



## PLANNING AND ENVIRONMENTAL COMMISSION

July 22, 2019, 1:00 PM

Town Council Chambers

75 S. Frontage Road - Vail, Colorado, 81657

---

1. Call to Order

1.1. Attendance

Present: Brian Gillette, Pam Hopkins, Ludwig Kurz, John-Ryan Lockman,  
Karen Perez, Brian Stockmar

Absent: Rollie Kjesbo

2. Public Hearing

- 2.1. A request for a recommendation to the Vail Town Council, pursuant to Section 12-3-7, Amendment, Vail Town Code, for prescribed regulations amendments to Title 12, Zoning Regulations, Vail Town Code, to update definitions, including the removal of redundant definitions, the consolidation of definitions defined multiple times, relocation of 20% hardscaping standard to Title 14 and amendment to the landscaping regulation to allow up to 20% permeable hardscaped space, and setting forth details in regard thereto. (PEC19-0017) 30 min.

**Applicant:** Town of Vail

**Planner:** Ashley Clark

Planner Clark introduced the application. Staff has presented these code changes to the Design Review Board, and previously at one work session with PEC. She mentioned that public comment on the proposed code changes had been received. The proposal is to amend the Vail Town Code relating to existing definitions, conflicting or duplicated definitions in the code. There is also some change proposed to policy, which staff will discuss.

Clark indicated that changes are proposed to Title 12, definition of Administrator, and definition of Comprehensive Plan.

Perez asked about changes to the Comprehensive Plan definitions.

Stockmar asked if the intent on landscape permeability was based on where the water goes, and how to redirect the water flow so that it does not go into the creek. Intent is to ensure that contaminated water does not go directly to the creek.

Clark – Impervious surfaces are directly mentioned on the Gore Creek Action Plan. That is one of the reasons staff looked at changing the definitions.

Peter Wadden – The more impervious a surface, the more likely and quicker that water and pollutants will be carried into Gore Creek. Permeable surfaces will allow water to flow through the ground which will

filter water before going into the creeks.

Stockmar – I understand the concept of permeability, but isn't there a bigger issue we should be addressing with our codes on construction? We should redesign some of our codes to reduce as much as possible the opportunity for pollutants to get into the creek. Let's focus on the bigger picture.

Clark – These are small steps we can take while staff is making updates to the definitions. We would like to have a greater conversation on some of these issues moving forward.

Hopkins – Town is 95% developed, so there's only a chance to address 5% of the properties. Is there an opportunity for improvements to the existing developed properties? What else can be done for these projects? Can filters be placed at the intakes to Gore Creek?

Wadden – Staff has a list of 44 projects that could be implemented. We are focusing on the projects that will have the most impact. We have a project planned at the Public Works yard. We are taking incremental steps to see what works.

Hopkins – We need to discuss the alternatives to how we have been operating to date.

Gillette – Let's back up to where we started. Why did staff remove language on retaining walls relating to access on steep slopes?

Clark – Staff discussed this with the DRB. Development on a steep lot is already very difficult, so changing the language recommended by the DRB will allow retaining walls on steeper slopes, regardless of the access or driveway.

Gillette – Once the code is revised, with the word "access" removed, it will make more sense. Can we discuss the potential concern of making properties nonconforming?

Clark – Code has existing language that addresses nonconformity. Nonconformities cannot be made worse.

Gillette – Are there other issues, not relating to the new nonconformity that could be impacted if the property becomes nonconforming?

Clark – Staff reviewed several landscaping plans in town to determine how many properties might be impacted. She discussed ways that underground rooftops that are landscaped might qualify as landscaping, but depending on the design, some underground parking might not meet the intent of this code change.

Lockman – If properties are nonconforming, is it only relating to the landscaping? What is the true impact of the nonconformity? Does it affect other issues of the site?

Clark – This issue will only come up on redevelopment. There are also other materials that could be permeable with newer technology and new materials. We have a very active and informed board, and this was reviewed by the DRB and PEC. If this does not work, we can come back

to the PEC to fix the definitions.

Stockmar – There is still a line that differentiates new construction from remodels and additions.

Perez – We did not address situations where a structure is destroyed, as opposed to voluntary redevelopment.

Clark – Existing code already addresses damage by acts of God and by other catastrophe.

Stockmar – At what point does a remodel trigger compliance with these codes?

Clark – If a project has nonconforming landscaping, and an owner replaces the landscaping, then the new landscaping needs to meet the code. Existing code already has a trigger of 500 sq. ft. for additions to require compliance with design standards.

Gillette – Additions might still require a nonconforming situation to come into compliance with the new regulations.

Clark – Presented an example at the Marriott landscaping plan, comparing pervious and impervious surfaces in the landscaping plan. Staff reviewed 14 landscaping plans to understand how the proposed code changes might impact development and redevelopment. Most of the projects that staff reviewed had excess landscaping, and have wiggle room to still meet the code. There are also other remedies in the code, such as a variance.

Stockmar – To what extent do we have a current problem with the existing codes? What would be the real world impact on people in the town who might be impacted by these changes?

Clark – We don't know of any applications that are being held back due to the pending landscaping changes, but there are a few proposals on hold and watching closely as it relates to retaining walls.

Perez- I would like to use the language that we discussed in the work session. We also have defined terms that use lower case vs upper case which need to be cleared up. We need to be consistent.

Gillette – If you have a rooftop with a rooftop deck, it may still be impervious beneath the garden. It really matters most how the water is treated before it goes into the creek.

Wadden – Depending on how the rooftops are designed, it could impact the amount of storm water that flows into the creek. A lot of different factors determine how much water flows off a site.

Gillette – I would like to see staff meet with Dominic Mauriello to understand his concerns. I think we should table this discussion.

Lockman – Would feel better to understand impacts to commercial development and redevelopment.

Public Comment – None

## Final Commission Comments

Lockman – Bravo for updating the Town Code to align with our strategic plans. We need to see this across all forms of sustainability. Nice work. Brian Gillette moved to table to August 12, 2019. Pam Hopkins seconded the motion and it passed (6-0).

Absent: (1) Kjesbo

- 2.2. A request for the review of a Conditional Use Permit, pursuant to Section 12-16, Conditional Use Permits, Vail Town Code, to allow for the construction of dwelling units within the Housing (H) zone district, located at 3700 North Frontage Road East/Lot 1, East Vail Workforce Housing Subdivision (“Booth Heights Neighborhood”), and setting forth details in regard thereto. (PEC19-0019) 10 min.

**Applicant:** Triumph Development

**Planner:** Chris Neubecker

Chris Neubecker presented additional materials that were requested by the PEC at the last meeting, including renderings of the proposed buildings, and sections through the buildings and site.

Lockman inquired about the meeting with the wildlife biologists.

Matt Gennett discussed the wildlife meeting. Staff will present a summary of their recommendations at the next PEC meeting on August 12.

Stockmar asked if there had been any changes to the submitted rockfall report or traffic report.

Neubecker indicated that no changes have yet been made. Staff and the applicant would like to get all feedback and comments from the PEC, then plan revisions will be made and presented at a later meeting.

Hopkins asked about a soils report.

Michael O'Connor, Applicant, discussed nine soil test pits that have already been explored in regard to soils. Additional detailed soils reports will be provided prior to the building permit.

O'Connor provided a presentation discussing the criteria in the Housing District and how the project meets the criteria. He presented slides showing the scale and architecture of east Vail to demonstrate compatibility. Slides were provided to show building heights, landscape buffers, and building perspectives.

Hopkins asked about the berm in relation to the renderings.

O'Connor discussed the berm design and location in relating to the renderings.

Lockman asked about balconies.

O'Connor clarified that there are no balconies facing north, but rather at-grade patio areas.

O'Connor provided a comparison of the proposal to the standards of the

LDMF and MDMF zone districts, including site coverage, landscape area, density and GRFA. He provided a comparison of the proposal to other housing developments that have occurred in the housing district.

Gillette asked about bus stop design and the PEC's previous comments concerning this.

O'Connor discussed challenges with different locations for the bus stop. Moving the bus stop to the east of the driveway will require retaining walls.

Lockman inquired about the wildlife mitigation plan.

O'Connor provided information on the biologists meeting and next steps in relation to this item.

O'Connor discussed changes to the proposed parking plan for the multifamily component. Additional parking can and will be provided. A comparison with other housing developments in the Housing zone district was provided, including the parking rate on a per-unit basis. Actual parking counts and parking usage rates at similar developments were provided by the applicant.

Stockmar-There is a significant difference between this project and other housing developments that are closer to grocery stores. Stockmar reiterated his concern about the lack of pedestrian access under the highway.

O'Connor reviewed the request for information from previous meetings and the additional information that has been provided already, and the additional information that will be provided at the next meeting.

Stockmar discussed the need for restrictive covenants and enforcement of regulations.

Perez-Asked about a traffic study when Vail Mountain School is in session.

O'Connor felt the study occurred at a busy time of the winter and that the existing road has significant extra capacity to handle additional traffic.

Perez requested additional information from staff concerning traffic in the area.

Perez-Asked about the GRFA numbers related to the conditional use permit.

Neubecker and O'Connor relayed that it is being worked on, but that plan revisions have not yet been made.

#### Public Comment

Dave Gorsuch-How did this project get this far? It should have been rejected before it got to this point. The PEC's job is to protect this valley. I-70 should have game fences.

Susan Bristol-In 1993 there was a conference about Vail and the environment. She also discussed a conference in 2009 on the

environment. She spoke about the need to not kill the golden goose. Spoke on the continued need for exceptional standards related to the environment. Spoke to the landslide threat and the need for a comprehensive geology study. Need for more transparency with regard to the various studies. Remaining concerns include dogs, short term rentals, traffic studies and the Vail Pass closure, code enforcement, bus service, wildlife preservation, building massing, berm design.

Barbara Keller- Housing Criteria A. Neighborhood compatibility concerns. Architecture and massing should be compatible with the site and adjacent properties. Does not feel the slides shown for compatibility are comparable, not congruent with single family and duplex homes in Booth Creek neighborhood. Significant part of the parking is visible. Architectural design is not compatible with the area. Architecture is substandard. Need enforcement measures. The PEC needs to preserve the sheep.

Blondie Vucich-The recommendation of Rick Thompson was to have no dogs. Plan does not do this. Triumph has ignored the recommendation due to the finances. She read from the developer's plans regarding dogs. This project is unacceptable.

Tony Ryerson- The town has come along way in regard to environmental measures but is missing the priority of the animals and their importance to the community. Hope that this gets turned down.

Jonathan Stauffer-Presented a petition with 1,000 signatures for the Town to permanently protect this area. Discussed his concern with the project having no reference to the past. Others have stated that the existing problems with sheep and wildlife relates to existing homes. We need housing, and can help by getting rid of short term rentals, and building housing on land with less environmental impact. If we ruin Vail we will solve the housing problem since no one will want to come here.

Ellen Colrick- Older complexes in town are rented or owned by employees. Vail has owned this parcel since the 1961, yet has not paid taxes for 50 years. They only paid taxes starting in 2017. Vail Resorts should not get a variance for this many housing units.

Peter Casabonne -Concern with the bighorn sheep. Saw a ewe and lamb there this morning. None of the experts will say that the plan will save the sheep. What are the odds of the sheep's survival? The threat to the sheep cannot be mitigated. Is the PEC willing to take the risk? This is the last stand for the sheep. Housing is important, but not here. Alternative sites do exist. The Town should negotiate to purchase and preserve the site.

Kristy Hintz - Spoke to the enormity of this decision. PEC does not have the collective knowledge to make this decision. PEC is not listening to the experts concerning the wildlife. Mentioned the importance of the sheep. Throwing environmental concerns out the window. The traffic report was done at the wrong time, on a Saturday when VMS was closed. The plan does not even mention Vail Mountain School, or a pedestrian death at this intersection. Concern with parking, pedestrian safety, environmental impacts. Need new parking study. The risks to the environment are just too great.

Lu Maslak- The Town has always needed more parking and housing. Don't need housing here due to the risks to sheep. Recognizes the difficulty of

the decision. Remember Vail's environmental stewardship.

Joe Stauffer-Spoke to his letter in the newspaper regarding upzoning. The project is totally unsuitable for the location. Spoke to housing challenges. The Town of Vail allowing home rentals results in the loss of employee housing. Need for a study that shows how impactful this has been. This is the wrong project. Gateway impacts will devalue Vail as desirable. Have the courage to say no to this project.

Ann Esson - Member of two HOA's, and discussed difficulty enforcing HOA rules. Spoke to the environmental impact report requirement of the code. Spoke to the studies provided. Spoke to the listing of Gore Creek. Easier to protect than to try to fix. Referenced the staff report and the conflicting goals. Cannot mitigate your way out of this. Other locations exist for housing. Kudos to environmental department for bringing in wildlife experts.

Charlyn Canada- Spoke to the importance of the sheep and the importance of speaking up for them. We have enjoyed seeing the sheep here for the past 40 years.

Liz Schramm - Spoke to the noise pollution resulting from construction. Need to fence the entire project.

Elaine Kelton- Spoke to history of Vail and the magic of Vail. Need to preserve and protect because it is what makes Vail special. Gateway concerns for those visiting Vail. Spoke to the importance of writing and speaking about concerns.

Pam Stenmark-Referenced her letter submitted. Concerned that some members of the PEC have already made their mind up. Staff needs to thoroughly review all applications and provide expertise. Expressed concerns with the geological issues, including geologic activity to west of Booth Creek neighborhood as recent as 1984. Provided photographs of the existing rockfall berm, a major scar. Where are the Town Council members on this? Why are they not here today? They need to be here to understand the passion. Don't approve this project.

Betsy Kiehl- Spoke to dog issues, and inability to enforce any rules on dogs. Spoke to the VRBO issues taking away employee housing. Not against housing, just housing here. Follow the mission statement. Preserve the sheep. Not the place to develop.

Jeff Kissane- Very difficult decision for the PEC. Competing interests with housing and environment. Boils down to the sheep. Taking away their only environment in Vail. Need to find different sites for housing. The sheep will go away.

Tom Vucich- Discussed letter that did not make it into packet. Spoke to the dog issues. Spoke to working for Vail Resorts 20 years ago and the Bachelor Gulch neighborhood that prohibits dogs and how it did not impact the finances. Need for a maintenance plan for the berm. Concern with proposed construction dates. Does not match biologists recommendation. Spoke to geological issues. Spoke to the need for details at the next meeting concerning the wildlife plan.

Bill Andree- Looks forward to wildlife review report. Spoke to HOAs and

covenants and the challenge of enforcement. The Town of Vail needs to be the enforcement, not neighbor vs. neighbor. Spoke to the failure rate of mitigation plans. Plans need to be flexible and have enforcement. The Division of Wildlife is not an enforcement agency. Closures just don't work. Its human nature to recreate out your back door. Mitigation plan is lacking. Concern with cumulative impacts of development. Concern with Public Works housing proposals. Housing has twice the magnitude of impact of anything else, including oil and gas. Mitigation has never been 100% when it comes to wildlife.

Gillette asked Andree about the finances of mitigation.

Andree responded that it costs about \$120 per acre to fertilize. Any fertilizing should be as spread out as possible. Burning is much cheaper, but fertilizing and burns can lead to weeds.

Gillette commented about mitigation measures.

Andree spoke about the role of nitrogen and wildfire burns. Way into 6 figures for a proper mitigation plan. Total cost could be more than \$100,000. Spoke to closures of trails near the area and bighorn sheep hunting. Hunting and the proposed closures are not at the same time.

Grace Poganski-Spoke to rockfall and how the berm will only reduce the threat, not eliminate it. Spoke to the geological report. Spoke to the difference between what could be vs. what will be. The loss of the sheep will be a tragedy.

Cindy Ryerson- The location for this development is not good. Expressed concerns with rockfall. Feels that the decision has already been made. Spoke to the importance of the sheep.

Peter Feistmann- Spoke to the importance of employees living in Vail. Supports employee housing. Would the Town have rezoned this if it had been zoned Open Space as the community thought? Spoke to the mission statement. Spoke to the effect of approving this project on the environmental ethos of Vail. Spoke to inadequacy of the berm and the risks associated.

Kate Cocchiarella- Invested in the community. It's a wicked problem. Lose/lose situation. Need to slow down the review. Study should be spread out over 1 to 2 years. We thought this property was open space for the past 20 years. There are other solutions to housing problems.

Public Comment was closed.

Commissioner comments

Gillette-Thought we would be getting more information from the developer today. Looking forward to seeing the changes to the proposal. Would like a member of the US Forest Service at the next meeting to answer questions. Still concerned with the bus stop location, bus stop should be on the east side. Should maybe fence the whole project, or wood fence to screen the project from the west. Questions the site layout. Underpass needs to be fixed for pedestrians. Parking is better but should meet the code. Should be no dogs. No winter construction on western part of the site November 15 to April 15. No blasting November 15 – July 15. Would like to see



money better spent on improving sheep habitat. Habitat restoration should be done prior to start of construction. Asked O'Connor how much money proposed for mitigation?

O'Connor- Rough estimates about \$50,000 to \$100,000.

Gillette-The sheep need to be preserved through the habitat and mitigation measures. Need to look at the closures on open space and trails.

Kurz-Agrees with Gillette but does not want people crossing the street for the bus. Parking is better but may need more. Biggest decision being made by the Town of Vail in a long time. Need to take time with the decision. Looking forward to seeing the results of the wildlife meeting.

Perez- Would like to see the mitigation plan and the results of the wildlife biologists meeting. Need more traffic information. Spoke to the process with zoning coming first, then a development plan. This is the first of many difficult decisions. Need to talk about what's the developer's responsibility, and the Town's responsibilities, and the Forest Service's responsibilities. We need to know who has the power and responsibility to close trails and open space. Supports bus stop on the north side of frontage road.

Hopkins-Agrees with taking time on this. Wildlife meeting was critical. Concerning with the effects of construction on the geological situation.

Lockman- Appreciates the public comment and the many letters. Will take as long as necessary to review this proposal. Dogs do not fit on this site. Short term rentals do not fit. Bus stop needs to be on the north side. Buffering needed. Mitigation plan is needed with a clear outside review. The pedestrian safety is important. Support bus on the north side.

Gillette – Concur with Lockman on short term rentals.

Stockmar- Been on the board for 3.5 years. PEC must act with community interests in mind. Next meeting will be in three weeks. Concerned about the geologic issues. This is different than Chamonix. Not sure how people can be kept out of sensitive areas. Traffic study is not remotely adequate. Parking is improved but still inadequate. Underpass is a deadly zone. Crosswalks with flashers are needed in East Vail. Speeds are problem in East Vail and need to be lowered. Tying parking needs at this site vs. core sites does not work. The underpass is dangerous. Need more parking. If we are wrong about the sheep mitigation it will be an extinction event.

Gillette asked about the effectiveness of the trail closures. Staff will look into it.

Karen Perez moved to continue to August 12, 2019. Ludwig Kurz seconded the motion and it Other (6-0).

Absent: (1) Kjesbo

- 2.3. A request for the review of a Development Plan, pursuant to Section 12-6I- 120 min.  
11, Development Plan Required, Vail Town Code, for a new housing development located at 3700 North Frontage Road East/Lot 1, East Vail Workforce Housing Subdivision ("Booth Heights Neighborhood"), and setting forth details in regard thereto. (PEC19-0018)

**Applicant:** Triumph Development

**Planner:** Chris Neubecker

*See notes and discussion for Item 2.3, PEC19-0019; both projects were discussed at the same time.*

Ludwig Kurz moved to continue to August 12, 2019. Pam Hopkins seconded the motion and it passed (6-0).

Absent: (1) Kjesbo

3. Approval of Minutes

3.1. July 8, 2019 PEC Results

Ludwig Kurz moved to approve. John-Ryan Lockman seconded the motion and it passed (6-0).

Absent: (1) Kjesbo

4. Adjournment

Ludwig Kurz moved to adjourn. Pam Hopkins seconded the motion and it passed (6-0).

Absent: (1) Kjesbo

---

The applications and information about the proposals are available for public inspection during regular office hours at the Town of Vail Community Development Department, 75 South Frontage Road. The public is invited to attend the project orientation and the site visits that precede the public hearing in the Town of Vail Community Development Department. Times and order of items are approximate, subject to change, and cannot be relied upon to determine at what time the Planning and Environmental Commission will consider an item. Please call (970) 479-2138 for additional information. Please call 711 for sign language interpretation 48 hour prior to meeting time.

Community Development Department