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## Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: February 26, 2018

SUBJECT: A request for review of a final plat, pursuant to Title 13, Chapter 4, Minor Subdivisions, Vail Town Code, to allow for a subdivision to reconfigure the property line at 332 Mill Creek Circle / Lot 11, Block 1, Vail Village Filing 1, and setting forth details in regard thereto. (PEC18-0001)

Applicant: Triple Threat NLC, LLC, represented by Braun Associates, Inc.  
Planner: Matt Panfil

### I. SUMMARY

The applicant, Triple Threat NLC, LLC, represented by Braun Associates, Inc., is requesting the review of a final plat of subdivision, pursuant to Title 13, Chapter 4, Minor Subdivisions, Vail Town Code, to allow for the reconfiguration of the east property line at 332 Mill Creek Circle / Lot 11, Block 1, Vail Potato Patch Filing 1.

Based upon staff's review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends **approval** of this application, subject to the findings in Section VIII of this memorandum.

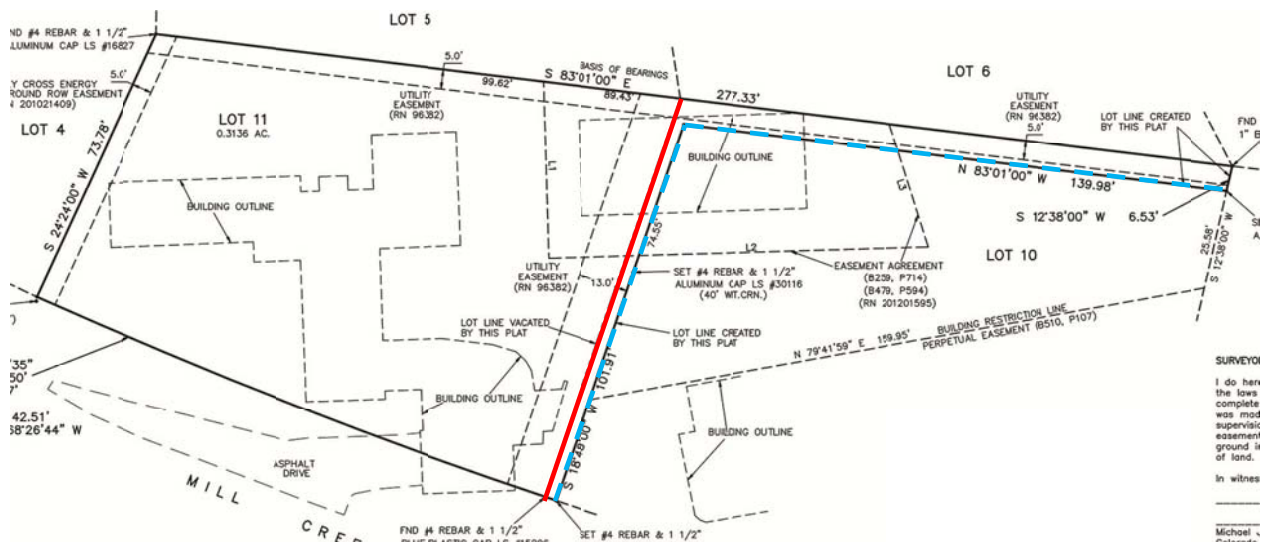
### II. DESCRIPTION OF REQUEST

The applicant, Triple Threat NLC, LLC, represented by Braun Associates, Inc., is requesting the review of a final plat of subdivision to allow for the reconfiguration of the east property line in order to consolidate the subject property (Lot 11) and an adjoining parcel (Parcel 2), that was created by deed, but not legal subdivision, from the adjacent property to the east (Lot 10) in 1974.

The purpose of the proposed subdivision is to vacate the property line between two (2) properties owned by the applicant, resulting in one (1) development lot (Lot 11) with new development standards.

If approved, the proposed subdivision would facilitate the demolition of the existing single-family residence and the existing swimming pool structure at the northeast corner of the lot and allow the applicant to construct a new single-family residence on the subject property while maintaining both Lot 11's and Lot 10's individual compliance with the Town of Vail Zoning and Subdivision Regulations. Such a redevelopment would have the additional benefit of removing the existing attached garage from the Town-owned right-of-way.

The graphic below shows the existing property boundary (solid line – red) in comparison to the proposed property boundaries (dashed line – blue):



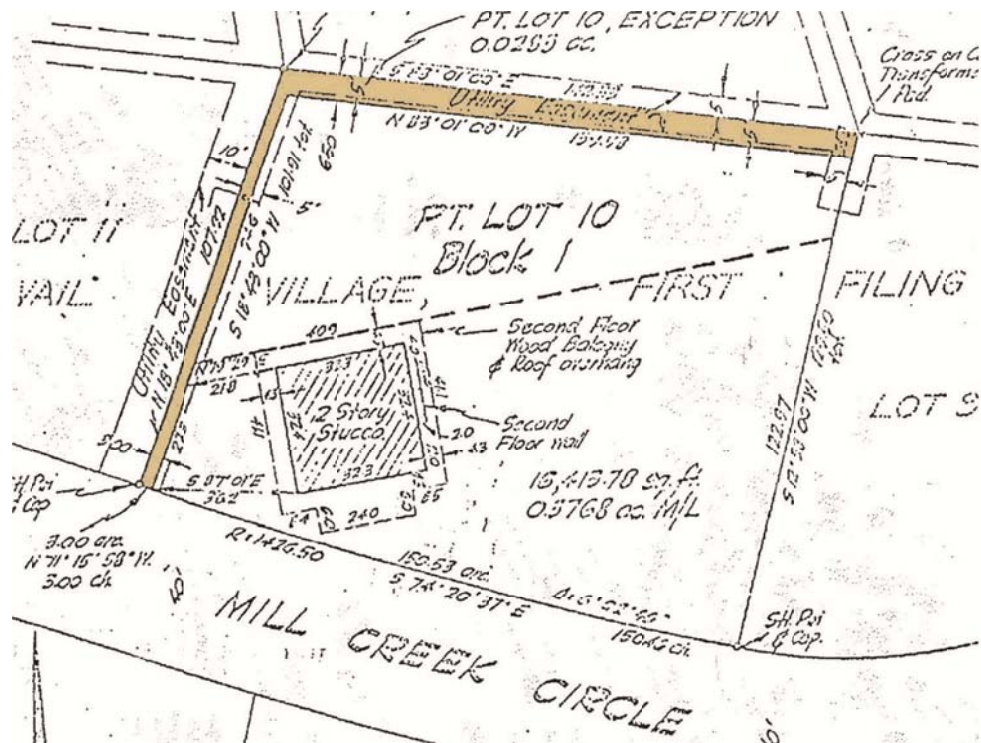
A vicinity map (Attachment A), project narrative, including the applicant's response to subdivision criteria, a memorandum addressing the chain of title for Lot 10 and Lot 11, a linked Title Report (Attachment B), a Final Subdivision Plat (Attachment C), and a zoning analysis of Lot 10 without Parcel 2 (Attachment D) are attached for review.

### III. BACKGROUND

The following timeline outlines important events in the development of the subject property:

- Pre-1974: The subject property (Lot 11), and the adjacent property to the east (Lot 10) were under the common ownership of Fitzhugh Scott.
- 1963: Construction of the existing single-family residence on the subject property (Lot 11) was completed. The structure was built with the attached garage encroaching into the right-of-way.

1974: Mr. Scott recorded a deed that established a new parcel (Parcel 2) that was to be excluded from Lot 10 and included with Lot 11 (see below – Parcel 2 in yellow).



In so doing, Mr. Scott failed to comply with the Town of Vail Subdivision Ordinance in place at the time (Ordinance No. 4, Series of 1970). As it does today, a minor subdivision required approval of a subdivision plat by the Planning Commission.

Lot 10, excluding Parcel 2, was subsequently sold to a new owner in the same year.

Despite the failure to legally subdivide the subject property, Lot 11 and Lot 10 have both been conveyed (Lot 11 with Parcel 2 and Lot 10 without Parcel 2) multiple times since 1974 (see Memorandum from James Wear, Esq., Wear Travers Perkins, LLC – Attachment B, pages 6-7).

1979: William F. Fox, the trustee for Mr. Scott's grandchildren's trust, enters into a 49 year lease agreement with the Town of Vail to maintain the location of the garage and brick wall within the Town right-of-way. The lease states:

*If the portion of the building occupying the leased premises is destroyed by any cause or is removed by an extent of more than fifty (50%) percent, this lease shall automatically terminate and the*

*remaining building or damaged portion thereof shall be removed from the public right-of-way within a reasonable time by Fox, his successors or assigns.*

1985: The existing swimming pool, with shared ownership between the owner of the subject property and the owners of Lot 10 and Lot 5 (adjacent to the north property line of Lot 11), is constructed.

1989: The existing single-family residence on Lot 10 is constructed. Although the chain of title for Lot 11 and Lot 10 have been consistent since 1974, staff's research revealed that the 1989 approval was based on the original size of Lot 10 (including Parcel 2).

Therefore, as part of the submission for approval of a subdivision plat, staff required the applicant to demonstrate that the official exclusion of Parcel 2 from Lot 10 would not result in the creation of any non-conformities based on reduced lot size. The applicant submitted exhibits demonstrating that Lot 10, excluding Parcel 2, remains in compliance with the Town's zoning and subdivision regulations (See Section V. – Zoning and Site Analysis).

2018: Applicant's request for approval of a subdivision plat to formally incorporate Parcel 2 into Lot 11 in order to facilitate the redevelopment of said lot.

#### **IV. APPLICABLE PLANNING DOCUMENTS**

Staff finds the following provisions of the Vail Town Code relevant to the review of this proposal:

##### **Title 12 – Zoning Regulations, Vail Town Code**

###### *Chapter 2, Definitions (in part)*

*BUILDABLE AREA: Any site, lot, parcel or any portion thereof which does not contain designated floodplain, red hazard avalanche area, or areas in excess of forty percent (40%) slope.*

*DEVELOPMENT LOT: A delineation of property that may include one or more structures and/or lot(s) that collectively share dimensional and/or design standards or guidelines. Examples include, but are not limited to, a duplex property containing two (2) dwelling units, a condominium complex of one or more buildings or a multi-unit townhome style development that share dimensional (GRFA, site coverage, etc.) and/or design (unified architectural and landscape design) standards or guidelines.*

*Chapter 6, Article D. Two Family Primary / Secondary Residential (PS) District (in part)*

**12-6D-1: PURPOSE:**

*The two-family primary/secondary residential district is intended to provide sites for single-family residential uses or two-family residential uses in which one unit is a larger primary residence and the second unit is a smaller caretaker apartment, together with such public facilities as may appropriately be located in the same zone district. The two-family primary/secondary residential district is intended to ensure adequate light, air, privacy and open space for each dwelling, commensurate with single-family and two-family occupancy, and to maintain the desirable residential qualities of such sites by establishing appropriate site development standards.*

**12-6D-2: PERMITTED USES:**

*The following uses shall be permitted:*

*Employee housing units, as further regulated by chapter 13 of this title.*

*Single-family residential dwellings*

*Two-family residential dwellings*

**12-6D-5: LOT AREA AND SITE DIMENSIONS:**

*The minimum lot or site area shall be fifteen thousand (15,000) square feet of buildable area, and each site shall have a minimum frontage of thirty feet (30'). Each site shall be of a size and shape capable of enclosing a square area, eight feet (80') on each side, within its boundaries.*

**12-6D-6: SETBACKS:**

*In the primary/secondary residential district, the minimum front setback shall be twenty feet (20'), the minimum side setback shall be fifteen feet (15'), and the minimum rear setback shall be fifteen feet (15').*

**12-6D-8: DENSITY CONTROL:**

*A. Dwelling Units: Not more than a total of two (2) dwelling units shall be permitted on each site with only one dwelling unit permitted on existing lots less than fourteen thousand (14,000) square feet.*

- 1. Exception: Properties that meet all of the following three (3) conditions shall be permitted a total of two (2) dwelling units on existing lots less than fourteen thousand (14,000) square feet:*

- a. *The property was annexed into the town of Vail with two (2) existing dwelling units on a lot less than fourteen thousand (14,000) square feet.*
  - b. *The property as of April 1, 2016, contained two (2) dwelling units on a lot less than fourteen thousand (14,000) square feet.*
  - c. *At no time between the property's annexation and April 1, 2016, did the property contain less than two (2) dwelling units.*
2. *Discontinuance of Exception: If at any time any property as described above develops or redevelops with only one dwelling unit, this exception for the allowance of two (2) units shall no longer be valid for such property.*

**B. Gross Residential Floor Area:**

- 1. *The following gross residential floor area (GRFA) shall be permitted on each site:*
  - a. *Not more than forty six (46) square feet of gross residential floor area (GRFA) for each one hundred (100) square feet of the first ten thousand (10,000) square feet of site area; plus*
  - b. *Thirty eight (38) square feet of gross residential floor area (GRFA) for each one hundred (100) square feet of site area over ten thousand (10,000) square feet, not exceeding fifteen thousand (15,000) square feet of site area; plus*
  - c. *Thirteen (13) square feet of gross residential floor area (GRFA) for each one hundred (100) square feet of site area over fifteen thousand (15,000) square feet, not exceeding thirty thousand (30,000) square feet of site area; plus*
  - d. *Six (6) square feet of gross residential floor area (GRFA) for each one hundred (100) square feet of site area in excess of thirty thousand (30,000) square feet.*
- 2. *The secondary unit shall not exceed forty percent (40%) of the allowable gross residential floor area (GRFA).*

**C. Employee Housing Units:** *Notwithstanding the provisions of subsections A and B of this section, a type I employee housing unit shall be permitted on lots of less than fourteen thousand (14,000) square feet in accordance with the provisions of chapter 13 of this title. Any type 1 employee housing unit existing on or before April 18, 2000, shall not be eliminated unless all dwelling*

*units are demolished, in which case the zoning on the property shall apply. However, an existing type I employee housing unit may be replaced with a type II employee housing unit on lots of fourteen thousand (14,000) square feet or greater.*

**12-6D-9: SITE COVERAGE:**

*Site coverage shall not exceed twenty percent (20%) of the total site area.*

**12-6D-10: LANDSCAPING AND SITE DEVELOPMENT:**

*At least sixty percent (60%) of each site shall be landscaped. The minimum of any area qualifying as landscaping shall be ten feet (10') (width and length) with a minimum area not less than three hundred (300) square feet.*

**12-6D-11: PARKING:**

*Off street parking shall be provided in accordance with chapter 10 of this title.*

**Title 13 – Subdivision Regulations, Vail Town Code**

**Chapter 1, General Provisions (in part)**

**13-1-2: PURPOSE:**

- A. Statutory Authority: The subdivision regulations contained in this title have been prepared and enacted in accordance with Colorado Revised Statutes title 31, article 23, for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the town.*
- B. Goals: To these ends, these regulations are intended to protect the environment, to ensure efficient circulation, adequate improvements, sufficient open space and in general, to assist the orderly, efficient and integrated development of the town. These regulations also provide for the proper arrangement of streets and ensure proper distribution of population. The regulations also coordinate the need for public services with governmental improvement programs. Standards for design and construction of improvements are hereby set forth to ensure adequate and convenient traffic circulation, utilities, emergency access, drainage, recreation and light and air. Also intended is the improvement of land records and surveys, plans and plats and to safeguard the interests of the public and subdivider and provide consumer protection for the purchaser; and to regulate other matters as the town planning and environmental commission and town council may deem necessary in order to protect the best interests of the public.*

*C. Specific Purposes: These regulations are further intended to serve the following specific purposes:*

- 1. To inform each subdivider of the standards and criteria by which development proposals will be evaluated, and to provide information as to the type and extent of improvements required.*
- 2. To provide for the subdivision of property in the future without conflict with development on adjacent land.*
- 3. To protect and conserve the value of land throughout the municipality and the value of buildings and improvements on the land.*
- 4. To ensure that subdivision of property is in compliance with the town's zoning ordinance, to achieve a harmonious, convenient, workable relationship among land uses, consistent with town development objectives.*
- 5. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation, and other public requirements and facilities and generally to provide that public facilities will have sufficient capacity to serve the proposed subdivision.*
- 6. To provide for accurate legal descriptions of newly subdivided land and to establish reasonable and desirable construction design standards and procedures.*
- 7. To prevent the pollution of air, streams and ponds, to assure adequacy of drainage facilities, to safeguard the water table and to encourage the wise use and management of natural resources throughout the town in order to preserve the integrity, stability and beauty of the community and the value of the land.*

**13-1-3: COMPLIANCE:**

- A. General Prohibition: It is unlawful for any person, business, or corporation to violate any of the provisions of this chapter or to transfer, sell, lease or agree to sell or lease, any lot, tract, parcel, site, separate interest (including a leasehold interest), interest in common, condominium interest, timeshare estate, fractional fee, or timeshare license, or any other division within a subdivision within the town until such subdivision has been approved in writing by the administrator, planning and environmental commission and/or the council (whichever is applicable) and a plat thereof recorded in the office of the Eagle County clerk and recorder; provided, however, that a written agreement to sell or lease which is expressly conditioned upon full*



*compliance by the seller with the subdivision regulations of the town within a specified period of time and which expressly recites the seller's failure to satisfy such condition within such period of time shall terminate the agreement and entitle the buyer to the prompt return of all consideration heretofore paid by the buyer under such agreement, shall not constitute a violation of this subsection.*

- B. Prohibitive Conveyance: No lot or parcel of land, nor any interest therein, shall be transferred, conveyed, sold, subdivided or acquired either in whole or in part, so as to create a new nonconforming lot, or to avoid or circumvent or subvert any provision of this chapter.*
- C. Responsibility: The owner, developer, buyer, or seller shall be fully responsible for all acts of agents or employees thereof that are committed in violation of the terms of this chapter.*

## *Chapter 2, Definitions (in part)*

### *SUBDIVISION OR SUBDIVIDED LAND:*

#### *A. Meaning:*

- 1. A tract of land which is divided into two (2) or more lots, tracts, parcels, sites, separate interests (including leasehold interests), interests in common, or other division for the purpose, whether immediate or future, of transfer of ownership, or for building or other development, or for street use by reference to such subdivision or recorded plat thereof; or*
- 2. A tract of land including land to be used for condominiums, timeshare units, or fractional fee club units; or*
- 3. A house, condominium, apartment or other dwelling unit which is divided into two (2) or more separate interests through division of the fee or title thereto, whether by conveyance, license, lease, contract for sale or any other method of disposition.*

#### *B. Exceptions: Unless the method of land disposition is adopted for the purpose of evading this definition, the term "subdivision" as defined herein shall not apply to any of the following divisions of land or interests in land:*

- 1. The division of land by order of any court in this state or by operation of law.*
- 2. The division of land by a lien, mortgage, deed of trust or any other security instrument.*

3. *The division of land by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity.*
  4. *The division of land which creates an interest or interests in oil, gas or minerals which are now or hereafter severed from the surface ownership of real property.*
  5. *The division of land by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common and any such interest shall be deemed for purposes of this definition as only one interest; provided, however, that no agreement exists, either recorded or unrecorded, between the cotenants allowing for the use and occupancy of the property by one or more cotenants to the exclusion of one or more cotenants during any period, whether annually recurring or not if such agreement is in any way binding or effective upon any assignee or future owner of a fractional fee interest or if such agreement continues to be in any way binding or effective upon any cotenant for the sale of any interest in the property.*
  6. *The division of land by reason of the dissolution of a joint venture or business entity.*
- C. *Compliance: No subdivision shall be approved which includes elements not in conformance with the provisions of any applicable zoning ordinance or other ordinance of the town or law or regulations of the state.*
- D. *Major Subdivision: Any subdivision involving more than four (4) lots, or a subdivision proposal without all lots having frontage on a public or approved street, or with a request to extend municipal facilities in a significant manner, or a proposal which would negatively affect the natural environment as determined under section 12-12-2, "Applicability", of this code, or if the proposal would adversely affect the development of the remainder of the parcel or adjoining property.*
- E. *Minor Subdivision: Any subdivision containing not more than four (4) lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property.*
- F. *Single-Family Subdivision: A subdivision of an existing lot, which is recognized by the town of Vail as a legally subdivided lot, and which shall contain a single-family or two-family dwelling. Each such dwelling shall be separated from any other dwelling by space on all sides. For zoning purposes, the lots created by a single-family subdivision shall be treated as one lot.*

*Chapter 3, Section 4, Commission Review of Application; Criteria and Necessary Findings:*

**13-3-4: COMMISSION REVIEW OF APPLICATION; CRITERIA AND NECESSARY FINDINGS**

*The planning and environmental commission shall conduct a public hearing on an application for a preliminary plan for subdivision. The planning and environmental commission shall consider the application, relevant additional materials, staff report and recommendations as well as any other comments or public information given at the hearing. The planning and environmental commission may discuss advisable changes to the proposed subdivision with the applicant. The burden of proof shall rest with the applicant to show that the application is in compliance with the intent and purposes of this chapter, the zoning ordinance and other pertinent regulations that the planning and environmental commission deems applicable. Due consideration shall be given to the recommendations made by public agencies, utility companies and other agencies consulted under subsection 13-3-C of this chapter.*

*A. Before recommending approval, approval with conditions or disapproval of the preliminary plan, the planning and environmental commission shall consider the following criteria with respect to the proposed subdivision:*

- 1. The extent to which the proposed subdivision is consistent with all the applicable elements of the adopted goals, objectives and policies outlined in the Vail comprehensive plan and is compatible with the development objectives of the town; and*
- 2. The extent to which the proposed subdivision complies with all of the standards of this title, as well as, but not limited to, title 12, "Zoning Regulations", of this code, and other pertinent regulations that the planning and environmental commission deems applicable; and*
- 3. The extent to which the proposed subdivision presents a harmonious, convenient, workable relationship among land uses consistent with municipal development objectives; and*
- 4. The extent of the effects on the future development of the surrounding area; and*
- 5. The extent to which the proposed subdivision is located and designed to avoid creating spatial patterns that cause inefficiencies in the delivery of public services, or require duplication or premature extension of public facilities, or result in a "leapfrog" pattern of development; and*

6. *The extent to which the utility lines are sized to serve the planned ultimate population of the service area to avoid future land disruption to upgrade undersized lines; and*
  7. *The extent to which the proposed subdivision provides for the growth of an orderly viable community and serves the best interests of the community as a whole; and*
  8. *The extent to which the proposed subdivision results in adverse or beneficial impacts on the natural environment, including, but not limited to, water quality, air quality, noise, vegetation, riparian corridors, hillsides and other desirable natural features; and*
  9. *Such other factors and criteria as the commission and/or council deem applicable to the proposed subdivision.*
- B. Necessary Findings: Before recommending and/or granting an approval of an application for a major subdivision, the planning and environmental commission shall make the following findings with respect to the proposed major subdivision:*
1. *That the subdivision is in compliance with the criteria listed in subsection A of this section.*
  2. *That the subdivision is consistent with the adopted goals, objectives and policies outlined in the Vail comprehensive plan and compatible with the development objectives of the town.*
  3. *That the subdivision is compatible with and suitable to adjacent uses and appropriate for the surrounding areas.*
  4. *That the subdivision promotes the health, safety, morals, and general welfare of the town and promotes the coordinated and harmonious development of the town in a manner that conserves and enhances its natural environment and its established character as a resort and residential community of the highest quality.*

#### *Chapter 4, Minor Subdivisions (in part)*

##### *13-4-2: PROCEDURE:*

*The procedure for a minor subdivision shall be as follows:*

- A. Submission Of Proposal; Waiver Of Requirements: The subdivider shall submit two (2) copies of the proposal following the requirements for a final plat in subsection 13-3-6B of this title, with the provision that certain of these*

*requirements may be waived by the administrator and/or the planning and environmental commission if determined not applicable to the project.*

- B. PEC Public Hearing: Within thirty (30) days of receiving the complete and correct submittal for a minor subdivision, the planning and environmental commission shall hold a public hearing to consider the final plat. The administrator shall cause a copy of a notice of the time, place and general nature of the hearing and proposal to be published in a newspaper of general circulation in the town at least fifteen (15) days prior to said hearing. Also, adjacent property owners to the proposed subdivision shall be notified in writing at least seven (7) days prior to the public hearing.*
- C. Review And Action On Plat: The planning and environmental commission shall review the plat and associated materials and shall approve, approve with modifications or disapprove the plat within twenty one (21) days of the first public hearing on the minor subdivision or the minor subdivision will be deemed approved. A longer time period for rendering a decision may be granted subject to mutual agreement between the planning and environmental commission and subdivider. The review shall be based on the criteria and necessary findings in section 13-3-4 of this title.*
- D. Appeal: Within twenty (20) days the decision of the planning and environmental commission on the final plat shall be transmitted to the council by the staff. The council may call up the decision of the planning and environmental commission within twenty (20) days of the planning and environmental commission's action. If council appeals the planning and environmental commission decision, the council shall hear substantially the same presentation by the applicant as was heard at the planning and environmental commission hearing(s). The council shall have thirty (30) days to affirm, reverse, or affirm with modifications the planning and environmental commission decision, and the council shall conduct the appeal at a regularly scheduled council meeting.*

## **V. ZONING AND SITE ANALYSIS**

Address:	332 Mill Creek Circle
Legal Descriptions:	Vail Village Filing 1, Block 1, Lot 11
Zoning:	Two-Family Primary/Secondary Residential (PS)
Land Use Plan Designations:	Low Density Residential
Current Land Use:	Single-Family Residence
Geological Hazards:	Moderate Hazard Debris Flow, Stream Setbacks
View Corridor:	View Corridor #1, Non-Impacting

Development Standard	Allowed / Required	Existing	Proposed	Change
<b>Lot 11 (based on the Design Review Board's approval of DRB17-0557)</b>				
Site Area	15,000 SF	12,427 SF	13,660 SF	+1,232 SF
Setbacks	Front: 20' Sides: 15' Rear: 15'	<b>Front (S): -11'</b> <b>Side (E): 3.8'</b> <b>Side (W): 4.4'</b> Rear (N): 15'	Front (S): 20' * Side (E): 21' * Side (W): 22.6' * Rear (N): 17' *	Front (S): +31' Side (E): +20.6' Side (W): +18.2' Rear (N): +2'
Building Height	30' / 33'	Unknown	33'	N/A
Density (DUs)	Max. 1	1 DU		No Change
Density (GRFA)	5,991 SF	Unknown	5,983 SF *	N/A
Site Coverage	Max. 20% (2,732 SF)	Unknown	20% * (2,732 SF)	N/A
Landscaping	Min. 60% (8,196 SF)	Unknown	62% * (8,501 SF)	N/A
Parking	Min. 5 Spaces	2	5	+3
<b>Lot 10</b>				
Site Area	15,000 SF	17,646 SF	16,414 SF	-1,232 SF
Setbacks	Front: 20' Sides: 15' Rear: 15'	<b>Front (S): 5'</b> Side (E): 62' Side (W): 27' Rear (N): 53''	<b>Front (S): 5'</b> Side (E): 62' Side (W): 24' Rear (N): 46.5'	Front: No Change Side: No Change Side (W): -3' Rear (N): -6.5'
Building Height	30' / 33'	Unknown		No Change
Density (DUs)	Max. 2	1 DU		No Change
Density (GRFA)	6,684 SF	4,499 SF		No Change
Site Coverage	Max. 20% (3,283 SF)	14% (2,305 SF)		No Change
Landscaping	Min. 60% (9,848 SF)	82.4% (14,546 SF)	81% (13,314 SF)	-1.4% (-1,232 SF)
Parking	Min. 4 Spaces	4	4	No Change

## VI. SURROUNDING LAND USES AND ZONING

	<u>Existing Land Use:</u>	<u>Zoning District:</u>
North:	Low Density Residential	Two-Family Primary/Secondary Residential
South:	Low Density Residential / Village Master Plan	Two-Family Primary/Secondary Residential / Agricultural and Open Space
East:	Low Density Residential	Two-Family Primary/Secondary Residential
West:	Low Density Residential	Two-Family Primary/Secondary Residential

## VII. REVIEW CRITERIA

The following are review criteria for a minor subdivision, as outlined in Section 13-3-4, Commission Review of Application; Criteria and Necessary Findings, Vail Town Code:

- 1. The extent to which the proposed subdivision is consistent with all the applicable elements of the adopted goals, objectives and policies outlined in the Vail comprehensive plan and is compatible with the development objectives of the town; and***

Staff finds that the proposed subdivision is consistent with all applicable elements of the adopted goals, objectives, and policies outlined in the Vail Comprehensive Plan and is compatible with the development objectives of the town. While the Comprehensive Plan does not discuss single-family and duplex subdivisions in great detail, Goal 1.3 of the Vail Land Use Plan states, “the quality of development should be maintained and upgraded whenever possible.” If approved, the proposed subdivision would facilitate compliance with Title 12, Zoning Regulations, Vail Town Code, and Title 13, Subdivision Regulations, Vail Town Code through the following:

- Construction of a new, code-compliant, single-family residence;
- The removal of an encroachment into the Town right-of-way (existing attached garage); and
- The removal of a structure (swimming pool) from within the Mill Creek setback.

Staff finds the proposed subdivision meets this criterion.

- 2. The extent to which the proposed subdivision complies with all of the standards of this title, as well as, but not limited to, title 12, “Zoning Regulations,” of this code, and other pertinent regulations that the planning and environmental commission deems applicable; and***

Staff finds that the proposed subdivision is in compliance with all of the standards of Title 12, Zoning Regulations, Vail Town Code, and Title 13, Subdivision Regulations, Vail Town Code. As proposed, the development lot and the adjacent property to the east meet all development standards for the Two-Family Primary/Secondary (PS) District.

Staff finds the proposed subdivision meets this criterion.

- 3. The extent to which the proposed subdivision presents a harmonious, convenient, workable relationship among land uses consistent with municipal development objectives; and***

Staff finds that the proposed subdivision presents a harmonious, convenient, workable relationship among land uses consistent with municipal development objectives. While the proposed shared property line is unusual in its panhandle shape, there is no prohibition against such property lines within the Vail Town Code. The proposed subdivision will not negatively impact the existing relationship among land uses, but it will facilitate a new single-family residence without any setback encroachments, remove an encroachment into the Town right-of-way (garage), and remove a structure (swimming pool) from within the Mill Creek setback.

Staff finds the proposed subdivision meets this criterion.

**4. *The extent of the effects on the future development of the surrounding area; and***

Staff finds that the proposed subdivision will have no negative impacts on the future development of the surrounding area. Instead, the proposed subdivision furthers the implementation of the Town's development objectives by facilitating a new single-family residence, the removal of an encroachment into the Town right-of-way (garage), and the removal of a structure (swimming pool) from within the Mill Creek setback. Also, the surrounding area has been developed and an alteration to a shared private property line between the subject properties will not affect the surrounding area, now, or in the future.

Staff finds the proposed subdivision meets this criterion.

**5. *The extent to which the proposed subdivision is located and designed to avoid creating spatial patterns that cause inefficiencies in the delivery of public services, or require duplication or premature extension of public facilities, or result in a "leapfrog" pattern of development; and***

Staff finds that the proposed subdivision will not cause any inefficiency in the delivery of public services and will not require duplication or premature extension of public services, and will not result in a leapfrog development pattern because the applicant is proposing a subdivision of existing platted lots already served by public facilities.

Staff finds the proposed subdivision meets this criterion.

**6. *The extent to which the utility lines are sized to serve the planned ultimate population of the service area to avoid future land disruption to upgrade undersized lines; and***

Staff finds that the proposed subdivision is already served by appropriately sized utility lines, resulting in no future land disruptions to upgrade undersized lines.



Staff finds the proposed subdivision meets this criterion.

**7. *The extent to which the proposed subdivision provides for the growth of an orderly viable community and serves the best interests of the community as a whole; and***

Staff finds that the proposed subdivision provides for the growth of an orderly viable community and serves the best interests of the community as a whole because there will be no negative impact to the community as a whole while facilitating the community's goal to allow for the maintenance and upgrading of existing development within the Town. The proposed subdivision will help to clarify the ownership of Lot 11 and Parcel 2 as one (1) consolidated development lot. The proposed subdivision will also help to ensure identification of property boundaries and consistent enforcement of adopted zoning regulations.

Staff finds the proposed subdivision meets this criterion.

**8. *The extent to which the proposed subdivision results in adverse or beneficial impacts on the natural environment, including, but not limited to, water quality, air quality, noise, vegetation, riparian corridors, hillsides and other desirable natural features; and***

Staff finds that the proposed subdivision will not result in any adverse impacts on the natural environment, including, but not limited to, water quality, air quality, noise, vegetation, riparian corridors, hillsides and other desirable natural features.

Staff finds the proposed subdivision meets this criterion.

**9. *Such other factors and criteria as the commission and/or council deem applicable to the proposed subdivision.***

## **VIII. STAFF RECOMMENDATION**

Based upon the review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends **approval** of a final plat pursuant to Title 13, Chapter 4, Minor Subdivisions, Vail Town Code, to allow for the subdivision to reconfigure the property line at 332 Mill Creek Circle / Lot 11, Block 1, Vail Village Filing and setting forth details in regard thereto.

Should the Planning and Environmental Commission choose to **approve** this minor subdivision, the Community Development Department recommends the Planning and Environmental Commission pass the following **motion**:

*“The Planning and Environmental Commission approves the applicant’s request for a final plat, pursuant to Title 13, Chapter 4, Minor Subdivisions, Vail Town Code, to allow for the subdivision to reconfigure the property line at 332 Mill Creek Circle / Lot 11, Block 1, Vail Village Filing 1 and setting forth details in regard thereto.”*

Should the Planning and Environmental Commission choose to **approve** this minor subdivision, the Community Development Departments recommends the Planning and Environmental Commission makes the following **findings**:

*“Based upon a review of Section VII of the February 26, 2018 staff memorandum to the Planning and Environmental Commission, and the evidence and testimony presented, the Planning and Environmental Commission finds:*

- 1. That the subdivision is in compliance with the criteria listed in Section 13-3-4, Minor Subdivisions, Vail Town Code;*
- 2. That the subdivision is consistent with the adopted goals, objectives and policies outlined in the Vail comprehensive plan and compatible with the development objectives of the town;*
- 3. That the subdivision is compatible with and suitable to adjacent uses and appropriate for the surrounding areas; and*
- 4. That the subdivision promotes the health, safety, morals, and general welfare of the town and promotes the coordinated and harmonious development of the town in a manner that conserves and enhances its natural environment and its established character as a resort and residential community of the highest quality.”*

## **IX. ATTACHMENTS**

- A. Vicinity Map
- B. Project Narrative, including the applicant’s response to subdivision criteria, a memorandum from James Wear, Esq., Wear Travers Perkins, LLC, addressing the chain of title for Lot 11, Lot 10, and Parcel 2, and a linked Title Report.
- C. Proposed Final Subdivision Plat, prepared by Michael J. Post, Professional Land Surveyor, Eagle Valley Surveying, Inc., dated February, 2018, and received January 29, 2018.
- D. Lot 10 Zoning Analysis, Prepared by Braun Associates, Inc.