



**PLANNING AND ENVIRONMENTAL
COMMISSION August 12, 2019, 1:00 PM
Town Council Chambers
75S. Frontage Road - Vail, Colorado, 81657**

1. Call to Order

1.1. Attendance

Present: Pam Hopkins, Brian Stockmar, Brian Gillette,
Rollie Kjesbo, John-Ryan Lockman, Ludwig Kurz, Karen
Perez

Absent: None

1.2. Executive Session, pursuant to: 1) C.R.S. §24-6-402(4)(b) –
to receive legal advice on specific legal questions;
Regarding: Planning and Environmental Commission
Process

Motion to convene in Executive Session – Gillette

Second – Hopkins

Motion to adjourn Executive Session – Gillette

Second – Perez

1.2.1 Actions resulting from Executive Session

2. Main Agenda

2.1. Unrelated Item

2.2. Unrelated Item

2.3. Unrelated Item

2.4. Unrelated Item

2.5. 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)

Applicant: Triumph Development

Planner: Jonathan Spence

Motion: Continue to August 26, 2019

First: Gillette Second: Perez

Vote: 7-0-0

Mr. Stockmar called for item 2. 6 review of a development plan.

Mr. Gennett, Director of Community Development, provided a statement. Mr. Gennett provided some clarification to some issues that have been raised to date. He stated that the wildlife biologist's comment that "no development is the best mitigation" is not within the purview of the PEC. He stated that the property is zoned for development and has been for 45 years. He stated that 18 acres of the 24 acres were zoned Natural Area Preservation with the remaining 5 acres as Housing. He noted that the PEC is not reviewing an application to change any development rights. He noted the application for a development plan is being reviewed today.

Mr. Gennett stated that staff has found that the application meets all the required criteria. He noted that staff has an obligation to process the application under the current code. He noted that refined conditions of approval have been circulated to the board and that there are no substantive changes.

Ms. Perez stated that no development would be tantamount to a regulatory taking

Mr. Spence described the changes to the bus stop and keeping it on the west end of the site.

Ms. Clark and Mr. Spence provided a presentation on the changes that have been made to the application.

Mr. Spence reviewed the review criteria according to Section 12-61-13 A – F.

Mr. Kassmel stated that a question raised was why the traffic count happened when it did, and the impact on traffic if school was in session. He stated that the traffic counts are done at the busiest time of the year, which is typically Christmas/New Years. He stated that with a count during school the impacts would be slight but the existing infrastructure is capable of accommodating those slight increases. He stated that the road can handle approximately 1,800 cars per hour and according to the study there are 300 cars per hour projected.

Mr. Kassmel stated that Public Works requested a budget for a sidewalk and stated and Town Council requested usage counts. He stated that the counts will be done in the next few weeks.

Mr. Gillette stated that council should consider the impact of the new development in considering a sidewalk addition. He stated the town needs to think about the future and how it is used.

Mr. Stockmar stated that the existing condition of the underpass is an issue which will be exacerbated with this development.

Mr. Spence referred to Criteria B and reviewed how it meets the criteria.

Ms. Clark and Mr. Spence reviewed the rest of the criteria for review.

There was a discussion regarding the prohibition of dogs on the entire site.

Mr. Michael O'Connor provided a presentation of the Booth Heights Neighborhood.
There was a discussion regarding a conservation easement.

Relying on a slide show titled "Booth Heights Neighborhood: Development Application and Conditional Use Permit" dated 8/12/19 PEC Meeting, Mr. O'Connor reviewed the current iteration of the proposal.

Mr. O'Connor referred to page 200 of the planning documents that outlines the changes that have been made. He stated that they have made some units smaller to arrive at the required 70/30 EHU to market rate GRFA ratio.

He noted that a landscape buffer has been added at the bus stop to buffer the space behind.

Mr. O'Connor stated that his team is present and prepared to answer any questions.

Mr. O'Connor reviewed the wildlife mitigation plan. He stated their goal is balancing the need for housing in the community with the protection of wildlife.

Mr. O'Connor stated that the dialogue with the wildlife biologists was helpful and productive and assembled a list of what can be done to help wildlife.

Mr. O'Connor reviewed a slide titled "*Revised Onsite Wildlife Mitigation Plan*" and described how they have decided to allocate their resources in the mitigation plan as a result of meeting.

Upon inquiry from Mr. Gillette, Mr. O'Connor stated that through the

discussions with the wildlife biologists, Triumph has modified their fence. Generally, the conclusion of the wildlife biologists is that fences have ends and people will go around. He stated that instead the strategy is to focus on getting people to not go into the protected areas. Mr. O'Connor noted additionally that a fence can trap wildlife and would restrict grazing area; the idea was to keep people in rather than keep wildlife out and there are instead other avenues to achieve keeping people out without the negative externalities of a fence to the wildlife.

There was a discussion regarding the proposed condition of approval on dogs. Staff's drafted condition prohibits all dogs in both the rental and homeowner units. Mr. O'Connor stated that he is in support of restricting the rental units, however, would like to allow owner occupied units to have dogs.

Mr. O'Connor discussed the revised offsite wildlife mitigation plan and identified areas that would most benefit from wildlife enhancement. Mr. O'Connor stated that they have created a mechanism to allocate resources to these areas or others.

Mr. Gillette asked regarding the parcels that the town has control of – how many of those parcels were included in the green polygons on wildlife distribution report?

Rick Thompson, Western Ecosystems, stated that there is considerable overlap of the 2017-2019 winter range polygon with the Town of Vail parcels that extend above Bald Mountain and the Booth Creek.

Mr. Thompson explained a categorical exclusion. He stated that there are conditions where there can't be any significant impacts including those that threaten endangered species or allows a habitat enhancement project that have little opposition or issues.

Mr. Thompson stated that on July 29, all the resource specialists got together and were provided with information they needed to consider a sweep of projects ranging from habitat modifications, as benign of clearing trails, to other things.

Mr. Gillette clarified that Mr. Thompson has already presented to the Forest Service.

Mr. Gillette asked about the timeline for starting the project. Mr. O'Connor stated that they would start in spring if they received approval today. Mr. Gillette then asked if the enhancements proposed will help the sheep during the first winter.

Mr. Thompson stated that some displacement of sheep to the west and driveway entrance is possible, where a buffer zone is proposed. He stated there are different types of enhancement that can be done.

Mr. Thompson stated that implementation is tricky because you do not want to disturb the sheep or do enhancements not in season.

Mr. O'Connor stated they would begin construction by June 1 and have the implementation in place for the following winter.

Mr. O'Connor then discussed the Community-wide actions to help wildlife. He stated that this effort would be the framework for helping the bighorn sheep. He noted that these strategies need to be implemented not because of one project but because of a cumulative impact.

There was a discussion regarding the mortality rate of sheep collaring sheep, which is around 3% versus 4 out of 9 sheep in the previous study.

There was a discussion regarding community wide efforts to protect the sheep through a town or community wide effort.

Mr. O'Connor stated that the sheep are here and are habituated to human activity in the valley. Mr. O'Connor stated the Town Code and planning documents require that the environment be maintained or improved from existing conditions. He stated that they are proposing a responsible development and are supporting the larger effort. He stated his development is committed to wildlife protection, more so than any other project.

Matt Yamashita and Devin Duval from Colorado Parks and Wildlife (CPW) answered questions from the PEC. Mr. Yamashita stated that they have reviewed the final letter produced by the independent wildlife biologists. He noted that the conversations tried to encompass and review the wild life mitigation plan.

Upon inquiry from Mr. Gillette, Mr. Yamashita stated that some points are implemented exactly, while other points they do not agree with. Mr. Yamashita stated with regard to the fence, in their initial comment letter they advocated for a fence based on the idea that people need to be contained. He noted that in discussions with other wildlife biologists, they agree that fences in general are not good for wildlife.

Mr. Yamashita stated that having a fence that only delays the human encroachment might not be the best solution when it will restrict the sheep to move freely.

Mr. Yamashita described the mitigation efforts as a shot in the dark and trying to replicate a habitat is difficult and can't always be done. He stated the mitigation work is a guess. Mr. Yamashita stated there are some ways to mitigate and offset impact however, it doesn't always work. He stated that they could put in \$10 million worth of mitigation and there's still no way to guarantee protection.

Mr. Yamashita stated that as this is the only winter range left, therefore it is very valuable.

There was a discussion over fertilization and the appropriate time to fertilize.

Bill Andree stated that fall is the best time to fertilize and provided several reasons why, namely to improve the root system.

Mr. Gillette asked what size of an area would be feasible to do with a backpack.

Mr. Thomson stated that it can be done with a backpack. He noted that the grass would be treated separately for cheatgrass control.

Mr. Andre stated that a larger site is needed to be feasible for a plane.

Ms. Hopkins stated that this year has been exceptional for moisture but asked "what happens with the grass and fertilizer during a drought?"

Mr. Andre stated that if there is a drought after a burn or fertilization there will be no benefit. He stated a burn may provide some benefit over a fertilizer. He stated with a fertilizer, the area should be changed. He noted that in regards to size, 166 acres is what a semi carries. He stated you do not want to do a 5-acre patch by itself; you create an area that will be decimated, so a treatment needs to be large enough to spread the animals out. It should be done in linear trips to make the animals move.

Mr. Andre thought getting the Forest Service involved would be good, however, he did not know what their desire is based on their workload.

Mr. Yamashita stated that he appreciated the consideration the planning commission has put into this project and their diligence, and appreciated being able to work with the Town and the developer. He noted it's been a very collaborative process.

Mr. O'Connor then reviewed the traffic study and methodology and

asked if there were any questions.

Mr. Stockmar stated that he relies on the expertise of Tom Kassmel and the traffic report, and is comfortable with what is presented.

There was then a discussion regarding parking. Mr. O'Connor stated that adding parking does a disservice to the community amenities. Mr. Stockmar stated that he is comfortable with the townhome unit parking ratio.

Mr. O'Connor stated the apartment building compared to other locals housing projects. Booth Heights is excess of all of those. Mr. Stockmar stated the other properties are different because of their locations.

Mr. O'Connor stated the Town Code gives the PEC flexibility through the parking management plan. He stated it's a rental community that can be controlled by leases. He stated if their lives require two cars per household, they will not live here. Mr. O'Connor stated that the households that live in the apartment building will be bound by their lease. He stated the story would be different for condominium buildings.

Matt Jones, Vail Resorts, stated that he oversees the five Colorado resorts and oversees the employee housing. Mr. Jones stated that they have direct control over the housing management of their employees. He stated that in their agreement to have a master lease for 36 units, which includes 1 space per unit and they have seen that as a successful ratio. He stated that the bus system is sufficient and an employee living in the town of Vail does not need cars.

Mr. Stockmar stated that he is glad to hear Vail Resorts housing employees are being managed differently.

Mr. O'Connor then discussed the bus stop and noted there are two options for the PEC to consider. Mr. O'Connor discussed the infeasibility of the bus stop at the east side location.

Mr. O'Connor then discussed the geology and rockfall study.

Julia Frazier, Professional Geologist, reviewed the LIDAR ground surface and noted that for their rockfall analysis they looked at the site from three cross sections. She noted that the results of that study are summarized in the table and stated that the results are less intense than results from a proposal to the west of the site. She reviewed the berm that has been designed for the site.

Ms. Frazier reviewed the ancient landslide map. She noted the

general understanding is that these ancient landslides are largely inactive in their current condition.

Upon inquiry from Mr. Stockmar, Ms. Frazier stated that she cannot guarantee that no major slide will happen. Mr. Stockmar stated he wished there was a way to quantify the risk. Ms. Frazier stated that we live in a slope risk zone, being in Colorado.

Mr. O'Connor stated that the landslide area that is designated is to the west and noted that when they get around to doing the soil stability testing, that is when you can understand the conditions and engineer for it. He stated that is why monitoring is important. Mr. O'Connor stated the rock fall zone on the site is discussed in the code and noted there is a similar condition for Solar Vail.

Mr. O'Connor then summarized the presentation.

There was a discussion regarding funds to increase the level of bus service to East Vail. Mr. Kassmel stated that the increase in service is going through the budget process currently.

Mr. O'Connor referred to a hand out he distributed to the PEC titled "*Booth Heights Development: Housing District Review Criteria*," dated 8/12/2019.

Mr. Stockmar then called for public comments:

Susan Bird, Vail resident, served on the PEC in 2012, stated that the Betty Alpine Gardens Educational center was originally proposed at the bank of the creek, however, was moved to a more appropriate location. Ms. Bird stated that she approved the Timber Housing redevelopment. She stated that she supports housing and stated that Timber Ridge apartments could also be redeveloped and there are more desirable locations. She stated dogs will chase and kill as many sheep as possible and asked the PEC to focus on the environmental impact. She stated that the town is growing at a rapid pace and stated they need to take a step back and the town needs a master plan for both portals.

Carlos, employee housing resident, stated that without having the opportunity to live in employee housing, he would not be here. He stated he enjoys his job and friendships and also cleans up cigarettes from the group when he sees them.

Kevin Sherwood, Vail resident, stated that he lives in Vail and works two jobs and struggles to survive off his income because of expensive housing. He stated his work staff was often reduced due to frozen road conditions. He stated that a staff of two people is difficult to maintain Vail.

Suzanne O'Neill, Colorado Wildlife Federation, stated that the proposed mitigation may or may not work. Ms. O'Neill stated that she reviewed the previous reports provided. She stated the condition of approval and should include timing, particularly the \$100,000.

Robin Burch, 3225 Katsos Ranch Road, stated that she is developing in Katsos Ranch. Ms. Burch stated as a real estate developer she could not build a house in a red zone and had to blast six tons of rock. She stated she has bighorn sheep in her back yard looking for food.

Ben Gilbert, Moe's Original BBQ owner, he stated that after 18 years being in business, the last two years have been the most difficult. He stated that they're struggling being open for dinner because of the difficulty in attaining employees. He stated that they are not even open for dinner tonight because they can't be and have struggled since June because of employees. He stated that they are almost out of Vail because they cannot get employees. He stated that they have worked hard to build a business to embody what their business is about and vice versa.

Terry Meyers, Rocky Mountain Bighorn Society, stated that the \$100,000 will be spent very quickly and the Town should understand what the cost will be for these mitigation efforts.

Kyle Denton, Vail resident, stated that he is in support of the proposal. He stated that the town lacks affordable housing.

Louise Hoversten read a letter from Cindy and Tony Ryerson, which stated that they have lived in Vail for 34 years. She stated that they recognize that affordable housing is important and that this project will impact the herd and their survivability.

Lynn Gottlieb, speaking for herself and husband John, stated that they were coming down Vail pass and the new entrance captured their attention and stated this new entrance creates a refreshing and pleasing aura. She stated that they looked at the site proposed and could not imagine all the buildings jammed in and shuddered. She stated this decision is not bighorn sheep versus affordable housing, that the affordable housing can go somewhere else. She stated the town should buy the land and preserve it. She suggested building on top of an existing parking structure.

Jurgen Hintz, happily paying taxes, stated that the board must ask themselves why they do not reject the false comparison of keeping the sheep or employee housing. He stated that the town can have

the employee housing and not destroy the sheep territory. He stated that the board should take on the responsibility of taking away greenbelt, to be sure there's no other way.

Charlyn Canada, Vail resident, stated that the mudslide fell into the creek because the earth was saturated and was told by the fire department to evacuate due to flash flood concerns. She stated the Booth Creek Fault slipped, which rocked their house. She looked skyward hoping to see fighter jets flying over in formation but instead saw clouds of dust from airborne boulders. Ms. Canada stated they are unsure if the berm will protect the houses. She stated the forces of nature dictate this high-risk slope and the highest and best use is for the grazing of bighorn sheep.

John Irving, bus driver in Vail, has driven by the site 18 times a day for the last 38 years. He stated that most people don't see them when you drive by. He stated that everyone enjoys seeing the sheep. He stated there was no East Vail bus; it was a bighorn bus. He stated that living in employee housing, when it first opened, nobody followed the rules. He stated that the Denver weekend people will bring dogs to this proposal. He stated that his daughter's four-pound Yorkie chases bears, so sheep wouldn't be an issue. He stated that Metallica lead guy likes that his daughter has sheep near her school.

Elyse Howard, Vail resident, stated that she has worked for Habitat for Humanity, and stated that Vail is approximately 2,800 units short and in 2025 will be more. She stated that developing housing is difficult and expensive.

Peter Seibert, Vail resident, stated that the zoning is in place and so the board's charge is to work with the developer to come up with a plan that meets the zoning for the site. He stated that if you saw this project from the beginning and told council what you'd end up with this much land to be set aside, they would've said no way. He stated that everyone has worked hard but this is time to approve this.

Jeff Wiles, Vail resident, stated that there is a housing issue for the employees. He stated that he is in favor of employee housing that will take the stress of the people he works with lives.

Donna Mumma stated that traffic safety is a big issue, especially for pedestrians. She stated the context is the new community that will go in the underpass. She noted the walkability score of this site is not walkable. It is in a category that requires a car for all residents. She stated that she takes issue that this project will decrease driving into Vail. Ms. Mumma stated that it took her an hour to take the bus to City Market.

Fred Rumford, Vail resident, stated that he has enjoyed growing up here. He stated that Triumph Development has provided a detailed analysis on providing housing in the town and stated that he feels the design criteria have been met. He urged the board to think about Vail's next generation.

Bondi Vucich, Vail resident, stated that the staff memo on Friday was a shock that it recommended approval and that it failed to include the recommendation from the three Vail hired wildlife biologists to not build on the site. She stated other issues have not been resolved: the underpass, parking, enforcement, number of units and the landslide risk. She stated the only NIMBY in this situation is the bighorn sheep. She stated they are opposed to developing on this parcel. She stated that this entire process has been flawed from the beginning, starting with the rezoning that passed PEC and council and the sudden departure of town manager Greg Clifton. She asked the board to restore faith in the local government and take their time and hold people accountable

Tom Vucich, Vail resident, stated several people have left the meeting because they cannot stay for four hours. He stated that a geological survey (6/21/2019) stated that "two possibly three small avalanche paths.... they can be very destructive." Mr. Vucich read from the minutes from a previous meeting and asked where are the geological studies?

Yann Benjamin, Vail resident, stated that he is in support of the project and described how the project supports the legacy of Vail.

Jeff Babb, Vail resident, stated that living in the community in which he worked was a great experience. He stated that living in East Vail was cool and beautiful and he never needed his car because the bus service was so amazing. He didn't even own a car for the first 3 years living here. He stated that led him to feel like a member of the community. After 6-months of looking for something to buy, they moved to Edwards, which was a difficult decision.

Beth Howard, Chief Operating Officer Vail Mountain, stated that the meetings have had strong turn out and appreciate the public's voice in this community. She stated that we need to create an experience of a lifetime, having housing in a convenient location, and why the East Vail housing location is ideal.

Mike Connolly, General Manager Triumph Partners Management, stated that his reasons for supporting the proposal are beyond just his pride in working for Triumph. He urged the board to approve the project.

Alison Wadey, Vail Chamber, stated that she moved here right out of college, lived in a small apartment. She stated they didn't have dogs or outdoor space. She stated that a few years ago they did a

few open houses with millennials, stated it wasn't just about affordability but also being close to where they work.

Mark Gordon, Vail resident, stated that he looks for the positive and this project does not come up with a win-win, and hates binary negotiations and he just doesn't see how both sides can have a win. He stated he found a few positive: 1) almost everybody prefaced their comments with saying "I support the town's initiative for housing", which is a huge positive, 2) the housing zoning which was tweaked, worked, the idea was to incentivize the private sector to build employee housing and 3) congratulated the applicant on the mitigation plan but stated its improving other areas as well. He stated this mitigation plan needs to be worked on this mitigation plan for continued mitigation.

Doug Woodridge stated that he travels a lot in the summer months, recruiting staff. He noted that the first thing out of everybody's mouth is: do you have housing? He stated he has a staff of about 100, and about 40 of them commute from Gypsum or Eagle. He stated it's about a two-hour commute by bus. He stated that staff morale goes downhill as a result of continued commuting. He asked the board to approve the project.

Anne Esson, Vail resident, stated that conditions are welcome as well as mitigation money. She stated that the biologist's recommendation to mitigate with demonstrable success before construction has gotten lost, also no dogs, not even comfort animals is not the same as dogs allowed by townhome owners. She stated dogs are carnivores. She stated the town sponsored plan offers more than the Triumph proposal.

Will Lewis, Vail resident, stated that he is on the board of directors for a town home complex, about the size of this proposal. He stated their on going problems are dogs and parking even though they have rules and regulations. He stated they are supposed to be given the information, but they are not. He stated they have tenants with four cars. He stated it's a constant challenge and it's disingenuous to think you're going to educate people about those aspects. He stated their parking is woefully unacceptable. He stated the dogs are the biggest things.

Lindsay Reimers, Vail resident, stated that every town or city arrives at a threshold project that says its time to be more sensitive to decision making. She stated we are there and that this is a complex social issue. She stated that geology and information on what we know so far is not defensible, it's scary. She stated the wildlife and dogs are not compatible.

Michael Hazard, Vail resident, stated that they held a meeting to understand how to build employee housing. He stated that the Council's actions entitled this property with housing as a use by right. He stated that there is a need for good employee housing.

Chris Romer, Vail Valley Partnership, stated that there is a need for workforce housing. He stated that the apartment parking count has been increased to 60, which is more than any of the recent housing projects that are adequately served today. He stated they do not know enough about the wildlife to say yes. He stated the Town of Vail has the playbook to help the herd and this development does more than its fair share. He encouraged the board to vote yes.

Matt Jones, father and husband, stated that he wanted to live in Vail and wasn't able to find a place and tried to buy a place in Vail and could not.

Kate Groton, General Manager in Vail, she stated that when hiring, most people ask if there is employee housing. She stated that they often lose employees to other "world class markets" asked the board to please vote yes to this project.

Joe Joyce, Vail resident, stated that he is really impressed that there are so many people present to support employee housing. He stated generally its people who are opposed have all the energy to come out to these meetings. Mr. Joyce stated that the neighborhood is a rockfall area and all those homes are in rockfall areas. He stated people are staying in their rockfall neighborhoods. He stated it comes down to zoning and personal property rights.

Joe Stauffer, resident longer than Pete Seibert stated that they transferred the density to five acres. He stated that there is no one in the room who disagrees with the need for employee housing. He stated Town Council gives the right to residents to rent. He noted over 100 permanent residents lost their jobs. He stated that if this project gets approved, the bighorn sheep, its goodbye for them.

Grace Poganski, Vail resident, stated that it's been suggested that we take the emotion out of the decision and it's also been suggested that we not repeat things that have been said. She said she found a fact that is emotionless and true: the U.S. Forest Service manual 2671.1 Sensitive Species Management: they must receive special management emphasis to ensure their viability. She noted there must be no impact to sensitive species. She asked the commission to exercise its own best practices and accept that the best mitigation for the herd is to find another location.

Heather Leonard, Vail resident, stated that as of last month she is no longer subterranean and she now has a view of I-70. She stated that there is strict enforcement of the rules in Vail's employee housing.

Pam Stenmark, Vail resident, stated that while a need for employee housing exists, their job is to dissect the merits of this development.

She stated that she finds it ironic that they have not seen a drawing of a building showing the berm. She referred to the wildlife biologists reports and stated the omissions in the staff memo are significant. She stated that the comparison of the properties Triumph uses in town is not fair. She stated that Vail Resorts can decide where their housing goes. She stated regarding dogs on the property, she is a property owner of an HOA with strict rules which are still violated and so if anybody thinks that making regulations and having somebody sign something is not going to work. She stated Triumph has used misinformation throughout. She stated that approving this because it's always done is a pattern that needs to change and to stop degrading the wildlife.

Bill Andree, stated that a comment from Triumph that everybody has their bias. He stated he has never heard a developer say I'm going to hurt the wildlife. He stated that mitigation has generally not worked and needs to come before any development. He stated that \$100,000 may sound like a lot; however, one collar is \$1,000. He stated the key to mitigation is it has to be enforced and flexible, if what you first start to do isn't working you have to change it. He stated the valley wide effort needs to be enforced and in place before any development happens. He stated no dogs, no trails, no recreation – who is going to enforce it? He stated there are dozens of conservation easements throughout Colorado and are not respected. He stated that the HOA can change their board and vote in their own covenants. He stated that they've had 5 biologists groups telling you that mitigation won't work. Mr. Andre stated that compromise means less wildlife.

Barbie Christopher stated that her biggest concern is maintaining the treasures and not pave paradise and put up a parking lot. She stated that they have regular encounters with wildlife. She stated there has always been a housing shortage in the town and living the mountain lifestyle is worth the various sacrifices. She stated the wildness of the mountains is what distinguishes us from the suburb and a city.

Susan Bristol, Vail resident, stated that she took some notes. She stated that there are some things that concern her. Ms. Bristol stated that 11 trees are shown on the site plan – and asked if we should take the developers word for landscaping at the bus stop? She stated she did not understand why the developer is so insistent on having dogs. She stated dogs will kill the sheep. Her nine pound dog barks at things, like the deer in her yard. She stated there is supposed to be implementation of mitigation and meant to be before construction. She asked how that works out with the developers building schedule. She stated that there haven't been considerations of removing some of the units and making it a little more low-rise. She stated by golly, she is all for work force housing, but not here.

Pete Feistman, Vail resident in Buffehr Creek, stated this project is not in his backyard. He stated that if the board feels the wildlife can be mitigated, and site is accessible enough to a grocery store, then I cant stop you now. He stated that Mr. O'Connor stated even this first band of cliffs is 700' above the bowl we're developing in. Do you believe a rockfall can be mitigated from this height? He stated that the owners would be entitled to build a long road which could have been an even bigger eyesore, but is ancient history. He stated that when the applicant took the business risk to rezone, it is not the board's issue. He stated that stretch of open space is a huge part of the first impression we make on Vail coming in from the east. Mr. Feistman stated if you say yes to this project, despite the environmental damage, what project would you say no to?

Larry Stewart, Vail resident, stated that the mitigation plan and the wildlife biologist showed the fallacy and non-science behind the applicant's original plan. He stated Plan B is even worse for the sheep than the original plan. He stated the memo does not put a plan in place to do any of the mitigation efforts. He stated that it is Triumph's responsibility to mitigate the development, not the Town. He stated that while they have a right to develop, but do not have a right to this project.

Mr. Stockmar stated that the residents take incredible pride in the town and thanked everyone for their input. Mr. Stockmar closed public comments and asked for closing comments from Mr. O'Connor.

Ms. Perez asked if there has been an analysis on the impact of what would have been built by right.

Mr. O'Connor stated it was a complicated exercise and he has not had the time to do it.

Mr. Gillette stated that the conservation easement should specifically be a wildlife conservation easement. Mr. O'Connor stated that finding the right person to hold the easement is important. He stated that they will work in earnest and with good faith to work with the Town on the easement. He stated getting the details correct is important.

Mr. Gillette asked if the HOA covenants can be changed.

Mr. Gillette stated it is the HOA's responsibility to enforce a covenant. Mr. Gillette stated the Town of Vail has to hold some sort of right that those covenants can't be changed. Mr. Spence stated if there is a condition of approval, HOA can't go against them.

As an illustration, Mr. Spence stated that the town has an occupancy limit within the town code. Mr. Spence stated

regulations can further restrict, but cannot exceed.

There was a discussion regarding protection of the covenants. Mr. Gillette stated this needs to be followed up with the town attorney.

Mr. Gillette asked who will follow-up with the Forest Service. Mr.

Gennett stated staff has followed up with the Forest Service and we are waiting a response.

Mr. Lockman asked about the fence. He stated there have been varying recommendations from the wildlife biologists. He stated the original plan had openings within it to allow the wildlife movement.

Mr. O'Connor stated that having no fence is a result of a collective discussion from the wildlife biologists. He noted the ability to add a fence if it is clear that people are going off the site. He stated originally there was 15 acres of land, tree cutting, enhancement across the entire area, pruning shrubs, was the original proposal and initially, was open what locations were appropriate.

Mr. O'Connor stated that he has not had the opportunity to hear the board's comments on this current iteration.

Mr. Kurz asked about the notes from the public comments that were made and asked for answers to some of the questions and concerns.

Mr. O'Connor stated that the process with the wildlife mitigation plan and what we've focused on for the past four weeks has been very good progress. He stated that the original plan was good, but, refocusing the efforts and resources is fantastic. He stated mitigation plans don't work – he stated the opportunity they have is a big picture issue and putting a significant amount of effort for the herd.

Mr. O'Connor stated that Vail Resorts is responsible for enforcement on the rental units and the HOA is the vehicle for the townhomes. Mr. O'Connor stated the payment timing needs to be addressed.

Mr. O'Connor stated the underpass is an existing condition and hopes the Town can work towards a remedy.

Mr. O'Connor stated the criteria for development is provided on the sheet provided and stated that is what the decision should be based on. He stated they have scaled the project back in terms of unit count.

Ms. Hopkins asked about the berm. She stated that when she looks at it, its 12' high and goes from 60' and becomes lower. Ms.

Hopkins asked if another avalanche situation was being created because of the berm.

Mr. O'Connor stated that he did not think so, and the berm sections provided. Mr. O'Connor stated the berm will need to be engineered and designed accordingly.

There was a discussion regarding site section A of the berm plan. Mr. O'Connor stated it will be engineered and use a substantial amount of top soil, which will require temporary irrigation to get established.

Ms. Hopkins stated that the snow and collection of snow is a concern because of the pitch.

Mr. Stockmar closed the applicant's comments and turned to closing comments by staff.

Mr. Spence stated that staff is available for any questions. Mr.

Stockmar closed staff comments.

Mr. Stockmar opened commissioner comments.

Mr. Kjesbo reviewed the criteria he stated that at the first meeting he was concerned about the project not being more integrated into the hillside, and the massing on the front end is too much and a towering building going down hill is too high. He stated that buildings should have been put against the hillside. Second, parking, you keep trying to compare it to other properties, but it is three miles away and I think you should have two parking spaces for each unit. He stated that Vail Resorts may not always be in there managing and the property might be sold down the line and wants to make sure there's adequate parking. In the rockfall, a question, if there was an incident in the future, does the town have a liability? Mr. O'Connor stated no.

Mr. Kjesbo stated that part of the massing and size requires a new bus stop. He stated that he does not see how this project can start without first doing the mitigation in the other areas so the sheep have somewhere else to go. As Mr. Andree said, and others from CPW have said, mitigation won't work we will lose the sheep and from an environmental standpoint. I can't approve this.

There was a discussion regarding the rules of order that have been established.

Mr. Gillette agreed with Mr. Kjesbo on the parking and they are not there yet. He stated that the parking has multiple effects – the reason we're having trouble with parking on the site is probably because it's

overbuilt. Parking has a curious way of affecting density and mass and if we stick with the recommendations we'll get enough parking and get the right density and mass. If this does go to a vote to approve, I think we need the conditions that the \$100,000 put up within a certain days after approval which would be what's fair.

Mr. Gillette stated that the idea is we need to start mitigation prior to the first critical winter, so I'm still torn on what you're (Triumph) responsible for and what you're not. My first thought is you have to sit there and get everyone at the table and then I thought what if the Forest Service won't come to the table, that's not your problem.

Mr. Gillette stated that when he looks at the code in terms of the sheep, we need to either determine that you can't save the sheep and therefore this is a done deal, or we need to ameliorate the problem as best we can. I question what Mr. Kjesbo would approve. I'm assuming Mr. Kjesbo means less density. Mr. Kjesbo agreed that a smaller project will have less effect.

Mr. Gillette stated that its hard to quantify no matter what there will be access from the west side of the site, there's no other way to get onto the site. The property itself isn't prime winter range, but the Town property adjacent is, and so no matter what you build there you're going to radiate into the open space. Mr. Gillette stated that at this point we have to ameliorate and deciding what is the best way to do that.

Mr. Gillette stated he thinks \$100,000 is a lot for a developer to put up, and the land set aside is more than anyone else has put in the town. He stated that best way to spend it is offsite. He stated then looking at what is deficient in the mitigation plan – he can't support the bus stop on the west end of the project. Public Works has a one track mind. Disagree that h west side if the right spot for the bus stop. Mr. Gillette stated that the bus stop needs to go east and will withhold his vote on that until it goes. In his opinion we need to do everything feasibly to mitigate for the sheep and moving the bus stop is totally feasible.

Mr. Gillette stated no dogs for sure, no short term rentals we need to work on the HOA covenants to make sure they're enforceable; conservation easement needs to be wildlife specific. He stated there's a lot more ideas that came out of the round table about establishing an ongoing effort to project wild life is important and while they're not the developers responsibly, they are our responsibility.

Mr. Gillette stated that there needs to be an agenda item on our next agenda on the Town's responsibility and start talking about ongoing mitigation efforts – independent ongoing maintenance of wildlife habitat. Mr. Gillette stated that he is in support, not as it is now, but you have to get there on parking and the bus stop

Mr. Kurz thanked staff and the applicant and public for the process.

Mr. Kurz stated that the project has become better through the process. He stated that he agrees with a couple of comments from his colleagues in terms of the fact that mitigation needs to start early, not after the fact. He continues to think that the bus stop, contrary to Mr. Gillette, should be on the west side and there should be a turnaround. He stated that he did not see the crossing of the road as an improvement of the situation and the difficulty of getting to the east end of the development to the bus stop is a concern.

Mr. Kurz stated that in terms of the criteria, the architecture, it is obviously an imposing project, however, is located not in the middle of a neighborhood and will become its own neighborhood. Mr. Kurz stated that he lives within a mile of this building and sees it as a doable in the scale and the massing that it is.

Mr. Kurz stated the drawings have improved over time to break up the perceived mass in terms of the setbacks, roof heights and materials changes. He stated that he has an issue with parking and thinks it's still under-parked at this stage and would like to see some improvement there. In terms of the mitigation, Mr. Kurz thinks it's pretty clear that from everything they have heard the sheep will be impacted one way or the other to a great degree or to a lesser degree, we don't know what. He stated that the mitigation proposed, if started at the right time and followed through, is maybe as much as can be done in terms of protecting the sheep and that is not to say that the sheep will remain there.

Mr. Kurz stated in terms of the geologist part that should be left to those with direct knowledge. Mr. Kurz stated that the landscape plan and the bus turn around on the west side would like to see extra trees in the area and there are some things he is pleased about: the solar wiring installed and can be used in the future.

Ms. Perez stated that staff and the applicant have done an excellent job along with the Town. She stated that it is not perfect and this is about balance and in listening to commissioner comments, we're giving you conflicting view points and direction which is difficult.

Ms. Perez stated that the issue here is that our ordinance and code does not require a Development Plan. Ms. Perez stated that rezoning 18 acres to open space and 5 for development was the deal. Ms. Perez stated that "no development" was not included in the staff memo because it would be a regulatory taking and the town would need to come up with fair market value for all the acres.

Ms. Perez stated that their charge as commissioners is to see if the criteria have been met or not. Ms. Perez stated that she would also like Town Council to require an Environmental Impact Statement

along with rezoning. Ms. Perez commended the applicant for the most comprehensive wildlife mitigation plan. Ms. Perez stated that in terms of the mitigation plan – it still needs work. She noted that there should not be short term rentals or dogs, unless in accordance with the law. She stated the scale and massing from by right to 74 total units is a big improvement. Ms. Perez stated that mitigation should occur early.

Ms. Perez stated that she would like there not to be smoking on site, and should be a part of the mitigation plan.

Ms. Hopkins stated that she is interested in the site and thinks that when you have a site and learn about it before you design, you have about eight mitigations to go through, and one is a huge rock fall. She stated the rockfall mitigation took 2.3-3 acres of the 5 acres so the site that can be built in is shrunk and shrunk even more so to have a driveway that works. Ms. Hopkins described the site constraints and asked if she applicant could work with the land more and sited debris flow and rockfall issues. She stated to call the berm part of the landscaping – she wants to see the berm and an accurate depiction of what it looks like. She stated that she does not think this project is right for the site.

Mr. Lockman thanked all the public comment and appreciated the passion and ability to be here.

Mr. Lockman stated that they must make a decision on this application. He stated that he has put a lot of thought into this process. He stated he did not agree with the parking, we should advocate for less parking; he is ok with it as is. He stated the updated landscaping and the bus stop should be on the west end of the project. He stated he didn't hear of a viable option for the east. He agreed with Mr. Gillette with the offsite mitigation and putting efforts into the best options. Mr. Lockman stated they have to vote on the application in front of the board. Its not our purview to look for another development site. He noted the more difficult part of the criteria is F, he stated it is a balancing act. He stated he is support of the application.

Mr. Stockmar stated that they must come to a decision to apply the law to this project. He stated there is no master plan for East Vail, though there should be. He stated they have the obligation to review Environmental Impact Reports and mitigation measures. We also have an obligation to study environmental issues in the Gore Valley, and we are not going beyond our purview when they make those analyses and comments.

Mr. Stockmar read through the PEC charter and reviewed the measures necessary to protect the residents of Gore Valley and Eagle County, which includes endangering people – he thinks this endangers people. He stated that they also must consider other matters and to act in an advisory capacity to Town Council when so

requested.

Mr. Stockmar stated that he has no question that the value of employees to this valley is vital and crucial to every business in town. He stated that is not the issue here. He stated that he does not think this is the right spot for a number of reasons. Mr. Stockmar stated they cannot dictate alternatives; they either approve or deny it.

Mr. Stockmar stated, is it possible that this project be a violation of that law to protect and cause no harm to the bighorn sheep? Mr. Stockmar stated this is a question that has not been addressed. He stated that we have all reached the agreement that there is a threat to that herd. He stated he believes the sheep herd is seriously threatened. Mr. Stockmar stated it is significantly threatened by this development. Mr. Stockmar stated that comprehensive covenants need to be adopted including banning pets and stopping the incursion of people in the surrounding area and should include stiff fines. He stated the parking question is still unresolved and finds that equating this project to other projects close to town is nonsense. He stated that enough parking has not been provided. He stated the parking is adequate for the town homes; however the 42 multi family building parking is not adequate.

Mr. Stockmar did not find sufficient evidence has been provided to support a request for lower parking ratios than the standard set in the code.

Mr. Stockmar stated that Bighorn Road is not a pedestrian friendly environment, while improvements are coming.

Mr. Stockmar stated that he would like everything to be done and legally binding before construction starts.

Mr. Stockmar stated that that Town Council members provided anecdotal experiences from West Vail, and do not have the local knowledge experience the underpass daily.

Mr. Stockmar stated in regards to the berm and rockfall issues; a large rock fell off the cliff about 200 meters from his home, which is the same strata.

Mr. Stockmar stated this development is substantially closer than the other homes further east in Vail. The diagram provided shows that it is literally on the cliff at a very steep angle. He stated it has become clear that this project is the wrong place and contrary to their environmental stewardship and does not lend itself to safe construction and it should not be developed.

Mr. Stockmar invited a motion.

Mr. Gillette stated they should give the applicant an opportunity to table.

Mr. Stockmar asked for a response

Mr. Lockman reviewed the commissioner's comments.

Mr. Gillette stated that he may sway on the bus stop location staying to the east. Mr. Gillette stated the purpose of government is to solve problems.

Mr. O'Connor stated he would like to discuss with the PEC.

Mr. O'Connor asked on Mr. Kjesbo's point on massing asked if three stories would be sufficient.

Mr. Kjesbo stated that he needs to see it. His bigger problem is the sheep, and from what he is hearing from five different experts is that we don't know(if the mitigation efforts will work), and its an environmental concern that they will go away. He stated the massing would help but, I don't know how you will convince me and the public that those sheep will be here in the future.

Mr. O'Connor asked if bringing the parking into town code would make a difference, and clarified that it's not just related to mass.

Mr. Gillette stated that parking and massing go hand in hand and a smaller project would be more agreeable with the project.

Mr. O'Connor inquired as the wildlife mitigation plan, the process that has been set up the timing of the work the commitment to getting that plan in a form that is approved before we start construction and start some more clarity on that – is that what you're looking for on the open items on the wildlife mitigation plan?

Mr. Lockman stated that yes it needs to happen before construction and be fully funded. Mr. Gillette stated that getting the Forest Service in the room is big.

Mr. O'Connor stated that he has tried getting in touch with the Forest Service, and it's not gotten anywhere. Forest Service wants to work through the Town. That is where having the town as a partner is huge.

Mr. Gennett stated that the U.S. Forest Service was invited to the round table discussion and they did not attend.

Mr. O'Connor stated they have some work to do in terms of the plan and requested to table this application. Mr. O'Connor requested to

continue the hearing.

Mr. Gillette motioned to continue PEC19-0019 to meeting of August 26, 2019.

Mr. Gillette motioned to continue PEC19-0018 at the applicant's request to August 26, 2019.

- 2.6. A request for the review of a Development Plan, pursuant to Section 12-6I- 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

Motion: Continue to August 26, 2019

First: Gillette Second: Kurz Vote: 7-0-0

2.7. Unrelated Item

2.8. Unrelated Item

2.9. Unrelated Item

3. Approval of Minutes

3.1. July 22, 2019 PEC Results

Motion: Approve

First: Kurz Second: Lockman Vote: 6-0-1 (Kjesbo recused)

4. Adjournment

Motion: Adjourn

First: Kurz Second: Lockman Vote: 7-0-0

The applications and information about the proposals are available for public inspection during regular office hours at the 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 Published in the Vail Daily