

ASSURANCE OF ADEQUATE PUBLIC FACILITIES  
CHAPTER 4.14 OF THE MUNICIPAL CODE

A REPORT OF THE EAGLE TOWN PLANNER  
PERTAINING TO THE EAGLE RIVER STATION PROJECT  
DEVELOPMENT PERMIT APPLICATION  
FILE NUMBER PUD 06-03

INTENT

It is the intent of Chapter 4.14 to adopt a program approved by the Town; to insure that no Subdivision approval, Planned Unit Development approval, Development permit approval, or Special Use Permit is granted or issued which would cause a reduction in the level of service for any Public Facilities below the Adopted Level of Service standards approved by the Town; to insure that adequate Public Facilities needed to support new development or a special use area are available concurrent with the impacts of such development or use; to establish uniform procedures for the review of the adequacy of Public Facilities needed to service new development, new subdivisions or new special uses; to facilitate implementation of the goals and policies of the Town's Master Plan, including the Eagle Area Community Plan relating to adequacy of Public Facilities; and to insure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

APPLICABILITY

The Eagle River Station land use application currently under review is a Planned Unit Development, Development Permit and the provisions of Chapter 4.14 apply to the review of this application. No applications for Development Permit approval shall be granted unless a positive Determination of Adequacy or positive Determination of Adequacy subject to conditions has been made by the Town in accordance with this Chapter 4.14.

PUBLIC FACILITIES IMPACT STATEMENT—GENERALLY

All applications for approval of a Planned Unit Development, Development Plan shall be accompanied by a Public Facilities Impact Statement, unless otherwise determined by the Town Planner. Such statement shall include sufficient information to allow the Town to determine the impact of the proposed development or special use on Public Facilities pursuant to the procedures set forth in this Chapter. The information required shall include, but not be limited to:

1. The total number and type of structures or dwelling units, and the gross density of the proposed subdivision, development or special use;
2. The location of the proposed subdivision, development or special use;
3. An identification of the Public Facilities impacted by the proposed subdivision, development, or special use;
4. If an Applicant seeks an exemption from the requirements of this Chapter based upon a claim that the Applicant has obtained and possesses a vested right to undertake and complete the subdivision or development, information sufficient to permit the Town to determine the validity of the Applicant's claim of exemption; and

5. All information required by Sections 4.14.110 through 4.14.130.
6. Any other appropriate information as may be deemed necessary by the Town Planner in evaluation the adequacy of Public Facilities consistent with the provisions of the Chapter.

#### SUBMITTAL OF PUBLIC FACILITIES IMPACT STATEMENT

The applicant, as a part of the Development Permit application, submitted the Public Facilities Impact Report, which is titled “Assurance of Adequate Public Facilities Report” and is attached as Exhibit A. Supplementary information attached with the “Report” are the following: the PUD Zoning Plan; the overall plan of development; school reports of capacities; Pages B-3, B-13 and B15 of the school district master plan; and the Preliminary Plan Water and Sewer Impact Report, Exhibit.

The Town Planner deemed the Development Permit application complete on January 16, 2008—see Exhibit B.

#### RECOMMENDATION BY TOWN PLANNER

Following is an evaluation of the Town Planner of the proposed development permit application to insure that Public Facilities needed to support new development meet or exceed Adopted Level of Service standards, including an evaluation of the following.

#### **1. The number and type of structures or units proposed by the Applicant**

##### Mixed Use Residential zone district and Mixed Use Lifestyle zone district

581 multi-family housing units of the following approximate distribution.

- 17 studio units
- 133 one bedroom units
- 274 two bedroom units
- 157 three bedroom units

##### Mixed Use Lifestyle zone district

270,064 square feet of commercial retail  
90,000 square feet of hotel or 150 rooms of hotel  
20,000 square feet of office

##### Commercial Retail zone district

282,000 of commercial retail

##### Total Uses Proposed

581 housing units  
552,000 square feet of commercial retail  
90,000 square feet of hotel or 150 rooms of hotel  
20,000 square feet of office

## 2. The proposed timing and phasing of the development

The timing of construction of vertical construction, that is, construction and occupancy of residential, commercial/retail, office and hotel are as follows. These dates are used as an indication of when the effects of development will occur in relation to demands on town infrastructure. The dates below follow the date of “Final Approval” which is a defined term in Section 1.4 of the Development Agreement between the applicant the Town. In general, “Final Approval” means the later of the following: (a) “Board Approval”-- the date that is thirty-one days following the date of publication of the ordinances or resolutions by which the Town Board of Trustees approves the Development Plan, or (b) if a referendum occurs, the date that there is a certification of election resulting in upholding the “Board Approval”, or (c) if a legal challenge is filed, the date that the Town, the Developer and the District, if applicable, prevail in the lawsuit (after all appeals have been exhausted).

### Schedule of Infrastructure Construction

- Developer must start Minimum Eligible Improvements with three (3) years of “Final Approval.” See Exhibit C for list of Minimum Eligible Improvements.
- Developer must finish the Minimum Eligible Improvements within thirty (30) months.
- Once construction of the Minimum Eligible Improvements has begun, the Developer may request up to two (2) separate extensions of eighteen (18) months because of lending requirements due to a change in the national economic environment.
- Prior to the issuance of a certificate of occupancy for any building the Developer shall cause the Minimum Eligible Improvements to be constructed.
- It is the intent of Developer to construct the retail/commercial and of the Development in either a single phase or multiple phases, as determined by Developer, based on land development strategies and market demands. The residential portion of the development is to be constructed on a phased basis, as further described in the Housing Plan (Exhibit D)

### Schedule of Retail/Commercial Building Construction

- The initial phase of retail/commercial development must have a minimum of approximately 200,000 square feet of gross floor area of uses that produces sales tax (not including lodging or hotel uses).
- The remainder of the permitted square footage of retail/commercial, hotel use and office use can be built in the initial phase or in multiple phases.

### Schedule of Multi-family Housing Construction

- The first phase of housing consists of a minimum of fifty (50) multi-family units to be ready for occupancy no later than six months after occupancy of the initial retail/commercial. The phasing of multi-family housing construction is summarized below and further described pursuant to the Housing Plan, Exhibit D attached.

## Eagle River Station Phasing Plan for Housing with Outside Start and Completion Dates

Phase	Minimum # Of Units	Minimum LERP %	Maximum LERP %	Minimum Workforce %	Maximum Workforce %	Start Date	Completion
I	50	10%	13%	18%	50%	Within 6 Months of start of Initial commercial phase	Within 6 months of delivery of min Commercial
II	187	10%	12%	18%	50%	30 months from delivery of Phase I	Within 18 months of the start date of Phase II
III	182	10%	12%	0%*	20%	5 years from delivery of Phase I	Within 18 months of the start date of Phase III
IV	162	8%	12%	0%*	20%	8 years from delivery of Phase I	Within 18 months of the start date of Phase IV
Total	581						

The dates noted above in the "Start Date" column are dates by which construction on the specified phase must commence unless the Town Board of Trustees, in its reasonable discretion, approves a written request submitted by the Developer to change of start date of any phase, based on sales of a prior phase, projected absorption or economic conditions.

### Anticipated Phasing Schedule subject to provisions above

The schedule below reflects an estimated timetable of occupancy based on the draft Development Agreement. The schedule can change based on various factors as noted above and in the Development Agreement. The variables that could change the schedule include the following: a protracted legal challenge, construction extensions granted due to the economic environment, and multiple phases of commercial/retail construction.

Range of Start Date	Residential Units	Square Feet Retail/Commercial
2013--2015	50	200,000
2016--2017	187	180,064
2018	182	120
2021	162	121

### 3. Capacity, Demand and Availability of Community Facilities

#### A. Wastewater Treatment

In September, 2009 the Town made substantial completion of the Wastewater Treatment Plant Expansion Project. The Project increases the wastewater treatment capacity from 0.63 MGD to 1.65 MGD. Current use is 0.7 MGD. The increased capacity is planned to serve the town approximately 20 years into the future and takes into account development on the Eagle River Station land and other future subdivisions consistent with the Town of Eagle master plan. The New Red Mountain Ranch Annexation Utility Impact Study contains calculations of the wastewater treatment demand created by the proposed Eagle River Station development. Furthermore, this study concludes that given this demand there is sufficient wastewater treatment capacity to accommodate the Eagle River Station project.

Finding: The Wastewater Treatment Plant now and in the future will have availability of capacity to serve the Eagle River Station Project, thus the determination is made that adequate public facilities will exist with respect to wastewater treatment.

#### B. Wastewater Collection

The existing wastewater collection system is not capable of service the proposed development. Capacity enhancement to the wastewater collection system is necessary to serve the Eagle River Station project. In general terms, the wastewater collection line must be up-sized from the project site to the Wastewater Treatment Plant. The Development Agreement (hereby incorporated by reference) requires the collection line improvement to be funded and complete before any certificates of occupancy can be issued on the Eagle River Station site. The calculation of the pipe capacity necessary to serve the proposed Eagle River Station development is contained in the New Red Mountain Ranch Annexation Utility Impact Study (Exhibit E) submitted with the Eagle River Station application. The specific segments of existing main to be upsized are identified in this study. The Development Agreement (incorporated by reference) requires that these improvements be funded and complete before any certificates of occupancy may be issued on the Eagle River Station site.

Finding: Availability of adequate wastewater collection service is conditioned upon completing construction of up-sizing the existing wastewater collection line and construction of the on-site wastewater collection system, as identified in the New Red Mountain Ranch Annexation Utility Impact Study. The upsized collection improvements are required by the Development Agreement. The Development Agreement assures completion and adequacy of the improvements before impacts from the subdivision occur.

### C. Water Treatment

The existing water treatment plant capacity is not adequate to serve the entire proposed development. The Town of Eagle operates its system on a first come, first served basis. The current capacity of the Town's Water Treatment Plan is 4.3 MGD. Current demand is approximately 3.5 MGD. For the town to provide treatment capacity to existing subdivisions, full build-out of the Eagle River Station project and other future subdivisions, a secondary water treatment facility will need to be constructed. Currently the town is completing a Preliminary Design for the secondary facility and final design will be complete in 2010. Section 11.6 of the Development Agreement establishes schedules of bulk payment of water plant investment fees (tap fees) which guarantee a reservation of capacity of treated water service. If the Developer pays the Town \$3,000,000 within three (3) years of the later of "Board Approval" or if a referendum occurs, the date that there is a certification of election resulting in upholding the "Board Approval," then the Eagle River Station project is guaranteed treated water service of 300,000 gallons per day and including service to 50 residential units. 300,000 gallons of treated water is the amount calculated to serve all non-residential (commercial) needs of the project. In order to serve the additional residential portion of the project, approximately 531 multi-family units, the Town will need to provide additional capacity at the existing Water Treatment Plant or the planned secondary water treatment facility. The existing Water Treatment Plant may be able to provide a portion of capacity for the additional 531 units. In order to provide capacity for full build-out of the subdivision and other subdivisions, the secondary treatment plant must be constructed and operational.

Finding: The determination that adequate public facilities will be provided with respect to water treatment water capacity to the project is conditioned upon bulk payment of plant investment fees on a schedule provided in Section 11.6 of the Development Agreement. The initial payment assures service to all non-residential use (all commercial/retail, hotel, office) and 50 units of residential use. Provision of additional service to the remaining approximate 531 units is dependent on future occurrences as outlined in the Development Agreement.

### D. Water Distribution

The existing water distribution system is not adequate to serve the proposed development. Several water distribution system improvements must be constructed in order to provide treated water service to Eagle River Station. These improvements are identified specifically in the New Red Mountain Ranch Annexation Utility Impact Study (Exhibit E). Generally, these improvements can be summarized as a new water storage tank and booster pump station, an on-site water distribution system, upsizing of portions of the existing water main in the Chambers Avenue area, and construction of a new water main through the fairgrounds and across the Eagle River to the site of the future Lower Basin Water Treatment Plant. The Development Agreement (incorporated by reference) requires that these improvements be funded and complete before any certificates of occupancy may be issued on the Eagle River Station site.

Finding: The determination that adequate public facilities will be provided with respect to the water distribution system is conditioned upon construction of the distribution system improvements identified in the New Red Mountain Ranch Annexation Utility Impact Study, as required by the Development Agreement. The Development Agreement assures completion and adequacy of the improvements before impacts from the subdivision occur.

E. Street Facilities

The existing street system does not contain sufficient capacity to serve the proposed development. The Eagle River Station Traffic Impact Analysis (which due to its length is hereby incorporated by reference) contains an evaluation of the impacts created by the development and identifies the improvements necessary in order to mitigate these impacts and maintain an acceptable level of service. In summary, the necessary street improvements include: construction of a new interchange with I-70, construction of an internal site street system, construction of two new access points at Highway 6 with roundabout intersections, associated improvements to Highway 6, extension of Chambers Avenue from its current terminus to Highway 6, and increased capacity at the existing roundabout intersection at Eby Creek Road and Highway 6. If the necessary street improvements identified in the Traffic Impact Analysis are constructed, then adequate public facilities will be provided.

Finding: The determination that adequate public facilities will be provided with respect to street facilities is conditioned upon the improvements identified in the Eagle River Station Traffic Impact Analysis being constructed as required by the Development Agreement. The Development Agreement assures completion and adequacy of the improvements before impacts from the subdivision occur.

F. School Facilities

The 581 multi-family units in the project will affect the following schools: Eagle Valley Elementary School, Eagle Valley Middle School and Eagle Valley High School. All of the above schools have additional capacity at this time and are predicted to have capacity in the future. The applicant's forecast of student enrollment for the anticipated 581 multi-family residential units is the following.

Elementary School	51 students
Middle School	20 students
High School	34 students

In June, 2009 the local school district, School District RE50J, completed the "Long-Term Demand and Facility Analysis." The study states that the Eagle Valley Elementary School (EVES) and Eagle Valley Middle School have the following capacities and enrollment. For these two schools the study concludes as follows:

“These facilities have the space necessary to accommodate much of the future development expected over the next ten years.” See Exhibit

<u>School</u>	<u>Capacity</u>	<u>2009 Enrollment</u>
EVES	455	296
EVMS	420	268

Eagle Valley High School (EVHS) has recently completed a renovation and addition project. Capacity and enrollment figures are below.

	<u>Capacity</u>	<u>2009 Enrollment</u>
EVHS	900	615

It is anticipated that the high school should be able to accommodate the additional 34 students generated by the ERS development and for a period of ten years.

The town received a letter from School Board President, Scott Green, on August 20, 2009 stating the school district’s determination that there will be sufficient capacity in all three schools to meet the predicted additional demand generated from the 581 multi-family units within the Eagle River Station Project. See Exhibit F. Additionally the Development Agreement requires a payment of cash in lieu of school land dedication in the amount of \$273,000.

Finding: Substantial capacity exists in the three effected schools. Particularly for EVES and EVMS, there is likely little additional demand for these schools other than the Eagle River Station project. Capacity characteristics could change if there are enrollment boundary changes. A high probability exists that there is sufficient capacity in these two schools to adequately serve the enrollment demands from the ERS project and for a period of ten years.

EVHS also has substantial capacity at this time. The high school serves the towns of Eagle and Gypsum, as well as the western portion of unincorporated Eagle County. Thus future demands will come from many areas of growth. Because the ERS demand of 34 students is small in comparison to excess capacity it is anticipated that the high school will be able to serve the enrollment demands from the ERS project and for a period of ten years.

#### G. Emergency Medical Services

Section 4.14.125 of the Municipal Code requires that adequate equipment and facilities for emergency medical services are available for the proposed subdivision. Adequate response times are to be maintained with the following standards: basic life support and automatic external defibrillation in under six minutes for 90% of all calls, and advanced life support within eight minutes for 90% of all calls. Consistent and adequate emergency dispatching services is to be maintained.

Emergency medical services are provided by the Western Eagle County Ambulance District (WECAD), a special district. The district will receive substantial property tax revenues and impact fees from the Development which will assist in the district's ongoing effort to provide reliable service. The district has been in discussion with the developer regarding the subdivision and building planning, which includes adequate access to buildings and life support equipment installed in certain buildings. The Chief of WECAD has submitted a letter to the town opining that the standards of Section 4.14.125 can be met. See letter from Chief Christopher A. Montera of WECAD (Exhibit G).

Finding: Based on Mr. Montera's letter, representations made in the applicant's Public Facilities Impact Report, and the Town Planners knowledge of discussions between the district and Developer; the Town Planner believes the level of service standards established in Section 4.14.125 will be met for the duration of the project.

#### H. Fire Protection

Section 4.14.120 requires public safety facilities and equipment for fire protection and first response emergency medical services shall be deemed to be adequate and available for a proposed subdivision. Additional requirements can be found in Section 4.14.120 and are summarized as follows.

Fire flow requirements must be present as follows.

- a. 250 GPM initial attack flow within two minutes of arrival for 90% of all fires
- b. 250 GPM sustained flow within five minutes of arrival for 90 percent of all fires
- c. 500 GPM sustained flow within eight minutes of arrival for 80 percent of all structure fires
- d. 1,000 GPM sustained flow within five minutes of arrival for all areas within 1,000 feet of a fire hydrant
- e. 3,500 GPM sustained flow within 15 minutes of arrival for hydranted areas.

Fire protection services are provided by the Greater Eagle Fire Protection District (GEFPD), a special district. GEFPD has met with applicant so that all requirements are met to satisfy the Fire Code and adequate public facilities. Many of the requirements are set forth in Section 12 of the Planned Unit Development Guide and Control Document, which is hereby incorporated by reference.

The Town is in receipt of an October 8, 2009 letter from the Fire Chief and Fire Marshall of the GREFPD which opines that all standards of Section 4.14.120 will be met (Exhibit H).

Finding: Based on the GEFPD letter, representations made in the applicant's Public Facilities Impact Report, the requirements of Section 12 of the PUD Guide and the Town Planners knowledge of discussions between the district and Developer; the

Town Planner believes the level of service standards established in Section 4.14.125 will be met for the duration of the project.

**4. Recommendation of Adequacy**

The findings for each public facility listed in Section 3 of this report indicate that adequate public facilities and level of service standards will be available concurrent with impacts of the development. Therefore, the Town Planner recommends a positive Recommendation of Adequacy subject to the following conditions.

1. Final approval of the project
2. The parties faithfully executing their obligations and responsibilities of the Development Agreement

**5. Duration of Recommendation**

The duration of the Recommendation is as described in the individual findings above and as further defined in Section 10 of the Development Agreement (incorporated by reference).

### **List of Exhibits**

- A. Assurance of Adequate Public Facilities Report, submitted by applicant.
- B. The Town Planner determination of completeness of the Development Permit Application--January 16, 2008
- C. List of Minimum Eligible Improvements
- D. Eagle River Station Housing Plan
- E. New Red Mountain Ranch Annexation Utility Impact Study
- F. Letter from Scott Green, School District President
- G. Letter from Christopher A. Montera, WECAD Chief
- H. Letter from the Greater Eagle Fire Protection District

### **Documents Hereby Incorporated by Reference**

1. Development Agreement between the Town of Eagle, Trinity Red Eagle Development LLC and the Eagle River Station Metropolitan District
2. The Planned Unit Development Guide and Control Document for the Eagle River Station PUD.
3. The Eagle River Station Traffic Impact Analysis