authorization to Execute Collateral Documents. No provision of this ordinance, the Site Lease, the Lease, the Indenture, or the Certificates, shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or home rule charter provision, nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the then current fiscal year. The Town shall have no obligation to make any payment with respect to the Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the Town in accordance with the provisions of the Lease. Neither the Lease nor the Certificates shall constitute a mandatory charge or requirement of the Town in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation whatsoever. No provision of the Site Lease, the Lease or the Certificates shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. Neither the Lease nor the Certificates shall directly or indirectly obligate the Town to make any payments beyond those budgeted and appropriated for the Town's then current fiscal year.

Section 11. No General Obligation Debt. No provision of this Ordinance, the Site Lease, the Lease, the Indenture, the Certificates, the Preliminary Official Statement, or the final Official Statement shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter provision, nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the then current fiscal year. The Town shall have no obligation to make any payment with respect to the Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the Town in accordance with the provisions of the Lease. Neither the Lease nor the Certificates shall constitute a mandatory charge or requirement of the Town in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the Town within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect debt or other financial obligation

whatsoever. No provision of the Site Lease, the Lease or the Certificates shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the Town within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. Neither the Lease nor the Certificates shall directly or indirectly obligate the Town to make any payments beyond those budgeted and appropriated for the Town's then current fiscal year.

Section 12. Reasonableness of Rentals. The Town Council hereby determines and declares that the Base Rentals due under the Lease, in the maximum amounts authorized pursuant to Section 3 hereof, constitute the fair rental value of the Leased Property and do not exceed a reasonable amount so as to place the Town under an economic compulsion to renew the Lease or to exercise its option to purchase the Trustee's leasehold interest in the Leased Property pursuant to the Lease. The Town Council hereby determines and declares that the period during which the Town has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property. The Town Council hereby further determines that the amount of rental payments to be received by the Town from the Trustee pursuant to the Site Lease is reasonable consideration for the leasing of the Leased Property to the Trustee for the term of the Site Lease as provided therein.

Section 13. No Recourse against Officers and Agents. Pursuant to §11-57-209 of the Supplemental Act, if a member of the Town Council, or any officer or agent of the Town acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the Certificates. Such recourse shall not be available either directly or indirectly through the Town Council or the Town, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Certificates and as a part of the consideration of their sale or purchase, any person purchasing or selling such Certificate specifically waives any such recourse.

Section 14. Repealer. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 15. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 16. Interpretation. This Ordinance shall be so interpreted and construed as to effectuate its general purpose.

Section 17. Charter Controls. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this Ordinance are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this Ordinance and the Sale Certificate authorized hereby and such statutes. Any such inconsistency or conflict is intended by the Town Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

Section 18. Effective Date, Recording, and Authentication. This Ordinance shall be effective only in the event that it is approved by the voters of the Town at a May 3, 2016, special election. This Ordinance shall be numbered and recorded in the official records of the Town kept for that purpose, and shall be authenticated by the signatures of the Mayor and Mayor Pro-Tem and Town Clerk, and published in accordance with law.

Section 19. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 20. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on February 23, 2016 and setting such public hearing for March 8, 2016 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on March 8, 2016.

BY:

ATTEST:

Jennie Fancher, Mayor

Debbie Hoppe, Town Clerk

APPROVED AS TO FORM:

Eric J. Heil, Town Attorney

STATE OF COLORADO)
)
COUNTY OF EAGLE) SS.
)
TOWN OF AVON)

I, Debbie Hoppe, the Town Clerk of the Town of Avon, Colorado (the “Town”), do hereby certify:

I, the duly elected, qualified, and acting Town Clerk of the Town of Avon, Colorado (the “Town”), do hereby certify that:

(1) The foregoing pages are a true, correct and complete copy of an ordinance (the “Ordinance”) that was introduced, approved on first reading and ordered published in full in accordance with the Town Charter (the “Charter”) by the Town Council at a regular meeting thereof held on February 23, 2016, and was introduced, approved on second and final reading, and ordered published in full in accordance with the Charter on March 8, 2016, which Ordinance has not been revoked, rescinded or repealed and is in full force and effect on the date hereof.

(2) The Ordinance was duly moved and seconded, and the Ordinance was approved on first reading, at the meeting of February 23, 2016, by an affirmative vote of a majority of the membership of the entire Town Council as follows:

<u>Councilmember</u>	Voting “Yes”	Voting “No”	Absent	Abstaining
Jennie Fancher				
Jake Wolf				
Megan Burch				
Matt Gennett				
Sarah Smith Hymes				
Scott Prince				
Buz Reynolds				

(3) The Ordinance was duly moved and seconded, and the Ordinance was approved on second and final reading, at the meeting of March 8, 2016, by an affirmative vote of a majority of the membership of the entire Town Council as follows:

<u>Councilmember</u>	Voting “Yes”	Voting “No”	Absent	Abstaining
Jennie Fancher				
Jake Wolf				
Megan Burch				
Matt Gennett				
Sarah Smith Hymes				
Scott Prince				
Buz Reynolds				

(4) The members of the Town Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

(5) The Ordinance was authenticated by the signature of the Mayor, sealed with the Town seal, attested by the Town Clerk, and recorded in the minutes of the Town Council.

(6) There are no bylaws, rules or regulations of the Town Council that might prohibit the adoption of the Ordinance.

(7) Notices of the meetings of February 23, 2016, and March 8, 2016, in the forms attached hereto as **Exhibit A** were posted at the Town Hall not less than 24 hours prior to each meeting in accordance with law.

(8) The Ordinance was published by title only on _____, 2016 in the Vail Daily, a newspaper of general circulation in the Town, in accordance with the Charter and Chapter 1.16 of the Avon Municipal Code. Affidavits of publication are attached hereto as **Exhibit B**.

WITNESS my hand and the seal of the Town affixed on _____, 2016.

[S E A L]

Town Clerk

EXHIBIT A

(Attach Notices of Meetings of February 23, 2016 and March 8, 2016)

EXHIBIT B
(Affidavits of Publication)

TO: Honorable Mayor Fancher and Town Council members
FROM: Eric J. Heil, Town Attorney
RE: Lot 4, Phase 1B Office Building in Mountain Vista Resort Subdivision
DATE: March 3, 2016

Summary: Attached is a complete Council Report for the Mountain Vista Resort Subdivision Office Building, including a Purchase and Sales Agreement for the Town to purchase the property from Points of Colorado, Inc. for \$1.5 Million. The Purchase and Sales Agreement is subject to approval by the Avon Town Council by ordinance. The Property, known locally as the Skier Building, would be acquired for use as a Town Hall. The building is 16,273 total square feet on three floors. The interior of the building is unfinished.

Presentation of this comprehensive Council Report is scheduled for a work session on March 8, 2016. Presentation of an ordinance approving the Purchase and Sale Agreement is tentatively scheduled for first reading on March 22 and second reading on April 12, 2016.

Requested Action: Town staff requests direction on any additional information that may be required for Council to fully evaluate and act upon an ordinance to approve the Purchase and Sales Agreement to purchase Lot 4, Mountain Vista Resort Subdivision, Avon, CO.

Thank you, Eric

**COUNCIL REPORT
FOR
MOUNTAIN VISTA RESORT SUBDIVISION
OFFICE BUILDING**

140 West Beaver Creek Boulevard
Mountain Vista Lot 4



March 8, 2016

TABLE OF CONTENTS

- I. Executive Summary
- II. Chronology of Events
- III. Purchase and Sale Agreement
- IV. *Avon Town Hall Facility Assessment and Space Needs Analysis*, SEH, August 25, 2015
- V. Master Plans, Review & Updates, Zoning & Subdivision Matters
- VI. Renovation & Relocation Options
- VII. Parking Requirements
- VIII. Building Inspection Report & Structural Engineering Report
- IX. Funding & Development Schedule

Appendices

Appendix 1: Purchase & Sale Agreement

The following Appendices are available electronically at the listed site or may be viewed at the Town Clerk's office during normal business hours:

Appendix 2: *Avon Town Hall Facility Assessment and Space Needs Analysis*, SEH, July 2015
www.avon.org/spaceneedsanalysis

Appendix 3: *Avon West District Town Center Investment Plan*, 2007
www.avon.org/investmentplan

Appendix 4: *Master Plan for Harry A. Nottingham Park Plan*, 2008
www.avon.org/parkmasterplan

Appendix 5: *Planning Review and Update of the Harry A. Nottingham Master Plan, Swift Gulch Master Plan and Lot 5 Development Plan*, 2015
www.avon.org/planningreview

Appendix 6: Building Inspection Report, 2016 www.avon.org/inspectionreport

Appendix 7: Structural Engineering Report, 2016 www.avon.org/engineeringreport

Appendix 8: 2016 Capital Projects Fund www.avon.org/budget

SECTION I EXECUTIVE SUMMARY

FINDINGS

2015 Town Hall Facility Assessment

The *Town Hall Facility Assessment and Space Needs Analysis*, July 12, 2015, was prepared for the Avon Town Council, by consultants Short Elliott Hendrickson, Inc. (SEH). The SEH Analysis concluded:

“At a minimum, to satisfy building upgrade requirements and met the future space needs, a major building remodel will be required to address the sheer number and extent of issues in the existing shell and interior spaces. As well, we recommend full replacement of all MEP systems and components to meet the programming needs of the departments. It is likely more cost prohibitive to correct all the deficiencies than to build a new facility.”

SEH Assessment, Page 18

Skier Building is Lease Cost Option to Address Present Town Hall Facility Deficiencies

- The Mountain Vista Office Building and Police Department at the Joint Public Safety Facility is the least cost option.
- No new taxes or tax rate increases are needed for the relocation

Adopted Plans & Planning Review/Update for the Existing Town Hall Site; Potential New Uses

- The 2006 *Avon Comprehensive Plan* expressly identified a community goal to relocate the Town Hall and redevelop the existing Town Hall site.
- The *Avon West Town Center District Plan, 2007*, found the Town Hall building too small for its current use, outdated and lacking energy efficiency. The plan envisioned a new Town Hall that spanned both sides of a new Main Street (Fire Station and portion of parking lot and town park) to serve as a civic anchor. A larger program of commercial/retail, offices, civic uses, affordable and market rate housing was proposed for the mixed-use Town Hall facility.

Since adoption of the *District Plan* the Town experienced a severe recession like the rest of the country and new commercial development on the Main Street Mall did not occur as expected. The Town recently completed improvements to the Main Street pedestrian mall to advance its on-going commitment to activate this core area of Town. . The Mountain Vista Office Building meets the goals of the *District Plan*: support Town Hall relocation, provides for office spaces and a civic anchor in close proximity to the library, recreation center and the park and makes the current site available for a dynamic use.

- The *Harry A. Nottingham Master Plan, 2008*, was adopted showing the relocation of Town Hall and new uses at the park.

- Stan Clauson and Associates, consultants to the Town, facilitated a public process to consider future development on Town owned properties. The resulting work was presented to Council and the public in the *Planning Review & Update - Harry A. Nottingham Park Master Plan, Swift Gulch Master Plan & Lot 5 Development Plan*, November 15, 2015. The document recommended:
 - Locating the Police Department at Buck Creek in a Joint Public Safety Facility.
 - Utilizing the Mountain Vista Office Building for the balance of Town Hall functions. The report found the location has broad support and is a preferred location to house the Town's other office, Court, community and meeting needs.
 - That the current Town Hall site be repurposed for potential uses, including but not limited to enhancing the soccer field and park amenities, new convention space, recreational uses, parking, performance space, etc.

Main Street Mall Anchor & Synergy

It is an opportune time to work the developers of Lot B and the Seasons' renovation project to bring a synergistic program to the Mountain Vista Office Building. Town Hall office functions and community meeting activity at this location will serve an important anchor for this vibrancy.

SECTION SUMMARY

Section II Chronology of Events

The listing follows the directives, studies and decisions of the Town Council beginning on January 27, 2015, which supported the work for a purchase agreement for the Mountain Vista Office Building.

Section III Purchase and Sale Agreement

Purchase Price:	\$1,500,000
Building Uses:	Administrative and court offices, Courtroom/Council Chambers, meeting rooms and community space
Closing Date:	June 16, 2016

Additional information is provided on sale terms, including an access easement which would allow Points of Colorado and Starwood access, utilities, support for a subterranean parking garage abutting the Mountain Vista Office Building foundation, and crediting for shared open space. The Lot 4 Easement is intended to preserve all of Starwood's development rights under the existing PUD which were based on access, site coverage and the existing configuration of Lot 4.

Section IV Town Hall Facility Assessment & Space Needs Analysis, July 2015

The comprehensive *Town Hall Facility Assessment & Space Needs Analysis (Assessment)* was developed by Short Elliott Hendrickson, Inc. (SEH), at the request of Town Council. The Assessment reported on the deficiencies of the current building and estimated the current space shortages for staff working space. Future staff space needs were projected. Six facility planning options on three sites were prepared, with a cost budget developed for each scenario.

The Assessment found the current Town Hall building to be in need of a major remodel or replacement. The cost budget analysis, with current pricing for the Police Department at the proposed relocation to the

Joint Public Safety Facility, plus the purchase and finish of the Mountain Vista Office Building was shown to be the least cost option.

Section V Master Plans, Review & Updates, Zoning & Subdivision

Relevant master plans and the recent updated planning review are submitted in the section. Current adopted plans envision the relocation of the existing Town Hall. No PUD or zoning amendment would be required for the Town to use the property for a Town Hall. Lot 4, where the Mountain Vista Office Building sits, along with a portion of Lot 5 surrounding Lot 4 must be subdivided to create a consolidated lot that can be separated from the remainder of the Lot C PUD development and associated declarations.

Section VI Parking Requirements

The Town of Avon is able to meet the Mountain Vista Office Building parking demand on site and in the vicinity on adjacent Town owned property and rights-of-way, as allowed for by the Town's Code.

Section VII Renovation & Relocation Options

Bringing the *Avon Town Hall Facility Assessment and Space Needs Analysis, Planning Review and Update for Harry A. Nottingham Park Master Plan, Swift Gulch Master Plan, Lot 5 Development Plan* together with the locational decision for the Police Department at Buck Creek, facility options and costs for the balance of Town Hall are presented. The comparison shows the Mountain Vista Office Building-Joint Public Facility/Police Department to be the least cost option.

Section VIII Building Inspection and Structural Report

The Mountain Vista Office Building was inspected by Eagle Eye Inspectors and KRM Consultants provided a current structural observation. No significant problems were identified, however, HVAC system inspection showed two items not working. With the plan to replace the HVAC for the needed system for full build-out, staff did not recommend fixing the items, but rather noticing Points of Colorado of the operational failure in the units.

Section IX Funding and Development Schedule

Funds for building acquisition are available in the current 2016 Capital Projects Fund. Construction, FF&E and contingencies to finish the building are available in the Urban Renewal Fund. No new taxes or tax rate increases are required for the full project.

Should Town Council approve the purchase of the Mountain Vista Office Building, development of the building for use as a Town Hall could be completed by May 1, 2017.

SECTION II

CHRONOLOGY OF EVENTS

2.1 JANUARY 27TH: Ad Hoc Committee/Study Group Recommended

At the Council's January 27, 2015, meeting, Mayor Jennie Fancher recommended the formation of an ad hoc committee/study group to further explore the acquisition of the Mountain Vista Office Building and examine whether or not it makes sense to acquire the building. The individuals recommended to be members of the committee were Mark Kogan, Phil Struve and Councilor Sarah Smith Hymes. It was also stated that any community members interested in participating in the ad hoc committee/study group should email Virginia Egger or Jennie Fancher. Angelo Loria, Dominic Mauriello, Brian Sipes joined the committee as well.

The ad hoc group assisted with the RFQ process and selection of SEH to conduct a facility assessment and space needs analysis.

2.2 APRIL 28TH: IGA Approved for Joint Public Safety Facility

Town Council approved an Intergovernmental Agreement (IGA) between the Town of Avon and the Eagle River Fire Protection District (ERFPD), which set forth the terms and conditions for the design, construction, ownership and operation of a joint fire and police station facility (PSF) on Nottingham Road between Swift Gulch and Buck Creek Roads (Buck Creek Site). The IGA also detailed the conditions of Avon's loan to the ERFPD.

2.3 AUGUST 25TH: Options for Town Hall – Locations, Estimated Costs & Financing

The *Avon Town Hall Facility Assessment and Space Needs Analysis* is completed by SEH, consultant to the Town. The consultant met with Council in a study session on August 25th, and reviewed the *Assessment and Analysis*.

Also, at the meeting, the staff memo identified the schedule for Stan Clauson Associates work to evaluate land use options for Tract G, which includes the current Town Hall, Fire Station sites, park and Town Center West District; including time frame to make a decision on the location for the Avon Police Department.

2.4 OCTOBER 13TH: Study Session – Tract G, Swift Gulch and Lot 5 Development Options, including Public Safety and Town Hall Locations, Financing Options and Decision Schedule

Consultants presented the *Preliminary Findings Report* at the public Study Session.

- The consultant and participants at the charette recommended:
 - The Police Department be located at Buck Creek
 - Town Hall's other departments be located at the Mountain Vista Office Building; or, if the building is not available at the Fire Station once vacated by the ERFPD
 - The current condition of Town Hall requires a renovation or relocation in the near future
 - Opportunities to repurpose the site of other park uses favored relocation
 - The Mountain Vista Office Building was the favored location, with the Fire station being noted as an alternate location
- Moving forward with a new URA bond, which could generate upwards of \$6,000,000 in new revenues; tenant finish of the Mountain Vista Office Building is an eligible cost

2.5 OCTOBER 13TH: Executive Session

Council met in Executive Session : DISCUSSION OF THE PURCHASE AND ACQUISITION OF A REAL PROPERTY INTEREST UNDER C.R.S. §24-6-402(2)(A) AND A CONFERENCE WITH THE TOWN ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE UNDER C.R.S. §24-6-402(2)(B) RELATED TO SUCH REAL PROPERTY DISCUSSION AND FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER C.R.S. §24-6-402(2)(E) RELATED TO SUCH REAL PROPERTY DISCUSSION

2.6 OCTOBER 27TH: Study Session – Tract G, Swift Gulch and Lot 5 Development Options, including Public Safety and Town Hall Locations, Financing Options and Decision Schedule

- Stan Clauson consultants presented the final draft of recommended land uses.
- Town Council directed:
 - Buck Creek is the preferred location for the Police Station
 - No changes were proposed for Tract G, with the preferred location for Town Hall being first at the Mountain Vista Office Building
 - Town Hall Repurposing – Councilor Matt Gennett asked that the repurposing of Town Hall for other uses, should Town Hall relocate, be included in future land use planning work, versus demolition

2.7 NOVEMBER 10TH: Modification to the Urban Renewal Plan

The URA Authority Board passed Resolution 15-1 to Adopt Minor Modifications to the Town Center West Urban Renewal Plan

The action specifically allowed the Mountain Vista Office Building to qualify for Urban Renewal funds

2.8 DECEMBER 8TH: Council Meeting

Council sets maximum cost for the Police Department at \$5,540,656; and maximum facility size at 11,300 square feet

Council agrees to final appropriation of design costs

2.9 JANUARY 26TH: Council Meeting

COUNCIL MET IN EXECUTIVE SESSION: DISCUSSION OF THE PURCHASE AND ACQUISITION OF A REAL PROPERTY INTEREST UNDER C.R.S. §24-6-402(2)(A) AND A CONFERENCE WITH THE TOWN ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE UNDER C.R.S. §24-6-402(2)(B) RELATED TO SUCH REAL PROPERTY DISCUSSION AND FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER C.R.S. §24-6-402(2)(E) RELATED TO SUCH REAL PROPERTY DISCUSSION

2.10 FEBRUARY 23RD:

COUNCIL PASSES RESOLUTION NO. 16-03 REFERRING A POLICE STATION BALLOT QUESTION TO A SPECIAL ELECTION & FIRST READING OF ORDINANCE NO. 16-02

SECTION III

PURCHASE AND SALE AGREEMENT

3.1 Introduction

The Town conducted an appraisal of the building in March, 2014, which calculated a value of \$2,042,500. The Points of Colorado appraisal, during the same time, concluded the value of the property at \$4,195,000. Both estimates assumed no parking would need to be purchased. The Town and seller negotiated a Purchase and Sale Agreement (“PSA”) with price of \$3.2M. The PSA was approved by ordinance, but was subject to approval by ordinance of Certificate of Participation Financing by the Town of Avon. A citizen petition for referendum was submitted for Ordinance 14-18 approving the Certificate of Participation Financing, which Council referred to a special election. Approval of Ordinance No. 14-18 did not pass and the PSA was then terminated.

A new appraisal was not ordered for the negotiation authorized by Town Council. Rather, the Town relied on the assumptions for a calculated value prepared by Mr. Mark Kogan. The set price of \$1.5 million eventually was negotiated.

3.2 The Property

The Property is owned by Points of Colorado, Inc., a Colorado corporation. The purchase is for Lot 4, Mountain Vista Resort Subdivision, including the Phase 1B Office Building in the Mountain Vista Resort Subdivision. Included are all improvements and appurtenances, and the Skier Bronze Statue. Excluded from the purchase are 44 parking spaces designated for the Mountain Vista Office Building and located on other adjacent property owned by Points of Colorado. The Property is being sold in an “as is” condition. Town has been given the opportunity to perform inspections of the building and the title prior to executing the PSA.

3.3 Purchase and Sale Agreement

The PSA is attached to this report (See Appendix 1). Specific terms in the PSA are highlighted as follows:

Purchase Price: \$1,500,000

Deposit: \$75,000

Closing Date: June 16, 2016

Inspections: No right of inspection, Property is to be purchased “as is”. Town has already conducted inspections and inspection updates prior to signing the PSA. The inspections are discussed in Section VIII of this Report.

Right of First Refusal: The Property would be subject to a Right of First Refusal for 3 years that would allow Points of Colorado to repurchase the Property for \$1.5 Million if sold by the Town.

Lot 4 Easement: The Property would be subject to an easement on the undeveloped portions of Lot 4 (meaning the area of Lot 4 outside the existing building footprint) which would allow Points of Colorado and Starwood access, utilities, support for a subterranean parking garage abutting the Mountain Vista Office Building foundation, and crediting for shared open space. The Lot 4 Easement

is intended to preserve all of Starwood's development rights under the existing PUD which were based on access, site coverage and the existing configuration of Lot 4.

Common Interest Community Exclusion: Lot 4 would be excluded from the Mountain Vista Resort common interest community, and therefore, would not be subject to assessments or costs related to this common ownership interest community.

Conditions Precedent to Closing: There are several conditions that must be satisfied before each party is required to closing on the Property, highlighted as follows:

- The Avon Town Council must adopt an Ordinance approving the PSA. [NOTE: the adoption of an Ordinance is subject to the public process in accordance with the Avon Home Rule Charter. Adoption of an Ordinance is subject to the discretion of the Avon Town Council members after conducting public hearings. If the Avon Town Council does not adopt an ordinance then the \$75,000 Deposit would be returned to the Town.]
- Town must approve a subdivision replat of Lots 2C, 4 and 5 to create the Lot 4 configuration for purchase as requested by the Town.
- Lot 4 must be withdrawn from the Mountain Vista Resort common interest community.
- The Agreement and Plan of Merger between Interval Leisure Group and Starwood Vacation Ownership must be completed.

Ordinance Not Subject to Referendum: Avon Home Rule Charter Section 7.2(a) states that ordinances for the acquisition of municipal properties are not subject to referendum. Additionally, the Colorado Court of Appeals ruled in *Friends of Denver Parks v. City and County of Denver*, 327 P.3d 311 (Colo.App.2013) that a real estate contract is an administrative action and is therefore not subject to referendum. An ordinance approving the PSA is not subject to citizen referendum in Avon.

SECTION IV
AVON TOWN HALL FACILITY ASSESSMENT
AND SPACE NEEDS ANALYSIS
Short Elliott Hendrickson, Inc. (SEH)

4.1 Introduction

The Town Council authorized consultant services to conduct a facility assessment and to estimate the space needs for services in the current Town Hall. The firm of Short Elliott Hendrickson, Inc. (SEH) was hired. SEH's report was completed on July 12, 2015 and presented to Town Council on August 26, 2016. The full report is provided in Appendix 2.

4.2 Town Hall Facility Assessment

The SEH Analysis concluded:

“At a minimum, to satisfy building upgrade requirements and meet the future space needs, a major building remodel will be required to address the sheer number and extent of issues in the existing shell and interior spaces. As well, we recommend full replacement of all MEP systems and components to meet the programming needs of the departments. It is likely more cost prohibitive to correct all the deficiencies than to build a new facility.” [SEH Report, Page 18]

The Assessment stated:

- The existing Avon Town Hall facility is out of date with current codes, including ADA accessibility requirements with non-conforming existing conditions that would require extensive remodel to the majority of building shell and floor areas. The ADA deficiencies include inadequate spaces with non-compliant ADA door and turning-area clearances, non-compliant handrails, and non-compliant restrooms, shower and locker facilities. Also currently there is not an accessible access to the basement level, because the elevator only serves the First and Second floors of the building.
- A completely new building designed to meet current codes on the same site, or a newly constructed building on a new site, in order to address every issue will be required.
- In addition to code issues, there are many operational issues that would require total upgrades of systems throughout the building, including HVAC systems, acoustical partitioning, and energy upgrades, to name a few. The atrium area is noted as having skylight leakage into the ceiling of employee offices. The HVAC system is over 30 years old and in need of complete replacement. The systems require continuous maintenance to keep them running.
- It is our recommendation the mechanical systems be replaced to meet the function and operation of the facility.
- The structural condition of the building is in ‘good’ to ‘very good’ condition and the building appears to be performing in an acceptable manner. The leaks and the exterior finishes should be repaired as required to maintain water proofing. It appears that the ceiling in the atrium area was installed with slack in the suspension rod system. In order to cosmetically improve the ceiling, it is recommended to adjust the tension rods as required to level the ceiling tiles.
- International Building Code issues include inaccessible spaces, inadequately sized means of egress, failure to meet life/safety fire codes for an institutional occupancy, and failure to meet energy code requirements.

- The spaces provided by the police and courts are not accessible per the code requirements in ANSI Standards 117.1, 304, 404.2.3.2, 604.8, 606.6, and 608, nor per the ADA Standards for Accessible Design which have many of the same requirements. ADA is a federal law, while ANSI refers to code requirements. Numerous ADA/ANSI Standard Code violations have been noted throughout the building. These include inadequate space requirements, door clearances, turn-around spaces, restroom, shower, and locker room facilities, and countertop heights.
- An institutional occupancy (which includes the holding cells) is required by code to be fully sprinkled. This is a major life safety issue as a person held in these cells would not have the ability to exit the space on their own.
- In order to meet current energy codes, lighting systems would need to be upgraded. Exterior walls would need to have continuous insulation added to them. Windows and doors would have to be replaced with energy efficient double pane

4.3 Space Needs Analysis

The review and projection of space needs through a planning horizon of 2035 for police department square footage; and, year 2025 for all other departments, found the following square footage needs:

SPACE NEEDS ASSESSMENT - SEH, July 2015			
DEPARTMENT	PLANNING HORIZON	CURRENT 2015	PROGRAMMED
Police Department	2035	4,788	9,009
All Other Departments	2025	9,007	9,092
Building Support	2025	257	2,145
TOTAL Net Square Footage		14,052	20,246
TOTAL BUILDING GROSS (120%)			24,511

The proposed relocation of departments into two new facilities is as follows:

NEW FACILITY SQUARE FEET			
DEPARTMENT	PLANNING HORIZON	PROGRAMMED	NEW FACILITY
Police Department Joint Public Safety Facility @ Buck Creek	2050	9,009	10,419
All Other Departments/Meeting Community Space Mountain Vista Office Building	2025	11,237	14,733

SECTION V

MASTER PLANS, REVIEW & UPDATES, ZONING & SUBDIVISION

5.1 Master Plans

5.1.1 The *Avon West Town Center District Investment Plan (District Plan)* was completed in August of 2007, with the stated purpose to encourage and facilitate revitalization of the planning area (Appendix 3). Specific to Town Hall, the *District Plan* found the Town Hall building too small for its current use, outdated and lacking energy efficiency. The plan envisioned a new Town Hall that spanned both sides of a new Main Street (Fire Station and portion of parking lot and town park) to serve as a civic anchor. A larger program of commercial/retail, offices, civic uses, affordable and market rate housing was proposed for the facility. Once Town Hall was relocated, the current site would be sold ideally for a high quality hotel. The total projected cost was \$18,400,000, with the goal of recouping monies through the sale of the site for the hotel.

Since adoption of the *District Plan*, voters required that any land sale be approved at the ballot, the full Main Street has been developed the pedestrian mall and the economy has been challenging. The Mountain Vista Office Building meets the goals of the *District Plan*: support Town Hall relocation, provides for office spaces and a civic anchor in close proximity to the library, recreation center and the park and makes the current site available for a dynamic use.

5.1.2 The *Master Plan for Harry A. Nottingham Park, 2008 (Park Plan)* also identifies the relocation of Town Hall from its current site (Appendix 4). A highly collaborative process, the *Park Plan* found that once Town Hall was relocated the current site should be made available to the growth of the park, park support facilities, parking and a performance stage.

5.1.3 The *Planning Review & Update – Harry A. Nottingham Park Master Plan, Swift Gulch Master Plan and Lot 5 Development Plan (Plan Review and Update)* was developed in the fall of 2016 (Appendix 5). Town Council retained Stan Clauson and Associates to assist the community in review all Town-owned Mountain Vista Office Building for future uses. For Town Hall, the Mountain Vista Office Building was identified as a preferred site, followed by the Fire Station.

The *Plan Review and Update* expanded the opportunities for what could happen at the current Fire Station and Town Hall parcels, with adjoining parking lots and parks maintenance buildings. “Strong support was given at the Public Open House as well as in the Council work session for pursuing enhancements to the Park. The support was provided based on the understanding of the greater opportunity in costs of keeping Town Hall at its current location rather than providing community gathering spaces.” Ideas on what would be an approximately 4.5 acre site included field expansion, convention center, mixed use structures, and live/work.

The *Plan Review and Update* is currently being evaluated by the Planning and Zoning Commission for recommendation to the Town Council as a master plan amendment.

5.2 Zoning/PUD Uses

No PUD amendment would be required for the Town to use the Property for a Town Hall.

The Town approved the Lot C PUD Development Plan on February 22, 2000. Allowed uses include retail stores, restaurants, hotels, financial institutions, professional offices and “additional uses determined to be similar to allowed uses in accordance with the intent of this zone district, to be approved by the zoning administrator.” Town Hall use is essentially an office use and determining that Town Hall is an allowed use under the Lot C PUD Development Plan is within the discretion of the zoning administrator.

The only recognized difference in the Avon Development Code is under Table 28-2 where the off-street parking requirement for Commercial Office is three (3) spaces per 1,000 sqft and the off-street parking requirement for Governmental Services and Offices is four (4) spaces per 1,000 sqft. Parking requirements are discussed further in Section VII.

5.3 Subdivision

Acquisition will require a subdivision to create a practical consolidated lot that can be separated from the remainder of the Lot C PUD development and associated declarations. The lot proposed is provided in the Sales and Purchase Agreement. It is 10,840 square feet.

The proposed subdivision as depicted would include the areas around Lot 4 as well as a 10’ setback on the north east and northwest sides of the building.

Sec. 7.16.070 of the Avon Development Code sets forth subdivision procedures. The recommended subdivision will not require public improvements; therefore, the minor subdivision process is applicable. ADC Sec. 7.16.070(d) (2). Minor Subdivisions only require one step approval by the Town Council, after conducting a public hearing, and may be approved by resolution or ordinance. The review criteria for both preliminary and final plat review apply to the minor subdivision process. The building is already constructed on the Property, therefore, the only real issue for consideration is compliance with parking requirements if the Property is purchased and separated from the on-site parking constructed to serve this Property.

SECTION VI PARKING REQUIREMENTS

6.1 Overview of Parking Requirements

Sec. 7.16.070 of the Avon Development Code states that the Development Code is applicable to federal, state, county and municipal governments to the extent permitted by law. Sec. 7.16.070(e)(1) states as the first review criteria that the proposed subdivision shall comply with all applicable use, density, development and design standards in the Development Code. As a result, parking requirements are outlined in Chapter 7.28 of the Avon Development Code and are applicable to Town Hall use of the building.

Table 7.28-2 states the parking requirement is 4 parking spaces per 1,000 square feet of gross floor area for:

- *Public and Institutional Uses*
- *Community Services*
- *Government services, offices and facilities*

Available Parking Requirement Reductions -The Director may determine that a proposed use represents a combination of uses i.e. Government office and community center or Town Hall and Rec Center and apply a 15% reduction.

6.2 Parking Requirements – No additional parking is needed

- **The Mountain Vista Office Building – 55 Spaces**

The total gross floor area of the building is 16,273 square feet. The floor area is then reduced by 10% for the purpose of calculating parking requirements per Sec. 7.28.020(g) (3) which is 14,645 sq.ft. The Code requires 4 parking spaces per 1,000 sq.ft. for government services, which equals 59 parking spaces. 59 total parking spaces are required for Mountain Vista Lot 4. Sec. 7.28.020(g)(4)(ii) allows for the submittal of a parking demand study based on the Institute of Traffic Engineers Parking General Manual which can support further reduction of parking based on mixed uses and shared parking. Mixed-use projects can often support a further reduction of required parking by 15% based on this analysis. The Town Hall facility may be considered part of a mixed-use development grouping along with the Avon Recreation Center and Nottingham Park uses.

6.3 Long Term Parking, including Future Recreation Center Expansion

- **Recreation Center Expansion – 225 - 264 Spaces**

The parking analysis for the existing Recreation Center and Phase 2 Expansion yielded a total demand for 225 - 264 spaces.

- **Total Space Demand Projection: 274 – 321 Spaces**

6.4 Parking: On-Site and Available in the Vicinity: 337 Spaces

- 35 parking spaces are provided in the lot immediately adjacent to the building (owned by the Town and zoned Public) and count toward the minimum required parking
- 25 on-street parking spaces are provided on W Benchmark Road immediately south of the building, but these may not be applied to count toward the parking requirement

- 84 parking spaces are available on the northeast side of the Recreation Center parking lot just west of the building across W Benchmark Road
- 39 additional parking spaces are available on the southwest side of the Recreation Center parking lot
- 39 on-street parking spaces are provided on both sides of Lake Street
- 23 parking spaces are available on the east side of the existing Town Hall building
- An additional 38 parking spaces are available on the west side of the existing Town Hall building
- 14 on-street parking spaces are available along W Benchmark Road on the south side of the Fire station
- 40 new parking spaces may be developed on Benchmark Road, south of The Seasons (Estimated cost \$250,000)

6.5 Alternative Parking Scenarios

Avon's Development Code has well detailed provisions for "off-site parking." Sec. 7.28.020(4) of the Development Code states that the required parking must be on same lot as the building served by the parking, *"except as otherwise provided in this Section."*

There are two options for off-site parking:

1. Sec. 7.28.020(h) allows off-site parking where the required parking is on a different lot than the lot which contains the building served by the parking if approved by a PUD and if the parking is within 500' of the building served.
2. Sec. 7.28.020(i) defines Public Parking Districts and Facilities and permits a "Public Parking District" to be defined and approved in the Avon Comprehensive Plan which may be owned by the Town. This option is easier and more straightforward to the nature of the project and surrounding Town property and allows the Town to establish a parking plan for the Town properties owned and designate this area a "Public Parking District". Staff finds this scenario to be a reasonable solution to meet the parking requirement and be in conformance with the Town's Development Code.

Recommendation

A total of 337 parking spaces may be designated in a Public Parking District based on the parking counts outlined above. The Town, therefore, should consider, at an appropriate time, a *Comprehensive Plan* update to define a "Public Parking District" comprised of Town properties that include the new Avon Town Hall, Recreation Center, Library, Nottingham Park, current Town Hall and Fire Station site.

SECTION VII RENOVATION & RELOCATION OPTIONS

7.1 Introduction

The Short Elliott Hendrickson, Inc. (SEH) report reviewed six planning options for three sites, including the existing Town Hall site, Fire Station site and the Mountain Vista Office Building. These options were reviewed by the Town Council at the August 26, 2015, presentation of the SEH report. The Council subsequently, through a series of work sessions reviewed the planning work facilitated with the Clauson and Associates, which provided options for the citing of the Police Department and Town Hall. On February 23, 2016, by motion and vote, the Town Council approved a ballot question for the relocation of the Police Department to the Joint Public Safety Facility at Buck Creek, in an amount not to exceed \$6.5M, with debt financing.

7.2 Town Hall Facility Location Options & Estimated Costs

Bringing the *Avon Town Hall Facility Assessment and Space Needs Analysis, Planning Review and Update for Harry A. Nottingham Park Master Plan, Swift Gulch Master Plan, Lot 5 Development Plan* together with the locational decision for the Police Department at Buck Creek, the following table summarizes the facility options and costs for the balance of Town Hall.

The lowest cost Town Hall option is acquisition of the Mountain Vista Office Building at \$1.5M, with final tenant improvements at \$3,091,173, for a total of \$4,591,173. When adding in the Police Department at Buck Creek, the total relocation of all Town Hall uses, with Town Hall at the Mountain Vista Office Building, is projected as the least cost option.

TOWN HALL FACILITY LOCATION OPTIONS & ESTIMATED COSTS

Administration, Human Resources, Clerk, Planning, Finance and Engineering
Courtroom, Council Chambers, Meeting and Community Space

ITEM	Remodel Town Hall 15,500 SF	Demolish Town Hall & Rebuild at Site 13,700 SF	Relocate to Mountain Vista Office Building 14,733 SF	Relocate to Fire Station 13,700 SF
TOTAL PROJECT	\$ 4,695,744	\$ 5,846,502	\$ 4,591,173	\$ 5,837,989
Demolition for Construction	\$ 378,376	\$ 364,934	NA	NA
Demolition after Relocation	NA	NA	\$ 133,330	\$ 133,330
Exterior Improvements	\$ 322,879	NA	NA	NA
Interior Improvements	\$ 2,385,375	NA	NA	NA
New Construction	NA	\$ 3,448,000	\$ 1,999,630	\$ 3,639,816
Site Improvements	\$ 48,540	\$ 134,893	\$ 14,823	\$ 240,455
Sub-total Estimated Construction Cost	\$ 3,135,170	\$ 3,947,827	\$ 2,014,453	\$ 4,013,601
General Contractor General Conditions - 5%	\$ 156,759	\$ 197,391	\$ 100,723	\$ 200,680
Total Estimated Construction Costs	\$ 3,291,929	\$ 4,145,218	\$ 2,115,176	\$ 4,214,281
Construction Contingency	\$ 1,191,365	\$ 1,493,334	\$ 765,492	\$ 1,415,758
FF&E	\$ 212,450	\$ 207,950	\$ 210,505	\$ 207,950
Total Building Estimated Costs	\$ 4,695,744	\$ 5,846,502	\$ 3,091,173	\$ 5,837,989
Land + Shell Building Acquisition	NA	NA	\$ 1,500,000	NA
TOTAL ESTIMATED PROJECT COST	\$ 4,695,744	\$ 5,846,502	\$ 4,591,173	\$ 5,837,989
Police Department at Buck Creek				
Land Acquisition & Project Costs	\$ 6,343,452	\$ 6,343,452	\$ 6,343,452	\$ 6,343,452
TOTAL ALL TOWN HALL DEPARTMENTS	\$ 11,039,196	\$ 12,189,954	\$ 10,934,625	\$ 12,181,441

SECTION VIII
BUILDING INSPECTION REPORT
& STRUCTURAL ENGINEERING LETTER

8.1 Introduction

A commercial *Building Inspection Report*, dated April 21, 2014, was provided for the Town of Avon by Eagle Eye Home Inspections for the Mountain Vista Office Building. At that time, Points of Colorado repaired roof mounted forced air heating/cooling units, which were identified as a deficiency. Small minor repair items and entryway and sidewalk concrete slabs were accepted by the Town for Town repair. The Town also had two structural engineers review the building: Monroe & Newell (October, 2014) and KRM Consultants (December, 2014). Each firm independently concluded, based upon visual observation, the building to be in good structural condition. The building inspection report and structural engineering review were conducted again in February 2016.

8.2 Building Inspection Report – February 21, 2016

Eagle Eye Inspections conducted a thorough inspection of the building and found minor damage consistent with a building that is 15-years old. The inspection revealed two items related to the HVAC system: “North stairwell space heater fails to produce heat when thermostat is On” and “Outside/return air baffles are in varied positions (same position is expected when all thermostats are in one location and all settings are the same). Recommend further evaluation by an HVAC electronics technician.” As staff believes replacement of the HVAC system as part of the interior finishing will be required after, it is not recommended that repairs be made. Considering, however, that there are at least two (2) months of winter left before the intended Closing and in the interest of avoiding any distraction that may arise from HVAC operating issues during the public review process, staff noticed and suggested to Points of Colorado that they inspect the current HVAC system and perform maintenance or repair, if necessary, so that it is fully operational until Closing. There is a small list of other maintenance items Town staff believes are minor and which Town should accept "as is". There are no other inspection issues that are of concern to the Town staff. The complete report is provided in Appendix 6.

8.3 Structural Observation – February 28, 2016

KRM Consultants updated their independent analysis of the structural integrity of the buildings first completed in December 2014. The firm did not find any changes to the structural soundness of the building and did not observe anything unusual that would lead to believe there is a structural concern with the building. The consultant noted that if the Town is concerned with any potential building settlement, a geotechnical engineer can be hired to conduct additional analysis. Staff is not recommending additional analysis because any ground settlement is expected to have already occurred due to the age of the building. The report is found in Appendix 7.

SECTION IX FUNDING & DEVELOPMENT SCHEDULE

9.1 Funding

8.1.1 Purchase of the Mountain Vista Office Building

The adopted 2016 Capital Projects Fund (Appendix 8) includes funds Assigned For: Town Hall Relocation/ Renovation, in the amount of \$1.5 Million.

8.1.2 Building Finishes

The SEH Avon Town Hall Facility Assessment and Space Needs Analysis projected all construction costs, FF&E and contingencies to be \$3,091,173. The Avon Urban Renewal Authority has available funding resources to finance the improvements. Certificates of participation would be the expected debt approach.

Acquisition and building finishes do not require any new taxes or tax rate increases.

9.2 Development Schedule

Should Town Council approve the purchase of the Mountain Vista Office Building, the development schedule is projected as follows:

June 16, 2016	Real Estate Closing
June 21	Appointment of Design Committee
June 21 – November 1	RFQ for A&E, Design and Bid
December – May 1	Construction
May 1, 2017	Move in



TOWN COUNCIL REPORT

To: Honorable Mayor Jennie Fancher and Avon Town Council
From: Matt Pielsticker, AICP, Planning Director

Meeting Date: March 8, 2016 Meeting

Agenda

Topic: Resolution No. 16-04, a Resolution Approving the Updated Fee Schedule for Zoning, Subdivision, and Design and Development Review Applications

ACTION BEFORE COUNCIL

Action on a resolution approving updates to the Community Development Department's Fee Schedule.

PROPOSED MOTION

"I move to Approve Resolution 16-04, a Resolution approving the updated fee schedule for zoning, subdivision and design and development review applications."

BACKGROUND

In 2010, the Development Code was adopted by the Avon Town Council, which included changes to how all development application (Zoning, Subdivision, and Design and Development Review) fees were treated. Instead of flat fees, the Town created pass through accounts, whereby a deposit was made at the time of application submittal and fees were charged based upon Staff's total time reviewing the project. If the deposit did not cover the full expenses, the applicant was required to cover remaining fees as a condition to each application. If the deposit covered the application review, a refund was issued.

After two years of implementation of the pass through account process it was determined that some of the rudimentary "minor" applications should revert back to flat fees. This was based upon the cumbersome deposit/refund process that is required to administer pass through accounts which results in more demands on staff to manage, and the ultimate delay of refunds. The Development Code was amended in 2012 and a new fee schedule was approved to continue pass through accounts *"unless otherwise state in the schedule of fees adopted by the Town Council through a Resolution."*

AMENDED FEES

The attached Resolution 16-04 updates the fee schedule to convert more development applications to flat fees based upon better information with respect to final fees for several land use application types. The updated fee schedule must be approved by Resolution, and includes the following modifications:

- **Railroad Bridge Banners.** Current Fee: \$100 regardless of how many banners. Proposed Fee: \$100 for one (1) banner, and \$150 for two (2) banners. The updated fee is based upon Public Works' actual Staff time, with boom truck, and traffic control to install banners.

- Residential Development Plan (1-3 Unit Projects). Current Deposit: \$700. Proposed Flat Fee: \$425. This fee is based upon the average final fee of all residential development plans, single-family or duplex, from 2012 to present.
- Residential Development Plans. All residential projects with 4+ dwelling units will continue to require a deposit fee of \$1,500. This consolidates the fee chart for simplicity.
- Mixed Use, Commercial, Industrial Development Plans. All mixed-use projects will continue to require a deposit fee of \$2,000. This consolidates the fee chart for simplicity.
- Minor PUD Amendments. Current Deposit \$150. Proposed Flat Fee: \$650. This fee is based upon the average final fee of all “minor” PUD amendments from 2012 to present.
- Planned Unit Development. The deposit fees for PUD have been consolidated and are not dependent on the number of dwelling units. This simplifies the fee chart and streamlines the fee schedule.
- Administrative/Minor Subdivision. Current Deposit: \$500 or \$675. Proposed Flat Fee: \$250. The flat fee is based on the average final fee of all administrative subdivisions from 2012 to present. The categories for subdivision are now consolidated; the various administrative subdivisions (lot line adjustment, duplex subdivision) are also considered Minor and the fee schedule has been streamlined.
- Staff Fee Rates. Fee rates have remained the same since 2010. Other than changing the GIS rate from \$53/hr to \$60/hr there are no changes proposed. The GIS fee change is proposed to keep current with what the County GIS department charges the Town for their services.

ATTACHMENTS

Resolution 16-04

Updated Fee Schedule



**TOWN OF AVON
RESOLUTION NO. 16-04
SERIES OF 2016**

**A RESOLUTION APPROVING THE UPDATED FEE SCHEDULE FOR ZONING,
SUBDIVISION AND DESIGN AND DEVELOPMENT REVIEW APPLICATIONS**

WHEREAS, the Avon Town Council may enact and update fee schedules involved with all application processes as stipulated in Chapter 7 of the Avon Municipal Code; and,

WHEREAS, the Town has determined that a revised fee schedule is necessary to accurately reflect the cost of labor and overhead involved with application processes; and,

WHEREAS, the Town finds that further defining application types with flat fees as opposed to deposit fees is warranted for efficiency in the development review process and better transparency of applicable fees for certain development applications; and,

WHEREAS, this Resolution hereby amends the fee schedule last adopted by Avon Town Council Resolution 12-06.

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

The Town Council hereby adopts the revised Fee Schedule, which is attached hereto as **Exhibit A**, and made a part hereof.

ADOPTED THIS _____ DAY OF _____, 2016

By: _____
Jennie Fancher, Mayor

Attest: _____
Debbie Hoppe, Town Clerk

[Exhibit A to Resolution 16-04](#)
2016 Development Review Application Fees

TYPE OF REVIEW	FLAT FEE
Pre-Application Review	No Charge
Alternative Equivalent Compliance	\$250
Extensions to Final Design & Development Plans	½ of Design & Development Plan Review Fees
Individual Sign	\$100.00
Master Sign Program (MSP) or MSP Amendment	\$300.00
Minor Design & Development Plan	
Residential	\$75.00
Mixed Use/Other	\$250.00
Railroad Bridge Banner Review and Installation	\$100 <u>for one (1)</u> \$150 <u>for two (2)</u>
<u>Major Design & Development Plan Review</u>	
<u>Residential</u>	
<u>1-3 Dwelling Units (DU)</u>	<u>\$425</u>
<u>Planned Unit Development (PUD)</u>	
<u>Minor Amendment to Final PUD</u>	<u>\$650</u>
<u>Administrative/Minor Subdivision</u>	<u>\$250</u>
Work Session	\$250. May be waived at the discretion of the Director of Community Development
TYPE OF REVIEW	INITIAL DEPOSIT FEE
Planning & Zoning Fees	
1041 Permit	\$10,000.00
Annexation	\$3,500.00
Appeals	
Heard by PZC	\$250.00
Heard by Council	\$250.00 + \$50.00 to Town Clerk
Code Text Amendment	\$3,500.00
Comprehensive Plan Amendment	\$3,000.00
Location, Character and Extent Review	\$250
Major Design & Development Plan Review	
<i>Residential</i>	
1-3 Dwelling Units (DU)-	\$700.00
4-9 <u>DU</u>	<u>\$1,500</u>
10-20 DU	\$1,600.00
21-40 DU	\$2,300.00
41-60 DU	\$3,300.00
61-100 DU	\$4,500.00
100 + DU	\$7,000.00
<i>Mixed Use, Commercial, Industrial</i>	<u>\$2,000</u>
Up to 1,000 Sq. Ft. Gross Floor Area	\$925.00
1,000-2,499 Sq. Ft. Gross Floor Area	\$1,300.00
2,500-4,599 Sq. Ft. Gross Floor Area	\$1,500.00
5,000—9,999 Sq. Ft. Gross Floor Area	\$2,000.00
10,000—19,999 Sq. Ft. Gross Floor Area	\$3,000.00
20,000—49,999 Sq. Ft. Gross Floor Area	\$4,500.00
Over 50,000 Sq. Ft. Gross Floor Area	\$6,500.00
Planned Unit Development (PUD)	
1-4 Dwelling Unit (DU) Residential Only	\$1,000.00
5-50 DU Residential Only	\$2,000.00
50+ DU Residential <u>& Mixed Use</u>	\$2,000.00 <u>Base Fee + \$15.00 per DU</u>
Mixed Use to 50 DU	\$2,000.00

Mixed Use over 50 DU—	\$2,000.00 Base Fee + \$15.00 per DU
Minor Change to Preliminary PUD	\$150
Minor <u>Administrative</u> Amendment to Final PUD	\$150
Rezoning	\$2,000.00
Right-of-Way Vacation	\$250
Special Review Use	
Residential	\$250.00
Commercial/Industrial	\$500.00
Temporary Use	\$100.00
Variance	\$500.00
Vested Property Rights	Billable Hourly Rate by Town Attorney
SUBDIVISION FEES	
Administrative Subdivision	
 Condominium & Timeshare Subdivision	\$500.00
 Technical Correction	\$500.00
 Lot Line Adjustment	\$500.00
Major Subdivision	
Preliminary Plan	
Land Subdivision 10 Lots or Less Over 10 Lots	\$675 + \$67.50 per Lot \$1,350 + \$35.00 per each Lot over 10
Condominium/Townhouse Subdivision 5- 10 Units Over 10 Units	\$675 + \$67.50 per DU \$1,350.00 + \$10.00 per each DU over 10
Final Plat	
Land Subdivision 5-10 Lots Over 10 Lots	\$675 + \$67.50 per Lot \$1,350 + \$35.00 per each Lot over 10
Condominium/Townhouse Subdivision 5- 10 Units or Less Over 10 Units	\$675 + \$67.50 per DU \$1,350.00 + \$15.00 per each DU over 10
Minor Subdivision	\$675.00
Subdivision Exemption	\$500.00
STAFF HOURLY RATES	
Director and Town Engineer	\$79.00 /hour
Senior Planner/Project Engineer	\$63.00 /hour
Planner II/Engineer II	\$57.00 /hour
Planner I/ Engineer I	\$53.00 /hour
GIS Analyst	\$53 <u>60</u> .00/hour
Town Attorney	\$240.00 /hour



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, FEBRUARY 23, 2016
AVON TOWN HALL, ONE LAKE STREET

1. CALL TO ORDER & ROLL CALL

Mayor Fancher called the meeting to order at 7:30 p.m. A roll call was taken and Council members present were Sarah Smith Hymes, Scott Prince, Megan Burch, Buz Reynolds and Jake Wolf. Matt Gennett was absent. Also present were Town Manager Virginia Egger, Town Attorney Eric Heil, Assistant Town Manager Scott Wright, Town Engineer Justin Hildreth, Police Chief Bob Ticer, Executive Assistant to the Town Manager Preston Neill and Town Clerk Debbie Hoppe.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. PUBLIC COMMENT

Peter Buckley commented

4. ACTION ITEMS

START TIME 00:04:43

4.1. RESOLUTION NO. 16-03 REFERRING A POLICE STATION BALLOT QUESTION TO A SPECIAL ELECTION (TOWN ATTORNEY ERIC HEIL)

Councilor Reynolds moved to approve Resolution No. 16-03 Referring a Police Station Ballot question to a Special Election; Councilor Smith Hymes seconded the motion and it passed unanimously by those present. Councilor Gennett was absent.

START TIME: 00:43:17

4.2. FIRST READING OF ORDINANCE NO. 16-02, AUTHORIZING THE FINANCING OF CERTAIN PUBLIC IMPROVEMENTS OF THE TOWN, AND IN CONNECTION THEREWITH AUTHORIZING THE LEASING OF CERTAIN TOWN PROPERTY AND THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE LEASE, A LEASE PURCHASE AGREEMENT, A DISCLOSURE CERTIFICATE, A PRELIMINARY OFFICIAL STATEMENT AND OTHER DOCUMENTS AND MATTERS RELATING TO CERTAIN CERTIFICATES OF PARTICIPATION, SERIES 2016; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE FINANCING; AUTHORIZING OFFICIALS OF THE TOWN TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HERBY; RATIFYING ACTIONS PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATED THERETO (TOWN ATTORNEY ERIC HEIL)

Councilor Reynolds moved to approve Ordinance No. 16-02, Authorizing the Financing of Certain Public Improvements of the Town, and in Connection therewith Authorizing the Leasing of Certain Town Property and the Execution and Delivery by the Town of a Site Lease, a Lease Purchase Agreement, a Disclosure Certificate, a Preliminary Official Statement and other Documents and Matters Relating to Certain Certificates of Participation, Series 2016; Setting forth Certain Parameters and Restrictions with Respect to the Financing; Authorizing Officials of the Town to take all action necessary to Carry out the Transactions Contemplated herby; Ratifying actions previously taken; and providing other Matters related thereto; Mayor Pro Tem Wolf seconded the motion and it passed unanimously by those present. Councilor Gennett was absent.



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, FEBRUARY 23, 2016
AVON TOWN HALL, ONE LAKE STREET

START TIME 00:44:53

4.3. CONSENT AGENDA

- 4.3.1. RESOLUTION NO. 16-01, RESOLUTION DESIGNATING THE LOCATIONS FOR POSTING THE NOTICES OF PUBLIC MEETINGS (TOWN CLERK DEBBIE HOPPE)
- 4.3.2. MINUTES FROM FEBRUARY 9, 2016 MEETING (TOWN CLERK DEBBIE HOPPE)
- 4.3.3. MINUTES FROM FEBRUARY 12, 2016 RETREAT
(EXECUTIVE ASSISTANT TO THE TOWN MANAGER PRESTON NEILL)

Item 4.3.1 was pulled from the Consent Agenda for discussion. Councilor Prince moved to approve all items in the Consent Agenda, with exception to item 4.3.1.; Mayor Pro Tem Wolf seconded the motion and it passed unanimously by those present. Councilor Gennett was absent

Mayor Pro Tem Wolf moved to approve Resolution No. 16-01, Resolution Designating the locations for posting the Notices of Public meetings and requested the addition of Avon Elementary School to posting locations; Councilor Reynolds seconded the motion and it passed unanimously by those present. Councilor Gennett was absent.

5. WORK SESSION

START TIME 00:49:17

- 5.1. REVIEW OF REPORT ON TOWN OF AVON SALES TAX ON BUILDING MATERIALS (TOWN MANAGER VIRGINIA EGGER, ASSISTANT TOWN MANAGER SCOTT WRIGHT, TOWN ATTORNEY ERIC HEIL)
Peter Buckley commented.

6. WRITTEN REPORTS

- 6.1. MONTHLY FINANCIALS (BUDGET ANALYST KELLY HUITT)
- 6.2. GIFT REPORTING – 2016 WINTERWONDERGRASS VIP FESTIVAL PASSES
(EXECUTIVE ASSISTANT TO THE TOWN MANAGER PRESTON NEILL)

7. COMMITTEE MEETING UPDATES: COUNCILORS AND MAYOR

START TIME 01:01:05

- 7.1. ECRTA BOARD MEETING – MAYOR PRO TEM JAKE WOLF

8. MAYOR & COUNCIL COMMENTS

9. EXECUTIVE SESSION

START TIME 01:08:12

- 9.1. EXECUTIVE SESSION FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER C.R.S. §24-6-402(2)(E) AS WELL AS A CONFERENCE WITH THE TOWN ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE UNDER C.R.S. §24-6-402(2)(B) CONCERNING THE UPPER EAGLE RIVER WATER AUTHORITY.

The time was 8:40 p.m.



TOWN OF AVON, COLORADO
AVON MEETING MINUTES FOR TUESDAY, FEBRUARY 23, 2016
AVON TOWN HALL, ONE LAKE STREET

Executive session began at 8:55 p.m.

Executive session ended at 10:02 p.m. Council reconvened into regular session at 10:03 p.m.

10. ADJOURNMENT

There being no further business to come before the Council, the regular meeting adjourned at 10:03 p.m.

RESPECTFULLY SUBMITTED:

Debbie Hoppe, Town Clerk

APPROVED:

Jennie Fancher

Jake Wolf

Matt Gennett

Megan Burch

Albert "Buz" Reynolds

Scott Prince

Sarah Smith Hymes

