



January 15, 2019

Morgan Landers, AICP  
Town Planner  
Community Development Director  
200 Broadway  
Eagle, Colorado 81631

Re: Variations Requested as part of Reserve at Hockett Gulch PUD

Dear Morgan:

This letter is being provided at the request of the Town and its consultants to address variations from the Town's regulations being requested for the Reserve at Hockett Gulch. The Town's PUD regulations were generally written to address land that is currently located within the Town and zoned by the Town. A application would then be filed to rezone the property to a PUD. The variations requested in the PUD from the existing zone district are then documented. The code does not satisfactorily address the mechanics where a property is being annexed to the Town and zoned as a PUD without an existing underlying zone district. In this case variations are limited to those standards more universally applied to a development project as no one single district applies in this situation.

As you are also aware the Town's existing regulations tend to be internally inconsistent or not in keeping with recent approvals that have occurred within the Town, thus necessitating the need for some variation from the Town's regulations to insure a quality development. The rewrite of the Town's development regulations, which is currently underway, will likely eliminate the future need to vary from the Town's PUD standards which are intended to be flexible in application.

This summary is provided to identify those areas where the Reserve at Hockett Gulch requires general variation from the current standards or recommendations versus from a specific zone district.

**1. Timing of Impact Fee Payments.**

The Town of Eagle land use regulations require impact fee payments for the street improvement fee, fire department impact fee, water tap fee, sewer tap fee, and school land dedication fee all of which are to be paid at the time of PUD or subdivision approval. In the case of this PUD, it is anticipated that the initial subdivision will create 4-5 larger development parcels with the anticipation of future development or subdivision. The Board of Trustees has the ability to delay water and sewer tap pre-payment requirements (60% of the requirement) until the approval of either a building permit or a residential subdivision where individual lots are being created for development. As a variation from the Town's typical requirements, the PUD proposes that all such payments occur at the time of Development Permit approval or residential subdivision where individual lots are being created for

development. Payment at that time is the appropriate time as that is when the impacts of the proposed development are able to be accurately calculated and closer to the time that the actual impact will occur. The impacts will not be realized by the Town until a Certificate of Occupancy is issued which is likely a year or two following the approval of a Development Permit, so the fees are still being front-loaded versus when the impact occurs. The front loading of fees prior to Development Permit drives up the cost of development impacts, the ability to complete development projects, and affects the affordability of rents or sale prices. The applicant has worked with the School District to provide those upfront fees at Development Permit approval or residential subdivision where individual lots are being created for development.

- Impact to the Town: There is little to no financial impact to the Town. The Town receives the impact fees prior to the impact being realized. Additionally, the Town may realize more revenue by delaying when it receives payment since the Town often raises the fees on an annual basis (15% a year). This variation will produce a public benefit over strict application of the regulation, is not detrimental to the public good, and does not impair the intent and purposes of the code by allowing impact fees to be paid when impacts are realized and allowing growth to occur in a reasonable fashion.

## **2. Multiple Family Parking Requirements.**

The Town of Eagle land use regulations contain a requirement for additional guest parking related to multiple-family uses. The Town's requirements, without the guest parking requirement, already exceed the anticipated demand for parking within a multiple-family environment. The PUD proposes to eliminate the guest parking requirement which still means parking provided exceeds the anticipated parking demand. The proposed multiple family uses are parked at an average rate of 1.75 spaces per unit versus 1.37 spaces per unit predicted by ITE. We have provided a report from our traffic engineer based upon ITE data to support this variation (attached).

- Impact to the Town: There is no impact to the Town as the proposed parking ratio reflects the demand created. Impacts are reduced on the environment and costs of providing housing are reduced. This variation will produce a public benefit over strict application of the regulation, is not detrimental to the public good, and does not impair the intent and purposes of the code by allowing parking requirements that are reflective of demand.

## **3. HD/PUD Density Designation.**

The Town of Eagle PUD regulations contain requirements for different types of land use categories. The HD district is listed as being intended for PUD zones of up to 20 units per acre. Reserve at Hockett Gulch has an overall density of 16.9 units per acre, taking into consideration the entire land area of the development at 29.65 acres. Two of the three HD zones proposed (HD/PUD-1 and HD/PUD-2) within the development allow densities up to 23 units per acre, but when averaged those two zones with the dedicated open space areas and HD/PUD-3 the density of the PUD is 16.9 units per acre. The proposed PUD is consistent with the intent of the density limitation and the applicant does not believe this to be an actual variation.

- Impact to the Town: There is no additional impact to the Town. This variation will produce a public benefit over strict application of the regulation by providing work force housing, is not detrimental to the public good, and does not impair the intent and purposes of the code by allowing appropriate levels of density within the Town and recognizing that the overall density of the PUD complies with the Town's PUD standard.

## **4. HD/PUD Use Designation.**

The Town of Eagle PUD regulations contain a requirement that the HD/PUD zone district reflect the uses of the R, RR, RL, RM, RMF, and RH zone districts but with the provision that Planning Commission and the Town Board can allow other uses it finds to be compatible. The RH and RMF zone districts allow retail, service, office uses, and other non-residential uses with a Special Use Permit but not as a permitted by right use. The proposed HD/PUD-1 district reflects the uses found in the RH and RMF zone district by allowing commercial uses by Special Use Permit. No variation is therefore required.

HD/PUD-3, with frontage on Grand Avenue, allows commercial and other non-residential uses but as a permitted, use by right rather than by Special Use Permit. This is appropriate given the location of HD/PUD-3 and its location on Grand Avenue and given the goals of the Eagle Area Community Plan which promotes limited commercial uses within this area. Included in the allowed uses by right in HD/PUD-3 are thus commercial uses including a child care facility.

- Impact to the Town: There is no additional impact to the Town as the commercial uses would be allowed by Special Use Permit without a variation. The variation allows the Town to achieve its goal of allowing commercial services along the Grand Avenue corridor if demand exists for it to occur. This variation will produce a public benefit over strict application of the regulation, is not detrimental to the public good, and does not impair the intent and purposes of the code by allowing non-residential uses by right to be established without the burden of additional review in the future.

## 5. Municipal Park Land Dedication Versus Open Space.

The Town of Eagle development regulations require the dedication of park land area within every subdivision within the Town regardless of whether the subdivision is also within a PUD. The Town's regulations also **recommend** that a PUD provide for 20% of the land area of the PUD also be open space.

We don't believe it was the intent to require/recommend that the open space within a PUD was above and beyond the park land dedication but that they work together to provide open space for the occupants of a PUD.

The Town's Parkland Dedication requirement is extremely aggressive. The PUD contains a total of 29.65 acres and the Town's regulation requires 15 acres to be dedicated for park land. This quite clearly shows that the Town's formula and application are misaligned with the goal of providing workforce housing solutions and allow for more compact and dense development that utilize land resources more efficiently.

The applicant has reviewed the Town's regulations for (A) minimum open space area, (B) usable minimum open space area, (C) active recreation area, and (D) municipal park land dedication. The applicant believes that the only variation from Town code is in the area of park land dedication, yet it will address all four of these requirements.

A) **Minimum Open Space.** In the case of the Reserve at Hockett Gulch, the applicant is proposing to provide a **minimum** of 9.22 acres of total open area or 31% of the 29.65-acre site. This is included via private open space within HD/PUD-1, HD/PUD-2 and HD/PUD-3, as well as via public open space of OS-1 and OS-2. The 9.22 acres (31%) exceeds the PUD-**recommended** minimum 20% open space requirement (equates to 5.93 acres) and thus is not a variation.

B) Usable Minimum Open Space. The Town Code specifies that of the recommended minimum 5.93 acres (20%) of open space, at least 75% of that open space must have a slope of less than 10%, which equates to 4.45 acres. Some of the open space on OS-1 would not be considered usable due to grades exceeding 10%. After backing out these unusable areas on OS-1 (2.944 acres), the total PUD usable open space is 6.276 acres. Further, OS-2 contains areas to be used for stormwater treatment. Despite these stormwater treatment areas being improved as a large green space, the applicant has taken a conservative approach and has removed from its usable open space calculations the areas of OS-2 that will be used for stormwater treatment. There are areas of OS-2 that can be developed with a soft pedestrian trail, seating areas, and small park areas. These areas have slopes less than 10% and contain 0.6176 acres of land. After backing out the stormwater treatment areas on OS-2 (and backing out the steep slope areas of OS-1), the total PUD usable open space is 4.77 acres, which exceeds the minimum 4.45 acres noted above and thus is not a variation.

C) Active Recreation. The Town's regulations also require that of the 4.45 minimum acres, that 1/2 of that (or 2.22 acres) be used for "Active Recreation." The proposed trail in OS-1 has an area of 0.333 acres and the proposed perimeter trail has an area of 0.336 acres for a total area of active trails of 0.669 acres. The Conceptual Development Plan has been updated to show the location and sizes of active recreation areas including the club house and pool areas. These areas account for approximately 2.80 of active recreation areas. In total, the Conceptual Development Plan shows a total of approximately 3.5 acres of active recreation areas within the PUD. Because the applicant intends to meet or exceed the minimum 2.22 acres of Active Recreation area, this is not a variation.

D) Municipal Park Land Dedication. The Town's regulations also require a Park Land Dedication, or a payment-in-lieu. Based on the code, the Reserve at Hockett Gulch would require a land dedication of 15 acres total or just over 50% of the entire property. Clearly this requirement does not provide any incentive for higher density, more compact, smart growth types of strategies which provide workforce housing and is unreasonable in its application. It should be noted that at the time of application and as of January 11, 2019, the Town has not established land dedication fee.

Of the required 15 acres, the regulation does allow for 50% discount in the land dedication requirement "in exchange for provision of private recreation facilities that provide for the recreational needs of the residents of the proposed development." We believe the PUD allows for adequate recreational opportunities meeting the needs of the residents and therefore would permit a reduction in the requirement to 7.5 acres.

As mentioned, we believe that the calculation of the Town's Municipal Park Land Dedication disincentivizes higher density, more compact, smart growth such as the Reserve at Hockett Gulch's PUD application proposes. Additionally, the applicant is proposing improvements to offset the need for the park land dedication of 7.5 acres as follows:

- A. Dedication of OS-1 (3.5 acres total, 0.556 acres less than 10% slope) which contains the trail connection to future offsite access;
- B. Dedication of an easement on OS-2 (2.12 acres total, 0.6176 acres less than 10% slope) which contains a soft path connection to the Town's trail system and a stormwater management area;
- C. Construction of a public soft path within OS-1 that connects the Town's recreation path system with a potential future access to Hockett Gulch. This path also connects the project with the Town's trail system. This improvement shall be included in plans for the first Development Permit for the PUD;

- D. Construction of a 5' wide soft path loop generally around the perimeter of the PUD that connects to the Town's established recreation path system. The path is accessible by the general public. This improvement shall be included in plans for the first Development Permit for the PUD;
- E. Construction of a paved trailhead parking area for up to 14 parking spaces within the Town's open space located along Sylvan Lake Road and accessed directly from Sylvan Lake Road. This is solely a public benefit to the community as the residents within the PUD already have onsite parking provided. This improvement shall be included in plans for the first Development Permit for the PUD;
- F. Construction of a waterless vault toilet within the Town's open space located along Sylvan Lake Road. This improvement shall be included in plans for the first Development Permit for the PUD;
- G. Installation of a solar powered pedestrian crosswalk warning light system located to the north of the vehicular access to the PUD from Sylvan Lake Road. This improvement shall be included in plans for the first Development Permit for the PUD;
- H. Development of recreation areas within the PUD consisting of playgrounds with playground equipment, play fields, basketball courts, sand volleyball courts, or similar types of improvements; and
- I. A payment in lieu of Park Land Dedication, which is reflective of the additional recreational improvements being provided and the extent of commitment to workforce housing development, of \$50,000.

For these reasons, we believe a variation is necessary and appropriate. We believe the commitment of 9.22 acres of open space, with 4.77 acres of that being usable open space, is a sufficient commitment on the part of the applicant, especially when coupled with the exceedance of the Minimum Open Space and Minimum Usable Open Space as outlined in sections A-B above and the list of additional proposed improvements and a cash payment.

- Impact to the Town: While on its face the Town loses the opportunity for an additional park area within the Town, the Town gains the opportunity for housing the community's workforce, a greater need than reserving additional park and open space within the Town. The Town obtains land suitable for a coveted trail connection potentially providing access for many within the Town to federal lands beyond, including a new trailhead and waterless vault toilet. The Town potentially saves revenue by not taking on an additional park space to own and maintain. This variation will produce a public benefit over strict application of the regulation, is not detrimental to the public good, and does not impair the intent and purposes of the code by recognizing the extensive amount of open space and recreation areas being provided within the PUD and allowing a project to be developed at higher densities, achieve smart growth principles, and ultimately address community needs in a different way.

## 6. Building Height for Multiple Family Structures.

The Town's general height limit is set at 35' across all zone districts whether building a single-family home, a hotel, or a multiple family structure. The applicant is proposing to allow only the multiple family structures within the PUD to have a height of 45' to allow for three stories of residential use and appropriate architectural treatment of the building. Since the 35' height limit was established by the Town, industry standards for floor to floor heights have increased. People, even in rental apartments, are seeking or demanding appropriate ceiling heights. Generally, that means floor to floor heights of 12' in most cases. That makes it very difficult to build a three-story structure with an appropriately scaled roof form. The Town of Eagle has many examples of three-story buildings but

the architecture results in very low roof pitches or flat roofs. Those buildings with sloped roof forms generally suffer from lack of architectural interest and quality. The applicant is intending to build no more than 3 stories but allowing for steeper pitched roofs resulting in higher-quality architectural forms.

The property is isolated with respect to neighboring uses. The additional building height, with the back drop of the steep hillsides that flank the property and appropriate building setbacks from the perimeter of the PUD, will have little impact on adjoining properties.

- Impact to the Town: There is little negative impact to the Town as noted above. The overall impact is positive as it relates to the architecture of the multiple family structures. All other structures are limited to 35'. The variation allows the Town to achieve the goal of allowing a higher density and higher quality housing development serving the needs of the community. This variation will produce a public benefit over strict application of the regulation, is not detrimental to the public good, and does not impair the intent and purposes of the code by allowing this building height flexibility.

## **7. Inclusionary residential requirements for local employee residency.**

The Town's inclusionary housing policies require that 10% of the for-sale residential housing be deed restricted for occupancy by the local workforce. The Town has interpreted that these units serve households with income limits at or below 90% of the Area Median Income (AMI) level as set by HUD for Eagle County though the Town regulations are not clear in this regard. In 2018 the AMI for a family of four in Eagle County was \$86,900. 90% of that number is \$78,210.

The PUD proposing to exceed the 10% requirement as it applies to for-sale housing by providing 15% but with an allowance that household income limits can be up to 120% of AMI. In the case of a family of four, the qualifying income could be \$104,280 using 2018 HUD numbers.

Additionally, the PUD provides that 30% of any rental housing would be deed restricted so that the dwelling units are occupied by the local workforce population without income restrictions. The Town currently does not apply inclusionary zoning to rental property and so there would be no Town requirement for deed restricted rental housing units.

The deed restrictions for rental and for-sale housing would require at least one member of the household meets at least one of the following criteria:

- a. Has earned a living primarily in Eagle County by having worked an average of at least thirty (30) hours per week on an annual basis at a business with an office or job site physically located in Eagle County (multiple jobs in Eagle County may be combined to reach 30 hours per week); or
- b. Has been hired for a job in Eagle County on a permanent basis to work at least thirty (30) hours per week; or
- c. Employees that make their home in Eagle County but work for employers that are located outside of Eagle County (i.e. telecommuters) may be considered eligible if all other eligibility requirements are met and the Household can prove Eagle County residency for at least 1 year before application submission; or
- d. Is over the age of sixty (60) and had earned a living primarily in Eagle County prior to his or her retirement; or

- e. Is a disabled person who had been a full-time employee in Eagle County for a minimum of two years immediately prior to his or her disability or has been granted an exception to the minimum of 30 hours per week in order to continue with a federal or state benefit program, if the person works the maximum number of hours per week the disabled person will have met the intent of the programs criteria; or
- f. The household cumulatively earns at least 75% of the Household's Gross Household Income in Eagle County.

The variation being sought is from the 90% AMI limit that would typically apply to 10% of the for-sale units and allowing the PUD to adhere to a 120% AMI for 15% of the units. The applicant believes that by going above and beyond with both the percentage of for-sale housing and rental housing (which has not requirement today), justifies the variation being sought.

- Impact to the Town: The variation allows the Town to achieve the goal of providing substantial workforce housing within the Town by the private sector to help serve the long-term needs of the community. This variation will produce a public benefit over strict application of the regulation, is not detrimental to the public good, and does not impair the intent and purposes of the code.

Sincerely,



Dominic F. Muriello, AICP  
Principal