



Memorandum

To: Vail Local Housing Authority

From: Lynne Campbell, Housing Coordinator

Date: July 28, 2020

Subject: A request for a recommendation to the Vail Town Council for the release of a deed-restriction from an existing employee housing unit, located at 1225 A Westhaven Lane / Glen Lyon Subdivision Lot 43 Parcel A ("exchange EHU") in exchange for the recording of a new employee housing deed-restriction on the property located at 3941 Bighorn Road, Unit 4B / Pitkin Creek Park Condominiums, Unit 4B ("proposed EHU"), pursuant to Section 12-13-5 Employee Housing Unit Deed Restriction Exchange Program, Vail Town Code.

Applicant: Scott and Rachel Wagner

I. DESCRIPTION OF REQUEST

The applicants, Scott and Rachel Wagner, have requested to release a deed-restriction from an existing employee housing unit, located at 1225 A Westhaven Lane / Glen Lyon Subdivision Lot 43 Parcel A ("exchange EHU") in exchange for the recording of a new employee housing deed-restriction on the property located at 3941 Bighorn Road, Unit 4B / Pitkin Creek Park Condominiums, Unit 4B ("proposed EHU"), pursuant to Section 12-13-5 Employee Housing Unit Deed Restriction Exchange Program, Vail Town Code.

II. REVIEW CRITERIA

Before acting on an employee housing deed-restriction exchange application, the Vail Local Housing Authority and Vail Town Council shall consider the following criteria with respect to the application:

- 1. The exchange EHU shall not be part of any employee housing project developed or deed-restricted (in part or in whole) by the town of Vail. The exchange EHU shall not be part of any on site employee housing mitigation required by inclusionary zoning, commercial linkage, or as part of an approved development plan.**

The exchange EHU was built in 1996 and a Type II Deed-Restriction was recorded on May 20, 1997. The owner is required to rent to a qualified tenant and submit an annual affidavit indicating whether the unit is rented to a qualified tenant. Pursuant to the terms of the deed-restriction, the EHU shall be leased and occupied by tenants who are full-time employees who work in Eagle County. The EHU is neither part of any employee housing project developed nor is it part of any required mitigation. Therefore, staff believes the proposed EHU exchange request conforms to this criterion.

- 2. The exchange EHU shall not be part of any on site employee housing mitigation required by inclusionary zoning, commercial linkage, or as part of an approved development plan.**

The EHU is not part of an approved development plan obligation. Therefore, staff believes this exchange EHU complies with the applicable requirements.

- 3. The property that includes the exchange EHU shall comply with the prescribed development standards (density controls including GRFA and number of units, site coverage, landscaping and parking requirements, etc.), as outlined in the applicable zone district section of this title, upon exchange of the deed restrictions.**

The exchange EHU is located within Special Development District No. 4 (SDD #4) Cascade Village and Type II employee housing units are an allowed use, subject to the issuance of conditional use permit.

According to the Town's Planning Department, 1225 Westhaven Lane A complies with prescribed development standards of the and meets the required criteria related to participation in the exchange program. If approved, the applicant shall be required to remove the kitchen facilities within the unit to eliminate a third dwelling unit on the property. This condition shall be met prior to releasing the deed restriction from the property located at 1225 Westhaven Lane, Unit A.

- 4. The proposed EHU(s) shall be within a homeowners' association that does not preclude deed-restricted units, does not have a right of first refusal, does not have right to approve the sale or the sale contract, or have any other requirements deemed to be similarly restrictive by the administrator.**

The proposed EHU is not located within a homeowner's association containing any above listed restrictions, and therefore, staff believes this proposed EHU complies with the criteria.

5. The proposed EHU shall comply with the minimum size requirements shown in table 13-2 of this section. If the exchange EHU is outside of the commercial job core and the proposed EHU(s) is outside of the commercial job core, the gross residential floor area (GRFA) of the proposed EHU(s) shall be a minimum of two (2) times the gross residential floor area (GRFA) of the exchange EHU.

The exchange EHU is located outside the mapped commercial job core area and the proposed EHU is outside the commercial job core area. Therefore, the proposed EHU shall meet the criteria listed below as noted in Town Code **12-13-5 Section 3, Exchange Rate For Proposed EHUs:**

3d. If the exchange EHU is outside of the commercial job core and the proposed EHU(s) is outside of the commercial job core, the gross residential floor area (GRFA) of the proposed EHU(s) shall be a minimum of two (2) times the gross residential floor area (GRFA) of the exchange EHU.

The proposed EHU is located outside the commercial job core and contains 763 square feet of GRFA. The 763 square feet meets the minimum required size of a one bedroom unit. However, the required GRFA for the proposed EHU is 1,000 square feet, or two times the size of the exchange EHU. The proposed EHU is short 237 square feet requiring a fee-in-lieu payment of \$76,053 to satisfy the exchange unit's requirement. Current fee-in-lieu rate is \$320.90 per required square foot. (237 square feet X \$320.90 per square foot = \$76,053)

**TABLE 13-2
MINIMUM SIZE OF PROPOSED EHUs**

Type Of Unit	Minimum Size GRFA)
Studio	438 square feet
1 bedroom	613 square feet
2 bedrooms	788 square feet
3+ bedrooms	1,225 square feet

6. The proposed EHU shall contain a kitchen facility or kitchenette and a bathroom.

The proposed EHU contains a full kitchen facility, and therefore, meets the criteria.

7. **The property on which the proposed EHU is located shall comply with chapter 10, "Off Street Parking And Loading", of this title.**

The proposed EHU has 2 surface parking spots and complies with chapter 10.

8. **The proposed EHU shall have its own entrance. There shall be no interior access from the proposed EHU to any dwelling unit to which it may be attached.**

The proposed EHU has its own entrance into a 1 bedroom, 1 bathroom condominium residence. Staff has confirmed this meets the proposed criteria.

III. ATTACHMENTS

Owner's Request

From: [George Ruther](#)
To: [Lynne Campbell](#)
Subject: Fwd: The process with the TOV
Date: Wednesday, July 22, 2020 5:33:51 AM

Good Morning -

See attached EHU Exchange request. Let's discuss later today.

Thanks,

George Ruther, AICP
Director of Housing
Town of Vail

(970) 376-2675

Sent from my iPad

Begin forwarded message:

From: Scott Wagner <Scott@WAGNERS.WS>
Date: July 19, 2020 at 9:02:26 PM MDT
To: George Ruther <GRuther@vailgov.com>
Subject: FW: The process with the TOV

Hi George,
We are working with Jim Rapp for the Vail in Deed program. Can you look at the email from his Realtor bellow and let me know if this is correct?

Scott Wagner
303-915-6006

From: JAMES RAPP <jamesrapp69@msn.com>
Sent: Saturday, July 18, 2020 10:54 AM
To: Scott Wagner <Scott@WAGNERS.WS>; betseyinvail <betseyinvail@yahoo.com>
Subject: FW: The process with the TOV

Scott hello,
Here is an e-mail the realtor just sent sent me on the process.....

From: [Elizabeth Clarke](#)
Sent: Saturday, July 18, 2020 10:47 AM
To: [JAMES RAPP](#)

Subject: The process with the TOV

The process as I understand after speaking with Lynne yesterday.....

This is a "process", not difficult but more of a formality going through the proper channels.

First, Scott needs to write a letter to the Housing Authority requesting a release of the EHU on the Wagner property with the deed restriction being placed on a "qualified property", i.e., Pitkin property within the TOV. Hopefully, we will have Pitkin under contract and can provide the offer with his letter. His letter needs to get to the Housing Authority by 7/23 in order to be placed on their 'agenda' for their next meeting on 7/28. At this meeting they will review the request, the Pitkin property, and make a recommendation to the Town Council. This will then be placed on the Town Council's agenda for their 8/4 meeting. (if Scott misses the 7/23 timeline, everything moves back two weeks and the next TOV meeting would occur on 8/18). It is the TOV's Town Council who makes the decision to authorize the transfer.

At the 8/4 TOV meeting, the Town Council will review the Wagner's request and review the recommendation from the Housing Authority. Once approved, they will issue a "resolution " and the process of transferring the EHU to the Pitkin property can take place at the closing. Once this happens at closing, the release of the EHU on the Wagner property will be recorded as will the EHU deed restriction on the Pitkin Property.

Betsey.