

AGENDA

TOWN OF SNOWMASS VILLAGE PLANNING COMMISSION

REGULAR MEETING
Wednesday, January 6, 2016

TIME: 4:00 p.m.

PLACE: Town Council Chambers
130 Kearns Road, Snowmass Village, CO.

ITEM NO. 1: Meeting Minutes from December 16, 2015

ITEM NO. 2: Discussion and Resolution No. 1, Series of 2016 -
Fanny Hill Cabins Minor PUD Amendment for a Phasing Change

MISCELLANEOUS

ADJOURNMENT

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TOWN OF SNOWMASS VILLAGE

**PLANNING COMMISSION
MEETING MINUTES**

December 16, 2015

10 Members Present:

11 Jamie Knowlton, Chairman
12 Donna Aiken, Vice Chair
13 Patrick Keelty
14 Doug Faurer
15 Jim Gustafson
16 David Rachofsky
17 Tom Fridstein

Staff Present:

Julie Ann Woods
Cindy Ford
Jim Wahlstrom
Chase Anderson

18
19 Members Absent:

20 None

Others Present:

T. Michael Manchester
Seth Hmielowski
David Corbin
Mak Keeling

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25 Call to order: The meeting was called to order at 4:02 p.m. by Jamie Knowlton,
26 Chairman.

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28 New Planning Commission member Tom Fridstein read and signed the oath
29 and was welcomed as the newest Commissioner.

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31 Item 1: Meeting Minutes from November 4, 2015: The Minutes of the 11/4/15
32 meeting were brought up for approval. Donna Aiken made a motion to approve
33 the Minutes as written, second by Doug Faurer and approved by a vote of 5-0
34 with David Rachofsky and Tom Fridstein abstaining.

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36 Item 2: Public Hearing: Woodrun II, Lot 2 Variance Request, Garage Addition
37 Encroachment:

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39 Jim Wahlstrom introduced the application for a variance to allow a garage
40 encroachment on a property that already has a house on the lot. The house
41 was constructed before the Town was incorporated and does not contain a
42 garage. Due to constraints on the lot, the addition of a garage would
43 necessarily have to encroach somewhat, which would necessitate a variance.
44 Staff recommends approval of the application, with conditions. The addition of

45 the garage will not add more floor area as the garage is exempt from FAR
46 calculations.

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48 The applicant stated that they had contacted the nearest neighbors to the
49 property and did not receive any negative comments from the neighbors who
50 responded.

51
52 Staff read into the record a memo from Public Works, stating that they would
53 need a right-of-way permit before the building permit for construction of the
54 garage was issued.

55
56 The Planning Commission discussed the application. They thought that the
57 additional parking was a good idea, that the house is not on a “through” street
58 but a cul-de-sac with few neighbors who did not seem to object to the project.
59 Planning Commission considered the addition of this garage an improvement to
60 conditions on that street.

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62 Jim Gustafson made a motion to approve the Resolution Regarding the Garage
63 Encroachment Variance, second by David Rachofsky and approved by a vote of
64 7-0.

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66 Special Review: Gwyn’s High Alpine Restaurant and Minor PUD Amendment to
67 the Final PUD guide for Snowmass Mountain: Jamie Knowlton and Jim
68 Gustafson recused themselves from this Special Review.

69
70 Chase Anderson introduced the application to remodel Gwyn’s High Alpine
71 Restaurant and the Minor PUD Amendment they would need to do it. He
72 pointed out that they were well under the allowable square footage for the
73 restaurant and that there would be no restricted housing mitigation required.

74
75 David Corbin spoke on behalf of the Aspen Ski Co. He said that they thought it
76 was time to renovate Gwyn’s as they have been renovating the on-mountain
77 facilities in recent years. They think the building itself is good, just that it
78 needs to be remodeled and the first floor made more accessible to the public.

79
80 Seth Hmielowski showed the floor plans for the remodel, which they think will
81 bring in more light and allow for better views. He said the floor plan will flow
82 much better than what exists today.

83
84 The Forest Service Master Plan for the mountain includes the existing
85 conditions at the restaurant and the Fire Department is waiving the sprinkler
86 requirement.

87
88 The Planning Commission discussed the cafeteria seating, noting that it is
89 shifting to another area and concerns were expressed about the proper amount
90 of seating. The applicant pointed to the new floor plans and said that the

91 amount of seating is being distributed to different areas but that they would
92 have plenty of seating.

93

94 Doug Faurer made a motion to recommend that Town Council approve the
95 Special Review of Gwyn's High Alpine Restaurant remodel and the Minor PUD
96 Amendment, second by David Rachofsky by a vote of 5-0, with Commissioners
97 Knowlton and Gustafson recusing.

98

99 Adjournment: The meeting adjourned at 5:40 p.m.

DRAFT

TO: Town of Snowmass Village Planning Commission members

THROUGH: Julie Ann Woods, Director
Community Development Department

FROM: Jim Wahlstrom, Senior Planner
Community Development Department

DATE: January 6, 2016 meeting

SUBJECT: DISCUSSION AND RECOMMENDATION: Fanny Hill Cabins Minor PUD
Amendment for a Phasing Change and Resolution No. 1, Series of 2016

Introduction. The Brush Creek Land Company, LLC (Aspen Skiing Company) as Applicant submitted a Minor PUD Amendment application on October 6, 2016 that originally involved a more comprehensive set of design modifications for the project. After the completion review comments were issued on October 16, 2016 regarding that submission, the applicant subsequently resubmitted the application on December 8, 2015 for a conditional text change only involving a timing or phasing change for the project. Following a completion review, the application was referred for agency review on December 23, 2015.

Summary Core Issues. Following the review of the application, an analysis of the history and the review standards in the municipal code, staff finds that the major issues relating to the PUD Amendment proposal include:

- The relationship of the project to Base Village;
- The expiration of the vested rights and the results thereof;
- Compliance with new development standards adopted after the 2004 approvals and prior to or after the vesting expiration;
- Impacts associated with the possible granting of a phasing change;
- Construction management and staging planning;
- The timing and completion of the associated agreements, the re-plat and a possible future PUD Amendment.

Application Summary - Fanny Hill Cabins Minor PUD Amendment:

The applicant seeks an amendment to Condition No. 1 of the Final PUD approval in Town Council Ordinance No. 23, Series of 2004, which states:

1. *"Condition Precedent to Development of Project. Notwithstanding the foregoing, no building permits will be issued for any of the Buildings in the Project until Phase 2B of the Base Village PUD is substantially complete."*

The proposed condition is:

"No building permit be issued for the project until construction has commenced on Building 5, Lot 2 in the Base Village PUD."

The current condition was also placed in the Fanny Hill Cabins Final PUD Guide as a development restriction, except for the added parenthetical statement "(Buildings 11 and 13B)," which meant that the project commence prior to Buildings 11 and 13B occurring. The phasing for Building 13B was later moved up. Phase 2B previously included Base Village Buildings 4AB, 5, 9AB and 9C on Lot 2 with underground parking in the main parking structure and the Aqua Center on existing Lot 4. Previous Phase 1B included Buildings 6, 7 and 8 on Lot 3 including surface parking space and the Transit Center.

Pursuant to the passage of Ordinance No. 9, Series of 2015, the Base Village Major PUD Amendment Final Plan was approved with phasing changes. New Phase 2 now includes proposed Buildings 4AB, 5, a plaza area on Lot 2 as well as Buildings 6 (for a community purpose facility), 7 and 8 on Lot 3, all to be completed by November 2018 per the new and proposed Development Agreement. Lot 4, previously for the Aqua Center, is now proposed for the Buildings 10A&B expansion to be combined with existing Lot 6 for a new larger Lot 6, also approved via Ordinance No. 9, Series of 2015.

Municipal Code Review Standards for Minor PUD Amendments:

In evaluating the request, the proposal should be reviewed under the context of the review standards below for Minor PUD Amendments in the Municipal Code.

Municipal Code Section 16A-5-390(3), Review Standards, for Minor PUD Amendments:

- a. *Consistent with original PUD. The proposed amendment shall be consistent with, or an enhancement of, the original PUD approval.*

Staff: The proposed amendment seems inconsistent with previous applicant representations and approvals, but may be considered an enhancement if the goal is to complete both the Building 5 Limelight hotel on Base Village Lot 2 and the Fanny Hill Cabins projects simultaneously utilizing the same primary construction staging area. Pursuant to the Base Village Final Plan approval and overall guiding Construction Management Plan (CMP), the Lot 2 construction / common staging area would be located on new Lot 6, which is east of the ski-back trail. The Applicant has demonstrated diligent efforts in coordinating construction with the Base Village developer.

- b. *No substantially adverse impact. The proposed amendment shall not have a substantially adverse effect on the neighborhood surrounding the land where the amendment is proposed, or have a substantially adverse impact on the enjoyment of land abutting upon or across the street from the subject property.*

Staff: The proposed amendment would not necessarily impact the surrounding area physically, and in this case it would not necessarily, substantially and/or adversely

impact the incentives to complete the associated Base Village project. If the Applicant can commit to proceeding with the hotel in Base Village, then staff does not object to the phasing change for Fanny Hill Cabins in efforts to creating efficiency of scale in the construction of both projects simultaneously.

- c. *Not change character. The proposed amendment shall not change the basic character of the PUD or surrounding areas.*

Staff: The PUD zoning and development parameters would remain the same; therefore, the character of the project would not change as a result of the phasing change.

- d. *Comply with other applicable standards. The proposed amendment shall comply with the other applicable standards (i.e., including but not limited to Section 16A-5-300(c), General Restrictions, and Section 16A-5-310, Review Standards).*

Staff: Reference the comments above and the core issues or reasons below. With the Final PUD approval via Ordinance No. 23, Series of 2004, the application previously addressed the PUD general restrictions, review standards and the referenced development evaluation standards in the municipal code. However, because the vesting expired for the project, the Applicant would be required to demonstrate compliance with the new restricted housing requirements and its mitigation rate of 60 percent. Also, the new review standard in Section 16A-5-300(c)(10), 'Adequate public facilities,' was previously addressed via other or similar utility, solid waste, fire protection, and public road improvement standards in the municipal code. However, outstanding matters pertaining to the re-plat have yet to be finalized.

Core Issues - Staff Findings, Comments and Analyses, and/or Recommendations by Topic:

Fanny Hill Cabins' association with Base Village –

- The applicants' Final PUD application dated August 2004 for Fanny Hill Cabins states: *"On May 4, 2004, Intrawest/Brush Creek Development Company LLC and Brush Creek Land Company, LLC (collectively, the "Applicants" or "we") submitted an amended and restated preliminary PUD plan application (as amended by information we submitted thereafter, the "Preliminary Application") for the development of the properties commonly known as Base Village, Fanny Hill (the "Project") and Sinclair Meadows, all located in the Town of Snowmass Village, Colorado (the "Town")."*

Staff: Fanny Hill Cabins and Sinclair Meadows were part of the Base Village Preliminary PUD application for combined review in 2003/04. The reviews were conducted concurrently or simultaneously among the three projects as part of one Preliminary PUD application. The Applicant's responses to the Town Council Sketch Plan Review directives at the time confirmed the processing of the Restated and Amended Preliminary PUD involving Base Village, Sinclair Meadows and Fanny Hill Cabins in a single application. Directive #66 described how the Applicant planned to break out the applications for Final PUD review.

- Pursuant to the action on the Preliminary Plan Resolution 37, Series 2004, findings were made taking together both the Base Village and Fanny Hill Cabins Projects.
- During the Final PUD process in 2004, the three projects were split into separate Final PUD applications due to, a) the previous understandings and findings made, b) because the project sites were on separate parcels, and c) necessary agreements were required for each project. They were reviewed and acted upon separately, but concurrently, at the same Town Council meetings in the fall of 2004.
- The Town Council Ordinance 21, 2004 for Base Village, Ordinance 23, 2004 for Fanny Hill Cabins, and Ordinance 25, 2004 for Sinclair Meadows Final PUDs were reviewed and considered together, and thereafter were all approved and adopted on the same date, October 20, 2004.

Staff: The previous applicants acknowledged that all three projects were to be taken together.

- In the 2004 Final PUD application for Fanny Hill, it also states: *"The construction phasing and mitigation plan for the Project has been incorporated into the Base Village Construction Management Plan submitted with the Final PUD Plan Application for Base Village submitted contemporaneously with the Application."*

Staff: The previous applicants were aware of and proposed the construction phasing arrangement going into the Final PUD application process.

- Base Village and Fanny Hill Cabins are now under separate ownerships.

Staff: Even if under separate or different ownerships, the Applicant is obligated as successor or assign to abide by the previous PUD approval documents and to comply with new adopted standards since 2004 as a result of the vesting expiration.

Restricted Housing –

- Pursuant to the Fanny Hill Cabins Restricted Housing Agreement of 2004, that remains unexecuted, the employee housing mitigation for the project is 1,230 square feet. The Final PUD proposed a 610 square foot restricted employee or caretaker unit on the property and the remaining 620 square feet portion is to be mitigated by Brush Creek Land Company, LLC credits.
- Under the new restricted housing standards, the employee housing mitigation requirement would increase to approximately 1,640 square feet.

Staff: The applicant should demonstrate via an updated restricted housing agreement, which could also be submitted with a subsequent PUD Amendment, how this new requirement would be addressed. In either case, this should be submitted within 90 days of an approval of the Minor PUD Amendment.

Vested Rights -

- The vested development rights for Fanny Hill Cabins expired on November 4, 2014 per a Development Agreement that had never been executed. One of the provisions in the agreement states: *"Unless expressly provided to the contrary therein, all modifications*

and amendments to the development rights contained in the Ordinance or any other material related to the development of the Property shall become part of the Vested Property Rights recognized hereunder automatically upon approval by the Town and such vesting shall last throughout the term of the vested rights.” These facts should be taken under consideration when evaluating and contemplating the proposed Minor PUD Amendment. Staff finds that the PUD entitlement should remain (e.g., the zoning and PUD Guide are still in place by ordinance after the vested rights period lapsed, unless proposed to be amended), but the vested rights are no longer in effect as of November 2014. A new development agreement has not been proposed and the Applicant did not request an extension of the vested rights.

Staff: Any new development standards adopted subsequent to 2004 as well as prior to and after the vesting expiration would need to be enforced.

- The Applicant did not pursue completion of the subdivision re-plat and the companion agreements for Fanny Hill Cabins. The Applicant re-submitted the re-plat for review in 2013, but the response or resubmission to the review comments received was not delivered. Even if the Minor PUD Amendment is granted, there currently is no guarantee (other than withholding a building permit review and/or permit issuance) that such items would be completed.

Staff: Staff recommends that the re-plat and agreements be submitted for review within 90 days of a possible Minor PUD Amendment approval or through the submission of another PUD Amendment application, as contemplated by the applicant in the application’s written description. This is consistent with Section 16A-5-360(c)(7) for items due following a Final PUD approval.

Time Frame or Phasing of Project -

- The Base Village CMP was referenced in the Fanny Hill Cabins Final PUD Guide as an exhibit by reference and is part of Ordinance No. 23, Series of 2004.
Staff: The CMP for Base Village has been updated and amended via Ordinance No. 9, Series of 2015, which now does not include the Fanny Hill Cabins site.
- In earlier reviews, the Fanny Hill Cabins was a development envisioned in a latter phase as an incentive for the applicant/developer at the time (Brush Creek Land Company and Intrawest) to complete the initial phases in Base Village west of the ski back trail.
Staff: The current Applicant for the Fanny Hill Cabins Minor PUD Amendment was part of the original development team for Base Village and was aware of the proposed construction phasing schedule in advance of the final approvals. However, the new and proposed Development Agreement for Base Village has committed to completing the phases west of the ski back trail by November 2018.
- The natural progression of phasing for Base Village began at the west side of the site near the intersection of Lower Carriage Way and Wood Road. It has generally developed sequentially up along Wood Road.

Staff: Fanny Hill Cabins was one of the latter developments envisioned for the Base Village project as a whole. This was primarily arranged because the phasing of the development had generally proceeded upward along Wood Road and the site was the farthest south and away from the main entrance off of Brush Creek Road. Pursuant to the new and proposed Development Agreement for Base Village, upper Wood Road south of Base Village would also be completed by November 2018. It would be advantageous, considering the wear and tear of the roadway during construction, to complete the Fanny Hill Cabins project prior to finishing the Upper Wood Road improvements in 2018, including the repaving and sidewalks thereof.

- In summary, the current PUD Amendment application represents the second attempt to propose a modification to the construction phasing schedule for Fanny Hill Cabins.
- **Staff:** Staff previously recommended against the first phasing change proposal in 2011 because it seemed pertinent or prudent to include it with any proposed phasing changes intended for Base Village, as the projects were tied together with the original application reviews and approvals. However, now that a new phasing schedule has been approved for Base Village with the initial phases being completed by November 2018 pursuant to Ordinance No. 9, Series of 2015, a phasing change proposed for Fanny Hill Cabins could be taken under consideration if, as an incentive, it is intended to be tied to the completion of Building 5 Limelight hotel on Lot 2 in Base Village. Staff also recommends that the Fanny Hill Cabins project be substantially complete prior to finalizing the improvements on Upper Wood Road, scheduled in 2018.

Construction and Infrastructure Phasing -

- Please be advised that the Town Council reviewed the Fanny Hill Cabins PUD Guide in the fall of 2004 and discussed the residential parking and the usage of the Base Village site as a staging area for construction of the Fanny Hill Cabins.

Staff: The construction staging for Fanny Hill Cabins was previously shown on the original Base Village CMP drawings. The Base Village CMP has since been further amended via Ordinance No. 9, Series of 2015. The Applicant should confirm if a construction staging arrangement still exists on the Base Village site considering the current separate ownerships. Staff would recommend that the Applicant share the same primary / common construction staging areas for the completion of both Building 5 and the Fanny Hill Cabins project. The Base Village owner should consent to this arrangement. The CMP(s) submitted with the individual building permit applications should confirm this arrangement.

Character of Development -

- The approved conditions or character of the development have not changed in Base Village, as it remains zoned "MU-2.". The only conditions that have changed are external influences, not the project as a whole.
- **Staff:** It was previously recommended in 2011 with the initial proposed phasing change for Fanny Hill Cabins, that the best approach would be to first complete the Base Village

residential density or proportional amount thereof considering that a majority or approximately 72 percent of the commercial uses in the Base Village have already been built and that it is up to the current owner/applicant to propose changes for subsequent review and evaluation by the Town. That process has since occurred via action on Ordinance No. 9, Series of 2015, for the approval with conditions of the Base Village Major PUD Amendment Final Plan.

Economic Impacts -

- Considering that the residential construction has not kept pace percentage-wise or proportionately with the commercial spaces in Base Village, Fanny Hill Cabins would only generate 10 additional free-market units within the Town Core. As a result, it may only marginally support the existing commercial activities in comparison to the hundreds of existing residential units in West Village, Base Village and the Town Core that currently patronize the commercial uses.
- **Staff:** The 10 additional units at Fanny Hill Cabins would negligibly support existing commercial businesses, especially considering that the new units and the incremental increase of entitled dwellings granted for Base Village by Ordinance No. 9, Series of 2015, have yet to be built. However, there would occur RETT fees. Also, the 10 units should not significantly affect the absorption rate for the new units in Base Village as these are dissimilar products that will likely be marketed differently.

Overall Staff Recommendation:

Staff recommends approval of the requested phasing change with the following conditions:

1. The re-plat and associated agreements should be submitted for review within 90 days of a Minor PUD Amendment approval or through the submission of another PUD Amendment application within 90 days of an approval of the application.
2. The applicant should demonstrate via an updated restricted housing agreement, which could also be submitted with a subsequent PUD Amendment, how the new 60 percent employee housing mitigation requirement would be met.
3. The Final PUD Guide should be revised to reflect the new phasing condition change if approved.
4. The CMPs submitted with a subsequent PUD Amendment or a building permit application should demonstrate a shared construction staging area for both Building 5 in Base Village and the Fanny Hill Cabins project.
5. The Applicant shall submit written consent from the owner in regard to a shared construction staging area on the Base Village site.
6. If the phasing change is granted, the Applicant should commit to substantially completing the project before the Upper Wood Road improvements are completed in 2018.

These recommendations have been incorporated into attached Resolution No. 1, Series of 2016, written in the affirmative, as draft conditions for consideration.

Attachments:

- Draft Planning Commission Resolution No. 1, Series of 2016.

Note: There were no public comments or review comments received from referral agencies as of the writing of this report.

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WHEREAS, an initial meeting was scheduled before the Planning Commission on January 6, 2016; and

WHEREAS, the Planning Commission has reviewed the application and heard the recommendations of the Town Staff; and

WHEREAS, said request was processed, reviewed and then considered by the Planning Commission pursuant to Section 16A-5-390, Amendment of Final PUD, of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Snowmass Village, Colorado:

Section One: General Findings. The Planning Commission generally finds that:

1. The Applicant has submitted sufficient information pursuant to Section 16A-5-390 of the Municipal Code to permit the Town Staff and the Planning Commission an adequate review of the proposed Minor PUD Amendment.
2. Past incremental, individualized amendments to the original associated BV PUD approval were a previous and ongoing concern. However, a more comprehensive overview or sum of the parts in totality appears to have been sufficiently reviewed through the passage of the associated BV Major PUD Amendment Final Plan, approved through Ordinance No. 9, Series of 2015.
3. Pursuant to the review standards in Section 16A-5-390(3) of the Municipal Code, the Planning Commission finds that the Minor PUD Amendment to replace Condition No. 1 in Ordinance 23 would:
 - a. not be consistent with, but an enhancement of the original PUD;
 - b. not cause a substantially adverse impact; and
 - c. not change the basic character of the PUD or surrounding areas; and
 - d. be consistent with the review standards, subject to implementing the conditions in Section Four of this resolution.

Section Two: Specific Findings. The Planning Commission specifically finds:

- The Planning Commission specifically finds that amending the PUD would not reduce the incentives and assurances originally considered and expressed in Condition No. 1 because the modified replacement condition

91 is better linked to the new phasing and time frames for construction
92 pursuant to the approved BV Major PUD Amendment Final Plan granted
93 by Ordinance No. 9, Series of 2015.

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95 **Section Three: Action.** The Planning Commission hereby recommends that
96 Town Council approve the Minor PUD Amendment involving a phasing change to
97 the Fanny Hill Cabins to replace Condition No. 1 in Ordinance 23, to include
98 replacing the similar development standard in the PUD Guide, with language that
99 reads: *“No building permit be issued for the project until construction has*
100 *commenced on Building 5, Lot 2 in the Base Village PUD”*.

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102 **Section Four: Comments, Concerns and Recommendations.** The Planning
103 Commission recommends that the Town Council consider the following:

- 104
105 1. Replace the timing condition for the completion of the FHC PUD project to
106 read as, *“No building permit be issued for the project until construction*
107 *has commenced on Building 5, Lot 2 in the Base Village PUD,”* including
108 replacing the same language in the PUD Guide.
109 2. The re-plat and associated agreements (in particular an updated restricted
110 housing agreement and a subdivision improvements agreement) shall be
111 submitted for review or with the submission of another PUD Amendment
112 application within 90 days of a Minor PUD Amendment approval.
113 3. The applicant shall demonstrate via an updated restricted housing
114 agreement, which could also be submitted with a subsequent PUD
115 Amendment, how the new 60 percent employee housing mitigation
116 requirement would be met.
117 4. The Construction Management Plans submitted with a subsequent PUD
118 Amendment and/or a building permit application shall demonstrate the
119 usage of a shared construction staging area for both Building 5 of the BV
120 PUD and the FHC PUD projects.
121 5. The Applicant shall submit written consent from the owner in regard to a
122 shared construction staging area on the Base Village site.
123 6. If the phasing change is granted by the Town Council, the Applicant shall
124 commit to substantially completing the project before the Upper Wood
125 Road improvements are completed in 2018.

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127 **INTRODUCED, READ, AND APPROVED,** on the motion of Planning
128 Commission member _____ and the second of Planning Commission
129 member _____ by a vote of ___ in favor and ___ against, on this 6th
130 day of January 2016.

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132 TOWN OF SNOWMASS VILLAGE
133 PLANNING COMMISSION
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James Knowlton, Chairman

ATTEST:

Cindy Ford, Planning Commission Secretary

Exhibits incorporated by reference:

- Fanny Hill Cabins, Parcel 7 of Tract F in Woodrun V PUD, Minor PUD Amendment application dated and received December 8, 2015