

12/AC

Commissioner *Memorie* moved adoption
of the following Resolution:

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

RESOLUTION NO. 2002-143

**APPROVAL
of the AMENDMENT to the
THE HOMESTEAD PUD GUIDELINES
Filing 2**

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 12 in Filing 2, 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-



810427

Page: 2 of 12

2

10/16/2002 12:36P

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.



810427

3

Page: 3 of 12
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.



810427

Page: 4 of 12 4
10/16/2002 12:36P

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 2, Blocks 13, 14, 15 and 16,” 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 8th day of October, 2002, *nunc pro tunc* to the 3rd day of September, 2002.



810427

Page: 5 of 12
10/16/2002 12:36P

Sara J Fisher Eagle, CO

370

R 0.00

D 0.00

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 *Stone* 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.

A standard 1D barcode is located at the bottom left of the page.
810427
Page: 6 of 12
10/16/2002 12:36P
Sara J Fisher Eagle, CO 370 R 0.00 D 0.00

AMENDED PLANNED UNIT DEVELOPMENT GUIDELINES

OF

THE HOMESTEAD FILING 2
BLOCKS 13,14,15 and 16,

PURPOSE

The purpose of this Guide is to clarify the standards, restrictions and regulations which govern development and land use within the Homestead Planned Unit Development, Filing 2, Blocks 13-16.

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 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 as The Homestead, Filing No. 2, Blocks 13, 14, 15, and 16 according to the recorded plat thereof filed under Reception No. _____, and recorded at Book ____, Page ____ in the office of the Clerk and Recorder of Eagle County, Colorado.

Section 3. "Open Space" shall mean and refer to all real property (including the improvements thereto) designated on the Final Plat of The Homestead, Filing No. 2 as "open space", "drainage", "utility", "access", "park" and "equestrian", or any combination of the foregoing. Open Space shall be owned by the Association for the common use and enjoyment of the Owners. The Open Space 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. 2, Blocks 13, 14, 15 and 16. Pathways for pedestrian 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 Open Space.

Section 4. "Association" shall mean The Homestead Owners Association which shall regulate the lots and supervise the open space in Blocks 13, 14, 15 and 16.



810427

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

Sara J Fisher Eagle, CO

370

R 0.00

D 0.00

Section 5. "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 the Open Space.

Section 6. "Developer" shall mean and refer to Warner Developments, Inc., a Colorado corporation, and any successor or assign as may hereafter be designated by Developer by a written instrument duly recorded in the office of the Clerk and Recorder of Eagle County, Colorado.

Section 7. "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 accessory building, may be constructed, as so designated on a recorded plat of all or a part of the Properties.

Section 8. "Duplex/Primary/Secondary" 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 two Dwelling Units, together with not more than one accessory building may be constructed, as so designated on a recorded plat of all or a part of the Properties. Said building, if containing 2 units; the smaller unit may contain no more than 45% of the total square footage of the building. The two units may be subdivided and sold separately.

Section 9. "Equestrian Lot" shall mean and refer to Lots 12 through 23, inclusive in Block 15 and Lots 1, 2, 10 and 11 in Block 16.

ARTICLE II

USE REGULATIONS

Section 1. Land Uses. The Lots in the Properties fall within the following land use categories: Single Family, Duplex/Primary/Secondary, and Open Space.

SINGLE FAMILY	BLOCK 13	LOTS 1-33	33 UNITS		
	BLOCK 14	LOTS 1-13	13 UNITS		
DUPLEX AND	BLOCK 15	LOTS 1-23	46 UNITS		
PRIMARY/SECONDARY	BLOCK 16	LOTS 1-32	64 UNITS		
OPEN SPACE, DRAINAGE AND UTILITY				TRACT	A
OPEN SPACE, DRAINAGE AND UTILITY, PARK				TRACT	B
(NOT USED)				TRACT	C
OPEN SPACE, DRAINAGE, UTILITY, AND ACCESS				TRACT	D
OPEN SPACE, DRAINAGE AND UTILITY				TRACT	E
OPEN SPACE, DRAINAGE AND UTILITY				TRACT	F



810427

Page: 8 of 12
10/16/2002 12:36P

2

OPEN SPACE, EMERGENCY ACCESS, DRAINAGE AND UTILITY (NOT USED)	TRACT	G
ACCESS AND UTILITY (NOT USED)	TRACT	H
(NOT USED)	TRACT	I
(NOT USED)	TRACT	J
OPEN SPACE, DRAINAGE, UTILITY AND EQUESTRIAN (NOT USED)	TRACT	K
(NOT USED)	TRACT	L
PARK, DRAINAGE AND UTILITY (NOT USED)	TRACT	M
(NOT USED)	TRACT	N
OPEN SPACE, PRIVATE ACCESS AND UTILITY (NOT USED)	TRACT	O
(NOT USED)	TRACT	P
OPEN SPACE, DRAINAGE, UTILITY AND EQUESTRIAN	TRACT	Q
		R

Section 2. Use Restrictions. Each Lot shall be subject to the following maximum site use limitations, which are expressed as a percentage of Lot area. For Equestrian Lots the Lot area as used herein excludes the area shown on the Final Plat as "Non-Buildable Area", i.e. the area beyond the rear building setback line shall not be included when determining these calculations.

	<u>Single Family</u>	<u>Duplex/Primary/Secondary</u>
Maximum Floor to Lot Area Ration	30%	30%
Maximum Building Footprint	35%	35%
Maximum Coverage with Impervious Materials	55%	55%

Section 3. Setbacks. No building or other structure shall be located closer than twenty-five (25) feet from a public road right-of-way nor closer than twelve and one-half (12 1/2) feet from any other property line as shown on the Plat except as provided below.

- For Block 13 Lots 4, 9, 10, 21, 22, 24
- Block 14 None
- Block 15 Lots 11, 12, 13, 14
- Block 16 Lots 4, 5, 10, 11, 12, 13, 16, 18, 19, 27, 28, 29, 30

the setback from the road right of way shall be 12 1/2' provided that only the construction of a one-story garage, not exceeding 375 square feet in building footprint, is permitted within 25' of the public road right-of-way.



810427

Page: 9 of 12
10/16/2002 12:36P
R 0.00 D 0.00

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 one 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, and/or County Engineer

Section 5. Accessory Structures. Any detached garage or barn shall be a minimum of 400 square feet and a maximum of 1,500 square feet. There shall be no more than one accessory building per site.

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 parking areas and driveways shall be asphalt, concrete or other surface approved by the Eagle County Engineer.

ARTICLE III

RESTRICTIONS

Section 1. Use of Open Space.

The Open Space will remain in an undisturbed natural state, except as vegetation disturbance is necessary for use by utilities or other public agencies to provide services. No use shall be made of the Open Space which in any manner violates the statutes, rules or regulations of any governmental authority having jurisdiction over the Open Space.

Section 2. 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 3. 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 a Lot except those designated as an Equestrian Lot. These Lots shall be further restricted in that no horses may be housed or pastured within 150 feet of any public road right-of-way, nor may any horses be kept on



810427

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

4

Lots which are unimproved. An owner of multiple contiguous Lots need only have improved one of them in order to maintain horses on all of them.

Section 4. 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 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 5. 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 6. 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 7. 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 8. 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 average 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 9. Fireplace. Shall be subject to current Eagle County regulations.

Section 10. Driveways. No more than one connection for vehicular access to a public street shall be allowed for each Single Family Lot, Duplex/Primary/Secondary Lot unless the Eagle County Engineer specifically determines that additional connections are desirable.



810427

5

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

Section 11. 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 12. 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.



810427

Page: 12 of 12

10/18/2002 12:36P

Sara J Fisher Eagle, CO

370

R 0.00

D 0.00