

ORDINANCE NO. 2019-09

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO APPROVING: (1) A REZONE OF A PORTION OF COMMERCIAL UNIT TO EMPLOYEE APARTMENT ON LOT 30 AND (2) A DENSITY TRANSFER TO CONVERT A PORTION OF A COMMERCIAL UNIT TO A BUILT EMPLOYEE APARTMENT UNIT UTILIZING THE EXISTING DENSITY ON THE LOT

RECITALS

- A. Avventura, LLC (“Owner”) has submitted to the Town: (1) a rezoning development application for a rezoning of Lot 30 to reallocate one unit of employee apartment density on the lot; and (2) density transfer application to convert a portion of a commercial unit to an employee apartment unit (“Applications”) pursuant to the requirements of the Community Development Code (“CDC”).
- B. Avventura, LLC is the owner of Lot 30 and the associated development rights and density allocated to Lot 30.
- C. The proposed rezoning and density transfer is to reallocate existing employee apartment density on Lot 30, converting an existing portion of commercial space to an employee apartment pursuant to the requirements of the CDC.
- D. The owner proposed to rezone the property to reallocate one employee apartment zoning designation pursuant to the requirements of the CDC.
- E. The Property has the following zoning designations pursuant to the Official Land Use and Density Allocation List and zoning as set forth on the Town Official Zoning Map:

Table 1: Lot 30 Zoning Designations and Density Table Existing and Proposed

Zoning Designation	Existing Zoning Designations Built	Existing Zoning Designations Platted and unbuilt	Proposed Zoning Designations Built	Proposed Zoning Designations Platted and unbuilt	Person Equivalents	Total Person Equivalents
Condominium	0	9	0	9	3	27
Employee Apartment	0	2	1	1	3	6
Commercial ¹	2,500 approx square feet	n/a	1,800 approx square feet	1,800 approx square feet		
TOTAL						33

¹ Commercial has no person equivalent

** The proposal will result in no net increase or decrease in density on Lot 30.

- F. At a duly noticed public hearing held on August 1, 2019, the DRB considered the Applications, testimony and public comment and recommended to the Town Council that the Applications be approved with conditions pursuant to the requirement of the CDC.
- G. At its regularly scheduled meeting held on October 17, 2019, the Town Council conducted a first reading of an Ordinance, pursuant to the Town Charter and after receiving testimony and public comment, approved on first reading the Ordinance.
- H. At its regularly scheduled meeting held on November 21, 2019, the Town Council conducted a public hearing and second reading of an Ordinance, pursuant to the Town Charter and after

receiving testimony and public comment approved on second reading of an Ordinance the application with conditions.

- I. This Ordinance approves a density transfer and rezone converting a portion of an existing commercial unit to an employee apartment unit.
- J. The meeting held on November 21, 2019 was duly publicly noticed as required by the CDC Public Hearing Noticing Requirements, including but not limited to notification of all property owners within 400 feet of the Property, posting of a sign and posting on the respective agendas.
- K. The Town Council hereby finds and determines that the Applications meet the Rezoning Process Criteria for Decision as provided in CDC Section 17.4.9(D) as follows:

Rezoning Findings

- 1. The proposed rezoning is in general conformance with the goals, policies and provisions of the Comprehensive Plan.
 - 2. The proposed rezoning is consistent with the Zoning and Land Use Regulations.
 - 3. The proposed rezoning meets the Comprehensive Plan project standards.
 - 4. The proposed rezoning is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources.
 - 5. The proposed rezoning is justified because there is an error in the current zoning, there have been changes in conditions in the vicinity or there are specific policies in the Comprehensive Plan that contemplate the rezoning.
 - 6. Adequate public facilities and services are available to serve the intended land uses.
 - 7. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion.
 - 8. The proposed rezoning meets all applicable Town regulations and standards.
- L. The Town Council finds that the Applications meet the Rezoning Density Transfer Process criteria for decision contained in CDC Section 17.4.10(D)(2) as follows:

Density Transfer Findings

- 1. The criteria for decision for a rezoning are met, since such density transfer must be processed concurrently with a rezoning development application
- 2. The density transfer meets the density transfer and density bank policies.
- 3. The proposed density transfer meets all applicable Town regulations and standards.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL HEREBY APPROVES THE APPLICATION SUBJECT TO THE FOLLOWING CONDITIONS.

1. The requisite Employee Apartment Density is hereby reallocated within Lot 30 to reduce the size of one commercial unit and add a built employee apartment. The Ordinance shall indicate the change in commercial space and the size of the employee apartment is square feet.
2. The final location and design of any buildings, grading, landscaping, parking areas, and other site improvements shall be determined with the required Design Review Process application pursuant to the applicable requirements of the CDC.
3. The Lot list shall be updated to reflect one built and one unbuilt employee apartment assigned to the Lot upon issuance of a Certificate of Occupancy for the employee unit.
4. A Town of Mountain Village Deed Restriction shall be executed concurrently with the Ordinance and recorded concurrently for the newly created employee apartment.
5. The density transfer and rezone approval does not preclude the requirement for other necessary town applications and approvals such as design review (if needed), a building permit and a TMVHA site inspection prior to issuance of a Certificate of Occupancy for the employee apartment.
6. The Ordinance shall be recorded upon issuance of the Certificate of Occupancy to convert a portion of commercial space to an employee apartment consistent with this approval.

Section 1. Effect on Zoning Designations

A. This Ordinance does not change the zoning designations on the Properties it only reallocates density within Lot 30.

Section 2. Ordinance Effect

All Ordinances, of the Town, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 3. Severability

The provisions of this Ordinance are severable and the invalidity of any section, phrase, clause or portion of this Ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of this Ordinance.

Section 4. Effective Date

This Ordinance shall become effective on December 21, 2019 following public hearing and approval by Council on second reading.

Section 5. Public Hearing

A public hearing on this Ordinance was held on the 21st of November 2019 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

INTRODUCED, READ AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 17th day of October 2019.

TOWN OF MOUNTAIN VILLAGE

**TOWN OF MOUNTAIN VILLAGE,
COLORADO, A HOME-RULE
MUNICIPALITY**

By: 
Laila Benitez, Mayor

ATTEST:


Jackie Kennefick, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 21st day of November 2019

**TOWN OF MOUNTAIN VILLAGE
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By: 
Laila Benitez, Mayor

ATTEST:


Jackie Kennefick, Town Clerk

Approved as To Form:


Jim Mahoney, Assistant Town Attorney

I, Jackie Kennefick, the duly qualified and acting Town Clerk of the Town of Mountain Village, Colorado ("Town") do hereby certify that:

1. The attached copy of Ordinance No.2019-09 ("Ordinance") is a true, correct and complete copy thereof.

2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on October 17, 2019, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton, Mayor Pro-Tem	X			
Martinique Davis Prohaska	X			
Peter Duprey	X			
Patrick Berry	X			
Natalie Binder			X	
Jack Gilbride	X			

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on October 23, 2019 in accordance with Section 5.2b of the Town of Mountain Village Home Rule Charter.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on November 21, 2019. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Laila Benitez, Mayor	X			
Dan Caton, Mayor Pro-Tem	X			
Martinique Davis Prohaska	X			
Peter Duprey	X			
Patrick Berry	X			
Natalie Binder	X			
Jack Gilbride	X			

5. The Ordinance has been signed by the Mayor, sealed with the Town seal, attested by me as Town Clerk, and duly numbered and recorded in the official records of the Town.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 21st day of November 2019.



(SEAL)


 Jackie Kennefick, Town Clerk