



Vail sits in harmony with the surrounding landscape--will more density change that perspective?

# VAIL HOMEOWNERS ASSOCIATION

## What is Vail Planning II?

Revised: July 6, 2017

*Ed note: The text of the July 5<sup>th</sup> edition has to be revised to reflect the implications of information provided by public officials after publication of the original report.*

As we reported last month, the Town of Vail currently has three major planning initiatives underway—a review of Vail’s Open Lands Plan, a sustainability assessment and a master plan for West Vail. But that is not all that is going on. The TOV is also moving to implement a major Transportation Impact Fee; it has a Transportation Task Force that is charged with developing transportation plans, and the Town is considering additional regulations for rent-by-owner properties. And the Vail Recreation District is eyeing either usage fee increases, increased taxes or both. Like the three initiatives we reported on last month, if adopted, these additional initiatives will also shape the growth and development of Vail for decades to come. In this issue we examine these other initiatives.

**The Transportation Impact Fee.** For years the TOV has assessed impact mitigation fees for transportation improvements on large-scale commercial and residential developments which produce substantial off-site impacts, see, for example, the Frontage Road improvements associated with the Solaris and Lions projects. In the same fashion the recently approved Roost Lodge redevelopment is expected to fund Frontage Road median improvements and connecting walkways.

Those large-scale development fees have been determined on a site-by-site basis with other public works transportation projects being funded through the capital improvements budget. But that budget has not kept pace with Vail's growth, and Vail has now found itself facing a \$95 million list of so-called needed improvements over the next 20 years--\$23 million of improvements to pedestrian walkways and \$63 million in roadway improvements, primarily to North and South Frontage Roads (roundabouts, medians and left turn lanes)--with only an estimated \$20 million to be paid by large-scale development. [[See link – Town Reports below](#)]



**Frontage Road beautification medians designed to give scale to large buildings and improve public safety.**

Facing a \$75 million funding shortfall, the TOV is about to impose a new set of “impact fees” on all residential and commercial building, including some remodels. This is not the first time the TOV has tried to impose an impact fee to fund its capital transportation budget. Town officials in 2009, as published TOV council records can show, and even before, made efforts to promote an impact fee, but those efforts failed because of the chilling effect such fees would have on development, which was in recovery from the 2007 depression.

Now the impact fee idea is back again, this time backed by a consultants’ study, which as reported by the Town was quietly commissioned last year. Such studies tend to become self-fulfilling prophecies, and it is no surprise that the study recommended imposing an impact fee. Done out of public view and with very limited public input, the study recommended imposing the “maximum supportable” fees that the law would allow on all future development. For most residential building this would be a new fee—up to \$10,000 per home. For commercial building it would be a substantial increase in fees--up \$14,000 per 1,000 sq. ft. of retail space. [[See link – Town Reports above](#)] Once again Vail faces the issue of whether such fees would have a chilling effect on future development. That is especially so since the proposed fees would be much higher than the national average and, also, higher than all comparable areas listed in the study.

The TOV has explained that these impact fees are necessary for “growth-related” infrastructure needs, i.e., the projected proportionate share of future transportation infrastructure improvements due to new growth. According to the study the proposed impact fees are estimated to raise \$21 million. Large-scale developments will still be subject to project mitigation fees, in addition to the impact fees, and the plan predicts those “project fees” will provide an additional \$20 million. That would leave approximately \$55 million to be funded by the TOV. [[See link – Town Reports above](#)]

**Is There A Basis For The Proposed Fees?** Colorado law limits impact fees to the actual costs due to the impact of the projected class of property, in this case future growth. The study projects that growth at 2,000 additional residential units and 500,000 sq. ft. of additional commercial space. Those numbers seemed abnormally high—a 28% increase in residential units and a 40% increase in commercial space. Equally as odd is that this projected growth is supposedly going to cause 57% of the cost of infrastructure improvements (amount of infrastructure improvements to be funded with impact or project fees). It is hard to imagine that 2,000 additional residences and 500,000 square feet of commercial development, assuming those numbers are legitimate, can possibly cause 57% of the cost of the wish list of desired improvements.

For several weeks the VHA has sought to ascertain the basis for those projections so we could examine their legitimacy. Now we have learned from TOV officials that those numbers were developed by junior staff members, who are no longer with the TOV. Nonetheless, according to the same official, there is a breakdown of the commercial space number, but it raises more questions than it answers. At the same time, we received no backup or data for the residential space projections.

According to TOV officials, 90,000 sq ft of new commercial space will be developed in Vail Village: 140,000 sq. ft. at the Vail Valley Medical Center, 140,000 sq. ft. in Lionshead and Ever Vail and 150,000 sq. ft. in West Vail. Putting aside for the moment any chilling effect of an impact fee, these numbers seem exceedingly optimistic and do not appear to have the normal support/developmental data that would accompany such projections. For example, the Lionshead/Ever Vail projection is at the maximum level of the Master Plan for the area notwithstanding the fact that VR has disavowed any intent to develop the area thereby creating serious doubt about its future. And, an additional 90,000 sq. ft. in an already built-out Vail Village without any explanatory detail seems doubtful at best. The same seems the case for the Vail Valley Medical Center and West Vail. Indeed, it would seem impossible that any reliable projection could be made for West Vail until the West Vail Master Plan is completed, a project that is probably at least a year off.

This inability to provide any empirical basis for the foundation of the study calls into question the legality of this initiative. If the projections for future growth are unfounded or unsubstantiated, the proposed fees would be illegal and there would be no basis to assess the proposed fees. Without underlying data or support, the TOV cannot demonstrate that the proposed fees are legitimate. This, then, becomes a thinly disguised tax on future development that is not related to growth or real infrastructure needs.

**Chilling Effect.** What the final fees will be remains to be seen, as the Town Council is going to set them by resolution once the Impact Fee Plan has been adopted. However, the Town Council has already made one significant modification. Because of the chilling effect of impact fees on the development of affordable housing, affordable housing will be exempt from any impact fees. That creates a \$2.5 million funding deficit in the projected revenues. How that will be made up, also, remains to be seen.

But the chilling effects of an impact fee are not confined to just affordable housing. It will be felt across future development as the cost of projects grows. The assumption that there will be large-scale commercial development is highly speculative. A significant part of the commercial space is projected to come from the Ever Vail Property where the infrastructure project fees are very high. With VR no longer planning to develop the Ever Vail Property, it is hard to envision a buyer, who would be facing both project and millions of dollars of impact fees, taking on all or even some of that project (given the Lionshead Redevelopment Master Plan, it would be very difficult to develop that property piecemeal). And another significant part of the commercial development is projected to come from redevelopment of the West Vail commercial areas which cannot command the high rents of core properties so that impact fees could have an even greater chilling effect there. Unless the Town Council is going to waive significant parts of the impact fees, which would render the provision of the fees illusory or the purpose of imposing impact fees is to tamp down development, the affects of this plan needs some serious thought.





**Plan Financial Assumptions.** Aside from the potential chilling effects of an impact fee, the financial assumptions of the plan are also suspect. An additional 2,000 residential units would equate to 4,000 to 6,000 full or part-time additional residents for the Town [based on the per unit residents indicator from the TOV 2016 Housing Plan]; 500,000 sq. ft. of additional commercial space would be a 40% increase in commercial space in the Town [based on current commercial space per the Eagle County Tax Records compared with the additional space forecast under the plan]. It

is hard to imagine that those levels of increases could be accommodated within the TOV. And it's not just the growth numbers that are suspect. Notably absent in the financial projections of the plan are any contributions from the state or federal governments to the roadway projects, and there are no forecasted philanthropic contributions to the pedestrian walkways. One would think that the TOV would exhaust all potential sources of other funding before imposing impact



Vail's Central Boulevard – A work in progress, can the transportation impact fee contribute to its completion?

fees. Also absent from the plan is any explanation of what would happen if government or philanthropic contributions were received. Impact fees can only be used for the specific purpose they were collected. What will happen to the collected or to be collected fees if such contributions were to occur? Would the funds be reimbursed to those that paid the fees? It would seem that an explanation of that nature should be an integral part of the plan.

There is, also, no time limit or sunset provision setting a limit on how long the fees would be collected. Is this a fee to be collected in perpetuity? The transportation plan calls for a 23 year build out (to 2040). Will the impact fees sunset then or will there be new projected growth and a continuation of the fees?

**List of Infrastructure Improvements.** The [list of future public](#) projects, on which the plan is based, also raises some serious questions. The list seems inflated in that it includes recouping of \$9 million for the cost of the Simba Run Underpass, and it also includes \$5.6 million for Frontage Road improvements at the new Lions Condominium, \$5.6 million for an expansion of the Main Vail Roundabout and \$2 million for a reversible lane in the Main Vail Underpass, all of which seem to have already been built. And the list includes \$7.2 million in left turn lanes, \$1.5 million in bus stop shelter improvements and \$23 million in pedestrian walkway improvements; all of which are needs that exist even if there

were to be no future growth and exist because of lack of attention by the TOV in the past, not new future growth. If these items are not legitimate future growth related, the amount of justifiable impact fees would be cut more than in half, it is estimated.

Another serious question about the list of improvements is that even though the list covers the next 20 years of transportation improvements, there is nothing on the list for public parking improvements. This may be due to the fact that parking needs already exist, even if there were no future growth, and thus, do not qualify for impact fee financing, but prudent planning should not ignore those needs. Of course, some of the present parking needs could be addressed by the proposed Red Sandstone parking structure (a joint venture between the TOV and the Eagle County School Board), but the additional 160 spaces that could be realized there will not satisfy current needs much less allow any room for the future. By simply ignoring those needs, the TOV is again kicking the can down the road. [More on that below.]



Source: Town of Vail 2016 Housing Plan for 2027

**Most Disconcerting:** Perhaps most disconcerting is the fact that this fee scheme locks the Town to increased densities as it is premised on an additional 2,000 residential units and 500,000 sq. ft. of commercial space. With the Town essentially built out (except for the Ever Vail property) and the transportation improvements dependent on these funds, the Town has a built-in conflict of interest when it comes to requests for increased densities. Is ever increasing density a sustainable path for the future of Vail?

And it is not just additional residents and commercial space. A consequence of those increases in densities is that more workers will be needed to service the additional residents and businesses that will occupy the additional commercial space—perhaps as many as 3,000 or even more. [Extrapolated from the TOV Code 12-23-2] And those workers will need housing, leading to a “tail-chasing” situation in which more density begets even more congestion and more need for affordable housing and parking.

None of this appears to have been considered by the TOV. With a suspect foundation and unforeseen consequences lurking at several different levels, not the least of which is a potential chilling effect on future development, it would seem that the TOV would be well served to terminate this proposal. And, if it is to be reconsidered in the future, it should be with more study and better opportunity for public input.





**The visual beauty of the Tennis Courts at newly TOV refurbished neighborhood park is diminished by I70 traffic noise**

**Vail Recreation District.** The TOV is not the only local entity considering an increase in fees or taxes. The VRD recently announced that it faces an \$8.5 million improvement deficit over the next ten years. This is in addition to \$4 million that will need to be spent by the TOV (under a lease agreement the TOV and the VRD share the costs and upkeep of various facilities). In part this VRD shortfall is due to declining property tax revenues and operating deficits on the golf course. To make up the shortfall, the VRD is deciding whether to raise taxes, user fees or both. Currently, the VRD is conducting a community survey to determine the best course of action. If there is to be an increase in taxes, the ballot provision must be certified by the end of August.



**Frontage Road parking safety dangling by a thin thread of a tragic accident waiting to happen.**

**The Transportation Task Force:** Having finalized a “summer strategy” which will institute paid parking for the summer months to force turnover and more availability of summer parking, it seems that the Transportation Task Force is not going to consider parking facilities as part of an overall transportation strategy; even though, Vail faces a two-front problem. There, currently, isn’t enough available public parking, and both of Vail’s current parking structures are going to need major work in the near term. A source from within the Transportation Task Force reports that costs for a redo and/or expansion of the Lionshead and Vail Village parking structures were reviewed, but the TOV staff discouraged any consideration of those subjects by representing that the Lionshead structure was good for another 20 years; a number that has been continually cited for the better part of the last decade, i.e., the goal post keeps moving.

Ignoring the TOV's "maintain and replace" obligation for the parking structures is shortsighted. One doesn't have to be a professional engineer to see that the Lionshead structure is already in need of significant repairs. The Vail structure is now 43 years old, and it, too, will need major work in the not distant future. Current estimates place the repair/replace cost for both structures at \$200+ million, as estimated by town officials. And there could be other unforeseen costs that have yet to be made known publicly.

More concerning is Vail's need for additional parking. Present estimates are that Vail is 400-600 spaces short of current needs based on an evaluation of the TOV's daily counts. This is a problem not just for the TOV but, also, for on-mountain operations. Current parking inventories are woefully short of what is required by the Vail Resorts/USFS [Vail Mountain Master Development](#) and annual Operating Plans. Those plans were based on the assumption that Ever Vail (750 spaces) and an expansion of the Lionshead structure (200 spaces) would be built which, of course, has not happened. It's no wonder that overflow parking now exceeds permissible limits.

In the absence of sufficient parking, the TOV has resorted to Frontage Road parking, but as one task force insider put it, that strategy hangs by a "slender thread". If there is a pedestrian accident with serious injuries or worse, which most agree is bound to happen, there is a belief that CDOT will permanently suspend the practice. The Task Force should not ignore this public safety hazard and, instead, recommend real solutions for Vail's long-term benefit, other than tolerating the problem.

**Rental by Owner Regulation:** For years Vail homeowners have rented out portions of their residences to earn extra money. Owners seeking to rent their properties are required to have a business license and to collect and remit sales and lodging taxes. In recent years, the RBO market has exploded; generating record amounts of income for owners as social media has greatly expedited the ability of homeowners to rent their property. But this has caused growing concerns that a substantial number of owners, maybe as high as 1,400 in Vail, according to estimates made from a Town Report, are not collecting and remitting taxes or are operating unlicensed. Others claim the number is much lower, maybe only a few hundred. Accurate and broadly reliable numbers are hard to come by or verify. But licensing is not the only issue. Lodging managers see the RBO market as a competitive force that could negatively affect hotel and/or condominium rentals; others believe the RBO market is negatively impacting the availability of affordable housing, and there are growing complaints from neighbors about quality of life issues, like late night parties and parking disputes.

It now appears that the Town Council is about to consider reigning in that practice. Under consideration are new policies to enforce current requirements (licensing and tax remittance), additional regulations to impose more requirements on short and long term renters that could affect life safety (as in fire safety inspections), quality of life issues for neighbors or impose quality of lodging standards and possible community limits on where and under what circumstances RBO can occur. Once again unintended consequences lurk in the background as the primary target of Vail marketing—millennials—are, also, the most frequent users of RBO rentals. And any effort to limit the Vail RBO market would force it down valley and could increase demand for public parking as RBO renters become day visitors.



Structural deterioration in Lionshead parking structure.



The TOV is, nonetheless, moving ahead. It has hired consultants, [distributed a questionnaire](#) and scheduled public meetings to discuss the issues. The VHA will monitor those developments and report more on this subject.

**What You Can Do.** If you are an eligible TOV voter, there will be an election in November for four Town Council seats—those currently held by Jenn Bruno, Dave Chapin, Dick Cleveland and Greg Moffet, all of whom are eligible to run for re-election. All candidates must file their paperwork by August 28. The VHA urges you to get informed—various Council members hold different positions on the various issues. The VHA will provide more information as the election gets closer.

Even if you are not a Vail voter, if these and other matters we report on concern you, you should still get informed and become involved. Government responds to the public; silence only enables others with different agendas to act in your absence. If you are not already a member, join the Vail Homeowners Association. Together, we will continue to shine a spotlight on these issues that concern everyone.



Aging in Vail – What does the future hold for their quality of life?

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### VHA [Membership:](#)

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The Vail Homeowners Association has entered into a sharing relationship with the following “community building” not-for-profit organizations. In this way, we increase the reach of our advocacy, and together we seek to improve our community in ways that will benefit all. From time to time, VHA will report on the agendas and activities of these



organizations. This is a non-exclusive relationship, and other “community building” not-for-profit organizations may join our endeavors.

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Colorado Ski & Snowboard Museum and Hall of Fame  
231 South Frontage Road East  
Vail, Colorado 81657  
970-476-1876  
[www.skimuseum.net](http://www.skimuseum.net)

The museum’s purpose is to preserve and communicate the lore of the modern mountain winter sports movement in Colorado and its contribution to the evolution of Vail and the state’s mountain winter sports communities.

[Read more:](#)

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PO Box 100 | Vail, CO 81658  
P: 970-680-3525

**C: 970-315-2675**  
[www.vailcentre.org](http://www.vailcentre.org)

The Vail Centre organization exists to provide learning experiences to those taking responsibility for inspiring Vail and the communities of the future.

[Read more:](#)

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Walking Mountains Science Center  
318 Walking Mountains Lane | PO Box 9469 | Avon, CO 81620  
970.827.9725  
[www.walkingmountains.org](http://www.walkingmountains.org)

The mission of Walking Mountains is to awaken a sense of wonder and inspire environmental stewardship and sustainability through natural science education for the Vail community and Eagle County.

[Read more:](#)

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