

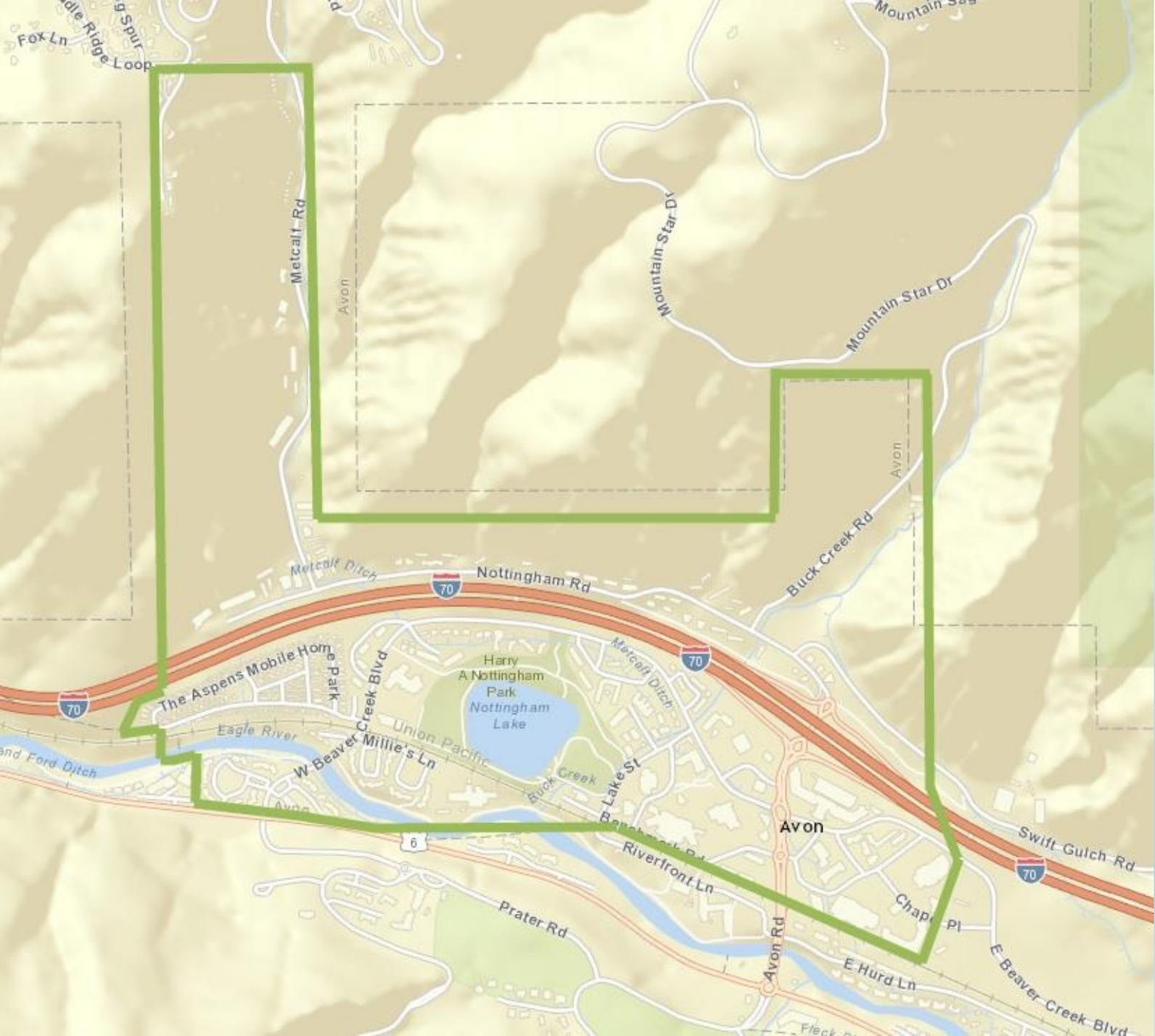
Benchmark Protective Covenants – Comparison with Avon Regulations

November 15, 2016

The Declaration of Protective Covenants for Benchmark at Beaver Creek Subdivision (“**Benchmark Covenants**”) was originally adopted in 1974 and were amended or supplemented nine times through 1990. This comparison uses the latest and effective version of the Benchmark Covenants. This comparison was prepared at the direction of the Avon Town Council from the October 25, 2016 regular Council meeting.

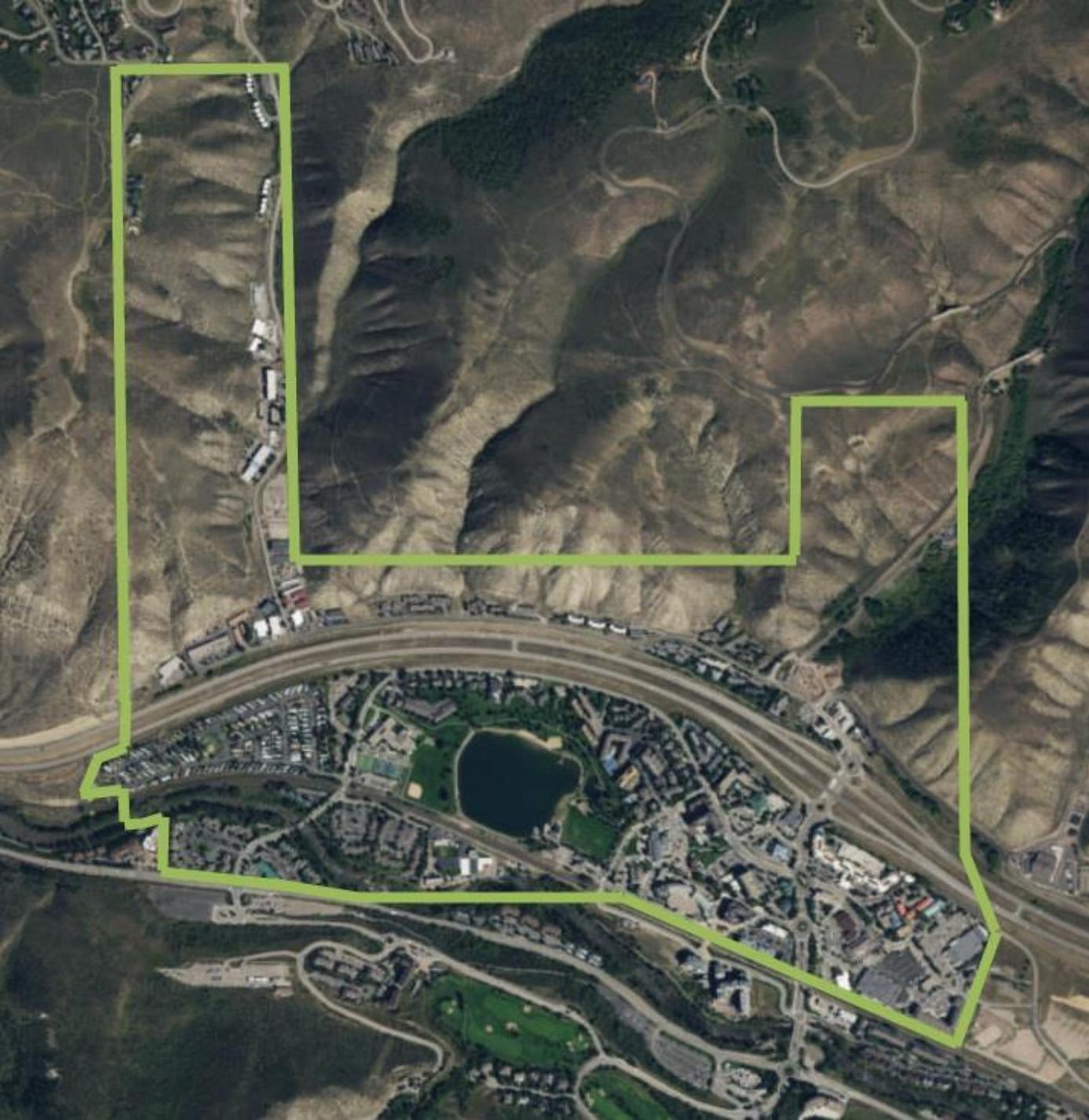
This comparison addresses the development and design standards and the authority and appointment of development review bodies.





Boundary of property subject to the Benchmark Covenants.





Boundary of
property subject
to the Benchmark
Covenants.

- 1. Development and Design Standards**
- 2. Governing Body and Development Review Board**
(Benchmark Covenants: Planning and Architectural Control Committee)

Development and Design Standards: ZONING- ALLOWED USES

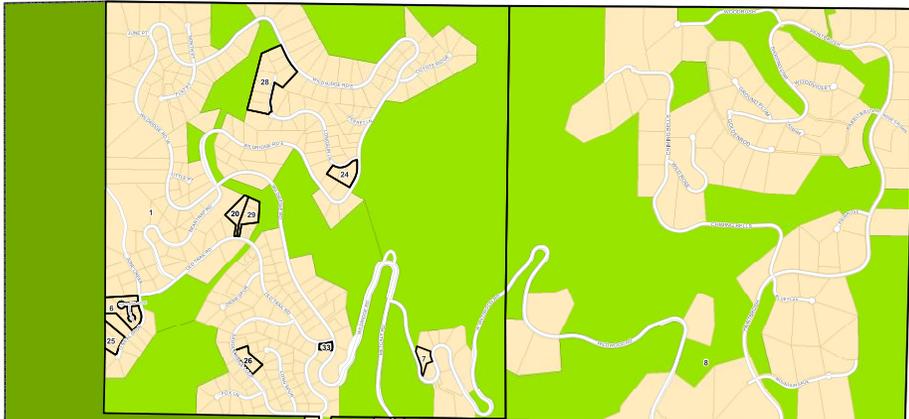
Benchmark Covenants

Paragraph 3 Uses – designated by lot

Avon Regulations

Zoning Map

TOWN OF AVON OFFICIAL ZONING MAP



PUD Number	PUD Name	Date Approved
1	Wildridge	1981 (Final Plat, 2nd)
2	Folsom Annexation	1985 (Ord. 85-08)
3	Falcon Pointe	1985 (Ord. 85-22)
4	Eaglebend	1986 (Ord. 86-12)
5	Riverside	1986 (Ord. 86-13)
6	Wildridge Acres	1990 (Ord. 90-15)
7	Fox 4 PUD	1993 (Ord. 93-04)
8	Mountain Star	1994 (Ord. 92-21)
9	Westgate	1994 (Ord. 94-10)
10	Nottingham Station (Amendment 4)	1995 (Ord. 95-07)
11	Lakeside Terrace	1995 (Ord. 95-24)
12	Ascent (a.k.a. "Gates" & "Chateau St. Claire")	1996 (Ord. 96-16)
13	Chapel Square	1996 (Ord. 96-25)
14	The Court at Stonebridge	1997 (Ord. 97-05)
15	Brookside Park	1997 (Ord. 97-13)
16	Village at Avon	1998 (Ord. 98-17)
17	Avon Center at Beaver Creek, Lot B	1998 (Ord. 98-23)
18	Grandview (BMB/C/690 Nottingham Rd)	1999 (Ord. 99-04)
19	Point View (7plex--> 5s.f.)	1999 (Ord. 99-06)
20	Grandview at Wildridge	2000 (Ord. 00-01)
21	Sheraton Mtn. Vista, Lot C, Avon Center	2000 (Ord. 00-02)
22	Borg	2000 (Ord. 00-05)
23	Barrancas	2001 (Ord. 01-12)
24	Lots 42 & 43 Block 4 Wildridge (2 4plex-->3 dup.)	2002 (Ord. 02-11)
25	Dantus PUD (2 dup.-->3 s.f.)	2002 (Ord. 02-12)
26	Marcin PUD (2 dup.-->3 s.f.)	2002 (Ord. 02-13)
27	Lot 61	2004 (Ord. 04-01)
28	Western Sage	2004 (Ord. 04-15)
29	Dry Creek	2005 (Ord. 05-09)
30	Riverfront	2006 (Ord. 06-03)
31	Red House	2009 (Ord. 09-07)
32	Buck Creek	2009 (Ord. 09-08)
33	Gandorf (1 Com & 4 apts-->2 Dup.)	2009 (Ord. 09-14)

Zoning Districts

- Residential Duplex
- Town Center
- Residential Low Density
- Industrial and Commercial
- Residential Medium Density
- Public Facility
- Residential High Density
- Park
- Residential High Density Commercial (Retired)
- Open Space, Landscaping and Drainage
- Neighborhood Commercial
- Planned Unit Development
- Shopping Center (Retired)
- Planned Unit Development, Open Space
- Mixed Use Commercial
- Short Term Overlay
- Avon Town Boundary
- PUD Boundary
- Roads
- I-70
- Rivers and Lakes
- 10 PUD Number

TOWN OF AVON
OFFICIAL ZONING MAP

Adopted this 8th day of February, 2011, by Ordinance 11-02

Attest:

Mayor

Town Clerk

N

0 500 1,000 2,000

This map was produced by the Community Development Department. Use of this map should be for general purposes only. Town of Avon does not warrant the accuracy of the data contained herein.

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Author: Planning, Date: 02/17/11

Benchmark Covenants

Approved by PACC

- PACC shall use “reasonable judgment in pass upon all such plans and specifications”.

Avon Regulations

AMC Title 7 – Avon Development Code

AMC Title 15 – Building Code

Adopted engineering standards

Benchmark Covenants

No fence, wall, or similar type barrier of any kind shall be constructed, erected or maintained on any lot, except such functional or decorative fences and walls as may be approved by the PAAC as an integral or decorative part of a building to be erected on a lot.

Avon Regulations

Avon Regulations are much more detailed. They define materials, height, layout, amount of enclosure, transparency, and varying standards for different zone districts.

Avon Regulations

Fence means enclosing framework for exterior areas, such as yards or gardens. [Definitions]

AMC 7.28.080 Fences

7.28.080 - Fences.

(a) Purpose. The purpose of these regulations is to maintain adequate visibility on private property and in public rights-of-way, to maintain the openess of properties to protect the light and air to abutting properties, to provide adequate screening by regulating the height, location and design and to promote the movement of wildlife through portions of Town.

Avon Regulations

AMC 7.28.080 Fences

- (2) All other zone districts:
- (i) Compatibility. Walls and fences shall be architecturally compatible with the style, materials and colors of the principal buildings on the same lot. If used along collector or arterial streets, such features shall be made visually interesting by integrating architectural elements, such as brick or stone columns, varying the alignment or setback of the fence, softening the appearance of fence lines with plantings or through similar techniques. A fence or wall may not consist of a solid, unbroken expanse length of more than fifty (50) feet.
 - (ii) Materials:
 - (A) Stone walls or brick walls with a stone or cast stone cap, treated wood fences, decorative metal, cast iron fences, stucco walls and stone piers are encouraged. Solid walls and fences are permitted only in rear and side yards. Retaining walls are permitted where required for grading purposes. Hedges may be used in the same manner and for the same purposes as a fence or wall.
 - (B) Fences used in front yards shall be at least fifty percent (50%) open. Allowable fences are split rail, wrought iron, picket or other standards residential fences of a similar nature approved by the Director.
 - (C) Solid fences shall be constructed to meet the wind design criteria of the adopted International Building Code, using a basic wind speed of ninety (90) miles per hour.
 - (D) Other materials may be incorporated in fences and walls and may be approved by the Director.

Avon Regulations

AMC 7.28.080 Fences

- (2) All other zone districts:
- (iii) Prohibited Materials. Contemporary security fencing such as razor wire or barbed wire or electrically charged fences are prohibited. Chain-link fencing with or without slats shall not be used as a fencing material for screening purposes.
- (iv) Height Limitations.
- (A) No more than forty-two (42) inches high between the front building line and the front property line. For corner lots, front yard fence regulations shall apply to both street sides of lot.
- (B) No more than forty-two (42) inches high if located on a side yard line in the front yard, except if required for demonstrated unique security purposes.
- (C) No more than five (5) feet high for an opaque privacy fence located on a rear property line or on a side yard line in the rear yard.
- (D) No more than six (6) feet high for opaque privacy fences that are located directly adjacent to and integrated with the architecture of the house or connected to a courtyard.
- (E) No more than thirty (30) inches high when located within the sight distance triangle. Fences within this sight distance triangle shall not be solid.
- (F) In the Light Industrial and Commercial (IC) zone district, a chain-link fence is permitted so long as it is not higher than six (6) feet anywhere on the premises and not visible at the intersection.

Benchmark Covenants

PACC must approve all signs. PACC shall establish comprehensive sign regulations. THERE IS NO RECORD OF PACC SIGN REGULATIONS.

Avon Regulations

Chapter 15.28 Sign Code of the Avon Municipal Code sets forth extensive procedures and design standards for signs. The Avon Sign Code is 10 pages long.

Benchmark Covenants

Structures must be connected to water and sanitation facilities provided by appropriate governmental entity.

Avon Regulations

Essentially the same. All development must connect to Upper Eagle River Water Authority and Eagle River Water and Sanitation District services.

Benchmark Covenants

No trash may be dumped in subdivision. Each property owner shall provide suitable receptacles.

Avon Regulations

AMC 8.12 Garbage and Refuse

- 18 subsections, notice and enforcement procedures, fines in municipal court.

AMC 8.16 Open Burning

AMC 8.32 Wildlife Protection

- Additional regulations for refuse disposal and best wildlife practices (i.e. bears).

Benchmark Covenants

No livestock keep, raised or bred in subdivision. Dogs and cats governed by Town of Avon regulations.

Avon Regulations

AMC Title 6 Animals

- 29 subsections governing definitions, standards, notice, enforcement and fines. Applies to livestock, dogs, cats and other animals.

Benchmark Covenants

“Trees, shrubs and bushes naturally existing upon any lot shall not be cut, trimmed or removed without prior written permission of the PACC.”

Avon Regulations

AMC Section 7.28.050 Landscaping.

- Purposes
- Required Minimum Landscaping
- Landscape Buffer
- Landscape Units
- Parking Lot Landscaping Standards
- Sight Triangles
- Irrigation Standards
- Maintenance Obligation

Benchmark Covenants

PACC to determine location of improvements and required setbacks. No standards, probably not enforceable.

Avon Regulations

AMC Title 7 Development Code

- Setback defined (front yard, rear yard, side yard)
- Minimum setbacks established for each zone district

Development and Design Standards: BUILDING HEIGHT

Benchmark Covenants

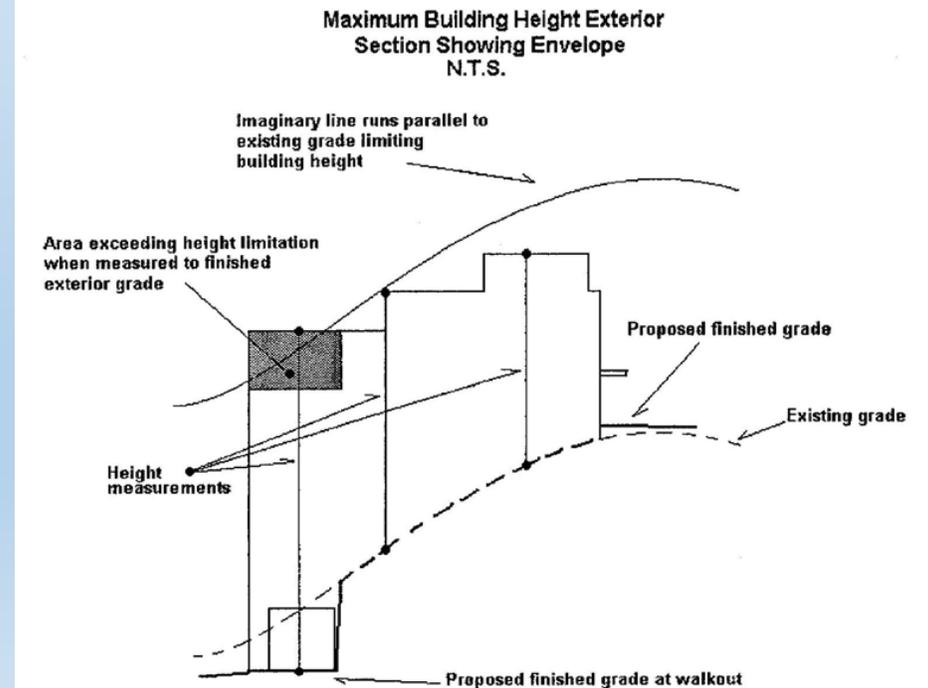
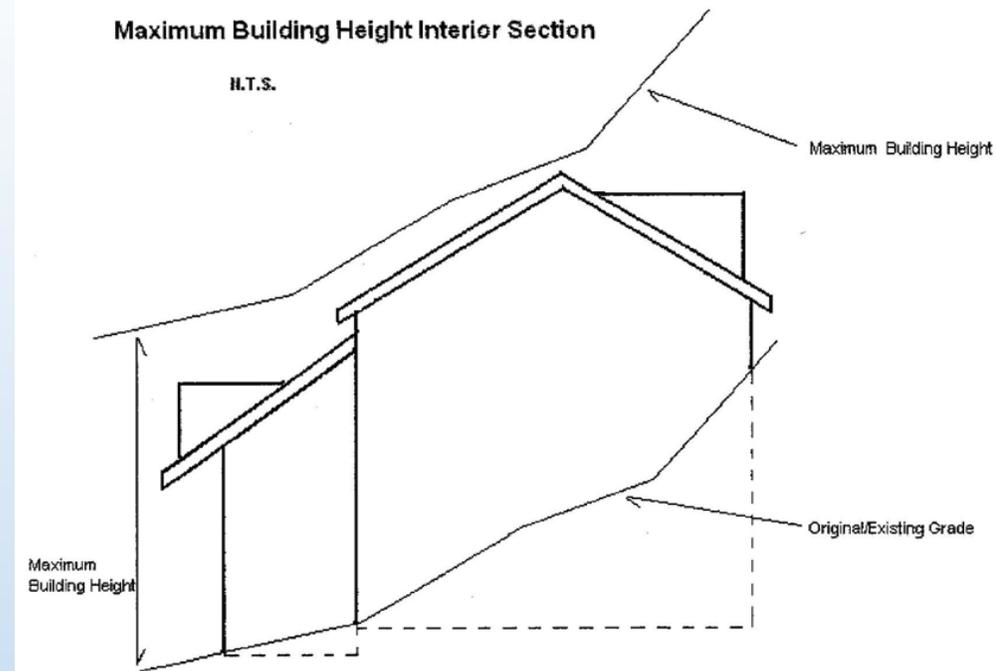
PACC to determine building height. No standards, probably not enforceable.

Avon Regulations

AMC Title 7 Development Code

- Building Height defined with diagrams
- Building Heights set for each zone district

Benchmark Covenants Comparison, November 15, 2016



Benchmark Covenants

**PACC to determine required off-street parking.
No standards, probably not enforceable.**

Avon Regulations

AMC Section 7.28.020

- Extensive regulations, definitions, standards and diagrams for parking.
- Minimum parking requirements for different uses
- Required Handicap Parking
- Stall dimensions
- Off-street loading
- Access Drive

Benchmark Covenants

“All surface areas disturbed by construction shall be promptly landscaped and maintained according to approved landscape plans pursuant to paragraph 5 hereof. The PACC shall make rules and regulations specifying the location, type, and quantities of ground cover, plants shrubbery, trees, and similarly related natural and/or artificial materials used and submitted in connection with said landscaping plans.”

Avon Regulations

AMC Section 7.28.050 Landscaping.

- Purposes
- Required Minimum Landscaping
- Landscape Buffer
- Landscape Units
- Parking Lot Landscaping Standards
- Sight Triangles
- Irrigation Standards
- Maintenance Obligation

Benchmark Covenants

”No temporary structure . . . or tent shall be permitted in the Subdivision, except as may be determined to be necessary during construction and specifically authorized by PACC in writing.”

Avon Regulations

AMC Section 7.24.080 Temporary uses and structures.

- 8 sections
- Administrative or Planning Commission review
- Appealable to Council
- List of Exempted Activities
- Special Events on Public Property
- 17 review criteria

Benchmark Covenants

”All structures commended in the Subdivision shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless an exemption is granted in writing by the PACC.”

Avon Regulations

AMC Title 15

- Adoption of International Building Code
- Uniform regulation throughout Eagle County and common to the construction industry
- Generally, 2 years to complete construction
- Town enforcement through Temporary Certificate of Occupancy and Certificate of Occupancy

Benchmark Covenants

“No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a nuisance therein.” *Reliance on general case to claim a nuisance exists.*

Avon Regulations

AMC Chapter 8.24 Public Nuisances

- 26 sections
- Specific nuisances defined: discharging firearms, keeping junk, weeds, dog waste, times for construction activity, mufflers, ice and snow overhangs, waste light
- Procedures for abatement notice and enforcement

Benchmark Covenants

“A variance from or exception to the provisions hereof as well as a vacation of any easement reserved or described on the recorded plat of the subdivision or herein may be granted in writing by the PACC upon approval thereof by the Town of Avon, Colorado.”

Avon Regulations

AMC Section 7.16.110 Variance

AMC Section 7.16.120 Alternative Equivalent Compliance

AMC Section 7.16,130 Right-of-Way Vacation

Benchmark Covenants

- Lawful building or use at time of regulation is allowed to continue.
- Restoration is permitted if work commenced within 1 year and completed within 18 months of commencement.
- Abandonment is discontinuance for 1 year.

Avon Regulations

AMC Section 7.04.120 Non-conforming Uses and Structures

- Lawful building or use at time of regulation may continue
- Nonconforming Use or Structure may not be enlarged
- May not be restored if 50% destroyed.
- Abandonment is discontinuance for 1 year

Benchmark Covenants

PACC may cut, trim and control unsightly growth on lots.

Avon Regulations

AMC Chapter 8.36 Noxious Weed Control

- Adoption of local regulations to enforce the Colorado Noxious Weed Act.
- Definitions, designation of noxious weeds, enforcement and abatement procedures

Benchmark Covenants

Governing Body:

- Originally the Master Developer
- 5 Member Landowners Committee
- Elected by the “owners of 51% of the land in the subdivision”
- Town of Avon is the owner of 55% of the land in the subdivision

Avon Regulations

Governing Body:

- Avon Town Council
- 7 members
- Elected by Avon Voters
- Vacancies appointed by Avon Town Council

Benchmark Covenants

Design Review Board:

- Planning and Architectural Control Committee
- 5 Member PACC
- Appointed by the Landowners Committee
- Landowners Committee may alter in part or in total any decision of PACC
- Vacancy appointed by Landowners Committee, or after 30 days, Avon Town Council may fill vacancy

Avon Regulations

Design Review Board:

- Avon Planning and Zoning Commission
- 7 members
- AMC Section 7.12.040
- Appointed by Avon Town Council
- PZC either makes recommendations to Town Council or may make decisions which may be appealed to the Town Council
- Vacancy filled by Avon Town Council

Benchmark Covenants

Design Review Board:

- Authorized to charge for costs of review
- No fee schedule exists

Avon Regulations

Development Applications:

- Authorized to charge for cost of review
- Specific fee schedule adopted for development applications, building permit applications, sign applications, grading permits, etc.

Benchmark Covenants

Covenants may be enforced by the Landowners Committee, PACC, Town of Avon, or any person owning real property in the Subdivision.

Penalties and expense of enforcement may be imposed as a lien on property.

Avon Regulations

AMC includes:

- Penalty provisions
- Establishment of municipal court
- Each day is a separate violation
- Specific violation sections for Development Code, Building Code, and Nuisances
- Ability to approve Compliance Agreements

Benchmark Covenants

Currently, no Landowners Committee, PACC or staff for regulation and enforcement exists

Avon

- Full-time Town Staff in multiple disciplines
- Municipal Court
- Full-time Town Hall

Benchmark Covenants

- No public process
- No notification to property owners or general public
- No Public Hearings
- PACC and Landowner Committee meetings not required to be public
- No appeals rights from PACC to Landowners Committee

Avon

- Development Code has specific public notice and public hearing requirements – mailings to landowners, postings
- Planning and Zoning Commission review
- Town Council review or appealable to Town Council
- Colorado Open Meetings Act
- Ability to file suit in District Court

Benchmark Covenants

Paragraph 24.

Two Steps:

1. Election of Landowners Committee: Landowner's Committee cannot be elected without the Town of Avon's Vote. The Town of Avon's vote will decide the election of the 5 person Landowners Committee.
2. Amendment/Termination of Covenants: Covenants may be amended or terminated with a 4/5 majority vote of the Landowners Committee.

Benchmark Covenants

Reinstatement and re-activation of the Landowners Committee and PACC would require affirmative action and approval by the Avon Town Council. Any such reinstatement and reactivation would require adoption of meaning regulations with defensible standards for all design requirements.

Such standards and regulations would hypothetically be the same as Avon's existing regulations. Different standards would create complication and extra cost for development in Avon.

The PACC would serve the same function as the Avon Planning and Zoning Commission. A separate PACC would require duplicative review for each development and building permit.

The Covenants do not have a Comprehensive Plan

Governing Body and Design Review Board: HYPOTHETICAL REINSTATEMENT

Benchmark Covenants

*The Benchmark Covenants do
not have a Comprehensive Plan*

Town of Avon Comprehensive Plan

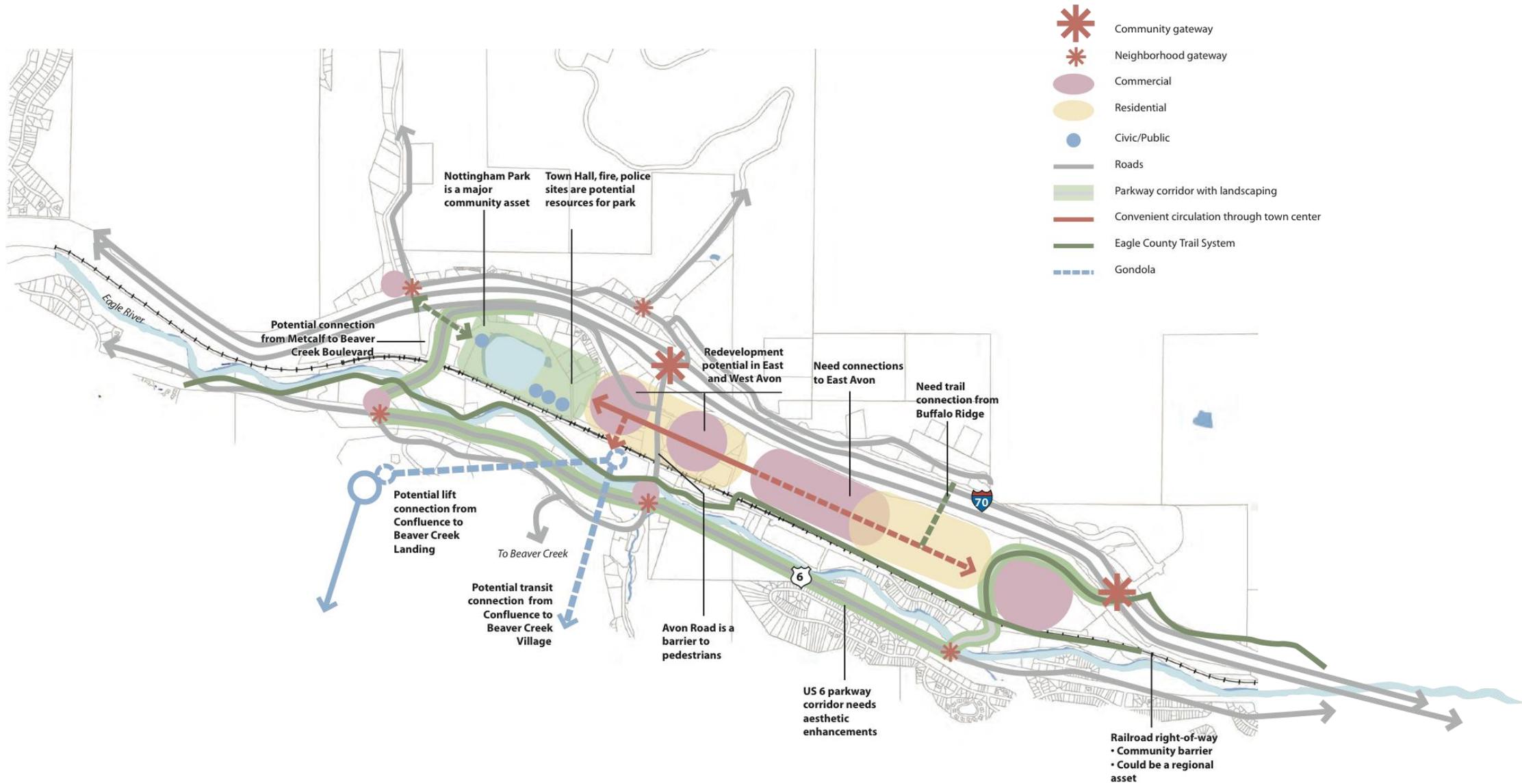


February 2006

(Revised March 2008)



TOWN OF AVON COMPREHENSIVE PLAN



Opportunities and Constraints



Governing Body and Design Review Board: HYPOTHETICAL REINSTATEMENT

Avon Comprehensive Plans also include:

- Transportation Plans
- Trails Plan
- West Town Center Investment Plan

**Benchmark Protective
Covenants – Comparison with
Avon Regulations
November 15, 2016**

Questions – Comments?

