



## Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: August 12, 2019

SUBJECT: A request for the review of a Development Plan, pursuant to Section 12-6I-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  
Property Owner: Vail Corporation  
Planner: Chris Neubecker

### I. SUMMARY

Triumph Development has submitted an application for the development of the East Vail "Booth Heights Neighborhood", located at 3700 N. Frontage Road East, near the East Vail I-70 Interchange (Exit 180). The Development Plan proposes the construction of 73 residential units, including 61 units of deed-restricted employee housing units (EHUs), (42 EHUs in 3 multi-family apartment buildings, and 19 EHUs in townhomes), plus 12 unrestricted townhomes.

A separate application for a Conditional Use Permit to allow for 30% of the Gross Residential Floor Area (GRFA) on this site to be constructed as Dwelling Units (not employee housing units) has also been submitted. *(Please see the staff memo on PEC19-0019 for more information.)*

### II. DESCRIPTION OF REQUEST

The applicant, Triumph Development, proposes to develop the Booth Heights Neighborhood, located at 3700 N. Frontage Road East, near the East Vail I-70 Interchange (Exit 180). The Development Plan proposes the construction of 73 residential units, including 61 employee housing units (EHUs):

- 42 multi-family deed-restricted employee housing units (EHUs)

- 19 deed-restricted employee housing unit townhomes (EHUs)
- 12 unrestricted townhomes

### Wildlife Mitigation Plan

Along with the proposed development, the applicant has submitted an Environmental Impact Report (EIR) (*see Attachment I*) that identifies the effects of the project on the natural environment, and is proposing a Wildlife Mitigation Plan (*see Attachment J*) in an effort to offset these impacts.

Key elements of the proposed Wildlife Mitigation Plan include:

- Project timing to avoid the most disruptive construction outdoors during winter range period (November 15 – June 1)
- Clustering development to reduce the footprint of the buildings and parking
- No sizeable internal parks to minimize development footprint
- Prohibition on construction of trails
- Prohibition on dogs in the multi-family building, and requiring small enclosed fenced areas for townhome owners with dogs
- Prohibition on operation of drones
- Resident education on wildlife issues, and best management practices to reduce impacts to wildlife
- Penalties for non-compliance with neighborhood covenant restrictions

In order to ensure a thorough review of the Development Plan and Wildlife Mitigation Plan, the Town of Vail has consulted with Colorado Parks and Wildlife (CPW) and three independent wildlife biologists: Rick Kahn, Gene Byrne and Melanie Woolever for review. The wildlife biologists and CPW staff met to discuss this proposed development on July 26, 2019 and August 5, 2019, and have developed a list of recommendations (See Attachment R).

### Recommendations of Wildlife Biologists

A summary of the wildlife biologists' recommendations (see Attachment R) for this site is below:

### On Site Mitigation (5.4 Acres of Housing, and 17.9 acres of NAP)

#### **High Importance**

- Obtain a conservation easement on 17.9-acre NAP parcel providing for general wildlife habitat protection.
- Move the bus stop, including the pedestrian access route, to the east end of the property.
- Prohibit trails and access to the 17.9 acre NAP parcel, Town of Vail lands to the

west, and US Forest Service lands to the north and east, with cooperative year-round area closures.

- Provide a buffer zone along the Pitkin Creek trail to protect bighorn sheep winter range, if any vegetation work is done on the NAP parcel.
- Schedule dirt work and other heavy earthwork and utilities for summer-time months while also avoiding peregrine falcon conflicts from June 1 to Nov. 15. These dates could be modified if new information from Colorado Parks and Wildlife is obtained regarding bighorn sheep use.
- Use rigorous enforcement and signage rather than a fence on the rock berm. A fence could be added if Colorado Parks and Wildlife indicates that the need has arisen.
- Revegetate the rockfall berm area with grasses and shrubs that will provide bighorn sheep winter forage.
- Open a migration corridor on the west side of the rock berm area that will allow bighorn sheep to access the rock berm.
- Ban dogs, domestic sheep and domestic goats from the development area.

### **Medium Importance**

- Consider reducing the number of units in the development.

### **Lower Importance**

- Open the forest canopy on the NAP parcel using a shelter wood cut, stacking and burning, prescribed fire or other workable solutions to benefit deer, elk and other some other wildlife species.
- Remove jackstraw trees on the NAP parcel to benefit deer and elk using the area.

### **Off-Site Mitigation (Town of Vail and US Forest Service Land)**

### **High Importance**

- Establish a Colorado Wildlife Habitat Enhancement Special District (C.R.S. Title 32) to fund wildlife habitat projects.
- Establish a mitigation fund for enhancement and protection of bighorn sheep habitat.
- Immediately help fund a bighorn sheep movement study in cooperation with CPW, USFS and the proponent to determine how sheep are using the Booth Creek areas, including the use of GPS collars.
- Focus treatments and habitat enhancements around prime bighorn sheep ranges, e.g. Booth Creek cliffs on the east and west sides of Booth Creek on both Town of Vail and US Forest Service habitat.
- Burn or cut, stack and burn to open-up aspen woodlands. Burning will be most effective and cheapest alternative. Both options should be used to ensure

prescribed fire safety.

- Treat burn areas with herbicide effective in preventing native vegetation from being replaced by cheat grass and other noxious weeds post-burn.
- Investigate methodologies to allow for prescribed fire. Hotter fires will likely be more effective in achieving bighorn sheep habitat improvement in this area. It is expected that this will require public/private partnerships.
- Prohibit bike paths and sidewalks along the frontage road in the Booth Creek area. In the event sidewalks are allowed, close them during the winter to facilitate bighorn sheep use of the area..
- Work with US Forest Service and Town of Vail to set up a winter closure in the Booth Creek area to prevent human recreation use.
- Work with US Forest Service to prohibit dogs year-round in the Booth Creek area.

### **Medium Importance**

- Remove jackstraw timber. Burning would be most effective and cheapest, but there may be a need to cut, stack and burn some areas to establish adequate fire lines.
- Cut and maintain migration corridors as suggested in the 1998 US Forest Service habitat plan.
- Consider fertilization of habitat areas. Fertilization will be an ongoing project if the desired vegetation response is necessary in the long-term.

### **Lower Importance**

- Consider using salt or other supplements to keep bighorn sheep away from the frontage road and I-70.
- Encourage Colorado Parks and Wildlife (CPW) to update current CPW wildlife maps to reflect the current distribution and use patterns. However, if the study is not done, CPW should update the maps to the best of their ability.

### **Plan Revisions Since July 22, 2019**

The applicant has made changes to the development plan and wildlife mitigation plan in response to concerns raised by the wildlife biologists and CPW staff. The primary changes include:

- Proposal to place the 17.9 acre NAP parcel in a conservation easement, or similar protection status (such as dedication to the Town of Vail)
- Remove the fence at the south side of the berm
- Added a prohibition on short term rentals
- Reduce habitat treatment on the 17.9 acre NAP parcel to pruning overgrown shrubs to improve winter elk foraging habitat. On the recommendation of the wildlife biologists, the applicant proposes to partner with the Town of Vail and the

U.S. Forest Service for off-site habitat treatments that the biologists believe to have greater benefits to the bighorn sheep than the 17.9 acre NAP parcel.

- Proposed contribution of \$50,000 as seed money for off-site wildlife mitigation efforts

Other project changes since July 22, 2019 include:

- Revised the GRFA of the proposed development to ensure that the deed-restricted units equal or exceed 70% of the total GRFA of the site.
- Changed the location and design of the bus stop based on feedback from the PEC and Town of Vail Public Works Department.
- Modified the design of the trash dumpster enclosure.
- Proposed 15 additional parking spaces for the multi-family building.
- Provided additional detail on the architecture on the proposed buildings.
- Revised the floor plans of the multi-family building to provide more enclosed common space and more storage.
- Revised the architecture of the 42-unit multi-family building to provide more variety to the roof and to add stucco to the base.
- Changed the garage doors on the EHU townhomes to match the garage doors of the unrestricted townhomes.
- Showed locations for solar panels on 42-unit multi-family building. Buildings will be pre-wired for solar panel installations.
- Revised the landscaping plan to preserve existing trees to act as buffer on south side of proposed development.
- Provided updated information on the traffic report from Traffic Engineer.

### **III. REVIEW SCHEDULE**

The review of the Booth Heights Neighborhood Development Plan has been presented at three (3) public hearings to date. Meeting #4 on August 12, 2019 will focus on the following topics:

- Recommendations of Wildlife Biologists
- Plan revisions since meeting #3
- Subdivision Plan
- Phasing Plan
- Implementation of Developer Commitments

### **IV. APPLICABLE PLANNING DOCUMENTS**

#### ***12-6I-13: DEVELOPMENT STANDARDS/CRITERIA FOR EVALUATION:***

*The following criteria shall be used as the principal means for evaluating a proposed development plan. It shall be the burden of the Applicant to*

*demonstrate that the proposed Development Plan complies with all applicable design criteria.*

*A. Building design with respect to architecture, character, scale, massing and orientation is compatible with the site, adjacent properties and the surrounding neighborhood.*

*B. Buildings, improvements, uses and activities are designed and located to produce a functional Development Plan responsive to the site, the surrounding neighborhood and uses, and the community as a whole.*

*C. Open space and landscaping are both functional and aesthetic, are designed to preserve and enhance the natural features of the site, maximize opportunities for access and use by the public, provide adequate buffering between the proposed uses and surrounding properties, and, when possible, are integrated with existing open space and recreation areas.*

*D. A pedestrian and vehicular circulation system is designed to provide safe, efficient and aesthetically pleasing circulation to the site and throughout the development.*

*E. Environmental impacts resulting from the proposal have been identified in the project's environmental impact report, if not waived, and all necessary mitigating measures are implemented as a part of the proposed development plan.*

*F. Compliance with the Vail comprehensive plan and other applicable plans.  
(Ord. 29(2005) § 23: Ord. 19(2001) § 2: Ord. 3(2001) § 2)*

## **CHAPTER 12 – ENVIRONMENTAL IMPACT REPORTS**

### **12-12-1: PURPOSE:**

*Submission and review of an environmental impact report on any private development proposal or public project which may affect to any significant degree the quality of the environment in the town or in surrounding areas is required to achieve the following objectives:*

*A. Availability of Information: To ensure that complete information on the environmental effects of the proposed project is available to the town council, the planning and environmental commission, and the general public.*

*B. Environmental Protection a Criterion: To ensure that long term protection of the environment is a guiding criterion in project planning, and that land use and development decisions, both public and private, take into account the relative merits of possible alternative actions.*

*C. Review and Evaluation Procedure: To provide procedures for local review and evaluation of the environmental effects of proposed projects prior to granting of permits or other authorizations for commencement of development.*

*D. Avoid Geologic Hazard Areas: To ensure that buildings are not constructed in geologic hazard areas, by way of illustration, floodplains, avalanche paths, rockfall areas, where such hazard cannot practically be mitigated to the satisfaction of the planning and environmental commission and the town council.*

*E. Protect Water Quality: To ensure that the quality of surface water and ground water within the town will be protected from adverse impacts and/or degradation due to construction activities. (Ord. 29(2005) § 31: Ord. 37(1980) § 10: Ord. 19(1976) § 14: Ord. 8(1973) § 16.100)*

#### **12-12-2: APPLICABILITY:**

*An environmental impact report shall be submitted to the administrator for any project for which such a report is required by federal or state law, or for any project which the administrator determines may significantly change the environment, either during construction or on a continuing basis, in one or more of the following respects:*

*A. Alters an ecological unit or land form, such as a ridgeline, saddle, draw, ravine, hillside, cliff, slope, creek, marsh, watercourse, or other natural landform feature.*

*B. Directly or indirectly affects a wildlife habitat, feeding, or nesting ground.*

*C. Alters or removes native grasses, trees, shrubs, or other vegetative cover.*

*D. Affects the appearance or character of a significant scenic area or resource, or involves buildings or other structures that are of a size, bulk, or scale that would be in marked contrast to natural or existing urban features.*

*E. Potentially results in avalanche, landslide, siltation, settlement, flood, or other land form change or hazard to health and safety.*

*F. Discharges toxic or thermally abnormal substances, or involves use of herbicides or pesticides, or emits smoke, gas, steam, dust, or other particulate matter.*

*G. Involves any process which results in odor that may be objectionable or damaging.*

*H. Requires any waste treatment, cooling, or settlement pond, or requires transportation of solid or liquid wastes to a treatment or disposal site.*

*I. Discharges significant volumes of solid or liquid wastes.*

*J. Has the potential to strain the capacity of existing or planned sewage disposal, storm drainage, or other utility systems.*

*K. Involves any process which generates noise that may be offensive or damaging.*

*L. Either displaces significant numbers of people or results in a significant increase in population.*

*M. Preempts a site with potential recreational or open space value.*

*N. Alters local traffic patterns or causes a significant increase in traffic volume or transit service needs.*

*O. Is a part of a larger project which, at any future stage, may involve any of the impacts listed in this section. (Ord. 29(2005) § 31: Ord. 8(1973) § 16.200)*

#### **12-12-3: EXEMPT PROJECTS:**

*An environmental impact report shall not be required for the following projects:*

*A. Alteration, repair and maintenance of existing structures and site improvements.*

*B. A phase of a project for which an environmental impact report previously was submitted and reviewed covering the entire project, provided that the project was approved and not subsequently altered.*

*C. A project which, on the basis of a preliminary environmental assessment covering each of the factors prescribed in section 12-12-2 of this chapter is found to have an insignificant impact on the environment. The preliminary environmental assessment and the finding on environmental impact shall be made by the administrator. (Ord. 29(2005) § 31: Ord. 8(1973) § 16.300)*

#### **12-12-4: STUDIES AND DATA REQUIRED:**

*A. Range Of Studies: The environmental impact report shall be based on systematic studies conducted by the town staff or by professional consultants, as determined by the administrator. The environmental impact report on a public project may be prepared by the responsible public agency or by professional consultants it engages. The range of studies needed to develop the technical*



*data for an environmental impact report includes the following natural systems and other studies:*

- 1. Hydrologic conditions, such as surface drainage and watershed characteristics, ground water and soil permeability characteristics, natural water features and characteristics, and any potential changes or impacts.*
- 2. Atmospheric conditions, such as airshed characteristics, potential emissions, and any potential changes or impacts.*
- 3. Geologic conditions, such as landforms, slope, soil characteristics, potential hazards, and any potential changes or impacts.*
- 4. Biotic conditions, such as vegetative characteristics, wildlife habitats, and any potential changes or impacts.*
- 5. Other environmental conditions, such as noise levels and odor characteristics, and any potential changes or impacts.*
- 6. Visual conditions, such as views and scenic values, and any potential changes, impacts, or marked contrasts.*
- 7. Land use conditions, such as characteristics of uses, compatibility with officially approved land use and open space policies and objectives, and potential changes or impacts.*
- 8. Circulation and transportation conditions, such as volumes and traffic flow patterns, transit service needs, alternative transit systems, and potential changes or impacts.*
- 9. Population characteristics, such as residential densities, neighborhood patterns, potential displacement of residents or businesses, and potential changes or impacts.*

*B. Summarization: The environmental impact report shall summarize the findings and recommendations of the technical and other supporting studies in terms that can be assessed and evaluated by town officials and the general public. Technical data shall be submitted as supporting documentation. Technical data prepared as a part of any other procedure or requirement of this chapter, or of any other ordinance or federal, state or town regulation, also may be used to support an environmental impact report. (Ord. 29(2005) § 31: Ord. 8(1973) § 16.401)*

#### **12-12-5: REPORT CONTENTS:**

*A. Information And Analysis: The environmental impact report shall contain information and analysis, in sufficient detail and adequately supported by technical studies, to enable the town council to judge the environmental impact of the project and to judge measures proposed to reduce or negate any harmful impacts.*

*B. General Statement; Descriptive Materials: The environmental impact report shall include a general statement, describing the proposed project and its purpose, identifying the owner and/or sponsors, and, if a public project,*

*identifying the funding source and time schedule. Descriptive materials, maps, and plans shall be submitted showing the following information:*

- 1. Project boundaries and boundaries of the area within which environmental impact is likely to be significant.*
  - 2. Present and proposed uses of the site.*
  - 3. Present and proposed zoning of the site.*
  - 4. Quantitative information relative to the project, such as site area, numbers of residential units, proposed height and bulk of buildings, building floor area in square feet, and such other data as will contribute to a clear understanding of the scale of the project.*
  - 5. A list of regulatory or review agencies and the specific regulations to which the project will be subject.*
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- 6. Copies of subdivision maps, development plans, or other pertinent documents illustrating the proposed project.*
  - 7. Proximity to water bodies, the distance from the centerline of live creeks or streams to any proposed structural development within the project:*
  - 8. Soil types based upon the National Cooperative Soil Survey, USDA, Soil Conservation Service and interpretations of soil types, vegetation shall be described and three (3) masses shown.*

*C. Environmental Inventory: The environmental impact report shall include an environmental inventory, providing complete information on the environmental setting existing prior to the proposed project and containing sufficient information to permit independent evaluation by reviewers of factors that could be affected by the proposed project. The environmental inventory shall include maps, photographs, or other appropriate illustrative material.*

*D. Categorized By Impact Type: Areas categorized according to type of possible impact shall be identified. The environmental inventory shall describe both the physical and biological natural setting, and the manmade setting of the site and its surroundings.*

*E. Analysis: The environmental impact report shall include a comprehensive, qualitative and quantitative analysis of any significant impact that the proposed project will have on the environment. The analysis shall describe temporary effects that will prevail during construction, and long term effects that will prevail after completion. The analysis shall describe both beneficial effects and detrimental effects. The analysis shall consider primary effects and secondary effects which will result from the project. The analysis portion of the environmental impact report shall fully assess the following items:*

- 1. Adverse effects which cannot be avoided if the proposal is implemented.*
- 2. Mitigation measures proposed to minimize the impact, including water quality, erosion control and revegetation measures.*
- 3. Possible alternatives to the proposed action.*
- 4. Relationships between short term and long term uses of the environment.*

5. Irreversible environmental changes resulting from implementation of the proposal.
6. Growth inducing impacts of the project. (Ord. 29(2005) § 31: Ord. 37(1980) § 10: Ord. 8(1973) § 16.402)

**12-12-6: REPORT; ADDITIONAL MATERIAL:**

*The administrator may further prescribe the form and content of an environmental impact report, setting forth in greater detail the factors to be considered and the manner in which the report shall be prepared, and may require submission of information in addition to that required by section 12-12-5 of this chapter. (Ord. 29(2005) § 31: Ord. 8(1973) § 16.403)*

**12-12-7: TIME SCHEDULE:**

*The environmental impact report required under this chapter shall be prepared within thirty (30) days of the date that plans are submitted for design review as prescribed in sections 12-12-4 through 12-12-6 of this chapter, subject to extension of the time period to a maximum of ninety (90) days by the planning and environmental commission. The time period may be extended to a maximum of one hundred eighty (180) days if seasonal conditions prevent a comprehensive analysis. (Ord. 29(2005) § 31: Ord. 16(1978) § 2(a): Ord. 8(1973) § 16.404)*

**12-12-8: FEE:**

*In the event that the town engages professional consultants to prepare an environmental impact report, the cost shall be paid by the sponsor of the project. The sponsor may be required to deposit a fixed sum in advance to cover the cost of the report, with the unexpended balance returnable to the sponsor. (Ord. 29(2005) § 31: Ord. 8(1973) § 16.405)*

**12-12-9: SUBMISSION OF REPORT TO OFFICIALS:**

*The environmental impact report shall be submitted to the administrator. The administrator shall prescribe the number of copies to be submitted. The administrator shall notify the town council, the planning and environmental commission, and the design review board of receipt of an environmental impact report, and shall transmit copies of the report upon request. Environmental impact reports shall be available for public review in the offices of the town. (Ord. 29(2005) § 31: Ord. 8(1973) § 16.501)*

**12-12-10: TIME LIMIT; SUPPLEMENTARY INFORMATION:**

*A. Time Limit: The planning and environmental commission shall review the report within thirty (30) days of submission subject to an extension of the time*

*period thirty (30) additional days in order to obtain additional information from the town staff, from the sponsor of the project, or the author of any portion of the report.*

*B. Supplementary Data: The commission may receive additional statements or supporting materials from the sponsor of a project, from the town staff, from professional consultants, or from others. Such additional materials may be considered as supplementary or amendatory to the environmental impact report. (Ord. 29(2005) § 31: Ord. 16(1978) § 2(b): Ord. 8(1973) § 16.502)*

#### **12-12-11: ACTION BY COMMISSION:**

*A. Criteria For Decision: Following review of the environmental impact report, the planning and environmental commission shall approve, disapprove, or request changes in the project in writing. The planning and environmental commission shall approve the project unless it finds that either the project will have significant long term adverse effects on the environment with respect to the natural systems or other factors studied as prescribed in section 12-12-4 of this chapter or the project will have short term adverse effects on the environment so detrimental that public health, safety or welfare considerations preclude approval of the project. In the case of either finding, if changes in the project are feasible which ameliorate or avoid the adverse effects on the environment sufficiently to permit approval of the project, the planning and environmental commission, in writing, shall describe those changes and request those changes be made. If the planning and environmental commission determines that the changes are not feasible, it shall disapprove the project in writing, describing the adverse effects on the environment, the significance of the effects either to the natural systems or other factors studied as prescribed in section 12-12-4 of this chapter or to the public health, safety or welfare and the planning and environmental commission's reasons for concluding that no changes in the project are feasible to ameliorate or avoid those effects.*

*B. Design Changes Require Resubmission To Design Review Board: If the planning and environmental commission requests any changes in the project which would alter the design of the project previously approved by the design review board, and the sponsor of the project makes those changes, the revised design shall be resubmitted to the design review board for its approval unless the planning and environmental commission waives this requirement. (Ord. 29(2005) § 31: Ord. 16(1978) § 2(b): Ord. 8(1973) § 16.503)*

#### **12-12-12: PERMIT ISSUANCE:**

*A. Conformance To Environmental Impact Report: Upon approval of the project, applicable permits may be issued and the project may proceed, subject to such additional requirements, permits, or authorizations as may be required by this title and by other applicable ordinances or regulations of the town. No permits*

*shall be issued and no authorizations shall be granted which would allow a project to proceed in the event that the planning and environmental commission does not grant approval of the environmental impact report after review. No permits shall be issued and no authorizations shall be granted for any project which does not conform substantially to the description of the project contained in the environmental impact report.*

*B. Exception: This section shall not apply to a project for which an environmental impact report is not required, as prescribed in section 12-12-3 of this chapter. (Ord. 29(2005) § 31: Ord. 16(1978) § 2(b): Ord. 8(1973) § 16.504)*

## V. ZONING ANALYSIS

Address: 3700 N. Frontage Road E.  
 Legal Description: Lot 1, East Vail Workforce Housing Subdivision  
 Lot Area: 5.397 acres / (235,093 sq. ft.)  
 Zoning: Housing District  
 Land Use Designation: Open Space

Development Standard	Required	Proposed
Lot Size	Prescribed by PEC	5.397 acres or 235,036 sq. ft.
Buildable Area	Prescribed by PEC	3.65 acres or 158,836 sq. ft. (67% of site)
Minimum Setbacks	20' feet from perimeter of the zone district	All structures 20' from the perimeter of the zone district
Maximum Height	Prescribed by PEC	Multi-family: 60' Townhomes: 44.5'
Maximum Dwelling units/acre	Prescribed by PEC	73 units (20 du/buildable acre)
GRFA	Prescribed by PEC	Up to 76,200 sq. ft. (Current plans = 75,705 sq. ft.)
Site coverage maximum	129,270 sq. ft. or 55%	Up to 39,500 sq. ft. or 16.4% (Current plans = 38,478 sq. ft.)
Minimum Landscaping	70,511 sq. ft. or 30%	125,694 sq. ft. or 53.5%
Snow Storage	17,385 30%	21,225 sq. ft. or 36.6%
Required Parking	146 spaces total 84 spaces (Multi-family) 62 spaces (Townhomes)	156 spaces total 60 spaces (Multi-family) 96 spaces (Townhomes)

## Parking Program

At the last meeting on this application, some PEC members expressed a need for more parking for the 42-unit multi-family building. The applicant has revised the parking plan to show 15 additional parking spaces. As a result, there are now 60 spaces proposed for the multi-family building. Section 12-6I-8, Vail Town Code, allows the PEC to approve a parking plan with reduced parking in the Housing (H) district when the applicant can demonstrate that fewer parking spaces will be needed.

Below is the proposed parking for this development:

Use Type	Unit Count	Parking Rate	Parking Required	Parking Proposed
<b>Multi-Family</b>				
500 – 2,000 sq. ft.	42	2 per unit	84 spaces	60 (1.42 / unit)
<b>Townhomes</b>				
500 – 2,000 sq. ft.	31	2 per unit	62 spaces	96 (3.09 / unit)
<b>TOTAL</b>			<b>146</b>	<b>156</b>

For comparison, similar multi-family style deed-restricted employee housing units have been approved with the following parking for their residents:

Use Type	Unit Count	Parking Proposed	Parking Rate (per multi-family unit)
Solar Vail	65	34	0.52
First Chair	32	32	1.0
Lions Ridge	113	153	1.35
Timber Ridge	54	46	0.82
<b>Booth Heights MF</b>	<b>42</b>	<b>60</b>	<b>1.42</b>

The Housing (H) zone district allows the PEC to modify the parking requirements during the review of a development plan. Please see the discussion on parking management in the Applicant Narrative (Attachment B) for additional detail.

### *12-6I-8: PARKING AND LOADING: (in part)*

*At the discretion of the planning and environmental commission, variations to the parking standards outlined in chapter 10 of this title may be approved during the review of a Development Plan subject to a parking management plan. The parking management plan shall be approved by the planning and environmental commission and shall provide for a reduction in the parking requirements based on a demonstrated need for fewer parking spaces than chapter 10 of this title would require. For example, a demonstrated need for a reduction in the required parking could include:*

*A. Proximity or availability of alternative modes of transportation including, but not limited to, public transit or shuttle services.*

*B. A limitation placed in the deed restrictions limiting the number of cars for each unit.*

*C. A demonstrated permanent program including, but not limited to, rideshare programs, carshare programs, shuttle service, or staggered work shifts. (Ord. 19(2001) § 2: Ord. 3(2001) § 2)*

A reduction in the parking requirement for employee housing developments is specifically listed in the Vail 20/20 Focus on the Future – Strategic Action Plan as a strategy for supporting the development of workforce housing.

- *Research parking requirements for employee housing and consider reducing requirements for employee housing developments.*

## **VI. ENVIRONMENTAL IMPACT REPORT**

The applicant has submitted an Environmental Impact Report (EIR) prepared by Western Ecological Resources, Inc. (*See Attachment I*) The EIR includes an analysis of environmental aspects of the development site as required by the Vail Town Code, including: hydrology; atmospheric conditions; geology and hazards; biotic conditions; soils; vegetation resources; wildlife resources; noise; odors; visual resources; land use; circulation and transportation; and population.

The primary environmental impacts identified in the EIR for this site include: wildlife resources, wetlands, geology, and removal of vegetation. The report indicates that site contains no federally listed species that are threatened, endangered or proposed for listing. The EIR indicates that the proposed development could impact the habitat of the bighorn sheep, elk, mule deer and black bear.

No changes have been made to the Environmental Impact Report since the last meeting.

## **VII. WILDLIFE MITIGATION PLAN**

A Wildlife Mitigation Plan has been prepared by Rick Thompson, Certified Wildlife Biologist with Western Ecosystems, Inc. and submitted by the applicant (*Attachment J*). The Town of Vail's wildlife consultants and Colorado Parks and Wildlife have reviewed the proposed mitigation plan, and have made recommendations on how the mitigation plan can be enhanced to improve the habitat and health of the sheep.

The purpose of the Wildlife Mitigation Plan is to recommend site design features and management activities that can help to reduce the impacts to wildlife, and to minimize

the impacts of the proposed development through the creation of improved habitat and foraging areas.

### Project Design

Design features of the proposed development, as recommended by the applicant's wildlife biologist to reduce potential impacts, include:

- Clustering of the development
- No upper level decks facing the wildlife habitat to the north and west. (Some decks are proposed on the south sides of buildings, and small patios are proposed on the townhomes)
- No sidewalk proposed within the smooth brome foraging area between the development and the frontage road
- Screening of the development site from sheep habitat with existing aspen forest, rockfall berm and new landscaping
- No sizeable internal parks, to limit the development footprint
- Creating and maintaining an east-west access across the rear of the property for wildlife

### Construction Mitigation

Construction activity is anticipated to last at least two years. During this time, the bighorn sheep would be most affected by construction during winter, when the sheep move to lower elevations and into the winter concentration habitat. The proposed construction would remove 0.3 acres of on-site habitat. Wintering sheep off-site could also be impacted by construction activity, including construction noise and human activity. However, according to the Wildlife Mitigation Plan, *"the most obtrusive disturbances from site clearing, excavation, grading and wildlife/rockfall berm construction would not occur outside buildings during the winter range period."*

Proposed construction methods to minimize impacts to wintering sheep include:

- Scheduling construction to avoid the most obtrusive disturbance (site clearing, use of heavy equipment, installation of utilities) from November 15 – June 1. This construction schedule has been reduced by 60 days. The previous schedule prohibited heavy construction from November 15 – April 15.
- Construction of a physical barrier, either the wildlife fencing and rockfall berm, or substantial impervious construction fencing, prior to bighorn winter range period
- Construction only during daylight hours
- Installation of fencing to screen construction activity from the sheep habitat to the north and west
- Prohibiting construction personnel from bringing animals (i.e. dogs) onto the site
- Prohibit construction personnel from feeding or baiting wildlife



## Management and Enforcement

After the development is completed, the ongoing management and enforcement of best management practices will be needed to reduce the potential impact on the wildlife and environment. In order to reduce the human impacts on the wildlife the applicant has proposed the following programs and restrictions for the development:

- Resident and owner education about the site's sensitive location within wildlife habitat
- Prohibiting construction of new trails on private property or new trails to access off the property
- Prohibiting dogs within the 42-unit multi-family building (*Note: The Town's wildlife biologists recommend that all dogs should be prohibited on-site, including at the townhomes. Staff has included a condition of approval prohibiting dogs.*)
- Prohibiting unmanned aerial vehicles (drones)
- Prohibiting outdoor food gardens
- Prohibiting bird feeders
- Penalties for non-compliance, including fines and possible evictions
- Enforceability of commitments is proposed through private covenants enforceable by the Home Owners Association and Town of Vail.

## Proposed Mitigation and Habitat Enhancement

In addition to the commitments and design features mentioned above, the applicant previously proposed a wildlife habitat enhancement plan to improve habitat for bighorn sheep and elk on the 17.9 acres to the east of the subject site. The extensive habitat enhancement is no longer proposed on the 17.9 acre NAP parcel, based on feedback from the Town's consulting wildlife biologists and Colorado Parks and Wildlife.

These experts have indicated that the NAP parcel is already good habitat for elk, and the natural vegetation on this parcel would be difficult to change to bighorn sheep habitat. Additionally, due to the unlikely use of the NAP parcel by sheep, even with habitat enhancements, and the natural vegetation of the site which would be difficult to continually suppress, these biologists recommend focusing efforts and investments on other surrounding areas that would likely have a greater positive impact on bighorn sheep.

Elements of the wildlife habitat enhancement that are still proposed by the applicant, and supported by the consulting wildlife biologists, include:

- Creating and maintaining an east-west access across the rear of the property for wildlife
- Revegetation of the rockfall berm with shrubs and grasses that are foraging sources for bighorn sheep
- Planting of aspen trees along the south side of the rockfall berm to help screen

- the rockfall berm and the sheep grazing habitat
- Financial participation in a wildlife habitat restoration on Town of Vail and US Forest Service lands with the goal of improving existing bighorn sheep habitat. The amount of the contribution will be determined in discussions between the applicant and the Vail Town Council.

## VIII. LANDSCAPING

The development plan has been changed to preserve clusters of existing trees along the south side of the proposed development. Existing trees south of the multi-family buildings and the townhomes (Buildings E, F, G and H) will help to soften the visual impact of the proposed development by screening these buildings.

SPECIES	COUNT	SIZE
<b>Shade Trees</b>		
Quaking Aspen	103	1.5 inch caliper
Hackberry	12	2"
Lanceleaf Cottonwood	13	2" clump
<b>Evergreen Trees</b>		
Colorado Blue Spruce	15	6' tall
Bristlecone Pine	9	6' tall
Douglas Fir	9	6' tall
Limber Pine	10	6; tall
<b>Ornamental Trees</b>		
Shubert Chokecherry	3	2" caliper
<b>Deciduous Shrubs</b>		
Variety	1011	5 gallon container
<b>Ornamental Grasses</b>	97	1 gallon container

Please see Attachment D for more details on the proposed landscaping species mix. (Note: The minimum size for aspen trees is two inches (2"). Staff has added a condition of approval to require the landscaping plan be modified as such, prior to issuance of a building permit.)

## IX. CONSTRUCTION TIMING

The proposed development is proposed to be constructed with only a few buildings at one time. In order to meet the requirements for at least 70% of the Gross Residential

Floor Area (GRFA) of the site to be deed-restricted employee housing units at any time, a construction timing plan has been provided. (See Attachment A - *Sheet A.002*). The plan generally calls for development starting on the west end of the site, with the 2-unit multi-family building (Buildings 1, 2 and 3) and one of the townhome buildings (Building C) to be constructed first. The second stage of construction would be Buildings B and D. The final stage in construction is planned for Buildings A, E, F, G and H.

## **X. SUBDIVISION PLAN**

No formal subdivision plan has been submitted, nor is one required, at this time. However, the applicant has indicated intent to maintain ownership of the 42-unit multi-family buildings. The other buildings will be sold to individual owners, and will be subdivided as townhomes.

To create separate Homeowners Association for the 42-unit multi-family building from the townhomes, the site is proposed to be subdivided, with all necessary access easements. A master Homeowners Association will be created to address common area issues such as yard maintenance, berm maintenance, snow removal, enforcement of wildlife restrictions, and prohibitions on dogs.

## **XI. REVIEW CRITERIA**

According to Section 12-6I-13, Development Standards/Criteria for Evaluation, of the Zoning Regulations of the Town of Vail, the following criteria shall be used as the principal means for evaluating a proposed development plan. It shall be the burden of the applicant to demonstrate that the proposed Development Plan complies with all applicable design criteria.

### **A. Building design with respect to architecture, character, scale, massing and orientation is compatible with the site, adjacent properties and the surrounding neighborhood.**

The proposed architecture uses mountain modern design, with a variety of exterior building materials, including wood siding, fiber-cement siding, metal panels, and stucco. Sloped roofs are proposed on all buildings with a shallow roof pitch (4:12) on main roofs, and steeper roofs (6:12) on the gables, with accent roof pitches of 2:12 and 3:12. Buildings are designed to reduce cut and fill slopes on the site, where possible, but some retaining walls are still required. Buildings will step up the hillside, and the building foundations will retain the natural or final grade in many cases.

The location of this site, which is detached from other residential developments, allows for architecture, character, scale, massing and orientation that will have no impacts on existing residential uses or surrounding neighborhoods.

The proposed development requires retaining walls on both the front and rear of the site due to the natural slope. All retaining walls have been designed to meet the allowed

maximum height of 3' in the front setback, and a maximum height of 6' in other locations.

**B. Buildings, improvements, uses and activities are designed and located to produce a functional Development Plan responsive to the site, the surrounding neighborhood and uses, and the community as a whole.**

The proposed development plan includes three multi-family buildings at the west end of the site, which will include 42 units of deed-restricted employee housing (EHUs). Within this building, 36 units will be master-leased to Vail Resorts. On the eastern portion of the site, eight (8) townhouse buildings are proposed which will include 31 townhome units; 12 of the townhomes will be unrestricted Dwelling Units (not EHUs), and 19 of the townhomes will be deed-restricted EHUs.

The residential buildings are functionally designed and the site plan is effectively laid out to optimize the use of the site. The proposed buildings, improvements, uses and activities have been designed and located on the site to be functional and responsive to the site, surrounding uses and neighborhood and the community as a whole.

**C. Open space and landscaping are both functional and aesthetic, are designed to preserve and enhance the natural features of the site, maximize opportunities for access and use by the public, provide adequate buffering between the proposed uses and surrounding properties, and, when possible, are integrated with existing open space and recreation areas.**

The proposed useable open space is limited to a few areas at the rear of the townhomes, and the proposed outdoor picnic areas near the multi-family buildings. The useable outdoor open space has been limited based on the topography of the site and recommendations from the wildlife biologists. Due to the slope of the site, there is not a natural flat area that would easily accommodate useable open space. Further, human activity outdoors would have greater potential for impacting bighorn sheep and other big game that may use the area.

Opportunities to access the adjacent National Forest property to the north will be discouraged through the installation of the berm. The consulting biologists have recommended against the installation of fencing near the berm, and thus fencing has been removed from the current proposal.

The proposed landscaping plan has been revised to preserve more tree buffer along the south side of the development, and also to increase the buffer to the sheep habitat to the west and north.

The proposed open space and landscaping are designed to preserve and enhance the natural features of the site, provide adequate buffering between the proposed uses and surrounding properties.

**D. A pedestrian and vehicular circulation system is designed to provide safe, efficient and aesthetically pleasing circulation to the site and throughout the development.**

#### Access and Traffic

Vehicular access to the site is proposed from a new curb cut at the west end of the site. The new road is designed to follow the natural contours of the site to minimize cut and fill grades, although some cut and fill, as well as retaining walls, are proposed. Based on the completed traffic study, no acceleration/deceleration lanes or turn lanes are required, and none are proposed.

An updated memo (*Attachment O-1*) has been provided by the applicant's Traffic Engineer, which has also been reviewed by the Town Attorney. The memo provides information on the capacity of the frontage road, and also the potential impacts from the Vail Mountain School. Additionally, the memo comments on a fatality in 2002 one mile to the west of this site. Per the memo, neither the Town of Vail Police Department, nor Colorado Department of Transportation (CDOT), has any records that show a fatality at the East Vail interchange.

#### Pedestrian Circulation

Internal pedestrian circulation is proposed along a new sidewalk on the south side of the new driveway, near the multi-family building. No sidewalks are proposed near the townhome buildings. Walkways are proposed at the south side of the multi-family buildings to provide access to the garden level residential units. A sidewalk to the proposed bus stop on the west end of the site is proposed. Pedestrian access to the existing bus stop is also proposed on a new path and stair at the southeast portion of the site.

#### Bus Stop

The design and location of the proposed new bus stop have been revised based on recommendations of the Town of Vail Public Works Department and feedback from the PEC. The proposed bus stop at the west end of the site, near the proposed access driveway, will allow for a looped bus stop which will allow riders to get on and off the bus without crossing the road. The location of the proposed bus stop is not supported by the wildlife biologists or Colorado Parks and Wildlife due to potential conflicts and reduced grazing habitat with bighorn sheep.

A looped bus stop near the existing Falls at Vail stop at the east end of the site is not practical, although other safety measures could be implemented at the existing bus stop to improve safety for pedestrians crossing the frontage road.

The Town Engineer is aware of the concern for pedestrian safety at the Exit 180 underpass and the need to consider pedestrian improvements in this area. Town

Council has initially reviewed the request for a budget to add a sidewalk to the underpass. Prior to adding a budget they have requested existing pedestrian counts for the underpass and projected pedestrian counts to better understand the frequency of concern.

**E. Environmental impacts resulting from the proposal have been identified in the project's environmental impact report, if not waived, and all necessary mitigating measures are implemented as a part of the proposed development plan.**

An environmental impact report has been prepared by a wildlife biologist, and has been review by a panel of three consulting wildlife biologists. By developing this site, several acres of habitat for bighorn sheep, elk, black bear, and other big game species will be permanently eliminated. The applicant proposes to mitigate the impact of the proposed development through the implementation of a Wildlife Mitigation Plan, which has been modified based on recommendations of the wildlife biologists.

The Wildlife Mitigation Plan recommends prohibiting dogs in the 42-unit multi-family building. The applicant proposes to prohibit dogs only in these units thorough enforcement of HOA regulations. Since dogs have a natural hunting instinct, almost any dog could become a nuisance or threat to wildlife in the vicinity, and prohibiting all dogs is recommended by the Town's consulting wildlife biologists. The Community Development Department has added a condition of approval requiring that all dogs be prohibited on site, including for owners, tenants and visitors of the townhome units, unless otherwise protected by law (i.e. service dogs).

One of the recommendations of the biologists that has not been incorporated into this plan is the location of the bus stop. (*See Section D above*) The wildlife biologists hired by the Town of Vail recommend using the existing bus stop at the east end of this site, due to potential human-sheep conflicts.

**F. Compliance with the Vail comprehensive plan and other applicable plans.**

The Booth Heights Neighborhood Development Plan is in compliance with many aspects of the Vail Comprehensive Plan and advances the employee housing goals of the Town. The development of employee housing units is supported by the Vail Housing 2027 Strategic Plan, the Town of Vail Economic Development Plan, and the Environmental Strategic Plan, and furthers the actions/strategies outlined with the Vail 20/20 Strategic Plan.

The Town of Vail also values environmental sustainability and preservation of the natural ecosystem and wildlife habitat. The natural beauty of Vail and the wildlife that inhabit this valley are some of the reasons why many visitors love Vail, and why many locals choose to live here. Many of the Town's comprehensive planning documents reflect environmental stewardship values and recommend incorporating sustainability into projects, and protecting environmentally sensitive lands from development, or mitigating the impacts of development.

The proposed development will have permanent and irreversible impacts to 2.7 acres of existing wildlife habitat, and temporary loss to 2.3 acres of similar habitat for the construction of the rockfall mitigation berm. The applicant proposes to mitigate the loss of habitat through a wildlife mitigation plan, both on-site and off-site.

The proposed private development of 61 deed restricted EHUs will help advance the Town's goals of obtaining 1,000 new employee housing deed restrictions over the next 10 years. By developing more EHUs within Town, total vehicle miles traveled from workers commuting into Vail can be reduced, helping to reduce the Town's green house gas emissions. This development will upgrade the existing employee housing base.

## **XII. STAFF RECOMMENDATION**

The Community Development Department recognizes that this application and report have several significant community issues to be considered. We believe the applicant has presented a thorough application, including reports on wildlife and rockfall, as well as the significant community need for employee housing.

Before making a recommendation on this application, the Community Development Department would like to highlight important considerations:

- The significant need and goal of providing employee housing within the community.
- The previous rezoning of this property to the Housing (H) zone district to advance the Town's employee housing goals.
- Development of employee housing on this site by the private sector will take a significant step forward toward the goal of providing 1,000 additional resident housing unit deed restrictions by the year 2027.
- The site is located within several significant wildlife habitat areas, including habitat for bighorn sheep, elk, black bear, and peregrine falcon.
- The proposed wildlife mitigation actions recommended by the Town of Vail's consulting wildlife biologists.
- The agreement by the applicant to implement a majority of the recommendations, and financial contribution to improve wildlife habitat on adjacent Town of Vail and US Forest Service property.

The Community Development Department recommends **approval** of the Booth Heights Development Plan for a new housing development located at 3700 North Frontage Road East/Lot 1, East Vail Workforce Housing Subdivision ("Booth Heights Neighborhood"), with the Conditions of Approval (PEC19-0018).

Should the PEC choose to approve the proposed Development Plan, the Community Development Department recommends the following motion:

*“The Planning and Environmental Commission **approves** this request for the Booth Heights Development Plan, pursuant to Section 12-6I-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”) (PEC19-0018) subject to the following conditions of approval:*

- 1. Certificates of Occupancy for this project will only be issued in a manner that maintains a minimum of 70% of the total built Gross Residential Floor Area (GRFA) as deed-restricted employee housing units. At no time shall the unrestricted units for which Certificates of Occupancy are issued exceed 30% of the total built GRFA.*
- 2. This property is within a geologically sensitive area pursuant to Chapter 12-21 Hazard Regulations, Vail Town Code. Prior to issuance of any building permit for construction within the geologically sensitive areas, the owner shall submit a written, signed and notarized affidavit certifying acknowledgement of receiving personal notice of the fact that that said building or structure is in an area of geologic sensitivity and notice of the studies conducted to date with regard thereto.*
- 3. All plans submitted with the building permit application for property within geologically sensitive areas shall be stamped by the applicant "Geologically Sensitive Area" together with the applicable zone designation.*
- 4. Applicant shall implement a slope monitoring program, during construction activities, near the ancient landslide deposits at the east end of the site, in a form and manner to be determined by the applicant's professional geologist.*
- 5. In lieu of the previously proposed on-site wildlife habitat mitigation plan, the applicant shall perform the commitments outlined in the August 9, 2019 memo titled “Booth Heights Revised Wildlife Mitigation Plan Incorporating TOV’s Biologist Recommendations” submitted by the applicant. This includes a \$100,000 financial contribution by the applicant, prior to the issuance of the first certificate of occupancy, to the Town of Vail or other such agency or entity determined in consultation with the Town of Vail and Colorado Parks and Wildlife, for the purpose of ongoing wildlife habitat improvements, monitoring and study. If said funds are not in fact spent within five (5) years of the date of the contribution, the funds shall be returned to the applicant within 30 days after the expiration of the 5-year period.*



**Prior to Issuance of a Building Permit**

6. *Prior to Issuance of a Building Permit the applicant shall install a monitoring system with video recordings for enforcement of wildlife mitigation measures and trespass in prohibited areas and take corrective action to remedy trespass, which recording and records of enforcement shall be made available to the Town of Vail upon request. This condition shall continue with the property owner and manager of the Homeowners Association responsible for the property.*
7. *Prior to creation of a curb cut and installation of improvements (bus stop and sidewalk) in Colorado Department of Transportation (CDOT) the right-of-way, applicant shall obtain written approval from the Colorado Department of Transportation. A copy of such approval or permit shall be provided to the Town of Vail prior to issuance of a building permit.*
8. *Applicant shall revise the landscaping plan to indicate that aspen trees will be a minimum of two-inch (2") caliper.*

**Prior to Issuance of the First Certificate of Occupancy**

9. *Prior to Issuance of a Certificate of Occupancy, the Applicant shall develop an Environmental Education Program to educate the residents and owners of the Booth Heights Neighborhood about the environmental sensitivity of the site and the vicinity. The Education Program shall be reviewed by the Town of Vail Environmental Sustainability Manager and the Colorado Parks and Wildlife District Wildlife Manager. The Education Program shall include, at a minimum, information on the mapped wildlife habitats, potential human impacts to bighorn sheep, elk, black bears, and peregrine falcon. The Education Program shall clearly describe the activities and uses that are prohibited on site (including dogs, outdoor food gardens, bird feeders, feeding or harassing of wildlife) regulations on trash enclosures, prohibition on construction new trails, and prohibition on accessing the area to the north of the berm/fence. A copy of the Environmental Education Program shall be an attachment to all leases and provided to all tenants prior to occupancy, and shall also be recorded with the Eagle County Clerk and Recorder to inform future property owners. A copy of the Education Program and Wildlife Mitigation Plan shall be kept on file with the Homeowners Association and shall be provided to all leaseholders and shall be made available within reasonable notice to any tenant, unit owner or the Town of Vail, upon request.*
10. *Applicant shall provide for enforcement mechanisms, in a form acceptable to the Town Attorney, for prohibiting dogs, domestic sheep,*

*domestic goats and/or any other livestock, prohibiting short term rentals, prohibiting construction of trails, prohibiting creating of trails, and prohibiting access to the 17.9 acre NAP parcel to the east, and for future construction of wildlife fencing between the proposed homes and rockfall berm. The Town of Vail shall be granted the authority to enforce these regulations. Such regulations shall not be amended without written approval of the Town of Vail.*

- 11. Applicant shall install signs along the south side of the rockfall berm clearly stating that access to the berm and properties to the north of the development site, and to the adjacent 17.9 acre NAP parcel, is prohibited. The location, number and content of signs shall be proposed by the applicant and approved by the Town of Vail Environmental Sustainability Manager and the Colorado Parks and Wildlife District Wildlife Manager.*
- 12. Applicant shall include a fence easement on the first subdivision plat recorded for this development, which easement shall generally be located along the south side of the rockfall berm, for the potential future installation of wildlife fencing should it be determined necessary by Colorado Parks and Wildlife.*
- 13. Applicant shall work with the Town of Vail in good faith to pursue a conservation easement to permanently restrict the use of the 17.9 acre NAP parcel by obtaining a conservation easement from a land trust. This conservation easement will prohibit the construction of structures, but will also preserve the ability for wildlife enhancements, as well as other requirements for the development of the Booth Heights neighborhood by the applicant such as geological monitoring and testing and soil stabilization activities.*
- 14. Prior to final subdivision plat approval, a copy of the Homeowners Association documents shall be provided to the Town of Vail, and shall include an inspection and maintenance plan for the rockfall hazard mitigation berm. The plan shall include an inspection schedule. A copy of the inspection schedule and maintenance activities shall be provided to the Town of Vail upon request.*
- 15. Prior to issuance of a Certificate of Occupancy for any of the deed-restricted employee housing units, the applicant shall record with the Eagle County Clerk and Recorder, in a form acceptable to the Town Attorney, the Town of Vail Type IV employee housing deed-restriction covenant.*

Should the PEC choose to **deny** the proposed Development Plan, the Community Development Department recommends the following motion. If the PEC votes to deny

this application, we ask that the PEC identify specific elements of the application, plans or design that are not in compliance with the Vail Town Code:

*“The Planning and Environmental Commission **denies** this request for the Booth Heights Development Plan, pursuant to Section 12-6I-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”) (PEC19-0018) for the following reasons:*

*A. Building design with respect to architecture, character, scale, massing and orientation is **not** compatible with the site, adjacent properties and the surrounding neighborhood.*

*B. Buildings, improvements, uses and activities are **not** designed and located to produce a functional development plan responsive to the site, the surrounding neighborhood and uses, and the community as a whole.*

*C. Open space and landscaping are **not** both functional and aesthetic, are **not** designed to preserve and enhance the natural features of the site, maximize opportunities for access and use by the public, provide adequate buffering between the proposed uses and surrounding properties, and, when possible, are **not** integrated with existing open space and recreation areas.*

*D. A pedestrian and vehicular circulation system is **not** designed to provide safe, efficient and aesthetically pleasing circulation to the site and throughout the development.*

*E. Environmental impacts resulting from the proposal have been identified in the project's environmental impact report, if not waived, but all necessary mitigating measures are **not** implemented as a part of the proposed development plan.*

*F. The proposal is **not** in compliance with the Vail comprehensive plan and other applicable plans.*

## **XII. ATTACHMENTS**

- A. Vicinity Map
- B. Booth Heights Neighborhood Applicant Narrative, dated May 28, 2019
  - a. Attachment B-1 dated August 6, 2019
  - b. Attachment B-2 – Applicant Narrative, August 9, 2019
- C. Booth Heights Neighborhood – Architectural Plans, dated August 12, 2019
  - a. Attachment C- 1 Architectural Renderings
- D. Landscaping Plans, dated 05/21/2019
- E. Civil Plans, date 08/05/2019
- F. Draft Development Plan

- G. Survey
- H. Parking Analysis
- I. Environmental Impact Report
- J. Wildlife Mitigation Plan
  - a. J-1 Wildlife Mitigation Plan updated August 7, 2019
- K. Wetland Delineation Report
- L. Geologic Hazards Analysis
- M. Geologic Hazards Memo
- N. Rockfall Hazard Study
- O. Traffic Impact Study
  - a. O-1 – Traffic Engineer Capacity Memo
- P. Site Photos
- Q. Public Comment
- R. Wildlife Biologists Recommendations