



Town of Red Cliff

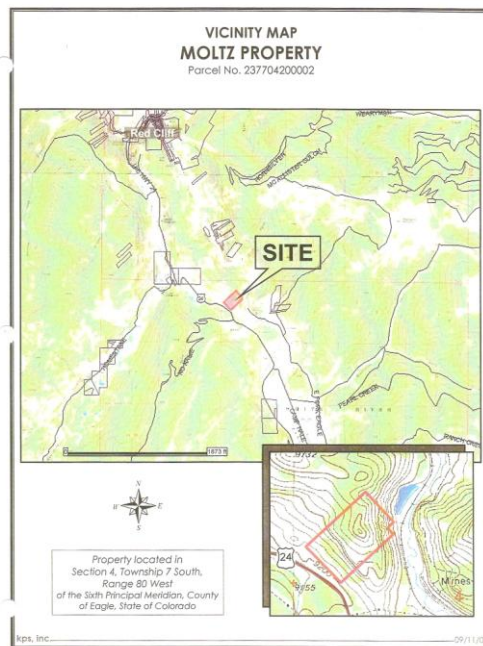
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STAFF REPORT **July 6, 2009**

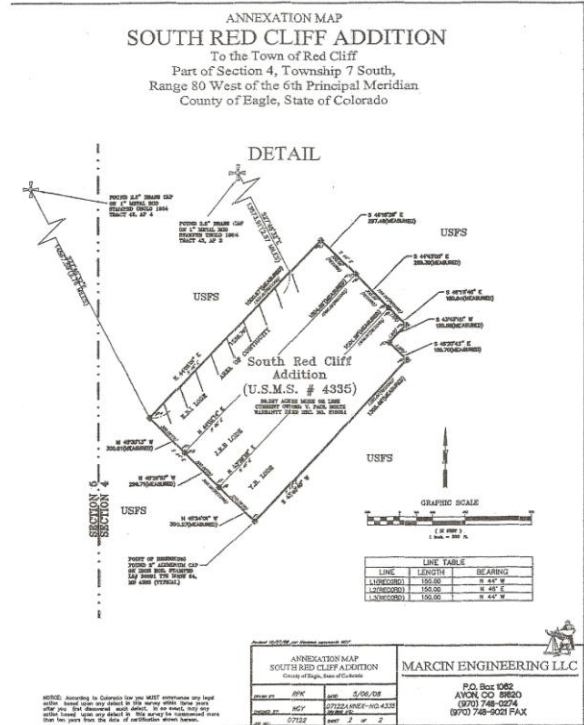
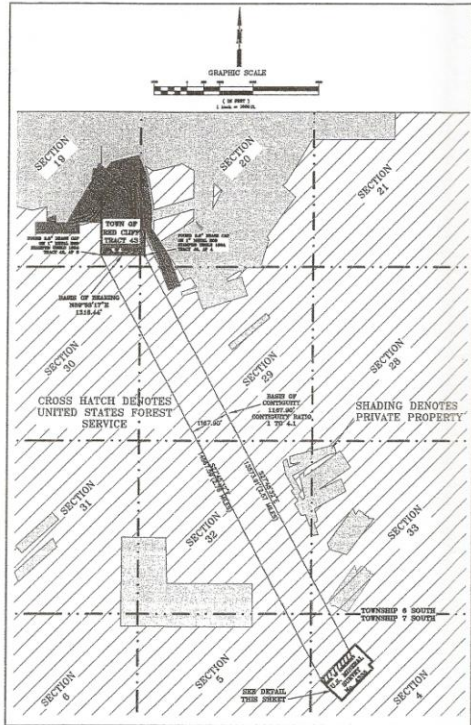
I. PROJECT: Moltz Rock Quarry
PUD Zoning Application & PUD Final Development Plan

Applicant:	Paul V. Moltz
Property:	Mines: E.B.I-4335, J.E.B-4335, Y.B.-4335, Unincorporated Eagle County, Colorado
Reviewed by:	Ruth O. Borne and Mariana Boldu
Presented by:	Ruth O. Borne, Town Attorney
Application:	Request for Annexation, PUD Zoning Application & PUD Final Development Plan

Location Map



Annexation Map



II. PROJECT OVERVIEW

On March 2, 2009, the Applicant obtained recommendation of approval from the Town of Red Cliff Planning and Zoning Commission, Resolution 1, Series 2009 on the PUD Final Development and PUD Zoning Application (“PUD Application”) with several conditions (“Resolution 1”). A copy of Resolution 1 is attached hereto for your review as Exhibit A. Most of the conditions enumerated in Resolution 1 were related to the quarry operations and its implications to the Town.

In April 2009, the Applicant submitted a supplement to its PUD Application to address some of the conditions identified in Resolution 1 and was scheduled for a public hearing with the Board of Trustees. A copy of the supplement is attached hereto as Exhibit B.

At the public hearing held on April 6, 2009, the Board of Trustees tabled the Application on Ordinance 1, Series 2009 An Ordinance Approving the PUD Application in order for the Applicant to submit revisions and clarifications.

On June 10, 2009 the Applicant submitted a revised Application including a draft traffic study prepared by a Colorado licensed engineer.

III. STAFF RECOMMENDATION

Based upon the scope of the stone quarry operation, the term of the requested use, lack of mitigation of the impacts, staff recommends the Board either deny the Application or provide clear direction on the requisite changes necessary to comply with the Town requirements. Additionally, staff recommends denial for the residential use of up to 15 residential units because of the lack of detail and lack of compliance with the requirements.

Staff has consistently requested the Applicant revise the scope, density and term of the Application to be more appropriate for the site. To date, the Applicant has failed to make these revisions.

The Applicant is requesting Planned Unit Development (PUD) Zone Districts for the Property. Contemporaneously with this Application, the Applicant filed a Petition for Annexation. The Annexation Map is provided herein for your reference. The Property will not be annexed unless and until the Town approves the zoning. The PUD Zone District for the property is proposed with the following uses:

1. Stone Quarry Operations: The PUD Zone District will allow stone quarry operations and crushing of overburden, ancillary uses such as haul road, temporary access ramp, detention pond, sales office, portable toilets, fuel storage, refuse dumpster, modular trailers. The Applicant is requesting the quarry operations commence within two years of annexation and expected to run for fifteen (15) years, subject to some of the following conditions:

- (a) Within two years of annexation, all of the required permits will be obtained and authorize commencement of quarry operations.
- (b) Submit and obtain approval from the Town of Red Cliff a Final Development Plan (FDP). Such FDP is currently submitted with this PUD to be reviewed and acted upon.
- (c) The quarry activities will be limited to an area of approximately 10 acres as identified in the Application - Exhibit "F".

2. Residential Use: The Applicant is also requesting a PUD Zone District that will allow residential uses and densities as follows:

- (a) A maximum of 15 residential units. These might be in form of duplex units, multi-family units and/or single family homes. There is no clearly defined type of residential unit identified in the Application.
- (b) Minimum lot size of one (1) acre.
- (c) Building height limit of thirty five (35) feet.
- (d) A minimum of three (3) parking spaces per unit enclosed or unenclosed.

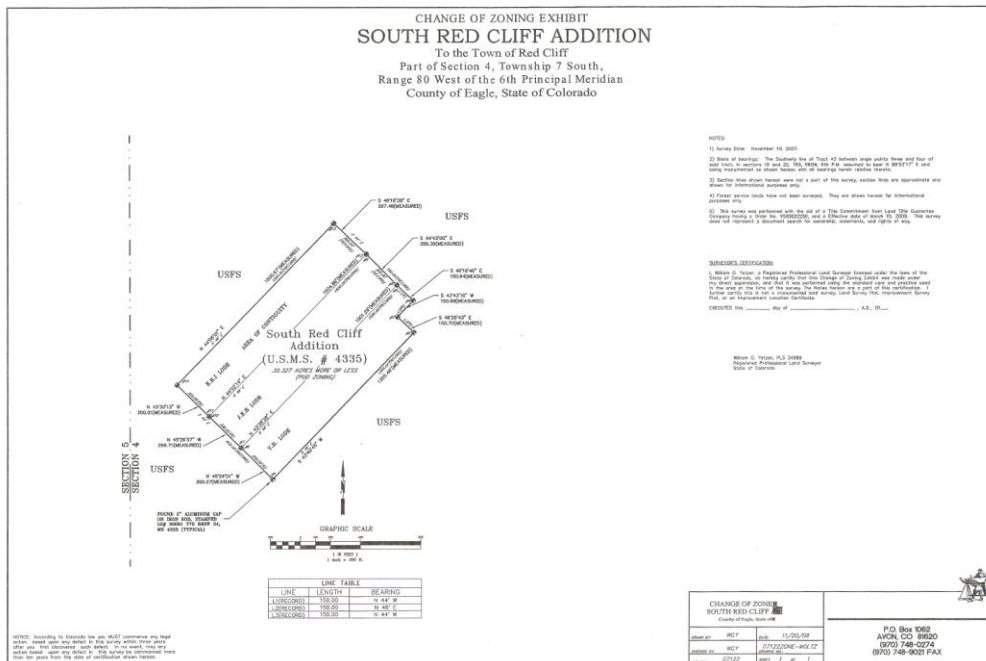
(e) Setbacks from lot lines for front, side and rear of twenty-five (25) feet.

The Applicant is only requesting the PUD Zone District. The Applicant acknowledges that they will have to submit for a Final Development Plan for the residential use and is proposing the following conditions:

Applicant may submit an FDP for residential use upon the following: (A) the stone quarry operations have been completed and all the state and federal reclamation requirements have been satisfied; **or** (B) the applicant have submitted all the necessary quarry applications/permits within the time period described above, and has been unable to obtain such permits within twelve (12) months from the submittal date of the application.

This Staff Report will address the Final Development Plan for the Quarry Operation separately from the PUD Zoning for the Residential Use. Additionally, Staff has limited this Staff Report to include analysis of compliance with the Final Development Plan requirements set forth in Section 12.6.820 and 12.6.830 of the Red Cliff Municipal Code.

To date, staff has only received referral comments from Eagle County. There have been no other responses to the Application.



IV. PROJECT DESCRIPTION AND HISTORY:

The Moltz property is compromised of three existing mining claims, the EBI Lode Mining Claim, the YB Lode Mining Claim and the JEB Lode Mining Claim (also known as the Badger State Mine). Collectively, these three claims constitute a parcel of approximately 30 acres (the

“Property”). The mining claims were patented by the United States Government in the late 19th century and underground mining for gold and silver occurred on these claims between 1880 and 1890, and again in the 20th Century.

One of the unique geologic features of the Property is the presence of an expose outcropping of Sawatch quartzite. This is a popular construction stone and also desirable material for landscaping. This particular exposed and accessible outcropping of Sawatch quartzite on privately owned land along U.S Highway 24 is unusual. It is also noteworthy that this Sawatch quartzite outcropping occurs on a patented mining claim that at the turn of the Twentieth Century was the site of a gold mine.

Paul Moltz acquired the Property from Eagle Rock and Stone, LLC in May 2004. Eagle Rock and Stone, LLC prepared a number of studies of the Property for use as a request for restoring the stone quarry in 2001 by requesting a Special Review Use Permit with Eagle County (File No. ZS-00065). References to these studies are provided in various sections of this FDP Application.



FINAL DEVELOPMENT PLAN FOR QUARRY OPERATION

Final Development Plan Requirements (12.6.820)

A. Final Development Plan Maps and Drawings

1. Site Plan

- a. Title block, scale north arrow & vicinity map

- b. Identification of present ownership and developer if different from owner.
- c. Proposed land uses and their respective acreage within the PUD.

Items a-c have been provided

- d. Location, dimension, and surfacing, proposed streets, right-of way drives, parking areas, pedestrian ways, service areas, trash disposal areas, outdoor storage areas and easements.

More detail is required for trash removal and outdoor storage.

There is an existing easement for access with the USFS (Exhibit G in the Application) that will require modification in order for the Property to be used for residential purposes – it can be used for harvesting natural resources, such as the quarry operation for thirty years commencing February 10, 2000.

- e. Location of all existing and proposed points of ingress and egress to the property, proposed turning movements to and from streets and median cuts.

Turning movements have not been provided.

- f. Location and dimension of lot lines, setback lines, parks, open space & areas for public use.

Submitted

- h. Location, height, and size of proposed lighting, signs, advertising devices and mailboxes.

More detail required for the quarry and its operation for lighting, signs, etc.

- i. The maximum height of all buildings.

Additional detail on the proposed temporary buildings on the site plan is required

- j. Location and screening of all utilities.

More detail required for electrical and other utilities to operate the quarry.

- k. A delineation of the one-hundred-year floodplain and floodway.

More detail is required on the 100 year floodplain delineation. .

2. Environmental Site Plan

- a. Location of all existing and proposed structures within the FDP and within one hundred fifty feet of its external boundary.

More detail needed on location of temporary structures during quarry operation.

- b. Existing forested or uniquely vegetated areas to remain after development.

Conifer woodland will be removed for quarry operations and impact on aspen forest stands appears significant. Not much vegetation cover will remain after quarry operations are completed.

- c. Location of any existing major wildlife habitat or migration routes.

The Applicant has provided an Environmental Impact Report (EIR) prepared by Western Environmental. Although no written comments have been received from the Division of Wildlife, staff has conferred with Bill Andre and he does not perceive any adverse impacts to wildlife based upon the scope and size of the project.

d. Location of natural, environmental, historical, archaeological, or paleontological features.

There are no significant features identified in the 2000 EIR.

3. Grading Plan

Grading Plans pre and post mining operations are provided in Exhibit “I” of the Application.

4. Landscape Plan

Plan material spacing, sizes, and specific types of landscaping materials shall be submitted.

The Landscape Plan is provided as Exhibit “M”. The Applicant has provided more detail for screening with photo overlays. Quantity and size of conifers proposed for screening may be insufficient. More detail is recommended to verify adequacy of screening in the proposed plan.

5. Proposed Architectural Elevations

This requirement is not applicable to this Application.

6. Cross Sections

Cross Sections are provided in Exhibit “I”, Figures 10 and 11.

7. Utility Plans

Utility plans shall be submitted for all major utilities and drainage facilities showing necessary easements, including but not limited to water, sanitary sewer, storm sewer, gas, telephone and electrical.

More detail needed to comply with this requirement. A preliminary subdivision application must accompany this FDP Application and initial comments from the Town Engineer, Marcin Engineering LLC have been provided and are attached hereto for your review and comment. Staff will provide more information on the subdivision application as the public hearings on the FDP continues through the approval process.

8. Transportation Plan

Traffic summary is provided as Exhibit “H” prepared by TDA Consultants. The Applicant must still comply with the CDOT requirements.

Staff remains concerned with the lack of a substantive traffic mitigation plan and the overall inability of the Town to mitigate impacts over time.

Staff has consistently requested the Applicant revise the application to minimize the scope and term of the application which will allow more flexibility for the Town to address impacts to Highway 24.

9. The following technical studies and reports shall be submitted with the FDP maps:

- a. Soils report
- b. Drainage study
- c. Traffic study

Soils maps are provided as part of the EIR (Exhibit "I") dated 2000. An updated, detailed soils report is highly advised

B. Final Development Plan Text

1. Title block, legal description, submittal date, identification of present ownership and developer if different from owner, and identification of technical consultants.

Provided

2. A statement of the character and development concept of the PUD.

Provided

3. A land use table showing building coverage and square footage, and providing the percentage of paved, open space, and landscaped areas in relation to gross are of the FDP.

More detail is required although the quarry operation will have limited site coverage.

4. A statement of assessment and mitigation for the preservation or other special treatment of significant natural, environmental, historical, archaeological, or paleontological features.

EIR has provided information – recommend updating EIR

5. Copies of any agreements, conveyances, restrictions, or covenants which will govern the use, maintenance, and continued protection of the PUD and any of its park, open space, etc.

More detail is required on the short term and long term use and maintenance of the quarry operation.

6. Development schedule setting timing and phasing, if any, for construction of the development.

The Applicant is proposing to obtain all approvals for the quarry within (2) years of annexation and zoning approval.

7. General description of signs and lighting devices indicating type, size, material, color, and text.

There is some limited information on signage for truck access; however, more detail will be required to determine compliance with this requirement.

8. Approval block for the Board of Trustees.

Provided

CONDITIONS AND STANDARDS FOR APPROVAL (12.6.830)

The Board of Trustees may approve a PUD application if it meets the intent of this chapter and complies with the code and other controlling regulations and documents, including the development standards specified in the TRC Development Regulations.

A. The proposed PUD district is compatible with present development in the surrounding area, and will not have a significant, adverse effect on the surrounding area.

The surrounding environment consists of USFS property and open space. There are no residents within one (1) mile of the proposed quarry operations. Open space conflict with the scenic beauty and the declaration of Highway 24 as scenic view corridor unless proper screening and buffering is provided.

The Applicant has provided more detail and information on this matter.

B. The proposed PUD district is consistent with the public health, safety and welfare as well as efficiency and economy in the use of land and its resources.

The quarry operation is governed by several specific jurisdictional requirements and permitting. The Applicant has existing operations within Colorado and should provide more detail on compliance with this requirement of ensuring health and safety of the extraction, processing and delivery of the quartzite.

One of the conditions proposed in the Application is that “all quarry activity must be conducted in compliance with the Permits. Once received by the applicant, all items addressed in the Permits will become automatically ratified by the Town of Red Cliff (the “Town”), and the Town may not add requirements or conditions related to the Permits”. Based upon testimony from the Applicant, staff understands the purpose of this provision and how comprehensive the permitting requirements are; however, the Town is still looking for some ability to control any adverse impact to its community in the even the issue arises from the quarry operation.

C. The proposed PUD district is consistent with the overall direction and intent of this chapter, and the intent and policies of the Town’s Comprehensive Plan and other documents of the Town.

TOWN COMPREHENSIVE PLAN

Mission Statement:

“Our mission is to protect the health, safety and welfare of the citizens of Red Cliff, enhance the quality of life and the design of the community, promote sustainable development while advancing the quality of life and the Town’s interests.”

As aforementioned, more detail is required to assure the Town of the health and safety of the quartzite operation. Certainly, a small operation of this nature for a limited time provided adequate controls are adopted will promote the Town’s interests.

Red Cliff – The Vision (Section 1.2)

“The citizens of Red Cliff would like a town that provides the traditional public services while maintaining the historical, mining mountain-town environment.”

To maintain the desired character of the Town while continuing to provide and upgrade current services, Red Cliff may have to accomplish the following:

1. Provide an environment conducive to measured, but steady growth.
2. Encourage cottage industries, service industries, low impact light manufacturing, and other small businesses to be located within the town.
3. Encourage development of residential areas in accordance with current zoning codes.
4. Ensure that plans for facilities and utilities are accomplished to support the above.

This is the argument provided by the Applicant for compliance with the Town Comprehensive Plan (Page 18, Application). Staff concurs that the rock quarry proposed on this historical mining claim complies with the vision statement.

Also using conservative sale price estimates the quarry is anticipated to generate sales tax in the amount of approximately \$397,701 over 15 years (previously estimated at \$218,772 over seven years) thereby promoting small businesses.

Environmental Constraints (Section 7.2.6)

There should also be documentation to show how a particular environmental constraint will be mitigated. When applicable, the town should have the authority to require a detailed report concerning the probable effects of development on streams, physical features, and wildlife habitats.

The Applicant has presented an Environmental Impact Report (Exhibit "I" of the application). Staff has consistently recommended the Applicant provide an updated EIR.

The Applicant has suggested that all of these provisions and requirements to ensure environmental constraints and impacts will be addressed through the exhaustive permitting requirements required of a rock quarry (Exhibit E and Q).

THREE MILE PLAN

Town of Red Cliff Three Mile Plan for Annexation

Annexation Eligibility and Processing Criteria (Section II)

The following items must be addressed when considering an annexation request to the Town of Red Cliff:

Compliance with the Colorado Municipal Annexation Act

The proposed annexation complies with the provisions of the Colorado Municipal Act for substantial compliance and is recommended for eligibility.

Compliance with the criteria set forth in the Red Cliff Municipal Code

Compliance with the criteria of Title 12, Zoning Code of Red Cliff is analyzed herein. .

Annexation Map

Annexation Map is provided as Exhibit "A".

Licensed Survey

Provided.

Proposed land use plans, including density, height and other restrictions.

More detail will be needed to evaluate.

Financial Impact Analysis

This requirement is provided as Exhibit "N" of the Application and has been revised based upon a 15- year financial projection rather than 7-year. Therefore, the projected tax revenue is \$397,701 over 15 years and previously estimated at \$218,772.

In the initial review memo provided by staff dated December 18th, 2008 and previous staff reports, staff requested the Applicant consider adding financial tools to capture more wholesale product revenue for the Town, which is now estimated at 50%. There are available funding mechanisms to both parties to achieve this goal. To date, the Applicant has not addressed these concerns.

Traffic Report

Traffic Report is provided as Exhibit "H" prepared by TDA and indicated minimal traffic impacts to existing traffic on Highway 24. The Applicant will be required to obtain CDOT access permits.

Staff remains concerned with the lack of a detailed traffic mitigation plan and the Town's ability to control the truck traffic over time in the event there are traffic issues.

Zoning Map

Zoning Map is provided as Exhibit "B".

General Town Policies for Annexation (Section III)

A. To annex only those lands that offer material benefit to the Town's infrastructure and economic development.

In addition to the projected sales taxes, the Applicant has identified that employees and jobs will be created from the quarry operation, which is critical during these economic times.

With regard to residential development, staff remains concerned with approving up to 15 residential units without any additional information other than a zoning determination.

The Annexation complies with the general policies for annexation for the quarry and lacks compliance for the substantial amount of residential units.

B. Coordinate review of annexation requests with Eagle County.

Eagle County provided comments on the Application and was generally not supportive of this annexation.

C. Required to conform to the Town of Red Cliff Comprehensive Plan, Capital Improvements Program, Building, Electric and Fire Codes, Zoning and Subdivision Standards and any other guidelines, restriction or analysis the Town deems appropriate.

Application has partially conformed as outlined in this report. There are requirements the Applicant will need to provide before progressing in the approval process.

D. Open space and park or trails dedication shall be required.

The property is surrounded by USFS property. No comments have been received by USFS.

E. Town staff should prepare a list of benefits and liabilities to the Town for the proposed annexation.

There are several significant financial benefits to the Town for the quarry operation on both a short term and long term basis.

The residential zoning is a liability because there is no information on how the residences will be provided services, including water and infrastructure. Additionally, residential development imposes tremendous financial impacts to communities and without more detail indicating otherwise, the benefits for the residential use is minimal.

F. Town should develop the following projections for services (water & wastewater).

The developer intends to provide these services. More detail is required on the current well and proposed facilities for wastewater and water during the quarry operation.

The Applicant will be required to provide all water and wastewater for any residential use under the current Town requirements effective at the time of submittal.

Land Use Category

Community Services

A portion of this area is contained with the Eagle River Fire Protection District and Eagle County School District. Annexation would require fire, police protection and potentially new municipal buildings/facilities housing community services. Consideration to the impact to schools shall also be a consideration.

These impacts are not adequately addressed. The Applicant maintains that there will be limited or no impact to these services since they are already provided services by police, fire, etc. There are additional impacts to these services and staff recommends the Applicant re-evaluate these proposed impacts. To date, we have not received any referral comments by these services or special districts on this Application.

Open space, Parks, and Recreation

Public access to the Eagle River and public lands is an amenity rapidly disappearing in our community. Annexation of this area must include consideration for the preservation of access and enjoyment of public lands.

The existing road through the property seems to connect to USFS property. During the quarry operation, public access should be limited. The Applicant may want to consider public access once the residential use is developed.

D. The proposed PUD district provides for a creative innovative design which could not otherwise be achieved through other standard zoning districts.

There are no other provisions in the Red Cliff Municipal Code for a quarry or similar land use and therefore, the PUD process is an appropriate mechanism to obtain approval for the limited use.

E. The exceptions from the zoning regulations requested in the proposed PUD are warranted by virtue of innovative design and amenities incorporated in the PUD district.

Same as Item D above.

F. Proper circulation in parking areas has been provided in terms of safety, convenience, separation, and screening. The PUD provides for buffering from collector and retrieval streets through earthen berms, landscaping, and other methods.

The Applicant has submitted more plans for the screening of Highway 24 and staff would prefer more detailed plans as the Applicant moves through the process.

Additional comments on safety and maneuvering on site are recommended and will be addressed through subdivision and the CDOT access permit process.

G. The PUD provides functional open space in terms of practical usability and accessibility, and optimum preservation of natural features, including trees and drainage areas, recreation, views, natural stream courses, bodies of water and wetlands.

Staff is concerned with the retention pond both short term and long term implications. More detail is required on this specific matter. Additional detail on preserving the long term natural features of the Property through the reclamation process and the short term aesthetics of the Property during the extraction process is required to satisfy this requirement.

H. To the extent practicable, the PUD provides variety in terms of housing types, housing size, densities, affordability, facilities and open space.

The entire application (both the quarry and proposed residential use) have no consideration provided for employee, work force or related housing. Staff recommends some element of the Application include either some short term or long term housing or both on this site.

I. The PUD provides for pedestrian and bicycle traffic in terms of safety, separation, convenience, access, destination, and attractiveness. If possible, there shall be an internal pedestrian circulation system separate from the vehicular system such that allows access to adjacent parcels, parks, open space or recreational facilities with the PUD as well as links to trail systems of the Town.

This criterion has not been addressed in the application.

J. Building types in terms of appropriateness to density, site relationship, and bulk.

No details were provided on the Application.

K. Building design in terms of orientation, spacing, materials, color, texture, storage, signs and lighting.

No details were provided on the Application.

L. Landscaping of the site in terms of purpose, such as screening, types and materials used, maintenance suitability, water demands and effect on the area.

The Landscape Plan provided as Exhibit "M" does not provide quantity and size of conifers adequate for screening.

M. Services including utilities, fire, police protection, and other such services are available or can be made available to adequately serve the development.

To date, we have not received any comments.

N. No structures in the PUD shall encroach on a floodplain except as permitted by the Town's Floodplain Ordinance.

This criterion is not applicable.

O. No occupied structure shall be located on ground showing severe subsidence potential without adequate design and study approved by the Town.

This criterion is not applicable.

P. Visual relief and variety of visual sitings shall be located within the PUD through building placement, shortened or interrupted street vistas, visual access to open space and other design methods.

This criterion is not applicable.

V. VESTED PROPERTY RIGHTS

A vested property right pursuant to Article 68 of Title 24 C.R.S., as amended, is created only upon Board of Trustees' approval or conditional approval of a site specific development plan which has been processed in accordance with the provisions of this chapter.

The Applicant is requesting vesting for the quarry for a term of 17 years and 15 years for the residential use. Staff is concerned with the extended length of the request for vesting and recommends the Applicant provide a more detailed explanation for the requested length of vesting.

VI. STAFF RECOMMENDATION.

The overall scope of the quarry application is consistent with the comprehensive plan and other requirements of the Town regulations. The concern is that the length of time requested for the quarry operation without the Town having some ability to review the quarry use and its impacts over a 15-year period. The financial impacts, housing for employees, and traffic mitigation remain elements of concern that have not been addressed in the most recent Application.

Additionally, the scope of the residential use of up to 15 units is not appropriate for this location and is not in conformance with either the Three Mile Plan or the Town Comprehensive Plan.

Therefore, staff recommends that the Town deny the application or provide clear direction to the Applicant what items in the PUD plan are not appropriate or acceptable based upon the approval criteria.

Staff has discussed with all of the consultants on more than one occasion that the Town is trying to work with the Applicant and that providing more flexibility for the Town on the duration of the quarry operation, more traffic control, and some financial incentives tools.

With regard to the residential units, staff has consistently requested the Applicant reduce the amount of density for the Moltz parcel to be in keeping with the Town policies and planning documents. The Applicant has maintained the 15 residential unit request to allow themselves flexibility in light of all of the existing and future economic conditions. The Applicant has noted several times that the residential zoning is just that, a zoning designation and that all requirements, including but not limited to subdivision, final development plan, all water and sewer infrastructure and utilities must be met prior to moving forward with any residential development.