

# TOWN OF EAGLE REFERRAL RESPONSE SUMMARY REPORT

ISSUED: November 6, 2018

Project Name: Reserve at Hockett Gulch PUD  
Owner/Applicant: Dan Metzger, Brue Baukol Capital Partners, LLC  
Applicant: Dominic Mauriello, Mauriello Planning Group  
Prepared by: Stephanie Stevens, Planning Consultant for the Town of Eagle

The Eagle Community Development Department is issuing the following Referral Response Summary Report as the referral period has expired. Both internal (Town Staff) and external referral responses received to date can be found in the "Referral Comments" section of this report. The "Next steps" section describes the approaching steps in the development review and approval process. If you have any questions or concerns regarding any comment, contact me or the individual agency contact to clarify the statement and reach an understanding. It is in the applicant's best interest to contact each internal and external referral agency directly in order to streamline the development review process.

## REFERRAL COMMENTS SECTION

### Community Development

Stephanie Stevens, Town Planning Consultant

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The following comments are provided based on the standards and requirements of PUDs per §4.11.030 and requirements of annexation review pursuant to Colorado Revised Statutes.

### Technical

1. Please reorganize the PUD Guide such that the planning areas are presented in numerical order. The guide currently sets forth provision for PUD-1, then 3, then 2, which is difficult to follow.
2. Please reformat the planning area summary chart on page 10 of the PUD Guide to be oriented in landscape format so that the table may be enlarged for legibility.
3. Correct spelling of "Constitutes" and "Property" on cover of Planned Unit Development Guide.
4. Correct the Maximum Commercial FAR of PUD-1 listed in the text of the PUD Guide to match the Planning Area Summary Chart. The text on page 4 reads the max. FAR to be 0.11:1, while the chart reads 0.22:1.
5. Remove the asterisk next to minimum usable open space in the planning area summary chart in the PUD Guide or place a footnote to describe the meaning.
6. The PUD Guide references that the proposal will "generally" meet Town Code requirements in multiple instances. Please remove this type of language throughout as it implies that some aspects may not meet Code and makes it difficult for staff, the Commission and Board to review for Code compliance.
7. Please remove all references to the Community Development Director (CDD) in the Amendment to PUD section of the PUD Guide. The CDD reference is repetitive since the CDD is authorized to serve as the Town Planner.

## PUD Zoning and Density

1. Staff continues to recommend removal of the allowance for single-family homes in all planning areas because there is not a proven market need for additional single-family homes in the Town of Eagle. If single-family residential is still desired, please clearly demonstrate the public benefit in your written narrative and set forth limitations in the PUD Guide to avoid the potential for development that does not contain an appropriate mix of housing types.
2. Please add a maximum number of units for residential to the density allowances in the PUD Guide (i.e. 72 max. du's in PUD-1, 328 max. du's in PUD-2, and 100 max. du's in PUD-3) and revise the proposed allowance for density transfers to be based on dwelling units, instead of acreage. The maximum number of units in the PUD overall shall not be exceeded. Staff continues to recommend limiting transfers to 10%, based on density between planning areas and to define a tracking process in efforts to simplify and control densities in a way that is easy to understand by all parties. As shown, the acreage and density transfer might prove to be difficult to implement and may cause unnecessary tracking complexities.

Recommended language: "A minimum of 10% of dwelling units may be transferred from one planning area to another, except that density between PUD-1 and PUD-2 may freely transfer between the two planning areas, so long as dwelling units in any planning area are not increased by more than 10% nor the maximum number of units for residential is exceeded. Dwelling unit transfers must be accompanied by an amendment to the planning area summary chart. This process will be administrative." If you'd like to propose 15%, please make sure to place clear restrictions on increases and decreases and add a stipulation to prevent the potential to exceed maximum densities.

3. Please provide more detailed information pertaining to acreage calculations set forth in the PUD Guide and Zoning Plan. Are all calculations based on gross acreage per planning area?
4. Please provide further clarification related to the allowed uses set forth in the PUD Guide.
  - a. Please explain the need for allowing commercial uses and certain types of commercial establishments (i.e. retail, grocery stores, personal services, restaurants, etc.). Is the intent to achieve something more specific to the vision? If so, we are okay with that, but "commercial uses" in general should be removed.
  - b. Remove carports and garages, these are considered accessory and explicitly permitted by right in any zone district. Alternatively, you may break out primary and accessory uses for each planning area, but please outline appropriate setback requirements for primary versus accessory uses. As proposed, an entire planning area could technically be comprised of carports and garages as primary uses and would be subject to the setback requirements of primary residential or commercial uses/structures.
  - c. Provide further clarification for the taverns, micro-breweries use proposed. What's the limitation on production (i.e. 15,000 barrels)? Are you intending to include tasting rooms, distilleries, small wine shops, and things of that nature? Please include a definition in the PUD Guide.
  - d. What do you see as included in personal services?
  - e. Is the intent of hotels to provide both short and long-term lodging accommodations?
  - f. Please add a statement to the PUD Guide related to allowing the Town Planner to determine uses to be similar uses by right, to read: When compatibility or consistency with the Town's goals, policies and plans are in question, the Town Planner has the authority to send use interpretations to the Planning and Zoning Commission or Board of Trustees for final determination, subject to public notice requirements for PUD Amendments as outlined in the Town of Eagle Land Use and Development Code.
  - g. If PUD-3 turns out to be primarily residential, child care facilities need to be limited. Please limit child care facilities to a maximum of six children in PUD-3, where child care facilities are allowed as a use by right, else allow as a Special Use if you want to allow for the care of seven or more children. Alternatively, you

could differentiate between small and large facilities, allowing small facilities as a use by right and large as a Special Use.

5. The Town does not have a zone district that allows for 45' building heights; therefore, staff has reservations pertaining to the compatibility associated with the proposed height of multi-family structures. We appreciate your attention to the variation and justification provided in your supporting memo and will present to the Planning and Zoning Commission and Board for consideration. It would be beneficial if you could provide more details or renderings to assist with visualizing the proposed 45'-height buildings in order to further evaluate compatibility.
6. Staff recommends reducing the minimum lot area of 1-acre for commercial uses to 20,000 square feet, which is the Town's typical standard for general commercial uses.
7. Please add more specific details pertaining to what constitutes a minor versus major PUD amendment. The reference to changes in "plans" and "buildings" is too vague and subjective. For reference, Section 4.11.050 of the Town Code classifies a minor amendment to include changes in locations, sitings, bulk of structures, or height or character of buildings required by circumstances not foreseen at the time the plan was approved; and major amendments to include all other modifications such as changes in use, arrangement of lots, and all changes in the provisions concerning open space or density.

### Open Space

1. Due to the limited availability of land area in OS-2 for a trail or other recreational use, the Town has concerns regarding the acceptance of OS-2 as contributing to required open space. Please continue working with the Town to come to agreement on open space requirements.
2. Staff recommends removing the OS-2 planning area designation and instead, incorporating into adjacent planning areas and labeling as a landscape buffer, easement, or justifying active recreation in OS-2 by showing the minimum park and trail space (i.e. areas that could be used for a playground, turf area, etc.).
3. Please confirm proposed open space so that we may begin incorporating into and negotiating the annexation and development agreement. The information provided in the PUD Guide is not consistent with the variations memo. Specific discrepancies to be verified include:
  - a. In regard to OS-1, the Open Space and Park Land Dedication section of the PUD Guide states that there will be 8,000 sq. ft. of park or usable open space area versus 0.556 usable assumed per the variations memo. The planning area summary chart in the PUD Guide sets forth 0% minimum usable open space for OS-1.
  - b. As for OS-2, the variations memo sets forth 0.6176 acres to be usable. The planning area summary chart in the PUD Guide sets forth 0% minimum usable open space for OS-2. Staff assumes OS-2 will not be able to be utilized for active recreation since it is mainly reserved for storm drainage.
  - c. Revise the planning area summary chart so that the individual planning areas add up to 20% as proposed for the entire PUD area.
4. In the PUD Guide, you state that "OS-1 will be developed with a minimum of an 8,000 sq. ft. of park or usable open space area". Did you mean this to say that "OS-1 will be developed with a minimum of an 8,000 sq. ft. of park AND usable open space area"?
5. Please confirm the numbers and assumptions provided in the attached open space chart which details the calculations for required and proposed usable/common open space, active recreation, and parkland dedication calculations.
6. Please confirm the viability of trail connection in OS-2 with the Open Space Department.

7. Please consider adding a trailhead and/or overflow parking lot to balance the lack of recreational benefit of OS-2. See Open Space comments for more detail.
8. Staff has comments on the proposed definition of active recreation which will be forthcoming. Comments will be provided as a follow-up to this memo.
9. The trail will be impacted by the easements contained in OS-2. Additional information will be provided by Public Works as a follow-up to this memo. It should be noted that the Town has different standards for hard and soft surface paths.
10. 2' is not an acceptable width for a trail as proposed in the Parking, Streets, and Other Standards section of the PUD Guide.
11. Fee-in-lieu or otherwise negotiated open space benefit will need to be provided to account for the deficient open space land dedication.

### Street Standards

Thank you for providing private street standards within the PUD Guide. Planning staff anticipates additional comments from Public Works on the PUD guide. Comments will be provided as a follow-up to this memo.

### Phasing

The Code requires Planned Developments to provide proportional amounts of open space with each phase, but you have noted in the Development Phasing section of the PUD Guide that “each phase of the PUD shall not be required to comply with the standards provided herein but it must be demonstrated that compliance of the standards will be achievable with development of subsequent phases or sub-phases”. Will there be a larger benefit if we allow the open space to be provided in a future phase? We need to further understand the development outcome. Please continue working with the Town closely to resolve this issue.

### Local Employee Residence Program

1. Staff is currently reviewing the revised proposal for workforce housing that was provided on October 23, 2018, and will provide feedback soon. Once negotiated, the PUD Guide will need to be revised to reflect the appropriate outcome to guide future development.
2. What if some of the rental apartments wind up being owner-occupied units? If converted, LERP requirements should apply. Please provide a statement to this affect in the PUD Guide.
3. Staff recommends revising the proposal as it applies to fee-simple units to address affordability in compliance with the Town's LERP requirements.
4. Please address short-term rentals as it applies to the reserved workforce housing.
5. Please keep in mind that workforce housing will need to be evenly distributed throughout the planned development, to the extent possible. The PUD Guide should reference the percentage of each planning area to be reserved for workforce housing to ensure future development plan proposals comply.
6. The Town's LERP requirements do not take into account provisions for rental units, but it is important for any development of this scale to comply with the intent of the regulations as there remains a clear need for affordable, local employee housing in Town. Please continue to work with staff to ensure this public benefit is realized.

## Water Rights & Fiscal Impacts

As outlined in the memo previously provided to the applicant by the Town's water attorney and water engineer (attached, dated September 17, 2018), there is concern regarding the water rights and tap fees as previously presented. Please continue working with the Town and Resource Engineering closely to resolve this issue. Once the water rights issue is resolved, the Fiscal Impact Analysis will need to be updated to reflect the same.

## School Land Dedication

Please continue working with Eagle County Schools and the Town to reach an agreement for when school land dedication/fee-in-lieu will need to occur.

## **Open Space**

John Staight

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1. The strip of land comprising OS-2 is very narrow, only 50 feet wide in place. Some of that width may be needed to be used for drainage features. I believe the shape of the OS-2 parcel would preclude any active recreation features as currently defined in Section 4.11.030C of the Town code (with the exception of "picnic sites"). A recreation trail, landscaping, and some turf would be feasible. However, if turf were installed I don't know that it would be wide enough for activities such as kicking a soccer ball, throwing a football, or other active park-like activities. The most realistic recreation use for OS-2 would be a recreation path. I'm not sure if the total acreage of the OS-2 parcel should be counted as usable open space, as the primary use would likely be landscaping due to its configuration.
2. Under Section d., Open Space Parcels, ii. Uses by Right: "trailhead access and / or parking" is listed. OS-1 and the allowed trail could certainly provide future access to Hockett Gulch. However, there does not appear to be enough flat land in OS-1 for parking or any type of trailhead facility. There is some flat ground at the western end of OS-1, but placing parking or a trailhead there may not work well. It is staff's understanding that this area was originally being considered for a trailhead. A more logical location for a trailhead and parking would be at the east end of OS-1. See the attached "Conceptual Trail Access to Hockett Gulch" map prepared by staff. A combination of Town Open space land and land in the HD/PU1 area might be needed to make a trailhead work. Town Open Space and Engineering staff have visited the site, and believe that there could be enough flat ground and adequate site distances along Sylvan Lake Road to make a trailhead with parking feasible. This would be highly desirable, as many trail users wanting to access Hockett Gulch and Hardscrabble Mountain would be embarking on longer hikes and rides, and would want to park at the trailhead.
3. Under Section 5, Open Space and Park Land Dedication: "*OS-1 will be developed with a minimum of an 8,000 sq. ft. park or usable open space area*". A park of this size would be quite small, around 0.18 acres. For comparison purposes, the park at Aiden's Meadow in Eagle Ranch is 0.6 acres. The Aiden's Meadow Park is just large enough to allow for the playground and some active activities, such as kicking a soccer ball, throwing a football, and running around. My concern is that an 8,000 sq. ft. park, along with some even smaller pocket parks, would not provide enough turf space for children to actively recreate. Most of the Town's existing natural open space is utilized primarily by adults for recreation, including hiking, biking, running and dog walking. The recreation paths and potential Hockett Gulch trail access in the vicinity of the PUD would provide plenty of exercising opportunities for adults. But children need open turf areas, in addition to playground equipment, for exercising. The density which the PUD would allow would result in a large number of families living onsite. The closest substantial turf area would be Brush Creek Park, which would be a minimum ½ mile away and would require children to cross Sylvan Lake Road. The condominiums and apartments along Nogal Road are an example of a high density development in Eagle with an associated open park. Nogal Park is 1.8 acres in size.

4. Under Section 12, Trail Use in OS-1: I believe Section 12 and Section 3.d.ii. "Uses by Right" may be in conflict. I am unclear as to what the legal mechanism would be for implementing motorized use restrictions in OS-1, as described in Section 12. Perhaps it is just this language in the PUD? Town of Eagle's legal counsel needs to be consulted regarding this. On all other open space parcels owned by the Town, the current trail uses are listed as "uses by right" in the Eagle Ranch PUD. The seasonal closure dates would need to be consistent with the Town's and BLM's, namely December 15 – April 15. The statement "Provisions for revoking of easement due to lack of enforcement" is not clear. Is the applicant proposing that an easement be placed on the Town's own open space property for motorized access? And that easement is revocable by an adjacent property owner? The Town very much appreciates the applicant's willingness to allow motorized access in OS-1, as this has long been desired by the community. But, the language in this section needs clarification and legal review. It should also be noted that staff has spoken to CPW in the past about access at this location, and CPW was supportive of ATV access. The BLM's travel regulations allow for ATV travel on the trail directly adjacent to the Fitzsimmon's property. Also, the trail could be single track in character but would need to be wide enough for passing since there would be two way traffic entering and leaving Hockett Gulch. The full 4' width noted in section 13 would be needed. Noise from motorized use could be greatly mitigated if landscaped berms or noise walls were installed.
  
5. The PUD relies heavily on securing access to Hockett Gulch for recreation opportunities for the PUD's residents. The Town and Eagle County have approached Corky Fitzsimmons on several occasions in an attempt to secure a trail easement or sale of Mr. Fitzsimmon's property for open space. Little progress has been made. Access to BLM land via Hockett Gulch would be of great benefit to hikers, runners, dog walkers, mountain bikers, and motorized users in the Town of Eagle. The Town appreciates the applicant's effort to accommodate this access with the dedication of OS-1 to the Town. However, since future access through the Fitzsimmon's property is uncertain, and not guaranteed. Section 5 states "... based upon the location of this PUD in close proximity to other Town of Eagle recreational facilities and open spaces, Eagle County parks and open spaces, and federal lands, no additional land dedication or fees in-lieu of dedication of any kind shall be required." The benefit of the OS-1 parcel would be negligible if access through the Fitzsimmon's property were never secured.

**Engineering/Public Works**

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Pending

**Water Engineering**

Michael Erion, Water Engineer

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Mary Elizabeth Geiger, Water Attorney

[megeiger@garfieldhecht.com](mailto:megeiger@garfieldhecht.com)

Memo Attached (previously e-mailed to applicant on 9/17/2018)

**Colorado Geological Survey**

Kevin McCoy, Engineering Geologist

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The Colorado Geological Survey (CGS) has made previous comments for this development in letters dated June 4, 2018 and July 13, 2018. This letter provides comments about WJE's August 17, 2018 Site Visit Report, which describes preliminary reconnaissance performed to evaluate debris flow hazards. WJE evaluated deposits at the Hockett Gulch fan and smaller fans associated with the small drainages from the small drainages south and east of Hockett Gulch. WJE did not find evidence of debris flows that would transport material larger than gravel in size. WJE states that the PUD Zoning Plan and Concept Plan appear to adequately address debris flow hazard/risk and provide for potential mitigation that may be required. WJE recommends site-specific analysis prior to subdivision or development permit approvals.

Based on the information provided by WJE, CGS agrees that debris flow hazards to the proposed development should be manageable. CGS recommends that the site-specific analysis recommended by WJE be completed prior to approval of the Preliminary Plat and that any additional mitigation based on that study be included on the Preliminary Plat.

CGS would like to review the results of the site-specific analyses, any related mitigation and maintenance recommendations, and any additional geologic hazard reports prepared for this development when available.

Thank you for the opportunity to review and comment on this project. If you have questions, please contact me by phone at 303-384-2632 or e-mail [kemccoy@mines.edu](mailto:kemccoy@mines.edu).

**Eagle County Schools**

Sandra Mutchler  
Tom Braun

Sandra.mutchler@eagleschools.net  
tom@braunassociates.com

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Memo Attached (previously e-mailed to applicant on 10/4/2018)

**Next Steps**

The Town is committed to assisting applicants through the development review process. We are looking forward to collaborating with the Project Team on how to best address the comments to ensure the purpose of Chapter 4.11 is captured in the PUD documents thereby facilitating an efficient public hearing process and ultimate build out of a vibrant mixed-use development. As such, Town Staff will continue to make themselves available for weekly conference calls to collaborate on how to best address comments or issues as they arise.

For formal resubmittals, the Project Team shall address all of the Town Staff and external referral agency comments then resubmit a revised PUD Guide, Zoning Plan, water report, and other documents as referenced in the above comments along with digital files. In lieu of providing a point-by-point comment response letter and in efforts to expedite the process, the Town requests regular meetings with the applicant to resolve outstanding issues.

Once the revised water report is received and the above-comments addressed, staff will send a revised review schedule and set hearing dates.

If you have any questions concerning comments on your project or the development review process, please feel free to contact Stephanie Stevens at 303.547.0072 or via email at [stephanie@mccooldevelopment.com](mailto:stephanie@mccooldevelopment.com).

# ATTACHMENT 1 - Open Space Chart

## Reserve at Hockett Gulch

### PUD Open Space and Park Land Dedication Analysis

Total Project Area 29.65 acres

#### REQUIRED

#### Municipal Park Land Dedication<sup>1</sup>

Total Units	500	MF units
# of people (2.5/unit)	1250	people
<b>Required Acres (.012)</b>	<b>15</b>	<b>acres</b>
Public/Private 50%	7.5/7.5	acres

#### PROPOSED

Total Public Dedication	7.5	acres
OS-1	3.5	acres
OS-2	2.12	acres
Unusable	4.4464	acres
subtotal	1.1736	acres
<b>Balance</b>	<b>-6.3264</b>	<b>acres</b>

Required Land <10% slope (80%) 6 acres

Total Private Dedication	7.5	acres
PUD 1-3	3.6	acres
<b>Balance</b>	<b>-3.9</b>	<b>acres</b>

#### PUD Common Open Space, Usable Open Space, Active Recreation<sup>2</sup>

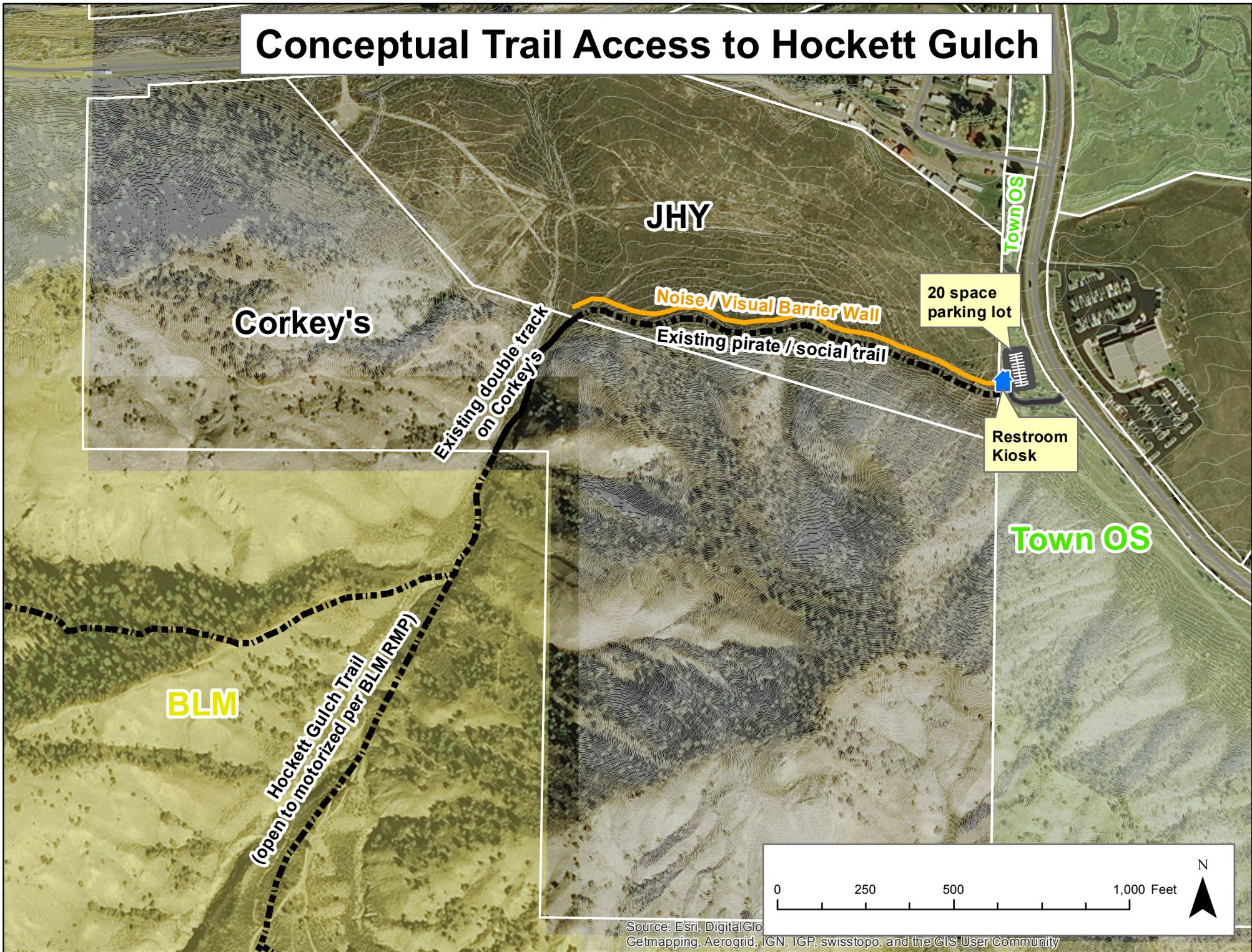
<b>Required 20% of total area</b>		5.93	acres
<b>Required 75% Usable (&lt;10% Slope)</b>		4.45	acres
<b>Required Active Recreation (50% of Usable)</b>		2.22	acres
<b>Proposed Common Open Space:</b>		5.93	acres
PUD1	15%	0.468	acres
PUD2	15%	2.139	acres
PUD3	15%	0.9975	acres
OS-1	100%	3.5	acres
OS-2	100%	2.12	acres
<b>Total</b>	<b>31%</b>	<b>9.2245</b>	<b>acres</b>
<b>Balance</b>		<b>+3.2945</b>	<b>acres</b>
<b>Proposed Usable Open Space:</b>		4.45	acres
OS-1 and OS-2		1.17	acres
PUD 1-3		3.6	acres
<b>Total</b>		<b>4.77</b>	<b>acres</b>
<b>Balance</b>		<b>+0.32</b>	<b>acres</b>
<b>Proposed Active Recreation:<sup>3</sup></b>		2.22	acres
OS-1, OS-2, PUD-1, PUD-2, PUD-3		2.22	acres
<b>Balance</b>		<b>0.00</b>	<b>acres</b>

<sup>1</sup> Application is deficient on Park Land Dedication

<sup>2</sup> Application meets PUD Common Open Space, Usable Open Space, and Active Recreation Requirements, pending review and incorporation of revised Active Recreation Definition

<sup>3</sup> Pending approval of revised Active Recreation Definition

# Conceptual Trail Access to Hockett Gulch



# Memorandum

To: Morgan Landers, Community Development Director

From: Michael J. Erion, P.E.   
Mary Elizabeth Geiger, Esq., Garfield & Hecht, P.C.

CC: Brandy Reitter, Bryon McGinnis, Carrie McCool

File: 161-9.21

Date: September 17, 2018

Re: Town of Eagle – Reserve at Hockett Gulch – Technical and Legal Review of Water Submittal

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At the request of the Town of Eagle, Resource Engineering, Inc. (RESOURCE) and Garfield & Hecht, P.C. (G&H) reviewed the water related documents in the Annexation and Planned Unit Development (PUD) submittal for the proposed Reserve at Hockett Gulch project. The water documents include an August 16, 2018 memorandum from Brownstein Hyatt Farber Schreck (BHFS), Water Management and Analysis Report prepared by Aquasan Network (Aquasan) dated August 20, 2018, and Raw Water Supply System Conceptual Design Review Technical Memo prepared by Alpine Engineering, Inc. (AEI) dated August 10, 2018. RESOURCE's and G&H's technical and legal review and comments are presented below.

## **RAW WATER SUPPLY AND DELIVERY SYSTEM**

The proposed concept plan prepared by AEI appears feasible and consistent with potential options discussed between Applicant and Town staff. The AEI memo does not indicate how many acres will be irrigated with the raw water system, but assumes there will be an adequate amount of Applicant's Ditch No. 3 water rights assigned to the raw water system.

The Aquasan report indicates that 8.2 acres of raw water irrigation are proposed for the project but the PUD appears to indicate 7.5 acres of raw water irrigation. For purposes of RESOURCE's review, Town staff has indicated that 7.5 acres should be used in the analysis. Our review does not distinguish between the types of landscaping within a raw water irrigation area as the Town Code does not draw distinctions. The Applicant proposes to utilize Ditch No. 3 water rights for the raw water irrigation system. Ditch No. 3 historically irrigated 24 acres of land, including land within the project. The dry up of 12.07 acres within the project area and the 16 AF of consumptive use credit associated therewith was conveyed to the Town pursuant to the 1981 JHY Agreement. Of this, 2.04 acres of dry up is associated with the 2.7 AF of consumptive use utilized by the Eby Creek Subdivision. It appears there are 9.89 acres of dry up with 13.1 AF of consumptive use credit and 0.209 cfs of water in Ditch No. 3 remaining and owned by the Applicant. This should be adequate for raw water irrigation of 7.5 acres for lawn and landscape. Once the balance of the Applicant's interest in Ditch No. 3 is conveyed to the

Town, the Town would need to change the point of diversion for these water rights for raw water irrigation to a pump station on Brush Creek and to municipal use at the Town's Lower Basin Water Treatment Plant to the extent not used for irrigation.

## **EQR ANALYSIS**

The Town's EQR schedule is set forth in the Section 12.16.050 of the Town Municipal Code, as was amended by Ordinance No. 18, Series 2018. There is no provision for an applicant to modify the EQR schedule and the calculation of the number of EQRs for the Reserve at Hockett Gulch project must follow the Town's schedule. The Aquasan report opines that EQR's are calculated based on the Applicant's estimated daily water use (Applicant's estimated occupancy and estimated average per capita water use) divided by 429 gallons per day per EQR. An EQR value is used by water service providers for purposes of tap fees or plant investment fees (PIF) for water and sewer facilities. A PIF is a "buy in" to the existing infrastructure such as diversion and treatment facilities, water/sewer mains, storage tanks, lift stations, and pressure reducing valves. Some of these facilities have an inverse relationship to daily water use. For example, fire flows are a significant portion of storage tank and water main sizing (and looping of water mains). Multi-story multi-family buildings require more fire flow capacity than single family units. For sewer systems, there is both a hydraulic loading and an organic loading to the system that requires treatment and must meet discharge standards. The organic loading is the same whether the toilet uses 5 gallons or 2 gallons and the concentration is higher in lower flows requiring more treatment to meet standards. The EQR represents a widely accepted methodology for equitably determining the cost to buy into the existing systems. The Town's EQR schedule is based on a relative scale of water use and is therefore also the basis for water rights dedication and/or cash-in-lieu of water rights fee in accordance with the Town Code. The EQR calculation, plant investment fees, and water rights dedication are discussed below.

## **EQR CALCULATION**

The EQR calculation for the Reserve at Hockett Gulch, according to the Town Code (as amended by Ordinance No. 18, Series 2018), is approximately 406.2 EQR (depending on actual commercial development), less 45.8 EQR credit for raw water irrigation, for a total of **360.4 EQR**. The calculation includes 148 one bed/one bath units @ 0.6 EQR (**88.80 EQR**), 248 two bed/two bath units @ 0.8 EQR (**198.4 EQR**), 104 single family @ 1.0 EQR (**104 EQR**), and 30,000 SF of commercial @ 0.5 EQR/1000 SF (**15.0 EQR**) totaling **406.2 EQR**. It is noted that the commercial use EQR rating depends on the actual use proposed - the Town Code does not specifically allocate 0.5 EQR/1000 SF. The value of 0.5 EQR/1000 SF is a reasonable estimate for planning purposes without actual proposed uses submitted.

The Town Code allows for a reduction of 0.25 EQR per 2500 square feet of irrigation if raw water irrigation is provided. The project proposes 7.5 acres of raw water irrigation which would result in a reduction of 32.67 EQR ( $7.5 \text{ ac} \times 43,560 \text{ SF/ac} \times 0.25 \text{ EQR} / 2500 \text{ SF}$ ) that could be allowed for the project. The 396 multi family units are allowed up to 500 SF of irrigation per unit for a total of up to 198,000 SF and the 104 single family units are allowed up to 2500 SF of irrigation for a total of up to 260,000 SF with a combined total of 458,000 SF (10.51 acres). This equates to 45.8 EQR ( $458,000 \text{ SF} \times 0.25 \text{ EQR} / 2500 \text{ SF}$ ) and therefore a **credit of 45.8 EQR** would be allowed.

The net EQR total for the project is estimated at **360.4 EQR** (406.2 – 45.8) including 345.4 EQR for residential development and an estimated 15 EQR for 30,000 SF of commercial development. However, as noted above, the actual commercial EQR will be calculated based on actual type of use.

### **Plant Investment Fees**

The Plant Investment Fee (PIF) and pre-payment amounts for the Reserve at Hockett Gulch should be calculated based on **360.4 EQR**. The final payment of fees would be based on actual development not to exceed 345.4 EQR for residential uses plus the actual commercial uses for 30,000 SF of development. No prepayments or payments of PIF have been made in accordance with the 1981 JHY Agreement and thus all payments are calculated at this time.

### **Water Rights Dedication**

According to the Town Code, the Reserve at Hockett Gulch project water rights dedication requirement is based on the EQR calculation of 360.4 EQR outlined above. The 1981 JHY Agreement provides for 88 EQR of water service and dedication of 16 AF of historic consumptive use credit associated with 0.255 cfs of the Ditch No. 3 water right. These water rights were conveyed to the Town. Therefore, the Applicant must provide a water rights dedication for 272.4 EQR (360.4 EQR – 88 EQR). In accordance with Town Code Section 12.26.030(c), the basic water rights dedication is 0.95 AF per EQR during the irrigation season (April – October). In addition, a cash fee (determined by the Town Board) is also assessed for the non-irrigation season demand. This would include water rights with 258.78 AF of historic consumptive use and cash payment for 13.62 AF (0.05 X 272.4) of contract storage water. The additional water rights dedication has not been adequately addressed by the Applicant.

The proposal outlined in the BHFS memo is unacceptable as it is predicated on the Aquasan report that calculates the water demand at 95.66 EQR plus a raw water irrigation water right dedication equal to 35.38 EQR. The Aquasan report was not prepared by a professional engineer; in fact, Aquasan is not an engineering company. The occupancy rates and per capita water use are not consistent with standard water right engineering values and are not consistent with the AEI values in the Utility Impact Report. The Applicant's additional Ditch No. 3 water rights are not sufficient to meet the Town Code requirements. The Town Manager has the discretion to negotiate a solution for the water rights dedication requirement including a cash-in-lieu of water rights fee if the applicant has a professional engineer prepare a report that supports a lesser per EQR dedication requirement. However, such report does not and cannot change the number of EQRs associated with the project as that is governed by the Town's EQR schedule. It is suggested that the Applicant have a water rights engineer develop an estimate of the water demands for the proposed project and a proposal for use of the Ditch No. 3 water rights, other water rights, and cash-in-lieu of water rights. The Town does not have a current cash-in-lieu fee rate per EQR and flexibility is allowed based upon the demands of the project.

As mentioned above, the Town would need to change the point of diversion for the balance of Ditch No. 3 water rights to be conveyed to the Town for raw water irrigation to a pump station on Brush Creek and to municipal use at the Town's Lower Basin Water Treatment Plant to the extent not used for irrigation.

The water rights conveyed to the Town in the 1981 JHY Agreement were included in the Town's amended augmentation plan in Case No. 87CW396 for diversion at the Upper Brush Creek Water Treatment Plant and service of 88 EQR at the JHY property. The Applicant and its predecessors have not paid the required pre-paid tap fees without the PIF payment, there is no reserved capacity in the Upper Brush Creek Water Treatment Plant for service to this project. The Town could serve up to 88 EQR from the existing water treatment facility, subject to available capacity; however, the 1981 JHY Agreement also limits the new water service to no more than 20 EQR per year. Additional use above 88 EQR would be served from the Lower Basin Water Treatment Plant when that facility is constructed and operational.

**Sandra Mutchler, C.P.A.**

Chief Operating Officer  
sandra.mutchler@eagleschools.net



October 2, 2018

Ms. Morgan Landers, Community Development Director  
Town of Eagle  
200 Broadway  
P.O. Box 609  
Eagle, CO 81631

RE: Hockett Gulch referral

Dear Morgan:

Thank you for the opportunity to provide comments on the proposed Hockett Gulch PUD. Our comments are based on discussions with town staff and review of the August 2018 PUD Guide, the updated project narrative and the applicant's response letter to town staff. Below we address two related, but distinct issues as it relates to this project's potential impact of the school system – Section 4.13.080-School Land Dedication and Chapter 4.14 Assurance of Adequate Public Facilities (APF). While it is our understanding that APF will be formally addressed during subsequent steps in the Town's review process, we felt it prudent to address student generation at this initial step in the Town's review of this proposal.

#### Section 4.13.080-School Land Dedication

It is our understanding that the proposal requests approval for up to 500 dwelling units and the applicant "envisions" the project will include 400 rental apartments and 100 other units (single-family, duplex, townhome). Further, the project as proposed would allow the developer broad flexibility regarding final decisions on unit mix and there are no assurances at this time as to what the project's unit mix will be.

We would suggest calculating the school land dedication using 500 multi-family units at .002676 acres per unit, for a land dedication of 1.338 acres. Based on what is known today, ECS would request cash in lieu of land dedication in accordance with Section 4.13.080. Due to the uncertainty as to the final unit mix and density of this proposed development, ECS requests the opportunity to re-evaluate this recommendation at subsequent steps in the review process when more detail on the project may be available.

Section 9 of the proposed PUD Guide states that "any fee payment in-lieu of providing land onsite shall be in accordance with the Municipal Code" and goes on to state that "any payment in lieu will be made at issuance of a Building Permit". The Town Code states that the dedication of land or payment of cash in lieu of land "shall be made at the time of annexation of any land proposed for residential development . . . or at the time of final plat or the issuance of a major development permit, whichever comes first". ECS requests that the Town adhere to the town code with respect to when the cash in lieu is paid by the developer.

**Sandra Mutchler, C.P.A.**

Chief Operating Officer  
sandra.mutchler@eagleschools.net



Anticipated Student Generation from Hockett Gulch

The District engaged their demographer to forecast student generation from the proposed project. Due to the uncertainty of the project's unit mix and density, two forecasts were prepared:

- Maximum 500 units to include 200 1-bedroom apartments, 200 2-bedroom apartments and 100 other units. Student generation anticipated from this develop is estimated to be 49 students.
- 250 townhomes. This development level assumes +/-10 unit per acre density over the entire project and was done to provide some context with respect to how unit type influences student generation. Student generation anticipated from this development is estimated to be 92 students.

These forecasts were done by applying student generation rates based on existing student yields from comparable residential projects. While it is acknowledged that 1-bedroom apartments will not generate a significant number of students, there is little doubt that this project has the potential to generate a considerable number of students. As outlined above regarding the school land dedication, ECS would like the opportunity to revisit these student forecasts when more is known about the project's unit mix. For example, if the project changed to all 2-bedroom apartments we would anticipate a noticeable increase of students.

Based on the forecasts above, the question to address as part of the APF process is whether the schools that serve the subject property have the capacity to accommodate students generated by the development. ECS is in the midst of updating a district-wide analysis of all school capacities and future enrollment projections. This report will be completed in the coming weeks, once it is complete we will update the Town on how this project may affect surrounding schools.

Please do not hesitate to contact me with any questions you may have. Thank you for the opportunity to provide comments on this project.

Regards

*Sandra Mutchler*

Sandy Mutchler  
Chief Operating Officer  
Eagle County Schools

pc: ECSD Business Services