



Bighorn Sheep herd occupies, as its primary winter habitat, all of the site that is being claimed by housing developers.

VAIL HOMEOWNERS ASSOCIATION

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The Booth Heights MOU

A Wildlife Master Plan

Stopping the COVID-19 Spread

VHA Annual Meeting

In this issue we report on three matters: the status of the proposed MOU for the Booth Heights/Middle Creek land swap, the need for a Wildlife Master Plan (which includes an update on the steps being taken to restore the sheep winter foraging areas) and stopping the spread of COVID-19.

The Booth Heights MOU

At Tuesday's Town Council meeting, while all were in favor of the potential relocation of the Booth Heights development to Town owned Middle Creek property, there was spirited opposition to other parts of the proposed MOU. Most of the opposition focused on the inclusion of a housing plan with a delayed title transfer and [the lack of any plan for the protection of the Booth Heights property once it was acquired by the Town.](#) Since the meeting was just for the purpose of public input, no action was taken nor did the Council members comment on those concerns or the proposal that the housing plan should be separately addressed through a Master Plan. It did appear, however, that the suggestion of a separate Master Plan was well received.

The Town will now to discuss the various comments and concerns with Vail Resorts and Triumph, and the VHA has been assured there will be amendments to the MOU and that the Town will try to craft an agreement in as simple a way as possible. This will play out over the next few days and amendments might be available by next week. There is another Council meeting on the MOU scheduled for August 4. That does not leave much time to draft amendments so there is the possibility that schedule could change. VHA will continue to monitor and report on what we learn but, in the meantime, mark your calendars for **August 4 at 6pm** and watch for updates.

Other Issues. As the TOV continues to work on affordable housing, the VHA suggests there are two other aspects of the overall housing issue that need to be addressed: the Town's policies on short-term rentals and the "fee-in-lieu" of providing housing units. Both operate to reduce affordable housing units for Town workers and employees, albeit in different ways. The Town lost a large number of worker/employee housing units when landlords convert to short-term rentals. Although the exact number is not presently known, it is reliably pegged in the hundreds of units. In effect, the Town has been chasing its tail with the 2027 housing plan since the probable loss of housing units to short-term rentals is in excess of the 200 units that have been achieved under the 2027 plan.

Currently, there is no limitation on the conversion to short-term rentals as long as the landlord can check the necessary boxes. That does not need to be the case. Incentives for long-term rentals and programs to vet applicants are two ways that could address the problem; other communities have enacted outright bans on short-term rentals. The VHA is not suggesting any particular solution, only that this is a matter that the Town Council should examine and for which develop appropriate policies; otherwise, much of the good work under the 2027 plan will go for naught.

The "fee-in-lieu" program also reduces housing units by allowing developers to buy off the obligation of providing housing units. While the fees under the program go to the VLHA to use to acquire housing units, the program reduces the total number of units because the fees required are not sufficient to build an equal number of units. That is because the fees are calculated on an "affordability gap" basis rather than being based on an equivalent construction cost. Presently, there is a hold on approving any other "fee-in-lieu" plan, but this also is a matter that the Town Council should examine and develop policies for going forward.

Only by having a fully integrated and comprehensive approach to the housing issue will the Town be able to move forward in a cohesive and sound manner.

A Wildlife Master Plan



Bighorn Sheep forage on hillside above Booth Height development site.

Progress on the Sheep Habitat. At Tuesday's afternoon Town Council meeting, progress was reported on the protection of the Bighorn Sheep with an update on plans to restore 4,400 acres of USFS land that is in the sheep's winter foraging area. This is the result of the Bighorn Sheep Restoration Working Group that was formed by the TOV. The group consists of representatives from the TOV, USFS, CPW, landowners and biologists, whose goal was to develop a course of action to address habitat restoration. As a result of that group's collaboration, the USFS has proposed a Vail Valley Forest Health Project that will be a combination of prescribed burns, manual pruning and cutting and mechanical treatments on USFS land. To proceed with that plan, an Environmental Assessment is required which will be funded by the TOV. Due to regulatory requirements, that will not be completed until fall of '21, and it is then contemplated that the work will be done

in the winter of '21 and into the spring of '22. Periodic enhancements would then be carried out annually for the next three years.

At the same time, the TOV will continue with similar work on Town owned land adjacent to the USFS land. That work has already been underway but, due to the COVID-19 impacts, had to be suspended. It is now expected to resume. Not in either plan is any work on the Booth Heights site. While the original development rights for Booth Heights required a payment of \$100,000 for habitat restoration, that money has not been paid and is not currently included in the MOU provisions for the Booth Heights/Middle Creek land swap.

The USFS proposal will be part of a Challenge Cost Share Agreement between the TOV and USFS which is scheduled to be presented to the Town Council on August 4th. While restoration of habitat is an important step in the preservation of the herd, it does not by itself ensure survival of the sheep. That is because the herd is so small that further negative impacts—which will occur if Booth Heights goes forward—could result in population collapse and extinction of the sheep. Therefore, regardless of habitat restoration, the Booth Heights/Middle Creek land swap and permanent protection of the Booth Heights property from any development is critical to the sheep's survival.

Permanent fencing? Also, on the table for the East Vail area is the possibility of permanent animal fencing along the highway to keep sheep off Frontage Road and I-70. CDOT is currently working on two proposals: one is for a mile of fencing on just the north side of the highway, the other is for much longer fencing on both sides of the highway. While such fencing would serve to keep the sheep off the highway, it will also block migrating animals. And if the fencing were only on the north side of the highway, it would also trap animals migrating from the south out on the highway, potentially leading to more vehicular collisions. There is, therefore, a need for a comprehensive plan for the East Vail area, one that would include both fencing and a safe passage (under or over-pass) for migrating animals, but that is not, currently, under consideration nor is it being advocated by the TOV.

Does Vail Need a Wildlife Master Plan? There is not just a need to address the plight of migrating animal in East Vail but also a need for a comprehensive plan to preserve and protect all the wildlife in the Vail area. It's not just the sheep that are in danger. Across the area deer, elk and other species have experienced alarming declines; road kill remains a serious problem for both the wildlife as well as the people involved, and north/south migration routes have been squeezed into two narrow corridors (one of which might soon be permanently closed).

The TOV has an important stewardship role in protecting not just the natural environment but in also protecting the animals who live here, not just for now but also for future generations. Yet, while wildlife protection is an important core value of the Vail community, there is no master plan for achieving that goal, and the human impacts on area wildlife are not sustainable. Thus, while Vail has an Environmental Sustainability Strategic Plan (2009), it focuses entirely on the natural environment and does not even mention wildlife. True, there is a plan for the Gore Creek watershed, and there should soon be a plan for the sheep. But these are specific individualized plans; there is no overall plan to proactively sustain, much less rebound, wildlife populations.

The protection of wildlife is a shared responsibility. Both the USFS and CPW play significant roles in that regard, but the TOV policies are also important. The VHA submits that just like there is need for a housing Master Plan, Vail also needs a Wildlife Master Plan. It should be informed by experts and should address the decline in wildlife populations, the loss of connectivity across I-70 and how to mitigate human impacts. Loss of

connectivity is a potentially huge concern which will only become a larger issue as I-70 traffic increases in the coming years. There are only two I-70 crossing areas within the TOV: at Dowd Junction and in East Vail. The Dowd Junction box culvert is too small, and the East Vail crossing, which requires animals to cross both Frontage Road and I-70, would be permanently closed by the proposed fence to bar sheep getting on Frontage Road and I-70. At first blush, it would seem that the Dowd Junction culvert needs to be expanded, and a safe passage crossing (either a wildlife culvert or an overpass) needs to be placed in East Vail, but those are matters that a proper Master Plan could address. The same is true of the impact from hiking trails in wildlife habitat; those impacts will also increase as the valley population and visitors grow. All those issues need to be addressed in a comprehensive, holistic way so that there is a guideway for the future that fully implements Vail's stewardship of both the environment as well as the animals that live there.

Stopping the Spread

A “Critical Tipping Point.” COVID-19 has taken a turn for the worse in Vail Valley. There has been a resurgence of cases and community spread, and testing is slipping back to long waits for results which makes contact tracing impossible. The County Emergency Management Director reports that Eagle County is now at “a critical tipping point,” as it has moved back to a “concerned” level with residents being urged to stay home whenever possible and to minimize contact with people outside of their own household.

The Governor has issued a mandatory mask rule for indoor places and ordered bars and restaurant to stop serving alcohol past 10 p.m. While Eagle County already had an indoor mask rule, it tightened its rules about the size of public and private gatherings. It did not, however, further address face covering for outdoor places. So, for outdoor places in Eagle County, face coverings are only required in “densely populated” places or where one cannot “consistently maintain 6 feet” distance. But, without any definition of what is a “dense” population or what “consistently” requires, it is a matter of personal interpretation as to when a face covering is required outdoors, and many are still “interpreting” that masks are not required in what would seem to be some very obvious circumstances. Enabling that to occur is the lack of any local enforcement or even encouragement to wear face coverings (aside from unenforced signage), so it is no surprise that compliance is less than optimum.

Time is Running Out. The virus is now raging out of control in large parts of the country with daily records continually being reported, and a newly leaked report from the White House task force states that 18 states should roll back their reopening's. There is no way that anyone can prevent more of the virus from being brought into Vail, and we have not yet seen the impact of the Fourth of July crowds.

The TOV is unique in the Vail Valley. It alone has large pedestrian and shopping areas where crowds gather. To prevent the spread of the virus, extra precautions are necessary that may not be applicable throughout the rest of the valley. As the Eagle County Emergency Director said, “It's become very clear that if we don't regulate a change in behavior that change does not happen.” We need a clear, unambiguous, not-subject-to-interpretation rule that face covering must be worn in all outdoor places in the core public commercial areas of Vail. If Eagle County will not implement such a rule, the TOV should enact its own rule and then it should, in the words of Dr. Fauci, “be as forceful as possible” to get compliance. We don't want to get in a situation where Vail has to walk back its reopening or revert to a mandatory “Stay at Home” status to contain the virus. That would be a tragedy not just for those who were infected but for entire Vail economy and community. The time to act is now, or Vail will find itself chasing containment like other areas that waited too long before acting.

VHA Annual Meeting

Mark your calendars. The VHA will hold its Annual Meeting on **August 5th at 3 p.m.** but, due to the COVID-19 restrictions, the meeting will not be in-person but rather via Zoom. The Town Manager, Scott Robson, will be the featured speaker, and he can be expected to have much to talk about. Meeting notices will go out shortly with directions on how to join the meeting.

VHA welcomes your participation and support.

For further membership information, please send an email to vailhomeownersassoc@gmail.com and for [subscriber contributions](#).

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