



PLANNING AND ENVIRONMENTAL COMMISSION

August 26, 2019, 1:00 PM

Town Council Chambers

75 S. 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

2. Main Agenda

- 2.1. 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

Planner: Jonathan Spence

Motion: Approve with Conditions

First: Kurz

Second: Gillette

Vote: 4-3-0

In support: Mr. Gillette, Mr. Kurz, Ms. Perez, Mr. Lockman

In opposition: Mr. Stockmar, Ms. Hopkins, Mr. Kjesbo

General Conditions of Approval

1. Certificates of Occupancy for this project will only be issued in a manner that maintains a minimum of 70% of the total built Gross Residential Floor Area (GRFA) as deed-restricted employee housing units. At no time shall the unrestricted units for which Certificates of Occupancy are issued exceed 30% of the total built GRFA.
2. This property is within a geologically sensitive area pursuant to Chapter 12-21 Hazard Regulations, Vail Town Code. Prior to issuance of any building permit for construction within the geologically sensitive areas, the owner shall submit a written, signed and notarized affidavit certifying acknowledgement of receiving personal notice of the fact that that said building or structure is in an area of geologic sensitivity and notice of the studies conducted to date with regard thereto.
3. All plans submitted with the building permit application for property within geologically sensitive areas shall be stamped by the applicant

"Geologically Sensitive Area" together with the applicable zone designation.

4. In lieu of the previously proposed on-site wildlife habitat mitigation plan, the applicant shall perform the commitments outlined in the August 16, 2019 memo titled "Booth Heights Revised Wildlife Mitigation Plan Incorporating TOV's Biologist Recommendations" submitted by the applicant. This includes a \$100,000 financial contribution by the applicant made prior to April 15 in the year that the applicant will pull a building permit, to the Town of Vail or other such agency or entity determined in consultation with the Town of Vail and Colorado Parks and Wildlife, for the purpose of ongoing wildlife habitat improvements, monitoring and study. If said funds are not in fact spent within five (5) years of the date of the contribution, the funds shall be returned to the applicant within 30 days after the expiration of the 5-year period.

Prior to Issuance of any Building Permit

5. Prior to building permit submittal, the applicant shall provide a plan for bus stops in the vicinity of the eastern end of the development to include stops on both the north and south side of the Frontage Road, to be reviewed and approved by staff. These improvements shall be financed by the applicant and completed prior to the first certificate of occupancy for the development.
6. Prior to Issuance of any Building Permit, the Applicant shall submit, for review and approval by the Town of Vail, a slope monitoring program, during construction activities, near the ancient landslide deposits at the east end of the site, in a form and manner to be determined by the applicant's professional geologist.
7. Prior to Issuance of any Building Permit the applicant shall submit, for review and approval by the Town of Vail a plan for monitoring system with video recordings for enforcement of wildlife mitigation measures and trespass in prohibited areas and take corrective action to remedy trespass, which recording and records of enforcement shall be made available to the Town of Vail upon request. This condition shall continue with the property owner and manager of the Homeowners Association responsible for the property.
8. Prior to creation of a curb cut and installation of improvements (bus stop and sidewalk) in Colorado Department of Transportation (CDOT) the right-of-way, applicant shall obtain written approval from the Colorado Department of Transportation. A copy of such approval or permit shall be provided to the Town of Vail prior to related construction activities commencing.

Prior to Issuance of the First Certificate of Occupancy

9. Prior to Issuance of any Certificate of Occupancy, the Applicant shall develop an Environmental Education Program to educate the residents and owners of the Booth Heights Neighborhood about the environmental sensitivity of the site and the vicinity. The Education Program shall be reviewed by the Town of Vail Environmental Sustainability Manager and the Colorado Parks and Wildlife District Wildlife Manager and approved by the Town of Vail. The Education Program shall include, at minimum, information on the mapped wildlife habitats, potential human impacts to bighorn sheep, elk, black bears, and peregrine falcon. The Education Program shall clearly describe the activities and uses that are prohibited on site (including dogs, outdoor food gardens, bird feeders, feeding or harassing of wildlife) regulations on trash enclosures, prohibition on construction new trails, and prohibition on accessing the area to the north of the berm/fence. A copy of the Environmental Education Program shall be an attachment to all leases and provided to all tenants prior to occupancy, and shall also be recorded with the Eagle County Clerk and Recorder to inform future property owners. A copy of the Education Program and Wildlife Mitigation Plan shall be kept on file with the Homeowners Association and shall be provided to all leaseholders and shall be made available within reasonable notice to any tenant, unit owner or the Town of Vail, upon request.
10. Applicant shall enter into a protective covenant with the Town of Vail, to be reviewed and approved by the Vail Town Council, that will bind the property, its current owners and all subsequent owners, to restrictions related to the prohibition of dogs other than those required to be permitted by law, prohibition on short term rentals, prohibition on the construction of trails, and prohibiting access to the 17.9 acre NAP parcel to the east.
11. Applicant shall install signs along the south side of the rockfall berm clearly stating that access to the berm and properties to the north of the development site, and to the adjacent 17.9 acre NAP parcel, is prohibited. The location, number and content of signs shall be proposed by the applicant and approved by the Town of Vail Environmental Sustainability Manager and the Colorado Parks and Wildlife District Wildlife Manager.
12. Applicant shall include a fence easement on the first subdivision plat recorded for this development, which easement shall generally be located along the south side of the rockfall berm, for the potential future installation of wildlife fencing should it be determined necessary by Colorado Parks and Wildlife.
13. Applicant shall work with the Town of Vail in good faith to pursue a conservation easement to permanently restrict the use of the 17.9 acre NAP parcel by obtaining a conservation easement from a land trust. This conservation easement will prohibit the construction of structures, but will

also preserve the ability for wildlife enhancements, as well as other requirements for the development of the Booth Heights neighborhood by the applicant such as geological monitoring and testing and soil stabilization activities. The primary purpose and related allowable use of the property shall be for the preservation and enhancement of wildlife.

14. Prior to final subdivision plat approval, a copy of the Homeowners Association documents shall be provided to the Town of Vail, and shall include an inspection and maintenance plan for the rockfall hazard mitigation berm. The plan shall include an inspection schedule. A copy of the inspection schedule and maintenance activities shall be provided to the Town of Vail upon request.
15. Prior to issuance of a Certificate of Occupancy for any of the deed-restricted employee housing units, the applicant shall record with the Eagle County Clerk and Recorder, in a form acceptable to the Town Attorney, the Town of Vail Type IV employee housing deed-restriction covenant.

Commissioner Stockmar called the hearing to order.

Mr. Matt Mire, Town Attorney, presented some comments. Mr. Mire stated that there was a letter stating the Mr. Lockman should be disqualified from voting due to a conflict of interest.

Mr. Lockman stated he works as an Environmental Sustainability Manager for Vail Resorts, that there has been no influence from his employer, or no impact to his employment as a result of this hearing.

Mr. Mire asked if there would be any compensatory benefit to Mr. Lockman as a result of the hearing.

Mr. Lockman stated no.

Mr. Mire asked whether he could remain impartial given his employment status.

Mr. Lockman replied in the affirmative.

Mr. Jonathan Spence made some comments regarding changes that have been made since 2 weeks ago. Mr. Spence stated the unit count and bedroom mix has been changed. He stated the unit count has been reduced to 30 units, a reduction in 12 units by converting 24 units into four bedrooms. The result is that the project now conforms to the Town's parking requirements. He stated that it does not change the total bedroom count or the GRFA. What the reconfiguration does change is the allowable

occupancy per the Vail Town Code. Mr. Spence stated for a 2 bedroom unit you could have 6 people. He stated the change reduces maximum occupancy from 252 to 228 persons.

Mr. Spence stated the wildlife mitigation plan has been further modified. He noted there was an update included in the packet and a memo was submitted by Kristen Bertuglia, and staff is available to answer any questions.

Mr. Spence stated that some commission members wanted to ban all outdoor smoking. Mr. Spence stated that the applicant has proposed an outdoor smoking area.

Michael O'Connor, Triumph Development, provided an update of the elements that have changed since the last meeting.

Mr. O'Connor stated the unit count has been reduced. He stated they looked hard at shrinking the size of the multifamily buildings. He said it was not the right thing to do for the plan. He stated that they took the PEC's direction to meet the parking requirements seriously. Mr. O'Connor stated that EHUs were a community need.

Mr. O'Connor then reviewed the criteria for review and referred to the previous meeting's testimony.

Mr. O'Connor, relying on a slide titled "Comparison to TOV Residential Districts" discussed the density level of the proposal compared to the surrounding neighborhood.

Mr. O'Connor stated they have added additional tree coverage for the new proposed bus stop.

Mr. O'Connor then reviewed the designated smoking areas on the property. He noted it's important to provide these spaces, as no smoking is allowed inside the units. He stated these areas are contained within the site and should not be a wildfire nuisance.

Mr. O'Connor then reviewed criteria E and stated that many pages of environmental reports have been combined and reviewed. He noted that there has been a comprehensive review of the proposal and noted their wildlife mitigation plan. Relying on a slide titled "Revised Onsite Wildlife Mitigation Plan" Mr. O'Connor reviewed what the changes have been: mainly a conservation easement granting a covenant to the Town of Vail. He noted that it also allows the Town to enforce wildlife violations and moving the wildlife fencing, additional screening, prohibition on short-term rentals, prohibition of dogs. Mr. O'Connor noted a \$100,000 contribution to be paid prior to April 15 of year of work.

Mr. O'Connor stated that he has demonstrated compliance with the Housing district criteria and asked for approval for the proposal.

Mr. Spence stated that US Forest Service and a wildlife biologist are available to answer any questions.

Mr. O'Connor stated 7 sheets were resubmitted as changes – the interiors changed.

Mr. Spence stated the only changes were the floor plans and some landscape treatment around the west end bus stop.

Mr. Gillette: Inquired about the wildlife mitigation plan.

Mr. O'Connor stated that there is one document that summarized everything and noted that in addition the PEC can impose conditions of approval, which supersede the other documents.

Ms. Perez: Inquired about condition number 7 – line 6 and noted a stray comma. Condition 8 line 9 the language should say except as required by law.

Ms. Perez: Are you in agreement with all these conditions?

Mr. O'Connor: Stated he is acknowledging the conditions of approval as a requirement to get this approved.

The board then discussed with Mr. O'Connor the mechanisms in place to regulate the restrictions on the property. Mr. Stockmar was not convinced that the things in place are adequate to protect the environment and species. Mr. Stockmar stated he is not sure they are adequate as preventative. Mr. Stockmar asked about protection from injuries or damage from rockslides.

Mr. O'Connor stated that the studies that have been done and the identification of the severity is half of what is next door while the mitigation efforts are the same as next door.

Mr. O'Connor stated they have the plan and engineering in place and the Town's code identifies what needs to be done in order to develop in these areas.

Mr. Stockmar stated that once an issue has been put on the table, their purview expands to include those issues.

Jonathan Spence stated that the application as proposed today is for the west end bus stop.

Page 2 of Mr. O'Connor's memo states no major cuts, slopes or paths at the front of the site.

Mr. O'Connor stated a landscape path at the far end of the site is proposed to maintain access.

Mr. Lockman inquired about the enforcement of the protective covenants.

Mr. Spence stated that it is not the Town of Vail's sole responsibility, the HOA is responsible, and if it is failing, then the Town may step in.

Mr. Devin Duval, Colorado Parks and Wildlife, stated that largely speaking, we don't know what the efficacy of the mitigation measures will be. He noted the offsite habitat treatments will be done with the best practices but we don't know what the permanent effect will actually be. He stated that they've gotten to a good place that will at least minimize impacts and they still have concerns and questions about enforcement and seed money and funding availability after the 5 year time frame.

Mr. Duval stated that local extrication is a possibility and they cannot say defensibly that that is not a possible outcome.

Mr. Gillette inquired about the survival of the sheep without this development.

There was a discussion regarding the impact of the development on the winter range.

Mr. Aaron Mayville, US Forest Service, answered questions from the board.

Upon inquiry from Mr. Gillette, Mr. Mayville stated that they are looking at two scales of habitat improvement. The first is looking at some relatively simple habitat measures in the triangle trip about 30 acres. He stated that can be done quickly. He stated the second is the larger scale which has more hurdles; he noted that maybe that is the best thing to do. He stated that is really prescribed fire across the range. He stated they have a policy direction not to do prescribe fires within the wilderness. He stated that we have two resource areas wildlife habitat and wildlife values that are clashing. He stated that in the next couple of months they will review the bigger habitat improvement. Mr. Mayville stated they have been taking steps to explore the possibility of doing this.

There was a discussion over the pros and cons of prescribed burns.

Mr. Lockman asked how confident Mr. Mayville is with the wildlife protection plan.

Mr. Mayville he stated if we can improve habitat and there is \$100,000 to do that, it's a good thing.

There was a discussion regarding closures and other tools available to protect wilderness.

Mr. Gene Byrne, retired Colorado Parks and Wildlife, stated that for the last 17 years of his career he worked in the Vail area.

Ms. Melanie Woolever, Retired U.S Forest Service for 30 years, was the bighorn sheep leader. Ms. Woolever stated that she and two others submitted reports.

Ms. Woolever stated that overall, there's nothing about the project that is going to benefit the bighorn sheep. She stated it's hard to know what the disturbance impacts will be, though we know there are impacts. She stated that there are a lot of unknowns. She stated reducing the amount of impact from the public is good.

Mr. Byrne stated that offsite habitat improvements would be more beneficial. He noted that it is difficult to make bighorn sheep habitat out of an aspen grove.

There was a discussion regarding the impact of the proposed berm and whether or not there should be a closure.

The wildlife biologists were in support of the bus stop to the east. Mr. Stockmar asked if the proposed mitigations re enough to offset the impact to the sheep.

Ms. Mayville would not give a response to whether the proposed mitigations would protect the bighorn sheep. She stated that there is not enough information to know.

Mr. Byrne stated that he is encouraged with the changes that have been proposed: putting the mitigation efforts offsite, prohibiting dogs, putting seed money towards habitat restoration. He stated he did not think anybody could predict – he noted the biggest threat to the bighorn sheep herd is closely associated with domestic sheep and pneumonia. He noted that domestic sheep can carry pneumonia and pass it on to bighorn sheep.

Mr. Gillette asked what the best use of \$6 million would be – to buy this lot or put the money towards offset. Mr. Byrne advocated for the offsite habitat work. He noted this is on the edge of the prime sheep winter range. He stated if it was right below the cliffs, it would be different. He stated this area is the only mapped winter range that we know. Mr. Byrne described how strange it is that the sheep return to this area and it is a very special area.

Ms. Woolever stated that the challenge is not just the 5 acres, it's the associated disturbance that comes with it. She stated enforcing this and all the restrictions in place, ameliorating the disturbance is going to be really difficult. She stated the habitat restoration also needs to happen. She stated that if it were up to her she'd say not to put the developed there but noted it is not the loss of 5 acres, it is also the assorted disturbance.

Mr. Stockmar closed the presentation by the applicant and staff and opened the meeting to public comment.

Public Comment:

Larry Stewart, East Vail, stated that the reduction in the unit count does nothing to correct the problem of the project. He stated it only has an incremental effect on the number of people who will be living there. The mass is the same; it will still stand out like a sore thumb. He stated that nothing has been improved. He stated that the mitigation must be implemented – past tense. He stated that Triumph is walking away from their responsibility to mitigate from their harm. He asked the board to turn down the project.

Susan Bristol, Vail resident stated that the PEC members are asked to approve a plan without the appropriate tools. She stated that a 3-D model is a pretty basic tool and stated the board has been given a slow dribble of a flat site plan and flat drawings that do not accurately demonstrate the topography and masses.

Joe Stauffer, Vail resident, stated 3 wildlife biologist came to the same conclusion: this project should move somewhere else if you want to save the bighorn sheep. He stated that this project is a bad deal for the Town of Vail. He stated it is a bad deal because when you come up for an alpine visit this will be the first thing people will see coming up from Denver. He stated that it does not address the problems it will create.

Burke Chestnut, East Vail Resident, discussed safety and pedestrian concerns and stated they were not evaluated. He stated that there have not been any up to date safety features. He asked, who will pay for upgrades while it is a direct impact from this development? He asked, who would be liable should something happen?

Ann Marie Mueller, born in Chamonix (France), she stated that anyone who has a decision to make should go and see Chamonix and see the destruction from the rock slides. She stated that you have to see the worst to make a decision that can be based on the utmost caution.

Kevin Denton, lucky enough to live in one of the Town of Vail units at Chamonix. He stated that he is in support of this. He stated more people like him need the opportunity to live closer to work and have access to public transportation route. He stated that more and more people are going that route because you don't want to pay for parking when you're going to work. He stated that having people say that this isn't the right site for this development is more or less saying that people like him shouldn't live in this area, and stated that it should be a hard yes.

Tom Hopkins, Vail Resident, stated that the essence of the issue is that there are two very good uses competing. He stated that we want affordable housing and want to preserve the beauty of the valley and the bighorn sheep. He stated that for affordable housing there are other options.

Diane Coggan, Vail resident, stated that she is proud to say she has raised a great son because of the people like Tom Hopkins, who assisted her when her son went missing. She stated that she loved the community and asked what will happen to everybody with grey hair is gone.

Jonathan Stauffer, Vail resident, stated that he submitted 3200 signatures on a petition. He stated that this is a great project in the wrong place. He stated that the documents that make up the planning and zoning codes envisioned a town that lives in harmony with its environment, he said this doesn't.

Molly Morales, Vail Local Housing Authority, she stated that the housing authority fully supports the project.

Pam Stenmark, Vail resident, asked why we've not seen an image showing the berm in relation to the architecture. She stated that the project should be limited to only service dogs. She stated smoking of all kinds should be limited.

Blondie Vucich, Vail resident, spoke to pedestrian safety. She stated she is a runner and has had many close calls. She spoke to the serious concerns with pedestrian safety and asked the board to take this seriously.

Joan Carnie, Vail Resident, stated that in the early days there was

a thought of building a gas station at exit 180 for East Vail and was denied because the people who lived there wanted it to be a low-density neighborhood always. She stated she wants to keep east Vail a nice area. She stated that the employees live down valley and come up here, they still enjoy the whole experience and there are some opportunities opening up for employees. She stated that this is a money maker for Triumph and Vail Resorts and asked if they've looked around for other places.

Cindy Steimle, Vail resident, asked if Vail wants to be known as the exterminator of bighorn sheep. She stated we are custodians not of Vail Resorts employees, but of the land and animals. She stated it is their right and responsibility to protect the animals. She stated that Vail Resorts will be known as the destroyers of the dwindling protection of the bighorn sheep.

Grace Poganski, Vail residents, stated that this property is in Geologically Hazardous Area and read from the code.

Pete Feistmann, Vail resident, discussed the size of the building. He stated that the \$100,000 mitigation is a pittance and affront to the sheep. He described the staff memo's private covenant comment.

Kaye Ferry, Vail resident, referred to the wall and stated that the language on the wall should be used as the criteria for every project to be reviewed. She stated they are being led to believe that if this project is not approved then there will be no employees. She stated we have choices. She stated there is half of Timber Ridge that has not yet been redeveloped and that density should be increased. She stated that Ever Vail has been approved with hundreds of units and there's been no movement. She stated that we have many choices but need the nerve and determination to enforce those choices. She said this is a very easy decision and vote to preserve this land.

Jim Lamont, Vail Homeowners Association, stated that he was part of a group that planned East Vail. He stated that they came to the conclusion that this site was an undevelopable property due to the natural hazards and wildlife issues. He stated they could not come to an agreement on the acquisition of the property. He stated he and others are trying to defend the integrity of the community.

Mike Steimle, Vail resident, stated that this past winter there was a lot of snow. He stated that the whole herd of sheep came and invaded their neighborhood because they didn't have anywhere else to go and now they're trying to take away more space from the sheep. He stated a lot of his neighbors were mad because sheep ate what they paid for.

Tom Vucich, Vail resident, stated that the applicant stated they are seeking to ensure protection of the wildlife and stated that is a complete falsehood. Mr. Vucich stated that Mr. Lockman had some concerns about the accuracy of some of the renderings. He stated that enforcement does not happen and cited examples of failure enforcement.

Mary McDougall, Vail resident, in support of the project and urged the PEC to give more opportunities to live here.

Tony Ryerson, Vail resident, stated that this is a huge gamble and the risk is not worth it. He stated there will be no undoing if the herd vanishes which is what the experts are saying. He stated once the project begins and excavators come in he does not think any mitigation is going to have them come back. He stated the concession that the applicant has offered in the reduction of the number of units and money is a nice gesture, but it would feel like a conscience bribe. He stated it will be a big scar.

Chairman Stockmar closed public comment.

Mr. O'Connor stated he has no closing comments.

Mr. Spence stated he is available for any questions. He noted the ADA ramp exhibit was just to show what would be necessary for an East Vail bus stop.

Mr. Lockman stated he wanted more information on the bus stop options.

Mr. O'Connor stated that they are proposing is a bus stop on the west side of the property with the additional screening.

Mr. O'Connor stated that there is a landscape path wooden steps, buried in the snow during the winter.

Mr. Stockmar stated there is a conflict between the memo, his statements and the drawings. Mr. O'Connor stated they are trying not to see east-west barriers.

Mr. O'Connor stated that if the bus stop was located to the east there would be substantially more paths for an ADA compliant route to the location.

There was a discussion regarding the location of the bus stop.

Mr. Gillette asked Mr. Byrne which is worse, having the bus stop to the west or allowing the sheep to come into the bus stop and

getting blocked to the east. Mr. Lockman stated that the proposed design created a clear area

Ms. Hopkins stated they could create another berm to prevent the sheep.

Mr. Byrne stated because there is the road that goes down the west side and the frontage road and the heavy impact is uphill from the sheep, his feeling is that these 1.7 acres will be lost to sheep. He stated that Rick Thompson felt they may come in at the winter, though has changed his opinion.

There was a discussion between the board, wildlife biologists and Colorado Parks and Wildlife on the best location for the bus stop.

Mr. Lockman thanked the public comments. He stated that they have to look at the development application today and make a decision based on the criteria. Mr. Lockman stated that he has learned a lot of about the importance of pedestrian safety and stated that he is hopeful about the situation as the Town Council has approved a budget specifically to look at the underpass and noted that pedestrian safety is one of his highest priorities. He stated he asked for scaling and massing which was provided by the applicant. He noted that over the years models have been provided. Over the years and he's never seen a physical model.

Mr. Lockman stated in terms of the bus stop, he is struggling because it is about reducing the impact. He stated he wants to hear the other commissioners' opinions on it. He noted if there is a true benefit of moving the bus stop to the east he is open to the idea, though feels it would be more suited on the west. He stated that some improvements that have been made since the last meeting are helpful. Mr. Lockman stated partnering with the Town for increased enforcement is helpful. Mr. Lockman stated the longer-term idea of the permanent conservation easement is a must.

Ms. Hopkins stated that the Town of Vail has standards and the PEC has standards to uphold. She stated the number one criterion is the building design, which is her strength. She stated this building will last until 2060 or 2070. She stated the project showed in East Vail were Timber Falls and Racquet Club, which are aging. She stated the applicant needs to up their game in terms of design. She cited concerns with the roof heights, and the windows being the same size. She stated there is no character and it looks like any neighborhood in USA. She stated it does not work with the topography and needs to be better. She stated that the massing is huge and dense. The way she sees it, the berm takes two acres of the land, 60' high on the east side and has 2 acres for the buildings, and that takes it to 61 units on 2 acres or 30 units an

acre. She stated that is not what was originally thought of and it is crammed.

Ms. Hopkins stated the berm is part of the massing and the only thing we ever received was a flat elevation, which if it was in the perspective provided it would have overwhelmed the building, and stated it is huge and impactful. She discussion item B – responsive to the site and the community. She stated the project does not respond to the site at all and the proposal will just bulldoze the site. For the open space and the landscaping, the south side of the berm which is visible, the top half is at 1:1 slope, the second half is a 2:1 slope. I don't know how you can keep topsoil on or get anything to grow on there. She stated that it is difficult that it gets counted as landscaping.

Ms. Hopkins stated that part of it is sustainability and in 2015, the Town of Vail was to be a sustainable destination. This project is just going in bulldozing and filling and excavating into the north side. She stated that to her it is offensive that the berm was not seen, it is disingenuous. She stated in terms of the pedestrian and vehicles she prefers to move the bus stop to the east. The environmental issues, the wildlife, she did not see how any of the mitigation efforts will work. She noted the next 8 mitigations includes rockfall, landslide, wetlands slope stability existing unknown soils condition, existing springs 2-3 avalanche paths and debris flow. She stated she has read all of the engineering reports and the construction related issues have been somewhat addressed and did not know if blasting was required.

Ms. Hopkins stated that the berm is designed for spherical boulders but there is also littered on the site 20-25' limestone slabs and cited a concern if those were dislodged. She stated that Chamonix is well done and works with the land. She stated they did not bulldoze the whole site. She stated it doesn't seem like they're there yet to do this. F: compliance with other plans – she noted that action item 2 in the 1994 Open Lands Plan and action item 23 in 2018 Open Lands Plan, the purpose is to protect environmentally sensitive land form development.

Ms. Hopkins stated it's still an option for Town of Vail to purchase the parcel. She read from the Vail Land Use Plan. She stated that she did not think the project is there yet and the whole project will look like a bulldozed swath.

Ms. Perez stated this is about balance and whether or not the applicant has met the criteria. She stated they have asked the applicant to make a lot of changes. She stated the applicant has gone above and beyond any other mitigation plan ever submitted before this commission. She noted it was helpful to hear from Colorado Parks and Wildlife and the wildlife biologists. She stated their criteria is not elimination of environmental impact, it is

mitigation as necessary. She stated the mitigation plan as submitted is a pretty good plan, as said by the experts. Ms. Perez stated that they need to take into consideration what has happened in the last 5 meetings. She stated that they serve at the pleasure of the Town Council who gives them their criteria and standards. She stated that she thinks we need a vote today.

Mr. Kurz stated they need a vote today. He stated this is one of the more difficult decisions they have had to make. Mr. Kurz stated after all the pros and cons brought up by public staff, consultants and this commission, that they must review the application under their criteria. He stated the applicant has done an adequate job responding to the commission and the public. He stated he fully understands and accepts that the sheep will be impacted, however, he thinks the mitigation proposed and is being supported by the wildlife groups to some degree is helping the project. He stated the parking issue has been resolved. Mr. Kurz stated this application with the conditions for approval protects the Town in the best way it can be protected. He stated he would be voting in favor.

Mr. Gillette stated that there is a properly vetted application. He stated that it will be up to Town Council to decide whether or not to acquire the site. He stated that dollar per dollar, the Town is better off spending the money on offsite habitat enhancement. He stated moving the bus stop to the east would be the responsible thing to do. He stated there is no safety issue with people crossing the street – while the underpass is a different story. He stated that it is the Town's responsibility to get a bike path or sidewalk there. Mr. Gillette stated the Town needs a budget for wildlife enhancement. He stated our houses have been built in wildlife habitat and stated that we're all responsible for this problem and should use our tax dollars to solve it. He stated the real shame would be for Council to do nothing, and to not throwing money to save this herd would be a shame. He stated he is in support and wants to have a conversation about the bus stop.

Mr. Kjesbo stated that there are major issues with bulk and mass and there is a better way to step and utilize the hillside. He stated there is too much bulk and mass. He stated the parking solution is not a loophole and has been part of the Town Code for a long time. He stated on the rock mitigation the rules have been followed. Mr. Kjesbo stated that he didn't think that smoking on the property can be stopped. Mr. Kjesbo stated that the rules and regulations that are going to have to be imposed on this project are crazy: no dogs, no smoking, then to have to have the Town possibly come in and enforce is wrong, so he has a problem with that. Part of the mitigation hearing from the experts includes no bus stop on the west end. He stated it goes on the east end then we have pedestrians in danger, another reason he cannot support the project. He stated he did not think \$100,000 is enough as he's heard from the other meetings. He stated that if this project were to

go forward the offsite mitigation must happen before this project starts. He did not know how any other way would work.

Mr. Kjesbo stated that he agreed with Mr. Gillette on the underpass and the Town should make it safe. He stated that nobody on these decks on south side will be able to have a conversation it is going to be loud. Last thing, according to the Open Lands Plan that this commission forwarded to Council, they talk specifically about environmentally sensitive lands and talk about this site. He read from the Open Lands Plan about this area, these 93 acres are critical bighorn sheep habitat and make them unique. He stated he would not be in support.

Mr. Stockmar stated that he concurred with Kjesbo and Hopkins and stated this site is extraordinarily environmentally sensitive and this parcel has been discussed in length. He stated due to errors in record keeping nobody seemed to know who owned this property. He stated that it was clearly in the county records. Mr. Stockmar stated that several of the findings he is opposed – building design with respect to architecture, massing scale and orientation, none are compatible with the site. The architecture looks like it belongs in a town in Iowa. It's not original, it's not interesting. He stated the character of the buildings do not belong in the mountains. The character is fundamentally not in character with or in compliance with similar properties in town; it would stand out like a sore thumb. He stated that bulldozing of the mountain side is required, which is a significant violation of that location, and there is nothing about it that is compatible with the site or adjacent properties.

Mr. Stockmar stated that there are other properties that fit in with the neighborhood and this is nothing like those. The building uses are not designed to be responsive to the site. The only way to develop this is to bulldoze it almost flat. He stated that he does not believe that it is responsive to the community as a whole. The open space and landscaping relies on what is there and planting some trees, and bulldozing the rest.

Mr. Stockmar stated there is not adequate buffering between the proposed uses. He stated the pedestrian and vehicular circulation is not designed to provide safe circulation of the site. He stated the access to the west is fine except it may impede part of the Town of Vail property. Mr. Stockmar stated that the applicant represented there would be no paths obstructing the front of the site, but there are paths proposed. He stated that the parking issues on paper have been addressed; he still counts people in cars and sees a lot of people in a lot of cars. He stated the environmental impacts have been identified and he doesn't see that the mitigation solves the issue. He stated that there is no East Vail comprehensive plan and he would like to see one. He'd like to see more attention devoted to the development of that plan.

Mr. Stockmar stated that this development is dependent on significant financial expenditures. He stated that he strongly concurred with Commissioner Hopkins and Kjesbo.

Mr. Lockman inquired of staff on the current bus stop.

Mr. Tom Kassmel, Town Engineer, Public Works, discussed the existing bus stop and the direction of traffic that it serves. Mr. Kassmel stated if the bus stop were to be moved to the east side, he recommended that there would be more standard bus pull off constructed and have pedestrian crossing with the flashing beacons. He stated that the west bus stop is the best from a residential safety standpoint.

Upon inquiry from Mr. Gillette, Mr. O'Connor stated that in regards to improvements, that would be acceptable if there is room to do it and would require CDOT approval.

Mr. Gillette stated that he would like a condition of approval that says the bus stop goes to the east and gets approval from CDOT, and if there are problems with that then the applicant can return to the PEC for a revision.

Mr. Lockman stated that if moving the bus stop reduces the impact to the wildlife, he can be OK with that.

Ms. Perez and Mr. Kurz were comfortable with moving the bus stop to the east.

Mr. Kurz stated that earlier today and through some of the other meetings there were some innuendo and some maligning comments made in regard to Town staff. He stated he has served on numerous Councils and Planning Commissions and Design Review Board and have gotten to respect staff and thinks its inappropriate to point out that staff might be in on the side of a developer or staff is working underground. Mr. Kurz stated these are professional people who know what they are doing and make mistakes as everyone does, but is inappropriate to malign staff without solid knowledge of something that has been going on which has not gone on.

Mr. Kurz moved to approve the request for Booth Heights Development Plan for a new housing developed located at 3700 North Frontage Road East subject to 14 conditions of approval.

Mr. Gillette requested that the motion include moving the bus stop to east side and using the existing bus stop on the north and the developer is responsible for the cost and installation.

Mr. Kassmel stated that the developer should be responsible for building adequate bus stop on both north and south side of the frontage road and the financing of them.

Mr. Kurz noted the conditions as amended and the findings on page 7 of the staff memo dated 8/26/19

Gillette seconded the motion.

Vote: 4-3-0

In support: Mr. Gillette, Mr. Kurz, Ms. Perez, Mr. Lockman

In opposition: Mr. Stockmar, Ms. Hopkins, Mr. Kjesbo

- 2.2. 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: Approve

First: Kurz

Second: Lockman

Vote: 5-2-0

Support: Gillette, Kurz, Lockman, Perez, Kjesbo

Opposed: Stockmar, Hopkins

Planner Spence presented. He stated that when the memo was submitted last Thursday, the unit count was not updated. He stated it is not an issue. Mr. Spence stated the application meets the criteria.

Commissioner Stockmar called for public comment.

There were no comments.

Commissioner Stockmar invited a motion.

Commissioner Lockman moved to approve.

Commissioner Kurz seconded.

Support: Gillette, Kurz, Lockman, Perez, Kjesbo

Opposed: Stockmar, Hopkins

5-2-0

- 2.3. Unrelated Item
 - 2.4. Unrelated Item
 - 2.5. Unrelated Item
 - 2.6. Unrelated Item
 - 2.7. Unrelated Item
 - 2.8. Unrelated Item
 - 2.9. Unrelated Item
 - 2.10. Unrelated Item
3. Approval of Minutes
- 3.1. August 12, 2019 PEC Results

Motion: Continue to 9/9/2019

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

Chairman Stockmar stated that the meeting minutes for August 12th had several errors and made a motion to continue so that they could be corrected.

Commissioner Gillette stated that he noticed that the Booth Heights items were listed as Tabled in the minutes, and should have been listed as Continued.

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