

APPLICATION CONCERNS AND IMPACTS
INDIVIDUAL SUBAREAS
Attachment 2

NACFA ltr dtd June 11, 2007 for Eagle Planning and Zoning

CITY OF EAGLE HEARING FILE: A-14-06 M3 Eagle Proposed Pre-Annexation and Development Agreement dtd 4/12/07, including PUD Standards (Exhibit D) dtd 4/18/07 and maps merged 4/18/07

COMMUNITY CORE (p.11/Exh F1)

Profile

Unit entitlement: 1277 pre-mitigation; 1422 post- mitigation;

Applicant-proposed Maximum (after density transfers from other areas): **3335**

Commercial: 117 acres

If commercial developed as residential add 320 units--total max possible: **3675**

Plus possible 500 hotel rooms

“New Urbanism”--86% single-family detached; 14% multi-family at densities from 6-20/acre; commercial concentrated on new east/west connector (SHs 16 & 55) through Big Gulch

Combined middle/high school, elementary school, police/fire station

Comment: The density and intensity of this and the Northern area profoundly affect every significant aspect of the proposed project as a whole. The applicant has made no accommodation for the “...serious concerns about the intensity of uses...” in the area expressed in the City staff report dtd 4/9/07.

At 8.5 trips/unit/day, the area could contribute more than 31,200 daily vehicle trips at buildout; this ADT excludes construction and school traffic as well as the traffic generated by 500 hotel rooms. Construction is slated to begin in this portion of the site in year 2, resulting in immediate traffic impact to local roads.

The applicant has not addressed the impact of the elimination of these 636 acres of grasslands on wildlife, even though the applicant’s consultant notes that grasslands are an important source of forage for the extant abundant raptor population. The location adjacent to Willow Creek Road, coupled with densities of up to 20/acre and traffic from the area, is likely to have serious deleterious impact on areas immediately east, outside the applicant’s lands, which are envisioned for permanent wildlife habitat. The applicant has not addressed how those impacts will be mitigated.

Recommendations:

1. Reduce units and modify density to ensure SH connector does not exceed three lanes.
2. Require the applicant to relocate the development to the west far enough to eliminate traffic and density impacts on wildlife, existing rural neighborhoods.
3. Require applicant to address staff concerns on intensity.

NORTHERN (p.12/Exh F2)**Profile**

Unit entitlement: 3688 pre-mitigation; 4518 post-mitigation;

Applicant-proposed Maximum (after density transfers from other areas): **5917**

Office/retail: 40 acres

If office/retail developed as residential add 67 units—total max possible: **5984**

Highest intensity at southern edge of area, adjacent to Community Core

97.5% single-family (detached/attached); 2.5% multi-family at densities 4-20/acre

Two elementary schools

Two golf courses

Comment: As discussed in Community Core re: traffic and wildlife.

Possible 51,000 ADT (excluding construction and golf courses).

2760 acres grasslands eliminated.

Setbacks of 300-1000' feet from Willow Creek Road/adjacent riparian areas are inadequate.

Entitlement to two golf courses, absent water rights and in a desert environment with unquantified aquifers, is ill-advised.

Recommendations:

1. Reduce units, modify density and increase setbacks to minimize impact on habitat/riparian areas immediately east and reduce traffic impact on local neighborhoods.
2. Eliminate entitlement to golf courses.

SOUTHERN (p. 14/Exh F3)**Profile**

Unit entitlement: 502 pre-mitigation; 1549 post-mitigation

Applicant-proposed Maximum (after density transfers to other areas): **893**

Custom lots (.2-1/acre) and single-family detached at up to 3/acre

One elementary school

Public equestrian center

Includes 800 acres east of WC Rd proposed as swap for BLM 815 acres in Highway/MU area (adjacent to SH 16)

Comment: See Community Core and Northern, although traffic and wildlife impacts are less severe given lower maximum density.

Applicant has not addressed P & Z suggestion that clustered multi-family portion be shifted west to minimize impact on Willow Creek Road.

Applicant has agreed only to mitigation plans for two areas of mule deer territory.

Recommendations:

1. See discussion, recommendations of applicant-proposed BLM land transfer in Habitat, Attachment 1.
2. Require applicant to address shift of multi-family cluster west as requested by P & Z.

SOUTHWESTERN (p. 16/Exh F4)Profile

Unit entitlement: 48 pre-mitigation; 638 post-mitigation

Applicant-proposed Maximum (after density transfers to other areas): **224**

130 rural/estate custom homes on 1 to ten acres; 94 single-family detached at 4-6/acre

Borders 2000 acres BLM/Eagle park

Private 80-100 stall equestrian center

Mitigation of sagebrush stand

(No recommendations.)

HIGHWAY/MIXED-USE (p. 18/Exh F5)Profile

Unit entitlement: 141 pre- and post-mitigation

Applicant-proposed Maximum (after density transfers from other areas): **500**

(No recommendations.)

DEVELOPMENT AGREEMENT (DA) MAJOR CONCERNS SUMMARY
Attachment 3

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Comp Plan and City Code

1. City Comp Plan: The Soaring 2025 Comp Plan does not address the Foothills, which are not in the City's jurisdiction and are, in large part, outside the City's AOI. The City is considering, simultaneously with the application, a Foothills Comp Plan Amendment (FCPA) which when adopted will require all foothills developers to consider and conform to requirements for this Area of Critical Concern. The FCPA has specific requirements (e.g., open space and habitat) as well as a target unit entitlement (for the entire area) of 20,000 units.

2. Annexation Requests: Two developers, including the applicant, have requested annexation to the City and comp plan text and map amendments. The applicant is requesting as well approval of the DA, which grants entitlements to specified numbers of units and densities.

3. City Code: The City has, at numerous points and in numerous forums, acknowledged that the PUD ordinance in existing City Code is inappropriate for foothills development and assured the public that a new "Foothills PUD" ordinance will be written and adopted to govern Foothills development.

4. Ada County, which has jurisdiction over the applicant's lands, has completed hearings on their North Foothills Subarea Plan through the P & Z level, with P & Z recommending approval. The County Subarea Plan sets a development level of 12,000 units considering a variety of factors, most significantly lack of infrastructure, sensitive lands and community sentiment.

The applicant's text and map amendments, in the context of a pre-annexation agreement between the applicant and the City, may be appropriate. Adoption of the DA as currently constituted, particularly because of the units and densities to which it entitles the applicant, is wholly inappropriate at this time and treats the applicant differently than other foothills developers.

Obligations/Commitments Imposed on the City by the DA

DA in its current form assigns major risks, responsibilities and obligations to the City which merit a high level of scrutiny or should be eliminated. In our view, the City would, by adopting this DA, have proportionally much more risk than the applicant.

The DA also requires substantial commitment from City staff to move this project forward. Does the City of Eagle have the required resources to commit to this project while still maintaining adequate levels of service to existing City residents?

Among the major concerns we have are:

- Inability to modify the agreement (any portion thereof, including unit entitlements/density) without the agreement of the applicant;
- Limited (or no) future public hearings process on significant elements of the project (e.g., density transfers between subareas, amendments) (in violation of ECC 8-10-1 G);
- Exemption of the applicant from all existing and future ECC requirements (DA governs in all cases of conflict), particularly since the Foothills PUD does not yet exist;
- Exemption of the applicant from future changes in law and from moratoria;
- Requirements that the City assume responsibilities for functions over which it has no authority (e.g., matters pertaining to IDWR, ACHD, ITD);
- City's obligation to work with developer to pursue annexation path;
- City's commitment to working with COMPASS and ITD to get developer's property included in CIP;
- City's commitment to working with COMPASS and ACHD to amend the CIP for ACHD to include all streets and rights of way for the property;
- City's obligation to assist in obtaining permits and licenses for water rights sufficient to serve developer's property;
- City's lack of oversight capability in regards to creation of a private water system;
- City's lack of oversight capability in regards to creation of a community-wide water system;
- City's obligation to assist in obtaining modified flood maps from FEMA;
- City's obligation to provide library and other municipal services to developer's property on same basis as for existing City;
- City's obligation to provide police protection at the same level as for existing City;
- City's obligation to credit developer dollar for dollar for any public infrastructure if it "confers a benefit on land outside the property";
- City's obligation to assist developer pursuit of funding for the construction of improvements to SH16;
- City's obligation to assign representative to discuss and review all aspects of this agreement;

- Prohibition on the City to increase any imposed impact fees for the duration of the project;
- City's commitment to providing developer with a mechanism to ensure an expedited decision process if developer believes an impasse with City staff has been reached;

Recommendation: Restrict recommendations on the application to the map amendment, the text amendment and the proposed zoning ordinance change. Continue the DA indefinitely, until the FCPA has been through a full hearings process and is adopted by the Council at which point a context for evaluating the application will exist.

Alternative Recommendations: Substitute a very general DA, which eliminates all entitlements to units/density or conditions them on adoption of the FCPA.

Incomplete Developer Agreement

The developer is requiring that all aspects of their project are to be approved in one fell swoop. If the application is to be considered by the City of Eagle in that manner, then all materials need to be present in the package presented to the City.

Items that are missing:

- Exhibit E – PUD Conditions of Approval is missing
- No wildlife mitigation plans (as requested by IDFG) have been submitted;
- No draft of CC&R's have been submitted (this is important because the City needs to ensure an adequate funding mechanism and public access for all stipulate public area's under control of the "Owner's Association");
- No traffic analysis done for worst case assumptions;

Recommendation: Continue the DA indefinitely until all the pieces are in place.

City Committing to Things Outside of its Jurisdiction

The DA contains language that appears to have the City agreeing to conditions that are outside of its jurisdiction.

Areas of concern:

- The DA grants the developer total control over engineering and designing of roads within the project. Upon completion of any phase of the traffic system, it can be handed over to ACHD for maintenance and upgrades. What if, prior to buildout, these roads require upgrades due to project impacts? Can the City make these binding decisions for ACHD?
- The DA grants the developer the right to construct upgrades to the ITD system within or adjacent to the project. Same concerns as above.

- The DA grants the developer rights to construct a private sewer system or enter into contract with third party and stipulates that the Sewer District cannot protest or veto these actions; Isn't the sewer district an entity separate from the City?

Recommendation: Add language that allows ACHD and ITD to specify conditions to accepting and maintaining developer-constructed roads. In addition, specify that the cost of upgrades required as a result of future development within the property is to be borne by the developer.

Denying Citizens Full Public Process

Eagle City has always welcomed citizen input and participation in the shaping of our City. We have concerns that this DA does not provide full public process to the citizens of Eagle with regard to the amendment process. The DA allows for certain types of amendments to be allowed without a public hearing process. This is in direct violation of ECC 8-10-1 G. and Idaho Code 67-6511A.

Recommendation: All amendments should be subject to Idaho Code 67-6509.

City Oversight Eliminated

While we realize that the developer needs to consider all options with regards to providing services to its development, we are concerned with the DA wording that cuts the City out of any type of oversight role. In order to protect the resources and services provided to existing residents, the City needs this capability.

Areas of Concern:

- The City will have no ability to veto or object to private water companies providing water to the property nor can they protest the creation of a private water system;

Additional specific concerns and questions, by section/page of the development agreement, follow in Attachment 4.

DEVELOPMENT AGREEMENT SPECIFIC CONCERNS AND QUESTIONS
Attachment 4

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Definitions

1. “Base Project Density” (p. 1): The City Attorney has advised that the development agreement (DA) sets a maximum but not a minimum. Please reconcile that statement with “...Developer will be allowed to develop the density and intensity of uses set forth in Tables 1-6 prior to mitigation of slope, floodway and habitat areas...” which clearly entitles the applicant to a minimum of 5641 units.
2. “Eagle Comprehensive Plan” (p.2): As written, the definition excludes specific reference to the North Foothills Comp Plan Amendment (NFCPA). Unless the applicant will not be required to conform to the NFCPA, the definition should include a specific reference. If the applicant is not required to conform to the NFCPA, please explain why.
3. “Foothills Area Plan” (p. 2): Southern boundary is Homer (v. Beacon Light) Road.
4. “Open Space” (p. 4): Please explain why the applicant is required to provide only 25% open space, when the NFCPA requires 40%. Delete school sites and golf courses from definition.

Recitals

C. and D (p. 7): Why is the applicant not required to conform to the City Comp Plan? Is it standard practice to exclude applicants from “...future changes in law...”? (paragraph C).

E (p. 7):. Please list the specific obligations to which the City is agreeing that default on which “...might...subject [the Developer] to substantial liability...”?

F. (p. 7): This provision “development requires the construction of substantial public infrastructure ... which provides regional as well as local benefits” is looking to establish a case for reimbursement of infrastructure costs based on regional benefits (discussed in 2.1f)

G. (p. 8): This provision conditions the applicant’s “...participation in...Public

Infrastructure...only with the assurances that Developer shall be able to complete development of the Property as provided in this Agreement...” Presuming infrastructure includes roads, would the applicant be relieved of financial obligation for ACHD/ITD impact fees if future traffic studies result in less intense uses than currently shown for the applicant’s property? This provision appears to guarantee the applicant entitlements that are not being granted to others in the NF area and appears to exempt the applicant from the possible ramifications of significant studies, estimated to be complete as far as 6-12 months into the future (e.g., ACHD traffic study), regardless of the outcome and recommendations of those studies. Please explain how this serves the needs of the City and the existing community.

K (p. 8): Does the “M3 Eagle Sub-Area Plan Ordinance” include only the map and text amendments or does it include the Development Agreement as well? Legally, must the M3 Eagle Sub-Area Plan and Annexation Ordinances be adopted simultaneously?

N. (p. 8/9): City has repeatedly stated that it will write and adopt a “Foothills PUD Ordinance.” Please explain why this applicant would not be held to that ordinance. Please provide the reason for granting the applicant carte blanche exception to City PUD standards in the event of a conflict with applicant standards.

O. (p. 9): Exhibit E is not provided.

P. (p.9): “Effective date” is earlier defined as the date of the ordinance approving the DA. How can the City agree that it has “...received public comment and...duly considered all such matters in connection with...the Sub-Area Plan [Exhibit F]...”:

- when the plan totals a maximum density of 10,869 units?
- when individual planning area totals and intensity are not specific?
- in advance of traffic studies?
- in advance of wildlife mitigation plans?

Q. (p.9): How is the welfare of Eagle’s citizens being best served by entering into an agreement for a development of this magnitude prior to ensuring adequate public facilities are in place and an ACHD traffic analysis of the area is complete?

Agreement

1.2 (p. 9): Please provide the rationale for carte blanche exemption of the applicant from City Code requirements in the case of a conflict between the DA and the City Code. For example, this provision would exempt the applicant from the Code requirement for an environmental assessment (“Areas of Critical Concern”) and mitigation plans except for three areas (two in southern and one in southwestern planning areas) addressed by the DA. Please explain why the applicant is not required to conduct an EA, as specified in City Code, and provide mitigation measures on the 6005 acres composing the entire site.

First paragraph p. 10: This provision entitles the developer to “without limitation ... improvements of any sort of nature including private or public infrastructure whether

located within or outside the property”. Shouldn’t the City should have some reasonable level of oversight?

Second paragraph p. 10: Please clarify the intent of this provision. It appears to stipulate that the approval date for future submissions (e.g., plats, final development plans) would be postdated to annexation and the ordinance adopting the DA...?????

1.3 Planning Concept (p. 10): Exhibit B (M3 Eagle Sub-Area Plan) not provided.

1.3 (p. 10): This condition talks about how Maximum density can be increased if non-residential areas are converted to residential. This should not be allowed as it bears directly on traffic, public services and the ratio of residential to non-residential.

1.4 (p. 19) Master Phasing Plan: Appears to give applicant complete flexibility re: modification of phasing, without formal amendment. Please explain how traffic impacts of revisions to the phasing plan will be communicated to ACHD/ITD and the community. Please explain how, given this provision, synchronicity would be achieved, for both construction and residential traffic, with new roads/road improvements.

The “example” phasing table requires much more detail with regard to what types of work will be undertaken within each planning area (e.g., roads, water system, drainage, sewer system) as well as the anticipated beginning and ending times for each type of work. We recommend that, for each year of the buildout, the applicant show what work will occur where, at the level of detail suggested.

1.5 (p. 20) Planning Unit Master Plan; Final Development Plan-last sentence: “If the Planning Unit Master Plan and Final Development Plan are substantially in conformance with this Agreement, the Planning and Zoning Commission and the City Council shall not withhold approval.” Essentially, this is a guarantee of density by the City to the applicant. The City does not have answers to important questions (e.g., traffic, open space/habitat) which bear directly on density; The City should not agree to the terms of the DA until those answers are available and considered in the context of the applicant’s proposal. Strike the quoted provision.

1.6 (p. 20) Allocation; Density: Density transfers from one planning unit to another without amendment to the DA and without hearings/public input underscore the point made re: 1.5: The City is blindly committing to densities without understanding in any meaningful way the impact of those densities. Revise this provision to require the applicant to formally modify the agreement, including hearings with P & Z and the Council, or limit the density for each planning area to the pre-mitigation level established for each.

1.7 (p. 20) Additional Property: This appears to allow increased density, “without limitation”, for the project as a whole or within specific planning areas. Please explain the public process by which this increased density would be evaluated.

2. Infrastructure.(p. 21)— The statement that “the city and developer recognize that the majority of the direct costs associated with the development of the Property shall be borne by the developer” is ambiguous as a simple majority is 51%. The developer is responsible for ALL the direct costs associated with developing their land.

2.1 Traffic & Circulation (p. 21-25)

Add provision which authorizes amendment to DA densities after ACHD traffic study is complete to allow for reduction/elimination of unacceptable traffic impacts from the applicant’s proposal. Alternately, delay consideration of the entire DA until traffic impacts, physical configurations and funding, are addressed by ACHD/ITD.

Generally, it appears that the agreement between the City and the applicant entitles the developer to specific roadway improvements (e.g., design and construction subparagraph (c)) without recognition that other agencies (i.e., ACHD, ITD) have jurisdiction over these matters. The entire section should be revised to stipulate that the applicant may not begin any work until those agencies have developed and adopted (or approved developer-generated) roadway additions and improvements. The prohibition should extend further to roadway funding and construction to preclude the applicant from developing unless and until roads to serve the development are built.

Strike all references to “the ACHD Traffic System”, since ACHD has no such system and will not have studies complete for one for at least 6-12 months. Suggest use of “Proposed Traffic System” as an alternative.

The applicant has presumed massive transportation improvements (e.g., SH 16 as four lane expressway) which are unfunded and thus unlikely at any time in the mid-term. Add specific clauses which condition commencement of construction in any planning unit on applicant’s presumed roadway improvements being realized.

The section is silent on the routing of construction traffic while the project is under development. Add provisions which require the applicant to route construction traffic to SH16 or roads to be built within the applicant’s lands and preclude construction traffic on Willow Creek Rd until the envisioned Willow Creek Bypass is constructed.

(ii) (p. 24) Please compare the 80/90% volume/design capacity to the standard used by ITD/ACHD. Does this paragraph apply only to roads not within the jurisdiction of ACHD (e.g., those not of arterial grade)? If not, strike the penultimate sentence since ACHD would have authority to determine whether developer is obligated to construct/improve a roadway section.

(iii) (p. 24) We note with irony that “Developer is not required to connect or continue outside streets through the Property...” Recommend adding: “...nor may developer connect streets serving the Property to the streets serving existing North Foothills residential neighborhoods.”

(vii) (p. 24) non-modifiable impact fees: Can the City commit ACHD?

(f) Reimbursement (p. 24): Recommend ITD/ACHD review if not already accomplished.

2.2 (p. 25 and 26) Water

(c) and (e): Why is the applicant not being required to demonstrate the sufficient water rights have been acquired for the entire project (v. on an individual planning unit)? Recommend adding provision that requires applicant demonstrate water rights and provide water system plan/concept, both for entire project, before submitting any individual planning unit proposals. Alternatively, add provision which authorizes amendment to DA densities and uses after water rights granted by IDWR or delay consideration of the entire DA until applicant has secured water rights.

(e) (p. 26) If annexation occurs prior to water rights being secured is Eagle obligated to acquire water permits for the property?

(e) (p. 26): If developer assigns water rights to City for inclusion in existing municipal water system why does the City not own those rights and, as owner, have freedom to use in whatever manner the City deems fit? Why does City need to demonstrate to developer's satisfaction that developer's project has assured water supply?

(h) (p. 27) Last sentence: Is it normal practice for the City not to protest creation of a private (alternative) water system and permit private facilities on City-held rights of way? Is the City not protesting to the PUC exactly that situation now (Kastera/United)?

2.3 Wastewater Treatment and Disposal

(b) When will master wastewater plan be submitted? Recommend adding provision that requires plan/concept, including residuals disposal, before submitting any individual planning unit proposals.

(h) (p. 29) Is it normal practice for the City to waive rights with respect to third party providers?

2.4 Storm Water Drainage

(b) (p. 29) When will master drainage plan be submitted? Recommend adding provision that requires plan/concept before submitting any individual planning unit proposals.

2.5 Public Facilities

(a) Police (p. 30): This provision appears to add costs for all staff and potentially part of the facility to taxes paid by current Eagle residents. For how long would this tax subsidy go on? When would new facilities be required?

(b) Fire and Emergency Services (p. 31): See comments re: police above.

(c) Schools (p.31): When would new facilities be required? Suggest review by Meridian School District to ensure acreage discussion is appropriate and agreement that developer-offered site is acceptable.

Library (p. 32): Does this commit the City to locating the West End branch library within the Community Core? When will the library be built?

2.5 Parks, trails and Open Space

(a) (p. 32) Please describe how this complies with the NFCPA goal to achieve a minimum of 40% natural open space. Given the importance of open space and habitat, delay consideration of the DA until the detailed Master Plan for parks, trails, open space has been submitted.

(c) (p. 33) 100' connection to two portions of park is likely much too small to serve wildlife. Revise to minimum recommended by IDFG, with City approval, or revise to state that size of connection will be as recommended by IDFG, with City approval, during their review of master plan.

(c) (p. 33) Please include a draft set of CC&R's with development agreement; concern is for all areas identified as requiring upkeep and maintenance and how this will be funded.

(d) (p. 33) Please define the constraints and intensities of use for the possible 800 acre BLM land swap. How much more density does this allow and how does that alter traffic patterns?

(e) (p. 33) Please exclude areas that specifically serve the development within neighborhoods from reimbursement as they are generally not used by the public especially if no parking or obvious access is provided. Possible solution is to add 'public park' to definitions section.

(f) (p. 33) With concerns to the funding mechanism for the public regional open space, this condition dictates fees applicable to all homes within Eagle City limits. Before committing taxpayer funding, City residents should be told what the potential cost would be.

2.7 Environmental Design Plan

(d) (p.34) To comply with ECC, environmental assessment must be conducted for the entire project acreage. Mitigation plans will almost surely be required for many areas other than constrained lands to ensure wildlife survival. Rewrite entirely to require mitigation for entire project site. Delete last sentence and substitute: "Base densities for all planning units are conditional on City approval of wildlife mitigation plans."

Construction

2.8 (p. 34) Add provision that requires developer take all measures to protect wildlife detailed in approved mitigation plans during all phases of construction.

Add provision which restricts construction activity to Monday through Friday, 7 a.m. to 5 p.m., or refer to existing provision addressing such limitation in ECC.

2.10 (p. 35) This condition states that the public infrastructure build for this development may confer value to surrounding areas and the developer wants dollar for dollar reimbursement against the sum of all development fees. Most likely, this infrastructure will not benefit existing Eagle residents. Perhaps it will help other developers in the foothills. Regardless, existing taxpayers will be supporting the infrastructure required for this development.

This section further requires any other government agency to credit the developer for infrastructure. Can the City of Eagle agree to this provision for other entities?

Regulation of Development

3.1 (p. 36) The wording here prohibits the City from offsetting any burdens placed upon it due to development of the property. It further states that the City acknowledges all such burdens are known and accounted for. Are they?

3.2 (p. 37) Amendment, Minor Amendment (ii) “...Maximum planning Area Density **and** (not “or”) Maximum Density allowed...”

Strongly object to density transfers being classified as “minor” and not subject to hearings unless and until DA is modified to show total of planning unit maximum density as equal to pre-mitigation density.

Last sentence: How can parties “...cooperate in good faith to agree upon...” amendments before the substance of the amendments is known?

3.4 (p. 38) Changes to Zoning: Please describe how this provision compares to procedures currently applying to developers of other PUDs. Strongly object to “City shall not take any action without the approval of Developer to reduce or increase the Maximum Density.” Please explain this provision in view of the maximum densities totaling 10, 869 units and the DA itself setting pre- and post-mitigation entitlements of 5640 and 8160, respectively. Please describe how these unit totals (maximum, pre- and post-mitigation) relate to the 20,000 pre-mitigation density target in the NFCPA. Why would the City allow M3 to have 41% of the density entitlements while only having ownership of 20% of the land in this area?

3.5 (p. 38) The developer is stating that this agreement is in consideration for the huge risk they are taking by developing this property. By entering this agreement, the City is exposing the taxpayers of Eagle to an even greater risk – potentially higher taxes to

support the development, issues with water, traffic, diminished property values and quality of life.

Alternative for Financing Infrastructure Improvements

4.3 (p. 39) Impact Fees—Will impact fees cover the expense of providing public services?

Project Governance

5.1 (p. 39) If the applicant does not intend to submit for many months (“on or before submittal of final development plan for first planning unit), delete appendix and reference thereto. If appendix is retained, a substantive document should replace the “conceptual outline” now functioning as Exhibit N.

5.2 (p. 39) Why would the City agree that developer design guidelines would prevail in the event of conflict with existing regs *before* the developer has even submitted those guidelines? If the applicant does not intend to submit for 18 months, delete the appendix and the reference. If appendix is retained, a substantive document should replace the “general elements” now in Exhibit O.

Cooperation and Alternative Dispute Resolution

6.4 (p. 40) Please discuss this “expedited approval” provision in the context of standard practice for the City when processing applications from other PUD developers. For example, are other developers given direct access to the City Council if they believe they are at an impasse with City staff? Does the 15 day hearing(s) requirement allow sufficient time for public notice of the issue in dispute??

6.5 (p. 40) Again, the agreement appears to commit other agencies (e.g., ACHD). Since this provision prohibits new, increased or additional impact fees, how will rising costs and new requirements be covered over a 20-year buildout period?

Miscellaneous

8.1 (p. 43): Add restriction (weekdays, 7 a.m. to 3 p.m.) on hours of operation for blasting and batch plant operations. (Not 5 a.m. to 3 p.m. Monday through Saturday as shown in Exhibit D, p. 24, #13.)

General

9.9 Entire Agreement: Given this clause, the issues unresolved in the body of the DA strongly argue that the DA be denied or tabled until density questions are answered, traffic and wildlife impacts are assessed by the City based on input from other agencies, and complete appendices are developed.