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**Memorandum**

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: August 8, 2016

SUBJECT: A request for a major amendment to SDD No. 24, Warner Development, pursuant to Section 12-9A-10, Amendment Procedures, Vail Town Code to remove Section 5, Item 3 requiring the pool area on Lot 4 to be permanently restricted to a pool, from the conditions of approval within Ordinance No. 11, Series of 1990, located at 1825 Sunburst Drive/Lot 4, Vail Valley Filing 3, and setting forth details in regard thereto (PEC16-0027).

Applicant: Deborah Webster, represented by Current Architects  
Planner: Matt Panfil

**I. SUMMARY**

The applicant, Deborah Webster, represented by Michael Current of Current Architects, is requesting a recommendation to the Vail Town Council for a major amendment to Special Development District (SDD) No. 24, Warner Development, pursuant to Section 12-9A-10, Amendment Procedures, Vail Town Code, to remove Section 5, Item 3 requiring the pool area on Lot 4 to be permanently restricted to a pool, from the conditions of approval within Ordinance No. 11, Series of 1990, located at 1825 Sunburst Drive.

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 the Planning and Environmental Commission (PEC) forward a **recommendation of approval** of the major amendment to SDD No. 24, Warner Development, subject to the findings noted in Section VIII of this memorandum.

**II. DESCRIPTION OF REQUEST**

The applicant, Deborah Webster, represented by Michael Current of Current Architects, is requesting a major amendment to SDD No. 24, Warner

Development, to remove the Section 5 Item 3 from Ordinance No. 11, Series of 1990. Item 3 states:

3. *The pool area on Lot 4 shall be permanently restricted to a pool. A declaration shall be filed of record in the office of the Eagle County Clerk and Recorder in a form approved by the Town Attorney.*

According to the applicant, the pool restriction has complicated the process of selling the property.

An ordinance, generally containing the following, will be provided to the Town Council for first reading:

Ordinance No. 11, Series of 1990, is hereby amended to delete Section 5, Item 3 related to pool restrictions, as illustrated:

- ~~3. The pool area on Lot 4 shall be permanently restricted to a pool. A declaration shall be filed of record in the office of the Eagle County Clerk and Recorder in a form approved by the Town Attorney.~~

A vicinity map (Attachment A) and a project narrative with floor plans (Attachment B) are attached for review.

### **III. BACKGROUND**

At their meeting on March 12, 1990, the PEC voted unanimously 7-0 to recommend that the Town Council deny the request to establish SDD No. 24, Warner Development. According to the minutes, the rationale behind the PEC's recommendation of denial was that it felt any site planning or design aspects of the proposal could be accomplished under the existing zoning regulations and that the request for an SDD was an attempt to circumvent the underlying Two-Family Primary / Secondary Residential District standards in regards to site coverage and gross residential floor area (GRFA) for Lot 4 by offering three (3) employee housing units (EHUs) as a concession for the requested density increases.

At the April 3, 1990, Vail Town Council meeting, the applicant, Mr. Robert Warner, stated that due to his wife's chronically bad back, her doctor prescribed daily swimming as treatment. Mr. Warner argued that it was this need for a pool that required GRFA beyond what was permitted by the underlying zoning. The Town Council voted to approve SDD No. 24, with the condition that the pool area be permanently restricted to use as a pool, because they believed the offer to provide three (3) EHUs, one (1) EHU at each of the three (3) lots within the SDD, was a

benefit to the Town. Therefore Section 4-D-2 of Ordinance No. 11, Series of 1990 allowed Lot 4 a maximum of 5,500 square feet of GRFA.

In 2004, changes were made to the Vail Town Code with regard to the calculation of GRFA resulting in the subject property having an excess amount of allowable GRFA. The applicant contends that this excess amount of allowable GRFA precludes the necessity of the pool restriction.

While the applicant has also investigated the possibility of further amending the SDD to remove the EHU deed restriction, they have opted not to make such a request at this time due to the Town's ongoing revisions to employee housing requirements.

Taking a holistic view of SDD No. 24, Warner Development, staff encouraged the applicant to consult with the adjacent properties within SDD No. 24 to consider a request to repeal it in its entirety. This would eliminate the need for any future major amendments to the SDD in order to allow for GRFA that would now be permitted by the underlying zoning district, rather than the more restrictive language of the SDD. At this time, the applicant is only requesting the major amendment regarding the pool restriction.

#### **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.*

#### *Chapter 9 – Special and Miscellaneous Districts (in part)*

##### *12-9A-1: PURPOSE AND APPLICABILITY:*

- A. *Purpose: The purpose of the special development district is to encourage flexibility and creativity in the development of land in order to promote its most appropriate use; to improve the design character and quality of the new development with the town; to facilitate the adequate and economical provision of streets and utilities; to preserve the natural and scenic features of open space areas; and to further the overall goals of the community as stated in the Vail comprehensive plan. An approved development plan for a special development district, in conjunction with the property's underlying zone*

*district, shall establish the requirements for guiding development and uses of property included in the special development district.*

*B. Applicability: Special development districts do not apply to and are not available in the following zone districts: hillside residential, single-family residential, two-family residential and two-family primary/secondary residential.*

**12-9A-2: DEFINITIONS:**

*MAJOR AMENDMENT (PEC AND/OR COUNCIL REVIEW): Any proposal to change uses; increase gross residential floor area; change the number of dwelling or accommodation units; modify, enlarge or expand any approved special development district (other than "minor amendments" as defined in this section), except as provided under section 12-15-4, "Interior Conversions", or 12-15-5, "Additional Gross Residential Floor Area (250 Ordinance)", of this title.*

**12-9A-10: AMENDMENT PROCEDURES:**

*B. Major Amendments:*

- 1. Requests for major amendments to an approved special development district shall be reviewed in accordance with the procedures described in section 12-9A-4 of this article.*
- 2. Owners of all property requesting the amendment, or their agents or authorized representatives, shall sign the application. Notification of the proposed amendment shall be made to owners of all property adjacent to the property requesting the proposed amendment, owners of all property adjacent to the special development district, and owners of all property within the special development district that may be affected by the proposed amendment (as determined by the department of community development). Notification procedures shall be as outlined in subsection 12-3-6C of this title.*

**V. ZONING / SDD NO. 24 ANALYSIS**

Address:	1825 Sunburst Drive
Legal Description:	Vail Valley Filing 3, Lot 4
Existing Zoning:	Two-Family Primary / Secondary Residential
Existing Land Use Designation:	Low Density Residential
Mapped Geological Hazards:	High Severity Rock Fall & Moderate Hazard Debris Flow

Standard	Allowed / Required	Existing	Proposed
Site Area	Min. 15,000 sq ft	16,216 sq ft	No Change
Site Coverage	Max. 3,726 sq ft	3,726 sq ft	No Change
Setbacks	Front: 20' Rear: 15' Sides: 15'	Per Site Plan	No Changes
Height	33' (sloping roof)	Per Elevations	No Change
GRFA	5,500 sq ft*	5,242 sq ft	No Change
Density	1 primary/secondary structure per lot	1 primary/secondary structure	No Change
Landscaping	Per Landscape Plan	Per Landscape Plan	No Change
Parking	Min. 5 paces	5 spaces	No Change

\* Based on existing Town Code, the underlying Two-Family Primary / Secondary Residential District would allow a maximum GRFA of 6,713 square feet.

## VI. SURROUNDING LAND USES AND ZONING

	<u>Existing Land Use</u>	<u>Zoning District</u>
North:	Park	Outdoor Recreation
East:	Low Density Residential	Two-Family Primary/Secondary Residential
South:	Low Density Residential	Two-Family Primary/Secondary Residential
West:	Low Density Residential	Two-Family Primary/Secondary Residential

## VII. SPECIAL DEVELOPMENT DISTRICT AMENDMENT REVIEW CRITERIA

Before acting on a major amendment to a special development district application, the Planning and Environmental Commission and Town Council shall consider the following factors with respect to the proposed amendment:

- 1. Compatibility: Design compatibility and sensitivity to the immediate environment, neighborhood and adjacent properties relative to architectural design, scale, bulk, building height, buffer zones, identity, character, visual integrity and orientation.**

The proposal involves only the potential reuse of existing interior space and would not impact the neighborhood or adjacent properties relative to architectural design, scale, bulk, building height, buffer zones, identity, character, visual integrity, or orientation.

Staff finds the proposal complies with this criterion.

- 2. Relationship: Uses, activity and density which provide a compatible, efficient and workable relationship with surrounding uses and activity.**

The proposal involves only the potential reuse of existing interior space from a single-use, swimming pool, to general residential space. The swimming pool area is already included within the existing GRFA calculations. Should the owner of the structure wish to use the swimming pool area for any use other than that permitted by Section 12-6D of the Vail Town Code, a separate amendment shall be required.

Staff finds the proposal complies with this criterion.

**3. Parking and Loading: Compliance with parking and loading requirements as outlined in chapter 10 of this title.**

The proposal does not include any changes affecting parking and loading requirements.

Staff finds the proposal complies with this criterion.

**4. Comprehensive Plan: Conformity with applicable elements of the Vail comprehensive plan, town policies and urban design plans.**

Staff has reviewed the Vail Comprehensive Plan, town policies, and urban design plans and found the following documents and associated goals, objectives, and statements applicable to this proposal:

*Vail Land Use Plan (in part)*

*1. General Growth / Development*

*1.1 Vail should continue to grow in a controlled environment, maintaining a balance between residential, commercial and recreational uses to serve both the visitor and the permanent resident.*

*1.3 The quality of development should be maintained and upgraded whenever possible.*

*1.12 Vail should accommodate most of the additional growth in existing developed areas (infill areas).*

*5. Residential*

*5.1 Additional residential growth should continue to occur primarily in existing, platted areas and as appropriate in new areas where high hazards do not exist.*

The proposal to allow for the reuse of the swimming pool space occurs within existing GRFA and will allow for potential future upgrades to the space.

Staff finds the proposal complies with this criterion.

**5. Natural and/or Geologic Hazard: Identification and mitigation of natural and/or geologic hazards that affect the property on which the special development district is proposed.**

The subject property is located within a high severity rock fall area and a moderate hazard debris flow area. The geological hazard report submitted with the request for SDD No. 24, Warner Development, accounted for these sensitive areas and provided debris-flow mitigation. As there are no proposed changes to the site plan or exterior alterations, no additional mitigation is required.

Staff finds the proposal complies with this criterion.

**6. Design Features: Site plan, building design and location and open space provisions designed to produce a functional development responsive and sensitive to natural features, vegetation and overall aesthetic quality of the community.**

The proposal does not include any changes to the site plan, building design or location, or open space provisions.

Staff finds the proposal complies with this criterion.

**7. Traffic: A circulation system designed for both vehicles and pedestrians addressing on and off site traffic circulation.**

The proposal involves only the potential reuse of existing interior space and does not alter or impact vehicular or pedestrian circulation on or off site.

Staff finds the proposal complies with this criterion.

**8. Landscaping: Functional and aesthetic landscaping and open space in order to optimize and preserve natural features, recreation, views and function.**

The proposal does not include any changes to the landscaping or open space on the site.

Staff finds the proposal complies with this criterion.



**9. Workable Plan: Phasing plan or subdivision plan that will maintain a workable, functional and efficient relationship throughout the development of the special development district.**

As there are no exterior alterations associated with the proposal, a revised development plan is not necessary.

Staff finds the proposal complies with this criterion.

**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 forwards a **recommendation of approval** to the Town Council of a major amendment to Special Development District No. 24, Warner Development, pursuant to Section 12-9A-10, Amendment Procedures, Vail Town Code, to remove Section 5, Item 3 requiring the pool area on Lot 4 to be permanently restricted to a pool, from the conditions of approval within Ordinance No. 11, Series of 1990, located at 1825 Sunburst Drive / Lot 4, Vail Valley Filing 3, and setting forth details in regards thereto.

Should the Planning and Environmental Commission choose to forward a **recommendation of approval** for this request, the Community Development Department recommends the Commission pass the following motion:

*“The Planning and Environmental Commission forwards a recommendation of approval to the Town Council for a major amendment to Special Development District No. 24, Warner Development, pursuant to Section 12-9A-10, Amendment Procedures, Vail Town Code, to remove Section 5, Item 3 requiring the pool area on Lot 4 to be permanently restricted to a pool, from the conditions of approval within Ordinance No. 11, Series of 1990, located at 1825 Sunburst Drive/Lot 4, Vail Valley Filing 3, and setting forth details in regard thereto.”*

Should the Planning and Environmental Commission choose to forward a **recommendation of approval** for this request, the Community Development Department recommends the Commission makes 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 8, 2016 and the evidence and testimony presented, the Planning and Environmental Commission finds:*

1. *That the special development district amendment complies with the standards listed in Article 12-9A, Special Development District, or that a practical solution consistent with the public interest has been achieved;*
2. *That the special development district amendment is consistent with the adopted goals, objectives and policies outlined in the Vail comprehensive plan and compatible with the development objectives of the town;*
3. *That the special development district amendment is compatible with and suitable to adjacent uses and appropriate for the surrounding areas; and*
4. *That the special development district amendment promotes the health, safety, morals, and general welfare of the town and promotes the coordinated and harmonious development of the town in a manner that conserves and enhances its natural environment and its established character as a resort and residential community of the highest quality.”*
5. *As a result of the 2004 changes to GRFA calculations, the subject property complies with current GRFA regulations.*

## **IX. ATTACHMENTS**

- A. Vicinity Map
- B. Project Narrative with Floor Plans, dated July 11, 2016.