



To: Mayor Huckstep and Town Council
From: Michael Yerman, Town Planner and Todd Crossett, Town Manager
Subject: **Slate River Annexation Concept Review**
Date: January 5, 2015

1. Introduction

This memo is sequenced as follows to help guide the Council discussion:

1. Introduction
2. Council Deliberation (Commercial Property and Grid vs. Natural proposals)
3. Recap of December 15th Meeting
4. Process
5. Pre-annexation Agreement
6. Approval vs. Denial of Conceptual Review
7. Possible Action

On December 15th the Council heard a presentation from Town Staff on the review of the Conceptual proposal of the Slate River Annexation. The application was continued after the staff review to January 5th. At this time, staff would like to engage the Council in a discussion on two items upon which the Council had mixed comments, to provide the Council with a recap of the December 15th meeting, and to review the Annexation process and the next steps that would be taken should the Council decide to take action on the application.

2. Council Deliberation

There are two issues that staff would like to reengage the Council on to determine if a consensus can be reached. While a majority of Council weighed in on these issues, considerable objections were raised. Staff has also heard significant commentary and questions from councilmembers since the meeting that lead staff to believe these issues should be further discussed. Both these issues will have long term material effects on the applicant's proposal moving forward and are important to try to readdress to achieve a possible consensus prior to a formal application submittal.

Northern Commercial Parcel

Council expressed differing opinions regarding the northern-most proposed commercial parcel. There were mixed reactions in response to the applicant including a second large parcel of commercial to the north, within the proposed development. With the exception of Town Park, the 6th Street corridor is zoned commercially throughout the Town. Expanding commercial uses along this corridor will continue this development pattern and create walkable commercial amenities within the proximity of the remainder of the residential development. A ¼ mile to commercial amenities is generally considered to be a walkable distance in new urbanism principles.

The proposal by the applicant to have commercial uses along the 6th Street corridor will continue the Town's natural growth pattern. It will provide additional land space for economic development including the possibilities for office, retail or medical spaces. Zoning controls could be put in place to eliminate strip development at the edge of the Town at this location. It is also consistent with the planning principles of mixed-use development, which contribute to walkability and enhanced vitality.

Staff is sensitive to comments regarding protecting the entrance to Town and maintaining the character of the corridor between Mt. Crested Butte and the Town. Staff poses the following questions. Could there be an appropriate mixed use zoning designation for this parcel? Are there commercial uses that Council feels would be more appropriate at the entrance of the Town that zoning can regulate that Council would possibly consider at this location? If the desire is for residential uses, what should the housing types be and what should the density for this area look like?

Grid vs. Natural

The applicant has two proposals for the possible layout of the development on the eastside of the Slate River. During the staff review, the Council heard proposals and comments from both the staff and applicant. Staff expressed concerns that the natural proposal would create issues with utilities and the built environment of this portion of the development – specifically that the lack of an alley reduces options for the separation of utilities. Gas and water and sewer lines are best separated in this high alpine environment for winter access and safety reasons. The inclusion of an alley as part of the development is an important design feature that reduces impacts to the Town's overall maintenance of this portion of the development. Staff expressed that not maintaining the grid would create a suburban environment on the east side of the Slate River that is not consistent with the look, feel and historic character of the Town. The grid also allows for the continuation of the Town's built environment through the use of existing zone districts on this portion of the development.

The natural proposal does have a slightly smaller impact because of the proposed grading and street network development. The applicant added the natural proposal will have 5% less runoff and about 65' less of pavement than the grid proposal.

There were several varying opinions expressed by the Council on the Grid vs. Natural layout. Since this will have a very significant material impact on the formal application submittal, Town staff would recommend the Council seek to come to a census on this issue. Staff has expressed its desire to see the grid layout maintained. However, if the direction of the Council is for the natural layout staff is prepared to work with the applicant towards achieving this layout.

If the natural proposal is desired, a new zone district will need to be considered because the odd shaped lots will not be the typical rectangular shape of the Town grid. The typical town zoning for the grid is for rectangular lots which has created the elongated housing types seen throughout the Town. The natural proposal will also create housing that will have to have front loaded garages and street access since there would not be an alley. BOZAR will be required to review this new zone district instead of recommending an existing zone district from the Town. BOZAR will be making a recommendation on the zoning of the entire development prior to the Planning Commission reviewing the sketch plan subdivision submittal.

3. Recap of December 15th Meeting

During the staff review, the Council discussed five primary topics. The applicant also provided clarification to the Council from its perspective on many of the issues raised in the staff report. Overall, the Council came to a consensus on many of the important questions staff raised during the review.

Below is a summary of what staff heard from the Town Council followed by staff recommendations. The five primary topics of staff review with Council included the following:

1. Landfill Remediation and the use of the Public Works Yard
2. Proposed Land Uses
3. Affordable Housing
4. Transportation
5. Water and Sewer Services

Landfill Remediation and the use of the Public Works Yard

Overall, the Town Council wanted to explore the remediation of the landfill including the portion currently located on the Town's property. The Council wanted to review the environmental reports that had been produced by the applicant's consultants. The cleanup of the landfill would be the burden of the applicant - including the environmental liability, indemnification of the Town, and surety requirements once the process commences. The applicant has stated they have an insurance policy to insure that the landfill will be fully remediated. Town staff will need to review this policy to ensure it will adequately protect the Town's interests. The Town attorney and the Town's special environmental legal counsel and consultants will need to be comfortable that the Town's interests are adequately served and protected.

Council has concerns with including the western portion of the Public Works Yard and turning this into a public park. This concern is shared with the staff of the Town. Space is limited and as the Town grows it is anticipated the space needs of the Town's essential services will also continue to grow. Staff is recommending that a facility master plan for the current and future needs of these essential services be conducted prior to a formal application being filed. This facility master plan will help guide decisions on the future stages of this application and provide insight on the use of the land proposed to be used by the applicant.

The Council wanted to know what expectations the applicant had in regard to use of the western portion of the Public Works Yard. At this time, the only request from the applicant is to allow the applicant to

include this portion of the Public Works Yard as part of their application and to allow the park, which would be created there, to count toward the park space dedication requirement.

Town staff cannot at this time direct the Town Council on how this request will materially affect the applicant's parks space requirements. Once a formal application is submitted, the Town staff will be able to review the proposed densities and other details of the development, including affordable housing densities that are required to determine the park space requirements. At the Conceptual Review phase of this application, it is not possible to calculate how allowing the applicant to use Town land ultimately will be addressed in the requirements for land dedications.

The valuation of this portion of the Public Works Yard as a new park will also be further investigated during the facility master planning. Until this has been completed, it is too early for staff to know the appropriate exactions that are needed to be discussed as part of this portion of the development deal for the use of Town owned land. Issues related to the use of Town-owned land will be fully vetted prior to any final entitlement approvals or executed annexation agreement being prepared.

Staff recommends the Council allow the applicant to include the western portion of the Public Works Yard as part of the development proposal at this time, contingent on a third party conducting a facility master plan prior to the submittal of a formal application. The facility master plan recommendations should be submitted as part of the formal application and review by the Planning Commission with the review of the sketch plan application.

Proposed Land Uses

Overall, the Council agreed with a majority of the proposed land uses including the residential portions of the proposed development and the proposed civic uses at the northern portion of the development. However, Council expressed differing opinions regarding the northern most proposed commercial parcel which staff has addressed above.

The Council was in favor of locating a civic use on the northern most parcel located along 6th Street. It was expressed the Council would like the Town staff and applicant to investigate what could be the best possible use at this location. The proposal of possibly relocating the downtown Fire Station to this location was generally agreed upon as a possible use, but the Council expressed its desire to be able to negotiate with the Crested Butte Fire Protection District on the possible relocation of this facility.

Staff recommends that Council try to come to consensus on whether to include the northern most commercial parcel as part of this proposal moving forward. This determination is important for the application moving forward because BOZAR will be making a future recommendation on the zoning of the development prior to the Planning Commission hearing the subdivision sketch plan review. Staff also recommends including the ability to negotiate the terms for the possible fire station relocation with the Crested Butte Fire Protection in a pre-annexation agreement.

Affordable Housing

The Council was supportive of the applicant's proposals for affordable housing, including the possibility of another rental project similar to Anthracite Place and the possibility of the applicant building the affordable housing within the development. The Council expressed the desire to see the affordable housing dispersed throughout the development and that there needed to be affordable housing included

on the eastern side of the development. Council also expressed the desire to investigate micro lots and accessory dwellings for affordable housing.

The applicant engaged the Council on the possibility of a reduction on the local housing requirement in exchange for providing more deed restricted housing. The Council was willing to entertain this proposal but would need additional details on how this would be proposed. The Council was also open to the possibility of additional density allowances if it was used to provide more affordable housing.

The final discussion centered on the applicant providing teacher housing instead of the payment in lieu for school land. The Council expressed they were willing to explore this option once a formal proposal was submitted but the School District would need to weigh in on whether this was a viable option.

Staff recommends the applicant includes a detailed proposal with their formal application submittal regarding how the affordable housing requirements will be met within the development. Proposals from the applicant, including developer built affordable housing and a possible increase in deed restricted housing for a possible reduction in the local housing requirements, should be included in the formal application submittal. The School District will be asked for a formal review once a formal application has been received.

Transportation

As discussed above, the Council expressed varying opinions on the Grid vs. Natural layouts. Since this will have the largest material impact on the application, staff hopes a consensus can be reached by the Council. The Council also expressed that 8th Street should have a platted right of way, ROW, to the Spann parcel to the north but that the applicant not be required to extend the roadway or utilities. The Council expressed the desire to see a walking trail to the cemetery and the northern connection to the Rec Trail be located further north in the proposed park. Trails in the development should be dog friendly.

Staff recommends the Council provide additional direction on the Grid vs. Natural layout so the applicant can plan to submit the preferred layout with a formal application. The formal application should be revised to reflect these changes and the preferred layout of the Town Council.

Water and Sewer Services

The Council heard from staff that there appears to be sufficient water rights to supply water to this development. However, staff will seek the opinion of the town water counsel to ensure there are not additional water rights needed for the development proposal. This will be investigated further once the applicant has provided the required engineering to make this determination. The applicant will be responsible for installing water and sewer infrastructure for the development. Options the Council would be willing to consider in lieu of water rights include participation in upgrades to the water system, upgrades to the Town's raw water supply and irrigation supplies, and payments to help offset costs. Staff will seek the opinion of legal counsel regarding the Town's future water needs once a formal application and demand engineering have been received.

The Town's sewer treatment reached capacity over the summer of 2014, and Town staff will be carrying out a performance evaluation to determine whether the plant has additional capacity in 2015. However, this development, if approved, would most likely require the Town to begin engineering and upgrades to the Town's plant. The applicant has proposed providing funding for engineering if the State's Water

Quality Control Division requires engineering to begin during the review process of the application. This development will be paying system development fees (tap fees) that will assist with future upgrades to the plant. Once a formal application is received, staff will review the application to determine what contingencies are necessary to offset the impacts of the development on the Town's waste water system.

Staff recommends that if the State's Water Quality Control Division requires the Town begin engineering, the applicant be responsible for helping offset the costs of engineering. This should be formalized in a pre-annexation agreement.

4. Process

During the previous meeting, a flow chart was prepared for the Council to help illustrate the process. A new flow chart has been expanded upon to serve as a quick reference for the Council and public as this process transpires. See attached. We are currently at the Conceptual Review stage, which is an informal discussion between the applicant and the Town Council. It is not intended to provide in-depth details regarding the proposal but rather to help provide the applicant with direction from the Town Council on aspects that include land use, transportation, and water and sewer services.

The next step, if the Concept application is approved, is for the Town Council to consider a pre-annexation agreement. If the terms of a pre-annexation agreement can be reached, the applicant will be allowed to submit a formal application for review.

Next Steps: Formal Annexation Petition and Sketch Plan Review

At this stage of the process, the applicant is required to provide a considerable amount of detail regarding the proposed development. This includes many of the details the Council felt compelled to consider in the initial discussion of the application. It is important to note that this is the first stage for formal public comment and review. Due to the significant amount of additional detail, engineering, and agency review, Town staff anticipates there will be at least 3 months of staff review and agency review prior to consideration by the Planning Commission. The submittal requirements for sketch plan include the following:

1. Proposed lot, tract or parcel and block configurations;
2. The proposed density, number of units and population;
3. On-site and off-site traffic circulation;
4. Proposed land uses;
5. The one-hundred-year floodplain as described on the Federal Emergency Management Agency or its successor agency maps;
6. Any wetlands on the property as described in *Wetlands of the Crested Butte Region, 1993*, or as otherwise identified if not within the study area of that publication;
7. Known, potential or suspected hazardous conditions; and
8. Other information pertinent to the issues under consideration.

There are a variety of referral agencies who provide comment on this application prior to the Planning Commission reviewing the Sketch Plan application these include:

1. BOZAR
2. Gunnison County Board of County Commissioners;
3. Gunnison County Planning Commission;

4. Mountain Express;
5. Town of Mt. Crested Butte;
6. Colorado Division of Wildlife;
7. Gunnison County Trails Commission;
8. RE1J School District;
9. Crested Butte Fire Protection District;
10. Colorado Geologic Survey;
11. U.S. Army Corps of Engineers; and/or
12. Other relevant agencies or entities.

5. Pre-Annexation Agreement

The Council has raised several questions as to why staff is recommending the execution of a pre-annexation agreement and as to what this would mean for the application moving forward – particularly whether the pre-annexation agreement commits the Town to provide any specific entitlements to the applicant at this stage. A pre-annexation agreement is a useful tool for addressing unique circumstances with a land use applications that are not typically addressed in Town development codes. The unique aspects with this annexation application include the landfill remediation, the use of Town owned property, the need for a facility master plan for the Public Works Yard, the possibility of the fire station relocation, and the possible need for engineering at the waste water plant.

A pre-annexation agreement would set the terms for how these issues would be handled but would not guarantee approval of the final application. For instance, the pre-annexation agreement would allow the applicant to include the portion of the Public Works Yard as part of their proposal, provided they finance a third party facility master plan for the Planning Commission’s consideration for the use of this portion of the Town property. The pre-annexation agreement would not provide any approval guarantees or negotiate the terms or the contingencies for the consideration of the use of the land. It would only allow the applicant to proceed with this portion of land potentially included in their next application under the terms of the pre-annexation agreement with their formal application.

Staff is recommending the terms of the pre-annexation agreement must be reviewed and approved by the Town Council prior to the applicant submitting a formal application.

6. Approval vs. Denial of Conceptual Review

Approval of the concept application means, “Per Section 15-1-50 (3)(b) ... Only in the event the Town Council approves the concept annexation request may the applicant proceed to file a formal annexation petition and other necessary submittals required under Section 15-1-60...”

If Conceptual review is approved, the formal review process will begin. The applicant would have a considerable amount of additional details, engineering, and studies to submit with their formal application. There would be a variety of opportunities for agencies and the public to comment. Public hearings would be held by BOZAR, the Planning Commission, and Town Council. The public would have an opportunity to comment throughout the process via public hearings. The public would be encouraged to submit written comments via the Town. Comments from the public received by staff would be entered into the record of public hearings held by the Council or Planning Commission. Also,

while the public would not be able to communicate with councilmembers in an ex parte fashion, they would be able to communicate with staff.

Denial of the Conceptual Review application means the application has been remanded back to the applicant for significant revisions. This would mean the Town Council has determined that the applicant has not met the requirements for the land uses, transportation and water and sewer services of the Town.

7. Possible Action

The Town Council may approve or deny the application. The conceptual review application must be approved to allow the applicant to submit a formal application and continue the process. The Council may also continue the conceptual review application to a date certain to allow the applicant to provide additional information.

If the Council desires to approve the application, Town staff recommends that Council direct the Town Attorney to prepare a resolution to be considered at the January 20th meeting incorporating the comments from the December 15th and January 5th conceptual review sessions.