



Town of Avon Planning & Zoning Commission
Meeting Agenda

Tuesday, July 1, 2014

Avon Town Council Chambers

Meetings are Open to the Public

Avon Municipal Building – One Lake Street

- I. Call to Order – 5:00pm
- II. Roll Call
- III. Additions & Amendments to the Agenda
- IV. Conflicts of Interest
 - a) Disclosure of residency.
 - b) If in Wildridge, can you fairly consider Item V?
- V. **PUBLIC HEARING:** Case #PUD14002, Minor PUD Amendment: Wildridge Subdivision
Applicant: Harry Greenberg.
Summary: The applicant is proposing short term rentals (i.e. rentals less than 30 days) during the Alpine World Ski Championships in 2015. The rentals would take place from January 30, 2015 to February 21, 2015
- VI. Meeting Minutes
 - a) Meeting Minutes from June 17, 2014.
- VII. August 12, 2014 Joint PZC/TC meeting Agenda
Summary: Review and amend draft agenda for upcoming meeting in order to forward to Council for their review and possible additions. Topics so far include: 1) Drift toward prescriptive design standards, 2) Landscaping Regulations, 3) Affordable Housing, and 4) Long Range Planning Work.
- VIII. Other Business
 - a) Beaver Creek Blvd Restriping Project
- IX. Adjourn

Staff Report – Minor PUD Amendment

July 1, 2014 Planning & Zoning Commission Meeting



Report date	June 26, 2014
Project type	Minor PUD Amendment
Legal description	Wildridge Subdivision
Zoning	Planned Unit Development (PUD)
Prepared By	Matt Pielsticker, AICP, Planning Manager

A handwritten signature in blue ink, likely belonging to Matt Pielsticker, the Planning Manager.

Introduction

Harry Greenberg, the Applicant, is requesting a Minor Planned Unit Development (PUD) Amendment (the Application) to permit the Short Term Rental (STR) of homes (home rentals less than 30 days) in the Wildridge PUD and Subdivision. The rentals could be nightly, weekly, or for the entire period of time, and would be permitted within the following time period: January 30, 2015 through February 21, 2015. The applicant is requesting this allowance in response to the high demand for rental housing leading up to and following the 2015 Alpine World Ski Championships (AWSC). The event dates for 2015 AWSC are February 2, 2015 to February 15, 2015. Attached to this report are the Application materials (Attachment A).

Process

The Applicant approached Staff in April to determine the process and ask the Town to consider allowing STR's for the 2015 AWSC. According to the applicant, demand for rental homes will far outstrip supply, not only in Avon, but the valley as a whole. Staff brought the applicant's inquiry to the Town Council during a work session on May 13, 2014 to gain feedback and direction on one of the following approaches: 1) should short term rentals be considered on a property-by-property basis, 2) should short term rentals be considered for the entire subdivision for this event exclusively, or 3) should short term rentals be considered for the entire subdivision beyond this isolated event.

Council directed Staff to work with Mr. Greenberg and proceed through the public hearing process with this request for the entire Wildridge subdivision, but limited to a defined duration to accommodate the 2015 AWSC event. In response to Town Council's direction, the Applicant submitted the Application and a letter of request to permit STR's during the 2015 AWSC (Attachment A) on May 25, 2015. The public hearing process and review criteria are outlined in this Staff Report.

Minor PUD Amendment

This application is processed in accordance with §7.16.060(h), *Amendments to a Final PUD*, AMC. Subsection (1)(ii), sets forth criteria for a Minor Amendment, while subsection (2)(ii) sets forth the review procedures for the same process. The application, as submitted, meets the criteria for a Minor Amendment. By limiting the duration for STR's and not approving permanently, it has been determined by Staff that the request "does not change the character of the development and maintains the intent and integrity of the PUD;" therefore, the application can be processed as a Minor PUD Amendment. This process requires public notification, a public hearing before the PZC and a recommendation by the PZC to Council, and final action by Council after another public hearing. This public hearing process will allow residents of Wildridge to voice their concerns and/or support for short term rentals during the 2015 AWSC.

Public Notification

In order to comply with the codified Public Hearing and noticing requirements, a mailed notice was provided to all property owners in the Wildridge Subdivision the week of June 16th. Additionally, a notice was published in the Vail Daily newspaper on June 20, 2014. Written public comment was received and is included as Attachment B.

Public Hearings

- Planning Commission: July 1, 2014 @ 5:00pm Consideration and Recommendation to Council
- Town Council: August 12, 2014 @ 5:30pm Final Decision

The July 1st, 2014 meeting completes the public hearing requirements with PZC. The Council will make the final decision on this Application through a Resolution after holding one more public hearing, which was noticed for the August 12, 2014 regular meeting.

Wildridge/Zoning Background

The Wildridge PUD was platted and intended to be a residential community since inception. Language from the subdivision plat and zoning ordinance defined the permitted use of “dwellings”, excluding use of dwellings as hotel or “lodge” units. This was further clarified by Council approval of Ordinance 2005-08, which elaborated on the definition of “lodge” and explicitly prohibited this type of land use. Currently, any rental of one month or longer is permitted as a use by right.

Short Term Rentals include any rental less than thirty (30) days, and therefore this amendment would permit any rental duration within the January 30, 2015 to February 21, 2015 period. As mentioned, rentals could be for one day or for the entire period of time. There are no specifications in the Town Code for the number of individuals that could occupy a rental unit.

For a complete picture of the zoning background and the interrelatedness of zoning to private covenants, please refer to the attached (Attachment C) memorandums from the Eric Heil, Town Attorney.

Staff Analysis

This request is for a one-time event and appears to meet the generally applicable review criteria for this type of Minor Amendment. If the PZC reviews this temporary amendment favorably, Staff recommends that conditions be included in the recommendation to Council to ensure compliance with the review criteria (and the necessary tax code). Some of the potential impacts and considerations for this type of land-use that were evaluated:

- Noise related to home construction with common walls (i.e. duplex, triplex)
- Parking
- Duration of the event
- Review Criteria based on the limited duration of the event

PUD Review Criteria

Pursuant to §7.16.060(e)(4), *Review Criteria*, AMC, the PZC shall consider the following criteria when forming the basis of a recommendation:

- (i) *The PUD addresses a unique situation, confers a substantial benefit to the Town, and/or incorporates creative site design such that it achieves the purposes of this Development Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in***

quality may include, but are not limited to: improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments.

Staff Response: This PUD amendment undoubtedly addresses a unique situation with a special event that will span over two weeks and includes guests from around the world. Ski racing has been interwoven throughout Vail and Beaver Creek's history since Vail Mountain opened to the world in the early 1960s. The 2015 AWSC are a rare, major special event for the community, and an enormous influx of spectators and athletes is anticipated.

(ii) The PUD rezoning will promote the public health, safety, and general welfare;

Staff Response: The Application does not appear to negatively affect the public health, safety and welfare. The inclusion of rental housing on a limited term basis will fill the needs of the visitor economy.

(iii) The PUD rezoning is consistent with the Avon Comprehensive Plan, the purposes of this Development Code, and the eligibility criteria outlined in §7.16.060(b);

Staff Response: The proposed PUD amendment is part of an established PUD, and is therefore not subject to the eligibility criteria or Public Benefit requirements outlined in §7.16.060(b). The *Comprehensive Plan* includes this area of Town as District 24: Wildridge Residential District. The *Wildridge District* planning principles deal with enhancing and promoting open space connectivity and also respecting the steep topography that exists; therefore these planning principles are not directly related to this Application.

(iv) Facilities and services (including roads and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;

Staff Response: The PUD amendment would pose a negligible impact on public facilities and services; the existing services can adequately serve the subdivision and rest of Town. All public and utility entities are preparing for this "world stage" event with a coordinated approach. There will be no impact on roads in Wildridge, as no on-street parking is permitted during the winter months.

(v) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

Staff Response: Significant adverse impacts upon the natural environment are not anticipated with this request. There should not be detrimental effects on air, water, noise, storm water management, wildlife, or vegetation. If noise impacts are experienced they will be addressed through the normal course of action by the Avon Police department. The scope of this review is for rentals for an approximate three week period of time and significant environmental impacts are not likely. Staff has investigated how other mountain communities address potential impacts to residential neighborhoods and have found some positive results in other areas such as Jefferson County. Attached to this report (Attachment D) is a sample "being a good neighbor" pamphlet that could be a requirement of permitting this type of use. This pamphlet would include necessary contact information and would be in addition to a required notification to neighbors if a property owner were to rent there unit(s).

(vi) Compared to the underlying zoning, the PUD rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and

Staff Response: As discussed herein, the approval of the PUD amendment should not result in “significant” adverse impacts upon other properties in the vicinity. The proposed PUD amendment contemplates residential use of homes in Wildridge which does not change the existing residential use.

(vii) Future uses on the subject tract will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject tract.

Staff Response: There would be no effect on the “scale” of development. This application is limited to duration of residential use, and no exterior alterations to buildings or the built form would be experienced.

Staff Recommendation

Staff recommends that PZC conduct a public hearing, consider public comments, and direct Staff to prepare Findings of Fact, Record of Decision, and Recommendation at the July 15, 2014 meeting to be presented to Council pursuant to Section 7.16.020(f)(3), *Findings*. If the PZC moves forward with a recommendation for approval to the Town Council, Staff recommends adding the following conditions to that recommendation:

Any property owner who desires to short term rent their property must fulfill these requirements:

- a. Obtain a Sales Tax License in accordance with Chapter 3.08, Avon Municipal Code.
- b. Obtain Accommodations Tax license and remit applicable taxes in accordance with Chapter 3.28, Avon Municipal Code.
- c. The Dwelling shall be equipped with operable smoke alarms, fire extinguishers and carbon monoxide alarms. An operable carbon monoxide alarm shall be installed within fifteen (15) feet of the entrance to each room used for sleeping purposes.
- d. If part of a duplex or multi-family project, the property owner shall notify each adjacent property owner in writing by certified mail of the name and contact information for the 24-hour local primary and secondary contacts.
- e. The property owner shall post the 24-hour local contact information as well as the Short-Term Renter *Good Neighbor Brochure*, as created by the Community Development Department, at a prominent location within the structure. In addition, the property owner shall provide each renter with a copy of the brochure at the time of occupancy.
- f. No on-street parking is permitted at any time.

Attachments

- A: Application Materials
- B: Public Comment
- C: Memorandums from Eric Heil, Town Attorney
- D: *Being a Good Neighbor* sample brochure

To Matt Pielsticker
Planning Manager
Town of Avas
970 949 5749

From Harry S Greenberg
2611 Wylie Rd
Dexter, MI
hsgr@umich.edu
734 426 5931 (fax)

Date 5/28/14

Re: Minor PUD Amendment - World Cup 2015

2 pages including cover



Avon Community Development Department
One Lake Street
POB 975
Avon, Colorado 81620
website: www.avon.org

LAND DEVELOPMENT APPLICATION

Application Type (Check All That Apply):		
<input type="checkbox"/> Comprehensive Plan Amendment	<input type="checkbox"/> Administrative PUD Amendment	<input type="checkbox"/> Appeal
<input type="checkbox"/> Code Text Amendment	<input type="checkbox"/> Preliminary PUD	<input type="checkbox"/> Special Review Use
<input type="checkbox"/> Rezoning	<input type="checkbox"/> Final PUD	<input type="checkbox"/> Variance
<input type="checkbox"/> Administrative Subdivision	<input type="checkbox"/> Annexation	<input type="checkbox"/> Alt. Equivalent Compliance
<input type="checkbox"/> Minor Subdivision	<input type="checkbox"/> Minor Development Plan	<input type="checkbox"/> Right-of-Way Vacation
<input type="checkbox"/> Major Subdivision - Prelim Plan	<input type="checkbox"/> Major Development Plan	<input type="checkbox"/> Vested Property Right
<input type="checkbox"/> Major Subdivision - Final Plat	<input type="checkbox"/> Major Development Plan (TC)	<input type="checkbox"/> Sign Design
<input type="checkbox"/> Temporary Use	<input type="checkbox"/> Minor Amendment	<input type="checkbox"/> 1041
<input checked="" type="checkbox"/> Minor PUD amendment		
Project Name:		
Short Term Rental During World Cup 2015 ≈ 16 days		
Project Location:		
Street Address:		
5070 Wildridge Road East Unit B Avon CO 81620		
Legal Description:		Parcel Number(s):
Blk 4 Lot 40 B Wildridge Subdivision		
Applicant:		
Name: Harry S. Greenberg		
Mailing address: 2611 Wylie Rd		
City: Dexter	State: MI	ZIP Code: 48130
Phone: 734 730 5615	Email: hsgar@umich.edu	Fax: 734 426 5931
Property Owner:		
Name: Harry S. Greenberg		
Mailing address: 2611 Wylie Road		
City: Dexter	State: MI	Zip Code: 48130
Phone: 734 730 5615	Email: hsgar@umich.edu	Fax: 734 426 5931
Signature:		
Harry S. Greenberg		Date: 5/25/14
FEE PAID _____	APPLICATION # _____	
DATE RECEIVED _____	CASE MGR _____	

Have you included the following?

1. Pre-application conference summary
2. Signed Fee Agreement
3. Dimensional Requirements Form
4. Submittal Requirements

Matt Pielsticker

Subject: FW: Mior PUD-Rental During World Cup 2015 Wildridge

From: Greenberg, Harry [<mailto:hsgr@med.umich.edu>]
Sent: Thursday, May 29, 2014 5:50 PM
To: Matt Pielsticker
Subject: Re: Mior PUD-Rental During World Cup 2015 Wildridge

To: Avon Town Council

Town of Avon

From: Harry S. Greenberg
5070 Wildridge Rd. E, Unit B
Avon, CO 81620

Date: 5/29/2014

Re: Short Term Rental During World Cup 2015 in the Wildridge area Town of Avon

I have been informed by several real estate companies, including Sonnealp real estate that there is a shortage of short term rentals during the World Cup 2015 that Vail and Beaver Creek are hosting. The Wildridge area is presently not zoned for short term rentals yet is proxigious to Beaver Creek where many of the downhill skiing events are held. It would make ideal short term housing.

I request that 5070 Wildridge Rd E, Unit B, and the rest of the Wildridge area as you see fit be made available for short term rental during the World Cup.

Thank you for your consideration.

Harry S Greenberg

Sent from my iPad

June 23, 2014

TO: Community Development Department
Avon Planning and Zoning Commission
Avon Town Council

From: Scott and Mariette Blackett
2605 Beartrap Road, Unit B
Avon, Co, 81620 (Wildridge)

RE: Pending Wildridge Long Term Rental PUD Amendment

RECEIVED
JUN 23 2014
Community Development

Ladies and Gentleman –

We are in receipt of a public hearing notice regarding a potential change to the Wildridge PUD allowing short term rentals during the up-coming 2015 World Alpine Ski Championships. We are VERY OPPOSED to said change. Wildridge is a wonderful, quiet, family oriented neighborhood with currently only long term rental availabilities. That is one of the primary reasons we moved to Wildridge over 7 years ago.

The proposed rule change would change the very nature of the neighborhood for harmful short term gain. This proposed rule change also sets a very “slippery-slope” precedent. If you change the rules for this event, precedent is made to change the rules for other events, like the Cycling Pro Challenge, or Ride the Rockies, or the Birds of Prey World Cup race week, or Christmas week, or New Year’s week, etc. Our experience with government is that once it is permitted to make a one-time-only change, a new tax, a new law, it somehow mysteriously becomes permanent. Most importantly, if the town does try to keep said change to “just this once”, Avon opens itself up to future, multiple, and expensive law suits by other Wildridge residents who want to rent their house for Christmas, New Year’s, etc. “just this once”. In addition, “parking on the road” waivers will come in by the dozens as potential renters will try to cram as many people as possible into each available rental unit creating traffic AND snow removal issues for 3 weeks. And as this is seen as a big international party by many, there will be noise and loud party issues as well.

This is a very bad idea, indeed, for a lot of very good reasons. We implore the Planning and Zoning Commission as well as the Town Council to vote no on this ill-advised and precedent setting rule change. We will be watching closely to see if you do the right thing.

Best Regards,

Scott and Mariette Blackett

Cell: 303-807-2878

Email: sblackett@comcast.net

TO: Avon Planning and Zoning Commission
FROM: Eric J. Heil, Town Attorney
RE: Wildridge PUD Amendment application for Accommodation/Lodging Use
DATE: June 27, 2014

Summary: This memorandum is provided to address two issues raised in the Minor PUD Amendment for Wildridge to allow accommodation/lodging use (i.e. short-term rentals) during the 2015 Alpine World Ski Championship.

- 1. Relationship to Wildridge Covenants.** I had previously reviewed the Wildridge Covenants and researched case law regarding Planned Unit Developments in 2009 when the issue of accommodation/lodging use in residential areas was considered in 2009. My previous memoranda are provided with Matt Pielsticker's memorandum. To reiterate and summarize, it is my opinion that the Town can legally approve a PUD Amendment that permits a use that is not permitted by private covenants concerning the same project. The effect is that the Town would grant approvals and/or allow such use under the Town's regulations; however, the Town's regulation would not affect the applicability and enforceability of the private covenants between and among private property owners in Wildridge.

It is also my opinion that Avon Planning and Zoning Commission members may properly consider the private covenants, changes in the community since the Wildridge project was first approved and the nature of the PUD Amendment application in reviewing the PUD Amendment application. Whether Planning and Zoning Commission members believe that a PUD Amendment should not conflict with private covenants as a matter of principle or believe that the proposed PUD Amendment is consistent with the applicable review criteria is a matter of policy that each Planning and Zoning Commission member will need to determine.

- 2. Legal Precedent.** It is my opinion that approval of PUD Amendment in one circumstance would not create a legal precedence that would entitle any property owner to a future PUD Amendment. PUDs are a flexible form of zoning and zoning amendments are generally treated as legislative acts. A PUD Amendment application is different than other development applications, such as a Development Plans, Design Review and Special Review Use where it is possible that an applicant can point to past approvals as a legal precedence to approve an application that is substantially similar.

Thank you, Eric



WIDNER MICHOW & COX, LLP
ATTORNEYS AT LAW

MEMORANDUM

TO: Honorable Mayor Wolfe and Town Council members
CC: Larry Brooks, Town Manager
FROM: Eric Heil, Town Attorney
DATE: September 25, 2009
SUBJECT: Application of Short Term Overlay District and Wildridge PUD

Summary: On September 22, 2009, the Town Council approved first reading of Ordinance No. 09-12 establishing a Short Term Rental Overlay District and approved expanding the overlay zone district to include Eaglebend Drive, Nottingham Road, and the Wildridge Planned Unit Development ("PUD"), which includes Wildwood. This memorandum addresses legal issues raised by conflicts between the Short Term Rental Overlay district and the Wildridge PUD. A short term rental use cannot be approved for the Wildridge PUD through the adoption of an overlay zone district because the Wildridge PUD expressly excludes short term rental use. A PUD Amendment is the legally appropriate procedure to change or alter the current restriction of short term rentals in the Wildridge PUD.

Wildridge PUD: The Wildridge PUD was approved by the Town of Avon in 1981. Note 4 of the PUD Plat states:

Definitions: Dwelling Unit – one or more rooms in addition to a kitchen and bath facilities, in a permanent building, designed for use as a dwelling exclusively by one family or one or more human beings as an independent housekeeping unit and independent of other families: **such dwellings shall not include** mobile homes, **hotels, lodge units**, clubs, hospitals, temporary structures such as tents, railroad cars, trailers, motor homes or campers, campers, street cars, metal prefabrications sections or similar units. [emphasis added]

The question of whether short term rental use is allowed in the Wildridge subdivision was recently litigated. The Colorado Court of Appeals ruled that the original 1979 zoning and the original Wildridge PUD language exclude short term rentals use, stating:

The plain language of the subdivision plat and zoning ordinance defined permitted use of a "dwelling" to exclude use of the dwelling as a hotel or lodge unit. Because the subdivision plat and ordinance specified that the permitted use of the subject property was a duplex, and that such use of the duplex as a hotel or a lodge was not permitted, their objective import clearly was to prohibit uses inconsistent with the residential character of the area. See *Town of Alta v. Ben Hame Corp.*, [836 P.2d 797](#), 801 (Utah Ct.App.1992); see also Ord. No. 79-12, art. V, § 5.1(f) ("In residential . . . districts, business or commercial activity is prohibited at all times except that limited home occupation offices may be allowed under special review uses in certain residential areas

To: Mayor and Town Council
Re: Short Term Rentals
Date: September 25, 2009
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as specified in Section 3.2."). This reading of the subdivision plat and ordinance comports with the general purposes those regulations serve. Among the objectives to be served by zoning is to avoid mixing together of industrial, commercial, business, and residential uses. *Cf.* § 31-23-301, C.R.S.2006. The subdivision plat and ordinance should thus legitimately maintain the character of a residential neighborhood. *Jackson & Co. (USA), Inc. v Town of Avon*, 166 P.3d 297 (Colo. App. 2007).

Due to the express language of the original Wildridge PUD approval and the direct ruling in the *Jackson & Co* case, an amendment to the Wildridge PUD is required to alter the prohibition on short term rental use. Both the Avon Municipal Code and state statute provide specific procedures for amending planned unit developments.¹ Avon Municipal Code section 17.20.110(k)(2) requires the Town to provide notification to "owners of all property within the PUD that may be affected by the proposed amendment (as determined by the Community Development Director)." If required notice procedures are not properly followed, the local government may not approve an amendment to a planned unit development. *Whatley v Summit County Board of County Commissioners*, 77 P.3d 793 (Colo. App. 2003). Finally, the consent of property owners is not required to approve an amendment to a PUD, *Whatley*.

Wildridge Protective Covenants: Wildridge is subject to protective covenants that define dwelling units with the verbatim language used in Note 4 of the PUD plat (i.e. no short term rental use allowed). Paragraph 4 states that, "It is the intention of [Wildridge Development Company] that the Town and its [Design Review Board] shall follow and utilize the Architectural and Landscape Design Guidelines and other appropriate provisions of these covenants." According to Paragraph 4, the Covenants Committee may object to a decision of the Town or Design Review Board within seven (7) days of the decision (although no remedy is specified other than the ability of the Covenants Committee to enforce the covenants). Paragraph 33 provides that the Town of Avon, Design Review Board, the Covenants Committee, or any property owner of the subdivision may enforce the covenants. Paragraph 32 provides that the protective covenants cannot be amended unless approved by written consent of 75% of the privately owned real property owners.

The Wildridge Protective Covenants allow the Town to enforce the covenants but do not create an obligation by the Town to enforce the covenants. The Covenants Committee and individual property owners retain the ability to enforce the Protective Covenants.

Conclusion: The Town of Avon cannot extend the proposed Short Term Rental Overlay Zone District to the Wildridge PUD area through the current zoning adoption process. An application to amend the Wildridge PUD to modify Plat Note 4 would be required to allow short term rental use in Wildridge. Furthermore, any such amendment would require providing mailed notice to each property owner of the proposed amendments. Based on the information provided, the Town is neither bound nor obligated to follow or enforce the Wildridge Protective Covenants. However, unless the Wildridge Protective Covenants are modified by written consent of 75% of the property owners, the Covenants Committee or any property owner in Wildridge could legally prevent any short term rental use as a private enforcement matter even if the Town approved an amendment to the Wildridge PUD that allowed Short Term Rental use.

¹ Avon Municipal Code section 17.20.110 requires Planning Commission and Town Council review of PUDs and PUD amendments through the formal hearing process. C.R.S. §24-67-106(3)(b) requires notice and hearing prior to any modification of a PUD.



WIDNER MICHOW & COX^{LLP}
ATTORNEYS AT LAW

MEMORANDUM

TO: Honorable Mayor Wolfe and Town Council members
CC: Larry Brooks, Town Manager
FROM: Eric Heil, Town Attorney
DATE: October 5, 2009
SUBJECT: Short Term Rental Overlay Zone District

Summary: This memorandum addresses legal issues raised by the proposed Ordinance No. 09-12 establishing a Short Term Rental Overlay Zone District.

Application to Existing PUDs: I provided a memorandum dated September 25, 2009 which included the legal opinion that the Short Term Rental Overlay Zone District could not be applied to the Wildridge PUD¹ to allow short term rental use when the Wildridge PUD language expressly prohibited such use. Rather, the PUD amendment process is the appropriate procedure to modify the allowed uses in a PUD. PUD is a form of zoning, therefore, a PUD amendment is essentially the same as a zoning amendment; however, the Town of Avon PUD amendment process requires notification to each property owner whereas the Town's general zoning amendment process does not require notification to each property owner. AMC² 17.28.030 provides that notice is not required to be sent to all property owners in an area proposed for a general zoning change. AMC 17.20.110(k)(2) provides that notice shall be provided to all property owners within or adjacent to a PUD which may be affected by the proposed change. Legally, the Town must follow the PUD amendment procedures and provide notice to all property owners in a PUD area before considering any amendment to the permitted uses in a PUD.³ The Short Term Rental Overlay Zone District should not be applied to any PUD area unless the PUD amendment process is followed (i.e. notice is provided to all property owners within the PUD).

Relationship to Private Covenants: For the purposes of discussion of this topic, the term private covenants includes declarations, owner's association rules and regulations, restrictions, restrictive easements, and private covenants. All these terms are similar in that they create potential restrictions on the use property through private contractual relations.

¹ Planned Unit Development

² Avon Municipal Code

³ *Whatley v Summit County Board of County Commissioners*, 77 P.3d 793 (Colo. App. 2003)

TO: Hon. Mayor Wolfe and Town Council
RE: Short Term Rental Overlay Zone District
DATE: October 5, 2009
Page 2 of 2

Generally, private covenants are legally independent of local government zoning regulations such that the local government's obligation only includes enforcing zoning regulations. Local governments are not legally required to enforce private covenants unless the local government is party to the covenant and the covenant expressly creates such obligation. Often times, private covenants are considered with land use approvals and sometimes certain terms are required in private covenants as a condition of land use approvals. Furthermore, the local government may require in certain circumstances that the private covenants name the local government as a beneficiary so that the local government has an additional legal means to enforce certain restrictions or obligations on properties (i.e. open space preservation or public access).

The Avon Municipal Code does not include any language which expressly addresses the relationship of the Town Code to private covenants. The Colorado Model Land Use Code provides the following sample language:

Conflict with Private Covenants or Deeds. In case of a conflict between this Code and any private restrictions imposed by covenant or deed, the responsibility of the Town/City shall be limited to the enforcement of this Code. When provisions within this Code are more restrictive than those imposed by covenant or deed, or when any such private instruments are silent on matters contained within this Code, the provisions of this Code shall rule.

In order to clearly address the issue of the Town's zoning code relationship to private covenants, the following language is proposed for adoption in the AMC:

17.12.055 Interpretation – relationship to private covenants.

In case of a conflict between the zoning code and any private restrictions imposed by covenant or deed, the responsibility of the Town shall be limited to the enforcement of the zoning code. When provisions within the zoning code are more restrictive than those imposed by covenant or deed, or when any such private instruments are silent on matters contained within the zoning code, the provisions of the zoning code shall govern. The zoning code shall not supersede, nullify or overturn the provisions of any private covenant or deed which are more restrictive than the zoning code unless such private restrictions are unconstitutional. The Town may apply and enforce the restrictions imposed by covenant or deed if the Town required such covenant or deed as a condition to a develop approval or if the Town is named as a beneficiary of such covenant or deed.

Requested Council Action: Please refer to memorandum from Matt Gennett, Planning Manager, for recommendations and requested Council action.



Welcome to Avon and the 2015 Alpine World Ski Championships! We hope that you enjoy your stay, and return to enjoy the splendor that is the Colorado experience. The home you have rented for your stay is actually within a residential community and we ask that you take a few moments to read this brochure to ensure that your experience and enjoyment does not have a negative impact on the neighboring properties.

The owner of this property has been given approval by the Town of Avon to rent this home as a Short Term Rental property. In doing so, the owner has agreed to several conditions which are in place to ensure that the local residents are not impacted by your stay. The following is a list of these conditions and other helpful hints for compliance during your stay:

Please do not park in any location other than the parking spaces provided on-site. All parking associated with your rental must be on-site. The owner of the property has provided a minimum of 1 parking space for each sleeping room, plus one additional space.

Our roads can be very narrow, steep, and many have very tight corners. Many roads are not well lit, and may not be maintained by the Town. Please obey the posted speed limits. When in doubt, slow down.

Please be considerate of the neighbors. Sound can travel a long distance and can disrupt adjoining properties and wildlife. Colorado Statutes provide for “quiet hours” between 10:00 PM and 7:00 AM, violations of such may lead to a citation from the local authorities

Town approval of this home for short-term rental requires that the owner provide a primary and secondary contact that can be reached anytime night or day to resolve any issues that may arise during your stay. The contact information has also been shared with neighboring properties.

Local Contact Information

Primary Contact



Secondary Contact

Emergencies: Dial 911



Town of Avon Planning & Zoning Commission
Meeting Minutes

Tuesday, June 17 2014

Avon Town Council Chambers

Meetings are Open to the Public

Avon Municipal Building – One Lake Street

- I. Call to Order
The meeting was called to order at 5:07 PM.
- II. Roll Call
Commissioner Baum was absent.
- III. Additions & Amendments to the Agenda
There were not additions or amendments to the Agenda.
- IV. Conflicts of Interest
Commissioner Hardy disclosed a conflict with Item V.
- V. Nottingham Park Pavilion (Stage) Concept Schematic Presentation – Brian Judge, Vail Architecture Group, Inc. (VAg) presenting
Discussion: Brian Garner, Town Planner, made opening remarks. Virginia Egger, Town Manager, discussed the background of the project and Council direction.
Brian Judge, VAg, presented the design plan on behalf of the Town.
Action: None.
- VI. **PUBLIC HEARING:** Case #SRU14001: Lot 14/15, Block 1, Benchmark at Beaver Creek Subdivision. 371 Metcalf Road #2NA (Wagner Electric). The applicant is proposing an Accessory Dwelling Unit (ADU) within the industrial warehouse complex.
Discussion: Brian Garner, Town Planner, presented the application. Chris Juergens, Victor Mark Donaldson Architects, representing the owner, Robert Wagner, presented the application to the Commission.
The public hearing was opened and closed with no public comments.
Action: Commissioner Prince moved to approve Resolution 14-02 as presented in the Staff Report. Commissioner Struve seconded and the motion passed unanimously with 6-0 vote.
- VII. **PUBLIC HEARING:** Case #CTA14001: Code Text Amendment to remove the Light Reflective Value (LRV) standard from the Avon Development Code and revise the language pertaining to color approval.
Discussion: Brian Garner, Town Planner, presented the code changes to the Commission.
Action: Struve moved to approve Resolution 14-01, the motion was seconded by Commissioner Bonidy. All were in favor and passed with 6-0 vote.

- VIII. Consent Agenda
- a) Meeting Minutes from May 20, 2014.
 - b) Meeting Minutes from June 3, 2014.

Action: Commissioner Struve moved to approve the consent agenda. There was a second by Commissioner Hardy. The motion passed with a 5-0 vote, with Commissioner Minervini abstaining.

- IX. Other Business
- a) Topics for Council joint meeting

Discussion:

Action: The PZC discussed potential dates for the upcoming meeting and settled on August 12, 2014. They added topics, including affordable housing, design standards (prescriptive vs. objective), and landscaping regulations.

- b) Recent Staff Approvals:

- L68, B1 WR – 2413 Saddleridge Loop: Cantilevered 10' x 2' bump-out on side of home with 18" eave.

- X. The meeting was adjourned at 7:25pm.
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APPROVED on this 1st day of JULY, 2014

SIGNED:

Scott Prince, PZC Vice Chairman