



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: January 28, 2019

SUBJECT: A request for a recommendation to the Vail Town Council for a Prescribed Regulations Amendment pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Section 12-7H-12, Density, Vail Town Code, to remove the dwelling units per acre maximum while maintaining the existing dimensional standards including GRFA and building height in the Lionshead Mixed Use-1 zone district. (PEC18-0041)

Applicant: Treetops Condominium Association, represented by Mauriello
Planning Group
Planner: Chris Neubecker

I. SUMMARY

The applicant, the Treetops Condominium Association, represented by Mauriello Planning Group, requests the review of a prescribed regulation amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Section 12-7H-12, Density, Vail Town Code, to remove the dwelling units per acre maximum while maintaining the existing dimensional standards including GRFA and building height in the Lionshead Mixed Use-1 zone district.

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 the Planning and Environmental Commission (PEC) **forward a recommendation of approval** to the Vail Town Council, of this application, subject to the findings noted in Section VIII of this memorandum. A vicinity map (Attachment A) and the applicant's narrative (Attachment B).

II. DESCRIPTION OF REQUEST

The applicant is proposing to alter the density (dwelling units per acre) maximum within the Lionshead Mixed Use-1 zone district. As proposed, the change would entail removing the maximum allowed number of dwelling units per acre, so that there would be no cap on density. No changes are proposed to the existing limits on Gross Residential Floor Area (GRFA), building heights, setbacks, site coverage, landscaping,

or any other dimensional standard. The proposed text amendment would apply only to properties within the Lionshead Mixed Use-1 (LMU-1) zone district.

This zone district is bounded (approximately) on the north side by S. Frontage Road and E. Lionshead Circle, on the south side by Gore Creek, on the west at the intersection of S. Frontage Road and Forest Road, and on the east by Dobson Ice Arena and the Vail Library. (The Lionshead Parking Structure, Dobson Ice Arena, and Vail Library are in the General Use (GU) zone district, and are not impacted by this proposal.) Please see Attachment A – Vicinity Map, for more details.

III. BACKGROUND

Prior to adoption of the current zoning (1999) and the [Lionshead Redevelopment Master Plan](#) (LRMP), the zoning in the Lionshead area included several zone districts (See Attachment F- Previous Zoning Map). The following zone districts were in place in the areas currently zoned Lionshead Mixed Use-1:

- Commercial Core 1(CC1)
- High Density Multiple Family (HDMF)
- Medium Density Multiple Family (MDMF)
- Special Development District (SDD)
- Parking (P)

On December 15, 1998 the Vail Town Council adopted the Lionshead Redevelopment Master Plan via Resolution No. 14, Series of 1998. The purpose of the Plan was “*to encourage redevelopment and new development initiatives within the Lionshead study area.*” Lionshead was recognized at the time to lack the economic vitality of Vail Village and failed to offer a world-class resort experience. Lionshead lacked growth in accommodation units, had a poor quality retail experience, uninteresting pedestrian environment, mediocre architectural character and was absent incentives for redevelopment. The adopted LRMP created the incentive for redevelopment, and to date, several properties have redeveloped or new construction has been completed.

On April 6, 1999, the Vail Town Council adopted Ordinance No. 3, Series of 1999 which amended the zoning regulations by creating two new zone districts, Lionshead Mixed Use-1 and Lionshead Mixed Use-2 in order to implement the Lionshead Redevelopment Master Plan.

On April 6, 1999 the Vail Town Council adopted Ordinance No. 4, Series of 1999, which amended the official zoning map for the Town of Vail and rezoned most of the land within the Lionshead area to Lionshead Mixed Use-1 zone district.

IV. PROPOSED TEXT AMENDMENT LANGUAGE

The Prescribed Regulation Amendment is proposed as follows:

EXISTING LANGUAGE:

12-7H-12: DENSITY (DWELLING UNITS PER ACRE):

Up to a thirty three percent (33%) increase over the existing number of dwelling units on a property or thirty five (35) dwelling units per acre, whichever is greater, shall be allowed. For the purpose of calculating density, employee housing units, accommodation units, attached accommodation units, timeshare units, and fractional fee club units shall not be counted as dwelling units. Additionally, a "lodge dwelling unit", as defined herein, shall be counted as twenty five percent (25%) of a dwelling unit for the purpose of calculating density.

PROPOSED LANGUAGE:

12-7H-12: DENSITY (DWELLING UNITS PER ACRE):

There is no density limitation.

V. ROLES OF REVIEWING BODIES

Order of Review: Generally, text amendment applications will be reviewed by the Planning and Environmental Commission and the Commission will forward a recommendation to the Town Council. The Town Council will then review the text amendment application.

Planning and Environmental Commission:

The Planning and Environmental Commission is responsible for the review of a text amendment application, pursuant to Section 12-3-7, Amendment, Vail Town Code, and forwarding of a recommendation to the Town Council.

Design Review Board:

The Design Review Board has no review authority over a text amendment to the Vail Town Code.

Town Council:

The Town Council is responsible for final approval, approval with modifications, or denial of a text amendment application, pursuant to Section 12-3-7, Amendment, Vail Town Code.

Staff:

The Town Staff facilitates the application review process. Staff reviews the submitted application materials for completeness and general compliance with the appropriate requirements of the Town Code. Staff also provides the Planning and Environmental

Commission a memorandum containing a description and background of the application; an evaluation of the application in regard to the criteria and findings outlined by the Town Code; and a recommendation of approval, approval with modifications, or denial.

VI. APPLICABLE PLANNING DOCUMENTS

Staff believes that following provisions of the Vail Town Code, Vail Land Use Plan, and Lionshead Redevelopment Master Plan are relevant to the review of this proposal:

Title 12, Zoning Regulations, Vail Town Code

CHAPTER 12-1, TITLE, PURPOSE AND APPLICABILITY (in part)

Section 12-1-2: Purpose:

A. General: These regulations are enacted for the purpose of promoting the health, safety, morals, and general welfare of the Town, and to promote the coordinated and harmonious development of the Town in a manner that will conserve and enhance its natural environment and its established character as a resort and residential community of high quality.

B. Specific: These regulations are intended to achieve the following more specific purposes:

- 1. To provide for adequate light, air, sanitation, drainage, and public facilities.*
- 2. To secure safety from fire, panic, flood, avalanche, accumulation of snow, and other dangerous conditions.*
- 3. To promote safe and efficient pedestrian and vehicular traffic circulation and to lessen congestion in the streets.*
- 4. To promote adequate and appropriately located off-street parking and loading facilities.*
- 5. To conserve and maintain established community qualities and economic values.*
- 6. To encourage a harmonious, convenient, workable relationship among land uses, consistent with Municipal development objectives.*
- 7. To prevent excessive population densities and overcrowding of the land with structures.*
- 8. To safeguard and enhance the appearance of the Town.*
- 9. To conserve and protect wildlife, streams, woods, hillsides, and other desirable natural features.*
- 10. To assure adequate open space, recreation opportunities, and other amenities and facilities conducive to desired living quarters.*
- 11. To otherwise provide for the growth of an orderly and viable community.*

CHAPTER 12-2-2: DEFINITIONS OF WORDS AND TERMS (in part)

ACCOMMODATION UNIT: Any room or group of rooms without "kitchen facilities", as defined herein, which are designed for temporary occupancy by visitors, guests, individuals, or families on a short term rental basis, and accessible from common corridors, walks, or balconies without passing through another accommodation unit, limited service lodge unit, fractional fee club unit or dwelling unit. An accommodation unit is not intended for permanent residency and shall not be subdivided into an individual condominium unit, pursuant to [title 13](#), "Subdivision Regulations", of this code.

ACCOMMODATION UNIT, ATTACHED: A room, without kitchen facilities, connected to a dwelling unit within a multiple-family building designed for or adapted to occupancy by guests which is accessible from a common corridor, walk, or balcony without passing through another accommodation unit, attached accommodation unit, or dwelling unit.

DENSITY CONTROL: Any requirement of this title that regulates the number or size of dwelling units per unit of land.

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.

DWELLING UNIT: Any room or group of rooms in a two-family or multiple-family building with kitchen facilities designed for or used by one family as an independent housekeeping unit.

EMPLOYEE HOUSING UNIT (EHU): A dwelling unit which shall not be leased or rented for any period less than thirty (30) consecutive days, and shall be occupied by at least one person who is an employee. For the purposes of this definition "employee" shall mean a person who works an average of thirty (30) hours per week or more on a year round basis in Eagle County, Colorado.

FRACTIONAL FEE: A tenancy in common interest in improved real property, including condominiums, created or held by persons, partnerships, corporations, or joint ventures or similar entities, wherein the tenants in common have formerly arranged by oral or written agreement or understanding, either recorded or unrecorded, 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 reoccurring or not which is binding 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.

FRACTIONAL FEE CLUB: A fractional fee project in which each dwelling unit, pursuant to recorded project documentation as approved by the town of Vail, has no fewer than six (6) and no more than twelve (12) owners per unit and whose use is established by a reservation system and is managed on site with a front desk operating twenty four (24) hours a day, seven (7) days a week providing reservation and registration capabilities. The project shall include, or be proximate to transportation, retail shops, eating and drinking establishments, and recreation facilities.

FRACTIONAL FEE CLUB UNIT: An individual dwelling unit in a fractional fee club described as such in the project documentation and not an accommodation unit within the fractional fee club. No offer of a fractional fee club unit shall be made except pursuant to an application for registration and certification as a subdivision developer of a timeshare program or an exemption from registration approved by the state of Colorado real estate commission pursuant to Colorado Revised Statutes 12-61-401 et seq., and the rules and regulations promulgated pursuant thereto. Within ten (10) days after receipt of a written request, the developer of a fractional fee club unit shall provide to the staff of the department of community development a copy of the application or request for exemption filed with the state of Colorado real estate commission and/or evidence of approval of the application or request for exemption.

FULL TIME EMPLOYEE: A person who works an average of thirty (30) hours per week or more on a year round basis in Eagle County, Colorado.

LODGE DWELLING UNIT: A small dwelling unit with limited kitchen and floor area and which contains six hundred fifty (650) square feet or less of floor area and is intended to be rented on a short term basis.

Article H: Lionshead Mixed Use 1 (LMU-1) District

12-7H-1: PURPOSE:

The Lionshead mixed use 1 district is intended to provide sites for a mixture of multiple-family dwellings, lodges, hotels, fractional fee clubs, timeshares, lodge dwelling units, restaurants, offices, skier services, and commercial establishments in a clustered, unified development. Lionshead mixed use 1 district, in accordance with the Lionshead redevelopment master plan, is intended to ensure adequate light, air, open space and other amenities appropriate to the permitted types of buildings and uses and to maintain the desirable qualities of the zone district by establishing appropriate site development standards. This zone district is meant to encourage and provide incentives for redevelopment in accordance with the Lionshead redevelopment master plan.

This zone district was specifically developed to provide incentives for properties to redevelop. The ultimate goal of these incentives is to create an economically vibrant lodging, housing, and commercial core area. The incentives in this zone district include increases in allowable gross residential floor area, building height, and density over the previously established zoning in the Lionshead redevelopment master plan study area.

The primary goal of the incentives is to create economic conditions favorable to inducing private redevelopment consistent with the Lionshead redevelopment master plan. Additionally, the incentives are created to help finance public off site improvements adjacent to redevelopment projects. With any development/redevelopment proposal taking advantage of the incentives created herein, the following amenities will be evaluated: streetscape improvements, pedestrian/bicycle access, public plaza redevelopment, public art, roadway improvements, and similar improvements. (Ord. 29(2005) § 24: Ord. 3(1999) § 1)

12-7H-2: PERMITTED AND CONDITIONAL USES; BASEMENT OR GARDEN LEVEL:

A. Permitted Uses: The following uses shall be permitted in basement or garden levels within a structure:

Banks and financial institutions.

Child daycare centers.

Commercial ski storage/ski club.

Eating and drinking establishments.

Employee housing units, as further regulated by [chapter 13](#) of this title.

Personal services and repair shops.

Professional offices, business offices and studios.

Public or private lockers and storage.

Recreation facilities.

Retail establishments.

Skier ticketing, ski school and skier services.

Travel and ticket agencies.

Additional uses determined to be similar to permitted uses described in this subsection, in accordance with the provisions of section [12-3-4](#) of this title.

B. Conditional Uses: The following uses shall be permitted in basement or garden levels within a structure, subject to issuance of a conditional use permit in accordance with the provisions of [chapter 16](#) of this title:

Accommodation units.

Attached accommodation units.

Conference facilities and meeting rooms.

Liquor stores.

Lodges.

Major arcades.

Multiple-family residential dwelling units, timeshare units, fractional fee clubs, and lodge dwelling units.

Radio, TV stores, and repair shops.

Religious institutions.

Theaters.

Additional uses determined to be similar to conditional uses described in this subsection, in accordance with the provisions of section [12-3-4](#) of this title. (Ord. 2(2016) § 12: Ord. 8(2014) § 3: Ord. 1(2008) § 16: Ord. 39(2007) § 3)

12-7H-3: PERMITTED AND CONDITIONAL USES; FIRST FLOOR OR STREET LEVEL:

A. Permitted Uses: The following uses shall be permitted on the first floor or street level within a structure:

Banks, with walk-up teller facilities.

Child daycare centers.

Eating and drinking establishments.

Employee housing units, as further regulated by [chapter 13](#) of this title.

Recreation facilities.

Retail stores and establishments.

Skier ticketing, ski school and skier services.

Travel and ticket agencies.

Additional uses determined to be similar to permitted uses described in this subsection, in accordance with the provisions of section [12-3-4](#) of this title.

B. Conditional Uses: The following uses shall be permitted on the first floor or street level floor within a structure, subject to issuance of a conditional use permit in accordance with the provisions of [chapter 16](#) of this title:

Accommodation units.

Attached accommodation units.

Beauty and barber shops.

Conference facilities and meeting rooms.

Electronics sales and repair shops.

Financial institutions, other than banks.

Liquor stores.

Lodges.

Major arcades.

Multiple-family residential dwelling units, timeshare units, fractional fee clubs, and lodge dwelling units.

Religious institutions.

Temporary business offices.

Theaters.

Additional uses determined to be similar to conditional uses described in this subsection, in accordance with the provisions of section [12-3-4](#) of this title. (Ord. 2(2016) § 13: Ord. 6(2012) § 2)

12-7H-4: PERMITTED AND CONDITIONAL USES; SECOND FLOOR AND ABOVE:

A. Permitted Uses: The following uses shall be permitted on those floors above the first floor within a structure:

Accommodation units.

Attached accommodation units.

Employee housing units, as further regulated by [chapter 13](#) of this title.

Lodges.

Multiple-family residential dwelling units, lodge dwelling units.

Additional uses determined to be similar to permitted uses described in this subsection, in accordance with the provisions of section [12-3-4](#) of this title.

B. Conditional Uses: The following uses shall be permitted on second floors and higher above grade, subject to the issuance of a conditional use permit in accordance with the provisions of [chapter 16](#) of this title:

Banks and financial institutions.

Child daycare centers.

Conference facilities and meeting rooms.

Eating and drinking establishments.

Electronics sales and repair shops.

Fractional fee clubs.

Liquor stores.

Personal services and repair shops.

Professional offices, business offices and studios.

Recreation facilities.

Religious institutions.

Retail establishments.

Skier ticketing, ski school and skier services.

Theaters.

Timeshare units.

Additional uses determined to be similar to conditional uses described in this subsection, in accordance with the provisions of section [12-3-4](#) of this title. (Ord.

2(2016) § 14: Ord. 1(2008) § 16: Ord. 29(2005) § 24: Ord. 24(2005) § 3: Ord. 18(2005) § 2: Ord. 6(2000) § 2: Ord. 3(1999) § 1)

12-7H-5: CONDITIONAL USES; GENERALLY (ON ALL LEVELS OF A BUILDING OR OUTSIDE OF A BUILDING):

The following conditional uses shall be permitted, subject to issuance of a conditional use permit in accordance with the provisions of [chapter 16](#) of this title:

Bed and breakfasts, as further regulated by section [12-14-18](#) of this title.

Brewpubs.

Coin operated laundries.

Commercial storage.

Communications antennas and appurtenant equipment.

Private outdoor recreation facilities, as a primary use.

Public buildings, grounds, and facilities.

Public or private parking lots.

Public park and recreation facilities.

Public utility and public service uses.

Seasonal uses or structures utilized for more than fourteen (14) days.

Single-family residential dwellings.

Ski lifts and tows.

Television stations.

Two-family residential dwellings.

Additional uses determined to be similar to conditional uses described in this section, in accordance with the provisions of section [12-3-4](#) of this title. (Ord. 12(2008) § 17)

12-7H-6: ACCESSORY USES:

The following accessory uses shall be permitted in the Lionshead mixed use 1

district:

Home occupations, subject to issuance of a home occupation permit in accordance with the provisions of section [12-14-12](#) of this title.

Loading and delivery and parking facilities customarily incidental and accessory to permitted and conditional uses.

Minor arcades.

Offices, lobbies, laundry, and other facilities customarily incidental and accessory to hotels, lodges, and multiple-family uses.

Outdoor dining decks and patios.

Swimming pools, tennis courts, patios or other recreation facilities customarily incidental to permitted residential or lodge uses.

Other uses customarily incidental and accessory to permitted or conditional uses, and necessary for the operation thereof. (Ord. 29(2005) § 24: Ord. 3(1999) § 1)

12-7H-7: EXTERIOR ALTERATIONS OR MODIFICATIONS:

A. Review Required: The construction of a new building or the alteration of an existing building that is not a major exterior alteration as described in subsection B of this section shall be reviewed by the design review board in accordance with [chapter 11](#) of this title.

1. Submittal Items Required: The submittal items required for a project that is not a major exterior alteration shall be provided in accordance with section [12-11-4](#) of this title.

B. Major Exterior Alteration: The construction of a new building or the alteration of an existing building which adds additional dwelling units, accommodation units, fractional fee club units, timeshare units, any project which adds more than one thousand (1,000) square feet of commercial floor area or common space, or any project which has substantial off site impacts (as determined by the administrator) shall be reviewed by the planning and environmental commission as a major exterior alteration in accordance with this chapter and section [12-3-6](#) of this title. Any project which requires a conditional use permit shall also obtain approval of the planning and environmental commission in accordance with [chapter 16](#) of this title. Complete applications for major exterior alterations shall be submitted in accordance with administrative schedules developed by the department of community development for planning and environmental commission and design review board review.

1. Submittal Items Required, Major Exterior Alteration: The following submittal items are required:

a. Application: An application shall be made by the owner of the building or the building owner's authorized agent or representative on a form provided by the administrator. Any application for condominiumized buildings shall be authorized by the condominium association in conformity with all pertinent requirements of the condominium association's declarations.

b. Application; Contents: The administrator shall establish the submittal requirements for an exterior alteration or modification application. A complete list of the submittal requirements shall be maintained by the administrator and filed in the department of community development. Certain submittal requirements may be waived and/or modified by the administrator and/or the reviewing body if it is demonstrated by the applicant that the information and materials required are not relevant to the proposed development or applicable to the planning documents that comprise the Vail comprehensive plan. The administrator and/or the reviewing body may require the submission of additional plans, drawings, specifications, samples and other materials if deemed necessary to properly evaluate the proposal.

C. Work Sessions/Conceptual Review: If requested by either the applicant or the administrator, submittals may proceed to a work session with the planning and environmental commission, a conceptual review with the design review board, or a work session with the town council.

D. Hearing: The public hearing before the planning and environmental commission shall be held in accordance with section [12-3-6](#) of this title. The planning and environmental commission may approve the application as submitted, approve the application with conditions or modifications, or deny the application. The decision of the planning and environmental commission may be appealed to the town council in accordance with section [12-3-3](#) of this title.

E. Lapse Of Approval: Approval of an exterior alteration as prescribed by this article shall lapse and become void two (2) years following the date of approval by the design review board unless, prior to the expiration, a building permit is issued and construction is commenced and diligently pursued to completion. Administrative extensions shall be allowed for reasonable and unexpected delays as long as code provisions affecting the proposal have not changed. (Ord. 29(2005) § 24: Ord. 5(2003) § 11: Ord. 8(2001) § 2: Ord. 3(1999) § 1)

12-7H-8: COMPLIANCE BURDEN:

It shall be the burden of the applicant to prove by a preponderance of the evidence before the planning and environmental commission and the design review board that the proposed exterior alteration or new development is in compliance with the purposes of the Lionshead mixed use 1 district, that the proposal is consistent with applicable

elements of the Lionshead redevelopment master plan and that the proposal does not otherwise have a significant negative effect on the character of the neighborhood, and that the proposal substantially complies with other applicable elements of the Vail comprehensive plan. (Ord. 29(2005) § 24: Ord. 3(1999) § 1)

12-7H-9: LOT AREA AND SITE DIMENSIONS:

The minimum lot or site area shall be ten thousand (10,000) square feet of buildable area. (Ord. 3(1999) § 1)

12-7H-10: SETBACKS:

The minimum building setbacks shall be ten feet (10') unless otherwise specified in the Lionshead redevelopment master plan as a build to line. (Ord. 29(2005) § 24: Ord. 3(1999) § 1)

12-7H-11: HEIGHT AND BULK:

Buildings shall have a maximum average building height of seventy one feet (71') with a maximum height of 82.5 feet, as further defined by the Lionshead redevelopment master plan. All development shall comply with the design guidelines and standards found in the Lionshead redevelopment master plan. Flexibility with the standard, as incorporated in the Lionshead redevelopment master plan, shall be afforded to redevelopment projects which meet the intent of design guidelines, as reviewed and approved by the design review board. (Ord. 29(2005) § 24: Ord. 3(1999) § 1)

12-7H-12: DENSITY (DWELLING UNITS PER ACRE):

Up to a thirty three percent (33%) increase over the existing number of dwelling units on a property or thirty five (35) dwelling units per acre, whichever is greater, shall be allowed. For the purpose of calculating density, employee housing units, accommodation units, attached accommodation units, timeshare units, and fractional fee club units shall not be counted as dwelling units. Additionally, a "lodge dwelling unit", as defined herein, shall be counted as twenty five percent (25%) of a dwelling unit for the purpose of calculating density. (Ord. 18(2005) § 2: Ord. 31(2001) § 5: Ord. 3(1999) § 1)

12-7H-13: GROSS RESIDENTIAL FLOOR AREA (GRFA):

Up to two hundred fifty (250) square feet of gross residential floor area shall be allowed for each one hundred (100) square feet of buildable site area, or an increase of thirty three percent (33%) over the existing GRFA found on the property, whichever is greater. Multiple-family dwelling units in this zone district shall not be entitled to additional gross residential floor area under section [12-15-5](#), "Additional Gross Residential Floor Area (250 Ordinance)", of this title. (Ord. 3(1999) § 1)

12-7H-14: SITE COVERAGE:

Site coverage shall not exceed seventy percent (70%) of the total site area, unless otherwise specified in the Lionshead redevelopment master plan. (Ord. 29(2005) § 24: Ord. 3(1999) § 1)

12-7H-15: LANDSCAPING AND SITE DEVELOPMENT:

At least twenty percent (20%) of the total site area shall be landscaped, unless otherwise specified in the Lionshead redevelopment master plan. (Ord. 29(2005) § 24: Ord. 3(1999) § 1)

12-7H-16: PARKING AND LOADING:

Off street parking and loading shall be provided in accordance with [chapter 10](#) of this title. At least one-half ($\frac{1}{2}$) of the required parking shall be located within the main building or buildings. (Ord. 3(1999) § 1)

12-7H-17: LOCATION OF BUSINESS ACTIVITY:

A. Limitations; Exception: All offices, businesses and services permitted by zone district shall be operated and conducted entirely within a building, except for permitted unenclosed parking or loading areas, the outdoor display of goods, or outdoor restaurant seating.

B. Outdoor Displays: The area to be used for outdoor display must be located directly in front of the establishment displaying the goods and entirely upon the establishment's own property. Sidewalks, building entrances and exits, driveways and streets shall not be obstructed by outdoor display. (Ord. 3(1999) § 1)

12-7H-18: MITIGATION OF DEVELOPMENT IMPACTS:

Property owners/developers shall also be responsible for mitigating direct impacts of their development on public infrastructure and in all cases mitigation shall bear a reasonable relation to the development impacts. Impacts may be determined based on reports prepared by qualified consultants. The extent of mitigation and public amenity improvements shall be balanced with the goals of redevelopment and will be determined by the planning and environmental commission in review of development projects and conditional use permits. Mitigation of impacts may include, but is not limited to, the following: employee housing per the town's current employee housing policy, roadway improvements, pedestrian walkway improvements, streetscape improvements, stream tract/bank improvements, public art improvements, and similar improvements. The intent of this section is to only require mitigation for large scale redevelopment/development projects which produce substantial off site impacts. (Ord. 14(2006) § 3: Ord. 29(2005) § 24: Ord. 3(1999) § 1)

Vail Land Use Plan

1. General Growth / Development

- 1.1. *Vail should continue to grow in a controlled environment, maintaining a balance between residential, commercial and recreational uses to serve both the visitor and the permanent resident.*
- 1.3. *The quality of development should be maintained and upgraded whenever possible.*
- 1.12 *Vail should accommodate most of the additional growth in existing developed areas (infill areas).*

2. Village Core / Lionshead

- 4.2 *Increased density in the Core areas is acceptable so long as the existing character of each area is preserved through the implementation of the Urban Design Guide Plan and the Vail Village Master Plan.*

5. Residential

- 5.1 *Additional residential growth should continue to occur primarily in existing, platted areas and as appropriate in new areas where high hazards do not exist.*
- 5.4 *Residential growth should keep pace with the market place demands for a full range of housing types.*

Lionshead Redevelopment Master Plan

2.1 Purpose of the Master Plan

This master plan was initiated by the Town of Vail to encourage redevelopment and new development initiatives within the Lionshead study area. Both public and private interests have recognized that Lionshead today lacks the economic vitality of Vail Village, its neighboring commercial district, and fails to offer a world-class resort experience. Lionshead's economic potential has been inhibited by a number of recurrent themes: lack of growth in accommodation units ("hot beds"), poor retail quality, the apparent deterioration of existing buildings, an uninteresting and disconnected pedestrian environment, mediocre architectural character, and the absence of incentives for redevelopment.

Redevelopment is critical for Vail and Lionshead if the community is to remain a competitive four-season resort. Other resorts are spending millions of dollars to upgrade their facilities in order to attract more visitors year-round. Growth in the number of skiers annually has slowed to one to two percent, intensifying competition for market share. Skiers are spending less time skiing and more time shopping, dining out, and enjoying other off-mountain activities. As a result, the demand for quality retail shopping and a

greater diversity of experiences has dramatically increased. All of these are sorely in need of improvement in Lionshead. Vail, and specifically Lionshead, will fall behind if the community fails to upgrade the quality of its facilities and correct the existing flaws in its primary commercial nodes.

This master plan, developed over a period of two years and with extensive involvement by the community, is a comprehensive guide for property owners proposing to undertake development or redevelopment of their properties and the municipal officials responsible for planning public improvements. The plan outlines the Town's objectives and goals for the enhancement of Lionshead and proposes recommendations, incentives, and requirements for redevelopment and new development of public and private properties. It also recommends specific public improvement projects that are strategically important to the future success of Lionshead. The master plan is intended to provide direction over the next 15 to 20 years.

2.3.1 Renewal and Redevelopment

Lionshead can and should be renewed and redeveloped to become a warmer, more vibrant environment for guests and residents. Lionshead needs an appealing and coherent identity, a sense of place, a personality, a purpose, and an improved aesthetic character.

9.5.2 Rezoning

Zoning districts and land use regulations relevant to the Lionshead study area should be updated and modified to reflect the recommendations contained in the master plan and facilitate their implementation. The rezoning process should include the creation of relevant impact fees that would require development to contribute toward the funding of required public improvements associated with the development.

VII. CRITERIA FOR REVIEW

1. The extent to which the text amendment furthers the general and specific purposes of the zoning regulations; and

Staff finds that the applicant's proposed text amendment furthers the general and specific purposes of the zoning regulations by promoting the redevelopment of residential property, and in some cases the associated commercial spaces, within the Lionshead base area. The purpose of the Lionshead Redevelopment Plan is to promote redevelopment, and one way to accomplish this goal is to provide incentives and flexibility for private sector investments.

The proposed changes will provide additional motivation and options for redevelopment above those already existing. The removal of the density cap should have no visual impact on Lionshead, since the existing regulations for GRFA, building height, setbacks, site coverage, parking and design requirements will remain.

Staff finds that this criterion has been met.

2. The extent to which the text amendment would better implement and better achieve 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 prescribed regulations amendments will better implement or achieve the applicable elements of the adopted goals, objectives, and policies outlined in the Vail Comprehensive Plan. The existing zoning regulations for the Lionshead Mixed Use-1 zone district, including the incentives for higher density development, have resulted in the redevelopment of some properties. However, several other properties have not been redeveloped. The proposed density changes could create enough incentive and flexibility to spur some owners and associations to take on a redevelopment project.

While not all older properties will take advantage of this proposed change to the allowed density, the proposed text amendment increases the likelihood for redevelopment. Those properties that do redevelop will contribute to advancing the goals for renewal in this important core area of the community while still meeting the existing dimensional requirements such as GRFA, building height, setbacks, site coverage, landscaping and parking.

Staff finds that this criterion has been met.

3. The text amendment demonstrates how conditions have substantially changed since the adoption of the subject regulation and how the existing regulation is no longer appropriate or is inapplicable; and

Conditions have changed since the adoption of the Lionshead Mixed Use-1 zone district, which is shown by the number of properties that remain in a deteriorated condition. When the existing Lionshead Mixed Use-1 zone district was adopted, there was an expectation that unlimited density for timeshares, accommodation units and fractional fee units would help to encourage redevelopment. For some of these uses, the market demand has waned. For example, timeshare and fractional fee units are not nearly as popular today as they once were, and many units that were built now sit empty and unsold. The existing regulation is no longer appropriate or is inapplicable if it is not achieving the desired policy result.

Removal of the density cap is one more step that can be taken to provide flexibility and options to encourage owners to upgrade their properties. The existing regulation is not fully achieving its desired outcome.

Staff finds that this criterion has been met.

4. The extent to which the text amendment provides a harmonious, convenient, workable relationship among land use regulations consistent with municipal development objectives; and

Staff believes this text amendment will ensure a harmonious, convenient, workable relationship among land use regulations consistent with the Town's development objectives. Specifically, the proposed text amendment will only change the allowed number of dwelling units. No changes are proposed to the GRFA, building height, setbacks, parking, site coverage or design requirements. As a result, the exterior of a new building reviewed under the proposed regulations will need to meet the same regulations that currently apply. Under existing regulations, a building can be constructed that looks identical to the building that would be allowed with the proposed text amendment.

Staff finds that this criterion has been met.

5. Such other factors and criteria the planning and environmental commission and/or council deem applicable to the proposed text amendment.

In addition to the considerations mentioned above, the PEC should consider the impact of the proposed text amendment on the capacity of the Town's infrastructure, including roads, water and sewer. The proposed text amendment will allow for an increase in the total number of dwelling units within the Lionshead Mixed Use 1 zone district, which should also lead to an increase in the number of people living and staying in Lionshead. As a result, more traffic, water use, and wastewater generation is anticipated.

As shown on the attached memo from the Eagle River Water and Sanitation District (ERWSD), the proposal to eliminate the density maximum could have future impacts on the capacity of the local sewer treatment plants. If the growth is greater than planned by ERWSD, then *"wastewater flows could eventually exceed the treatment capacity of the Vail Wastewater Treatment Facility."* The Vail Wastewater Treatment Facility is already at capacity during the peak period from Christmas through New Years week, when wastewater flows are diverted to the Avon Wastewater Treatment Facility. (Please see the attached memo from the Eagle River Water and Sanitation Districts (Attachment D).

Increases in density could also have an impact on local traffic. As shown in the Town Engineer's memo (Attachment E), the Vail Transportation Master Plan assumes 110 net new dwelling units within the Lionshead Mixed Use-1 zone district. If future development exceeds this number, and if a major redevelopment of the Lionshead Parking Structure moves forward, then the Vail Transportation Master Plan will need to be updated and additional carrying capacity of the transportation system may be required.

As proposed, there would be no limit on the number of dwelling units allowed. In reality, there will not be an unlimited number of units built. For a project that reaches its maximum GRFA, the size of the units must get smaller as the number of units increases. At some point, however, smaller units will not make economic sense to construct if they become too small to be comfortable. Also, staff does not see a fair comparison between unlimited dwelling units and unlimited EHUs, accommodation units, timeshares, or fractional fee club units. There is not a strong market demand for EHUs, AUs, timeshares, or fractional fee club units; there is, however, significant demand for dwelling units. As a result, staff believes that the applicant's proposal will lead to more redevelopment and additional impacts on local infrastructure. Since the policy of the Lionshead Redevelopment Master Plan is to encourage redevelopment, staff considers this proposal in line with the policy objective of the plan.

One benefit of the proposed text amendment may be that smaller units are more likely to be short-term rented than larger units. These "hot beds" are encouraged in the Lionshead Redevelopment Master Plan since they are assumed to contribute more effectively to the local economy by supporting local retail and restaurants.

VIII. ENVIRONMENTAL IMPACTS

The Community Development has not identified any significant environmental impacts with the proposed text amendment. More density may lead to additional traffic coming into the area, but higher density in already developed areas is usually associated with better walkability, and greater use of public transit. If this density helps to reduce development farther from the core of town, and reduces sprawl, then there may be a minor positive impact on the environment. Demolition and new construction, as well as the environmental costs of the resulting debris, plus the energy required to construct new buildings, will likely have some impacts on the environment.

IX. STAFF RECOMMENDATION

The Community Development Department recommends the Planning and Environmental Commission forward a **recommendation of approval** for the prescribed regulation amendment to the Vail Town Council. This recommendation is based upon the review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented.

Should the Planning and Environmental Commission choose to forward a recommendation of approval to the Vail Town Council for the proposed text amendment, the Community Development Department recommends the Commission pass the following **motion**:

"The Planning and Environmental Commission forwards a recommendation of approval to the Vail Town Council for a Prescribed Regulations Amendment pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Section 12-7H-12, Density, Vail Town Code, to remove the dwelling units per acre maximum

while maintaining the existing dimensional standards including GRFA and building height in the Lionshead Mixed Use-1 zone district. (PEC18-0041)

Should the Planning and Environmental Commission choose to forward a recommendation of approval to the Vail Town Council for the proposed prescribed regulation amendment, the Community Development Department recommends the Commission makes the following **findings**:

"Based upon the review of the criteria outlined in Section V this memorandum, and the evidence and testimony presented, the Planning and Environmental Commission finds:

- 1. That the amendment is consistent with 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. That the amendment furthers the general and specific purposes of the Zoning Regulations outlined in Section 12-1-2, Purpose, Vail Town Code; and*
- 3. That the amendment 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. Applicant's Narrative
- C. Lionshead Analysis of Redevelopment by MPG
- D. Letter from Eagle River Water and Sanitation District
- E. Letter from Tom Kassmel, Town Engineer
- F. Previous Zoning Map – Lionshead Area
- G. [Lionshead Redevelopment Master Plan \(link\)](#)
- H. [Vail Transportation Master Plan \(link\)](#)