



July 20, 2016

Hand Delivered

Town of Gypsum
Planning Department
Attn: Lana Gallegos, Planning Director
50 Lundgren Blvd
Gypsum, CO 81637

RE: Application for Subdivision and Zoning / Clearwater Ventures LLC

Dear Ms. Gallegos:

On behalf of Clearwater Ventures, LLC ("**Applicant**"), we are pleased to submit to you the enclosed subdivision and zoning applications.

1. Introduction

This written statement is submitted on behalf of Applicant in support of its applications ("**Application**" or "**Applications**") for an amendment to the final subdivision plat and a corresponding change of zoning in relation to that portion of Applicant's property (the "**Property**") legally described as Lot 2, Amended Final Plat, Eagle Valley Industrial Park Subdivision, a Resubdivision of Lots 1 & 2, recorded March 29, 2016 as Reception No. 201604273 ("**Existing Lot 2**"). The Applications propose the following:

- (A) To subdivide Existing Lot 2, which has an acreage of 73.50 acres into two separate lots:
 - i. a 65.357 acre parcel comprising the northern portion of Existing Lot 2, to be designated "**Proposed Lot 2**", and
 - ii. a 8.393 acre parcel comprising the southern portion of Existing Lot 2 to be designated "**Proposed Lot 3**,"

both as depicted on Applicant's proposed Second Amended Subdivision Final Plat attached hereto as **Exhibit A**.

- (B) To rezone Existing Lot 2 from the Town's temporary Developing Resource District to be consistent with the two newly created lots, as follows: (i) Proposed Lot 2 to be zoned Agricultural, and (ii) Proposed Lot 3 to be zoned Light Industrial, both as

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depicted on Applicant's proposed Amended Zoning Map attached hereto as **Exhibit B**.

The Property is a portion of a larger parcel of property, presently comprised of Lot 1 and Lot 2, Amended Final Plat, Eagle Valley Industrial Park Subdivision, a resubdivision of Lots 1 and 2 (the "**Larger Parcel**").

This statement is provided in accordance with Chapter 17.20.070 and Chapter 18.15.040 of the Gypsum Municipal Code ("**GMC**"), and provides a narrative of the approvals requested by Applicant and demonstrates compliance with the governing provisions of the GMC.

The specific subdivision and zoning requests are detailed in Section 3 of this written statement, a short historical background to the Applications is provided in Section 4, and evidence supporting the Applications' compliance with the GMC is provided in Sections 5 through 8.

2. Gypsum Master Planning

Land uses in Gypsum are guided by two comprehensive master plans—the Gypsum Foundation Plan adopted in 1999 (the "**Foundation Plan**") and the 2008 Eagle River Area Plan, a sub-plan of the Foundation Plan ("**Sub-Area Plan**").

The Foundation Plan recognizes that the Larger Parcel is located immediately next to the only "Heavy Industrial" use in the Town. With its 2012 approval of the Eagle Valley Clean Energy biomass electrical generation facility, the Town approved Light Industrial zoning with a special use permit for Heavy Industrial Activities on Lot 1, thereby expanding the area of industrial uses within the Town of Gypsum. The Foundation Plan recognizes that "it is desirable to segregate [industrial] uses from other land uses, especially residential uses and commercial retail, while at the same time keeping them in close proximity to major transportation corridors." Foundation Plan, p.36.

The Sub-Area Plan designates the Property as within River Management Zone 3, and recognizes that "RMZ 3 has a large developable area that sits off of the floodplain and away from highly sensitive riparian resources, offering the greatest potential within the entire study area for a new neighborhood center, housing, and even recreational resources." The plan identifies this area as having "High" Developability and only "Moderate" Resource value.

The plan describes the key framework elements of this area of RMZ 3 as follows:

"In the future, its proximity to neighborhoods, multi-modal connections, the Tower Center, and the Eagle River make it ideally suitable for higher density mixed-used development, a promenade center, and new community amenities. The promenade center will become a new commercial heart for Gypsum, meeting the daily needs of residents, as well as drawing in tourists and visitors from throughout the region. This center would be a distinct [sic.] complement to the big-box chain store found

at the Tower Center, focusing more on locally owned, smaller scale businesses and restaurants.”

The Plan’s vision for neighborhoods, a Town Center, and multi-modal connections for this area has not yet been realized, and existing developments approved by the Town and in operation today appear to conflict in material ways from the vision in the Plan. The Property remains sandwiched between the Heavy Industrial use of the American Gypsum facility to the west, and the gravel mining operations in the unincorporated property to the east, while the “Town Center” aspects of the Vision have been constructed elsewhere within the municipality.

In an effort to harmonize the visions of the Foundation Plan and the Sub-Area Plan—in addition to the actual reality of how the area has matured—a limited area of additional Light Industrial zoning (LI) immediately adjacent to the existing industrial uses, combined with Agricultural (AG) zoning, with its combination of serving as a “transitional status” land area, limited residential, and various commercial uses, for the remainder of the Property seem to be the most consistent zoning designations with the visions set forth in the Foundation Plan and Sub-Area Plan and the reality and needs of the neighborhood.

3. Subdivision and Zoning Requested

Applicant seeks approval of a subdivision plat amendment that reconfigures Existing Lot 2 into two new lots—Proposed Lot 2 and Proposed Lot 3—and contemporaneously seeks approval of a zoning map amendment to transition Proposed Lot 2 and Proposed Lot 3 from the existing temporary “Developing Resource” zone district and to align the zoning boundaries with the amended subdivision boundaries.

Approval of the requested zoning will be beneficial to the surrounding area and general public since it will define the future use of Existing Lot 2, which is currently included in a temporary designation of Developing Resource District, and it will serve to preserve the physical character of the vast majority (nearly 90%) of the Property as agricultural property, thereby protecting the Eagle River corridor, including its wetlands, through a large part of the Town. Furthermore, approval of the requested zoning will advance important policy objectives set forth in the Annexation Agreement between the Applicant and the Town, including, for example, “orderly growth in accordance with the policies and goals set forth in the Town’s Foundation Plan and the Eagle River Area Plan, ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic growth, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes for which the Vested Property Rights Statute and the Vested Property Rights Regulations were enacted.” (Annexation Agreement, Recital T.)

Granting Applicant’s request for subdivision and zoning will also achieve important benefits and objectives, including aligning the Property and its zoning with the Applicant’s actual and intended prospective uses of the Property and with the changed conditions in the surrounding property, and it will implement the boundaries and zoning necessary to prepare for a prospective sale of a portion of the Property.

4. History and Prior Consideration of Land Entitlements concerning the Property

Historical context is helpful in considering the Applications. In the original site development plans, the Applicant planned to use Lot 1, Eagle Valley Industrial Park Subdivision (“**Lot 1**”), a portion of the Larger Parcel, to develop a bioenergy facility and access to it. Plans for the use of Existing Lot 2 were not then known and were deferred until the bioenergy facility was constructed and operational. Existing Lot 2 was, therefore, zoned Developing Resource pending determination of its long term use. During and following construction of the bioenergy facility, at the request of the Town, the Applicant applied for a plat amendment and rezoning between Lot 1 and Existing Lot 2 to realign the subdivision and zoning boundaries such that the private access driveway leading to the bioenergy facility was entirely within Lot 1. This was accomplished by a minor subdivision that subdivided 1.607 acres from Existing Lot 2 into Lot 1 and by a rezoning that changed the zoning of the 1.607 acres subdivided from Lot 2 into Lot 1 from Developing Resource District to Light Industrial. That rezoning kept the zoning boundaries consistent with the subdivision boundaries. The subdivision and rezoning was approved by the Town in early 2016.

The Applicant understands from the Town that Existing Lot 2 is one of only two parcels within the Town that is zoned Developing Resource District, a zoning designation intended to facilitate annexation for property for which the long term use is not presently known. Over a period of several years, in communications with Town staff, Applicant has indicated its interest in developing an area near the bioenergy facility for a maintenance facility to support the bioenergy facility and its related activities. Town staff has indicated that this would be an appropriate use for a portion of Existing Lot 2, but suggested resolving any such new land uses following resolution of certain outstanding Annexation Agreement obligations and zoning issues. The Annexation Agreement obligations were resolved between the Applicant and the Town pursuant to a Memorandum of Performance under Annexation Agreement dated January 19, 2016. Consequently, consistent with its understanding with the Town, Applicant now wishes to pursue a subdivision and zoning change appropriate to accommodate development adjacent to the bioenergy facility and to reflect the actual and intended future use of the balance of Existing Lot 2.

AMENDED FINAL SUBDIVISION PLAT APPLICATION

5. Information Supporting Application for Plat Amendment — GMC § 17.20.070

The Town’s application form for the subdivision is attached as Exhibit C, together with Applicant’s check in the amount of \$3,300—\$300 as the applicable application fee and the required deposit of \$3000. Further, an Amended Final Plat conforming with the applicable requirements of GMC §17.20.020(2) is attached as Exhibit A; upon approval, a mylar satisfying the requirements of GMC § 17.20.020(1) shall be submitted.

In addition, Applicant evidences compliance with the requirements of GMC § 17.20.070, as follows:

- A. *A tax certificate from the county treasurer indicating all taxes and assessments on the property are paid and current.*

Applicant Response:

A tax certificate is attached as Exhibit D.

- B. *A current title report from a licensed Colorado title company shall be provided showing the names of all surface owners, lien holder, mineral owners, and lessees of mineral rights in the platted area as they appear upon records in the county clerk and recorder's office.*

Applicant Response:

A current title commitment showing the names of all surface owners, lien holders, mineral owners, and lessees of mineral rights of record is attached as Exhibit E.

- C. *All utility easements shall remain on the subject property unless the utility companies having said easements agree in writing to release said easements to the property.*

Applicant Response:

Applicant affirms that all utility easements dedicated by the Original Plat have been retained on the proposed amended final plat.

- D. *The changes proposed shall in no way violate the existing zoning of the area.*

Applicant Response:

As described herein, the Applications propose a contemporaneous subdivision amendment and rezoning which, together, align the zoning boundaries with the subdivision boundaries in accordance with GMC § 18.15.040(2)d.4. Together, these changes will provide for usage of Proposed Lot 2 consistent with its present usage, and will permit light industrial development on Proposed Lot 3.

- E. *The subdivision shall show how it will mitigate all impacts for services including but not limited to emergency services, schools, land for public purpose, traffic, recreation, water dedication and tap fees, and sewer tap fees.*

Applicant Response:

At this time, Applicant's planned use of the Property will be ancillary to the existing uses at the bioenergy facility, and will not cause any increased impact on emergency services, schools, traffic, recreation, water dedication or tap fees. Applicant has previously satisfied all land for public purpose dedication requirements, as evidenced by Sections 7.1.F. and 8.9.C(iv) of the Annexation Agreement and Vested Property Rights Development Agreement of the Gypsum Sustainable Industrial Park dated

March 13, 2012 (the “**Annexation Agreement**”); and such satisfaction is a Vested Property Right, as defined in the Annexation Agreement.

- F. The applicant must provide names and addresses of property owners within 300 feet of the subject property, as indicated by Eagle County Assessor's records, and printed on mailing labels for the purpose of town notifications of public hearing pursuant to chapter 17.70.***

Applicant Response:

A list of all property owners within 300 feet of the subject property, as indicated by Eagle County Assessor’s records, and printed on mailing labels, is attached as Exhibit E.

6. Criteria for Review of Subdivision Application

In accordance with GMC § 17.20.070(b)(1)(c) and (d), in reviewing and considering an Application for Minor Subdivision Plat Amendment, the Planning Commission and Town Council shall consider the comments and recommendations of the town staff, comments of the general public and impacts on adjoining areas and the town as a whole.

In numerous past conversations with Town staff, Applicant has learned that the Town favors maintaining a majority of the Property in its present use and condition, being generally agricultural, while a smaller portion of the Property is suitable for light industrial development. The subdivision Application, together with the zoning Application, enable this preference.

GMC §17.20.050(e) specifies certain factors for consideration, as discussed below.

- A. The required preliminary plan exhibits;***

Applicant Response: This factor is not applicable.

- B. Evidence and information supplied as supplemental requirements;***

Applicant Response: Applicant is not aware of any supplemental required information.

- C. Compliance with all applicable Federal, State and Municipal laws and regulations;***

Applicant Response: The requested subdivision complies with all applicable laws and regulations.

- D. Utility services in remote areas;***

Applicant Response: The requested subdivision will have no adverse effect on utility services and is not expected to substantially increase utility service demands above those that presently exist on the Larger Parcel. Proposed Lot 2 will not require additional utilities access beyond those that presently exist. Proposed Lot 3 will require utility service, which may be accessed from existing utility access easements or through utility connections through Lot 1.

E. Preserving and creating scenic views;

Applicant Response: The subdivision and rezoning to Agricultural proposed by Applicant in relation to the Proposed Lot 2 will have no impact to existing scenic views. Rather, it will help preserve the existing scenic landscape along the Eagle River, and its usage is consistent with its present agricultural usage. With respect to Proposed Lot 3, it is entirely surrounded by property owned by the Applicant, who of course supports this Application. The Proposed Lot 3 itself lies some 20-30 feet lower than the closest adjacent properties to the south not owned by the Applicant (including the Union Pacific Railroad, American Gypsum Company, Colorado Division of Transportation, Highway 6, a private residence, and businesses to the south of Highway 6), with the lower lying elevation serving to substantially mitigate any visual impact of development on third parties. Furthermore, Proposed Lot 3 gradually descends (dropping in elevation) in a south-to-north direction leading away from roads, residences and businesses in the Town, assuring that any light industrial development on Proposed Lot 3 (e.g., a maintenance facility) will be at an even lower elevation than such features, and again mitigating potential light and visual impact on the landscape or views from the south side of Proposed Lot 3. A berm also exists on Lot 1, between Proposed Lot 3 and third party-owned properties to the south, partially obscuring views of development on Proposed Lot 3 from such third party properties and Highway 6 to the south.

F. Promoting compatibility with existing neighborhood uses and goals;

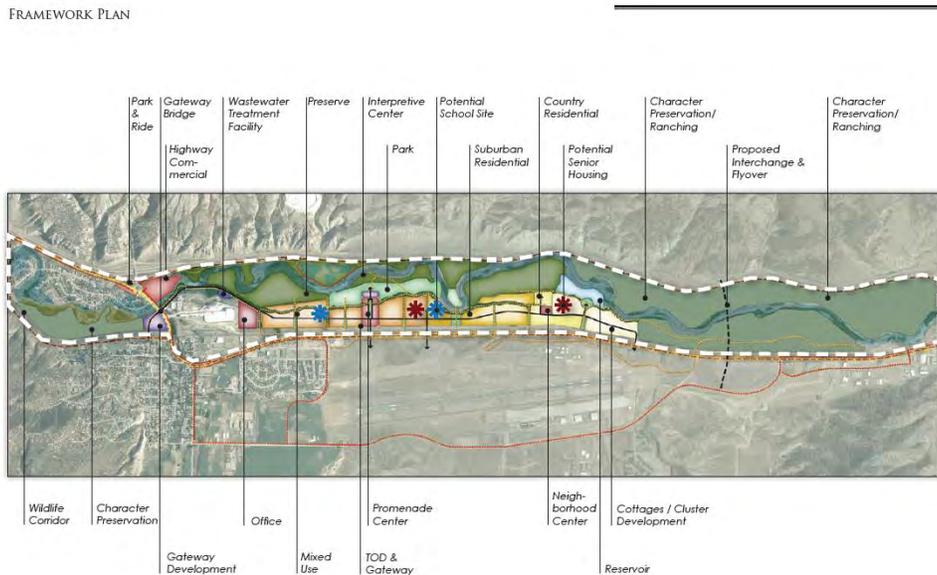
Applicant Response: See description above. In addition, Proposed Lot 3 appropriately serves as a buffer zone between the sizeable industrial developments to the west (the bioenergy facility, American Gypsum's heavy industrial wallboard facility, and Colorado Department of Transportation's road equipment facility) and the existing gravel mining and agricultural use of property to the east. The proposed Agricultural zoning for Proposed Lot 2, which lies immediately to the east of proposed Lot 3, also ensures a "hard stop" eastern border to any light industrial development in Proposed Lot 3. Applicant believes that the Applications are consistent with the Town's master plan and its conversations with Town staff to date in that it provides a transition zone from the Town's existing Heavy Industrial activities.

G. Preserving and protecting public lands from impacts of incompatible development;

Applicant Response: The requested subdivision will have no adverse impact on any public lands. The location of the Property is located immediately adjacent to Light Industrial zoning on Lot 1 to the west and south, and immediately adjacent to gravel mining operations to the east. The property to the north has not been annexed and is zoned Resource by Eagle County. Consequently, the Applications seek designations that are not inconsistent with zoning in the neighboring properties.

H. Compatibility with the Town’s master plan;

Applicant Response: The requested subdivision will have no adverse impact on the Town’s master plan and is consistent with the “mixed use” vision of the master plan for the subject area:



See Eagle River Area Plan, p. 74

By definition, Developing Resource property is “designated on the master plan as potentially suitable for urban development.” GMC § 18.04.140. Subdividing the Property into the Proposed Lot 2, and zoning it Agricultural, and into Proposed Lot 3, and zoning it Light Industrial, is consistent with the Town’s Foundation Plan and Sub-Area Plan. Approval of the requested subdivision will be beneficial to the surrounding area and general public since it will define the future use of the Existing Lot 2, which is currently included in a temporary designation of Developing Resource District, agricultural property, thereby protecting the Eagle River corridor through a large part of the Town.

Furthermore, approval of the requested subdivision will advance important policy objectives set forth in the Annexation Agreement, for example, “orderly growth in

accordance with the policies and goals set forth in the Town's Foundation Plan and the Eagle River Area Plan, ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic growth, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes for which the Vested Property Rights Statute and the Vested Property Rights Regulations were enacted." (Annexation Agreement, Recital T.)

I. The arrangement of streets in relation to other existing or planned streets;

Applicant Response: The requested subdivision will have no material impact on other streets. Access to Proposed Lot 2 and Proposed Lot 3 will be accomplished via the existing private driveway, and an appropriate easement will be recorded by the Applicant burdening Lot 1 for the benefit of Proposed Lot 3 to ensure perpetual access.

J. Adequate and convenient open spaces and adequate recreational facilities;

Applicant Response: The requested subdivision maintains significant areas of land without development, resulting in only slightly over 10% of the Property becoming available for industrial development, and nearly 90% of the Property retaining its physical character as Agricultural.

K. Adequate recreational facilities;

Applicant Response: See comments above. Additionally, GMC § 17.04.050's land for public purposes dedication requirement is for the purpose of providing adequate recreation areas. Applicant has previously satisfied all land for public purpose dedication requirements, as evidenced by Sections 7.1.F. and 8.9.C(iv) of the Annexation Agreement, which satisfaction constitutes a Vested Property Right.

L. Adequate access to light and air;

Applicant Response: The requested subdivision will have no material impact on light and air affecting the Property or surrounding property. See also Paragraphs 5.E and 5.F above.

M. Avoidance of congestion of population;

Applicant Response: The requested subdivision will not have a material impact on congestion or traffic patterns affecting the Property or surrounding areas. Access to the Property will continue to be subject to existing permits, including the Colorado Department of Transportation access conditions and the limited right of access easement granted by Union Pacific Railroad.

N. New burdens on the Town's existing public facilities and services;

Applicant Response: The requested subdivision will not have a material impact on existing public facilities and services. No public roadways or gutters are projected to be necessary in connection with the Applications, and any sewage, water or utilities required in connection with development is projected to be low relative to existing availability of the Town and local utilities. Additionally, GMC § 17.04.050's land for public purposes dedication requirement is for the purpose of mitigating the increased demand on public facilities and services. Applicant has previously satisfied all land for public purpose dedication requirements, as evidenced by Sections 7.1.F. and 8.9.C(iv) of the Annexation Agreement, which satisfaction constitutes a Vested Property Right.

O. Any other Factors deemed Appropriate.

Applicant Response: None applicable.

ZONING AMENDMENT APPLICATION

7. Information Supporting Application for Zoning Amendment — GMC § 18.15.040

A. Preapplication conference.

Applicant Response: Applicant has attended numerous informal preapplication conferences, and has had numerous discussions with Town Staff concerning these Applications over the preceding years. Applicant understands the zoning amendment, submittal requirements, and review process for the Application. Based upon these discussions, Applicant is unaware of any patent defects or insufficiencies in these Applications, or any material grounds for the Town to decline the Applications that might require consideration in advance.

B. Zoning Amendment Application Submittal

a. A completed land use application

Applicant Response: A completed land use application for the zoning amendment is attached as Exhibit G, together with Applicant's check in the amount of \$500 (comprised of the \$250 application fee and the \$250 deposit).

b. A legal description for all property to be considered for rezoning.

Applicant Response: The current legal description of all property to be considered for rezoning is: Lot 2, Eagle Valley Industrial Park Subdivision, a resubdivision of

Lots 1 & 2, according to the recorded plat thereof recorded March 29, 2016 under Reception No. 201604273.

- c. Current proof of ownership of property likely to be affected by the zoning change in the form of title insurance issued within 30 days of submission of the application, an ownership and encumbrance report, chain of title guarantee, or other similarly reliable evidence of ownership.*

Applicant Response: A title commitment for the Existing Lot 2 is attached as Exhibit E.

- d. A zoning amendment map of the area included in the proposed change*

Applicant Response: A zoning amendment map of the Property that complies with the requirements of GMC §18.15.040(2)(d)(1) through (10) is attached as Exhibit B.

- e. A written statement describing the proposal and addressing the following points...*

Applicant Response: This submittal constitutes Applicant's written statement describing the proposed zoning amendment map. Each of the points required by GMC §18.15.040(2)(e) is addressed in Section 7 below.

- f. Adjacent property ownership report.*

Applicant Response: A certificate identifying all adjacent property owners is attached as Exhibit H.

- g. Public hearing notification envelopes.*

Applicant Response: In lieu of public hearing notification envelopes on Applicant's stationery, labels that can be affixed to Town of Gypsum envelopes are attached as Exhibit I.

8. Written Statement Supporting Application for Zoning Amendment — GMC § 18.15.040(2)(e)

A. Need for the proposed rezoning;

Applicant Response: The Property is currently zoned "Developing Resource District" which GMC § 18.04.140 describes as "intended to provide for the annexation of those properties that are currently used for agriculture or other non-urban uses and for which there are no specific and immediate plans for development. These areas are designated on the master plan as potentially suitable

for urban development, but not in the immediate future because of lack of utilities, other services, or other uses. The only permitted use in the Developing Resource District is the one that existed on the date the property was placed in this District.” GMC § 18.04.140. To Applicant’s knowledge, there is only one other property within the Town of Gypsum with the “Developing Resource” designation.

Consistent with the explanation above, Applicant is applying for Agricultural use for the majority of Existing Lot 2 and light industrial use for the remainder of Existing Lot 2. Consistent with these proposed uses, Applicant simultaneously seeks a subdivision consisting of a change to the recorded subdivision plat which would subdivide the Existing Lot 2 into a Proposed Lot 2 consisting of 65.357 acres to be zoned Agricultural and a Proposed Lot 3 consisting of 8.393 acres to be zoned Light Industrial. This simultaneous subdivision and rezoning will align the zoning district boundaries with the subdivided parcels, consistent with the direction of GMC § 18.15.040(2)d.4.

B. Present and future impacts on the existing adjacent zone districts, uses, and physical character of the surrounding area:

Applicant Response: The Property on which the zoning is requested is located immediately adjacent and to the east of, and consistent with the existing Heavy Industrial zoning of the American Gypsum plant and the Light Industrial zoning of Lot 1 and its bioenergy facility. To the east is property being mined for gravel and to the south is Lot 1, also zoned Light Industrial. To the north of Proposed Lot 3 is Proposed Lot 2, which represents a large buffer zone with expected long term usage consistent with Gypsum’s Agricultural zone district. To the north of Proposed Lot 2 is property in the county zoned Resource. Any future development on Proposed Lot 3 will have no impact on the immediately surrounding property, which is industrial or mining on three of the four sides of Proposed Lot 3 and will have minimal impact on properties even beyond the immediately adjacent properties, because the portion proposed for Light Industrial zoning (Proposed Lot 3) comprises only slightly over 10% of the total property in issue. In totality, the overwhelming majority of the Existing Lot 2 will retain its existing physical character and agricultural use.

C. Impact of the proposed change on area accesses and traffic patterns;

Applicant Response: The requested zoning is not projected to have any material impact on area access. Access to Proposed Lot 2 and Proposed Lot 3 will be accomplished via the existing private driveway, and appropriate easements will be recorded by the Applicant to ensure perpetual access to the Property, as necessary. Likewise, the requested zoning is not projected to have a material impact on congestion or traffic patterns affecting the Property or surrounding property. Access to the Property will continue to be subject to existing permits, including the

Colorado Department of Transportation access conditions and the limited right of access easement granted by Union Pacific Railroad.

D. *Availability of utilities for potential development:*

Applicant Response: The requested zoning will have no adverse effect on utility services. Proposed Lot 2 and Proposed Lot 3 will be easily accessed from existing utility lines and access easements serving Lot 1.

E. *Present and future impacts on public facilities and services;*

Applicant Response: The requested zoning is not projected to have a material impact on existing public facilities and services. No public roadways or gutters are projected to be necessary in connection with the Applications, and any sewage, water or utilities required in connection with is projected to be low relative to existing availability of the Town and local utilities.

F. *The relationship between the proposal and the town land use code or master plan*

Applicant Response: The requested zoning will have no adverse impact on the Town's master plan and is consistent with the "mixed use" vision of the master plan for the subject area. By definition, Developing Resource District property is "designated on the master plan as potentially suitable for urban development." GMC § 18.04.140. Subdividing the Property into the Proposed Lot 2, and zoning it Agricultural, and into Proposed Lot 3, and zoning it Light Industrial, is consistent with the Town's master plan in that it provides a transition area from the Heavy Industrial activities to the West. See also the discussion in Part 5.F and Part 5.G above in this written submission.

G. *Public benefits arising from the proposal which addresses the benefit to the general public, rather than to a single landowner;*

Applicant Response: Approval of the requested zoning will be beneficial to the surrounding area and general public since it will define the future use of the Existing Lot 2, which is currently included in a temporary designation of Developing Resource District, and it will serve to preserve the physical character of the vast majority (nearly 90%) of the Lot 2 as agricultural property, thereby protecting the Eagle River corridor, including its wetlands. Furthermore, approval of the requested zoning will further important policy objectives set forth in the Annexation Agreement between the Applicant and the Town, including, for example, "orderly growth in accordance with the policies and goals set forth in the Town's Foundation Plan and the Eagle River Area Plan, ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic growth, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes for which the Vested

Property Rights Statute and the Vested Property Rights Regulations were enacted.”
(Annexation Agreement, Recital T.)

8. Criteria for Amendments to the Official Zoning District Map

In accordance with GMC § 18.15.050, the official zoning district map shall not be amended unless necessary under one or more of the following stipulated criteria:

- A. *To correct a manifest error in an ordinance establishing the zoning for a specific property;*

Applicant Response: Not applicable.

- B. *To rezone an area or extend a boundary of an existing district because of changed or changing conditions in a particular area or in the town generally;*

Applicant Response: The Property is currently zoned “Developing Resource District” which the Applicant understands to be a temporary designation that is described by the GMC as, “intended to provide for the annexation of those properties that are currently used for agriculture or other non-urban uses and for which there are no specific and immediate plans for development. These areas are designated on the master plan as potentially suitable for urban development, but not in the immediate future because of lack of utilities, other services, or other uses. To Applicant’s knowledge, there is only one other property within the Town of Gypsum with the “Developing Resource” designation.

The intended use and development of Lot 2 as a whole was not known at the time of its annexation and zoning as Developing Resource District. However, future development was contemplated in the Annexation Agreement between the Applicant and the Town. Specifically, Recital I to the Annexation Agreement provides that, “Developer and Gypsum desire to provide for the orderly development of the Property and the preservation of contemplated uses on portions of the Property, including, without limitation, mining, which is subject to future Town approvals, and by this Agreement to provide for the construction of improvements and facilities to serve the property and to mitigate the impact of the Project on Gypsum.” The situation in respect of the Property has now changed. The Applicant’s bioenergy facility is completed and has operated for a period of time. The Applicant now realizes that it requires additional improvements and facilities to serve the bioenergy plant, including, for example, a maintenance facility for servicing the bioenergy facility and its associated heavy equipment and related activities, which requires Light Industrial zoning to develop, and is an appropriate zoning designation for Proposed Lot 3. The Applicant also now contemplates long term usage of the vast majority of the Property for agricultural usage, and for that purpose designation of Agricultural zoning is appropriate for

Proposed Lot 2. Approval of the Applications will properly align the zoning with the actual and intended uses for the Property.

- C. *When the land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Town's land use code or the master plan;*

Applicant Response: Not applicable.

- D. *When the proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the land use code or master plan, whichever was last updated, and the rezoning will be consistent with the policies and goals of the master plan;*

Applicant Response: Not applicable.

- E. *When the area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area;*

Applicant Response: See Part 8.B above in this written statement.

In conclusion, Applicant requests that the Applications be reviewed by the Planning Commission and Town Council, as set forth in the Code. Applicant looks forward to presenting these Applications and respectfully requests approval of the Applications.

Yours very truly,

SARAH J. BAKER PC



Sarah J. Baker, Esq.

SJB:sw
Enclosures

cc: Client

List of Exhibits
To Applications for Subdivision and Zoning

A.	Amended Subdivision Plat
B.	Zoning Amendment Map
C.	Plat Amendment Application Form
D.	Certificate of Eagle County Treasurer Regarding Payment of Taxes
E.	Proof of Ownership of Property
F.	Names and Addresses of Property Owners Within 300'
G.	Zoning Amendment Application Form
H.	Certificate Concerning Ownership of Surrounding Properties
I.	Adjacent Property Owners Notification Labels

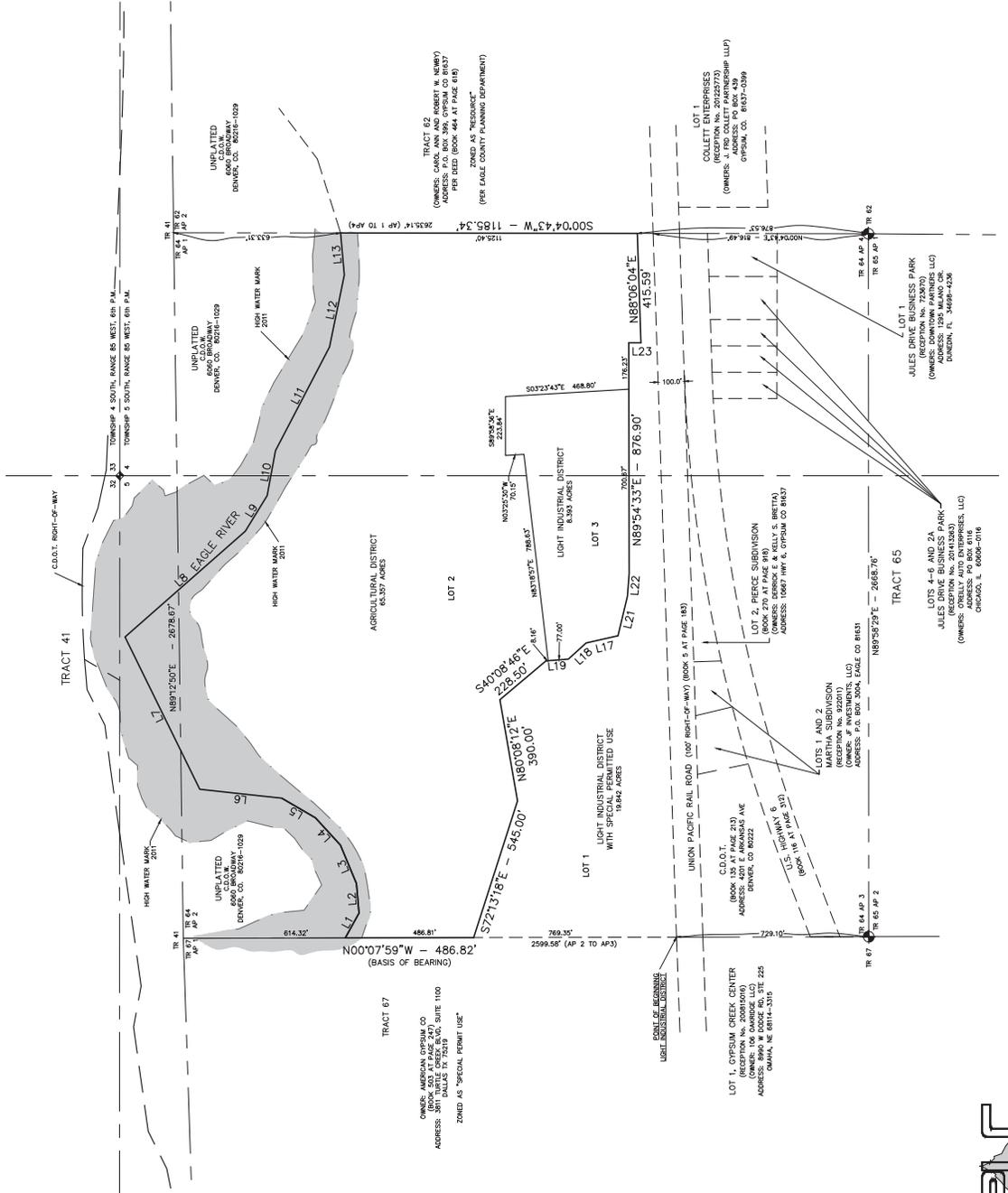
Exhibit A
To Applications for Subdivision and Zoning

AMENDED SUBDIVISION PLAT

Exhibit B
To Applications for Subdivision and Zoning

ZONING AMENDMENT MAP

AMENDED ZONING MAP
EAGLE VALLEY INDUSTRIAL PARK
EAGLE VALLEY INDUSTRIAL PARK SUBDIVISION, A RESUBDIVISION OF LOT 2
TOWN OF GYPSUM, COUNTY OF EAGLE, STATE OF COLORADO



LINE	LENGTH	BEARING
L1	117.74	N83°30'26.1"
L2	152.24	N82°54'02.6"
L3	152.24	N82°54'02.6"
L4	152.24	N82°54'02.6"
L5	152.24	N82°54'02.6"
L6	152.24	N82°54'02.6"
L7	152.24	N82°54'02.6"
L8	152.24	N82°54'02.6"
L9	152.24	N82°54'02.6"
L10	152.24	N82°54'02.6"
L11	173.96	S72°31'37.2"
L12	278.87	S78°24'53.1"
L13	278.87	S78°24'53.1"
L14	278.87	S78°24'53.1"
L15	278.87	S78°24'53.1"
L16	278.87	S78°24'53.1"
L17	278.87	S78°24'53.1"
L18	278.87	S78°24'53.1"
L19	278.87	S78°24'53.1"
L20	278.87	S78°24'53.1"
L21	278.87	S78°24'53.1"
L22	278.87	S78°24'53.1"
L23	278.87	S78°24'53.1"
L24	278.87	S78°24'53.1"
L25	278.87	S78°24'53.1"

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CHORD BEARINGS
C1	2536.97°	2263.00'	98.83'	55.88'	98.78'	S50°37'04.0"



Exhibit C
To Applications for Subdivision and Zoning
PLAT AMENDMENT APPLICATION FORM