



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: September 11, 2017

SUBJECT: A request for a recommendation to the Vail Town Council for a zone district boundary amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to allow for a rezoning of an unplatted parcel of land in the South ½, Southeast ¼, of Section 2, Township 5, Range 80 West 6th Principal Meridian from Two-Family Residential (R) District to the Housing (H) District on the western portion of the site, and Natural Area Preservation (NAP) District on the eastern portion of the site, and setting forth details in regard thereto. The parcel is located at 3700 N. Frontage Road East, immediately north of Interstate 70 at the East Vail interchange (Exit 180), to the north and west of Pitkin Creek Townhomes/The Falls at Vail (3850 Fall Line Dr.). (PEC17-0039).

Legal Description: See Attachment B

Applicant: The Vail Corporation (aka Vail Resorts), represented by Mauriello Planning Group

Planner: Chris Neubecker

I. SUMMARY

The Vail Corporation (aka Vail Resorts), represented by Mauriello Planning Group, is requesting a recommendation to the Vail Town Council for zone district boundary amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to allow for a rezoning of an unplatted parcel of land from Two-Family Residential (R) District to the Housing (H) District on the western portion of the site, and Natural Area Preservation (NAP) District on the eastern portion of the site, and setting forth details in regard thereto. The proposed new zone districts are as follows:

- Housing (H) District 5.4 acres
- Natural Area Preservation (NAP) 17.9 acres

The parcel of land is located immediately north of Interstate 70 at the East Vail interchange (Exit 180), to the north and west of Pitkin Creek Townhomes/The Falls at Vail (3850 Fall Line Dr.).

The fundamental question for the Planning and Environmental Commission (PEC) to consider with this rezoning application is this:

- **Is this property, owned by Vail Resorts, an appropriate location for deed restricted employee housing in the Town of Vail?**
- **If so, why is it appropriate?**
- **If not, why is it not appropriate?**

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 **continues this application to the meeting of September 25, 2017** for a final review in order to obtain independent reviews of the applicant's rockfall study and the wildlife assessment.

The wildlife report is being analyzed by the Colorado Parks and Wildlife, and the rockfall study is being reviewed by the Colorado Geological Survey.

- Colorado Parks and Wildlife – Comments expected the week of September 11th
- Colorado Geological Survey – Comments expected by September 19th

II. DESCRIPTION OF REQUEST

The applicant is proposing to rezone the property from Two-Family Residential (R) District to Housing (H) District and Natural Area Preservation (NAP). The Housing District will allow the western 5.4 acres of the site to be developed for employee housing. Although not required at this time, a specific development plan has not been submitted to the Town. The Natural Area Preservation (NAP) District, if approved, will require that the eastern 17.9 acres remain in a mostly natural state. In the Natural Area Preservation (NAP) District the only permitted uses are Nature Preserves.

Following are the permitted and conditional uses allowed in the Housing (H) District:

Housing (H) District Permitted Uses:

- Bicycle and pedestrian paths.
- Communications antennas and appurtenant equipment.
- Employee housing units, as further regulated by chapter 13 of this title.
- Passive outdoor recreation areas, and open space.

Housing (H) District Conditional Uses:

- Commercial uses which are secondary and incidental (as determined by

the Planning and Environmental Commission) to the use of employee housing and specifically serving the needs of the residents of the development, and developed in conjunction with employee housing, in which case the following uses may be allowed subject to a conditional use permit:

- Automated teller machines (ATMs) exterior to a building.
- Banks and financial institutions.
- Business offices and professional offices, as further regulated by section 12-16-7 of this title.
- Child daycare facilities.
- Eating and drinking establishments.
- Funiculars and other similar conveyances.
- Health clubs.
- Personal services, including, but not limited to, laundromats, beauty and barber shops, tailor shops, and similar services.
- Retail stores and establishments.

- Dwelling units (not employee housing units) subject to the following criteria to be evaluated by the Planning and Environmental Commission:
 - Dwelling units are created solely for the purpose of subsidizing employee housing on the property, and
 - Dwelling units are not the primary use of the property. The GRFA for dwelling units shall not exceed thirty percent (30%) of the total GRFA constructed on the property, and
 - Dwelling units are only created in conjunction with employee housing, and
 - Dwelling units are compatible with the proposed uses and buildings on the site and are compatible with buildings and uses on adjacent properties.
- Outdoor patios.
- Public and private schools.
- Public buildings, grounds and facilities.
- Public parks and recreational facilities.
- Public utilities installations including transmission lines and appurtenant equipment.

Following are the permitted and conditional uses allowed in the Natural Area Preservation (NAP) District:

Permitted Uses:

- Nature preserves

Conditional Uses:

- Equestrian trails, used only to access national forest system lands.
- Interpretive nature walks.
- Parking, when used in conjunction with a permitted or conditional use.
- Paved and unpaved, nonmotorized, bicycle paths and pedestrian walkways.
- Picnic tables and informal seating areas.
- Other uses customarily incidental and accessory to permitted or conditional uses and necessary for the operation thereof, with the exception of buildings

The graphic below illustrates the existing and proposed zoning for the affected properties.

**East Vail Workforce Housing Parcel Rezoning Map
Indicating the Existing and Proposed Zone District Boundaries**



The proposed rezoning, which must be approved via ordinance by the Vail Town Council, will not take effect until the recordation of the final plats, creating Lot 1 and Tract A, of the East Vail Workforce Housing Subdivision have occurred with the Eagle County Clerk and Recorder. This condition will be included with any final ordinance relating to the rezoning.

Anticipated Review Schedule

- September 11, 2017 – PEC review of Rezoning Application
- September 25, 2017 – PEC review of Rezoning Application – Final Review
- September 25, 2017 – PEC review of Subdivision Application – Final Review
- October 3, 2017 – Town Council – First Reading of Ordinance – Rezoning Application
- October 17, 2017 – Second Reading of Ordinance – Rezoning
- TBD – PEC Review of a Development Plan (No Development Plan application has been submitted to the Town of Vail as of the date of this memo.)

Note: Each of these meetings will include a public hearing process.

III. BACKGROUND

- On November 5, 1974 the subject property was annexed into the Town of Vail, via Ordinance No. 20, Series of 1974. This annexation included most of east Vail, and the Katsos Ranch area. On the annexation plat, the property is shown being owned by Vail Associates.
- On December 2, 1974, the western and southern portion of subject property was zoned as Two-Family Residential (R) District, and the northeastern portion of the property was zoned Agricultural and Open Space (A) District via Ordinance No. 26, Series of 1974.
- In 1976, the Town of Vail created a map called “Current Conditions – A Component of the Comprehensive Plan / An Inventory of Comprehensive Planning Decisions from 1968-1976”, which indicated that the entire property was zoned Two-Family Residential (R).
- The 1981 Official Zoning Map shows the property zoned Two-Family Residential (R) District.
- On March 1, 1994, the Town of Vail adopted the 1994 Comprehensive Open Lands Plan, via Resolution No. 6, Series of 1994. The Open Lands Plan identified this site as Parcel 36, and indicated that the parcel was owned by the Colorado Department of Transportation (CDOT). The Plan recommended that the Town of Vail acquire Parcel 35 (an adjacent parcel owned by the U.S. Forest Service) in order to trade Parcel 35 to CDOT in exchange for Parcel 36. It is unclear why the Open Lands Plan indicated CDOT as the owner of Parcel 36 (this subject lot.)
- On February 26, 2001, the Town Council adopted the Official Land Use Map, a component of the Town of Vail Land Use Plan, via Resolution 1, Series of 2001. The Land Use Map identified this parcel of land for open space use. The

applicant has indicated in the attached narrative that this designation was likely assigned because the parcel of land was believed at the time to be owned by CDOT, and was not known to be privately owned.

- In 2016, as part of the update to the Comprehensive Open Lands Plan, the Town of Vail identified this parcel as likely being owned by Vail Resorts, but needing ownership confirmation. A title report has confirmed that the property is owned by Vail Resorts.

IV. APPLICABLE PLANNING DOCUMENTS

The Community Development Department believes that following provisions of the Vail 20/20 Strategic Action Plan, Vail Land Use Plan, 1994 Comprehensive Open Lands Plan, 2009 Environmental Sustainability Strategic Plan, Vail Housing 2027 Plan, and the Vail Town Code are relevant to the review of this proposal:

Vail 20/20 Focus on the Future – Strategic Action Plan (in part) - The Vail 20/20 Strategic Action Plan is a visioning document that begins with a set of values that outline what is truly important to the community. The plan then details land use and development, parks and recreation, environment, housing, transportation, economy, community and public safety topics, including specific vision statements, long-term goals, and actions and strategies over the next 5 years to achieve those goals.

LAND USE

Goal #2: Land use and development decisions will address environmental sustainability as a priority of the community.

- *Work with public and non-profit partners to ensure that environmental issues within the town and region are being addressed.*
- *Educate developers and applicants on how to incorporate environmental sustainability into projects.*

Goal #4: Provide for enough deed-restricted housing for at least 30 percent of the workforce through policies, regulations and publicly initiated development.

- *Address the zoning regulations to provide more incentives for developers to build employee housing units.*

ENVIRONMENTAL SUSTAINABILITY

Goal #2: Energy Management in Buildings and Transportation: Reduce the town's 2007 baseline green house gas emissions.

- *Support employee housing initiatives in order to reduce trips into Vail.*

Goal #3: Ecosystem: Improve the health and diversity of the forest and mountain ecosystem while recognizing the interdependence of the wildland urban interface (WUI) corridor within Vail.

- *Work with non-profit organizations and the Colorado Department of Wildlife to improve wildlife conditions.*

HOUSING

Goal: 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.

- *Conduct inventory of all sites with development potential and pursue opportunities for acquiring undeveloped or underdeveloped properties.*
- *Update the Vail Land Use Plan and identify more areas for employee housing.*

ECONOMY

Goal #3: Maintain a town-wide workforce in which at least 30 percent of people who work in Vail also live in Vail.

- *Support the local economy by working with the business community to address future workforce housing needs as they relate to business in Vail.*

Vail Land Use Plan (in part) – The Land Use Plan is not intended to be regulatory in nature but is intended to provide a general framework to guide decision making. One specific measure used to implement the recommendations of the Land Use Plan includes amendments to the Official Zoning Map. Other measures include changes to ordinances and regulations or policies adopted by the Town.

Chapter II - Land Use Plan Goals / Policies (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.

1.2. The quality of the environment including air, water and other natural

resources should be protected as the Town grows.

1.6. Development proposals on the hillsides should be evaluated on a case by case basis. Limited development may be permitted for some low intensity uses in areas that are not highly visible from the Valley floor. New projects should be carefully controlled and developed with sensitivity to the environment.

1.7. New subdivisions should not be permitted in high geologic hazard areas.

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.

5.3. Affordable employee housing should be made available through private efforts, assisted by limited incentives, provided by the Town of Vail, with appropriate restrictions.

5.4. Residential growth should keep pace with the market place demands for a full range of housing types.

5.5. The existing employee housing base should be preserved and upgraded. Additional employee housing needs should be accommodated at varied sites throughout the community.

Chapter IV – Existing Land Use

A. Residential

- 1. Single Family Detached / Two Family – includes single family and duplex units, at a density of less than 3 units per acre.*
- 2. Multi-family Medium Density – includes Townhomes, row houses, condominiums, and cluster housing when individual units are not detached. Densities range from 3 to 18 dwelling units per acre.*
- 3. Multi-family High Density – includes apartments and condominiums at densities of over 18 dwelling units per acre.*

G. Open Space

Includes greenbelts, stream corridors, drainageways and other areas which function as passive open space.

J. Vacant / Unplatted

Includes all undeveloped lands that are unsubdivided, including National Forest lands administered by the Forest Service, as well as private holdings within the present municipal boundaries.

Vail Housing 2027 – A Strategic Plan for Maintaining and Sustaining Community through the Creation and Support of Resident Housing in Vail

Ten Year Goal: “The Town of Vail will acquire 1,000 additional resident housing unit deed restrictions by the year 2027.”

Vision: We envision Vail as a diverse, resilient, inclusive, vibrant and sustainable mountain resort community where year-round residents are afforded the opportunity to live and thrive. We take a holistic approach to maintaining community, with continuous improvement to our social, environmental, and economic well being. We create housing solutions by recognizing and capitalizing on our unique position as North America’s premier international mountain resort community in order to provide the highest quality of service to our guests, attract citizens of excellence and foster their ability to live, work, and play in Vail throughout their lives.

Our strategic solutions and actions result in the retention of existing homes, creation of new and diverse housing infrastructure, and collaboration with community partners. For Vail, no problem is insurmountable. With a consistent, community-driven purpose and an entrepreneurial spirit, Vail will lead the industry in innovative housing solutions for the 21st century. The Town is well positioned financially to undertake this significant challenge.

Mission: Maintaining and Sustaining Community

“We create, provide, and retain high quality, affordable, and diverse housing opportunities for Vail residents to support a sustainable year round economy and build a vibrant, inclusive and resilient community. We do this through acquiring deed restrictions on homes so that our residents have a place to live in Vail.”

Policy Statement - Resident Housing as Infrastructure

“We acknowledge that the acquisition of deed restrictions on homes for Vail residents is critical to maintaining community. Therefore, we ensure an adequate supply and availability of homes for residents and recognize housing as infrastructure in the Town of Vail; a community support system not unlike roads, bridges, water and sewer systems, fire, police, and other services of the municipal government.”

2009 Environmental Sustainability Strategic Plan – The purpose of this plan is to define a strategy that consists of measurable goals, objectives, and actions that will help the Town coordinate efforts to achieve the environmental vision of the community.

Goal #2 – Energy Efficiency: Reduce the Town of Vail municipal and community energy use by 20% below 2006 levels by 2020, in order to effectively reduce the Town’s contribution to greenhouse gas emissions and impact on global climate change.

Goal #3 – Ecosystem Health: Ensure that the natural environment, specifically air and water quality, water quantity, land use and habitat are maintained to current or improved levels of biological health.

Goal #6 – Transportation – Reduce the environmental impact of transportation by supporting efforts within the Eagle Valley to decrease total Vehicle Miles Traveled (VMT) by commuters and guests by 20% by 2020.

Vail Town Code – Zoning Regulations - These sections are included to provide the Commission with an understanding of the permitted and conditional uses in the Housing (H) District and the Natural Area Preservation (NAP) District, as well as the development standards and review process for any development in these districts.

Title 12, Chapter 6, Article I: Housing

12-6I-1: PURPOSE:

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.

12-6I-2: PERMITTED USES:

The following uses shall be permitted in the H district:

Bicycle and pedestrian paths.

Communications antennas and appurtenant equipment.

Employee housing units, as further regulated by [chapter 13](#) of this title.

Passive outdoor recreation areas, and open space.

12-6I-3: CONDITIONAL USES:

The following conditional uses shall be permitted in the H district, subject to issuance of a conditional use permit in accordance with the provisions of [chapter 16](#) of this title:

Commercial uses which are secondary and incidental (as determined by the planning and environmental commission) to the use of employee housing and specifically serving the needs of the residents of the development, and developed in conjunction with employee housing, in which case the following uses may be allowed subject to a conditional use permit:

Automated teller machines (ATMs) exterior to a building.

Banks and financial institutions.

Business offices and professional offices, as further regulated by section [12-16-7](#) of this title.

Child daycare facilities.

Eating and drinking establishments.

Funiculars and other similar conveyances.

Health clubs.

Personal services, including, but not limited to, laundromats, beauty and barber shops, tailor shops, and similar services.

Retail stores and establishments.

Dwelling units (not employee housing units) subject to the following criteria to be evaluated by the planning and environmental commission:

A. Dwelling units are created solely for the purpose of subsidizing employee housing on the property, and

B. Dwelling units are not the primary use of the property. The GRFA for dwelling units shall not exceed thirty percent (30%) of the total GRFA constructed on the

property, and

C. Dwelling units are only created in conjunction with employee housing, and

*D. Dwelling units are compatible with the proposed uses and buildings on the site and are compatible with buildings and uses on adjacent properties.
Outdoor patios.*

Public and private schools.

Public buildings, grounds and facilities.

Public parks and recreational facilities.

Public utilities installations including transmission lines and appurtenant equipment.

12-6I-4: ACCESSORY USES:

The following accessory uses shall be permitted in the H district:

Home occupations, subject to issuance of a home occupation permit in accordance with the provisions of section [12-14-12](#) of this title.

Minor arcades.

Private greenhouses, toolsheds, playhouses, attached garages or carports, swimming pools, or recreation facilities customarily incidental to permitted residential uses.

Other uses customarily incidental and accessory to permitted or conditional uses, and necessary for the operation thereof.

12-6I-5: SETBACKS:

The setbacks in this district shall be twenty feet (20') from the perimeter of the zone district. At the discretion of the planning and environmental commission, variations to the setback standards may be approved during the review of a development plan subject to the applicant demonstrating compliance with the following criteria:

A. Proposed building setbacks provide necessary separation between buildings and riparian areas, geologically sensitive areas and other environmentally sensitive areas.

B. Proposed building setbacks will provide adequate availability of light, air and

open space.

C. Proposed building setbacks will provide a compatible relationship with buildings and uses on adjacent properties.

D. Proposed building setbacks will result in creative design solutions or other public benefits that could not otherwise be achieved by conformance with prescribed setback standards.

Variations to the twenty foot (20') setback shall not be allowed on property lines adjacent to HR, SFR, R, PS, and RC zoned properties, unless a variance is approved by the planning and environmental commission pursuant to [chapter 17](#) of this title.

12-6I-6: SITE COVERAGE:

Site coverage shall not exceed fifty five percent (55%) of the total site area. At the discretion of the planning and environmental commission, site coverage may be increased if seventy five percent (75%) of the required parking spaces are underground or enclosed, thus reducing the impacts of surface paving provided within a development, and that the minimum landscape area requirement is met.

12-6I-7: LANDSCAPING AND SITE DEVELOPMENT:

At least thirty percent (30%) of the total site area shall be landscaped. The minimum width and length of any area qualifying as landscaping shall be fifteen feet (15') with a minimum area not less than three hundred (300) square feet.

12-6I-8: PARKING AND LOADING:

Off street parking shall be provided in accordance with [chapter 10](#) of this title. No parking or loading area shall be located within any required setback area. 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.

12-6I-9: LOCATION OF BUSINESS ACTIVITY:

A. *Limitation; Exception:* All conditional uses in section [12-6I-3](#) of this article shall be operated and conducted entirely within a building, except for permitted loading areas and such activities as may be specifically authorized to be unenclosed by a conditional use permit and the outdoor display of goods.

B. *Outdoor Display Areas:* The area to be used for outdoor display must be located directly in front of the establishment displaying the goods and entirely upon the establishment's own property. Sidewalks, building entrances and exits, driveways and streets shall not be obstructed by outdoor display.

12-6I-10: OTHER DEVELOPMENT STANDARDS:

A. *Prescribed By Planning And Environmental Commission:* In the H district, development standards in each of the following categories shall be as proposed by the applicant, as prescribed by the planning and environmental commission, and as adopted on the approved development plan:

1. Lot area and site dimensions.
2. Building height.
3. Density control (including gross residential floor area).

12-6I-11: DEVELOPMENT PLAN REQUIRED:

A. *Compatibility With Intent:* To ensure the unified development, the protection of the natural environment, the compatibility with the surrounding area and to assure that development in the housing district will meet the intent of the zone district, an approved development plan shall be required.

B. *Plan Process And Procedures:* The proposed development plan shall be in accordance with section [12-6I-12](#) of this article and shall be submitted by the developer to the administrator, who shall refer it to the planning and environmental commission, which shall consider the plan at a regularly scheduled meeting.

C. *Hearing:* The public hearing before the planning and environmental commission shall be held in accordance with section [12-3-6](#) of this title. The planning and environmental commission may approve the application as submitted, approve the application with conditions or modifications, or deny the application. The decision of the planning and environmental commission may be appealed to the town council in accordance with section [12-3-3](#) of this title.

D. Plan As Guide: The approved development plan shall be used as the principal guide for all development within the housing district.

E. Amendment Process: Amendments to the approved development plan will be considered in accordance with the provisions of section [12-9A-10](#) of this title.

F. Design Review Board Approval Required: The development plan and any subsequent amendments thereto shall require the approval of the design review board in accordance with the applicable provisions of [chapter 11](#) of this title prior to the commencement of site preparation.

12-6I-12: DEVELOPMENT PLAN CONTENTS:

The administrator shall establish the submittal requirements for a development plan application. A complete list of the submittal requirements shall be maintained by the administrator and filed in the department of community development. Certain submittal requirements may be waived and/or modified by the administrator and/or the reviewing body if it is demonstrated by the applicant that the information and materials required are not relevant to the proposed development or applicable to the planning documents that comprise the Vail comprehensive plan. The administrator and/or the reviewing body may require the submission of additional plans, drawings, specifications, samples and other materials if deemed necessary to properly evaluate the proposal.

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.

Title 12, Chapter 8, Article C – Natural Area Preservation

12-8C-1: PURPOSE:

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.

12-8C-2: PERMITTED USES:

The following shall be permitted uses in the NAP district:

Nature preserves.

12-8C-3: CONDITIONAL USES:

The following conditional uses shall be permitted in the NAP district, subject to the issuance of a conditional use permit in accordance with the provisions of [chapter 16](#) of this title:

Equestrian trails, used only to access national forest system lands.

Interpretive nature walks.

Parking, when used in conjunction with a permitted or conditional use.

Paved and unpaved, nonmotorized, bicycle paths and pedestrian walkways.

Picnic tables and informal seating areas.

Other uses customarily incidental and accessory to permitted or conditional uses and necessary for the operation thereof, with the exception of buildings.

12-8C-4: ACCESSORY USES:

Not applicable in the NAP district.

12-8C-5: DEVELOPMENT STANDARDS:

Not applicable in the NAP district.

12-8C-6: PARKING AND LOADING:

Parking and loading requirements will be determined by the planning and environmental commission during the review of conditional use requests in accordance with the provisions of [chapter 16](#) of this title.

12-8C-7: ADDITIONAL DEVELOPMENT STANDARDS:

Additional regulations pertaining to site development standards and the development of land in the natural area preservation district are found in [chapter 14](#), "Supplemental Regulations", of this title.

V. SITE ANALYSIS

Address:	3700 N. Frontage Road East
Legal Description:	Unplatted (See Attachment B for legal description)
Lot Size:	23.3 acres (1,015,470 square feet)
Existing Zoning:	Two-Family Residential (R)
Proposed Zoning:	Housing (H) District (West 5.4 acres) Natural Area Preservation (NAP) District (East 17.9 acres)
Land Use Plan Designation:	Open Space
Current Land Use:	Undeveloped
Anticipated Future Land Use:	Employee Housing and Open Space
Geological Hazards:	Steep Slopes; Rock Fall (High Severity);

VI. SURROUNDING LAND USES AND ZONING

	<u>Existing Use</u>	<u>Zoning District</u>
North:	US Forest Service	None
South:	I-70 Interchange/Townhomes	None/Residential Cluster (RC)
East:	US Forest Service	None
West:	I-70 Interchange/Memorial Park	None/Natural Area Preservation (NAP)



VII. REVIEW CRITERIA

Before acting on an application for a zone district boundary amendment, the planning and environmental commission and town council shall consider the following factors with respect to the requested zone district boundary amendment:

- 1. The extent to which the zone district amendments are 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.**

The development objectives for the community as identified in the Vail 20/20 Strategic Action Plan, Land Use Plan, Environmental Sustainability Strategic Plan, and the Vail

Housing 2027 Plan are to:

- Continue to manage growth through infill development with high quality residential, commercial and recreation uses that maintain the quality, character and diversity of the town.
- Support the development of employee housing to support the local economy, and reduce the environmental impacts of transportation.
- Provide enough deed restricted employee housing for at least 30% of the workforce.
- Protect the natural environment and be a leader in environmental sustainability.
- Reduce total Vehicle Miles Travelled (VMT) by commuters and guests by 20% by 2020.
- Maintain and improve the water quality of Gore Creek.
- Create an integrated transportation system catered to the needs of residents, guests and employees.
- Minimize the environmental impact of the transportation system on the town and region.
- Build a year-round economy by growing the summer economy.

The applicable elements of the Town's adopted goals, objectives and policies outlined in the Vail comprehensive plan relevant to this application fall into two main categories: Housing and Environmental Sustainability. (The Town's Land Use map indicates this desired use for this parcel as open space, and is discussed in Criteria #7 below.)

The applicant is proposing to address each of these issues as part of the proposed rezoning, and as a result, to implement a number of community goals as identified in the Vail comprehensive plan. Specifically, the rezoning will help to provide additional sites within the Town for employee housing, and also ensure that a large portion of the site is preserved in a natural state. The rezoning will help to implement several community goals identified in the Land Use Plan and the 20/20 Action Plan, as mentioned above in Section IV.

Thoughtful consideration should be given to how this site is developed to minimize impacts to wildlife in the area. There will be impacts to wildlife; the question then becomes, how can these impacts be reduced? Wildlife issues that must be considered on this site include habitat for Bighorn sheep, elk, and black bear. The area surrounding this property has also been identified as a peregrine falcon nesting area, although the nesting area is primarily to the south of I-70. A Bighorn sheep migration pattern has been identified on the property by Colorado Parks and Wildlife, and the area (including portions of the applicant's property), is identified as Bighorn sheep winter range. The applicant's property is also within a black bear summer concentration area, and is likely also elk winter range, as identified in the attached wildlife assessment letter from Western Ecosystems, Inc. (Attachment E.)

Potential negative impacts to wildlife are not directly a result of the rezoning, but rather from the development of this site. Any impacts to the site should be reduced by clustering the development on one portion of the site, while leaving the rest of the site open and undeveloped. The Housing (H) District is proposed on only 23% of the site.

The site is currently zoned Two-Family Residential (R), and can be developed under the current zoning, however, a subdivision application and public hearing would be required to subdivide the property into individual development lots. The potential impact of a more dispersed development pattern, which is possible with the existing zoning, may be greater than a more clustered development on only a small portion of the property.

By rezoning the property to Housing (H) District, the future development of the site will be primarily employee housing (or other permitted or conditional uses) and will require a detailed development plan and a public hearing with the Planning and Environmental Commission. Other permitted uses in the Housing (H) District include bicycle and pedestrian paths; communications antennas and appurtenant equipment; and passive outdoor recreation areas, and open space.

Staff finds this criterion to be partially met. Employee housing provides community benefits and will address a significant community priority. Development on the site may impact wildlife, and mitigation measures will be required with the development plan.

2. The extent to which the zone district amendments are 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.

The zone district boundary amendments are suitable with the existing and proposed land uses on the sites and the existing and potential surrounding land uses. The proposed zoning as Housing (H) District is a residential use, and is compatible with other nearby residential uses.

The nearest development to this site is the existing Pitkin Creek Townhomes (formerly The Falls at Vail), to the southeast. Pitkin Creek Townhomes are over 470 feet from the eastern boundary of the proposed Housing (H) District. Other nearby significant developments include the Booth Falls neighborhood to the east (1,345 feet), and east Vail neighborhoods to the south and east along Bighorn Road. Therefore, rezoning and development on the western 5.4 acres of the property should not conflict with the existing or potential uses on the site or with existing and potential surrounding land uses, except for potential impacts to wildlife. The property is less than ½ mile to the Pitkin Creek Park shopping center, which is also on the town bus route. .

While the rezoning increases the opportunity for density on the site, the zone district amendment does not conflict with existing or potential uses on the site, or with existing and potential surrounding land uses as set out in the town's adopted planning documents.

The rezoning of the eastern 17.9 acres of the subject property to Natural Area Preservation (NAP) is consistent with the undeveloped U.S. Forest Service land to the north and east. There are also large parcels of land to the northwest in the Booth Falls area, and across I-70 that are open space, owned by the Town of Vail.

Staff finds this criterion to be met.

3. The extent to which the zone district amendments present a harmonious, convenient, workable relationship among land uses consistent with municipal development objectives.

The proposed zone district amendments address several community objectives, including employee housing and infill development that is served by transit and existing utilities. As a residential use, the proposed Housing (H) District is compatible with its nearby residential neighbors. Also, by zoning a portion of the site as Natural Area Preservation (NAP), a large portion of the site will also be maintained as habitat for protection of wildlife. Of the total winter range and sever winter rage Bighorn sheep, approximately 1.2% is overlapping the subject parcel. As a result, the proposed rezoning appears to present a harmonious, convenient, workable relationship among land uses consistent with municipal development objectives.

The challenge with this application is to balance competing community objectives. Development and wildlife do not need to be mutually exclusive to be successful. Mitigation of the impacts of development will be required, but can only be addressed when a site specific development plan has been created. At that time, specific mitigation measures may be considered. For example, outdoor lighting, trash, dogs and other potential impacts from development will be considered as part of the development plan.

Each of the proposed uses is supported by municipal development objectives. The primary benefits of the rezoning result in two community benefits that independently are desirable, but which may result in impacts that need mitigation. In other locations in town, the Housing (H) District is immediately adjacent to the Natural Area Preservation (NAP) District including the Middle Creek employee housing development which is adjacent to Natural Area Preservation (NAP) District, and portions of Lionshead, which are adjacent to designated open space.

Staff asks the Planning and Environmental Commission to determine if this criterion is met.

- If this criterion is not met, what aspect of the proposed rezoning does not meet this criterion?
- What additional information, if any, is needed to make a decision on this objective?

4. The extent to which the zone district amendments provide 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.

The proposed zone district amendments provide for the growth of an orderly viable community by establishing sites for employee housing in locations near existing infrastructure, including existing roads, utilities, and bus service. The amendment does not constitute spot zoning as it is compatible with and supportive of adjacent land uses and serves the best interest of the community, and is supported by several community goals identified in the comprehensive plan. The property is also already zoned for residential uses.

Rezoning the western 5.4 acres of the site to Housing (H) District is compatible with the community goals of establishing sites for employee housing within the Town in locations served by transit. The property is an infill development site, and the proposal would not expand the Town boundary. Furthermore, the site is well served by existing utilities, existing roads, and by the existing Town of Vail free bus system.

Alternatively, the site is currently zoned for residential use (although not shown on the Official Zoning Map). Based on existing zoning of Two Family Residential (R), the property could be developed with 10 – 15 duplex lots (each lot a minimum of 15,000 square feet.), or up to 30 additional dwelling units, plus an additional 10-15 employee housing units (1 EHU per lot). For comparison purposes, the Spraddle Creek subdivision a similar development on steep slopes that was developed with single family homes adjacent to open space and U.S. Forest Service property. This 14 lot subdivision spreads out the development on the hillside, with a serpentine roadway, and provides only one employee housing. The PEC should consider what development pattern is preferred, and if clustered employee housing is a more suitable use for this land than a more spread out, single family or two-family residential development.

The proposed rezoning on the eastern portion of the site to Natural Area Preservation (NAP) is consistent with the current Land Use designation as Open Space, and is consistent with the adjacent property owned by the U.S. Forest Service.

The Community Development Department finds that rezoning the western part of the property to Housing (H) District, and maintaining the eastern 17.9 acres as Natural Area Preservation (NAP) District, meets several community goals. The rezoning would serve the community as a whole by creating sites for employee housing, restricting development on the steepest portion of the site, maintaining a large area of protected land, and ensure that the future development plan goes through a public hearing process.

Staff finds this criterion to be met.

5. The extent to which the zone district amendments result 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.

The proposed rezoning will not directly result in adverse impacts to the natural environment. However, the future development of the site facilitated by the rezoning will have impacts on the vegetation of the site, and may have impacts on the wildlife in the vicinity. From an overall sustainability viewpoint, clustering the future development on less than 25% of the site, providing sites for employee housing within the limits of the town boundary, and maintaining the remainder of the site for nature preserves may have a net environmental benefit.

Future developments on the rezoned parcels will be required to adhere to all applicable environmental standards during development review, construction and operation. Any future development in the Housing (H) District will also require review of a development plan by the Planning and Environmental Commission, as well as review of the design and landscaping plan by the Design Review Board.

The development of employee housing units on this site may reduce traffic from employees driving into town, if the residents relocate from other towns; thus development of employee housing could have a positive impact on the air quality. It could also have a negative impact on air quality as it may increase car traffic in town. The rezoning from Two-Family Residential (R) to Housing (R) will impact pedestrian and vehicular traffic and transit operations in the vicinity. Specifically, a high density housing development at this location will likely require the Town of Vail to increase frequency and or add a new express bus route to this location in order to accommodate the increased volume of transit ridership.

The cost adding bus service is significant and should be recognized during the review of this rezoning. However, increased ridership could be viewed as positive, further reducing traffic and improving air quality through reduced vehicle miles travelled, and reducing impacts to existing parking lots in the core of town. Other traffic considerations include the likely need for turn lanes into the development and connecting pedestrian paths to the east and west.

In addition, a large portion of the site (17.9 acres or 76.8% of the site), is proposed to be zoning Natural Area Preservation (NAP), which is the most restrictive zoning in the Town of Vail. This zone district will ensure that over $\frac{3}{4}$ of the site is protected from future development, which is greater protection than currently exists on the site as zoned Two-Family Residential (R) District.

Staff finds this criterion to be met by the creation of the Natural Area Preservation (NAP) District, but that the rezoning of a portion of the site to Housing (H) may have potential future impacts on the natural environment, including wildlife.

6. The extent to which the zone district amendments are consistent with the purpose statement of the proposed zone district.

The proposed rezonings are consistent with the purpose statement of the Housing (H) District and the Natural Area Preservation (NAP) Districts and future developments on these sites will also be required to be compatible with its intent.

Housing

Section 12-6I-1 PURPOSE

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.

Natural Area Preservation

Section 12-8C-1 PURPOSE

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

Staff finds this criterion to be met.

7. The extent to which the zone district amendments demonstrate how conditions have changed since the zoning designation of the subject property was adopted and is no longer appropriate.

The proposed zone district boundary amendment demonstrates how conditions have changed regarding the subject property. The Official Zoning Map currently shows the property as “Not Designated” for zoning purposes. The Community Development Department believes this current zoning designation on the map is in error and that the property is zoned Two-Family Residential (R), as explained in the Background in Section III above.

Staff believes that the zoning designation was removed by mistake when the Town of Vail changed its mapping systems from paper to GIS (Geographic Information Systems). It is also suggested by the applicant that the designation of the property on the Town’s Land Use Map as Open Space was a mistake, since the ownership of the property was assumed at the time to be CDOT, and not private property. A recent title commitment verifies the ownership. There is a possibility that the designation of open space in the Land Use Plan was based on the characteristic of the land, but this theory conflicts with the zoning as Two-Family Residential (R), which is more consistent with a land use of Low Density Residential.

Staff finds this criterion to be met.

8. Such other factors and criteria as the commission and/or council deem applicable to the proposed rezonings.

In addition to the considerations mentioned above, the Planning and Environmental Commission should consider the rock fall hazards of this area, and the recommendations in the attached Rockfall Hazard Study, Casare, Inc., dated June 19, 2017. The entire subject parcel is within a High Severity Rockfall area, and portions of the site are steep slopes of over forty percent (40%) grade. As of the date of publishing this memo, an independent review of the applicant’s rockfall study is being performed the Colorado Geological Survey. The results of that review will not be available until September 19th.

Within the rockfall area, development is not restricted, but additional site specific geological investigation prepared by a professional geologist is required before a building permit will be issued, based upon a proposed development plan. The Casare, Inc. prepared Rockfall Hazard Study recommends the construction of a rockfall rigid wall barrier or wall at least twelve (12) feet in height.

The development of structures is prohibited on slopes of forty percent (40%) or greater, except in the Single Family Residential (SFR), Two-Family Residential (R), Two-Family Primary Secondary (PS) zone districts. Rezoning the property from the Two-Family

Residential (R) District to Housing (H) and Natural Area Preservation (NAP) District will ensure that development does not happen on the existing steep slopes on the site.

VIII. 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.

As mentioned in the beginning of this memo, the fundamental question for the Planning and Environmental Commission to consider with this rezoning application is this:

- **Is this property, owned by Vail Resorts, an appropriate location for deed restricted employee housing in the Town of Vail?**

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

- The significant need and goal of providing sites for employee housing within the community. Vacant, undeveloped land to accommodate this need is rare within the Town of Vail.
- A future 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.
- Rezoning of the site to Housing (H) and Natural Area Preservation (NAP) will not directly impact the wildlife in this area, but the future development of housing may have an impact.
- The impact of future development cannot be quantified, nor can the mitigation measures be prescribed, until a site specific development plan has been provided. Whether or not this property is developed with employee housing units, or single family and duplex lots, mitigation of the impacts to wildlife and potential impacts from rockfall will need to be mitigated. Mitigation can not be determined until a specific development plan is developed.
- A development plan for employee housing in the Housing (H) District will require a separate public hearing with the Planning and Environmental Commission.
- The property is currently zoned Two-Family Residential (R) and has development rights. Rezoning the property will ensure that development happens on less than one fourth (1/4) of the site, and ensures that the future development plan will require public notice and a public hearing with the Planning and Environmental Commission.

The Community Development Department recommends the Planning and Environmental Commission **continue this application to the September 25, 2017** meeting to allow for an independent review of the applicant's rockfall hazard study and wildlife report.

Should the Planning and Environmental Commission determine that it has enough information to make a recommendation to the Town Council, and chooses to forward a recommendation of **approval** to the Vail Town Council for the zone district boundary amendments, the Community Development Department recommends the Commission pass the following **motion**:

"The Planning and Environmental Commission forwards a recommendation of approval to the Vail Town Council for zone district boundary amendments, pursuant to Section 12-3-7, Amendment, Vail Town Code, to rezone an unplatted parcel of land in the South ½, Southeast ¼, of Section 2, Township 5, Range 80 West 6th Principal Meridian located at 3700 N. Frontage Road East, from Two-Family Residential (R) District to the Housing (H) District on the western 5.4 acres, and a rezoning from Two-Family Residential (R) District to Natural Area Preservation (NAP) District on the eastern 17.9 acres, and setting forth details in regard thereto."

Should the Planning and Environmental Commission choose to **forward this recommendation of approval**, the Community Development Department recommends the Commission makes the following **findings**:

"Based upon the review of the criteria outlined in Sections VII of the Staff memorandum to the Planning and Environmental Commission dated September 11, 2017, and the evidence and testimony presented, the Planning and Environmental Commission finds:

- 1. That the amendments are consistent with the adopted goals, objectives and policies outlined in the Vail comprehensive plan and compatible with the development objectives of the town; and*
- 2. That the amendments are compatible with and suitable to adjacent uses and appropriate for the surrounding areas; and*
- 3. That the amendments promote the health, safety, morals, and general welfare of the town and promote 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."*

IX. ATTACHMENTS

- A. Vicinity Map
- B. Legal Description

- C. Project Narrative, Mauriello Planning Group – August 17, 2017
- D. Topography Maps, Peak Land Consultants, Inc. – February 27, 2017 and August 14, 2017
- E. Wildlife Report, Western Ecosystems, Inc. – August 10, 2017
- F. Rockfall Hazard Study, Cesare, Inc. – June 19, 2017 (*Please use this link to access the Rockfall Hazard Study*):
<http://www.vailgov.com/Portals/0/docs/studies/Geo%20Hazard%20Study,%20East%20Vail%20Parcel%2006.19.17.pdf>
- G. Public Comments Received by September 7, 2017
- H. Subdivision Plat (For Reference Only - Not Part of this Application)