

VAIL RESORTS®

EXPERIENCE OF A LIFETIME

October 3, 2022

Via e-mail, szemler@vail.com and USPS mail

Stan Zemler
Town Manager, Town of Vail
75 South Frontage Road West
Vail, CO 81657

Re: Response to September 21, 2022 Offer to Acquire East Vail Property
Lot 1 and Tract A of the East Vail Workforce Housing Subdivision
Town of Vail, Eagle County, Colorado (the “East Vail Parcel”)

Dear Mr. Zemler,

Thank you for your letter on September 21, 2022 extending the Town’s offer to purchase the East Vail Parcel for twelve million dollars (\$12,000,000.00). I write to inform you that Vail Resorts declines to accept that offer. **For Vail Resorts, this is not, and has never been about money. This is about building affordable housing that the Town desperately needs *now* to support the hundreds of employees who are the Town’s lifeblood and who make both Vail Mountain and the Town of Vail a world-class destination.**

For the reasons I have expressed before and relay again below, Vail Resorts does not believe that condemnation of an approved affordable housing project is warranted or appropriate.

Despite recent Council comments to the contrary, Vail Resorts has, for years, sought to work collaboratively with the Town to provide affordable employee housing while preserving the bighorn sheep habitat. As the Town is aware, once Vail Resorts identified its ownership of the East Vail Parcel, it began working with Town staff and the Town Council to convert the property into a combination of affordable housing and natural area preservation. To that end, in 2017, Vail Resorts sought approvals to rezone the East Vail Parcel by designating 17.9 acres—the vast majority of the parcel—as a Natural Area Preservation District (NAP) while limiting development to 5.4 acres of the site, which portion would be zoned Housing Zone District (H). As you are also aware, within the Town of Vail, the NAP district is the Town’s most restrictive zone district and is intended to protect lands in their natural state. The H zone district, on the other hand, was adopted by the Town in 2011 as a vehicle to encourage the development of affordable employee housing. Once zoned H, the 5-acre parcel could only be developed with a primary use of deed restricted affordable workforce housing.

*390 Interlocken Crescent
Broomfield, CO 80021
303-404-1800*

Vail Resorts' application to convert the overwhelming majority of its property to NAP—for the benefit of the bighorn sheep—while providing much needed affordable housing to the community on the East Vail Parcel had broad support from the Town of Vail and was received with significant enthusiasm by the Town's staff and its Council. Following the Town's approval of Vail Resorts' rezoning application, Vail Resorts expended significant time and money to seek and obtain additional entitlements for the site, including the following Town approvals:

- September 25, 2017 – PEC Approval of the Subdivision Plat
- August 26, 2019 – PEC Approval of Development Plan Application and Conditional Use Permit for Dwelling Units
- October 15, 2019 – Town Council Affirmation of PEC Approval of Development Plan Application
- March 4, 2020 – DRB Approval of Project Plans

The Town of Vail, Triumph Development, and Vail Resorts then *jointly* defended the Town Council's entitlements for the East Vail Parcel in lengthy litigation before the Eagle County District Court. That litigation was resolved in the Town of Vail's favor in October of 2020. And by April 2022, Vail Resorts had obtained final approvals from the Design Review Board, the Planning and Environmental Commission, and the Vail Town Council for its affordable workforce housing project.

After five long years of time, money, and significant effort, the East Vail Parcel is now fully entitled, and Vail Resorts is ready to move forward with much needed affordable housing. Every step of that process, Vail Resorts has worked extensively with the Town's staff to ensure that the approved East Vail affordable housing project complied with the Town's code and met the Town's expectations for that site. Vail Resorts responded to and complied with every request and condition imposed upon it by all of the Town's councils and boards over the course of its multiple applications. That included agreeing to an unprecedented¹ mitigation agreement to protect the neighboring bighorn sheep herd and paying the Town \$100,000 – funds that the Town has now had in its possession for over a year – to provide off-site bighorn sheep habitat enhancements.

Vail Resorts' joint efforts with the Town to develop desperately needed affordable employee housing on the East Vail Parcel, while at the same time preserving and enhancing the bighorn sheep habitat, only broke down recently when the Town Council started its multiple efforts to thwart the project it previously promoted, approved, and defended – first by granting the project's original developer multiple no-bid contracts for other Town developments in exchange

¹ As the Town pointed out in its joint briefing in the prior litigation, a PEC councilmember reviewing the project commented that “the applicant has gone above and beyond any other mitigation plan ever submitted before this commission.”

for abandoning the approved East Vail project, then by passing the Town’s resolution to condemn the property, and finally by issuing an “Emergency Ordinance” to stop all activity on the site. Thus, while the Town of Vail has apparently and inexplicably made an about-face in the last several months, Vail Resorts’ goal has remained the same for the past five years: to work with the Town to develop affordable housing needed by both the Town *and* the Mountain, while committing to mitigate any impact to the bighorn sheep. It is the Town that has changed its tune, and it has done so without justification. It is therefore disingenuous for certain members of the Town Council to now claim that Vail Resorts has not worked with the Town on the East Vail site or to otherwise demonize Vail Resorts for not wanting to abandon an approved project that Town Council has supported for years – especially when that project is for something as imperative as affordable housing for the very employees that keep the Town, and the Mountain, running.

The Town Council has proposed other sites as options for affordable housing, and we are fully committed to supporting all of those options. It is important to realize that those options are three to five, if not more, years away from coming to fruition, have unpredictable and potentially prohibitive costs associated with them, and are far from entitled and shovel ready like our approved East Vail Parcel. The PEC’s review of the Town’s application for the Middle Creek Parcel just this month demonstrates the complications and long road ahead for these alternative projects.²

Even if the Town were to overcome the very real entitlement hurdles it faces with its other affordable housing proposals, the fact remains that *collectively* those proposals would not provide enough housing within the Town of Vail to satisfy current – much less future – employee housing needs.³ As the Town knows, Vail Valley needs thousands of additional housing units to make even a dent in the affordable housing crisis that the Town faces. The Town’s decision to convert the East Vail Parcel into open space therefore permanently eliminates affordable housing on a parcel that is not only able – but fully entitled – to provide such housing in a Town that already does not have enough land left to develop. That is something no amount of money can fix.

To be sure, Vail Resorts remains willing and eager to engage with the Town on each of the proposals the Town has put forth. Given that there are far more employees in need of affordable housing than land available to house them, Vail Resorts has repeatedly expressed an interest in meeting with the Town to discuss the Town’s proposals, including potential significant affordable workforce housing at Ever Vail. But the Town has steadfastly refused to meet with us for the last

² Indeed, many of the concerns I raised in my [May 23rd letter](#) about entitlements for that parcel were raised as well by the PEC at its September 26th hearing.

³ I refer you to my [prior May 23rd letter](#), which discusses Eagle County’s 2018 study that projects the Eagle River Valley must add 5,900 housing units by 2025 to sustain employees and employers and stabilize housing prices.

several months. This makes no sense. If the Town is truly supportive of affordable housing for employees, why is the Town refusing to meet with Vail Resorts and holding these other affordable housing opportunities hostage while it tries to extract concessions on East Vail? The fate of the East Vail property likely will need to be decided by a court – and both Vail Resorts and the Town will need to live with that outcome and find a path forward to work together. While that process moves forward, let us start now to work together on the other affordable housing projects.

Please also consider that rather than condemn affordable employee housing for the employees that are the lifeblood of the Town, Vail Resorts hopes that the Council will consider using the \$12 million it offered to Vail Resorts to instead implement measures that will actually help protect the bighorn sheep herd. Even a fraction of the Town's \$12 million for shutting down affordable housing could have a huge impact on protecting the herd from *all* potential domestic threats. Indeed, as the Town's own application relating to its public works employee housing project located in the middle of the bighorn sheep range stated, "***housing generally does not make much of an impact***" on bighorn sheep.

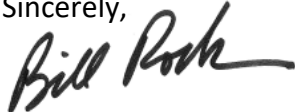
Finally, it is worth noting, as I have before, that at the same time this Town Council has threatened to condemn the East Vail Parcel, supposedly in the name of wildlife preservation, it has allowed construction of new luxury homes and increased the Town's permitted enrollment for a high-end private school by 120 students all within in the bighorn sheep habitat. It was not until the East Vail site was entitled and shovel ready for affordable housing that the Town took the unprecedented step of passing an "Emergency Ordinance" to stop all activity within or adjacent to the bighorn sheep range.

Given the Town's willingness to allow luxury home and other development and significant human activity in the bighorn sheep habitat, it appears this issue is less about protecting wildlife and more about preventing affordable housing near the luxury homeowners. Why is the Town prepared to spend \$12 million for a 5-acre parcel of land approved for affordable employee housing, rather than spend that same \$12 million to invest in the bighorn sheep's habitat improvement?

After five years of collaborative efforts between Vail Resorts and the Town Council, including significant effort on the part of both entities to prepare a robust and meaningful mitigation plan to protect the bighorn sheep and numerous negotiations over the past year to discuss alternative options for collaboration, this Town Council's decision to eradicate those efforts and turn shovel ready affordable housing into open space in a Town that is so limited in available, developable land, and in an area that already has luxury homes and significant human activity within it, is inexplicable. It should therefore come as no surprise that Vail Resorts is unwilling to voluntarily give up its land. Vail Resorts will not contribute to the already limited housing decline.

We hope that the Town Council decides to use its valuable resources to implement meaningful measures that will actually protect the bighorn sheep herd habitat rather than to acquire land approved for affordable employee housing. Vail Resorts does not believe that condemnation is warranted or appropriate in this situation. It intends to protect the property and the project that it has fought so hard to preserve for the past 5 years and will do so in court if necessary.

Sincerely,

A handwritten signature in black ink that reads "Bill Rock". The signature is written in a cursive, flowing style.

Bill Rock

EVP & COO Mountain Division

Vail Resorts