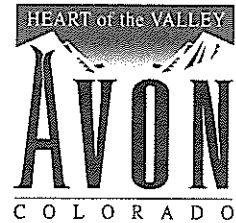


Memo



To: Planning and Zoning Commissioners

Thru: Matthew R. Gennett, Planning Manager

From: Jared Barnes, Planner I

Date: February 3, 2009 Meeting

Re: Burkhard Residence, Lot 21, Block 3, Wildridge Subdivision
Final Design Extension

Introduction:

The owner, Erich Burkhard, of Lot 21, Block 3, Wildridge property has requested an extension to the Final Design approval that was granted on February 6, 2007.

Per Section VII, Town of Avon Residential, Commercial, and Industrial Design Review Guidelines, Final Design Plan approvals "***shall be valid for a period of two (2) years from the date of approval, with a one-time extension permitted for up to one year at the applicant's request.***"

At the applicant's request (see attached), Staff recommends that the Planning and Zoning Commission grant a one-time extension of the referenced Final Design Plans until February 3, 2010. Staff will have a set of the approved plans at the meeting for your review.

Attachment:

- Letter from Erich Burkhard
- Approved Elevations

ERICH RICHARD BURKHARD, R.A.

ARCHITECT & PLANNER

2110 Goodwin Lane, North Wales, Pa. 19454 ♦ 215-542-8597
1erich@comcast.net

December 17, 2008

re: Wildridge, Lot 21, Block 3,
Request - Extension of Approval

Zoning and Design Review Board
Town of Avon
P.O. Box 975
Avon, Colorado 81620

Dear Ladies and Gentlemen of the Board:

I respectfully request your consideration and extension of your previous approval of design plans for the above referenced lot. Your approval was granted at the first Board meeting in February 2007 of a single family dwelling with a lock off unit.

Your consideration of this request is appreciated, and I hope you will be able to reaffirm your approval and grant a one year extension.

Thank you for your time and attention to this request, I am,

Sincerely yours,


Erich R. Burkhard, RA

Encl. Review Fee, Payment - Check \$200

Memo



To: Planning and Zoning Commissioners
From: Robert Janusz, Parks/Facilities Superintendent
Date: February 3, 2009 Regular Meeting
Re: Recreational Trails Master Plan Review

Introduction:

Town Staff is seeking the Commission's review of the draft document entitled "Town of Avon Recreational Trails Master Plan (January, 2009)." This document is the first step in the development of a sustainable trails system on the north side of the I-70 corridor, with possible future connection to existing recreational trails within the Town's central core and the Eagle River trail system.

Background:

The Town of Avon began developing a Recreational Trails Master Plan (Plan) in 2008. This Plan includes the open space areas north of the I-70 corridor, including the non-sustainable Social Trails that connect Single Tree and West Avon at Nottingham Road, the Social Trails that exist in Wildridge; and the development of sustainable trails in Metcalf Creek, Buck Creek, and any other open space area in the Town of Avon.

In July of 2008, the Avon Town Council awarded Anasazi Trails, Inc. (ATI), the contract to conduct a field analysis and make recommendations for the development of sustainable trails corridors. Cuatro Hundley of ATI, performed a field survey of existing trails, and pursued concept corridors for new trail areas. What was found was that there are several trails that are in need of attention due to erosion, and also looks into the possible construction of user friendly, sustainable trails.

Review and approval for this draft document will give the Town a preliminary guide to the direction it wants to take in its trails system priorities. The existing trails shown in the document are Social Trails. These have been established over the years by users that have little idea of the damage that can occur when hiking in unsustainable areas. This document points out some of the affected areas, and the actions that can be taken to bring them to a more sustainable, maintainable state.

Recommended Motion:

Staff recommends approval of Resolution 09-04, recommending approval of the Town of Avon Recreational Trails Master Plan, as drafted, for future adoption by Town Council.

Exhibit:

Town of Avon Recreational Trails Master Plan—Draft Dated January, 2009

**TOWN OF AVON
PLANNING & ZONING COMMISSION
RESOLUTION NO. 09-04**



**A RESOLUTION RECOMMENDING APPROVAL OF THE TOWN OF
AVON RECREATIONAL TRAILS MASTER PLAN, DATED JANUARY,
2009, TOWN OF AVON, COUNTY OF EAGLE, STATE OF
COLORADO**

WHEREAS, the Town of Avon recognizes and affirms the value of protecting both the natural environment and the abundant recreational experiences that the White River National Forest and Town of Avon open space properties present; *and*

WHEREAS, the Town of Avon's vision is to provide a high quality of life, today and in the future, for a diversity of people and interests; and to promote their ability to live, work, visit, and recreate in the community; *and*

WHEREAS, the Town of Avon Comprehensive Plan provides a clear foundation and framework for actions and implementation policies that will encourage the types of growth envisioned in the Plan; including but not limited to expanded recreational opportunities; *and*

WHEREAS, the Town of Avon Comprehensive Plan incorporates the following Goals and Policies pertinent to the Town of Avon Trails Recreation Master Plan:

Policy I.1.3: Integrate the Town's recreational trail system with the regional trail systems (ECO Trails, U.S. Forest Service, and BLM).

Goal I.2: Coordinate and collaborate with surrounding jurisdictions and agencies to develop seamless recreational opportunities.

Policy I.2.1: Participate in travel management planning by the U.S. Forest Service to ensure that the adequate development and long-term maintenance of trails and trailheads are meeting the Town's needs.

Goal I.1: Provide an exceptional system of parks, trails, and recreational programs to serve the year-round leisure needs of area residents and visitors.

Policy I.1.5: Coordinate with Eagle County and other government and non-profit agencies in planning, protecting, and managing public open space, and in providing access and linkage opportunities.

WHEREAS, the Town of Avon Planning and Zoning Commission held a public hearing at their February 3, 2009 meeting to review the draft plan entitled "Town of Avon Recreational Trails Master Plan (January, 2009)"; at which time the public was given a choice to comment on the draft plan;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF AVON PLANNING AND ZONING COMMISSION, that the Planning and Zoning Commission of the Town of Avon hereby recommends approval to the Town of Avon Recreational Trails Master Plan (January, 2009).

ADOPTED THIS 3rd DAY OF FEBRUARY, 2009

Signed:

Date: _____

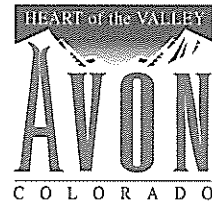
Chris Evans, Chairperson

Attest:

Date: _____

Phil Struve, Secretary

Memo



To: Planning and Zoning Commissioners

Thru: Matthew R. Gennett, Planning Manager, AICP

From: Matt Pielsticker, Planner II *Zep*

Date: February 3, 2009 Regular Meeting

Re: Historic Preservation Committee Property Nomination
Nottingham Blacksmith Shop

Introduction:

Greg Macik and Jeanette Hix, on behalf of the Avon Historic Preservation Advisory Committee, have submitted a nomination for a structure to be considered for Historic Landmark designation. Please consider this nomination and act in accordance with the procedures outlined in Chapter 17.50 of the Avon Municipal Code.

Once a site or structure is found eligible by the Historic Preservation Advisory Committee for designation, the Committee makes a recommendation to the Planning and Zoning Commission.

After a public hearing, the Commission shall then make a recommendation to the Town Council. A majority decision of the Council is then required for final approval.

Please find the nomination attached to this Memorandum (Exhibit A), which includes several photographs of the subject property. Also attached is a Historical Field Analysis (Exhibit B) provided by Tatanka Historical Associates, Inc, and a draft resolution (Exhibit C) forming the basis for approval of this nomination to the Town Council.

Discussion:

The documentation attached to this Memorandum provides clear evidence of the historical and cultural significance of the Nottingham Blacksmith Shop. The structure is nearly 100 years old and is one of few original remaining structures in the Town. This nomination appears to meet the intent and purpose of the Historic Preservation Ordinance.

It is important to note that if this structure is declared a Historic and Cultural Landmark by the Avon Town Council, there will be certain stipulations placed on the building. Any exterior alteration, relocation or removal of a structure must be reviewed by both the Planning and Zoning Commission and the Town Council.

For your reference, the following is an excerpt from the Historic Preservation Ordinance, outlining the criteria to be utilized when reviewing an application to alter, relocate, or remove a Historic Landmark:

17.50.050. Review of plans for sites and structures having designation.

Any application for any permit which includes the exterior alteration, relocation or removal of a site or structure designated as a Historic and/or Cultural Landmark must be reviewed by the Planning and Zoning Commission for recommendation of approval or disapproval to the Town Council on the basis of the following criteria. The Town Council shall approve or disapprove the application after public hearing at which the landowner and interested persons have an opportunity to be heard.

(a) Criteria for alteration of a site or structure:

- (i) Whether the architectural or historical character will itself be materially altered so as to negatively impact the Historical Landmark; and,*
- (ii) Whether the architectural style and arrangement and the texture of the exterior surface materials of the existing structure and the proposed alteration appropriately relate to each other and to other structures in the vicinity; and,*
- (iii) Whether the alteration will negatively change or destroy the exterior architectural features and details of the structure; and,*
- (iv) The effect of the proposed alteration on the protection, enhancement, perpetuation and use of the Historic Landmark.*

(b) Criteria for relocation of a structure:

- (i) Significance of the original site; and,*
- (ii) Whether the structure can be rehabilitated or used on its original site consistent with the reasonable and beneficial use of the property; and,*
- (iii) Whether the proposed site is compatible with or detracts from the importance of the Historic Landmark; and,*
- (iv) Whether the structure can be moved without causing significant damage to its physical integrity; and,*
- (v) Whether the relocation of the structure is necessary to prevent undue hardship on the property owner.*

(c) Criteria for removal of a structure:

- (i) Whether the structure presents an imminent hazard that cannot otherwise be properly mitigated; and,*
- (ii) Whether the structure can reasonably be rehabilitated and maintained in its present location and the significance of the original site; and,*
- (iii) Whether relocation of the structure is reasonably possible or practical; and,*
- (iv) Whether the structure can be rehabilitated or used on its original site consistent with the reasonable and beneficial use of the property; and,*

(v) *Whether the removal of the structure is necessary to prevent undue hardship on the property owner.*

Historic Committee Background:

The Town Council expressed a value in historic preservation and stewardship of historic sites when the Historic Preservation Advisory Committee was established in 2005. The Historic Preservation Committee was formed by Resolution No. 05-13 on May 10, 2005, and serves as an advisory Committee for the purpose of promoting historical preservation in the Town.

The Committee meets quarterly and is charged with recognizing and recommending historic landmark structures and properties to the Town Council. When the Committee was formed, a "Heritage Fund" was created to fund their operation.

The Historic and Cultural Preservation Ordinance was approved on March 25, 2008 by the Town Council upon second reading. The Ordinance establishes the processes involved with nomination, and sets forth requirements for when a site or structure is designated as a Historic Landmark.

Staff Recommendation:

Staff recommends that the Planning and Zoning Commission approve Resolution No. 09-02 (Exhibit C), recommending approval of the Nottingham Blacksmith Shop as a Town of Avon listed Historic and Cultural Landmark.

Recommended Motion:

"I move to approve Resolution No. 09-02, a resolution recommending approval of the Nottingham Blacksmith Shop as a Historic and Cultural Landmark to the Town Council, with the findings incorporated therein."

Exhibits:

- Exhibit A: Nomination
- Exhibit B: Historical Background and Field Analysis, dated November 10, 2008
- Exhibit C: Resolution 09-02 (DRAFT)
- Exhibit D: Vicinity Map



WIDNER MICHOW & COX
ATTORNEYS AT LAW

MEMORANDUM

TO: Avon Planning and Zoning Commission
CC: Eric Heidemann, Community Development Director
FROM: Eric Heil, Town Attorney
DATE: January 28, 2009
SUBJECT: Vested Rights Regulations

Summary: Ordinance No. 2009-2 proposes revisions to the Vested Rights Regulations in Chapter 17.14 of the Zoning Code of the Town of Avon. The proposed revisions would be implemented by repeal and reenactment of Chapter 17.14 in its entirety. Town Council initiated the amendments on January 13, 2009. A public hearing is scheduled to be conducted by the Avon Planning and Zoning Commission for February 3, 2009. A public hearing is scheduled to be conducted by the Avon Town Council on February 10, 2009. The Vested Property Rights regulations implement the Vested Property Rights ("VPR") statutes set forth in Colorado Revised Statutes §24-68-101 *et seq.*

Overview of Vested Rights Regulation Revisions: The revisions to the Vested Rights regulations present three major changes, including (1) elimination of the current five year maximum duration for vested rights, (2) establishment of guidelines for consideration of vested rights in excess of three years, and (3) establishment of specific procedures for declaring forfeiture of vested rights. Other revisions include fine tuning the regulations to implement and comply with the VPR statutes and coordinate with existing processes in the Avon Municipal Code.

Proposed Language Changes:

Definition of Site Specific Development Plan: The VPR statutes require a local government to provide a minimum vested property right for three years upon approval of a "site specific development plan". The VPR statutes specifically authorize a local government to determine what constitutes a "site specific development plan". The Town currently defines "site specific development plan" to mean only a Planned Unit Development application. This definition is proposed to be revised slightly to include any other development approval in which the Town Council desires to provide a vested right, but clarifies that any other development approval requesting a vested right is not subject to C.R.S. §24-68-102.5(1). C.R.S. §24-68-102.5(1) states that a development application must be reviewed according to the regulations in place at the time of submitting the application. The proposed language would include only planned unit development applications under this rule.

Ability to Adopt General Regulations: Sections 17.14.030(b) and (c) further specifies the definition of rules and regulations of a general nature that are exempt from vested rights to

include subdivision improvements, right-of-way dedications, specifications for public infrastructure and public facilities, and fees that are general in character.

Notice of Approval: The requirements for notice of approval in Section 17.14.050 have been revised to track the VPR statutory requirements more closely as well as add a specific requirement to provide notice that the ordinance granting a vested right is subject to referendum. The notice requirement also states that the Town shall provide the notice rather than the applicant to avoid ambiguities over the legal status if the notice is provided later than fourteen days.

Duration of Vested Rights: 17.14.060(b) sets forth guidelines for approval of a vested right greater than three years which would apply to all new vested rights and amendments to existing development approvals with vested rights. The term "guideline" is used because granting a vested property right for greater than three years is a legislative act and strict compliance with the guidelines is not a requirement. The first three guidelines in 17.14.060(b) track considerations in the VPR statutes. Guidelines (4) through (9) set forth considerations that the Council has expressed are important. Note that guideline (8) refers to consideration of vested rights in existing agreements. Guideline (10) clarifies that the Council's discretion may include consideration of any factor deemed relevant.

Extension of Vested Rights: 17.14.070 sets forth procedures specifically for consideration of extension of vested rights.

Forfeiture of Vested Rights: 17.14.080 does not change the reasons for determining the forfeiture of a vested right (failure to abide by terms and conditions), but adds procedures to insure that property rights are not denied without due process of law. The VPR Statutes are silent on the process for declaring vested rights forfeited. Vested property rights create a "property right". Property rights cannot be taken away without due process; therefore, notice and a hearing must be provided.

Process for Adoption: The repeal and reenact of the Vested Property Rights regulations occurs through a formal application for text amendment to the Zoning Code of the Town of Avon which can be initiated by the Town Council, Avon Municipal Code sec. 17.28.020. First reading by the Town Council of an ordinance adopting the revised vested rights regulations is scheduled for January 27, 2009. A public hearing is scheduled for the Avon Planning and Zoning Commission on February 3, 2009. A public hearing and second and final reading of an ordinance adopting the revised vested rights statutes is scheduled for the Town Council on February 10.

Requested Action: Planning and Zoning Commission consideration of a Resolution recommending adoption of the proposed zoning text amendments is requested.

**TOWN OF AVON, COLORADO
ORDINANCE NO. 09-02**

**AN ORDINANCE OF THE TOWN OF AVON, COLORADO,
REPEALING CHAPTER 17.14 AND ENACTING
A NEW CHAPTER 17.14 OF THE AVON MUNICIPAL CODE**

WHEREAS, the Town of Avon, Colorado, ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Town of Avon Home Rule Charter of 1978 ("Charter"); and,

WHEREAS, Town Council initiated amendments to the Zoning Code of the Town of Avon on January 13, 2009, in accordance with Section 17.28.020 of the Avon Municipal Code; and,

WHEREAS, the Avon Planning and Zoning Commission conducted a public hearing on February 3rd, 2009, after posting notice in accordance with Section 17.12.100 of the Avon Municipal Code; and,

WHEREAS, the Avon Town Council conducted a public hearing on February 10th, 2009, after posting notice in accordance with Section 17.12.100 of the Avon Municipal Code; and,

WHEREAS, the Avon Town Council finds that the repeal and reenactment of Chapter 17.14 Vested Property Rights will improve the Town's administration, processing and review of vested property rights; and,

WHEREAS, approval of this Ordinance on first reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies the proposed vested rights regulations; and,

WHEREAS, the Town Council finds that the passage of this Ordinance will promote and preserve the health, safety and welfare of the Avon community;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO, the following:

Section 1. Recitals Incorporated. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Town Council.

Section 2. Chapter 17.14 Repealed and Reenacted.

Chapter 17.14 is hereby repealed in its entirety and reenacted to read as follows:

CHAPTER 17.14

Vested Property Rights

17.14.010 Purpose.

The purpose of this Section is to provide procedures necessary to implement the provisions of Article 68 of Title 24, C.R.S., as amended.

17.14.020 Definitions.

As used in this Section, unless the context otherwise requires:

Community planning document means the Town of Avon Comprehensive Plan, any other planning documents adopted by the Town of Avon through a public hearing process, and any planning document adopted by other governmental and quasi-governmental entities that provide public services or facilities to the Town of Avon or which include the Town of Avon within their service or planning boundaries.

Site specific development plan means a planned unit development plan, or any amendment thereto, approved pursuant to Section 17.20.110 of this Code, together with a development agreement approved pursuant to Section 17.14.060 hereof. A site specific development plan that creates vested property rights may also include other development approvals if approved at the discretion of the Town Council upon request by a property owner; however, such request shall not result in an application for a development approval other than a planned unit development plan to be treated as a site specific development plan for the purposes of C.R.S. §24-68-102.5(1).

Vested property right means the right to undertake and complete the development and use of property under the express terms and conditions of a site specific development plan.

17.14.030 Vested property right created.

(a) A vested property right shall be deemed to have been created only upon the approval of a site specific development plan in accordance with this Chapter.

(b) A vested property right shall only be created if approved by ordinance which may be combined with an ordinance approving a site specific development plan and an accompanying development agreement. Amendments to any site specific development plan shall be subject to this Chapter and shall have a new vested property right as determined by the Town Council. Any approval of a site specific development plan, or amendment to an existing site specific development plan, that creates vested property rights shall be adopted by ordinance as a legislative act and shall be subject to referendum. When creating a vested property right, Town Council may expressly exempt, in whole or in part, administrative amendments to site specific development plans from additional review and approval by Town Council under this Chapter.

(c) The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and which are applicable to all properties or a similarly situated class of properties subject to land use regulation by the Town, including but not limited to the regulations contained in Title 15 of this Code, regulations concerning subdivision improvements and right-of-way dedications, and regulations establishing requirements and specifications for any public infrastructure or public facility improvements.

(d) The establishment of a vested property right shall not preclude the application of any legislatively adopted fees which are general in nature, uniform in character and applicable to all properties or a

similarly situated class of properties.

17.14.040 Notice and hearing.

No site specific development plan shall be approved until after providing notice and conducting public hearings in compliance with Chapter 17.12.100 of this Code.

17.14.050 Notice of approval.

(a) Each map, plat, site plan or other document constituting a site specific development plan shall contain the following language:

Approval of this plan constitutes a vested property right pursuant to Article 68 of Title 24, C.R.S., as amended, and Chapter 17 of the Avon Municipal Code as amended.

(b) The failure of the document constituting a site specific development plan to contain the language specified in sub-section (a) above shall invalidate and void the creation of the vested property right. A notice stating that a vested property right has been created shall be published once by the Town in a newspaper of general circulation in the Town not more than fourteen (14) days after final adoption of the ordinance approving the site specific development plan. The notice shall include the following information:

- (1) A statement advising the public of the site specific development plan approval, including the name of the project, the type and intensity of the use approved, and the specific property or development parcels affected;
- (2) A statement that a vested property right has been created in accordance with Article 68 of Title 24, Colorado Revised Statutes, and Chapter 17 of the Avon Municipal Code, including the duration of the vested property right; and,
- (3) A statement that the citizen's rights of referendum shall run from the date of publication.

17.14.060 Duration of vested right.

(a) A property right vested pursuant to this Chapter after June 1, 2006, shall remain vested for a period of three years. Town Council may approve a period of vested property rights exceeding three years by approval of a development agreement, which shall be part of the site specific development plan.

(b) The guidelines in this section 17.14.060 (b) shall be considered when determining whether to grant vested property rights for a period greater than three years, provided that site specific development plans that are granted vested property rights for a period greater than three years because of the size, phasing, or absorption rate of such site specific development plan should have separate vesting created for the various phases of the development, as set forth in 17.14.060(d). It shall be the burden of the applicant to propose appropriate reasons for granting a vested property right that is greater than three years.

- (1) The size and phasing of the development, and specifically but not limited to whether the development can be reasonably completed within the vested rights period;
- (2) Economic cycles, and specifically but not limited to resort community economic cycles, regional and state economic cycles, and national economic cycles;

- (3) Market conditions, and specifically but not limited to absorption rates for leasing and sales of similar development projects;
- (4) Compliance with the Town of Avon Comprehensive Plan and other community planning documents;
- (5) Proposed public amenities and benefits that enhance the project and the overall attractiveness of the Avon community, including the degree to which such public amenities and benefits are defined in terms of design, timeframe, and phasing with development;
- (6) Projected public financial benefits or costs estimated to be caused by the development project, including the timeframe for realization by the Town or other public entities and potential costs for operation and maintenance of any new public amenities or infrastructure dedicated to the Town or other public entities;
- (7) The breadth and scope of the requested vested property right, including but not limited to the extent to which such vested property right restricts the Town's ability to apply future legislatively adopted fees and regulations for the purpose of providing public infrastructure, public services and public facilities and for the purpose of meeting evolving community needs;
- (8) The terms of any existing site specific development plans with development agreements for the applicant's property that specify the duration of vested property rights;
- (9) Any proposed modifications to previously approved vested property rights to address changed conditions within the Avon community, compliance with the comprehensive plan and other community planning documents, or performance of previously approved site specific development plans; and,
- (10) Any other factors deemed relevant by Council when determining to grant a vested property right for a period greater than three years.

(c) The Town may approve a site specific development plan subject to such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare of the Avon community.

(d) Any site specific development plan for a multiple-phase development approved after June 1, 2006, may have separate vesting created for each phase. The vesting for any subsequent phase may be contingent upon completion of the preceding phase and review by the Town Council. Such review shall include but not be limited to whether the landowner, developer, successors or assigns are in compliance with its obligations to the Town, including but not limited to the terms and conditions of a site specific development plan, a development agreement and any other agreements between the landowner, developer, successor and assigns and the Town, as they may have been amended from time to time.

17.14.070 Extension of Vested Property Rights.

A landowner may request an extension of vested property rights by submitting an application for extension of vested property rights at least six (6) months prior to the expiration of the vested property rights. No application for extension of a vested property right shall be approved until after providing notice and conducting public hearings in compliance with Chapter 17.12.100 of this Code. The guidelines in 17.14.060(b) shall be considered when determining whether to grant an extension to a

vested property right. An extension of a vested property right shall be approved by ordinance. The notice of approval provisions in 17.14.050 above shall apply to any approval for extension of vested property rights.

17.14.080 Forfeiture of Vested Property Rights

(a) Failure to abide by the terms and conditions of a vested property right will result in a forfeiture of the vested property rights in accordance with the procedures set forth herein.

(b) The process to consider forfeiture of vested property rights shall be initiated by passage of a resolution by the Town Council stating the grounds therefore.

(c) No vested property right shall be deemed forfeited until after providing notice and conducting a public hearing. Notice shall be provided by publishing notice in a newspaper of general circulation, posting notice in the designated official places of posting, and mailing notice to the property owner sent to the address of record according to the County Assessor's records via first class United States mail at least thirty (30) days prior to the date of a hearing. A copy of the resolution initiating the process to consider forfeiture of the vested property right shall be included with the mailed notice to the property owner.

(d) At the hearing, the Town Council shall consider all evidence and testimony presented concerning any failure to abide by the terms and conditions of a vested property right. The Town Council may continue the public hearing to allow additional evidence to be gathered and presented.

(e) If Town Council finds a failure to abide by the terms and conditions of the vested property right, the Town Council may take action by ordinance to declare the vested property rights forfeited. The forfeiture of a vested property right shall have no effect upon public streets, alleys, rights-of-way, or other lands or easements previously dedicated or conveyed to the Town or other public entities pursuant to the terms of a site specific development plan. Upon forfeiture of vested property rights, the site specific development plan shall be subject to all zoning, land use, and general regulations in effect at the time of forfeiture and as such may be amended from time to time thereafter.

Section 3. Codification. The codifier of the Town's Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 5. Effective Date. This Ordinance shall take effect seven days after public notice following final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 6. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. Publication by Posting. The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the Town and posting at the office of the Town Clerk, which notice shall contain a statement that a copy of the ordinance in full is available for public inspection in the office of the Town Clerk during normal business hours.

INTRODUCED, APPROVED, PASSED ON FIRST READING, ORDERED POSTED on the 27th day of January, 2009, AND REFERRED TO PUBLIC HEARING and setting such public hearing for 5:30 p.m. on the 10th day of February, 2009, at the Council Chambers of the Avon Municipal Building, located at 400 Benchmark Road, Avon, Colorado.

Ronald C. Wolfe, Mayor

Published by posting in at least three public places in Town and posting at the office of the Town Clerk at least seven days prior to final action by the Town Council.

ATTEST:

Patty McKenny, Town Clerk

INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING on the 10th day of February, 2009.

Ronald C. Wolfe, Mayor

Published by posting by title in at least three public places in Town and posting by title at the office of the Town Clerk.

ATTEST:

Patty McKenny, Town Clerk

**TOWN OF AVON
PLANNING & ZONING COMMISSION
RESOLUTION NO. 09-03**



**A RESOLUTION RECOMMENDING APPROVAL OF ORDINANCE NO. 09-02 –
VESTED PROPERTY RIGHTS, REPEALING CHAPTER 17.14 AND ENACTING A
NEW CHAPTER 17.14 OF THE AVON MUNICIPAL CODE**

WHEREAS, the Avon Planning and Zoning Commission conducted a public hearing on February 3rd, 2009, after posting notice in accordance with Section 17.12.100 of the Avon Municipal Code; *and*,

WHEREAS, the Avon Planning and Zoning Commission finds that the repeal and reenactment of Chapter 17.14 Vested Property Rights will improve the Town's administration, processing and review of vested property rights; *and*,

WHEREAS, the Avon Planning and Zoning Commission finds that the passage of Ordinance 09-02, as attached hereto as Exhibit A, will promote and preserve the health, safety and welfare of the Avon Community;

NOW, THEREFORE, BE IT RESOLVED, that the Planning and Zoning Commission of the Town of Avon hereby recommends approval to the Avon Town Council of Ordinance 09-02 – Vested Property Rights.

ADOPTED THIS 3rd DAY OF FEBRUARY, 2009

Signed:

Chris Evans, Chairperson

Date: _____

Attest:

Phil Struve, Secretary

Date: _____

MEMORANDUM

Studio Obermeier Sheykhets Inc.
1580 Lincoln Street Suite 200
Denver, Colorado 80203
phone 303.327.4600 fax 303.327.4605



To:	Mr. Matt Pielsticker	Date:	January 27, 2009
Company:	Starwood Vacation Ownership	Project:	Westin Riverfront Resort Time Share
From:	Aleksandr Sheykhets	Project #:	90606.01
Subject:	Riverfront Timeshare East and River Sketch Submittal for Design Review	File #:	2.1.2

Attachments:	Via:	Email
SKA-669, 670 dated 01.27.2009		

Mr. Pielsticker,

Starwood Vacation Ownership would like to demolish the exterior material mock up constructed for the Time Share West building to satisfy a condition contained in your letter of May 3, 2007 approving the Final Design of the building.

Starwood Vacation Ownership further informs you that the separate exterior material mock up will be constructed for proposed Time Share East and River buildings during construction of the next phase. Refer to attached drawings for proposed details and location of the mock up for the next phase.

END OF MEMORANDUM

CC: Joe Gamb (SVO)