



# North Ada County Foothills Association

One voice. One goal. One plan.

September 6, 2007

Eagle Mayor and City Council  
660 E. Civic Lane  
Eagle, Idaho 83616

Re: Eagle North Foothills Plan and parallel plan/development applications from M3  
and Suncor: State of the City's Planning Process

Dear Mayor Merrill and Councilmen Bandy, Bastion, Guerber, & Nordstrom:

This letter is one of a series NACFA will submit, providing input and perspective as the Council begins hearings on the draft Foothills Plan and the parallel foothills applications/proposals from M3 and Suncor. We take this approach to provide "bite-sized" chunks rather than one lengthy, complex document.

This letter explains, from our standpoint, how and why community perception of the City's planning process has turned from initially collaborative and optimistic to the present state of mistrust and apprehension.

We apologize for being blunt, but it is far too late in the game to pull punches. As you consider NACFA's opinions and observations, please accept that, as when we were founded, we retain today a continuing, sincere desire to work with the City in creating a comprehensive, well-founded, and visionary plan for the North Foothills. We are certain the City began the Foothills planning process with the best intentions and a clear goal of a collaborative, community-based outcome.

However, a dark cloud hangs over the process and one developer is attempting to hijack the City's process. The plan that emerged from the P&Z Commission hearing/recommendation process is fractured, bearing faint resemblance to the vision of "100s of people contributing 1,000s of hours", as the City characterizes its foothills planning effort. Instead, the current draft reflects accommodation of one developer—perhaps even capitulation to the demands and threats that developer--M3, aided recently by Suncor. The dark cloud tainting the City process to this point is the parallel consideration of developer applications—which will transform today's Eagle--at the same time as (in one critical case before) preparation of a collaborative City/community foothills plan.

Regardless of the forces driving this, we have a split-personality, "dueling plans" process:

- On one side of the duel is the community-involvement-based effort in the best tradition of Eagle planning. Unfortunately, the first, only and incomplete expression of this effort is "the Pre-P&Z" draft (i.e., the second/May draft). Further work on this promising thread, including full assessment of foothills development impacts, has ceased.

- On the other side is the developers' view, typified by M3. This view holds, rigidly and aggressively, that developers know best...and that they should and will get what they want. Contrary to assertions of working with the community, M3 is unabashedly ignoring the concepts and direction that emerged from the community-based process.

This dueling plans situation might be workable (awkward and confusing, but workable) were the City consistently controlling the situation... ensuring that the community-based effort governed or was at least relevant. However, indications to date are not reassuring on this aspect.

The sum of P&Z recommendations on the community-involvement-based draft Foothills plan illustrates developer predominance to the detriment of community vision. The "P&Z Recommendations" version of the plan being brought forward to the Council essentially:

- Makes M3-Eagle, as proposed by the developer, THE precedent-setting foothills plan...the defining source of concepts, allowances, development patterns and intensity which all other foothills developers will consider in their own plans.
- Voids the key concepts in the community-driven, pre-P&Z draft, subverting the community involvement effort on which the City originally embarked and in which many participants placed their trust.

We will provide our basis for making these assertions in a follow-up letter addressing the "State of the Plan".

#### Who's In Charge?

To this point, M3 has been had undue influence on the process—controlling the schedule, the time and actions of City staff, and, perhaps most importantly, the flow of information. We are worried that the City may be responding to ongoing and increasingly shrill threats by M3 which we characterize as:

[1] "if you don't process and decide on our application in what we define as a timely manner, we will sue you";

[2] "if you don't give us what we want, we will take our ball and go somewhere that will" (i.e., to Ada County, Star, Horseshoe Bend); and

[3] "if you do anything we construe as against our interests, we will sue you." (e.g., Don't counsel P&Z on the implications of its actions if it's contrary to our interests; don't talk with community representatives about our application without us/our attorney present; don't let the public see the City facilitator's report.)

The results have been:

- Rushed preparation of a full, comprehensive Foothills Plan—the issuance of a promising but incomplete draft, demonstrating solid planning concepts but insufficient in its treatment of critical issues.
- Piecemeal, "cart before the horse", conflicting and poorly-coordinated P&Z recommendations.
- Staff (legal) interpretation of critical uncertainties/ambiguities decidedly in favor of M3 and decidedly against the community-based effort.

...citizens helping to create a sustainable vision for the future of Ada County's Northern Foothills...

Re: the first “result”: At no point preceding the publication of the draft plan was the community polled on appropriate or alternative development intensities (total new foothills units and number of units/acre.) Thus, debate on this central issue began only with the publication of the first draft, culminating in June with hearings on the second draft. At that point, an awakened public also began to insist that credible, comprehensive analysis of development impacts was integral to and must be conducted before a plan was adopted. . On critical issues such as traffic, financial consequences and public services, information vital to good decision-making was just not available. Still today, we have no independent analysis on such questions...only the work submitted by M3 consultants, which, not surprisingly, reassuringly paints a rosy picture.

The other two “results” have led us to where we stand today, with a compromised process and a broken plan. The sequence of events is as follows:

- April 2007: Prior to ANY draft of the overall Foothills Plan—and completely out of context with the broader planning process--P&Z was tasked with deliberating on the M3 CP text amendment, specifying total units, densities and patterns of development for 6,000 acres—20% of the foothills. In the “absence” of contemporaneous strong community opposition or commentary, P&Z approved the text amendment. (Great opposition was expressed to the M3 plan in October 2006 testimony by many citizens. The “absence” of community response in April was because the community (including NACFA) was fully engaged in the collaborative Foothills effort, relying on Council’s promise that no development would be approved before a foothills-wide plan, derived through community participation, was prepared and adopted.)
- April and May 2007: The “pre-P&Z” (first and second) drafts of the community Foothills Plan were published. These drafts contained no separate M3 Planning Area and made no reference to the April P&Z recommendation on the M3 text amendment; thus, they were silent on the profound conflicts between the community vision and the M3 proposal as described in the text amendment.
- June 2007: P&Z held hearings on the (second) draft foothills plan, as well as on M3’s CP map amendment, and on Suncor’s CP text and map amendments. P&Z’s recommendations included:

[1] Draft foothills plan: approve major concepts and direction, but remove all reference to total number of units and density due to concerns about intensity and unanswered questions about traffic, fiscal, schools, public services—more study is needed;

[2] M3 CP map: disapprove due primarily to concerns about intensity (total number of units and density) and violation of the broader plan’s fundamental concept of locating development near the highways; and

[3] Suncor CP text and map: disapprove both, reasons on record.

This set of recommendations was a major, though short-lived, source of optimism for the community; it appeared briefly that the process was back on track...that applications that conflicted with the plan would not be viewed favorably.

- July 2007: The “Foothills Plan P&Z Recommendations” (third) draft of the overall plan was published. Staff translated P&Z recommendations as follows:

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[1] "Foothills Planning Area": Revised to exclude all reference to number of dwelling units and density;

[2] M3: For the first time, the M3 Planning Area appeared in this (third) comp plan draft. The April M3 CP text approval recommendation was chosen as P&Z's intent rather than the June M3 CP map denial recommendation, which was ignored. The M3 lands were severed from the Foothills Planning Area and the M3 sub-area plan was inserted in its entirety as the new "M3-Eagle Planning Area." The insertion included all text and maps as prepared by M3 for the April hearing, with full description/mapping of the intensity and development patterns about which P&Z had expressed misgivings the month before. The M3 Planning Area addition stands in stark contrast to the stripping of density/intensity references for the rest of the Foothills; M3 development patterns (thousands of units at densities up to 20/acre in the center of the foothills) contravene those recommended for the Foothills planning area.

[3] Suncor: denial recommendation is accurately reflected.

This "P&Z Recommendations" version of the plan, despite its extreme departure from the original draft, has not been re-visited, discussed or confirmed as accurately reflecting P&Z's ultimate, integrated recommendations. Neither has the public had the opportunity to comment on the addition of the M3 Planning Area in the context of the full comp plan, since the "P&Z Recommendations" version post-dates the June comp plan draft on which P & Z held hearings. The lack of staff commentary or analysis on the implications of this interpretation of "P&Z recommendations" leaves us with an internally-inconsistent, compartmentalized draft as well as myopia on and avoidance of the hard questions.

The flawed third draft, with one sub-area brazenly flouting the most fundamental guiding principles of the overall plan, sits on the City's website, awaiting Council consideration...as if all were well.

- August, 2007: The P&Z Commission was again required to act on the M3 package, this time the Development Agreement. Contrary to the developer's "...the public doesn't understand..." comments, we know very well that the Development Agreement is the prize-it provides M3 entitlements, the green light on a 20-year project of precedent-setting intensity, and legally binds the City to its terms. City legal staff did not recognize, let alone discuss and advise on, the conflicting P&Z recommendations on the text (approve) v. the map (deny) components of the of the M3 CP amendment. Staff apparently (by silence) assented to the developer's assertion that the earlier CP text approval is determining (i.e., the later map denial and the broader comp plan principles are meaningless). With "great trepidation and fear...", P&Z recommended approval, noting that this decision was out of proper sequence and with several conditions, including one that the M3 package must ultimately conform to a full Foothills Plan. Staff was silent on the fact that the Development Agreement actually *implements* the M3 planning area as depicted in the flawed July comp plan draft at the City's website.
- September, 2007: The hearing process will begin and the Council will be faced with picking up the pieces and making some sense of these actions. We retain at least some hope that Council will act to restore faith, returning forcefully to the promising community-based effort where it was left in May, incomplete but on the right track, and excising the M3 sub-area plan which violates general plan precepts and community vision in critical areas. We ask the Council to... please...

*Bring the Process Back Into the Sunshine...Honor Eagle's long tradition of  
community-based planning.*

Thank you for your attention and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Petrovsky', with a stylized flourish at the end.

John Petrovsky, Chairman  
NACFA

Cc: Eagle Planning and Zoning Commission  
Eagle City Staff: Nichoel Baird Spencer  
Eagle City Attorney  
Ada County Board of Commissioners  
Ada County Planning and Zoning Commission  
Ada County Development Services Staff: Jay Gibbons  
Ada County Highway District Commissioners