

Commissioner \_\_\_\_\_ moved adoption  
of the following Resolution:

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EAGLE, STATE OF COLORADO**

**RESOLUTION NO. 2017- \_\_\_\_\_**

**AUTHORIZING THE ADOPTION OF A TEMPORARY MORATORIUM ON ALL  
ZONE CHANGE APPLICATIONS FOR PROPERTY COMPRISED OF FIVE (5) ACRES  
OR GREATER LOCATED WITHIN THE BOUNDARY OF THE MID-VALLEY AREA  
COMMUNITY MASTER PLAN IN UNINCORPORATED EAGLE COUNTY THAT  
WOULD RESULT IN MORE RESIDENTIAL DWELLING UNITS PER ACRE THAN  
THE PRESENT GOVERNING ZONING ALLOWS AND ON ALL ZONE CHANGE  
APPLICATIONS THAT WOULD RESULT IN COMMERCIAL OR INDUSTRIAL  
USES-BY-RIGHT ON PROPERTY THAT IS CURRENTLY ZONED FOR  
AGRICULTURAL OR RESIDENTIAL USES**

**WHEREAS**, Eagle County, Colorado (the “County”) is a political subdivision of the State of Colorado (the “State”), duly organized and existing pursuant to the laws and the Constitution of the State; and

**WHEREAS**, the Local Government Land Use Enabling Act, 29-20-101, et seq., C.R.S. (“Land Use Act”), and the County Planning Code, 30-28-101 et seq., C.R.S. (“Planning Code”) expressly delegate paramount authority to counties to implement land use planning and zoning on unincorporated territory within their boundaries; and

**WHEREAS**, the County supports harmonized development of transitional, compatible residential and commercial projects in Eagle County, and highly dense/intensively developed projects on larger-scale property (five acres or greater) could create a built landscape without consideration of coordinated harmonious development, compromising compatibility of adjacent land uses and creating adverse impacts to the general landscape, environment and public facilities; and

**WHEREAS**, the County is beginning to receive zone change applications for property comprised of five (5) acres or greater located within the boundary of the Mid-Valley Area Community Master Plan (“MVAP”) in unincorporated Eagle County that would result in more residential dwelling units per acre than the present zoning allows and that would result in commercial or industrial uses-by-right on property that is currently zoned for agricultural or residential uses; and

**WHEREAS**, the County finds it essential to protect and preserve the environment and the public, health, safety and welfare of the County and its citizenry, and that it is in the County’s

best interest, consistent with the Land Use Act and the County Planning Code, to study the MVAP and the potential impact of more dense/intensive land uses and zoning on property located within the boundary of the MVAP; and

**WHEREAS**, the County has therefore determined that the MVAP should be evaluated to assess whether it adequately guides and accomplishes coordinated, harmonious development of the Mid-Valley area of unincorporated Eagle County in accordance with present and future needs and resources; consequently, the County is in the process of studying the land use/zoning designations of the MVAP to ascertain the potential build-out growth impact of the projected land use pattern upon the general landscape, environment, natural resources, and public facilities; and

**WHEREAS**, a temporary moratorium on all zone change applications for property located within the boundary of the MVAP comprised of five (5) acres or greater that would result in more residential dwelling units per acre than the present governing zoning allows and on all zone change applications that would result in commercial or industrial uses-by-right on property that is currently zoned for agricultural or residential uses would allow the County sufficient time to review, study, hold public hearings and prepare and adopt amendments to the MVAP, if necessary, relating to the allowance or development of certain commercial uses, residential uses and industrial uses on property located within the boundary of the MVAP; and

**WHEREAS**, the Board held a public hearing on October 23, 2017, and based on the evidence and testimony received, comments of the Eagle County Community Development Department, comments of public officials and agencies, and comments from all interested parties, the Board hereby determines that a temporary moratorium on all zone change applications for property located within the boundary of the MVAP comprised of five (5) acres or greater that would result in more residential dwelling units per acre than the present governing zoning allows and on all zone change applications that would result in commercial or industrial uses-by-right on property that is currently zoned for agricultural or residential uses is necessary and proper for the protection of the health, safety, welfare and best interests of the inhabitants of the County of Eagle, State of Colorado.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of the County of Eagle, State of Colorado:

**THAT**, the purpose of this Resolution is to enable the County sufficient time to review, study, hold public hearings, and prepare and adopt amendments to MVAP, if necessary, relating to the allowance or development of certain commercial uses, residential uses and industrial uses on property located within the boundary of the MVAP.

**THAT**, during a six (6) month period from and after the adoption date of this Resolution the County will not take any action on any application for a zone change for any property located within the boundary of the MVAP comprised of five (5) acres or greater that would result in more residential dwelling units per acre than the present governing zoning allows and on any application for a zone change that would result in commercial or industrial uses-by-right on property that is currently zoned for agricultural or residential uses.

**THAT**, it is not the purpose of this Resolution to deny development permits for other uses that are permitted by-right or special use permits or other zone change applications which result in less dense/intensive development, or occur on property comprised of less than five (5) acres in area and which otherwise comply with all applicable codes, regulations and policies of the County, or to deny building permits.

**THAT**, it is further the purpose of this Resolution to fulfill the County's constitutional charge and statutory obligations to protect and preserve the environment and the public health, welfare and safety of the citizens of Eagle County, and in particular to protect the public health, welfare and safety of the citizens and the value, use and enjoyment of real property in unincorporated Eagle County during the interim period described in this Resolution, and thus defer official governmental action until the County has properly reviewed, studied, held public hearings and adopted amendments, if necessary, to the County's MVAP.

**THAT**, for a period of six (6) months from and after the adoption date of this Resolution, ending at 11:59 p.m. on April 23, 2018:

(1) No application on any zone change for property located within the boundary of the MVAP comprised of five (5) acres or greater that would result in more residential dwelling units per acre than the present governing zoning allows and on all zone change applications that would result in commercial or industrial uses-by-right on property that is currently zoned for agricultural or residential uses may be filed, accepted, or processed by any Department, Board, Commission or Agency of the County, except as provided in this Resolution.

(2) The imposition of the moratorium is not intended to affect nor does it affect the processing of any application for a development permit that has been determined to be a complete application (as set forth in Section 5-210(D)(3)) of the Eagle County Land Use Regulations by the Eagle County Community Development Department as of October 23, 2017.

(3) The imposition of the moratorium is not intended to affect nor does it affect the processing of any application for a development permit the subject of which has received previous approval from any Department of the County for any level of review as of October 23, 2017.

**THAT**, the Board shall provide a mechanism for alleviation of hardships caused by this moratorium as follows:

(1) The Board may authorize exceptions to the moratorium imposed by this Resolution when it finds, based upon competent evidence presented to it, that deferral of action on an application for a zone change for property located within the boundary of the MVAP comprised of five (5) acres or greater that would result in more residential dwelling units per acre than the present governing zoning allows and on all zone change applications that would result in commercial or industrial uses-by-right on property that is currently zoned for agricultural or

residential uses for the duration of the moratorium would impose a hardship on the landowner or a developer.

(2) A request for an exception based upon a hardship shall be filed with the Director of Community Development or his designee, together with a fee of \$300.00, by the landowner or the developer, with the consent of the landowner, to cover processing and advertising costs and shall include a recitation of the specific facts that are alleged to support the claim of a hardship and shall contain such other information as the Director of Community Development or his designee shall prescribe as necessary for the Board to be fully informed with respect to the application.

(3) A public hearing on any request for an exception for a hardship shall be held by the Board at a regularly scheduled meeting of the Board of County Commissioners that occurs after the expiration of the period for publication of notice of the request for an exception.

(4) Notice of the filing of a request for an exception and the date, time and place of the hearing thereon shall be published no less than 14 calendar days prior to the date of first public hearing. Said public notice shall be in a newspaper of general circulation within Eagle County, Colorado.

(5) In reviewing an application for an exception based upon a claim of hardship, the Board shall consider the following criteria:

a. Whether the applicant, prior to October 23, 2017 has contractual commitments and reliance upon permits or other approvals of the County to complete the project; and

b. Whether the applicant, prior to October 23, 2017, has in reliance upon permits or approvals of the County incurred financial obligations to a lending institution which, despite a thorough review of the alternative solutions, the applicant cannot meet unless the project proceeds; and

c. The extent to which the applicant has, prior to October 23, 2017, made a substantial expenditure of money or resources in advance on permits or other approvals of the County directly associated with physical improvements on the land such as grading, installation of utilities infrastructure or any other public improvements; and

d. Whether the moratorium would expose the applicant to substantial monetary liability to third persons; or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a reasonable investment-backed expectation on the property.

The Board of County Commissioners will consider the following non-exclusive factors under the criteria set forth above:

(1) The history of the property.

- (2) The history of any development on the property.
- (3) The history of the property's future land use map classification.
- (4) The history of the property's zoning.
- (5) Any change in development when property ownership is changed.
- (6) The present nature, size and use of the property.
- (7) Any other factors deemed relevant by the Board in making a hardship determination.

At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Board shall approve, approve with conditions or deny the applicant's request for an exception to the moratorium.

**THAT**, the Board hereby finds, determines and declares that this Resolution is necessary for the health, safety and welfare of the citizens of Eagle County.

**MOVED, READ AND ADOPTED** by the Board of County Commissioners of the County of Eagle, State of Colorado, at its regular meeting held the 23<sup>rd</sup> day of October, 2017.

COUNTY OF EAGLE, STATE OF  
 COLORADO, By and Through Its BOARD  
 OF COUNTY COMMISSIONERS

ATTEST:

By: \_\_\_\_\_  
 Regina O'Brien  
 Clerk to the Board of  
 County Commissioners

By: \_\_\_\_\_  
 Jillian H. Ryan, Chair

By: \_\_\_\_\_  
 Jeanne McQueeney, Commissioner

By: \_\_\_\_\_  
 Kathy Chandler-Henry, Commissioner

Commissioner \_\_\_\_\_ seconded adoption of the foregoing resolution. The roll having been called, the vote was as follows:

Commissioner Jillian H. Ryan \_\_\_\_\_

Commissioner Jeanne McQueeney \_\_\_\_\_

Commissioner Kathy Chandler-Henry \_\_\_\_\_

This Resolution passed by \_\_\_\_\_ vote of the Board of County Commissioner of the County of Eagle, State of Colorado.