



## PLANNING AND ENVIRONMENTAL COMMISSION

July 8, 2019, 1:00 PM

Town Council Chambers

75 S. Frontage Road - Vail, Colorado, 81657

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1. Call to Order

1.1. Attendance

Present: Brian Gillette, Pam Hopkins, Rollie Kjesbo, Ludwig Kurz, John-Ryan Lockman, Brian Stockmar, Karen Perez (arrived at 1:20 PM)

Absent: None

2. Main Agenda

- 2.1. A request for a recommendation to the Vail Town Council for a zone 30 min. district boundary amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to allow for the rezoning of a portion of the property located at 366 Hanson Ranch Road/Lot 1, 366 Hanson Ranch Road Subdivision. The proposed rezoning would change the Zone District from Agriculture and Open Space (A) District to the Public Accommodation (PA) District, and setting forth details in regard thereto (PEC19-0022)

**Applicant:** Vailpoint LLC, represented by Sarah J Baker PC

**Planner:** Jonathan Spence

Planner Jonathan Spence presented the application. He stated that this application has been before the PEC a few times over the past year and a half. Mr. Spence stated that the PEC previously approved a subdivision for this site. Relying upon a zoning map, Mr. Spence demonstrated that the lot has two different zoning designations. He noted that the parcel is under the same ownership and the applicant is seeking to change the zoning to one designation. He noted that two letters in opposition have been submitted into the record.

Chairman Stockmar called for questions from the commissioners.

Mr. Stockmar inquired about the court order quieting title.

Mr. Spence stated the court order did not opine on the local regulatory structure or zoning and pertained only to ownership. Mr. Stockmar noted that the staff memo provides details that this is a unique situation.

Upon inquiry from Chairman Stockmar, Mr. Spence stated that in terms of the Community Development Department, having two zoning designations on one lot creates regulatory problems. He stated that in terms of setbacks and other calculations determining what is required is difficult.

Chairman Stockmar noted that this is a de novo review and the PEC shall base their decision solely based on the materials in their packet and public

testimony given today.

There was a discussion over the protected covenants versus the change in zoning. Mr. Spence noted that the private covenants are not handled within the Community Development Department and are outside of the PEC or Staff's purview.

Ms. Sara Baker, representing the property owner, noted that the staff report states that all criteria have been met and requested that the PEC approve the zoning change. Ms. Baker noted that whatever covenants are in place today will not be impacted by any zoning change. She noted that the property is currently zoned Agriculture/Open Space and that development is permitted. Ms. Baker stated that the uses that are allowed by right are different in each district and is a unique situation and the application is a clean-up.

Ms. Baker stated that the court order did not order a change in zoning and just addressed ownership. She noted that this is not the first time the town has rezoned property in identical situation. Relying upon the town zoning map, she referred to an application to rezone on Hanson Ranch Road. Ms. Baker provided additional examples of rezoning and stated that there is precedent for rezoning.

Upon inquiry from Commissioner Hopkins, Mr. Spence stated that all setbacks are measured from property lines.

There was a discussion regarding the flexibility in setbacks for Public Accommodation (PA) zoning districts that the PEC has discretion in setting.

Chairman Stockmar called for public comment.

Mr. Jonathan Stauffer, resident, asked how we got here and stated that it has been zoned open space since the first mayor. He noted that it is open space that makes Vail such an attractive community. He stated if this proposal is allowed any developer can do the same thing.

Mr. Wendell Porterfield, counsel for Christiana, and two others, stated that this is a self-created problem by quiet title. He stated that there is a statement in the memo that goal #4 has been met and a statement that the public has always perceived this as part of the residence. He concluded that they do not support the requested action.

An owner of a condo unit abutting the property stated that all three groups sent a statement of objection and hope that they have received and read it. She stated that the applicant is asking the town the same question over and over. She noted that green space of any kind is valuable and stated that if the PEC approves the request it will set a bad precedent.

Mr. Jim Lamont, Vail Homeowners Association, stated that the covenants were Vail's first land use constitution. He noted that in a constitution you have two things: the rules and how to change those rules. Mr. Lamont stated that it would be best if not totally appropriate to have those rules amended before the application is brought before the board.

A resident spoke in opposition to the proposal. He stated that it frightens him to see where development is going and encouraged the board to look

at the open space encroachment across Vail.

Lu Maslak, resident, stated that they came to Vail after looking at many ski towns and chose Vail because of open space and sentiment in the valley to keep these open spaces and noted that she's observed an erosion of that concept. She stated that she is opposed to the encroachment on open space. She stated she is imploring them to consider what the PEC is doing.

Herman Stafford, Vail resident, echoed everything that has been said so far. He stated that they have an obligation to protect open space public and private. He stated they must protect what we have and not let other people to take it away and let them redevelop the house but keep the open space.

Chairman Stockmar closed public comment.

Commissioner Lockman stated that he appreciated the public comment and stated that the PEC must look at this application as if no prior applications have been submitted. Mr. Lockman stated it is a challenging application and noted their duty for the town is to review the criteria in an objective way to see if the application meets the criteria in the town code. He further noted that you cannot have two zoning designations on one property. Mr. Lockman stated that, in reviewing, the criteria it does comply.

Commissioner Hopkins stated that she is an old timer as well. Ms. Hopkins stated that she would have liked a plan delineating where the zoning district transects the property and stated she is inclined to vote against it.

Commissioner Perez stated that she does not see that it meets Goal #4 of the master plan. She noted that she would like to see the final development and will vote against it.

Commissioner Kurz stated that he would like to see the development plan as well. Mr. Kurz noted he is not ready to vote in favor at this time and would like to see the proposed development plan along with the zoning change.

Commissioner Gillette stated that he also did not feel it meets Goal #4 of the master plan and is inclined to vote against.

Commissioner Kjesbo stated that he would like to see the development plan before voting in favor.

Chairman Stockmar stated that the issue before the PEC is the zoning and not the project, building, or anything presented to the board previously. He stated he is in agreement with the other commissioners and would like to see the development plan. He stated he would like to see the proposed building as well as everything brought before and invited a motion to table.

Ms. Baker stated that the PEC has seen the development plan which they previously reviewed. Ms. Baker stated that the applicant would agree to table this request and urged the PEC to review the exterior alteration application.

Upon inquiry from Ms. Perez, Ms. Baker stated there have been no changes made from the previously reviewed development plan.

There was a discussion regarding the application for a major exterior alteration. Chairman Stockmar stated reviewing both the zoning and development plan together would be beneficial.

Mr. Spence stated that while both applications can be reviewed together, zoning approval can not be tied to a development application. Ludwig Kurz moved to table to a future date. Pam Hopkins seconded the motion and it passed (6-1).

Ayes: (6) Hopkins, Kjesbo, Kurz, Lockman, Perez, Stockmar  
Nays: (1) Gillette

- 2.2. A request for the review of a Development Plan, pursuant to Section 12-6I- 120 min.  
11, Development Plan Required, Vail Town Code, for a new housing development located at 3700 North Frontage Road East/Lot 1, East Vail Workforce Housing Subdivision ("Booth Heights Neighborhood"), and setting forth details in regard thereto. (PEC19-0018)

**Applicant:** Triumph Development

**Planner:** Chris Neubecker

Chairman Stockmar opened the hearing for PEC19-0018 and noted that written comments are encouraged as it gives the board time to review them ahead of time. Mr. Stockmar stated that he does not support allowing the consolidation of comments for one person to speak on behalf of several.

Planner Neubecker stated that some comments were received by staff after 12PM on Friday and noted that while the comments were not in the packets, they were forwarded to the board for their review.

Mr. Neubecker gave a presentation for the Booth Heights Neighborhood. Mr. Neubecker reviewed the Environmental Impact Report (EIR) submitted to the town and recommendations made to mitigate impacts to wildlife. Mr. Neubecker noted that the application includes a landscaping plan and a wildlife enhancement area to create a better habitat for sheep. Mr. Neubecker noted that this area would be an ongoing commitment for the applicant to maintain for the sheep habitat.

Mr. Neubecker stated that the previous application there was a discussion regarding the location of the bus stop design. He noted that a recommendation from Colorado Parks and Wildlife (CPW) was to move the bus stop out of the west end. Mr. Neubecker presented an alternative design giving buses an area to turn around as suggested by the town's Public Works and Transportation department. Another alternative, Mr. Neubecker, presented was to provide access to the east bus stop and not have a bus stop on the west side.

Upon inquiry from Mr. Gillette, Mr. Neubecker stated that coming west bound there is one stop on the north side of the Frontage Road. There was a discussion regarding access to crosswalks and bus stops.

Mr. Neubecker reviewed four questions staff is requesting feedback on from the PEC.

Mr. Lockman asked about the 3D model requested.

Mr. Neubecker stated that the applicant is working on those additional materials and is part of the reason they are requesting to change the

timeline for public hearings.

Michael O'Conner, Triumph Development, provided the PEC an update. He noted that the concept of getting massing and project level elevations is something that makes a lot of sense and they can make progress on that by the next meeting. He stated it will be an update.

Chairman Stockmar stated that they would like to see massing, sections and other visuals to help with their review.

There was a discussion to have a meeting on July 22, 2019 to review massing.

Mr. O'Conner stated that their technical experts are available to the PEC to answer any questions.

Mr. O'Conner stated that the agenda today is to talk about items C, D and E.

Mr. Koechlein, Professional Geologist, analyzed the geology for the site. Mr. Koechlein stated that the Colorado Rockfall Simulation Program was utilized for the analysis. Mr. Koechlein stated that the area proposed for development does not have as much impact as the adjacent property to the west (Booth Creek). He reviewed the rockfall design recommendations to create a means of dissipating the rockfall and collecting the rock when it reached the property.

Upon inquiry from Ms. Hopkins, Mr. Koechlein stated that the berm will be approximately 20' above existing grade, depending on the slope conditions.

Chairman Stockmar asked if there are diagrams that show bolting or pinning of the potential rockfall and to what extent is that being proposed? He asked if you were to pin the fascia does that create less risk in terms of likelihood or potential greater risk that a larger chunk of the fascia could fall.

Mr. Koechlein stated that rock bolting is done on many rocks and being able to accomplish that on this site would be very difficult and getting equipment to do that would be difficult. Mr. Koechlein stated that rockbolting would probably not be appropriate in this case.

Mr. Gillette asked how this berm compared to another berm.

Mr. Koechlein stated they are very similar, the shape is the same and the 1:1 is the same. He noted that they are similar in terms of slope however the rockfall analysis for this site is less of a concern as it was for the site to the west.

Mr. Koechlein then reviewed the rockfall berm location and storm drainage. He reviewed the property to the west and location of the rockfall berm on that site. Showing photos of existing conditions, Mr. Koechlein reviewed the rockfall berm of the abutting site and noted a similar berm is proposed for the Booth Heights proposal.

Mr. Koechlein reviewed the historic landslide map and noted that the major landslide is to the east of the yellow zone (as indicated on the slide). He noted the mass has moved down the slope and the building that may be

affected by this, to be investigated further, would be the building to the very right.

Mr. Gillette asked if the buildings on the right would be mitigated if it is a problem.

MR. Koechlein stated that mitigation is possible and would require the construction of a concrete mass and install tie backs through the block and the tie blocks go into the formation and most cases back into the bedrock to stabilize and support to keep it from moving.

Chairman Stockmar noted that a huge portion of the mountainside has slid off. Mr. Stockmar asked what the potential was that the same kind of event could happen over this project. Mr. Koechlein noted that the question is a good one and that is what the investigation would look into. Chairman Stockmar stated he would be interested in the results of the soil study and is a concern. Mr. Koechlein agreed and stated that is what the investigation will do.

Chairman Stockmar stated that he would like to know what the likelihood of a similar event to happen. There was a discussion over risk evaluation.

Ms. Perez noted that the reports date back to 2016 and asked if this report is limited to the 5 acre site or the entire site. Mr. O'Connor stated that they have updated the math and the model based on the relocation of the berm. He noted it's been an evolution in studying the situation and then ultimately finalizing what is in the PEC package. He noted the initial reports dates back to 2016 and there are supplemental reports.

Ms. Perez stated that she was looking at *figure 2* in the report for Caesar Inc. on page 337 in the PEC packet. Mr. Neubecker confirmed that Ms. Perez is looking at the entire site, all 24 acres.

Mr. Neubecker reviewed the 5 acres within the larger map where development is proposed.

Ms. Perez stated that she wanted to make clear that Mr. Stockmar was looking at the entire site. Mr. Stockmar stated that the topographical image does clearly show the landslide and shows the massive elevation change that delineates the two parcels.

There was a discussion over the landslide indicated on the topographic map and that there is a concern that another similar event would happen on that elevation. Mr. Stockmar stated that he looks forward to the investigation into the risk of landslide as Mr. Koechlein stated they were studying.

Ms. Sandy Gibson, landscape architect, Outside LA in Steamboat Springs, presented the landscaping plan. Ms. Gibson stated that their goal was to balance a lot of the opportunities of the site inwardly due to wildlife issues. She noted that some internal open spaces have been curated for the residents versus pushing to the outside. She noted to the east of the large buildings exists a community area with trellis features; they have removed the gas firepits. Ms. Gibson stated that the communal gathering space with seating area and utilizing the fire turn around area with permeable pavers. Ms. Gibson then reviewed the site lighting plan and noted that it is similar to the plan at the Chamonix development. She noted

they are wayfinding lights with cutoffs. Ms. Gibson reviewed development standards and noted as following: Criteria C is met as their plan is functional and aesthetic and noted substantial topsoil will be used and no substantial retaining walls are proposed.

Upon inquiry from Ms. Hopkins, Ms. Gibson stated the boulder retaining walls are proposed. Mr. O'Connor interjected that they will not be more than 3' in height due to front yard setback requirements in the Town Code.

Ms. Gibson stated that the existing trees in the right-of-way will be preserved.

Ms. Gibson noted that staff comments will be integrated into the final landscaping plan. She noted that the seed used will be acceptable to CDOT as well as the adjacent forest land. She noted cottonwoods will be planted in appropriate places, away from structures. Ms. Gibson further stated that the site plan will be revised to preserve all offsite trees. She then asked if there were any questions.

Mr. O'Connor then reviewed "Criteria D" for pedestrian and site circulation. He noted traffic and the underpass, parking and circulation bus impacts.

Kari McDowell, traffic and transportation engineer, 1099 Capital Street, Eagle, CO. Ms. McDowell stated they met with CDOT and Town of Vail staff to discuss traffic. Ms. McDowell stated that the first page provides the site plan relative to the access. Relying upon the slide "Traffic- Project Access and Circulation" Ms. McDowell stated the curb cut is approximately 1000' from Big Horn Road and over 2000' from Katsos Ranch Road. She noted that the internal streets are 26' and multiple turnarounds are provided.

Mr. Neubecker stated the fire marshal has reviewed the plans and the applicant has made changes based upon his feedback.

Ms. McDowell stated the North Frontage Road is a CDOT roadway. She stated the traffic data was collected during Christmas time so should capture peak use. Ms. McDowell then reviewed the existing traffic conditions and findings of their traffic study.

Upon inquiry from Mr. Gillette, Mr. Kassmel reviewed the pedestrian improvements to the interchanges. Mr. Kassmel stated that the east Vail interchange does not have connecting sidewalks or high pedestrian traffic so it has not been a priority. Mr. Kassmel noted this additional development would bring more pedestrians to the area and it would be important to understand what the pedestrians would be walking to.

Chairman Stockmar noted, anecdotally, that the underpass is very dangerous to walk under and noted he is looking for some way to make that a safer pedestrian experience year round. Mr. Kassmel stated that adding a sidewalk would provide that option for a pedestrian.

Mr. Gillette stated that the town should explore how to connect this development safely to town for pedestrians.

Ms. Kassmel stated they have had discussions to have one continuous path. He noted that while it is not in the master plan, it has been discussed

whether there would be space to do that. Mr. Kassmel stated that if there was a desire for that connection there would be space. Chairman Stockmar noted that to get to the closest grocery store would require you to go under the underpass.

Mr. Gillette inquired into the process is to get the sidewalk connection.

Mr. Kassmel stated that it would need to be budgeted by Town Council for to create the sidewalk.

Ms. McDowell continued her presentation and presented an alternative traffic circulation and showed an exhibit that would decrease the lane width and create room for bike lanes.

Ms. McDowell then reviewed the anticipated traffic for the workforce housing portion and the portion that is not workforce housing and the other portion they used standard rates.

Mr. Gillette inquired if national numbers were used in lieu of local numbers if they are higher or lower?

Ms. McDowell stated workforce housing was 40% lower than the national. She stated they looked at the transit ridership as well in their analysis and so used the same ratios and makes up for the difference between those.

Ms. Perez inquired whether the developer will have mail delivery at the site. She noted that some of the traffic and ins and out are to the post office which may have implications for the vehicular trip number.

Ms. Hopkins stated this is an employee housing project and asked the number that will live there. Ms. McDowell reviewed the traffic analysis.

There was a discussion regarding growth in traffic in the future.

Mr. O'Connor then reviewed the opportunity for additional parking. He noted that an item the PEC brought up was a concern for the parking availability for the workforce housing units. He stated they reviewed the site plan and have found a way to add a net additional 11 parking spaces. He noted the ADA required parking is noted on the site and discussed the possibility to have the electrical in place for EV charging stations. The snow storage plan is considerably above the town's requirements at 39% with a required 30%. He stated this change creates 56 parking spaces with a ratio of 1.33 spaces per unit. He noted that is brings in line with PEC approval for Lion's Ridge. Mr. O'Connor stated that those residents are more likely to own a car than the residents at this development.

Mr. O'Connor showed a summer and winter pedestrian circulation plan and discussed the ADA needs. He noted they are only required to have 2 units ADA compliant but more that are adaptable.

Mr. O'Connor then reviewed the proposed bus stop configurations. He noted there are many competing interests in consideration of access to the bus stop and location. He noted they have the east west connectivity. He stated to build the bus stop, Public Works recommends would mean not doing some of the features the wildlife mitigation would be proposing.

Rick Thompson, Western Ecosystems, Inc. Wildlife Biologist, reviewed



Criteria E Environmental Impacts, Mr. Thompson stated that in 2017 he did a wildlife study while he was retired, then he was asked to give a presentation on optimal development design on wildlife. He stated that in developing design criteria he saw as an opportunity to put in some wildlife standards to protect the wildlife. He stated he agreed to work with the applicant based on their guarantee that they would incorporate wildlife design criteria. Mr. Thompson stated that he worked on three reports: August 2018, Wildlife Monitoring Report, Wildlife Mitigation Plan and the EIR Wildlife sections of the proposal.

Relying upon a map with a pink polygon showing winter range in east Vail, Mr. Thompson discussed the CPW-mapped Bighorn Sheep summer and winter ranges. He then discussed wildfire suppression effects and the results of the 1998 Environmental Assessment (EA). He then provided an overview of sheep life history, specifically noting that with sheep winter range is escape cover represented by cliff bands and shrub habitat on south and southwestern facing slopes with good snow shedding. He noted sheep do not use forests and described the Booth Creek herd history and identified a preferred shrub of the sheep. Mr. Thompson described the sheep population.

Mr. Thompson described the 7-month wildlife study with the purpose to evaluate the sheep. He then showed where game cameras were located for the study and described how winter severity affects spatial and temporal sheep habitat use patterns.

Mr. Thompson then presented a winter range polygon based on his study and reviewed the findings of his report. He enumerated the design criteria and proposed mitigation strategies such as fully enclosed trash structures, no sizeable internal parks and minimum parking and fencing to restrict residents from surrounding habitat.

There was a discussion regarding fencing. Mr. Thompson stated that Colorado Parks and Wildlife wanted fencing. Mr. Thompson and another biologist were against fencing due to the reduction of viable habitat. Mr. Thompson stated that the other biologist was opposed to the fence because "fences end" and it would be more appropriate to educate the residents.

Mr. O'Connor stated that education, signage and other components are important for residents.

Mr. Thompson then reviewed the proposed mitigation plan components. Restrictions include no heavy construction outdoors during winter range period, and screening with a berm and landscaping. Supplemental feeding of sheep could be done if warranted due to the weather. Enhancement would be done on site, up to 14.6 acres, removing downed logs, remove aspen stand, reclaiming habitat.

Mr. Thompson then reviewed his outreach with the Forest Service and the Town of Vail. He then discussed mitigation plans outside of the proposed development area to create paths for the sheep to move back and forth and maximize habitat conditions by addressing an overgrown forest. He noted another critical component is the occupancy related management prohibiting year-round access and recreational use of surrounding lands.

Mr. Thompson stated that resident education is a critical component and

everyone must read and sign a wildlife mitigation plan. He noted the first violation is a fine of \$250, second fine \$500, and a third violation is a \$750 fine and 1 month notice to vacate the premises for rental units. He stated for the employee housing Vail Resorts will have a disciplinary action for their employees.

Mr. Thompson then discussed the impacts of the development to Elk and Peregrine Falcon. He then reviewed impacts to a variety of other wildlife groups.

Mr. Thompson concluded his presentation by stating that the project effects have been avoided, minimized, and offset, by project design, construction and enhancement commitments, and implementation and enforcement of the mitigation. He noted that the real benefit of the project is the increased awareness of habitat quality.

*The PEC took a 5-minute recess.*

*Chairman Stockmar closed the recess and continued on with the hearing.*

Mr. Stockmar stated he would like to create an opportunity at the next meeting reserved for public comment, though he was not sure if that would be entirely possible.

Mr. Thompson presented his response to CPW's July 3, 2019 comment letter. He stated that the literature cited is correct but noted the literature doesn't address the impacts on habituation. Mr. Thompson stated that he did not agree with the comment from the letter that states "The most consistently available and suitable winter range is predominantly restricted to the development site"

Mr. Thompson continued to review his slides that outline his response to CPW's July 3, 2019 comment letter.

Mr. Thompson then reviewed a summary of independent biologist reviews. He stated that the reviews did not consider his (2018) wildlife monitoring report or his 2018 peregrine nesting attempt brief, both of which detailed wildlife use that is only summarized in the EIR and Mitigation Plan. He noted that the Booth Creek herd is unique due to its habituation to human activity which the other biologists do not take fully into consideration.

He continued his response to the independent wildlife biologist reviews and through his slides.

Mr. Gillette stated there are proposed parking areas, multi-family buildings and townhouses. Mr. Gillette asked which of the uses is the least disturbing to the herd.

Mr. Thompson stated the most disturbing will be traffic entering and exiting the parcel when the sheep are using that area as winter grazing range. He noted that this sheep herd is habituated to predictable unchanging events. He noted that they would not be impacted by cars going up and down the street as traffic flow, however, if someone were to stop and get out of the car that would be out of context and be impactful.

Mr. Gillette reiterated the proposed uses and asked if the site layout is

appropriate and asked which use should be closest to the west.

Mr. Thompson stated he did not design the layout but did encourage development be located as close to the Frontage Road as possible to create the largest possible buffer between good foraging habitat and the residences. He noted the human activity that might be more regular outside of the townhomes should be most separated. He stated the parking lot provides a buffer from the west end of the parcel whereas the townhomes are screened by the north because of the aspen.

Mr. Lockman inquired about the western berm. Mr. Thompson stated that that is an area that has not been completely resolved and would like to meet with Parks and Wildlife to discuss further. He stated the goal is to mitigate the sightlines of traffic with a buffer. He stated landscaping might be more effective at blocking the view, his concern is the level of landscaping that may be required might actually force the sheep out on the Frontage Road. He further stated the sheep are habituated to traffic on the existing road.

Upon inquiry from Mr. Gillette, Mr. Thompson, stated the western bus stop may be an impact of the project with the possible benefit that sheep that might use that during the day might not freak out from getting caught between the housing and road. He stated with this development he did not think the sheep would graze in that area anymore.

Mr. Kjesbo inquired about the timeline for habitat mitigation.

Mr. O'Connor stated that they could commit to the adjacent NAP improved site work done before the first winter of construction. He stated the sooner they receive approval, the sooner they can begin those mitigation efforts. He noted that they would only do the initial heavy construction from April 15 to November 15.

There was a discussion regarding not allowing owners to have dogs and fences. Mr. Gillette voiced a concern regarding the impacts of dogs on the sheep.

Mr. Kjesbo stated that this site is a very environmentally sensitive site.

Upon inquiry of Ms. Perez, Mr. O'Connor stated that the mitigation that Mr. Thompson reviewed proposed design criteria which informed a site plan. He noted as an example the multifamily building was placed lower on the site. He stated from a wildlife standpoint, building one home has a significant impact.

Mr. O'Connor concluded their presentation. He stated that they meet the standards of the code which is there to make development happen responsibly. He reviewed impacts of recreational use of backcountry land that are impacting wildlife.

Mr. Gillette inquired about ongoing funding for maintenance of the NAP parcel. Mr. O'Connor stated the he wants to present a plan that is completely on private property to control and commit to maintain. He stated if they need to set aside some money for permanent maintenance and can be added into the plan.

Mr. Gillette stated that the CPW was asking for money for offside

enhancements. Mr. O'Connor stated they are already doing a lot on their private property.

Chairman Stockmar called for public comments.

Larry Stewart, East Vail Resident, stated that he is glad there will be another meeting. Mr. Stewart stated this meeting was surreal that included a long explanation from the applicant. He stated what the independent biologists have to say is a game changer and say some unbelievable things. CPW stated it is not an 1800-acre polygon, more like 150 acres that the sheep have which make it even more critical that we get this right. He pointed to findings in the independent biologist find that the report by Mr. Thompson was not scientific. He stated the experts should present to the PEC and encouraged the PEC to allow them to complete their work.

Charlyn Canada and Clair Rose Kelly, Ms. Canada stated Vail Resorts serendipitously realized they owned the land and stated that the Town of Vail should buy the property. She stated with Vail Resorts touting itself as an ecofriendly business it could work to preserve the land. She stated to allow development would give Vail Resorts a public relations black eye and by association the entire valley. She stated there are options to limit short-term rentals to help impact employee housing. She described how as a child she taunted her pet ram, Captain Video who would run around in circles in the chicken coop. Ms. Canada described an encounter with a big horn ram and that she hoped he did not have the temperament of Captain Video. She stated observing the sheep for over three decades and we have encroached to a critical point which necessitates the denial of further development. Ms. Canada described weather conditions and hazards that are above this employee housing unit and we should not subject employees to that environment.

Ariana Aghevli, 39 Fall Line Drive, she stated that buses using the Falls at Vail bus station gets very busy during the winter and the buses are already packed by the time they get there. The underpass under the highway is unsafe and on the idea of education of the residents, while it's all good and great you can't expect people not to have dogs. She stated that there is no real enforcement for 24/7. She then stated the population of the sheep is already declining and look to environmental stewardship as a core value.

Rol Hamelin, stated the three wildlife biologists submitted their letters in writing. He stated that the independent reviewers were critical and noted that indirect human disturbance is a greater threat than direct. Mr. Hamelin stated that the study is not adequate in design and results is not sufficient to make a decision and not analyzed properly. He pointed out that everyone is asked to sign a paper and agree saying they understand everything above and noted that the rules are immediately broken.

Sherry Dorward, 1515 Buffher Creek Road, landscape architect in the town for 30 years. She stated one of the other elephants in a herd of them is how we treat land. Ms. Dorward stated that's what happens when you taken a 5 acre piece of property and scrape it up and take every bit of natural vegetation and change the grade so that it can be made to work for a lot of development. Mr. Dorward asked what kind of place are we creating. She noted that internal circulation at the main driveway is over 8% in Vail that requires snowmelt. You look at a parking lot that is double loading you would want 60', however only 45' are proposed. She asked how cars are going to be accessed and asked where they turn around.

She stated that the landscaping that is meant to be an amenity and it isn't just the absence of pavement, it's something that feels natural. She stated the small shade trees are not going to work.

Scott Hintz, stated that there are only 7,000 big horn sheep. He stated they are blessed with this herd and stated the migration pattern is the only one in the entire Gore Range. He asked if we are willing to destroy these natural environments and pave over the paradise they live in.

Kirstine Hintz- An endangered species becomes that way for two reasons: loss of habitat and genetics. She stated that project by project, and community by community, habitat is being lost and stated we are a microcosm. She stated with this project we have another example of how local economic interest is trumping the bigger picture. She noted that one of the criticisms of the reports states that it does not take into account the larger picture. She asked where is the environmental stewardship of the big horn sheep. She stated there is no need for this project and no need to feed the sheep during the construction of this project.

Mark Herron, Vail Valley Partnership, stated they represent businesses in the valley. He stated that they have reviewed the project as a business community. He stated that environmental standards need to be maintained as existing conditions and stated the developer is proposing the largest private mitigation in the history of the town. He stated that affordable housing continues to be a major issue. He stated it is clear to them that the project meets the town requirements. He stated doing the right thing is not always easy but following the guidelines should be.

Suzanne O'Neill, executive director Colorado Wildlife Federation, stated that they really are pleased that this is not an action item and commended the PEC for hiring outside experts. She stated that one of the reviewers did not have much time to do much research was recently retired. She stated all three are big horn sheep experts. She stated she appreciated the work Colorado Parks and Wildlife has done and if what we have to go on is a 7-month study, there are a lot of questions that remain. She stated that working with parks and wildlife, their studies are a minimum of two-years and are well crafted. She stated that the study should include the experience of the spring lambing and the following rut afterwards. She stated that the topic of feeding of wildlife in winter is discussed at CPW, it is a robust discussion and a big deal. She stated it is not a quick Band-Aid solution.

Elyse Howard, resident Vail Intermountain neighborhood, stated that balance in this community, the environment is critical as well as the wildlife. She stated that Vail's vision to be the premier mountain community needs to be considered. She stated that the developer is not asking for any variances and should be taken into consideration. She stated it is the rule, not the exception, to see many families in one housing unit. She stated adding housing units adds to the inventory.

Peter Casabonne, resident of west Vail, stated that the parcel was thought to be owned by CDOT and was considered open space on the Comprehensive Open Lands plan. He stated Vail Resorts and the Vail Local Housing Authority knew in the early stages of planning that the building areas of their new found asset included winter range sheep. He stated to satisfy criteria E the developer has submitted a short-term study and it has been used to downplay the risks of this singular herd of the

bighorn sheep. He stated that the residents feel strongly and feel its review by CPW and three independent wildlife biologists have dedicated a significant portion of their career to the bighorn sheep. They suggest that the study done was too limited in scope to fully assess the impact. He stated that because Vail Resorts and Vail Local Housing Authority have been pushing their project forward before anyone asks what happens to the sheep. He urged the commissioners to consider the wildlife biologists recommendations. He stated this is not a win-win for wildlife biologists.

Jonathan Stauffer, west Vail resident, stated that he is a business owner and member of the community. He stated this is not the only workforce housing option. He asked if we have the moral right to consign the bighorn sheep herd to oblivion and that we have a moral obligation to protect these little creatures. He stated this project cannot be mitigated. He stated if we allow this development this herd will cease to exist. It will happen slowly. They will starve to death and these creatures calling this place home since the end of the ice age will be gone. He stated the PEC should call upon the Town Council to purchase this property to protect it.

Bill Andree, stated he is not a sheep expert, but was a game warden for 30 years he put every collar neckband on them. He stated he was not called to review this as an expert. He is the one that wrote the Town of Vail is not sustainable. He stated he has done a lot of work with Rick Thompson but disagree greatly on many of his conclusions. He stated you do not know if that animal is habituated without property monitoring. He stated winter time is starvation mode and the ewes are pregnant and they are trying to put on enough pounds for lactation. He stated habituation is not good for these sheep. He stated the sheep will not let you get anywhere near them. He stated when you see them along the road they take on a herd mentality. He stated he has reviewed many plans in Washington, North Dakota, and Idaho. He stated wildlife has never won a battle. He stated he is sympathetic that it is tough here to live here as an employee.

Donna Mumma, east Vail resident, stated the east Vail community is walled off. She stated that people are critical and people who use that underpass are critical and pedestrian safety is critical. She stated that is it not a 4' wide passage way and barely allows a wheelchair or stroller, and in the winter it does not exist. She stated that she has an issue with the traffic study: they were looking at the passing lanes which obscure long sight vision though they did not say anything in their traffic report about pedestrians. She stated she would like Mr. Kassmel to prove that this intersection can have pedestrian safety features.

Peter Seibert, 2381 Upper Traverse way, happy Chamonix Resident, stated they did a great job there at Chamonix and they had a nice Fourth of July block party. He stated that the project is zoned for this use. He stated this project is a lot like Vail when he grew up as it has a mix of seasonal employee, residents and second homeowner.

Ms. Andi Saden, stated that the locals and the experts have provided a lot of information. She asked if this was compatible for the big range sheep and asked when common sense comes in. She stated she is counting on the PEC to represent the community's interests. She stated maybe there is no balance with this project.

Joel Stauffer, stated that between January 5, 1963 and April 1<sup>st</sup> he and his wife moved 11 times, so he is very sympathetic to the housing issue.

He stated this project should never have been. He stated you come up from Denver to take a weekend in the mountains and the first thing you will see is this humongous building. I mean welcome to the mountains and all you see is a suburb of Denver, and that's where we're going. Mr. Stauffer stated that employees will get cars as soon as they can afford them and most of the time there are two people in a bedroom so each two bedroom apartment has a potential need for four cars. He stated the project is all the wrong things.

Blondie Vucich, Vail resident, stated that when the East Vail parcel was made in 2017 that the request was odd, both PEC and Town Council approved and the citizens were ensured a thoughtful process would be followed. She stated the PEC is charged with unpacking every detail of the environmental report. She stated three independent wildlife biologists and parks and wildlife submitted reports and pointed out that the study was inadequate in design and results. She stated there is no funding in place for wildlife mitigation. She stated all the reports give new reason to question the scale and mass of this project.

Bill Eggers, stated that Triumph Development has been sincere in their development. He stated they are coming to the PEC and the PEC's decision on this is one of the most important in a long time. Mr. Eggers stated that the PEC has the information from the wildlife biologists and they have an important decision, they can roll the dice and hope its alright with Triumph Development. He stated the other decision is how we do business in Vail. He stated this is robbing Peter to pay Paul. He stated it's critically important and is for a corporation that is worth \$10 billion.

Tom Vucich east Vail resident, stated that he has read all the environmental reports. He stated that these reports need further review. He raised a concern regarding the extent the Colorado Parks and Wildlife has had in the plan. He stated that all report reviewers have extensive credentials and experiences and he stated these are the experts who speak for the animals and who can appropriate speak to the efficacy of any wildlife plan. He stated all these documents shed light on the inadequacy, too limited content of the plan submitted by Triumph. He stated the PEC now has legitimacy to go back to Triumph and request a report that adequately meets the Vail standards. He provided examples of mitigation meaning loss of wildlife habitat. He then defined insanity as defining the same thing over and over again and expecting a different result. He stated if you always do what you've always done, you'll always get what you've always gotten. He stated our wildlife populations are in crisis. He stated as another wildlife expert said we are mitigating them to death. He urged the PEC to listen to the experts and stated this plan on this parcel needs much more scrutiny.

Alison Wadey, Vail Chamber and Business Association, stated that there are two sides on every coin. She stated that the balance comment hits the nail on the head. She stated this project is crucial to the local workforce. She stated that finding employees is a struggle and there is a way to find a middle ground. She stated the Town of Vail, developers and stakeholders involved can figure it out.

Barb Keller, Booth Creek resident, questioned the design intensity and impact to sheep. She stated that after weeding through all the reports she is scared to death for the sheep. She noted that the reports indicate the sheep right now are in a dangerous situation and very vulnerable and could be pushed to extinction. She noted they are limited by grazing

areas. She stated that sheep use the area and they hit the west corridor and tip toe around it. She stated the experts recommend testing the effectiveness of their usefulness before construction can proceed. She stated habitat restoration is not a one shot deal and requires dedication. She stated the experts recommend that no construction occur during the winter months and noted that it is hard to believe strategies implemented to protect the sheep would not impact them. She stated the experts tell us the idea that the sheep will move elsewhere is not true.

Pam Stenmark, Vail Resident since 1969. She stated that Vail Valley Partnership continues to state is that the 1800 acres of habitat that is available for the sheep. She stated that some of that acreage includes Frontage Road and other areas. She stated the usable land the sheep has is about 150 acres. She noted that the 14 acres of space in the NAP is not used by the sheep, the mitigation proposed in the section won't help the sheep. She stated that currently the wildlife mitigation Triumph is proposing is woefully inadequate. She stated it is not just one project, but the life of the project. She stated we need to start over with the mitigation.

Grace Paganski, Vail resident, stated that most of what she was prepared to say has already been stated. She referred to a report from Melanie Woolever, a wildlife biologist, 20 years experience in bighorn sheep. She stated that bighorn sheep are considered by the US forest service in the sensitive species. Colorado has placed bighorn sheep in the greatest need category. She voiced a concern about the enforcement of the rules and regulations being done by the HOA with seasonal employees, part-time owners and full-time owners she stated that she did not think you could put together an HOA that can address the needs of that community. She stated it is hard to enforce the rules. She stated in regards to the sheep habituation, they have been habituated to traffic on the highways and homes. They have not been habituated to large apartment buildings with lots of people and traffic coming and going constantly.

Mark Gordon, Vail Resident and Business owner, stated if you live in Vail and are upset with the wildlife situation look in the mirror, because everyone is guilty for degrading the quality of wildlife. He stated we need to make sure we have a fair process and we have many residences existing in bighorn sheep territory. He stated he is worried of the fairness of the process. He stated the public comments and boards should identify flaws and suggest how to make it better. He stated he is worried when the process is done dishonestly and the goal is to kill the project. He stated the board must filter through and come up with the suggestions that are best for a private company to stay on private land.

Lu Maslak, Sunburst Drive resident, stated that she is concerned about parking, traffic flow, and under the underpass, pedestrian traffic, and mitigation plans that don't appear to be addressing the total need. She stated the only entity that hasn't been represented are the big horn sheep. She encouraged the PEC to listen carefully and read more.

Kaye Ferry, resident of Vail Golf Course, stated that she is a big advocate for affordable housing. She stated that the four panels on the wall took a lot of time and effort and were arduous to go through she stated that we made a commitment that the things we outlined there would forever define the way we moved forward in the town of Vail. She referred the town's mission to "preserve and environmental stewardship" she stated that every decision to be made in this room was to be measured against those things. She



said we are not talking about the environment in a responsible way which was the goal of those four panels when they were originally written and it is imperative their decision is based on those four things.

Pete Fesitmann, Vail Resident, relying upon "Site Section A" stated that in his opinion, spending all this time on wildlife has minimized the time spent on the fundamental environmental question: should land which has been long determined open space be developed? He stated he is not ignoring Vail Resorts property rights. He stated the 2019 tax appraisal for \$4 million and the town can manage that for ownership. He stated given the community's desire to balance environmental needs and housing needs – if the PEC were to say yes to this proposal – what would they say no to?

Chairman Stockmar then closed public comment and stated no action will be taken. He stated their comments could be deferred to further meetings.

Mr. O'Connor asked to speak to the PEC in response to some comments from the community. He stated that he is not happy with the process as it relates to the environmental review. He stated it has been mismanaged and is extremely unhappy with the timeline. He stated the fact that three people were hired at the finish line to review the environmental reports is not fair. Mr. O'Connor reviewed his concerns with the three independent wildlife reviewers.

Planner Neubecker referred the PEC to the questions posed in the memo and in the PowerPoint, so that the applicant can have some direction.

Mr. Kjesbo stated that he is on the fence on the wildlife mitigation plan and more reading needs to be done and he is not ready to make a decision on that. In regards to the landscaping, he thinks it is probably ok. The location of the bus stop he preferred the in and out similar to what is over at Middle Creek. He stated it's safer. He was not concerned about the lower area near the road being an area of grazing sheep.

Mr. Gillette stated that the additional information that they did not see, the wildlife patterns, should be sent to the independent reviewers. He stated there is a lot of mitigation that can be done at the west end and one would be moving the bus stop out of the location. He stated he is curious what the town's biologist would recommend of what's best at the west end – what uses and whether they agree with the developer's biologist. He stated the parking should be per the housing developments recommendations and they need to keep going. He stated as far as moving the bus stop west, he thinks that the bus stop fine where it exists and one should be added with a crosswalk, and need decent access, and need to get a sidewalk under the underpass and over to the southside of the interstate. Mr. Gillette stated the fence going to the south side of the berm is good and wondering if more aspen screening could be provided on the western side, and perhaps moving the berm. Mr. Gillette stated he wanted to discuss more construction and timing of construction activities. He stated it is reasonable to limit outdoor construction from November 15 to April 15 to and he noted this would extend the duration, and impact the phasing of the project. He stated we should not allow blasting or chipping until after July 31<sup>st</sup>. He stated short term rentals and dogs should not be allowed, except for service and emotional support animals.

Mr. Kurz asked the applicant if the grade of the road through the project is over 8%. Mr. O'Connor stated that all of the grades meet the town of Vail's

requirements and do not require snowmelt. He stated in terms of the wildlife mitigation plan, he is not ready to make a determination, that they received information from wildlife biologists at 10AM this morning and stated that he would encourage anybody from public to send comments in writing. He stated in terms of the landscaping he would encourage the developer to improve landscaping near the frontage road and mitigate the impacts. In terms of the bus stop, he would prefer the town's preferred idea of the in and out loop on the north side without crossing the frontage road.

Ms. Perez stated that she needed more time to review the studies that were sent today. She stated the extent of the mitigation plan is significant and wondered if this is going to be limited to Triumph. Ms. Perez stated that more parking is needed versus less parking. She stated this is a tough site and a tough development. She noted the PEC has a charge and must go through the criteria and the amount of time taken for this application is not the norm; the PEC is taking the time needed to review the project given what a difficult site this is. She stated there is a lot of material to process and more to come. She stated she preferred the bus turnaround on the same side of the highway as it works well at Lions Ridge. She stated she is concerned for pedestrian safety and going under the underpass. Ms. Perez stated she would like a response to what could have been built previously on this site with former zoning.

Ms. Hopkins stated that she is concerned about the wildlife mitigation plan. She stated that on the landscape plan she has an issue that the berm is being counted as part of the calculation. She stated it's not natural to make it that way and takes a long time to establish and will use a lot of water. She stated to excavate this site will require large retaining walls or to go beyond the property. She stated she did not like the bus stop out on the west and preferred it be tucked in and not have such an impact on that parcel.

Mr. Lockman stated that he concurred with most previous opinions on needing more time. He stated that they do review the materials. He stated that the developer has done a good job and put good faith into this process. He stated on the west end, that we can protect the wildlife and mitigate the impacts from the community. He preferred a similar Middle Creek type bus stop for safety reasons. Mr. Lockman stated he liked the additional parking though has a concern over snow storage. He stated he is still concerned about the town's underpass. Mr. Lockman stated that ongoing research is important and having long term monitoring.

Chairman Stockmar stated, in regards to the wildlife issues, he still does not know and still needs to review the reports. He stated there is a lot of information left to absorb and digest. He is concerned about the wildlife. He stated he has to rely on the work of experts in this area. He hopes information comes to them sooner for their review. He stated he is concerned about the compliance of both buildings in terms of the fencing and access to the area outside of the development. He stated he did not know if they can enforce those restrictions. Recreational activity could cause significant environmental damage to the area. The landscaping needs to be such that it will hide the buildings; otherwise, he is concerned about the Middle Creek looming problem. He would like to see that they hide behind decent landscaping and is concerned about highway noise. He stated he has friends who live in west Vail near the highway and cannot use their decks. He stated that parking is a little better but due to the location of the project, even with enhanced bus service, the parking may

not still be adequate. He noted there will be a lot of people living in those buildings that may or may not use public transportation. He noted they've not received full evidence that the residents will not have cars. Mr. Stockmar stated that the bus stop on the same side of the road is preferable. Crossing the street is a dangerous situation waiting for an accident. He noted that the underpass, while not part of the project, is not a safe condition. He stated there may be straightforward solutions; however, the existing condition is not safe. Chairman Stockmar stated he wanted to know more about compliance and enforcement and about parking.

There was a discussion regarding continuing the meeting to July 22 to provide an additional opportunity for public comment.

Mr. Gillette added for the mitigation plan a Developer Improvement Agreement for the NAP site maintenance and possibly putting NAP parcel into a land trust and berm maintenance in the mitigation plan.

Mr. Stockmar stated he would like to hear clarification on the short-term rental situation to restrict short-term rentals, which may be a condition of approval.

Ludwig Kurz moved to Table to July 22, 2019. Karen Perez seconded the motion and it passed (7-0).

- 2.3. A request for the review of a Conditional Use Permit, pursuant to Section 12-16, Conditional Use Permits, Vail Town Code, to allow for the construction of dwelling units within the Housing (H) zone district, located at 3700 North Frontage Road East/Lot 1, East Vail Workforce Housing Subdivision ("Booth Heights Neighborhood"), and setting forth details in regard thereto. (PEC19-0019) 30 min.

**Applicant:** Triumph Development

**Planner:** Chris Neubecker

Ludwig Kurz moved to table to July 22, 2019. John-Ryan Lockman seconded the motion and it passed (7-0).

### 3. Approval of Minutes

#### 3.1. June 24, 2019 PEC Results

Minutes should have page numbers; on page 6 in the minutes Michael O'Connor comments, word "manor" should be "manner", and additional hanging pages – last two should be deleted from a previous meeting. Karen Perez moved to approve with corrections. Ludwig Kurz seconded the motion and it passed (7-0).

### 4. Adjournment

Ludwig Kurz moved to adjourn. John-Ryan Lockman seconded the motion and it passed (7-0).

Town of Vail Community Development Department, 75 South Frontage Road. The public is invited to attend the project orientation and the site visits that precede the public hearing in the Town of Vail Community Development Department. Times and order of items are approximate, subject to change, and cannot be relied upon to determine at what time the Planning and Environmental Commission will consider an item. Please call (970) 479-2138 for additional information. Please call 711 for sign language interpretation 48 hour prior to meeting time.

Community Development Department