



**PLANNING AND DEVELOPMENT SERVICES DEPARTMENT  
PLANNING DIVISION**

455 Mountain Village Blvd.  
Mountain Village, CO 81435  
(970) 728-1392

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**TO:** Mountain Village Town Council  
**FROM:** Sam Starr  
**FOR:** Meeting of December 12, 2019  
**DATE:** December 2, 2019  
**RE:** Consideration of a Resolution Regarding a Conditional Use Permit for a Real Estate/Property Management Office in a Primary Pedestrian Area on Lot 65, 618 Mountain Village Boulevard.

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**PROJECT GEOGRAPHY**

**Legal Description:** Commercial Unit 107, Lot 65 the Centrum a Common Interest Community according to Plat book 1 PG 2295, Mountain Village.  
**Address:** 618 Mountain Village Blvd.  
**Applicant/Agent:** Peaks Property Management.  
**Owner:** K2/R2 LLC  
**Zoning:** Village Center  
**Existing Use:** Commercial retail store  
**Proposed Use:** Property management office fronting a primary pedestrian area.  
**Lot Size:** .12 Acres  
**Adjacent Land Uses:**

- **North:** Village Center, multi-family
- **South:** Village Center, multi-family
- **East:** Village Center, multi-family
- **West:** Village Center, multi-family

**ATTACHMENTS**

- Map indicating primary pedestrian areas
- Applicant's narrative
- TMV compliance letter dated July 3, 2019
- Public Comment Letter
- Resolution



## **BACKGROUND**

On July 3<sup>rd</sup>, 2019 The Town of Mountain Village (TMV) Planning and Development Services Department issued Peaks Property Management a compliance letter to bring their business into conformance with the Community Development Code (CDC) regarding offices fronting primary pedestrian and plaza areas. Peaks Property Management, located in the building colloquially known as “the Centrum”, fronts a Primary Plaza Area in the pond plaza area of the Village Center. Peaks Property Management has been operating at this location since July of 2018. While the Village Center Zone District allows for commercial uses, The Plaza Level Use Limitations clearly prohibit offices of any kind to be located in a plaza level space that fronts a primary pedestrian route unless a conditional use permit is approved for the use for a limited duration. The applicant has provided a narrative addressing their request for a conditional use permit.

## **RELEVANT CODE SECTIONS**

### **17.3.4 Specific Zone District Requirements**

#### **H. Village Center Zone District**

**1. Permitted Uses.** Lots in the Village Center Zone District shall be used for the construction of multi-family dwellings, including lodge units, efficiency lodge units, condominium units, workforce housing units, hotel units, hotel efficiency units, commercial uses, resort support uses, conference uses, plaza uses, special events, tramways, ski resort uses and other similar uses. Lots may also be used for a surface parking lot pursuant to the Conditional Use Permit Process.

**2. Accessory Buildings or Structures.** Permitted accessory buildings or structures include hot tubs, saunas, swimming pools, plaza uses and other similar uses. Storage buildings are expressly prohibited.

**3. Accessory Uses.** Permitted accessory uses include home occupations pursuant to the Home Occupation Regulations, and other similar uses.

**4. Plaza Level Use Limitations.**

a. Limitations:

i. The following are the only uses permitted to be fronting onto the plaza level in a primary plaza area or a primary pedestrian route:

- (a) Retail stores and establishments;
- (b) Restaurants and bars; and
- (c) Multi-family or mixed-use entrance areas and lobbies.

ii. *No offices or dwelling unit shall be operated or located in a plaza level space that is fronting onto a primary plaza area or a primary pedestrian route unless:*

- (a) A conditional use permit development application is approved that allows an office use for a limited duration; or*
- (b) The Town approves a PUD that allows for either an office or a dwelling.*

iii. *For all other plaza areas in the Village Center, commercial and office uses are allowed on the plaza level, and dwelling units are only permitted by requesting such as part of a PUD or a conditional use permit development application.*

iv. All offices, businesses and services permitted by this section shall be operated and conducted entirely within a building, except for permitted unenclosed parking or loading areas, and plaza uses permitted by the Public Works Department.

v. When less than 50% of a building façade on plaza level space is not directly abutting a primary plaza area or a primary pedestrian path, and the main door of such space is

located outside one of these areas, the space may be used for other permitted commercial uses.

**Staff Note: The applicant's office undeniably fronts a primary pedestrian route, and the applicant has submitted a conditional use permit application pursuant to the compliance letter dated July 3<sup>rd</sup>, 2019.**

#### **17.4.14.D Criteria for Decision**

1. The following criteria shall be met for the review authority to approve a conditional use permit:
  - a. The proposed conditional use is in general conformity with the policies of the principles, policies and actions set forth in the Comprehensive Plan;
  - b. The proposed conditional use is in harmony and compatible with surrounding land uses and the neighborhood and will not create a substantial adverse impact on adjacent properties or on services and infrastructure;
  - c. The design, development and operation of the proposed conditional use shall not constitute a substantial physical hazard to the neighborhood, public facilities, infrastructure or open space;
  - d. The design, development and operation of the proposed conditional use shall not have significant adverse effect to the surrounding property owners and uses;
  - e. The design, development and operation of the proposed conditional use shall not have a significant adverse effect on open space, or the purposes of the facilities owned by the Town;
  - f. The design, development and operation of the proposed conditional use shall minimize adverse environmental and visual impacts to the extent possible considering the nature of the proposed conditional use;
  - g. The design, development and operation of the proposed conditional use shall provide adequate infrastructure;
  - h. The proposed conditional use does not potentially damage or contaminate any public, private, residential or agricultural water supply source; and
  - i. The proposed conditional use permit meets all applicable Town regulations and standards.
2. It shall be the burden of the applicant to demonstrate that submittal material and the proposed development substantially comply with the conditional use permit review criteria.

**Staff Note: The Comprehensive Plan's Land Use Principles Policies & Actions state that "Mountain Village encourages development and redevelopment activities represented by the Subarea Plans to promote and focus economic and social vibrancy for visitors and residents." The presence of a property management office does not meet the comprehensive plan criteria on the basis that the Village Center subarea plan did not call for additional ground floor offices. The burden will fall on the applicant to demonstrate that the submittal material and proposed activity substantially comply with the remaining Conditional Use Permit criteria listed above at section a-i.**

#### **ANALYSIS**

To meet the regulations set forth by the Community Development Code the applicant has submitted a complete application to obtain a Conditional Use Permit. The Town of Mountain Village has seen a similar request in 2017, where Real Estate Agent JJ Ossola applied for a conditional use permit for Sotheby's Realty to use an office on the ground floor fronting a primary pedestrian route. Town Council denied the application. During the proceedings the Town Council

was also explicitly clear that offices in primary pedestrian areas would be an impediment to achieving the desired vibrancy for the Mountain Village Center.

Other real estate sales and property management offices do exist in the core. Both Berkshire Hathaway Home Services and Latitude 38 operate on the ground floor in the same plaza as Peaks Property Management. However, these offices do not front a primary pedestrian area.

### **DESIGN REVIEW BOARD RECOMMENDATION**

At the November 7, 2019 Design Review Board regular meeting, the Design Review Board voted 7-0 to recommend approval of the Conditional Use Permit to allow for the operations of a property management office located at lot 65, 618 Mountain Village Boulevard, with the following findings and conditions:

#### *Findings:*

- 1) *The Design Review Board finds that the proposed application meets the 9 criteria for a Conditional Use Permit approval as outlined in CDC Section 17.4.14(D) Conditional Use Permits Criteria for Decision.*

#### *Conditions:*

- 1) *The Conditional Use Permit shall be valid for a period of three years (3) with an annual review by the Town Council thereafter, with the applicant responding to any valid issues as they arise during operation or the annual review.*
- 2) *Any additional deviations, modifications or alterations to the business operations described in this approval will require the applicant to submit a new application for Conditional Use Permit Review."*

### **STAFF RECOMMENDATION**

The Planning and Development Services Department is not recommending either approval or denial of this application. Peaks Property Management's presence at a ground floor fronting a primary pedestrian route may or may not meet the intended goals of the primary pedestrian routes and plaza area and such a determination should be made by the appropriate review authority. The review authority should also consider the fact that their existing presence constitutes a current zoning violation in determining a recommendation of a Conditional Use Permit Application. Staff have provided two recommended motions for your consideration below:

#### **Motion for Denial:**

*"I move to deny the application by Peaks Property Management for a Conditional Use Permit to allow a Property Management Office in a Primary Pedestrian Area on Lot 65 Unit 107, 618 Mountain Village Boulevard, with the following Findings:*

#### *Findings:*

- 1) *The Town Council finds that the proposed application does NOT meet the 9 criteria for a Conditional Use Permit approval as outlined in CDC Section 17.4.14(D) Conditional Use Permits Criteria for Decision.*

#### *Conditions:*

- 1) *Pursuant to CDC Section 17.1.8 Violations and Penalties, the applicant shall be fined each day up to \$5,000 for their zoning violation. The appropriate fee will be determined*

*by Planning and Development Staff immediately following the 11.7.19 DRB regular hearing.”*

**Motion for Approval:**

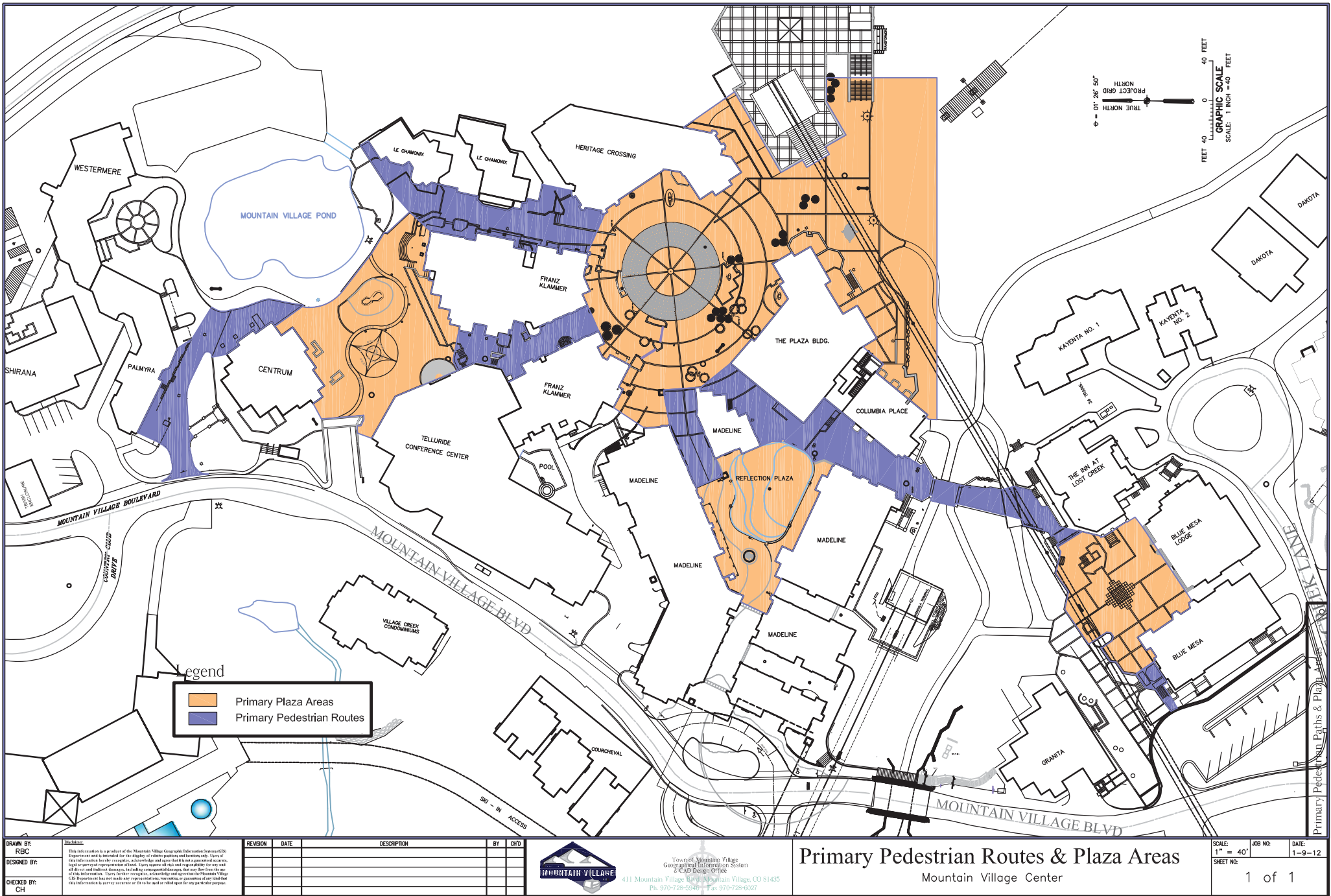
*“I move to approve the application by Peaks Property Management for a Conditional Use Permit to allow a Real Estate Office in a Primary Pedestrian Area on Lot 65 Unit 107, 618 Mountain Village Boulevard, with the following Findings and Conditions:*

*Findings:*

- 1) The Town Council finds that the proposed application meets the 9 criteria for a Conditional Use Permit approval as outlined in CDC Section 17.4.14(D) Conditional Use Permits Criteria for Decision.*

*Conditions:*

- 1) The Conditional Use Permit shall be valid for a period of three years (3) with an annual review by the Town Council thereafter, with the applicant responding to any valid issues as they arise during operation or the annual review.*
- 2) Any additional deviations, modifications or alterations to the business operations described in this approval will require the applicant to submit a new application for Conditional Use Permit Review.”*



DRAWN BY: RBC		DESIGNED BY:		CHECKED BY: CH		<div>This information is a product of the Mountain Village Geographic Information System (GIS) Department and is intended for the display of information and location only. Use of this information for any other purpose, including reproduction, distribution, or use in any other form, is prohibited. The Mountain Village GIS Department does not make any representations, warranties, or guarantees of any kind for this information. Users assume all responsibility and liability for any use of this information.</div>		<table><tr><th>REVISION</th><th>DATE</th><th>DESCRIPTION</th><th>BY</th><th>CHKD</th></tr><tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>		REVISION	DATE	DESCRIPTION	BY	CHKD																<div><div>Town of Mountain Village Geographic Information System GIS Department 411 Mountain Village Blvd., Mountain Village, CO 81435 Ph: 970-728-5340 Fax: 970-728-6027</div></div>		<div>Primary Pedestrian Routes &amp; Plaza Areas</div> <div>Mountain Village Center</div>		SCALE: 1" = 40'	JOB NO:	DATE: 1-9-12
REVISION	DATE	DESCRIPTION	BY	CHKD																																
								SHEET NO:		1 of 1																										



To Whom it My Concern at the Town of Mountain Village,

I am the owner of Peak Property Management & Maintenance Inc. and we are a full-service home caretaking and HOA co-management maintenance company.

*First Impression is a Welcome Impression.*

We are a property management and caretaking company that serves several HOA's and private residences in the Telluride/Mountain Village area. Our goal is to make sure that owners, whether they live here year-round or visit part time, can rest easy knowing their property is being looked after and maintained by professionals at all times. We will be celebrating our 20<sup>th</sup> anniversary of business in May 2020.

When working with an HOA, it is important to us to keep the property well maintained and up to code, all while staying within the desired budget. We work closely with an Accountant of record for all of the accounting process with each HOA. We find it a conflict of interests to include accounting in our services.

Services we provide include, but are not limited to, site checks, general maintenance, spa/pool maintenance, janitorial, snow removal ground/roof, landscaping and minor plumbing, electrical. In addition, we schedule/manage construction and remodeling projects performed by other subcontractors while on property. We also have a general contractor license for smaller in-house projects to be convenient for owners and HOA's.

Our previous office location was 100 Aspen Ridge Dr. (Lot 30) and with all that was going on with that location and needing to have an office, we decided in March of 2018 that it was time to start looking for another office location. We found one of the only locations available in the Mountain Village at that time which was the Centrum Building located on Lot 65 and being a ground level unit, which is important with all the deliveries we receive on a weekly basis. It was a great location at a good price. We found the location in April 2018, but it needed extensive remodeling as it was a ski tuning shop prior. We performed a \$25,000 remodel and moved in July 2018.

A short list of some properties managed:

Home Owners Association's:

Granita Home Owners Association  
Aspen Ridge Phase 1 Home Owners Association  
Lodges on Sundance Owners Association  
Kayenta Legend House Owners Association  
Belvedere Park Phase 2 Home Owners Association

Private Residence's:

120 Lodges Lane

111 Benchmark

106 Gold Hill Court

105 Lupine Lane

194 San Joaquin

Please find this Conditional Use Permit necessary for us to continue to operate our business in the Mountain Village and continue for years to come.

If you have any questions, please don't hesitate to ask.

Sincerely,



Marcy M. Pickering



**PLANNING & DEVELOPMENT SERVICES DEPARTMENT**  
**PLANNING DIVISION**  
455 Mountain Village Blvd.  
Mountain Village, CO 81435  
(970) 728-1392

July 3, 2019

Peaks Property Management  
C/O Marcy Pickering  
618 Mountain Village Blvd  
Mountain Village, CO  
81435

Re: Peaks Property Management and Maintenance Zoning Compliance

Ms. Pickering:

On June 20, 2019, it was brought to the town's attention that your business, Peak Property Management and Maintenance Inc., has relocated to a ground floor location in the Village Center Zone District. We are writing to make you aware that in order for a real estate office to be located in the specific location you have chosen, it requires a Conditional Use Permit from the Town Council. Below is the specific language from the Community Development Code (emphasis added in bold):

**H. Village Center Zone District:**

**1. Permitted Uses.** Lots in the Village Center Zone District shall be used for the construction of multi-family dwellings, including lodge units, efficiency lodge units, condominium units, workforce housing units, hotel units, hotel efficiency units, commercial uses, resort support uses, conference uses, plaza uses, special events, tramways, ski resort uses and other similar uses. Lots may also be used for a surface parking lot pursuant to the Conditional Use Permit Process.

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- (b) Restaurants and bars; and

(c) Multi-family or mixed-use entrance areas and lobbies.

ii. **No offices or dwelling unit shall be operated or located in a plaza level space that is fronting onto a primary plaza area or a primary pedestrian route unless:**

**(a) A conditional use permit development application is approved that allows an office use for a limited duration; or**

**(b) The Town approves a PUD that allows for either an office or a dwelling.**

If you wish to continue to be located in your current location, you will need to apply for a Conditional Use Permit. The Development Application is attached, a \$1,000.00 fee is due, and a noticed public hearing is required before the Design Review Board and Town Council. You may continue to use your Centrum building floor unit for office space as long as you have an open and active application for a Conditional Use Permit to bring your business into compliance.

Thank you for your attention to this matter. The intent of our Community Development Code is to the community and visitor experience. If you have any questions about the Town of Mountain Village zone district requirements, please feel free to reach out at any time. The intent of this letter is to garner voluntary compliance with town regulations within a short period of time. Please call to discuss compliance once you have had an opportunity to review the letter.

Best,



Sam Starr, AICP  
Planner

**Town of Mountain Village**  
**455 Mountain Village Blvd, Suite A**  
**Mountain Village, CO 81435**  
O :: 970.369.8248  
M :: 970.708.4326

## Sam Starr

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**From:** Sam Starr  
**Sent:** Tuesday, September 24, 2019 12:48 PM  
**To:** George Harvey; 'Marcy Pickering'  
**Subject:** RE: Peak Property Zoning Variance

George,

Thank you for sending this my way. Once I receive a complete application from Marcy I will include this in the materials presented to DRB and Town Council.

Best,

Sam Starr, AICP  
Planner  
**Town of Mountain Village**  
**455 Mountain Village Blvd, Suite A**  
**Mountain Village, CO 81435**  
O :: 970.369.8248  
M :: 970.708.4326

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**From:** George Harvey <george@theharveyteam.net>  
**Sent:** Monday, September 23, 2019 12:28 PM  
**To:** 'Marcy Pickering' <marcy@peakpropertytelluride.com>  
**Cc:** Sam Starr <SStarr@mtnvillage.org>  
**Subject:** Peak Property Zoning Variance

To Whom It May Concern,

The Centrum Building Commercial Owners K2/R2, want to fully support Peak Property Management Company application for a zoning variance per their current location in the Centrum Building. The owners and myself as their representative are very pleased to have them as tenants in their current location in the Centrum Building. As K2/R2 Centrum Commercial representative for eleven years, we tried to bring as much retail and restaurant livelihood to that area of the Mountain Village for the last eleven years. When my clients bought 14,450 square feet of commercial space in the Centrum in 2008, ninety per cent of that space was empty, including the restaurant space and all of the retail pedestrian spaces too. About half of the pedestrian space had to be completely remodeled to make it leasable and we had to offer leases that were significantly below main street Telluride rent/lease rates. Those lease rates have remained significantly below a rate that would make the cash flow of the commercial property attractive to any investor. In other words, my clients have had to subsidized the Centrum lease rates to get tenants. In our opinion, it will be years before the lease rates can improve to make their investment have a chance to be attractive to a future investor. In fact, we could not get a retail business to lease the current space that Peak Property leases. The five year lessee before Peak Property was Bootdoctors which only used the space to tune skis at night.

We asked you to give a variance to Peak Property for the length of their lease and lease options because they are a long time vital company in the Mountain Village and we would like them to thrive.

Sincerely, K2/R2 Centrum Building Commercial Representative,

***George R. Harvey, Jr.***

***Chair Global Business and Alliances Committee, National Association of REALTORS® - 2019***

***Region XI Vice President, National Association of REALTORS® - 2017***

***Realtor of the Year, Colorado Association of REALTORS® - 2015***

***President, Colorado Association of REALTORS® - 2010***

Owner/Broker, The Harvey Team

P.O. Box 2283, Telluride, CO 81435

970-729-0111 cell

970-728-5058 e-fax

<http://www.TheHarveyTeam.net>

[Click here to view George's credentials](#)

**ALERT!** The Harvey Team will never send you wiring information via email or request that you send us personal financial information by email.

If you receive an email message like this concerning any transaction involving The Harvey Team, **do not respond** to the email and immediately contact George Harvey via phone.

**RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF MOUNTAIN VILLAGE,  
MOUNTAIN VILLAGE, COLORADO  
APPROVING A CONDITIONAL USE PERMIT FOR THE USE OF A REAL  
ESTATE/PROPERTY MANAGEMENT OFFICE IN A PRIMARY PEDESTRIAN AREA ON  
LOT 65**

**Resolution No. 2019—1212-\_\_**

1. K2/R2, LLC (Owner) is the owner of record of real property described as Lot 65, 618 Mountain Village Boulevard; and
2. The Owner has consented to Peaks Property Management (Applicant) pursuing the approval of a Conditional Use Permit to allow for the use of a real estate/property management office in a primary pedestrian area on lot 65, 618 Mountain Village Boulevard, Town of Mountain Village and the Applicant has submitted such application requesting approval of the Conditional Use Permit; and
3. The proposed development is in compliance with the provisions of Section 17.4.14 of the Community Development Code (CDC); and
4. The Design Review Board (DRB) considered this application, along with evidence and testimony, at a public meeting held on November 7, 2019. Upon concluding their review, the DRB voted 7-0, in favor of the Conditional Use Permit and recommended approval to the Town Council with conditions to be considered by the Town Council; and
5. The Town Council considered and approved this application subject to certain conditions as set forth in this resolution, along with evidence and testimony, at a public meeting held on December 12, 2019; and
6. The public hearings referred to above were preceded by publication of public notice of such hearings on such dates and/or dates from which such hearings were continued by mailing of public notice to property owners within four hundred feet (400') of the Property and posting the Property, as required by the CDC; and
7. The Applicant has addressed, or agreed to address and/or abide by, all conditions of approval of the Application imposed by Town Council based upon a recommendation for approval by the DRB; and
8. The Town Council finds the Application meets the Conditional Use Permit requirements contained in CDC Section 17.4.14 as follows:
  1. The proposed conditional use is in general conformity with the policies of the principles, policies and actions set forth in the Comprehensive Plan;
  2. The proposed conditional use is in harmony and compatible with surrounding land uses and the neighborhood and will not create a substantial adverse impact on adjacent properties or on services and infrastructure;
  3. The design, development and operation of the proposed conditional use shall not constitute a substantial physical hazard to the neighborhood, public facilities, infrastructure or open space;

4. The design, development and operation of the proposed conditional use shall not have significant adverse effect to the surrounding property owners and uses;
5. The design, development and operation of the proposed conditional use shall not have a significant adverse effect on open space or the purposes of the facilities owned by the Town;
6. The design, development and operation of the proposed conditional use shall minimize adverse environmental and visual impacts to the extent possible considering the nature of the proposed conditional use;
7. The design, development and operation of the proposed conditional use shall provide adequate infrastructure;
8. The proposed conditional use does not potentially damage or contaminate any public, private, residential or agricultural water supply source; and
9. The proposed conditional use permit meets all applicable Town regulations and standards.

**NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL HEREBY APPROVES A CONDITIONAL USE PERMIT TO ALLOW FOR THE USE OF A REAL ESTATE/PROPERTY MANAGEMENT OFFICE IN A PRIMARY PEDESTRIAN AREA AND AUTHORIZES THE MAYOR TO SIGN THE RESOLUTION SUBJECT TO CONDITIONS SET FORTH IN SECTION 1 BELOW:**

1. The Conditional Use Permit shall be valid for a period of three years (3) with an annual review by the Town Council thereafter, with the applicant responding to any valid issues as they arise during operation or the annual review.
2. Any additional deviations, modifications or alterations to the business operations described in this approval will require the applicant to submit a new application for Conditional Use Permit Review.

**Be It Further Resolved** that Unit 107 Lot 65 may be developed as submitted in accordance with Resolution No. 2019-1212-\_\_

**Approved** by the Town Council at a public meeting December 12, 2019.

**Town of Mountain Village, Town Council**

By: \_\_\_\_\_  
Laila Benitez, Mayor

**Attest:**

By: \_\_\_\_\_  
Jackie Kennefick, Town Clerk

Approved as to Form:

\_\_\_\_\_  
James Mahoney, Assistant Town Attorney