



Memorandum

TO: Vail Town Council

FROM: Community Development Department

DATE: March 5, 2019

SUBJECT: First reading of Ordinance No. 4, Series of 2019, an ordinance amending Section 12-7H-12, Density, Vail Town Code, and Section 14-8-1, Site Development Standards, 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 (LMU-1) zone district.

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 first reading of Ordinance No. 4, Series of 2019, an ordinance amending Section 12-7H-12, Density, Vail Town Code, and Section 14-8-1, Site Development Standards, 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 (LMU-1) zone district.

On January 28, 2019 the Planning and Environmental Commission (PEC) forwarded a recommendation of approval to the Vail Town Council, of the proposed text amendment, subject to the findings noted in Section VIII of the staff memorandum to the PEC. (Attachment G).

II. ACTION REQUESTED OF THE TOWN COUNCIL

The Vail Town Council shall approve, approve with modifications, or deny Ordinance No. 4, Series of 2019, upon first reading.

III. DESCRIPTION OF REQUEST

The applicant is proposing to remove the maximum number of dwelling units per acre (density) within the Lionshead Mixed Use-1 (LMU-1) zone district, so that there would be no limit 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.

The Lionshead Mixed Use-1 (LMU-1) 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.

Following are the proposed text amendments: (New language is shown in ***bold italics***. Text removed is shown in ~~strikethrough~~.)

Section 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.~~

No limitation on the number of dwelling units per acre permitted

Section 14-8-1, SITE DEVELOPMENT STANDARDS

TABLE 8 SUMMARY OF ZONING SETBACK AND DEVELOPMENT LIMITATIONS

LMU-1 Lionshead mixed use 1	35 units per acre or 33% increase over existing units on property <i>No limitation on the number of dwelling units per acre permitted</i>	Type IV as a permitted use	10' all ²	May project not more than the lesser of 10' or 1/2 the required setback	May project not more than the lesser of 5' or 1/2 the required setback	4'	70% ²	20% ²	10,000	None	n/a	71' average 82.5 max. ²	50% of parking must be located within the main building or buildings.
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IV. 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. The following zone districts were in place on the various properties currently zoned Lionshead Mixed Use-1 (LMU-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 as an official element of the Vail Comprehensive 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 incentives 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 in the Lionshead area 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.

On March 21, 2006 the Vail Town Council adopted Resolution No. 3, Series of 2006 to allow for the addition of the Lionshead Redevelopment Master Plan land use designation, deletion of the Tourist Commercial land use designation, and amendments to the Land Use map.

V. CRITERIA FOR REVIEW

Per Section 12-3-7, Amendment, Vail Town Code, before acting on a zone district boundary amendment application, the PEC and Town Council shall consider the following factors with respect to this proposal:

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 amendments further 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, which can be encouraged by removing restrictions on the number of allowed dwelling units and allowing greater 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 text 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 higher density limits, have resulted in limited redevelopment. Several properties within Lionshead have not been redeveloped. The proposed changes could create enough flexibility to spur some owners and associations to take on a redevelopment project.

It is unlikely that all properties in need of renewal will take advantage of the proposed density changes, but the proposed text amendment increases the likelihood for redevelopment. Those properties that 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. 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, as well as a 33% increase in dwelling units (or 35 units per acre, whichever is greater), would be sufficient to encourage redevelopment. Timeshare and fractional fee units are not nearly as popular today as they once were, and many such 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 any 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 in size and shape to a 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 Town Council should consider the impact of the proposed text amendments 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 of more people, redevelopment is expected to generate more traffic, water use, and wastewater.

Water and Sewer

As shown on the attached memo (Attachment D) 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). ERWSD has indicated that water supply is sufficient to accommodate the additional density.

Traffic

Increases in density could also have impacts 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, as well as 50 additional fractional fee type units, 20 accommodation units, and 50,000 square feet of retail. At the time of the study, a major redevelopment of the Lionshead Parking Structure was also under consideration, and the traffic study assumed additional traffic as a result.

If future development exceeds these estimates, 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 the Lionshead Mixed Use-1 zone district. 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 currently a strong market demand from developers eager to build EHUs, AUs, timeshares, or fractional fee club units; there is, however, demand for dwelling units as shown by the escalating cost of real estate. 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.

Short Term Rentals

One possible benefit of the proposed text amendment is that smaller units may be 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.

VI. RECOMMENDED MOTION

Should the Vail Town Council choose to approve Ordinance No. 4, Series of 2019, upon first reading, the Community Development Department recommends the Council pass the following **motion**:

“The Vail Town Council approves, on first reading, Ordinance No. 4, Series of 2019, an ordinance amending Section 12-7H-12, Density, Vail Town Code, and Section 14-8-1, Site Development Standards, 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 and setting forth details in regard thereto.”

Should the Vail Town Council choose to approve Ordinance No. 4 Series of 2019, the Community Development Department recommends the Council make the following **findings**:

“Based upon the review of the criteria outlined in Sections VII of the Staff memorandum to the Planning and Environmental Commission dated January 28, 2019 and the evidence and testimony presented, the Vail Town Council 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; 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.”*

VII. 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. Staff Memo to PEC – January 28, 2019
- H. [Lionshead Redevelopment Master Plan \(link\)](#)
- I. [Vail Transportation Master Plan \(link\)](#)