



To: Mayor and Town Council

From: Chad Phillips, Director, Community Development Department  
Jessica Lake, Planner I, Community Development Department

Date: December 14, 2021

Agenda Item: File #PUDA21-01 the Eagle Ranch Sixth Amended PUD Guide and amended PUD Zoning Plan

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**REQUEST:**

The Eagle Ranch Homeowner's Association (HOA) is requesting a Major PUD Amendment to modify and update the Eagle Ranch PUD Guide and PUD Zoning Plan. The 6<sup>th</sup> PUD Guide and PUD Zoning Plan will replace the 5<sup>th</sup> PUD Guide and PUD Zoning Plan. After Council's review of the file and public comment, staff is requesting to table this application until January 11, 2022, in order for the Town Manager to begin negotiations regarding the timing of water rights dedication for the additional 100 dwelling units, as per [Section 12.26.030](#) of the Municipal Code.

**BACKGROUND:**

The application includes a comprehensive update to Eagle Ranch's PUD Guide in order to reflect the many changes over the past 20 years from the original inception of the planned unit development. The Planning and Zoning Commission held a public hearing for this application on November 16, 2021 and voted to recommend approval with the following changes:

1. Redlined PUD Guide Page 4, #3 PUD ZONE DISTRICTS – See PUD Zone District Map (Exhibit A) – replace “Town of Eagle Town Manager (or assigns) with “Town of Eagle Community Development Direct (or assigns)”.
2. Redlined PUD Guide Page 2, delete #4. The accessory apartment shall not be leased for periods of less than 28 days.
3. Provide a definition and general parameters for Special Events in Open Space Districts. Definition shall include: “Special events that travel through open space but do not include staging.”

The redlined and clean PUD Guide attached to this report include the following changes:

1. Definition of Accessory Apartment - #3 was revised to reference the floor area definition included in the PUD Guide. #4 now states “The Executive Board of the Eagle Ranch Property Owners Association may adopt additional rules, regulations and guidelines regulating accessory apartments.”
2. The definition of floor area has been revised to exclude interior stairways from the measurement. The proposed definition is “The floor area within the inside perimeter of

the exterior walls of the building under construction, without deductions for corridors, ramps, closets, the thickness of interior walls, columns, or other features. Floor areas shall not include shafts with no openings, interior courts, stairs, mechanical rooms, garages, and decks and porches that are not enclosed.”

3. Reference to Town Manager was replaced with Community Development Director.
4. Residential lot consolidation was revised as follows: “Lots may be consolidated from two or more lots, into a single lot through the Lot Line Adjustment or similar process, as may be amended from time to time, with the Town of Eagle. The consolidation of lots may be restored to the previous subdivision with the original lot sizes through the same process used to create the consolidation. The Executive Board of the Eagle Ranch Property Owners Association may adopt additional rules, regulations, and guidelines regulating the consolidation of lots.”
5. Special Events has been removed as a use by right from the Open Space District.
6. The sentence, “single-family residential structures shall not exceed 24 feet at the plate line of the primary roof form” has been removed.

Staff does not have any concerns regarding the changes made to the PUD Guide since the November 16<sup>th</sup> Planning & Zoning Commission hearing. The issue of water rights dedication is one for Council to consider and an analysis is provided below.

#### ANALYSIS:

The full analysis of this application prepared for the Planning & Zoning Commission hearing is available via the link. ([LINK](#)).

As water rights dedications are under Chapter 12 of the Municipal Code, the Commission did not weigh in on this item, and it was not part of their recommendation to Council.

#### Water Rights Dedication:

Water Rights have been dedicated for the current number of residential dwelling units approved in Eagle Ranch, which is 1,295 units. This application requests to increase the total number of allowed dwelling units by 100. [Section 12.26.010.A](#) of the Municipal Code requires that the *dedication of water rights [occur] prior to the extension of treated or raw water service to new customers*. [Section 12.26.030](#) requires a dedication and transfer of direct flow and/or storage water rights to the Town prior to the subdivision or replatting of any land now located in the Town, if such subdivision or replatting requires a change of zone district. [Section 12.26.050](#) lays out the following procedure:

- A. In accordance with the basic requirements set forth in [Section 12.26.030](#), *the Town Manager shall determine, after consultation with a person or persons skilled in the knowledge of water rights, whether the water rights proposed for dedication pursuant to the provisions of this chapter will be of sufficient legal priority under the laws of the State to ensure the Town's ability to meet the service demands of the new user. This determination will be aided by a historic use affidavit or engineering report provided by the new user.*

- B. *The Town shall have the right, in its sole discretion, to accept or reject any water rights proposed for dedication pursuant to the provisions of this chapter which the Board has determined do not have sufficient legal priority. If the Board determines that the water rights proposed fail to satisfy the basic dedication requirement, the following alternatives, or combination thereof, may be used to otherwise satisfy the basic dedication requirement:*
1. *The person required to comply with the basic dedication requirement may pay to the Town a cash amount equal to the fair market value of the water rights necessary to satisfy the basic dedication requirement.*
  2. *The Town Manager may, in his discretion, negotiate with the new user to establish other terms or conditions which shall constitute compliance with the basic dedication requirements of this chapter.*
- C. *The new user shall dedicate the water rights determined by the Town by filing with the Town Board an offer thereof. It is the intent of this chapter that no water service shall be extended to a new user until the agreed to water rights have been dedicated to the Town; however, if there are matters pending resolution in the water court concerning the water rights to be dedicated, or if there is other delay beyond the control of the new user, the Town Manager shall have the discretion to approve the extension of such water service prior to the dedication of water rights to the Town.*
- D. *Subject to negotiations with the Board, all costs and expenses attendant to the conveyance and transfer of water rights dedicated to the Town shall be borne by the new user. The Town Manager may, with approval by the Board, determine for small uses to negotiate a non-time, up-front fee to be paid by the developer and used by the Town for the costs of conveyance and transfer. Otherwise, the Town Manager shall establish a deposit requirement to be held by the Town and maintained by the new user to pay for such costs.*
- E. *Any decision of the Town Manager made hereunder shall be appealable at the next regularly scheduled meeting of the Board of Trustees, whose determination shall be final.*

PUD amendments are a rezoning, and zoning changes require a dedication of water rights. Based on the procedure laid out, Town Council has the ability to direct the Town Manager to negotiate terms and conditions for compliance. The applicant is requesting that the timing of the payment for water rights be delayed to time of building permit application rather than with the approval of this PUD Amendment application.

Town Council Action:

- The Council could determine that the timing of water rights payments proposed fails to satisfy the basic dedications requirements and direct the Town Manager to negotiate with the applicant.

COMMUNITY INPUT:

Staff has received (1) additional letter of public comment since the Planning & Zoning Commission hearing, this letter is attached. Letters received prior to the November 16<sup>th</sup> public hearing are available via the link below. ([LINK](#))

**BUDGET / STAFF IMPACT:**

No impact to the budget.

**STRATEGIC PLAN ALIGNMENT/STANDARDS ACHIEVED:**

Diversify the Attainable Housing Stock – this amendment to the Eagle Ranch PUD will allow for the creation of up to 100 additional dwelling units in the Commercial Core area of Eagle Ranch. Buildings in this area are mixed-use and development will include both commercial and residential. Residential may be either for sale or for rent, depending on the development, but will contribute to a greater diversified housing stock in Eagle.

**RECOMMENDED ACTION OR PROPOSED MOTION:**

CONTINUE File #PUDA21-01 the Eagle Ranch Sixth Amended PUD Guide and amended PUD Zoning Plan, until the January 11, 2022 Town Council meeting, in order for the Town Manager to negotiate fee in lieu water rights dedication with the applicant.

**ATTACHMENTS:**

- Project Narrative ([LINK](#))
- P&Z Commission Minutes from November 16, 2021
- Letter from Mauriello Planning Group detailing changes to the PUD Guide dated November 18, 2021
- Letter from Mauriello Planning Group requesting deferred payment of water rights dated November 29, 2021
- Redlined PUD Guide dated December 3, 2021
- Clean PUD Guide dated December 3, 2021
- Letter of Public Comment dated December 8, 2021
- PUD Zoning Plan (Map) ([LINK](#))
- Commercial Core Parking Analysis dated April 5, 2021 ([LINK](#))
- Commercial Core Parking Map ([LINK](#))
- Traffic Memorandum dated September 2, 2021 ([LINK](#))
- Public Comment Letters ([LINK](#))
- P&Z Commission Staff Report dated November 16, 2021 ([LINK](#))