



Memorandum

TO: Vail Town Council

FROM: Community Development Department

DATE: March 19, 2019

SUBJECT: An appeal, pursuant to Section 12-3-3, Appeals, Vail Town Code, of the final decision of the Town of Vail Design Review Board on January 16, 2019 approving a request for a minor building addition, exterior alteration and new outdoor dining patio, located at 100 East Meadow Drive Unit 15/Lot O, Block 5D, Vail Village Filing 1, and setting forth details in regards thereto. (TC19-0001)

Appellant: Richard Liebhaber, et al
Planner: Jonathan Spence

I. SUBJECT PROPERTY

The subject property is located at 100 East Meadow Drive, Unit #15, former site of the Masters Gallery.

II. VAIL TOWN COUNCIL JURISDICTION

Pursuant to Section 12-3-3C-1, Appeal of Design Review Board Decisions; Authority, Vail Town Code, the town council shall have the authority to hear and decide appeals from any decision, determination or interpretation by the design review board with respect to the provisions of Title 12, Zoning Regulations and Title 14, Development Standards, Vail Town Code.

III. PROCEDURAL CRITERIA FOR APPEALS

Pursuant to Sections 12-3-3C-2 and 12-3-3C-3, Appeal of Design Review Board Decisions; Initiation and Procedures, Vail Town Code, there are three basic procedural criteria for an appeal:

A) Standing of the Appellants

Pursuant to Section 12-3-3, Appeals, Vail Town Code, the appellant, Mr. Richard Liebhaber, et al, has standing as an aggrieved or adversely affected party to appeal the Design Review Board's January 16, 2019, decision. (DRB17-0390)

B) Adequacy of the Notice of the Appeal

A copy of the Public Notice of the Vail Town Council, March 19, 2019, Public Hearing was sent to the local newspaper on February 27, 2019 and published on March 1, 2019, pursuant to Section 12-3-3C-3, Procedures, Vail Town Code.

C) Timeliness of the Notice of Appeal

The Administrative Section of the Town's Zoning Code (12-3-3C-3, Procedures) requires appeals to be filed in twenty (20) days or less. On February 5, 2019, the appellant, Mr. Richard Liebhaber, et al, filed an appeal of the Design Review Board's January 16, 2019 decision in accordance with Section 12-3-3, Appeals, Vail Town Code.

IV. SUMMARY

The question to be answered by the Vail Town Council regarding this appeal is:

Were the requirements of the Vail Town Code, specifically Title 14, Chapter 10, Design Review Standards and Guidelines properly applied in the decision approving a request for a minor building addition, exterior alteration and new outdoor dining patio, located at 100 East Meadow Drive Unit 15/Lot O, Block 5D, Vail Village Filing 1?

Pursuant to Section 12-3-3, Appeals, Vail Town Code, the Vail Town Council shall uphold, uphold with modifications, or overturn the Design Review Board's January 16, 2019, decision.

V. BACKGROUND

The applicant originally proposed a more aggressive project that included the construction of an elevated patio, larger proposed commercial additions and an overall reduction in the quantity of landscaping. This proposal underwent a preliminary review where a number of concerns have been expressed by various Town departments and an outside urban design consultant engaged to review the proposal with respect to adopted plans, including the Vail Village Master Plan and the associated Vail Village Urban Design Guide Plan and Design Considerations. These concerns were largely focused on pedestrian safety resulting from the removal of any refuge for pedestrians resulting from the proximity of the improvements to bus travel way. The loss of valuable, mature landscaping was also identified as a concern.

Permission to Proceed

This proposal, with the stated concerns, proceeded to the Vail Town Council on March 6, 2018 for a request to proceed through the development review process. This request was granted (5-2-0, Moffet and Bruno opposed) with clear direction that permanent private improvements on town property would not be acceptable and that pedestrian safety and landscaping must be adequately and appropriately addressed. A copy of this request, with attachments, has been included as Attachment D.

Amendment to the Special Development District (SDD)

On March 6, 2018, the Community Development Department forwarded to the Vail Daily the Public Notice for the March 26, 2018 Planning and Environmental Commission (PEC) meeting. This notice, published in the March 9, 2018 edition, classified this application as a Major Amendment to SDD #6, Vail Village Inn.

Prior to the March 26, 2018 public hearing of the PEC, the applicant significantly reduced the scope of the project, resulting in the project being re-advertised and re-noticed as a Minor Amendment and rescheduled as a report to the PEC for the April 9, 2018 meeting.

As the project continued to undergo further revisions and refinements, the report to the PEC on April 9, 2019 was postponed.

On October 8, 2018 The Community Development Department provided a report to the PEC regarding an administrative action regarding the minor amendment to SDD #6, Vail Village Inn. Included with the report were letters of concern from the owners of residential units in the adjacent building. Because of these letters, PEC Chairman Brian Stockmar allowed public comment on this matter. Upon the conclusion of public comment, the PEC did not choose to call up the item, allowing the administrative action to stand. The results of this meeting were presented to the Town Council on October 16, 2018. Minutes from the October 8th meeting are included as Attachment C.

Design Review Board

On March 7, 2018 the Design Review Board (DRB) reviewed a conceptual application for the project.

On January 16, 2019, the DRB, following a review of the application and public comment, approved the project unanimously (5-0) with one condition.

Condition: The applicant shall demonstrate at the time of building permit application that the outdoor dining deck railing matches the color of the approved exterior fixture (coastal bronze).

It should be noted that the applicant worked with Town Staff, including Town Engineer Tom Kassmel and Senior Landscape Architect Gregg Barrie on the coordination of the improvements within the Town right-of-way, working to increase pedestrian safety and improve the landscape treatment.

Appeal

The following specific items of concern were mentioned in the appeal:

1. An assertion that the DRB members did not adequately review the letters of concern and take these concerns into consideration.
2. A concern that the project is detrimental to pedestrian access and safety.

3. An assertion that the approval process was flawed.
4. A concern that the scope and scale of the outdoor seating area will result in problems associated with noise, odor, tobacco smoke and an altered pedestrian traffic patterns.
5. An assertion that the approval will result in a denigration of the guest experience.

VI. APPLICABLE DOCUMENTS

The applicable planning documents are Vail Town Code, Title 14, Chapter 10, Design Review Standards of the Vail Town Code, as linked below.

http://www.sterlingcodifiers.com/codebook/index.php?book_id=560&chapter_id=34648

VII. DISCUSSION ITEM

Were the requirements of the Vail Town Code, specifically Title 14, Chapter 10, Design Review Standards and Guidelines, properly applied in the decision approving a request for a minor building addition, exterior alteration and new outdoor dining patio, located at 100 East Meadow Drive Unit 15/Lot O, Block 5D, Vail Village Filing 1?

VIII. REQUIRED ACTION

Pursuant to Section 12-3-3, Appeals, Vail Town Code, the Vail Town Council shall uphold, uphold with modifications, or overturn the Design Review Board's January 16, 2019, decision.

Should the Vail Town Council choose to uphold the determination of the Town of Vail Design Review Board, the following statement is recommended:

"The Vail Town Council finds as follows:

"The Vail Town Council finds as follows: The Vail Town Code was properly applied in regard to the January 19, 2019 Design Review Board approval of DRB17-0390. Furthermore, the project consisting of a minor building addition, exterior alteration and new outdoor dining patio, located at 100 East Meadow Drive Unit 15/Lot O, Block 5D, Vail Village Filing 1, is consistent with Title 14, Development Standards, of the Vail Town Code."

IX. ATTACHMENTS

- A. Approved plans set
- B. Appellant's submittal including narrative and attachments.
- C. PEC minutes, October 8, 2018
- D. Permission to proceed, March 6, 2018