

Vail Homeowners Association



A Word of Truth What's Next for the Sheep Wednesday, September 25th

A Word of Truth. It is rare that the VHA ever publishes a letter it receives but this is one of those occasions. Here is a letter of such magnitude and honesty that we publish it in its entirety, without the necessity for any further comment or observation.

Booth Heights Affordable Housing Project.

My objections to this project have absolutely nothing to do with affordable housing. I am Rob Ford, often referred to as the housing Mayor, and I spent 4 years in town hall working for affordable housing. I am against this project because it is a lousy project that is being unethically jammed through the system under the disguise of affordable housing.

The residents of Vail must stand up for quality, for working with the citizens of Vail, and for doing our best to protect threatened wildlife. The processes to approve this project must adhere to the highest standards of fairness and openness for all. These were our standards when I was in office. I am appalled to see every one of these ideals violated with this Booth Heights Project.

Affordable housing is just as important today as it was when I was in office. However, the problem of retaining an excellent work force is far more complicated today than 20 years ago. Affordable housing alone will not solve the problem. Yes, it is a step in the process. But to violate all the standards of integrity that this council has done to ram this project through is insulting. Those that voted this project through on both the PEC and the Town Council should be ashamed.

Out of nowhere this parcel was discovered to be a buildable parcel. It was rushed through an up-zoning before anyone knew what was going on. Those that talked about Conservation easements were pushed aside. There are members of today's council that feel affordable housing is the panacea for everything. They will do anything to get it built. They have lost their balance, and in their drive, they have lost total sight of any integrity and quality for which Vail used to stand for.

Planning. The drive to build as much housing as possible has been the overriding theme throughout the planning process. **Short shrift** was given to blending with the neighborhood. The neighbors' concerns were swept aside. There was no effort to adapt the project to the neighborhood. Housing at any cost. Parking requirements do not seem adequate. No matter. Housing at any cost.

Wildlife concerns. The bighorn sheep have been here forever. It is because of their presence that East Vail has been called Bighorn right up to today. The wildlife report drafted for the developer was blindly accepted by Town Hall. When concerned citizens scrambled to get nonbiased reports conducted by certified wildlife biologists, the conclusions were totally opposite. The sheep were going to be wiped out by this project. How did Vail Resorts and the developer respond? They said they would prohibit owners and renters from having dogs. Excuse me. You have to be kidding me. This is a total crock. It is unenforceable and will not save the sheep. Not to be deterred, the developers Triumph and Vail Resorts pressed on.

The process. This project was put before the Planning and Environmental Commission. It was unbelievably approved by a four to three vote. A Vail Resorts employee on the commission was allowed to vote for the project. Now this is a new low in the ethical standards I have referred to above. The Vail Resorts employee would not recuse himself from the vote and was the deciding vote to push the project through. Incredible.

The Town Council. Despite all the controversy mentioned above, a majority of the Town Council voted down a request for the approval of this project to be brought before them. Despite the community's strong concerns, the Council was fine with letting the tainted approval of this project be decided by the unelected bureaucrats that sit on the PEC. Four members of the town council, including the Mayor, were unwilling to let their concerned constituents present their concerns to them. I am sorry, this is totally unacceptable for an elected body. A new low in responsibility.

Where we are now. The community would not stand for this. A record breaking 22 citizen appeals were filed to force the PEC decision up to the council. The hearing will be October 15th before the council.

I want to reiterate I am not against affordable housing. This site may end up being perfect for some housing. However, we must stand up for the high standards that Vail used to uphold. We must make sure the sheep are protected. We must stand up for an untainted process. If the Vail Resorts employee had recused himself, the project would not have passed. And finally, we must stand up for listening to our constituents.

Rob Ford
Vail Town Council 1996-1999
Vail Mayor 1998-1999

What's Next. The Town Council refused on a 4 – 3 vote to call up the Booth Heights PEC decision for review. Now a total of 22 appeals have been filed to force the Town Council to consider the Booth Heights development and the fate of the bighorn sheep. This is totally unprecedented in Vail's history. Never before have residents stepped up in such a massive and united way to protect core Vail values. Yet, whether any of those efforts will get a fair and impartial hearing before the Town Council is very much up in the air.

Will There be a Fair and Impartial Process? As the Town begins processing these unprecedented appeals, it is essential that it be a fair and impartial process, yet there already are reasons to be concerned that may not be the case.

First, there is the fact that the Town has imposed a total blackout over the appeals. It will not release the names of the appellants or produce copies of the appeals. This is outrageous and an incredible violation of the fundamental foundational concept of the Town, enshrined in the Town Charter, that public records shall be open to all. It puts the town government in the untenable position of an adversary of the very people it represents. These appeals should be a matter of public record, open to one and to all. The fact that the Town Council has not said one word about this abomination is shocking. CORA (Colorado Open Records Act) requests can be made to get access to the records but forcing that process is the antithesis of good government. It almost seems like a "1984" effort to monitor who might be concerned enough to get the records.

Second, there is the matter of how the Town is handling the standing issues. The Town Code places the responsibility for determining whether an appellant has standing to appeal a decision of the PEC in the hands of the Director of Community Development. It has been reported that decision has now been made for all 22 appellants, and yet, the Town will also not release those decisions (except to announce that at least one yet to be identified appellant has been found to have standing). The public has a right to know what those decisions are and the reasons for them.

Third, there is a right of appeal for those appellants who are ruled to not have standing. There are indications that the Town Council might try to exclude public scrutiny of that process by

handling those appeals in Executive Session. That could come up as soon as the next Town Council meeting on October 1st. Were that to happen, it would be a travesty. All appeals should be conducted in the light of day under fair and transparent procedures before impartial and neutral decision makers.

Fourth, there is a concern that one member of the Town Council is not impartial when it comes to this project. On June 25th, Council member Greg Moffet announced his unqualified “without reservations” support of the Booth Heights development. That was before there was any presentation of the project, any testimony or public input and before the Town hired independent wildlife experts to review the project. Were he to sit in judgment on any aspect of the project would raise serious issues of impropriety, and yet, whether he will recuse himself or otherwise be disqualified remains to be seen.

Fifth, there are the rules that are going to govern how the appeals are heard. Because this is the first time of multiple appeals, the Town Council is going to have to adopt rules for the procedures to be followed. There are also indications that the Town Council might adopt those rules in Executive Session, once again excluding any public scrutiny of the process. That could also happen at the next Town Council meeting. That is not the way to conduct the public’s business. The rules should be openly discussed and debated in public session where all can see how they are adopted and for what reasons.

Sixth, at a minimum the rules for the appeals should provide:

1. Each appellant should have the right to present their appeal either personally or through an advocate of their choosing. A source has informed the VHA that consideration is being given to requiring that appellants be restricted to either an in-person presentation or presentation by a licensed attorney. Appellants should have the right to have a spokesperson of their own choosing.
2. Appellants should have the right, but not be required, to associate together for presentations. There are also indications that rules might be adopted to require appeals to be consolidated. That would be a denial of fundamental justice to anyone that cannot have their appeal heard on its own merits.
3. Appellants should have the right to present evidence at the hearing. This is a right already guaranteed by the Town Code, but it’s worth repeating.
4. The public should have the opportunity to be heard. This would seem to be a given in that the Town Charter is premised on the concept that citizens should be encouraged to be involved and participate in local government, and the Charter guarantees that the public “shall have a reasonable opportunity to be heard,” but given the restrictions that were imposed on public participation before the PEC that can no longer be taken for granted. Restricting public participation to only three minutes or some other limited time makes a mockery of public input guarantees.
5. Triumph Development should have no greater rights or presentation opportunities than the appellants, and time for presentations should be equally divided. There should not be a repeat of what happened before the PEC where Triumph was allowed unlimited time and opponents were restricted mostly to three minute presentations.

The VHA urges that the Town Council take all necessary steps to ensure that this will be a fair and impartial process. Not to overstate the case, but how these appeals are handled will say much about the integrity and propriety of the town government. There is, therefore, every reason for the Town to get this right.

IF THESE ARE MATTERS THAT CONCERN YOU, THE VHA URGES YOUR ATTENDENCE AT THE NEXT TOWN COUNCIL MEETING ON OCTOBER 1st AND FOR YOU TO MAKE YOUR VIEWS KNOWN. YOUR VIEWS WILL NOT BE CONSIDERED IF YOU DO NOT EXPRESS THEM.

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