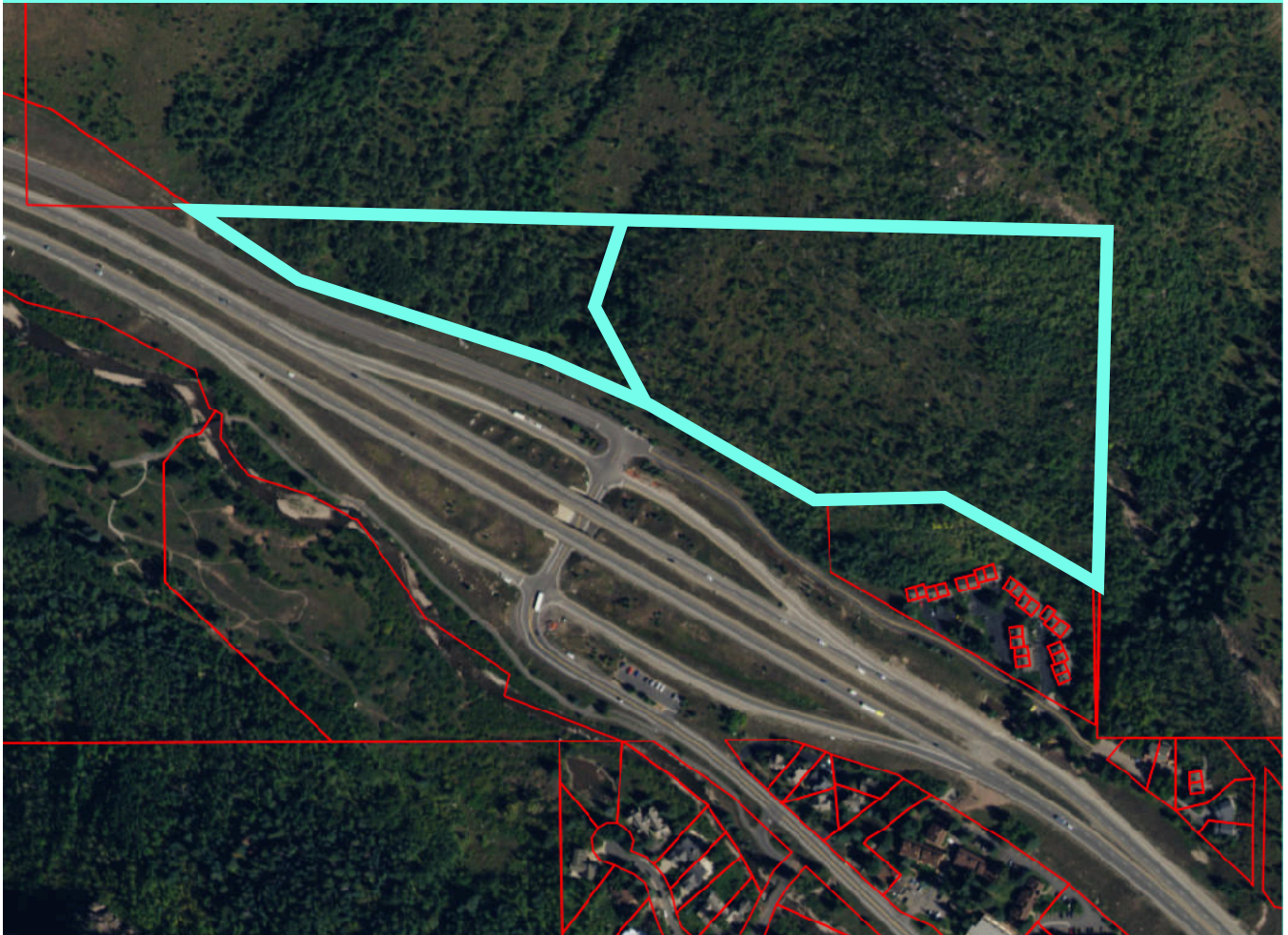


# East Vail Workforce Housing Parcel Rezoning Request



Submitted to the Town of Vail: August 14, 2017  
Revised August 17, 2107

# Introduction

Vail Resorts, represented by Mauriello Planning Group, is requesting a rezoning for the property located just to the north of the East Vail I-70 interchange. The property is approximately 23 acres in size with only about 6 acres that can appropriately accommodate development based on the existing grades of the property and steepness of the slope. The existing zoning of the property is Two-Family Residential (R) zone district. The property is proposed to be zoned Housing Zone District (H) on the western 5.4 acres of the site, and Natural Area Preservation District (NAP) on the eastern 17.9 acres of the site.



Photo of a portion of the site.

The property was annexed in 1974 and zoned R in the early 1980s. The portion of the site identified for NAP is the steeper and more sensitive portion of the property. The NAP district is the Town's most restrictive zone district which is intended to protect lands in their natural state. The purpose of the NAP zone district is:

*The natural area preservation district is designed to provide areas which, because of their environmentally sensitive nature or natural beauty, shall be protected from encroachment by any building or other improvement, other than those listed in section 12-8C-2 of this article. The natural area preservation district is intended to ensure that designated lands remain in their natural state, including reclaimed areas, by protecting such areas from development and preserving open space. The natural area preservation district includes lands having valuable wildlife habitat, exceptional aesthetic or flood control value, wetlands, riparian areas and areas with significant environmental constraints. Protecting sensitive natural areas is important for maintaining water quality and aquatic habitat, preserving wildlife habitat, flood control, protecting view corridors, minimizing the risk from hazard areas, and protecting the natural character of Vail which is so vital to the town's tourist economy. The intent shall not preclude improvement of the natural environment by the removal of noxious weeds, deadfall where necessary to protect public safety or similar compatible improvements.*

The portion of the site designated for the Housing zone district has more gentle slopes that would support the development of residential structures. The H zone district was adopted by the Town in 2001 as a vehicle to encourage the development of employee or workforce housing in Vail. Once zoned H, the property can only be developed in support of deed restricted employee housing. The

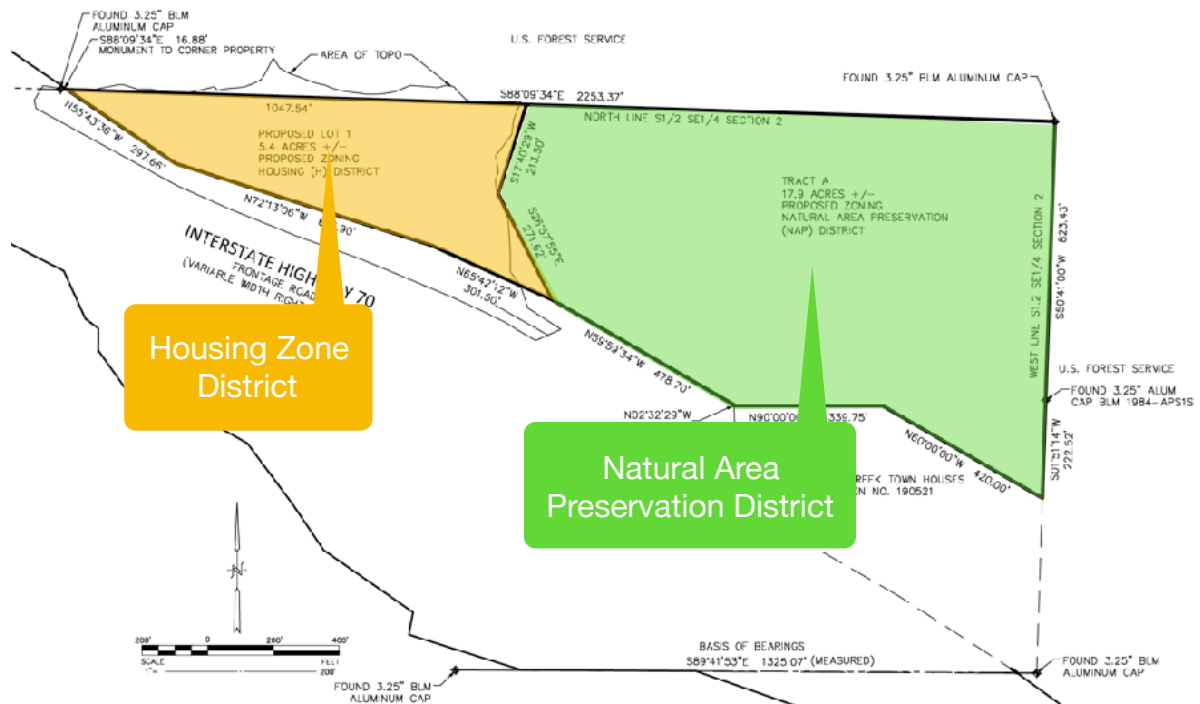
applicant's intent is to partner in the future with a developer to pursue deed restricted seasonal and other workforce housing, a large portion of which would be leased by Vail Resorts.

The purpose of the Housing zone district is:

*The housing district is intended to provide adequate sites for employee housing which, because of the nature and characteristics of employee housing, cannot be adequately regulated by the development standards prescribed for other residential zone districts. It is necessary in this zone district to provide development standards specifically prescribed for each development proposal or project to achieve the purposes prescribed in section 12-1-2 of this title and to provide for the public welfare. Certain nonresidential uses are allowed as conditional uses, which are intended to be incidental and secondary to the residential uses of the district. The housing district is intended to ensure that employee housing permitted in the zone district is appropriately located and designed to meet the needs of residents of Vail, to harmonize with surrounding uses, and to ensure adequate light, air, open spaces, and other amenities appropriate to the allowed types of uses.*

No plans have been developed at this time. Once the zoning is established, any development plan submitted to the Town will need to stand on its own, comply with the Town's regulations, including the submittal of an environmental impact report to evaluate the proposed plan in relationship to environmental factors such as wildlife, rockfall mitigation, wetlands, vegetation, etc.

### Proposed Zoning





## Site Analysis

Property: East Peak, unplatted. Located just to the north of the East Vail interchange  
Lot Area: 23.3 acres  
Zoning: Two-Family Residential  
Proposed Zoning: Housing Zone District (5.4 acres) / Natural Area Preservation District (17.9 acres)  
Hazards: High Severity Rockfall, Slopes in Excess of 40%

As indicated in the geohazard report that was completed by Cesare, Inc, and recognizing that there is evidence of rockfall events on the property, the report does recommend rockfall remediation, stating:

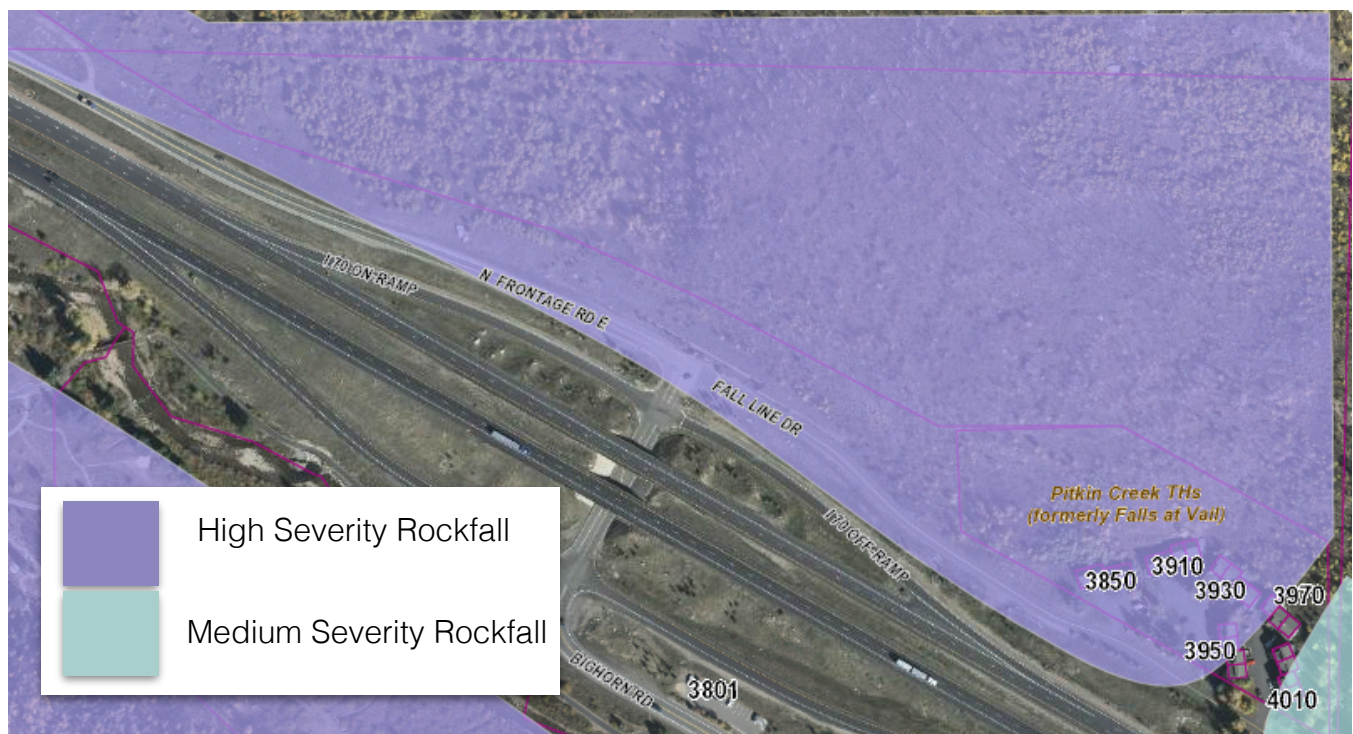
*Based on the CRSP analysis results and existing rockfall mitigation structures on the neighboring site to the west, a rockfall barrier or wall at least 12 feet in height is recommended. Based on site conditions, including such aspects as slope angle and property boundaries, a rigid wall system would be more ideal than a flexible fence or berm/basin.*

In reviewing any landslide considerations for the property, the report states:

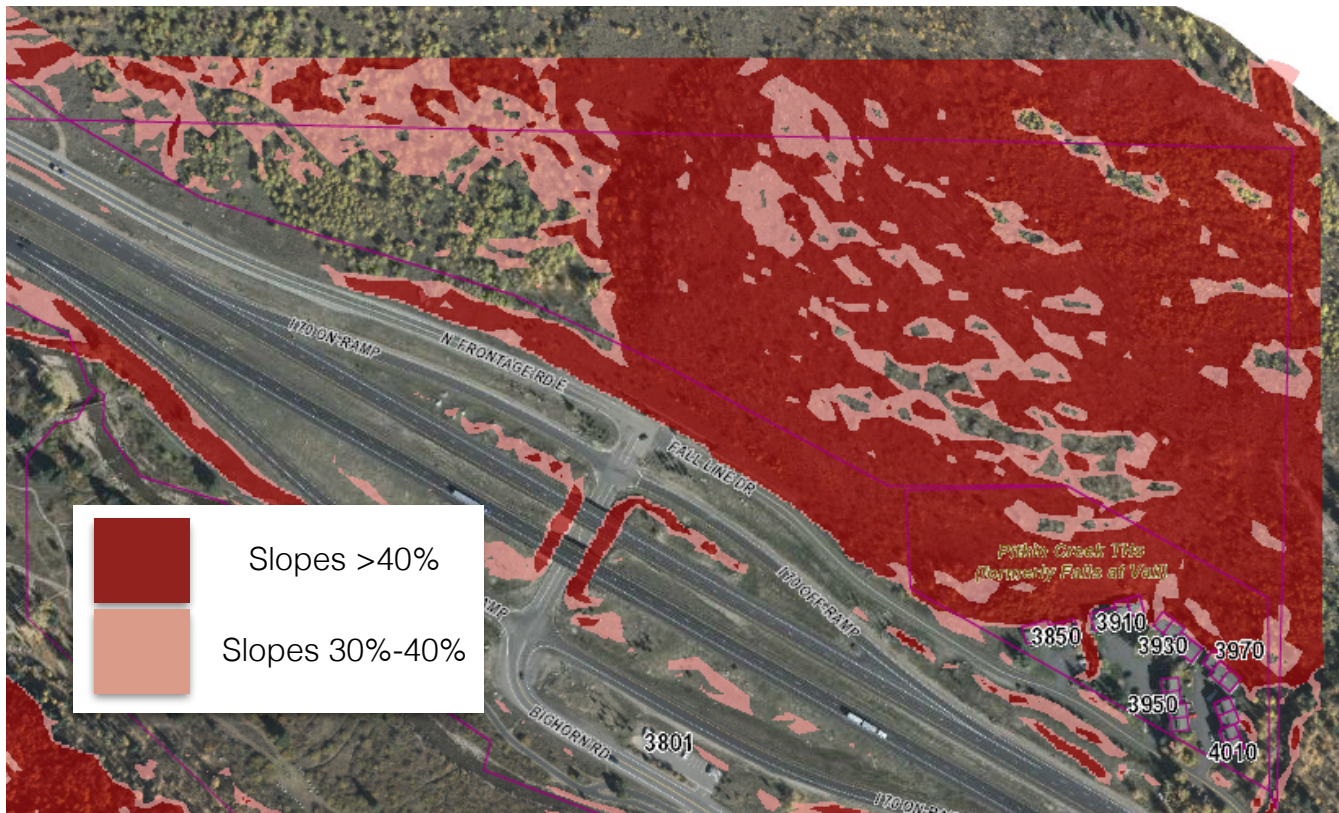
*Based on the lack of evidence of recent landslide movement...Cesare does not recommend monitoring of the landslide at this time. Slope stability should be a primary consideration if ground modifications and development are planned in or near the landslide mass.*

The geohazard report also recommends that debris flow hazard potential be considered in future development stages.

### Rockfall Map



## Steep Slopes Map



## Criteria for Review

Section 12-3-7: AMENDMENT, of the Vail Town Code, provides the criteria for review of a zone district boundary amendment. The following section includes the criteria, along with an analysis of the compliance of the proposal with the criteria.

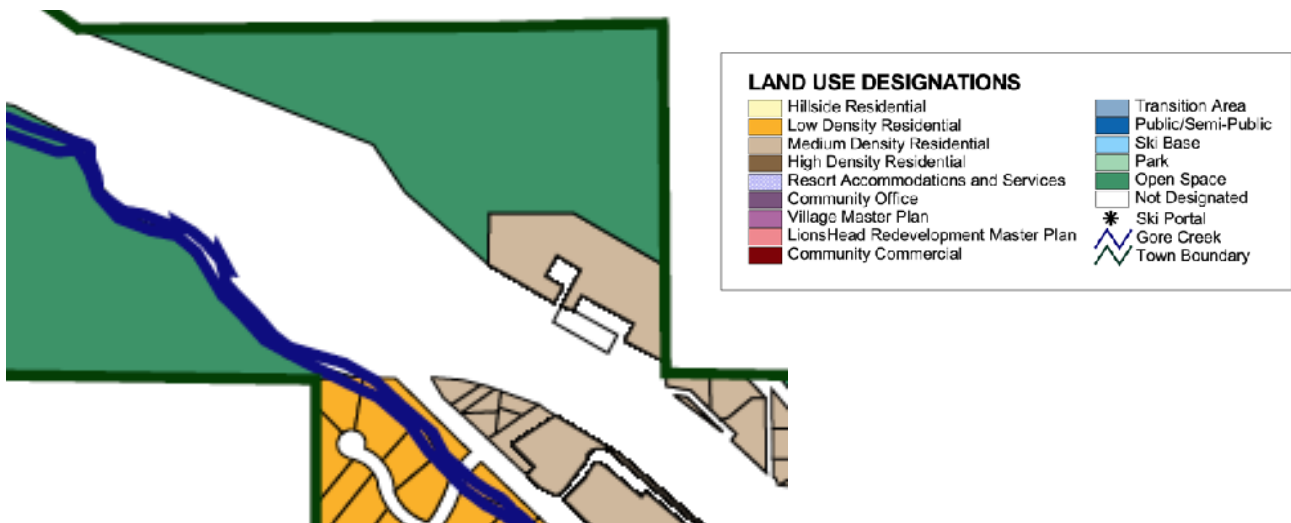
- (1) The extent to which the zone district amendment is consistent with all the applicable elements of the adopted goals, objectives and policies outlined in the Vail comprehensive plan and is compatible with the development objectives of the town; and**

### Applicant Analysis:

The property is governed by the Vail Land Use Plan. In addition, there is specific discussion of this property in the Comprehensive Open Lands Plan. Other applicable plans include the Vail 20/20 Plan and the Housing Strategic Plan, all of which are described below:

- **Vail Land Use Plan**

The adopted map of the Vail Land Use Plan shows a designation of “Open Space” for the property. The Open Space designation is defined as follows:



*Passive recreation areas such as greenbelts, stream corridors and drainage ways are the types of areas in this category. Hillsides which were classified as undevelopable due to high hazards and slopes over 40% are also included in this area. These hillside areas would still be allowed types of development permitted by existing zoning, such as one unit per 35 acres, for areas in agricultural zoning. Also, permitted in this area would be institutional / public uses.*



This property was likely included in this category due to the confusion regarding ownership, in addition to steep slopes and high rockfall hazard. At the time of the adoption of the Vail Land Use Plan the zoning and private ownership status of the property was not clear.

The proposal includes a zoning of Housing Zone District on the more buildable portion of the property, while the remainder of the site which is generally slopes in excess of 40% will be zoned Natural Area Preservation, which precludes development on the site. This would keep with the intent of the land use designation, while providing a developable site for employee housing under the Housing Zone District in an area that is currently impacted by the presence of I-70 and the North Frontage Road.

- **Comprehensive Open Lands Plan**

At the time of adoption of the Comprehensive Open Lands Plan, this property was thought to be owned by CDOT. It is identified as Parcel 36. The plan indicates that the existing zoning of the property is Two-Family Residential, and its open space objective is "environmental protection" with a proposed use of "open space" and as a "high" priority. The map designation is shown below:

With the steeper portions of the site proposed to be zoned NAP, and only the flatter, more developable areas proposed to be zoned H, the intent of the Comprehensive Open Lands Plan is met, while simultaneously helping to meet the Town's goals of providing more employee housing within the Town boundaries. Clearly had the property be known to be in private ownership, the recommendations of this plan would have been different to avoid the taking of private development rights.

- **Vail 20/20 Plan**

The Vail 20/20 Plan provides the following goals:

*Provide for enough deed-restricted housing for at least 30 percent of the workforce through policies, regulations and publicly initiated development.*

*The Town of Vail recognizes the need for housing as infrastructure that promotes community, reduces transit needs and keeps more employees living in the town, and will provide for enough deed-restricted housing for at least 30 percent of the workforce through policies, regulations and publicly initiated development.*

The proposed zoning of Housing on the buildable area of the site helps to further the goal of the Town of Vail to provide deed-restricted housing for 30% of the workforce. This property creates an exciting

Parcel 35: Parcels G-2, G-3, G-4 and G-5  
Low priority LOA parcels: TOV acquire from U.S. Forest Service. Then TOV should trade these parcels to CDOT for parcel 36 (which is now owned by CDOT).



\*Parcel 36: Unplatted Land North of East Vail Interchange  
High priority: TOV acquire development rights for open space use or trade parcel(s) 35 for parcel 36. Has potential for development.

opportunity to create new housing stock, while still protecting the steeper hillside from development by zoning the steep portions NAP.

- **Employee Housing Strategic Plan**

The Employee Housing Strategic Plan outlines the Town of Vail's goals and policies to ensure employee housing. It provides the following objectives:

- ❖ *Actively address affordable housing for Vail workers to ensure that the community remains competitive in economic terms.*
- ❖ *Increase and maintain deed-restricted housing within the Town to encourage the efficient use of resources by placing employees closer to their place of work.*

The proposed zoning will allow for the creation of new deed-restricted employee housing units within the Town of Vail, allowing Vail to remain economically competitive in attracting and maintaining a quality workforce.

The proposal is consistent with the goals and objectives of the various Town of Vail planning documents and helps to further one of Vail's critical needs: creating employee housing within the Town of Vail boundaries to ensure that Vail remains economically competitive.

**(2) The extent to which the zone district amendment is suitable with the existing and potential land uses on the site and existing and potential surrounding land uses as set out in the town's adopted planning documents; and**

Applicant Analysis:

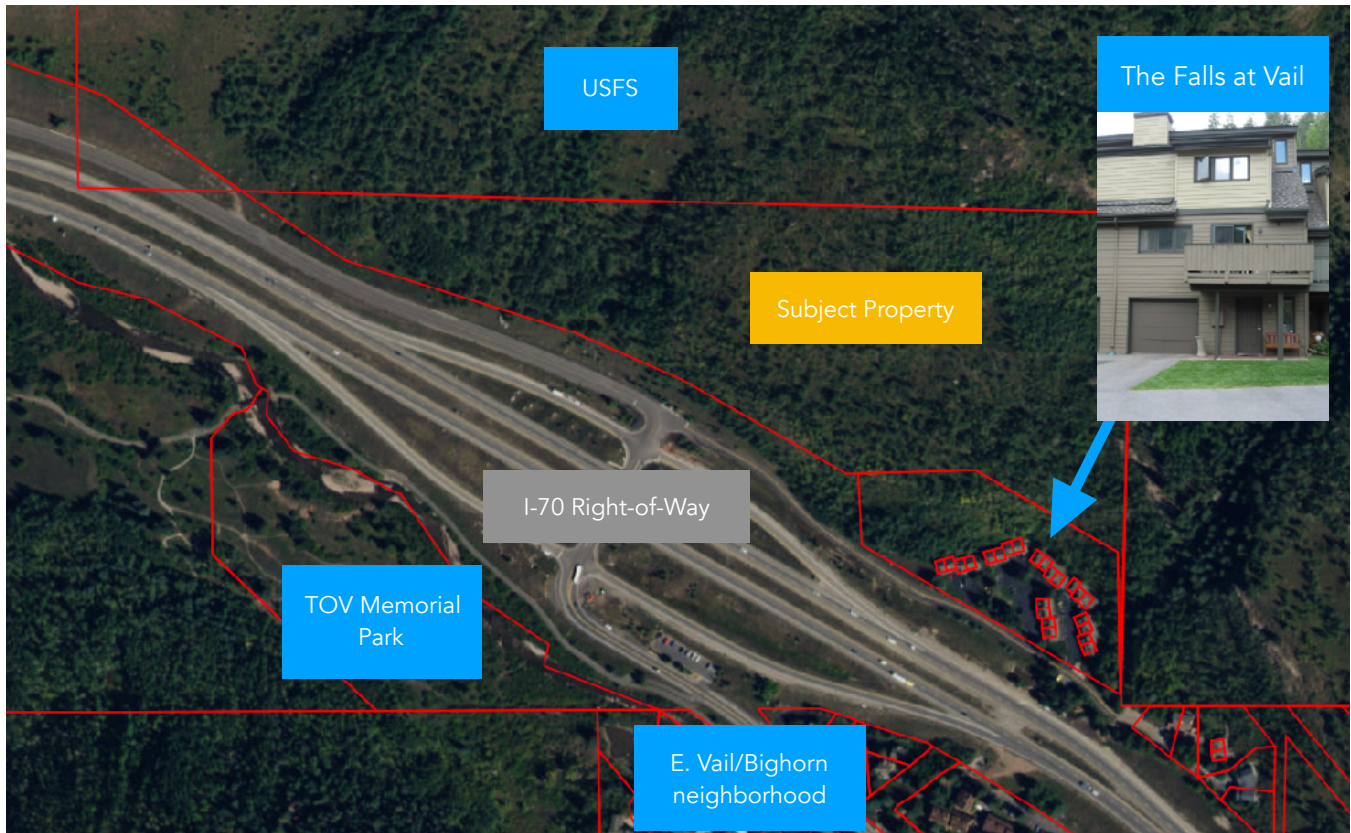
Though the site is visible from the East Vail I-70 interchange, it is relatively isolated from other uses in the vicinity. The only directly adjacent residential property is the Falls at Vail (formerly Pitkin Creek Townhomes). This property is zoned Residential Cluster and the land use designation is "Medium Density Residential." The Falls at Vail consists of 23 townhouses constructed in the early 1980s and three of the units are deed-restricted as employee housing units, based on the Town of Vail GIS data. Permitted uses allowed by the RC zone district are primarily residential uses, including EHUs, multiple-family, single family and duplex units. Some limited commercial uses are allowed by conditional use in the RC zone district. These residential uses are separated from any developable areas by the large tract proposed for NAP zoning.

The uses allowed by the H zone district are similar to those listed in RC, though EHUs are the only permitted residential use in the H zone district. Free-market dwelling units are allowed by conditional use and are limited to 30% of the GRFA constructed on the site. Similarly, limited commercial uses are allowed by conditional use, but generally only to serve the residential uses of the site.

The property to the north is outside Town boundaries and is United States Forest Service land, and Town of Vail open space is located across the Interstate and Frontage Roads. There are a few



residential properties far to the south of the property, across the Interstate and Frontage Roads, within the Bighorn/East Vail neighborhoods. The Booth Falls neighborhood is located relatively far to the west of the property.



The proposed zone district amendment is suitable with the existing and potential uses on surrounding properties.

**(3) The extent to which the zone district amendment presents a harmonious, convenient, workable relationship among land uses consistent with municipal development objectives; and**

Applicant Analysis:

The proposal to rezone the property to H and NAP furthers two major development objectives:

- ❖ Provision of employee housing
- ❖ Protection of environmentally sensitive land

It is rare that these two often-times competing objectives can come together in one project. The proposal creates an opportunity for employee housing on a small portion of the more developable portion of the property, while protecting the remainder by precluding development. That these two

objectives can meet on this privately-owned property within Town of Vail boundaries, creates a unique opportunity to create a harmonious relationship among land uses. As a result, the proposal is consistent with this criterion.

**(4) The extent to which the zone district amendment provides for the growth of an orderly viable community and does not constitute spot zoning as the amendment serves the best interests of the community as a whole; and**

Applicant Analysis:

The proposed zone district amendment provides for the growth of an orderly viable community by establishing a site for employee housing within the Town of Vail boundaries, close to existing services and transportation, while simultaneously protecting the environmentally sensitive portion of the site. Employee housing is key to ensuring that the Town of Vail remain economically viable and competitive, while protecting the environmentally sensitive lands that have created a place worth living in. This does not constitute spot zoning, as both zone districts help further these goals and because the entire property is already zoned for residential uses. As a result, the proposed amendment serves the best interest of the community.

**(5) The extent to which the zone district amendment results in adverse or beneficial impacts on the natural environment, including, but not limited to, water quality, air quality, noise, vegetation, riparian corridors, hillsides and other desirable natural features; and**

Applicant Analysis:

The proposed zone district amendment proposes to rezone a property currently zoned as R zone district to H zone district and NAP zone district allows for the development of the portion of the site that is considered buildable, while protecting the majority of the site in its natural state as undevelopable. This allows for a project that can protect the natural environment, including the steep hillsides in excess of 40%. As part of this submittal, a wildlife report and geohazard report have been included.

The wildlife report, by Rick Thompson of Western Ecosystems, Inc., evaluated the potential development site (portion zoned H) to analysis the impacts to local wildlife populations. The report identifies that based on CPW mapping, bighorn sheep and elk are of specific concern for the site. With regard to bighorn sheep, the report states:

*The relatively small potential East Peak development would result in a further loss of winter range, but its location in an area whose habitat effectiveness has been reduced by existing human disturbance and development should not result in any measurable change in habitat use or herd size.*

In the review of the impacts on the elk population, the report states:

*Similar to sheep, the relatively small potential East Peak development would result in a further loss of winter range, but its location in an area whose habitat effectiveness has been reduced by existing human disturbance and development should not result in any measurable change in habitat use or herd size. Approximately 75% of the parcel would remain available for continued elk use.*

The geohazard report was completed by Cesare, Inc, and was prepared in accordance with the Town of Vail hazard regulations and mapping. The report focuses on rockfall and landslide hazards on the site. Recognizing that there is evidence of rockfall events on the property, the report does recommend rockfall remediation, stating:

*Based on the CRSP analysis results and existing rockfall mitigation structures on the neighboring site to the west, a rockfall barrier or wall at least 12 feet in height is recommended. Based on site conditions, including such aspects as slope angle and property boundaries, a rigid wall system would be more ideal than a flexible fence or berm/basin.*



Booth Falls rockfall mitigation berm

In reviewing any landslide considerations for the property, the report states:

*Based on the lack of evidence of recent landslide movement...Cesare does not recommend monitoring of the landslide at this time. Slope stability should be a primary consideration if ground modifications and development are planned in or near the landslide mass.*

The geohazard report also recommends that debris flow hazard potential be considered in future development stages.

Because the entirety of the site is currently zoned for residential development, the proposed zoning amendment to limit development to the eastern portion of the site, with the majority of the property zoned to preclude development, the proposed zoning amendment results in a net beneficial impact to the natural environment and complies with this criterion.

**(6) The extent to which the zone district amendment is consistent with the purpose statement of the proposed zone district; and**

Applicant Analysis:

Section 12-6I-1 provides the purpose of the H zone district:



*The housing district is intended to provide adequate sites for employee housing which, because of the nature and characteristics of employee housing, cannot be adequately regulated by the development standards prescribed for other residential zone districts. It is necessary in this zone district to provide development standards specifically prescribed for each development proposal or project to achieve the purposes prescribed in section 12-1-2 of this title and to provide for the public welfare. Certain nonresidential uses are allowed as conditional uses, which are intended to be incidental and secondary to the residential uses of the district. The housing district is intended to ensure that employee housing permitted in the zone district is appropriately located and designed to meet the needs of residents of Vail, to harmonize with surrounding uses, and to ensure adequate light, air, open spaces, and other amenities appropriate to the allowed types of uses.*

The western portion of the site is proposed to be zoned H, which creates a unique opportunity for employee housing, in furtherance of the goal of the Town of Vail to provide deed-restricted housing for 30% of the workforce. This site is within the Town of Vail boundaries, adjacent to established transportation routes, including a Town of Vail transit stop and in close proximity to the recreation path. The H zone district allows the Planning and Environmental Commission to set most development standards, creating flexibility to create a housing project that is suitable to the individual site. As a result, the proposed zone district amendment is consistent with the purpose statement of the H zone district.

Section 12-8C-1 provides the purpose of the NAP zone district:

*The natural area preservation district is designed to provide areas which, because of their environmentally sensitive nature or natural beauty, shall be protected from encroachment by any building or other improvement, other than those listed in section 12-8C-2 of this article. The natural area preservation district is intended to ensure that designated lands remain in their natural state, including reclaimed areas, by protecting such areas from development and preserving open space. The natural area preservation district includes lands having valuable wildlife habitat, exceptional aesthetic or flood control value, wetlands, riparian areas and areas with significant environmental constraints. Protecting sensitive natural areas is important for maintaining water quality and aquatic habitat, preserving wildlife habitat, flood control, protecting view corridors, minimizing the risk from hazard areas, and protecting the natural character of Vail which is so vital to the town's tourist economy. The intent shall not preclude improvement of the natural environment by the removal of noxious weeds, deadfall where necessary to protect public safety or similar compatible improvements.*

The majority of the site, including the areas of 40% slopes, will be zoned NAP. This allows for the land area that is environmentally sensitive to be preserved as open space with no development to occur in this area. This helps to preserve wildlife habitat and protects the natural character of Vail. As a result, the proposed zone district amendment is consistent with the purpose statement of the NAP zone district.

**(7) The extent to which the zone district amendment demonstrates how conditions have changed since the zoning designation of the subject property was adopted and is no longer appropriate; and**

Applicant Analysis:

Though there has been confusion about both the zoning and the ownership of the property, the current zoning of the property is the R zone district and the property is owned by Vail Resorts. The R zone district would generally permit low-density residential development. Recognizing that the residential needs of the Town have changed dramatically since the late 1970s (when the R zone district was applied), the new zoning of H and NAP allows for the development of employee housing on the more developable area of the site, and protecting the remainder of the site as open space. As a result, the proposal is consistent with this criterion.

**(8) Such other factors and criteria as the commission and/or council deem applicable to the proposed rezoning.**

Applicant Analysis:

Any other factors can be addressed as necessary.