



The last wildlife habitat in the Town of Vail. Is this open space about to be sacrificed for the sake of housing?

VAIL HOMEOWNERS ASSOCIATION

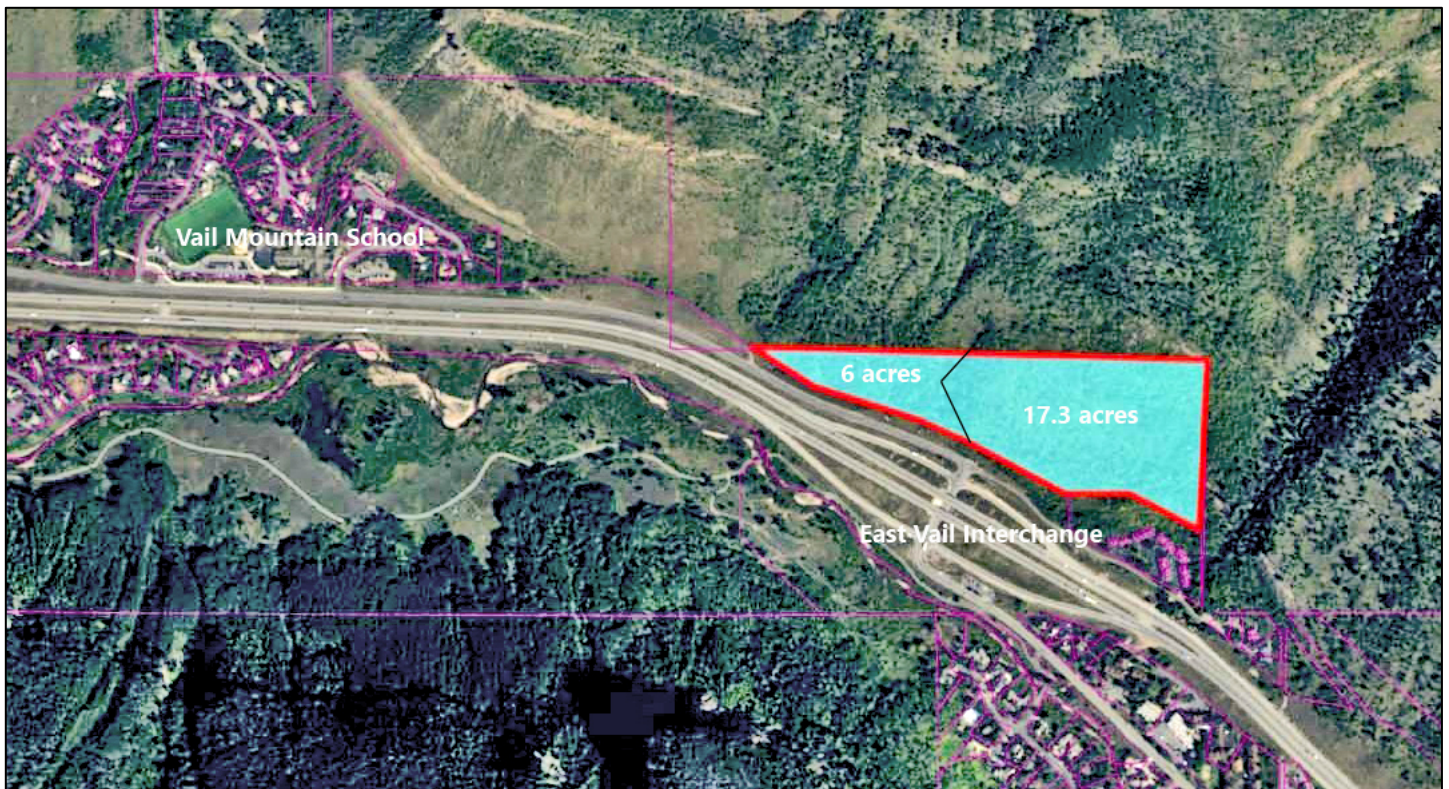
Vail Resorts' Housing Proposal— Environmental Issues

August 29, 2017

Two weeks ago [VHA reported on Vail Resorts' application](#) to subdivide and rezone 22 acres of East Vail property to create a housing project on the eastern 5.4 acres of that property. Since then, VHA has continued to investigate the proposal and has come to learn that this proposal involves major environmental issues. This report now examines the environmental and geological issues raised by that proposal. In its application VR has touted this project as a “net benefit to the environment.” However, there are substantial reasons to believe that development of the property will have a major impact on wildlife habitat and migration corridors. VHA believes these are issues that could be the first test of Vail’s recent designation as America’s first environmentally sustainable destination resort. This report, therefore, addresses those issues so that the community and the Town of Vail are fully informed on the impact of this proposal.

It is unusual for VHA to produce a follow-on report so quickly, but this project is on a fast track—the first hearing is scheduled for September 11th before the Vail Planning and Environmental Commission with a hearing before the Town Council tentatively scheduled 8 days later which means the entire process could be finalized by mid-October. Time is, therefore, of the essence.

Correction re: Vail Resorts' Development Plans. Before getting to the environmental and geological issues, a correction to the original report is in order. In that report, based on what we considered to be a reputable source, VHA stated that it had been informed that VR intended to build a large scale, “Middle Creek” type, project on the order of 300 units and 5 to 6 stories high. Vail Resorts has, however, emphatically stated that it has no present plans for development of the property, and that it will not make any plans until after it has obtained rezoning of the property. VHA’s mission is to protect the quality of life in Vail which is contingent upon knowing the impact that any new development will have upon wildlife, the environment and the people in our community. Sometimes we do not receive correct information. We regret if our initial reporting was, therefore, inaccurate.



The western portion of this site is proposed for workforce housing.

Open Space Land. Currently, the entire 22 acre tract is in a natural state, covered mostly by pristine Aspen forest. Historically, that tract has been designated by the TOV as open space land as was set forth in the 1994 Vail Comprehensive Open Lands Plan, where it was designated a “high priority” for “environmental protection [as] open space.” VR discounts that designation because of confusion over the ownership of the land; apparently, VR didn’t realize it owned the land. Nonetheless, in the current run-up to amendments to that Plan, the public made it clear that “priority” was to be given to the “protection of environmentally sensitive areas open space preservation.”

But this is not just open space land; it is a major wildlife habitat and north/south wildlife migration corridor, the last remaining in the Town of Vail. That would change under VR's proposed zoning change.

Zoning is not just a matter of regulating land use. It, also, creates vested rights in the property owner. For example, if VR was to obtain a housing classification for the property in question, VR would acquire a vested right to develop the land for that purpose. While the TOV could regulate the size and extent of any development, it could no longer prevent the property from being developed for that purpose. And, since "H" (Housing) zoning has few restraints, any resulting development could be quite large.

VR's Wildlife Assessment. Although VR would prefer postponing any wildlife considerations until it submits development plans, [it did file a wildlife assessment](#) in support of its rezoning request which concluded that development of the 5.4 acres should not result in any measurable change in bighorn sheep or elk habitat use or herd size. That report, however, is seriously flawed and parses terms to reach its conclusion.

While the report included a site visit, there is no mention of any findings from that visit. However, even a casual stroll through the property shows that it is a major wildlife habitat and north/south wildlife corridor for all types of wildlife. Instead, the bulk of the report relies on data from the Colorado Parks and Wildlife, a Colorado state agency whose mission includes perpetuation of "the wildlife resources of the state ...and [to] inspire current and future generations to serve as active stewards of Colorado's natural resources." As that data shows, development on the 5.4 acre parcel would impact bighorn sheep range, habitat and lambing areas; elk winter range; peregrine falcon nesting and hunting areas and black bear summer forage habitat. Although not discussed, it follows that development will, also, impact smaller animals and other fauna.

[This is a conclusion that CPW and scientific literature support.](#) As reported by the CPW, bighorn sheep, elk and deer have been on the decline in Gore Valley for at least the last decade, and wildlife populations, in general, are not sustainable under current conditions. The loss of more critical habitat would only exacerbate the situation. And it is not just the immediate property that is affected as there is a "zone of influence" that extends the impact of development outward for some distance in all directions. That impact could be quite substantial if this is a large scale project that completely fills the 5.4 acres as that would require clear cutting of thousands of trees and massive earth movement so that the effects of that development would be at the extreme.

The VR wildlife report, nonetheless, concludes that rezoning would have no effect on wildlife; even though, it is the first step in development, i.e., giving VR a vested right to develop the property. But this is parsing the difference between zoning and development as though one does not lead inevitably to the other, just like night follows day. VHA believes that the correct and inescapable conclusion is that rezoning would set in motion a process that would lead, unavoidably, to the destruction of significant, critical wildlife habitat and migration corridors, with the degree of impact directly related to the size of development.

That conclusion is only bolstered by the defensive measures that would be required to protect any development from the upland geologic hazards in the area.



Could this be coming down?

Rockfall Potentials and Required Defensive Barriers. [VR also filed a Rockfall Hazard Study.](#) That study concluded that rockfall is not a matter of if, but rather when. To protect from rocks up to 10 feet in diameter—there are some boulders on the site that are up to 20 feet long—a defensive barrier at least 12 feet high would be required along the north side of the property together with at least a 10 feet wide catchment zone and a down slope buffer zone between the barrier and any structure. All together, it would amount to a 35 feet or more wide swath that would require additional clear cutting and massive earth movement which would add to the destruction of wildlife corridors and habitat all across the property.

Other Geologic Issues. Although not within the scope of the Rockfall study, the study notes that due to upland conditions, a significant precipitation event could trigger a debris flow which has already occurred nearby in Booth Creek. This is a no-win situation for the environment since mitigation cleaning of the upland would increase the rockfall hazard, requiring more substantial defensive structures.

The study does not, apparently, consider landslides to be an important concern; even though in the past, a major landslide did occur through the center of the property, rendering most of the tract undevelopable (so that VR is not giving up anything by offering to rezone 17 acres of the tract as natural preservation land). The “toe” of that

landslide rests behind a retaining wall at the I-70 interchange bus stop (the retaining wall is in need of repair). Soil stability is, however, an issue since there are several rivulets and drainages in the area, and the presence of lush uphill vegetation suggests the existence of an uplands wetland, both of which could cause soil saturation and instability. In addition, ground undercutting for rockfall defensive barriers or development could, also, destabilize the area. This suggests that much more work would need to be done to analyze the real landslide potential. Nonetheless, it seems a reasonable conclusion that mitigation for the geology of the area will further contribute to environmental degradation and wildlife compromise.

Vail Resorts' Response. The principle thrust of VR's response to VHA's initial report on this project ("Clarifying potential new employee-housing project," Vail Daily, August 22) was that Vail needs more work force housing (if any is left over after VR's needs, it would be made available to the public), and its property is a great location. But VHA believes there is more to it: that issues of preemption of open space, neighborhood integrity, environmental impact, geological concerns, infrastructure effects and quality of life should all be considered.

As set forth in section 12-12-2 of the TOV Code, long-term protection of the environment has long been a guiding criteria for land use and development decisions. This proposed project invokes the majority of the concerns set forth in that Code. In addition, a large scale housing project would be in marked contrast to the existing area and could overload the transit system, requiring more TOV investment. The VHA urges that careful and thoughtful consideration of all relevant issues should be the order of the day, and if that requires more time, the process should be slowed down to allow for the best decision for the Vail community. The TOV might be well served to consider this application in conjunction with its review and revision of the Comprehensive Open Lands Plan and/or requiring an independent environmental impact study.

What You Can Do. If these are matters that concern you, get informed and become involved. Attend the PEC and Town Council meetings on this project and speak up. Government responds to the public; silence only enables others with different agendas to act in your absence. And, if you are not already a member, join the Vail Homeowners Association.