



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: August 26, 2019

SUBJECT: A request for the review of a variance from Section 12-21-12 Restrictions in Specific Zones on Excessive Slopes, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code, to allow for a variance to the 10% maximum driveway site coverage restriction for developments on excessive slopes, located at 2930 Snowberry Drive/Lot 20, Block 9, Vail Intermountain Development Subdivision, and setting forth details in regard thereto. (PEC19-0028)

Applicant: 2930 Snowberry Drive LLC, represented by Martin Manley
Architects
Planner: Erik Gates

I. SUMMARY

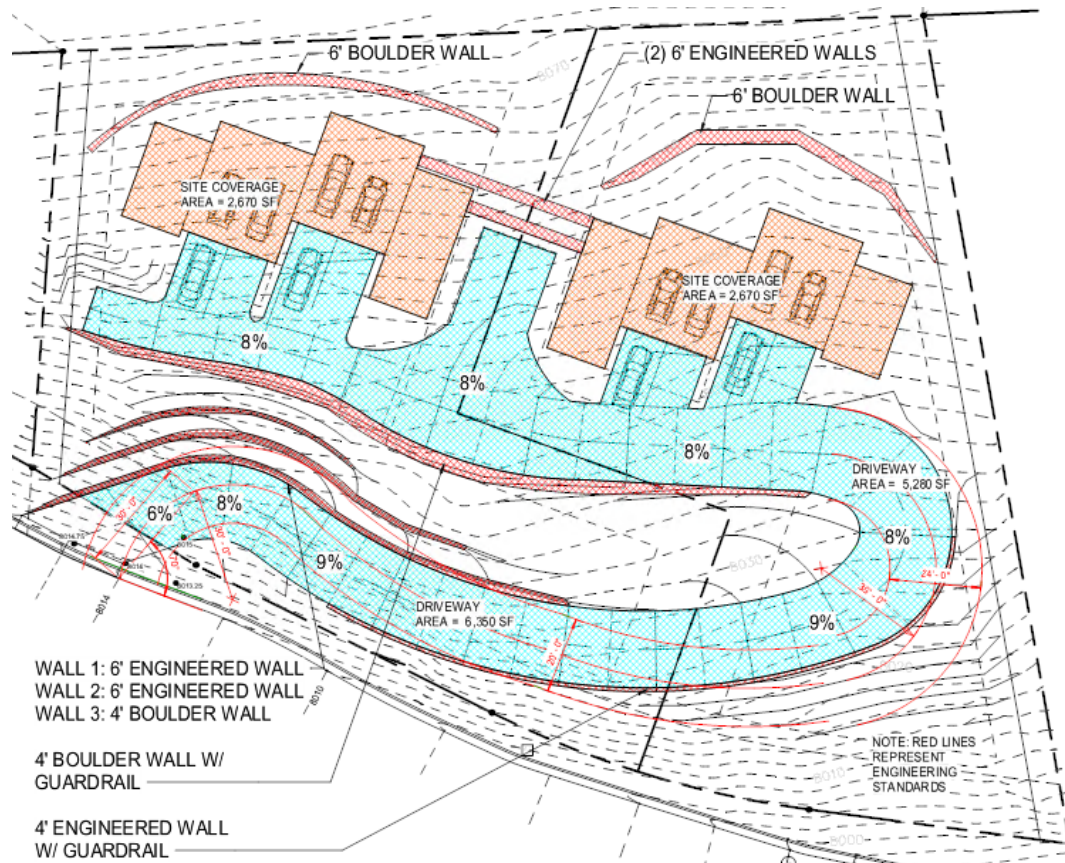
The applicant, 2930 Snowberry Drive LLC, is requesting a review of a variance from Section 12-21-12 Restrictions in Specific Zones on Excessive Slopes, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code, to allow for a variance to the 10% maximum driveway site coverage restriction for developments on excessive slopes, located at 2930 Snowberry Drive/Lot 20, Block 9, Vail Intermountain Development Subdivision. The new driveway is proposed to provide access to two development lots, subject to a minor subdivision request (PEC19-0037), with 27% driveway coverage on Lot 20A and 22% driveway coverage on Lot 20B.

Based upon staff's review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends **approval** of this application, subject to the findings listed in Section VIII of this memorandum.

II. DESCRIPTION OF REQUEST

The applicant is requesting a review of a variance from Section 12-21-12 Restrictions in Specific Zones on Excessive Slopes, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code to allow for a driveway accessing two

future duplex developments. The site plan below illustrates the proposed driveway and variance request. The proposed driveway is 10,570 square feet across both proposed lots and would cover 27% of lot 20A and 22% of lot 20B. This driveway is being proposed in an effort to move the proposed residential structures onto less steep portions of the site. The Vail Town Code requires driveway and surface parking site coverage not exceed 10% for proposed developments in areas where the average slope beneath the proposed structure and parking is in excess of 30%. Below is the proposed site plan with the driveway in question and associated retaining walls.

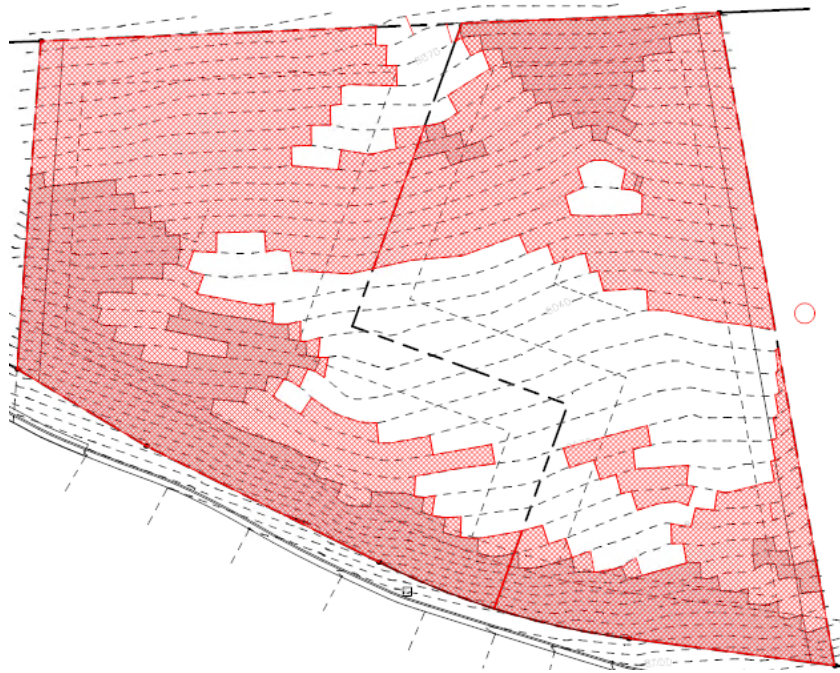


A vicinity map (Attachment A), applicant's narrative (Attachment B), project plan set (Attachment C), and existing site photos (Attachment D) are attached for review.

III. BACKGROUND

The existing development lot at 2930 Snowberry Drive is undeveloped and zoned Two-Family Primary/Secondary (PS). This variance and the associated proposed development are contingent upon the concurrent review and approval of a minor subdivision request (PEC19-0037) to split the existing lot into Vail Intermountain Development Subdivision, Block 9, Lot 20A and Lot 20B. These proposed lots are both conforming in terms of lot size for the PS zone district. More detail regarding the subdivision request can be found in PEC19-0037 Staff Memo.

The site in question contains steep slopes in excess of 30% and 40% throughout, with 75% of proposed Lot 20A and 62% of proposed Lot 20B containing slopes in excess of 30%. Furthermore, the street fronting side of the site contains a continuous band of slopes in excess of 40% slope, as shown in the diagram below (Light red hatching represents > 30% slopes while dark red hatching represents > 40% slopes). While the Vail Town Code does allow single and two-family development on 40% slopes, it excludes these slopes from the definition of “buildable area”.



Several variances along Snowberry Dr. and Basingdale Blvd. have been granted as a result of unique steep slope related hardships. These variances include a retaining wall height variance, setback variances, and driveway grade variances. Based on staff's investigation, no previous driveway coverage variance has been approved or pursued in this area. See the map below, blue stars indicate approved variances.



On August 7, 2019, the applicant received a conceptual review of the proposed driveway from the Design Review Board (DRB). In addition to this 10% driveway coverage variance, it is anticipated that the project will disturb more than 60% of the site and require relief from a section of 12-21-12E, Restrictions in Specific Zones on Excessive Slopes, in the Vail Town Code:

- 2. In order to protect the natural landform and vegetation on steep slopes, not more than sixty percent (60%) of the total site area may be disturbed from present conditions by construction activities. The design review board (DRB) may approve site disturbance in excess of the sixty percent (60%) maximum if specific design criteria warrant the extent of the requested deviation.*

The conceptual meeting was recommended by staff in order to gain recommendations from the DRB regarding the driveway design and anticipated relief request. The board was shown the current development proposal along with a potential street-side development plan, both of which can be found within the project plan set. The DRB was strongly in favor of the current proposed development with the longer driveway for a number of reasons. The board felt the visual impact along Snowberry Drive would be significantly less when developing further into the lot. The DRB agreed with the applicant that developing on the flatter portion of the lot made more sense from a design standpoint. The board also had a number of issues with the street-side alternative including excavation depths likely in excess of 30 feet for lot 20A and 25 feet for lot 20B, the potential for retaining walls in excess of 6 feet near the street, and a safety concern for lot 20B over backing out onto Snowberry Drive so close the intersection of that street and Basingdale Boulevard.

IV. APPLICABLE PLANNING DOCUMENTS

Staff finds that the following provisions of the Vail Town Code are relevant to the review of this proposal:

Title 12 – Zoning Regulations, Vail Town Code

Chapter 1, Title, Purpose and Applicability (in part)

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. (Ord. 8(1973) § 1.100)*

Chapter 6, Article D, Two-Family Primary/Secondary Residential (PS) District (in part)

12-6D-1: PURPOSE:

The two-family primary/secondary residential district is intended to provide sites for single-family residential uses or two-family residential uses in which one unit is a larger primary residence and the second unit is a smaller caretaker apartment, together with such public facilities as may appropriately be located in the same zone district. The two-family primary/secondary residential district is intended to ensure adequate light, air, privacy and open space for each dwelling, commensurate with single-family and two-family occupancy, and to maintain the

desirable residential qualities of such sites by establishing appropriate site development standards. (Ord. 29(2005) § 23: Ord. 30(1977) § 2)

12-6D-9: SITE COVERAGE

Site coverage shall not exceed twenty percent (20%) of the total site area. (Ord. 41(1990) § 5: Ord. 30(1977) § 2)

Chapter 12-17, Variances (in part)

12-17-1: PURPOSE:

- A. Reasons For Seeking Variance: In order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this title as would result from strict or literal interpretation and enforcement, variances from certain regulations may be granted. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a site or the location of existing structures thereon; from topographic or physical conditions on the site or in the immediate vicinity; or from other physical limitations, street locations or conditions in the immediate vicinity. Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.*
- B. Development Standards Excepted: Variances may be granted only with respect to the development standards prescribed for each zone district, including lot area and site dimensions, setbacks, distances between buildings, height, density control, building bulk control, site coverage, usable open space, landscaping and site development, and parking and loading requirements; or with respect to the provisions of chapter 11 of this title, governing physical development on a site.*
- C. Use Regulations Not Affected: The power to grant variances does not extend to the use regulations prescribed for each zone district because the flexibility necessary to avoid results inconsistent with the objectives of this title is provided by chapter 16, "Conditional Use Permits", and by section 12-3-7, "Amendment", of this title.*

12-17-5: PLANNING AND ENVIRONMENTAL COMMISSION ACTION:

Within twenty (20) days of the closing of a public hearing on a variance application, the planning and environmental commission shall act on the application. The commission may approve the application as submitted or may approve the application subject to such modifications or conditions as it deems necessary to accomplish the purposes of this title, or the commission may deny the application. A variance may be revocable, may be granted for a limited time

period, or may be granted subject to such other conditions as the commission may prescribe. (Ord. 29(2005) § 39: Ord. 8(1973) § 19.500)

12-17-6: CRITERIA AND FINDINGS:

A. Factors Enumerated: Before acting on a variance application, the planning and environmental commission shall consider the following factors with respect to the requested variance:

- 1. The relationship of the requested variance to other existing or potential uses and structures in the vicinity.*
- 2. The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of this title without grant of special privilege.*
- 3. The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities, and public safety.*
- 4. Such other factors and criteria as the commission deems applicable to the proposed variance.*

B. Necessary Findings: The planning and environmental commission shall make the following findings before granting a variance:

- 1. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone district.*
- 2. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*
- 3. That the variance is warranted for one or more of the following reasons:*
 - a. The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this title.*
 - b. There are exceptional or extraordinary circumstances or conditions applicable to the site of the variance that do not generally apply to other properties in the same zone district.*

- c. *The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties in the same zone district.*

12-17-7: PERMIT APPROVAL AND EFFECT:

Approval of the variance shall lapse and become void if a building permit is not obtained and construction not commenced and diligently pursued toward completion within two (2) years from when the approval becomes final. (Ord. 48 (1991) § 2: Ord. 16(1978) § 5(c))

Chapter 21, Hazard Regulation (in part)(emphasis added)

12-21-1: PURPOSE:

The purpose of this chapter is to help protect the inhabitants of the town from dangers relating to development of floodplains, avalanche paths, steep slopes and geologically sensitive areas; to regulate the use of land areas which may be subject to flooding and avalanche or which may be geologically sensitive; and further to regulate development on steep slopes; to protect the economic and property values of the town, to protect the aesthetic and recreational values and natural resources of the town, which are sometimes associated with floodplains, avalanche areas and areas of geological sensitivity and slopes; to minimize damage to public facilities and utilities and minimize the need for relief in cleanup operations; to give notice to the public of certain areas within the town where floodplains, avalanche areas and areas of geologic sensitivity exist; and to promote the general public health, safety and welfare. (Ord. 5(1985) § 1: Ord. 12(1978) § 4)

12-21-12: RESTRICTIONS IN SPECIFIC ZONES ON EXCESSIVE SLOPES:

The following additional special restrictions or requirements shall apply to development on any lot in a hillside residential, single-family residential, two-family residential or two-family primary/secondary residential district where the average slope of the site beneath the existing or proposed structure and parking area is in excess of thirty percent (30%):

E. Site coverage as it pertains to this chapter, as permitted by sections 12-6A-9, 12-6B-9, 12-6C-9 and 12-6D-9 of this title, is amended as follows:

- 1. Not more than ten percent (10%) of the total site area may be covered by driveways and surface parking.**
- 2. In order to protect the natural landform and vegetation on steep slopes, not more than sixty percent (60%) of the total site area may be disturbed from present conditions by construction*

activities. The design review board (DRB) may approve site disturbance in excess of the sixty percent (60%) maximum if specific design criteria warrant the extent of the requested deviation.

V. ZONING AND SITE ANALYSIS

Address: 2930 Snowberry Drive

Legal Description: Vail Intermountain Development Subdivision, Block 9, Lot 20

Zoning: Two-Family Primary/Secondary

Land Use Plan Designation: Low Density Residential

Land Use: Low Density Residential

Geological Hazards: Excessive Slopes (>40%)

| Development Standard | Allowed / Required | Proposed |
|----------------------|---|--|
| Lot 20A | | |
| Site Area | Min. 15,000 sq. ft. | 21,604 sq. ft. |
| Setbacks | Front – 20' Side – 15' Rear – 15' | Front – Unknown Side – Unknown Rear – Unknown |
| Height | Flat or Mansard Roof – 30' Sloping Roof – 33' | Sloping Roof – 33'* |
| Density | Max. 2 DUs on lots of 14,000 sq. ft. or greater | 2 DUs |
| GRFA | Max. 7,358 sq. ft. Secondary unit not to exceed 2,943 sq. ft. | Primary – Unknown Secondary – 2,900 sq. ft.* |
| Site Coverage | Max. 4,321 sq. ft. (Driveway not to exceed 2,160 sq. ft., 10% of site) | 2,670 sq. ft.* (Driveway not to exceed 5,820 sq. ft., 27% of site.) |
| Parking/Loading | 2,000 sq. ft. ≤ GRFA < 4,000 sq. ft. = 3 spaces per DU | 6 total (3 per DU) |
| Landscaping | Min. 12,962 sq. ft. | 13,113 sq. ft.* |
| Lot 20B | | |
| Site Area | Min. 15,000 sq. ft. | 21,604 sq. ft. |
| Setbacks | Front – 20' Side – 15' Rear – 15' | Front – Unknown Side – Unknown Rear – Unknown |
| Height | Flat or Mansard Roof – 30' Sloping Roof – 33' | Sloping Roof – 33'* |
| Density | Max. 2 DUs on lots of 14,000 sq. ft. or greater | 2 DUs |
| GRFA | Max. 7,358 sq. ft. Secondary unit not to exceed 2,943 sq. ft. | Primary – Unknown Secondary – 2,900 sq. ft.* |
| Site Coverage | Max. 4,321 sq. ft. (Driveway not to exceed 2,160 | 2,670 sq. ft.* (Driveway not to exceed |

| | | |
|-----------------|---|----------------------------|
| | sq. ft., 10% of site) | 4,750 sq. ft. 22% of site) |
| Parking/Loading | 2,000 sq. ft. ≤ GRFA < 4,000 sq. ft. = 3 spaces per DU | 6 total (3 per DU) |
| Landscaping | Min. 12,962 sq. ft. | 14,183 sq. ft.* |

*Values are estimates, not finalized dimensions

Analysis for both lots assumes the PEC19-0037 minor subdivision request is approved as proposed. The proposed driveway exceeds the maximum site coverage allowance for both lots; all other PS zoning standards are expected to be met with the finalized duplex designs. The size of the driveway will reduce the amount of site coverage available for development and should not be used as a basis for relief from other coverage standards in the future. Designs for the proposed duplexes are contingent on the result of this variance (and PEC19-0037), and as such have not been finalized.

VI. SURROUNDING LAND USES AND ZONING

| | | |
|--------|---------------------------|-----------------------------------|
| | <u>Existing Land Use:</u> | <u>Zoning District:</u> |
| North: | Residential | Two-Family Primary/Secondary (PS) |
| South: | USFS | None |
| East: | Residential | Two-Family Primary/Secondary (PS) |
| West: | Residential | Two-Family Primary/Secondary (PS) |

VII. REVIEW CRITERIA

The review criteria for a variance request are prescribed in Title 12, Chapter 17, Variances, Vail Town Code.

1. The relationship of the requested variance to other existing or potential uses and structures in the vicinity.

Staff believes that the proposed driveway design and associated future duplex developments is the best way to maintain the existing general character of the neighborhood. The proposed residential use is consistent with the surrounding residential uses. The proposed density is also consistent with the surrounding neighborhood density, which includes single-family residences, duplex residences, and a legally established non-conforming 3 unit condominium in the lot to the west of the applicant's.

Visual impacts of this proposed development are also believed to be insignificant by Staff. Locating development primarily on the higher portion of the lot will reduce visual impact from Snowberry Drive where the 40% slopes abutting the road makes it difficult to see anything on the upper portions of the lot. Proper screening using landscaping can further obscure the driveway from public view. The future residential development is proposed to be built at a higher elevation than the developments to the west, but at a lower or roughly equal elevation to the developments to the east. As such, Staff believes that this proposed development

will be no more prominent than other nearby developments as viewed from further away.

Therefore, Staff finds this proposal will not negatively affect the other existing or potential uses and structures in the vicinity in comparison to existing conditions.

Staff finds the proposed variance meets this criterion.

2. The degree to which relief from the strict or literal interpretation and enforcement of a specified regulation is necessary to achieve compatibility and uniformity of treatment among sites in the vicinity, or to attain the objectives of this title without grant of special privilege.

Staff believes the applicant is proposing minimum amount of driveway necessary to provide access and required parking for future development of this lot, while also proposing locations for this future development that align most closely with the purposes of Title 12, Zoning Regulations including the purposes of Chapter 21, Hazard Regulations within the Vail Town Code. Additionally, the Design Review Board has also requested that Staff notify the PEC of their recommendation for this form of development over any street-side development.

The proposed driveway will help provide greater privacy from Snowberry Dr. for future development on the lot and is anticipated to be more visually appealing (i.e. less visually impactful) than any development restricted by a conforming driveway. This is in alignment with several specific purposes of the Title 12, Zoning Regulations and the purpose of the PS zoning district. Furthermore, because this lot is unique in that its street-side access is entirely fronted by 40% slopes AND in that it has far less aggressive slopes deeper into the lot, staff believes that this proposal results in the least impact to geologically sensitive areas as is intended by the Hazard Regulations of Title 12. Building along the street edge would involve significant development in an area the code does not deem “buildable”.

Other properties along Snowberry Dr. and Basingdale Blvd. have been granted relief by the PEC from sections of the Vail Town Code due to site specific excessive slopes. Although this specific variance request is of a different nature than nearby slope-related approved variances, Staff believes this is the most appropriate variance to address the issues of this site. Ultimately, Staff finds that this does not result in the granting of special privilege.

Staff finds the proposed variance meets this criterion.

3. The effect of the requested variance on light and air, distribution of population, transportation and traffic facilities, public facilities and utilities, and public safety.

The proposed driveway simply allows the proposed four additional units to be located further into the lot. The granting of this variance will not alter or significantly increase the impact to existing transportation or traffic facilities, public facilities, or utilities. This variance will not negatively affect public safety in comparison to any fully conforming proposal.

Therefore, Staff finds the proposed variance conforms to this criterion.

4. Such other factors and criteria as the commission deems applicable to the proposed variance.

VIII. STAFF RECOMMENDATION

Based upon the review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends the Planning and Environmental Commission **approve** a variance from Section 12-21-12 Restrictions in Specific Zones on Excessive Slopes, Vail Town Code in accordance with the provisions of Section 12-17, Variances, Vail Town Code, to allow for a variance to the 10% maximum driveway site coverage restriction for developments on excessive slopes, located at 2930 Snowberry Drive/Lot 20, Block 9, Vail Intermountain Development Subdivision, and setting forth details in regard thereto.

Should the Planning and Environmental Commission choose to **approve** this variance request, the Community Development Department recommends the Commission pass the following **motion**:

“The Planning and Environmental Commission approves the applicant’s request for a variance from Section 12-21-12 Restrictions in Specific Zones on Excessive Slopes, Vail Town Code, in accordance with the provisions of Section 12-17-1, Variances, Vail Town Code, to allow for a variance to the 10% maximum driveway site coverage restriction for developments on excessive slopes, located at 2930 Snowberry Drive/Lot 20, Block 9, Vail Intermountain Development Subdivision, and setting forth details in regard thereto.

Should the Planning and Environmental Commission choose to **approve** this variance, the Community Development Department recommends the Commission make the following **findings**:

“Based upon the review of the criteria outlined in Section VII of the staff memorandum to the Planning and Environmental Commission dated August 26, 2019, and the evidence and testimony presented, the Planning and Environmental Commission finds:

- 1. The granting of this variance will not constitute a granting of special privilege inconsistent with the limitations on other properties classified in the Two-Family Primary/Secondary Residential (PS) District;*

2. *The granting of this variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity; and*
3. *This variances is warranted for the following reasons:*
 - a. *The strict literal interpretation or enforcement of the specified regulation will result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of Title 12, Zoning Regulations, Vail Town Code;*
 - b. *There are exceptions or extraordinary circumstances or conditions applicable to the same site of the variance that do not apply generally to other properties in the Two-Family Primary/Secondary Residential (PS) District.*

IX. ATTACHMENTS

- A. Vicinity Map
- B. Applicant's Narrative
- C. Project Plan Set
- D. Existing Site Photos