



**The EVH site that is slated for a massive housing development.**

# **VAIL HOMEOWNERS ASSOCIATION**

## **The East Vail Housing Project and the Push for Unlimited Densities in Lionshead**

**February 7, 2019**

Vail's forefathers recognized the importance of managing the growth of what they envisioned would be a world-class resort. From Vail's inception, first through protective covenants and then through zoning, development was balanced with protecting the natural environment and preserving a residential community of high character neighborhoods. Specifically, Vail acted to conserve and protect wildlife, to prevent excessive population densities and to safeguard and enhance the appearance of the town.

Now the proposed East Vail housing project and the Treetops Condominium Association zoning amendment application to allow unlimited units/acre density in most of Lionshead, could potentially unleash major changes for Vail by degrading the environment, changing neighborhoods and allowing unlimited densities.

Both of these proposals are moving forward. While the formal application for the East Vail project has not yet been filed with the Town (it was expected last month but the developer now says it will be filed at the end of February), the TOV has already issued a permit for drilling and initial site work; the developer has been in secret negotiations with the Town to finance the project, and the Town Council has heard from the developer's wildlife biologist on displacing the resident bighorn sheep herd to make room for the project. At the same time, the Treetops zoning amendment has already been approved by the PEC (on a 3 – 2 vote) and will be before the Council on first reading on February 19th.

This report examines the issues and concerns arising from those proposals.

## **The Impact of the East Vail Housing Project**

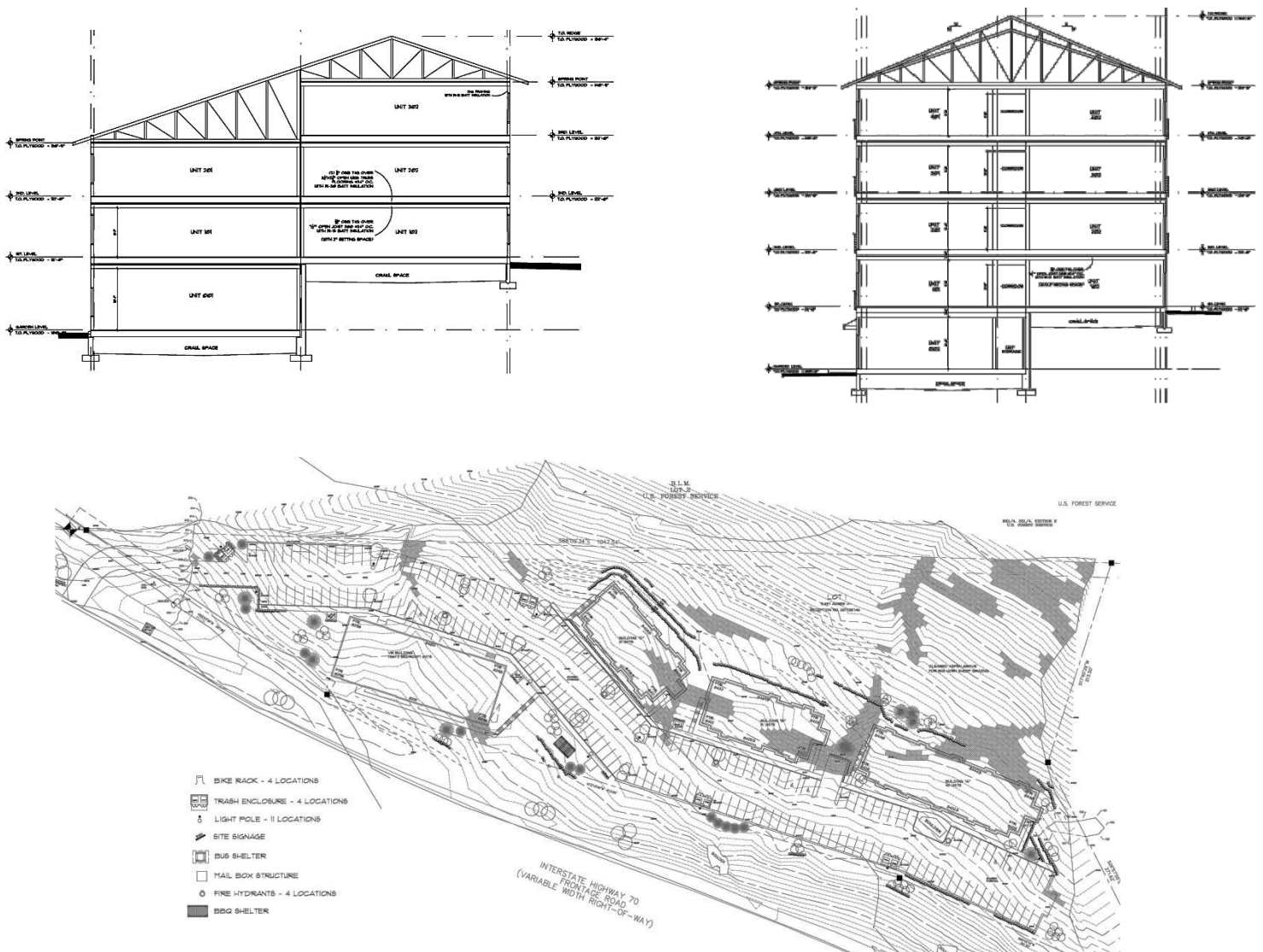
Since reporting on the East Vail Housing project [in December](#), the VHA has been investigating the impact of the proposed development and its costs to the community, including what the Town might have to spend to make the development possible. The impacts are many, including the possible destruction of the East Vail bighorn sheep herd and the costs to the town involve direct subsidies requested by the developer, upland wildlife habitat improvements, necessary traffic infrastructure changes and transportation costs. While the Town has not yet done the necessary cost studies, based on data collected by the VHA, it appears that total costs could be as much as \$10 million or more (20% of the Town's existing reserves of \$51 million).

**Concerns Mount.** When this property was up for rezoning to employee housing in the summer of 2017, many concerns were expressed concerning the suitability of such a project on the site. Those concerns largely centered on environmental and density issues. When the property was rezoned, the Town Council promised that those concerns would be addressed when there was an actual application for development. In the interim [those concerns](#) have [only grown](#), and now, as the scope of the project has become clearer, new and additional concerns have come to light.

**The Proposed Project.** When VHA first learned of plans to develop the East Vail site, a confidential source said that it would be a massive development for hundreds of residents with large, 5 to 6 story buildings. VHA's report on those plans was attacked as [“inaccurate and inflammatory.”](#) Now, lo and behold, it comes as no surprise that the plans reveal a massive development designed to shoehorn 400+ residents into the project, all of which would create attendant infrastructure and service impacts, none of which appear to have been addressed so far. And, while this is to be “employee housing”, the developer, Triumph Properties (Vail Resorts is handing off the development), plans on selling 30% (40 to 45 units) at market rates.

**Huge Change for East Vail.** As proposed, the project will require the clear cutting of 5 acres of pristine forest (which would displace the resident bighorn sheep herd) and replacing the forest with four buildings—a four-story and three five-story buildings. Originally, the proposal was for a total of 143 units—and a massive 174 vehicle surface parking lot; Triumph has now reportedly scaled that back to around 130 units and a smaller parking lot, but the height of the buildings remains the same. A large uphill rock fall barrier will border the project. If built, this development would be a huge change for East Vail where there are currently no buildings taller than 3 stories. This is what has been revealed so far:





### EVH proposed site plan with four and five story buildings, surface parking lot and rock fall barrier, minimum forest remains

In its promotional material, Triumph indicated that it may seek to use variances to obtain relief from TOV zoning and other regulatory standards, like rock fall protective barriers. State statutes prohibit local governments from giving “grants of special privilege.” Unique one-of-a-kind circumstances have to apply. For example, many sites throughout the community share similar environmental hazards and terrain conditions to those on the EVH site, but they have not been granted variances. Even then, the effectiveness of rock fall mitigation defenses over time is not assured as the TOV recognizes on their own projects. After only a few years of being installed, the rock fall defenses for the Timber Ridge and Lions Ridge Employee Housing development needs to be upgraded to the tune of \$1M+. Any approval of the East Vail project must take into account the on-going maintenance of the rock fall mitigation.

**Financing the Project.** To finance the project, Triumph has requested that the Town purchase deed restrictions on the “market rate” units and may be seeking as much as \$5 million or more for that purpose. To put that in perspective, the entire TOV affordable housing budget for 2019 is only \$2.5 million (there could be an additional \$840K carry over from the 2018 budget). The exact amount being sought by Triumph is unknown because the negotiations are being conducted in “Executive Session,” i.e., in secret. We will only learn of the

“deal” after it has been finalized, but if the “ask” is of the magnitude suggested; this project could deplete the TOV housing budget for two years. Putting aside the conflict of interest that would be created by the Town making that kind of financial investment in the project, there is a serious question whether this is the best use of the Town’s limited resources. And, at the very least, the appearance of a conflict of interest does not bode well for arriving at a decision that will be in the best interest of the entire community.

**Changing the Environment.** The East Vail housing site is an historic natural wildlife area that predates Vail, home to winter range for bighorn sheep and migration routes for elk, deer and other animals. But, all that will change with a massive development astride that area.



**Standing in the way of progress.**

The sheep are of particular concern. Unique to the Rocky Mountains, bighorn sheep embody the rugged outdoor lifestyle that has come to be associated with Vail. No wonder they are the official state animal of Colorado. Unfortunately, the resident herd of East Vail bighorn sheep has declined 67% since the 1990’s and, today, stand at about 55 sheep. And, now these sheep stand to become a casualty of development.

Vail Resorts and Triumph have hired a biologist to assess the East Vail herd. He has recommended that the slopes above and to the west of the project be improved by removal of downed aspen trees, controlled burns and the pruning back of undergrowth. While any improvement

to the habitat is welcome, not yet addressed is whether displacing the herd from the project site will be harmful to the sheep. It is hard to see how there can be any other conclusion. Not only is the project site squarely in the winter foraging range of the sheep, but the impact of any development extends far beyond the boundaries of the project, well into the adjacent lands. Sheep are easily stressed by human presence, and there will be off-site effects from noise, lights, odors and other impacts from hundreds of people using the area. In addition, the upland areas are steep and do not contain habitat areas similar to the land within the project, raising the specter that even if uphill improvements are successful, bighorn sheep might be forced into having to live on different less hospitable terrain.

There is, also, little reason to believe that the remediation proposed will ever be done. In the 1990’s when controlled burns were proposed, they were rejected by the community as being too dangerous. There is no reason to believe that the result today would be any different. And, even if adopted, the clearing and burns probably cannot be implemented until the spring of 2020, hardly an outcome that Triumph would be willing to wait for. To make matters even more dire, there is no guarantee that these measures will save the sleep.

Nor are there any cost figures on what this would entail. It is clear, however, that this would be labor intense, and all or, at least, most of the cost would have to be borne by the TOV.

The final results of the biologist’s work will not be known until Triumph files its Environmental Impact Statement. Until then, his opinions and conclusions will remain secret. One thing, however, seems clear, bighorn sheep habitat will be disrupted well beyond the actual development, and migration routes will be cut off which could seriously impact other species.

At the very least, if that plan goes forward, VHA urges that the clean-up and necessary controlled burns take place before any construction is authorized so that its success can be evaluated prior to green-lighting the project. And, if the burns are not entirely successful in creating substitute habitat that the entire project be reevaluated. In addition, to minimize impacts on the bighorn sheep if the project is finally authorized, construction should be suspended during the winter months when the sheep come down to their lower altitudes winter range.

**Necessary Roadway and Other Infrastructure Changes.** With 400+ new residents, major traffic infrastructure improvements will be required. To facilitate ingress and egress from the project, widening of and turn lanes on Frontage road will be necessary. In addition, there will be a need for area lighting; the East Vail I-70 bus stop will have to be improved and probably moved to the west, and there will be a need for sidewalks. While there has not yet been a site specific cost study of those improvements, from data collected by the VHA, the cost for these infrastructure improvements will probably be \$3 million or more.

In the case of other large-scale developments, Vail has a transportation impact fee to defray the cost of infrastructure improvements. Employee housing is, however, exempt from the transportation impact fee, leaving the Town to foot the bill.

**Transportation Increases.** Most of the project residents will utilize public transportation to get to and from work or to visit the town. Currently, East Vail bus ridership stands at 80,000 per month or less, so adding another 400+ riders could result in a 30%, or more, increase in peak hour ridership. That will probably require major capacity increases for the East Vail route (bus capacity is 70 passengers/bus which would mean an additional 5 to 6 bus loads of traffic), but so far, there has been no assessment of those additional operational and capital costs (buses, drivers, maintenance, fuel, insurance, expansion of the bus maintenance facility, etc.). We know the current annual cost of the East Vail route is \$850,000, and each additional bus costs \$1 million, so the necessary transportation capacity increases could be additional millions in costs with, again the Town being left to foot the bill.

**Other Environmental and Community Costs.** Beyond any Town investment in the project or the costs of wildlife mitigation measures, traffic improvements and increases in transportation costs, there is the incalculable costs of environmental degradation and community impacts. Once the bighorn sheep are gone, those animals will never be replaced. And, the environment will be further degraded by the visual “pollution” that would result from destroying 5 acres of pristine forest and replacing it with multiple 5-story buildings climbing up the hillside. Visitors come to Vail Valley to enjoy the beauty and splendor of one of the nation’s premier national forests. But, instead of seeing forest as they enter Vail valley, they would be greeted by the sight of this massive development. Again, at the very least, any approval should be conditioned on the installation of mature, shielding landscaping that will, to the extent possible, block views of this project

And, then there is the community “cost” of too much density. In East Vail there are no buildings taller than 3-stories, and densities have been carefully regulated by limiting the size of buildings. Under the prior (duplex) residential zoning that existed for this property, there could have only been about 15 residences or about 45 to 60 residents.

Even though there are no corresponding limitations in employee housing zoning, the “character, scale and massing” of employee housing “must be compatible with ... the surrounding neighborhood.” It is hard to see how jamming four and five-story buildings and 400+ residents into this site will not change the character of

East Vail. While there are some multi-family housing buildings along Bighorn road, the densities involved nowhere come close to the density of this project, and none of those buildings are taller than 3 stories. If this project is to go forward, it should be significantly downsized even from the reported cut back that Triumph is already planning.



**Development approved for the Roost Lodge site.**

**Is This the Best Use of Vail’s Resources?** VHA has learned that the former Roost Lodge property is again on the market, the original developer having failed to make a go of its controversial plan for a mega “Chinese Wall” hotel/employee housing development. This comes as no surprise; as [VHA said at the time](#), it “is the wrong project for the wrong place.”

Apparently, the TOV also had an inkling this would happen as the Vail 2018 Open Lands Plan recommended that if the development did not go through the Town should consider acquisition of the property for “a workforce housing project or other community use.”

In addition, there is the 2<sup>nd</sup> phase of the Timber Ridge development which will likely need to be replaced in the near future. Both of those sites are closer to the town core and do not implicate wildlife habitat or the kind of costs that will be necessary for this project. Committing millions of the TOV’s treasury to prop up the East Vail project without considering these other potential needs does not seem wise, especially at a time when many are predicting an economic downturn.

**Will Employee Housing Trump All?** The controversies surrounding this project, the conflict of interest that would be created by the Town acquiring a financial interest and the very large investment that the TOV will have to make to prop it up dictates that there be complete transparency in the consideration of this project. Already that is being compromised by the Housing Authority’s handling of the developer’s request for deed



restriction financing and the secrecy surrounding the Environmental Impact Study. VHA does not oppose the development of more employee housing; it only urges caution about committing millions to the East Vail project when there are other potential, more practical projects on the table. There is a belief among some that employee housing trumps all other concerns. That should not be so, especially when there are other ways to address those needs.

## Lionshead Density



**Treetops Condominiums in Lionshead.**

The Treetops Condominium is planning to redevelop its facilities to add 45 additional units (it presently has 28 units plus a manager's unit). The additional units are apparently being added to "fund" the redevelopment. Rather than seek other means to increase the size of the project, Treetops has proposed amending the major Lionshead zoning classification to eliminate any density limit so the units can be added. In other words, if the amendment is adopted, density in Lionshead, i.e., the number of units and people which can be crammed into a project, would be unlimited.

While the amendment will only affect Lionshead, it could be a harbinger of things to come for the rest of the town. And, the amendment has already received PEC approval on a 3 to 2 vote and is scheduled to come before the Council for a First Reading on February 13th. This will have a profound effect on Lionshead zoning and perhaps beyond.

**Is This Good Zoning?** The purpose of zoning is to promote and maintain the character and quality of the community, in Vail's case a world-class resort with appropriate amenities and accommodations. The Treetops proposal, however, seems to do just the opposite; it would result in more people being crammed into smaller

units. As explained by Treetops, “the more dwelling units that go into the [project] means the smaller they will be and the more likely they will be rented.” This kind of profit-at-any-cost approach is inconsistent with one of the major purposes of Vail’s zoning—“to prevent excessive population densities.”

It is argued, however, that eliminating density limitations is necessary to encourage redevelopment. But, that rationale could be applied to any other aspect of zoning. If all that is important is encouraging redevelopment, GRFA or building height, etc., could also be eliminated. If there is any need for increased density, it should only be undertaken after sound analysis and then only to the extent that it will be consistent with the goal of maintaining a world-class resort community. That is what was done in the 1990’s when density was increased by 33%. That same kind of approach should be taken now, not simply abandoning any limit on how small units might be. While the amount of density can be adjusted from time-to-time to fit economic conditions, Treetops has failed to make a case for the complete abandonment of a zoning principle that has existed from near the very beginning of Vail.

**The Proposal is Also Illogical.** The rationale for the Treetops proposal is that smaller units will result in increased rental income which will help “fund” redevelopment. Yet, that doesn’t correlate with the Treetop’s plans which will actually increase the size of Treetop units from an average of 1,200 sq. ft. to 1,300 sq. ft. Since Treetops is not seeking to decrease the size of its units, there is a basic inconsistency between what Treetops claims is the reason for its proposal and what it, in fact, is planning to do.

**The Impacts on Vail.** Ignored in the Treetops proposal is the consequence of those increases: that more workers will be needed to service the additional visitors, adding to the need for more housing, transportation, etc. Also, brushed over are the increases in traffic that will inevitably result. Treetops claims there will be no traffic impact because timeshares are, also, unlimited, but that is a non sequitur as there are only a few timeshares in all of Lionshead.

VHA submits this zoning change is not in Vail’s best interest, and it should be rejected.

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