



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: April 22, 2019

SUBJECT: A request for a recommendation to the Vail Town Council, pursuant to Section 12-3-7, Amendment, Vail Town Code, for a Prescribed Regulation Amendment to amend Section 14-10-6: Residential Development, Vail Town Code, to add a paragraph pertaining to the unified architectural design requirement as it relates to existing separated duplexes, and setting forth details in regard thereto. (PEC19-0012)

Applicant: Town of Vail
Planner: Erik Gates

I. SUMMARY

The Town of Vail requests the review of a Prescribed Regulation Amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Section 14-10-6: Residential Development, Vail Town Code, to add a paragraph pertaining to the unified architectural design requirement as it relates to existing separated duplexes. Based upon Staff's review of the criteria outlined in Section VI 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, subject to the findings noted in Section VIII of this memorandum.

II. BACKGROUND/SITUATION TO BE ADDRESSED

Since as early as 1970, the Town of Vail has permitted, upon a determination by the Design Review Board (DRB), that the two units that make up a duplex may be physically separated if warranted by significant site constraints and are thus deemed separated. The determination that the two units may be separated is based on the following criteria in the Vail Town Code (Code) (**emphasis added**):

14-10-6: Residential Development

B. The presence of significant site constraints may permit the physical separation of units and garages on a site. The determination of whether or not a lot has significant site constraints shall be made by the design review board. "Significant site constraints"

shall be defined as natural features of a lot such as stands of mature trees, natural drainages, stream courses and other natural water features, rock outcroppings, wetlands, other natural features, and existing structures that may create practical difficulties in the site planning and development of a lot. Slope may be considered a physical site constraint that allows for the separation of a garage from a unit. It shall be the applicant's responsibility to request a determination from the design review board as to whether or not a site has significant site constraints before final design work on the project is presented. This determination shall be made at a conceptual review of the proposal based on review of the site, a detailed survey of the lot and a preliminary site plan of the proposed structure(s).

While the two units do not share a single structure, they share a Development Lot and all dimensional standards including GRFA, pursuant to Title 12 Chapter 6 of the Code. The allowance of separation does not relieve applicants from the Unified Architectural and Landscape Design requirements of the Code. This criterion requires residential development be designed in a manner that creates and architecturally integrated structure with unified site development. Per Code:

14-10-6: Residential Development

A. ...Unified architectural and landscape design shall include, but not be limited to, the use of compatible building materials, architectural style, scale, roof forms, massing, architectural details, site grading and landscape materials and features.

Furthermore, when a separation request is granted the DRB may require additional means to create unified site development. These are described in the Code as:

14-6-10: Residential Development

C. ...In addition, the design review board may require that one or more of the following common design elements such as fences, walls, patios, decks, retaining walls, walkways, landscape elements, or other architectural features be incorporated to create unified site development.

Within the TOV there are approximately 40 separated duplexes. Over time, adherence to the Unified Architectural and Landscape Design requirement has not been maintained on approximately 10 of them. This has resulted largely from prior Design Review Boards not enforcing this provision of the code and has been exacerbated by staff approvals. Because the Code, as written, requires that this criteria be met and does not allow for any alteration that would increase the discrepancy between the structures, an exterior alteration of any size would require that one or both of the duplexes significantly redevelop their property to come into compliance with the Code. This results in a financial and logistical constraint that can result in separated duplexes choosing to make no updates their architectural design.

The proposed text amendment is intended to address situations where existing separated duplexes do not share a unified architectural design. These changes will not impact separated duplexes with a unified architectural design, or new separated duplexes that may be granted in the future.

III. PROPOSED TEXT AMENDMENT LANGUAGE

The Community Development Department proposes the following additional subsection to be added to 14-10-6 Residential Development:

D. Exemption.

1. *Residential development meeting all the following criteria may be exempt from the unified architectural and landscaping design requirement of subsection A:*
 - a. *Existing separated duplexes (where two dwelling units share a development lot but are not physically connected);*
 - b. *That do not share a unified architectural and landscape design, as determined by the Administrator in his or her reasonable discretion; and*
 - c. *That received Design Review Board approval prior to May 7, 2019.*
2. *A registry of qualifying properties shall be kept by the Community Development Department and made publically available.*
3. *This Section shall not exempt separated duplexes from any other approval requirements of this Code, including without limitation Section 12-11-3.*

IV. 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 and make the final decision.

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.

V. APPLICABLE PLANNING DOCUMENTS

Staff believes that following provisions of the Vail Town Code and Vail Land Use 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.

Title 14, Development Standards, Vail Town Code

CHAPTER 14-10, DESIGN REVIEW STANDARDS AND GUIDELINES (in part)

Section 14-10-6: Residential Development:

- A. *The purpose of this section is to ensure that residential development be designed in a manner that creates an architecturally integrated structure with unified site development. Dwelling units and garages shall be designed within a single structure, except as set forth in subsection B of this section, with the use of unified architectural and landscape design. A single structure shall have common roofs and building walls that create enclosed space substantially above grade. Unified architectural and landscape design shall include, but not be limited to, the use of compatible building materials, architectural style, scale, roof forms, massing, architectural details, site grading and landscape materials and features.*
- B. *The presence of significant site constraints may permit the physical separation of units and garages on a site. The determination of whether or not a lot has significant site constraints shall be made by the design review board. "Significant site constraints" shall be defined as natural features of a lot such as stands of mature trees, natural drainages, stream courses and other natural water features, rock outcroppings, wetlands, other natural features, and existing structures that may create practical difficulties in the site planning and development of a lot. Slope may be considered a physical site constraint that allows for the separation of a garage from a unit. It shall be the applicant's responsibility to request a determination from the design review board as to whether or not a site has significant site constraints before final design work on the project is presented. This determination shall be made at a conceptual review of the proposal based on review of the site, a detailed survey of the lot and a preliminary site plan of the proposed structure(s).*
- C. *The residential development may be designed to accommodate the development of dwelling units and garages in more than one structure if the design review board determines that significant site constraints exist on the lot. The use of unified architectural and landscape design as outlined herein shall be required for the development. In addition, the design review board may require that one or more of the following common design elements such as fences, walls, patios, decks, retaining walls, walkways, landscape elements, or other architectural features be incorporated to create unified site development. (Ord. 29(2005) § 82: Ord., 9-21-1999)*

VI. CRITERIA FOR REVIEW

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

Staff finds the proposed zoning code amendments further the general and specific purposes of the zoning regulations by promoting the harmonious development of the Town's villages while maintaining established community qualities and economic values. The proposal also promotes the enhancement of the overall appearance of the Town. The proposal addresses a specific and limited situation that could result in adverse aesthetic conditions if remained unchecked. Without the text amendment, homeowners wishing to upgrade their residences may find it unfeasible to do so.

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. Specifically, in the Vail Land Use Plan's adopted Goals and Policies, staff identified the following applicable statements:

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.*

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

Staff has found that due to the varying degree of adherence to Title 14, Chapter 10, Section 6, of the Code, conditions relating to the built environment of the town have substantially changed since the regulation's adoption. This has resulted in a number of separated duplexes that would need to incur a significant financial burden to come into compliance with the subject regulation. While the subject regulation remains appropriate, it has become insufficient to deal with this reality.

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 amendment has been narrowly tailored to affect only the design standards outlined in Title 14, Development Standards, for a limited number of separated duplexes. The objectives of this title read:

Chapter 14-10-1: Purpose and Intent (in part)

The Development standards will help protect property values, ensure the aesthetic quality of the community and ensure adequate development of property within the Town of Vail.

Staff finds that the proposed amendment helps to protect individual property values and aesthetic quality by providing greater flexibility for these separated duplexes to redevelop with up-to-date architectural and landscape design. Furthermore, staff believes the limited number of properties affected by this amendment would not significantly increase visual clutter within the Town.

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.

VII. ENVIRONMENTAL IMPACTS

The proposed prescribed regulation amendment does not have any identifiable environmental impacts.

VIII. 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 VI 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 Regulation Amendment to amend Section 14-10-6: Residential Development, Vail Town Code, to add a paragraph pertaining to the unified architectural design requirement as it relates to existing separated duplexes, and setting forth details in regard thereto."

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 a review of Section VI of the April 22, 2019 staff memorandum to the Planning and Environmental Commission, 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. Draft Ordinance