

Commissioner Stone moved adoption  
of the following Resolution:

**RESOLUTION  
of the  
BOARD OF EAGLE COUNTY COMMISSIONERS  
COUNTY OF EAGLE, STATE OF COLORADO**

**RESOLUTION NO. 2002-142**

**APPROVAL**  
of the AMENDMENT to the  
THE HOMESTEAD PUD GUIDELINES  
Filing 1

**FILE NO. PDA-00038**

**WHEREAS**, on or about June 12th, 2002, the County of Eagle, State of Colorado, accepted for filing an application submitted by the Homestead Homeowners Association, represented by Netbeam, Inc. (hereinafter "Applicant") for approval of the amendment of the Homestead Planned Unit Development, Eagle County, Colorado (hereinafter the "PUD"), File No. PDA-00038; and

**WHEREAS**, the applicant is proposing to amend the Homestead PUD (filings 1,2 and 3) to allow wireless internet as a "use by right," pending approval from the Homestead Design and Review Committee. Currently, the Eagle County Land Use Regulations recognizes this use, however, the Homestead PUD (written prior to the existence of wireless internet), does not. The PUD must be amended to incorporate this use into the PUD; and

**WHEREAS**, Netbeam, Inc., a wireless internet provider, currently has tentative approval from the Homestead Design Review Committee (DRC) to construct the small tower antenna 10-15 ft in height, next to the Eagle River and Sand District water tank (Tract I, Homestead, Filing 2), pending the outcome of the amendment. The tower antenna will provide internet service to approximately 90% of homeowners in the Homestead area. The residents may then install a small antenna on their home which receives the signal from the tower antenna; and

**WHEREAS**, the Applicant has proposed the following PUD amendments to occur:

1. Add a new Section 14 in Filing 1, addressing the permitted use of Low Power Wireless Communications Equipment; and,

**WHEREAS**, notice of the proposed amendment was mailed to all owners of property located within and adjacent to the PUD, as well as any relative homeowners associations and was duly published in a newspaper of general circulation throughout the County concerning the subject matter of the application and setting forth the dates and times of hearings for consideration of the application by the Planning Commission and the Board of County Commissioners of County of Eagle, State of Colorado (hereinafter the "Board"); and

**WHEREAS**, at its public hearing of August 21, 2002 the Eagle County Planning Commission, based on its findings, recommended **approval** of the proposed Amendments of the Homestead Planned Unit Development; and,

**WHEREAS**, at its public hearing of September 3rd, 2002 the Board of County Commissioners, based on its findings, **approved** the proposed Amendments of the Homestead Planned Unit Development; and,

**WHEREAS**, based on the evidence, testimony, exhibits, study of the Master Plan for the unincorporated areas of Eagle County, comments of the Eagle County Department of Community Development, comments of public officials and agencies, the recommendation of the Planning Commission, and comments from all interested parties, the Board of County Commissioners of the County of Eagle, State of Colorado, finds as follows:

- (1) That proper publication and public notice **were provided** as required by law for the hearings before the Planning Commission and the Board; and,

1. Pursuant to *Eagle County Land Use Regulations* Section 5-240.F.3.e. **Standards** for the review of a Sketch and Preliminary PUD Plan:

- (1) **Unified ownership or control.** The title to all land that is part of this PUD **IS** owned or controlled by multiple persons, however, **IS** represented by one (1) entity.
- (2) **Uses.** The uses that may be developed in the PUD **ARE** uses that are designated as uses that are allowed, allowed as a special use or allowed as a limited use in Table 3-300, "Residential, Agricultural and Resource Zone Districts Use Schedule" for the zone district designation in effect for the property at the time of the application for PUD.
- (3) **Dimensional Limitations.** The dimensional limitations that shall apply to the PUD **ARE** those specified in Table 3-340, "Schedule of Dimensional Limitations", for the zone district designation in effect for the property at the time of the application for PUD.
- (4) **Off-Street parking and Loading.** It **HAS** been demonstrated that off-street parking and loading provided in the PUD complies with the standards of Article 4, Division 1, Off-



**810428**

Page: 2 of 13  
10/16/2002 12:36P

2

Street Parking and Loading Standards, without a necessity for a reduction in the standards.

- (5) **Landscaping.** It **HAS** previously been demonstrated that landscaping provided in the PUD can comply with the standards of Article 4, Division 2, Landscaping and Illumination Standards.
- (6) **Signs.** The sign standards applicable to the PUD **ARE NOT** as specified in Article 4, Division 3, Sign Regulations. However, the current the Homestead PUD has a comprehensive sign plan, as provided in Section 4-340 D., Signs Allowed in a Planned Unit Development (PUD), that **IS** suitable for the PUD and provides the minimum sign area necessary to direct users to and within the PUD.
- (7) **Adequate Facilities.** The Applicant **HAS** clearly demonstrated that the development proposed in the Preliminary Plan for PUD will be provided adequate facilities for sewage disposal, electrical supply, and roads; the applicant **HAS** clearly demonstrated that the development proposed in the Preliminary Plan for PUD will be provided adequate facilities for potable water, solid waste disposal and fire protection. In addition, the Applicant **HAS** demonstrated that the proposed PUD will be conveniently located in relation to schools, police and fire protection, and emergency medical services.
- (8) **Improvements.** It **HAS** been clearly demonstrated that the improvements standards applicable to the development will be as specified in Article 4, Division 6, Improvements Standards regarding:
  - (a) Safe, Efficient Access.
  - (b) Internal Pathways.
  - (c) Emergency Vehicles
  - (d) Principal Access Points.
  - (e) Snow Storage.
- (9) **Compatibility With Surrounding Land Uses.** The development proposed for the PUD **IS** compatible with the character of surrounding land uses.
- (10) **Consistency with Master Plan.** The PUD **IS** consistent with the Master Plan, including, but not limited to, the Future Land Use Map (FLUM).
- (11) **Phasing.** A phasing plan **IS NOT** necessary for this development.
- (12) **Common Recreation and Open Space.** The PUD **HAS** demonstrated that the proposed development will comply with the common recreation and open space standards with respect to:
  - (a) Minimum area;
  - (b) Improvements required;
  - (c) Continuing use and maintenance; or
  - (d) Organization.



810428

Page: 3 of 13  
10/16/2002 12:36P

(13) **Natural Resources Protection.** The PUD **DOES** demonstrate that the recommendations made by the applicable analysis documents available at the time the application was submitted, as well as the recommendations of referral agencies as specified in Article 4, Division 4, Natural Resource Protection Standards, have been considered.

1. Pursuant to *Eagle County Land Use Regulations Section 5-280.B.3.e. Standards for the review of a Sketch and Preliminary Plan for Subdivision:*

- (1) **Consistency with Master Plan.** The PUD **IS** consistent with the Master Plan, and it **IS** consistent with the Future Land Use Map (FLUM).
- (2) **Consistent with Land Use Regulations.** The Applicant **HAS** fully demonstrated that the proposed subdivision complies with all of the standards of this Section and all other provisions of these Land Use Regulations, including, but not limited to, the applicable standards of Article 3, Zone Districts, and Article 4, Site Development Standards.
- (3) **Spatial Pattern Shall Be Efficient.** The proposed subdivision **IS** located and designed to avoid creating spatial patterns that cause inefficiencies in the delivery of public services, or require duplication or premature extension of public facilities, or result in a "leapfrog" pattern of development.
  - (a) **Utility and Road Extension:** Proposed utility extensions **ARE** consistent with the utility's service plan or that County approval of a service plan amendment will be given; or that road extensions are consistent with the Eagle County Road Capital Improvements Plan.
  - (b) **Serve Ultimate Population:** Utility lines **ARE** sized to serve the planned ultimate population of the service area to avoid future land disruption to upgrade under-sized lines.
  - (c) **Coordinate Utility Extensions:** The entire range of necessary facilities **CAN** be provided, rather than incrementally extending a single service into an otherwise un-served area.
- (4) **Suitability for Development.** The property **IS** suitable for development, considering its topography, environmental resources and natural or man-made hazards that may affect the potential development of the property, and existing and probable future public improvements to the area.
- (5) **Compatibility with Surrounding Uses.** The subdivision **IS** compatible with the character of existing land uses in the area and **SHALL NOT** adversely affect the future development of the surrounding area.



810428

Page: 4 of 13

10/16/2002 12:36P 4

3. Pursuant to *Eagle County Land Use Regulations* Section 5-240.F. 3.a.(3) Preliminary Plan for PUD Application contents

- (1) Applicant **HAS** submitted a PUD guide that demonstrates that the requirements of this Section **HAVE** been fully met.

4. Pursuant to *Eagle County Land Use Regulations* Section 5-240.F. 3.m Amendment to Preliminary Plan for PUD:

- (1) **Is consistent.** The proposed PUD Amendment **IS** consistent with the efficient development and preservation of the entire Planned Unit Development;
- (2) **Does not affect in a substantially adverse manner.** The proposed PUD Amendment **DOES NOT** affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the planned unit development or the public interest; and
- (3) **Does not grant special benefit.** The proposed PUD Amendment **IS NOT** granted solely to confer a special benefit upon any person; and,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF EAGLE, STATE OF COLORADO:**

**THAT**, the application submitted by the Applicant for amendments to the Homestead Planned Unit Development be and is hereby **granted**.

**THAT**, the “Amended Planned Unit Development Guidelines of The Homestead Filing 1,” attached hereto incorporates the changes approved by this Resolution and is hereby **approved**, effective immediately upon its recording in the Office of the Eagle County Clerk and Recorder, and replacing in its entirety the previous Planned Unit Development Guidelines for all three filings for Homestead.

**THE BOARD** further finds, determines and declares that this Resolution is necessary for the health, safety and welfare of the inhabitants of the County of Eagle, State of Colorado.

**MOVED, READ AND ADOPTED** by the Board of County Commissioners of the County of Eagle, State of Colorado, at its regular meeting held the 8<sup>th</sup> day of October, 2002, *nunc pro tunc* to the 3rd day of September, 2002.



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Page: 5 of 13  
10/16/2002 12:36P  
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Sara J Fisher Eagle, CO

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COUNTY OF EAGLE, STATE OF  
COLORADO, By and Through Its  
BOARD OF COUNTY COMMISSIONERS

ATTEST:

BY: Sara J. Fisher  
Sara J. Fisher  
Clerk to the Board of  
County Commissioners



BY: Michael L. Gallagher  
Michael L. Gallagher, Chairman

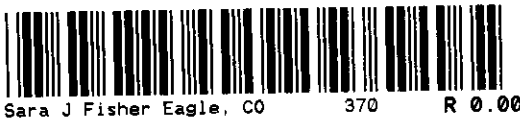
BY: Arn M. Menconi  
Arn M. Menconi, Commissioner

BY: Tom C. Stone  
Tom C. Stone, Commissioner

Commissioner Menconi seconded adoption of the foregoing resolution. The roll having been called, the vote was as follows:

Commissioner Michael L. Gallagher aye  
Commissioner Arn M. Menconi aye  
Commissioner Tom C. Stone aye

This Resolution passed by 3-0 vote of the Board of County Commissioner of the County of Eagle, State of Colorado.



810428  
Page: 6 of 13  
10/16/2002 12:36P  
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AMENDED PLANNED UNIT DEVELOPMENT GUIDELINES

OF

THE HOMESTEAD FILING 1

ARTICLE I

DEFINITIONS

Section 1. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Vacant Lot or Dwelling Unit located on a Lot which is a part of the Properties, including contract sellers, but excluding those having such an interest merely as security for the performance of an obligation.

Section 2. "Properties" shall mean and refer to that certain real property described above, together with such additions thereto as may hereafter be brought within the jurisdiction of the Association in accordance with the terms and provisions of this Declaration.

Section 3. "Common Area" shall mean and refer to all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described on the final plat for The Homestead Filing No. 1. Roadways and sidewalks for pedestrian and vehicular uses and underground utility lines, and fixtures and devices used or useful in the operation of said utility lines, may be constructed, operated and maintained over, through and across the Common Areas. Buildings to be used by utilities, fire department, and other public agencies may be constructed on Common Areas upon approval of the Design Review Committee. Residential Dwelling Units located in public facilities for public employees are acceptable on Common Areas, subject to approval of the Design Review Committee and the granting of a special use permit by the Board of County Commissioners of Eagle County, Colorado, or other successor governmental authority.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map including all or a portion of the Properties, with the exception of (a) the Common Area, (b) private tracts as so described on the plat of The Homestead - Filing No. 1, and (c) Private Open Space as so designated on said plat.

Section 5. "Declarant" shall mean and refer to Homestead Ranch Development Corp., a Colorado corporation, and any successor or assignee as may hereafter be designated by Declarant by a written instrument duly recorded in the office of the Clerk and Recorder of Eagle County, Colorado.



810428

Page: 7 of 13  
10/16/2002 12:36P

Sara J Fisher Eagle, CO

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**Section 6.** "Single Family Lot" shall mean and refer to a Lot which may be used solely for residential purposes and upon which not more than one building containing not more than one Dwelling Unit, together with not more than one garage/accessory building, may be constructed, as so designated on a recorded plat of all or a part of the Properties.

**Section 7.** "Multi-Family Lot" shall mean and refer to a Lot which may be used solely for residential or child daycare purposes, upon which may be constructed a building or buildings to be used for multi-family residential purposes (condominiums, townhouses, apartments or other comparable uses), provided that the total number of Dwelling Units to be constructed on a particular Multi-Family Lot shall not exceed the number of Dwelling Units allowed for such Lot on the recorded plat designating such Lot.

**Section 8.** "Fourplex Lot" shall mean and refer to a Lot which may be used solely for residential purposes and upon which not more than one building containing not more than four Dwelling Units, together with not more than one garage/accessory building, may be constructed, as so designated on a recorded plat of all or a part of the Properties.

**Section 9.** "Dwelling Unit" shall mean and refer to one or more rooms in a building designed to be used and occupied by one family living independently of any other family, having not more than one kitchen and cooking facility, to be used solely for residential occupancy.

**Section 10.** "Community Park" shall mean and refer to a parcel so designed on a plat of all or a part of the Properties, which shall be Common Area and may be used for recreational or child daycare facilities and structures, both publicly and privately owned, provided that such facilities are available to the public, or commercial uses oriented specifically to recreational facilities such as restaurant, sports equipment sale or rent, and the like. Said commercial uses are limited to one building and the sale of equipment is limited to athletic equipment used in said building. In addition, buildings to be used by utilities, fire departments, and other public agencies may be constructed on a Community Park upon approval of the Design Review Committee. Residential Dwelling Units located in public facilities for public employees are acceptable on a Community Park, subject to approval of the Design Review Committee and the granting of a special use permit by the Board of County Commissioners of Eagle County, Colorado or other successor governmental authority.

**Section 11.** "Church Site" shall mean and refer to a Lot which may be used for religious purposes.

**Section 12.** "Private Open Space" shall mean and refer to a Lot which shall remain in its present, unimproved and undeveloped state so long as the adjacent and surrounding land remains in similar use. At such time as the use of the adjacent and surrounding land changes, uses shall be permitted thereon which are similar and compatible to the new uses at the adjacent and surrounding land.





ARTICLE II

USE REGULATIONS

Section 1. Land Uses. The Lots in the Properties fall within the following land use categories:

<u>Lots:</u>	<u>Category:</u>
Lots 1 - 50, Block 1	Single Family Lots
Lots 1 - 11, Block 2	Single Family Lots
Lots 1 - 2, Block 3,	Single Family Lots
Lots 1 - 2, Block 5,	Single Family Lots
Lots 1- 13, Block 6	Single Family Lots
Lots 1 - 35, Block 7	Single Family Lots
Lots 1 - 14, Block 10	Single Family Lots
Lots 1 - 45, Block 11	Single Family Lots
Lots 1 - 11, Block 9	Fourplex Lots
Lot 1 - 2, Block 8	Multi-Family Lots
Lot 3, Block 8	Multi-Family Lot and Community Park
Lot 1, Block 12	Church Site
Lot 1, Block 4	Private Open Space



810428

Page: 9 of 13  
10/16/2002 12:36P

**Section 2. Use Restrictions.** Each Lot shall be subject to the following maximum site use limitations:

	<u>Single Family Lots</u>	<u>Duplex Lots</u>	<u>Fourplex Lots</u>	<u>Multi-Family Lots</u>
Maximum Floor to Lot Area Ratio	.30	.30	.35	.40
*Maximum Building Foot print	.35	.35	.40	.40
Maximum Coverage with Impervious Materials	.55	.55	.60	.60

\*Areas of upper floor overhang or projections less than seven feet above finish grade shall be included in calculating site coverage.

**Section 3. Setbacks.** No building or other structure shall be located closer than twenty-five (25) feet from a road right-of-way nor closer than twelve and one-half (12 1/2) feet from any other property line of a Lot.

**Section 4. Drainage and Grading.** All plans and specifications for the construction of improvements on a Lot, and the actual construction of such improvements, shall maintain all drainage easements and rights-of-way within the Properties clear and unobstructed. Further, all grading on a Lot shall be done with a minimum of disruption to the Lot and shall not drain surface water to adjoining Lots unless along a natural drainage path, nor shall grading cause soil erosion. Grading shall be confined to each Lot, and shall be subject to review by the Eagle County Department of Community Development.

**Section 5. Accessory Structures.** The use detached garages and accessory structures or out-buildings is discouraged, and the use of shall be permitted only if the Eagle County Department of Community Development determines that such use represents the best solution for a particular set of circumstances.

**Section 6. Parking.** No parking will be permitted along public or private roads. Off-street parking shall be provided based upon Eagle County parking standards in effect at the time a building permit is issued. All campers, trailers, boats and similar recreational vehicles must be kept in a fully enclosed storage area screened from public view. All parking areas and driveways shall be asphalt, concrete or other hard surface approved by the Eagle County Engineer.

**Section 7. Landscaping.** A landscaping plan shall be submitted to and approved by Eagle County prior to the Issuance of a building permit for any Lot.

**810428**

Page: 10 of 13  
10/16/2002 12:36P  
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**ARTICLE III  
RESTRICTIONS**

**Section 1. General Plan.** It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Properties which shall be binding on and inure to the benefit of the Owners of the Properties, all thereof in order to enhance the value, desirability and attractiveness of the Properties and to subserve and promote the sale thereof.

**Section 2. Use of Common Area.**

A. No use shall be made of the Common Area which will in any manner violate the statutes, rules or regulations of any governmental authority having jurisdiction over the Common Area.

B. The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

C. No use shall ever be made of the Common Area which will deny ingress and egress to those Owners having access to Lots only over Common Area and the right of ingress and egress to said Lots by vehicle and otherwise is hereby expressly granted.

**Section 4. Use.** No Lot shall be used for any purpose other than that allowed for such particular Lot in accordance with the categories set forth in Section 1 of Article II above and the definitions set forth in Article I above.

**Section 5. Animals.** No cattle, sheep, goats, pigs, rabbits, poultry, or other animals of any description shall be kept or maintained on any Lot, except that Owners may keep not more than two dogs, cats, or other domestic animals which are bona fide household pets so long as such pets are not kept for commercial purposes and do not make objectionable noises or otherwise constitute a nuisance or inconvenience to any of the residents of adjacent property, and in compliance with all existing applicable local ordinances. No horses shall be kept or maintained on any Lot, except that Owners of Lots in Blocks 3 and 4 may keep not more than four horses per Lot. Owners in Blocks 3 and 4 shall be required to maintain the irrigated pasture land and provide supplemental feeding of their horses as needed so as not to overgraze their pasture.

**Section 6. Temporary Structures.** No temporary house, trailer, tent, garage, or outbuilding shall be placed or erected upon any Lot, and no Dwelling Unit placed or erected upon any lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans, nor shall any Dwelling Unit when completed be in any manner occupied until made to comply with all requirements, conditions and restrictions herein set forth; provided, however, that during the actual construction or alteration of a building on any Lot, necessary temporary buildings for storage of materials may be erected and maintained by the person doing



**810428**

Page: 11 of 13  
10/16/2002 12:36P

such work. The work of constructing, altering or remodeling any building on any part of any Lot shall be pursued diligently from the commencement thereof until the completion thereof.

**Section 7. Miscellaneous Structures.** No advertising, billboards or signs of any character shall be erected, placed, permitted or maintained on any Lot unless the prior, written consent of the Eagle County Department of Community Development has first been obtained.

**Section 8. Underground Utility Lines.** All electric, television, radio, telephone and other utility line installations and connections from an Owner's property line to a residence or other structures shall be placed underground, except that during the construction of a residence, the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

**Section 9. No Hazardous Activities.** No activities shall be conducted on the Properties or on improvements constructed on the Properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any of the Properties and no open fires shall be lighted or permitted on the Properties except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace or except such campfires or picnic fires on property designated for such by the Association.

**Section 10. Height Restrictions.** No structure shall be erected or maintained on any Lot which is in excess of thirty-five (35) feet in height. Height shall be the vertical distance of the structure measured from the lowest point of a finished grade on the Lot within two (2) feet of the structure to the uppermost point of the structure. Chimneys, if allowed, shall be excluded in determining the height of a structure.

**Section 11. Fireplaces.** No more than one fireplace or wood burning stove will be allowed in each Dwelling Unit; and all fireplaces and wood burning stoves must be of any energy efficient design.

**Section 12. Driveways.** No more than one connection for vehicular access to a public street shall be allowed for each Single Family Lot, Duplex Lot or Fourplex Lot unless the Eagle County Engineer specifically determines that additional connection are desirable. Further, no connection for vehicular access shall be made from any Single Family Lot or Fourplex Lot onto the public right of way for Homestead Drive except through Tracts C, O or S, The Homestead - Filing No. 1 with the following exception: *Lots 17 and 18, Block 7, Filing No. 1, may share a common driveway onto Homestead Drive. Lots 19 and 20, Block 7, Filing No. 1, may share a common driveway onto Homestead Drive. Each lot owner must provide a driveway "turn around" to prevent backing onto Homestead Drive. The design for "turn around" must be submitted with the building permit application and approved by the County Engineer.*



**810428**

Page: 12 of 13  
10/16/2002 12:36P

Sara J Fisher Eagle, CO

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Section 13. Utilities. Each Dwelling Unit shall connect with the water and sanitation facilities of the Edwards Water District and the Upper Eagle Valley Sanitation District, and no private wells or private sewage systems shall be allowed on the Properties.

Section 14. Low Power Wireless Communications Equipment Structures and antennas necessary to broadcast telecommunications for voice, data or video with emitted power levels less than 36dBm (or such other levels as may be authorized by the Federal Communication Commission to be low power telecommunications) are permitted within all Development Areas with the prior written approval of the appropriate Design Review Committee

## ARTICLE IV

### GENERAL PROVISIONS

Section 1. Enforcement. The Board of County Commissioners of Eagle County, Colorado or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, by the provisions of these Guidelines. Failure by the Board of County Commissioners of Eagle County, Colorado or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any of these covenants or restrictions by judgement or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 3. Duration, Revocation and Amendment. Each and every provision of these Guidelines shall run with and bind the land for a term of twenty (20) years from the date of recording of these Guidelines, after which time these Guidelines shall be automatically extended for successive periods of ten (10) years each. These Guidelines may be amended or revoked by an instrument approved in writing by the Board of County Commissioners of Eagle County, Colorado. Such amendment or revocation shall be effective when duly recorded; provided, however, that any amendment or revocation must comply with the Statutes of Colorado and the resolutions and ordinances of the County of Eagle, Colorado.



Sara J Fisher Eagle, CO

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Page: 13 of 13

10/16/2002 12:36P