

**TOWN OF MOUNTAIN VILLAGE
TOWN COUNCIL REGULAR MEETING
THURSDAY, MARCH 19, 2020, 8:30 AM
2nd FLOOR CONFERENCE ROOM, MOUNTAIN VILLAGE TOWN HALL
455 MOUNTAIN VILLAGE BLVD, MOUNTAIN VILLAGE, COLORADO
AGENDA REVISED (3)**

	Time	Min	Presenter	Type	
1.	8:30				Call to Order
2.	8:30	30	Mahoney Reed	Legal	Executive Session for the Purpose of Receiving Legal Advice Pursuant to C.R.S. 24-6-402(4)(b), and for the Purpose of Negotiations Pursuant to C.R.S. 24-6-402(4)e
3.	9:00	5			Break
4.	9:05	5			Consent Agenda All matter in the Consent Agenda are considered to be routine by the Town Council and will be enacted with a single vote. There will be no separate discussion of these Items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately: <ul style="list-style-type: none"> a. Consideration of Approval of the February 20, 2020 Regular Town Council Meeting Minutes b. Consideration of a Denial Resolution Regarding a Variance to the Lodge Parking Space Requirement Pursuant to CDC Section 17.4.16 for Blue Mesa Lodge Lot 42B, Unit 21C
5.	9:10	10	Miller Applicant	Action <i>Quasi-Judicial</i>	Consideration of Blue Mesa Lodge Rezoning: <ul style="list-style-type: none"> a. Second Reading, Public Hearing and Council Vote of an Ordinance Regarding a Rezone and Density Transfer Application for Blue Mesa Lodge Lot 42B, Unit 21C to Rezone from an Efficiency Lodge Zoning Designation to a Lodge Zoning Designation <i>Motion to Continue will be Considered Before the Public Hearing is Opened</i> b. Second Reading, Public Hearing and Council Vote of an Ordinance Regarding a Rezone and Density Transfer Application for Blue Mesa Lodge Lot 42B, Unit 20B to Rezone from an Efficiency Lodge Zoning Designation to a Lodge Zoning Designation <i>Motion to Continue will be Considered Before the Public Hearing is Opened</i>
6.	9:20	15	Mahoney Montgomery Broady	Action	Consideration of a Resolution of the Town of Mountain Village, Colorado Declaring a Local Disaster Related to the Coronavirus (Covid-19)
7.	9:35	15	Mahoney Montgomery Broady	Action	Consideration of a Resolution of the Town of Mountain Village, Colorado on Emergency and/or Virtual Meetings Due to Coronavirus (Covid-19) Disaster Declaration
8.	9:50	15	Mahoney Montgomery Broady	Action	Consideration of an Emergency Ordinance Concerning the Coronavirus (Covid -19) Public Health Emergency Establishing Certain Rules and Regulations Pursuant to C.R.S. 31-15-401(1)(b)
9.	10:05	5			Other Business
10.	10:10				Adjourn

ALL ITEMS REMOVED BY THIS REVISED AGENDA (3) SHALL BE RE-AGENDIZED AT A FUTURE TOWN COUNCIL MEETING

Please note that times are approximate and subject to change. SJ 3/17/2020

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting Town Hall at 970-369-6429 or email: mvclerk@mtnvillage.org. A minimum notice of 48 hours is required so arrangements can be made to locate requested auxiliary aid(s)

Public Comment Policy:

- All public commenters must sign in on the public comment sign in sheet and indicate which item(s) they intend to give public comment on
- Speakers shall wait to be recognized by the Mayor and shall give public comment at the public comment microphone when recognized by the Mayor
- Speakers shall state their full name and affiliation with the Town of Mountain Village if any
- Speakers shall be limited to five minutes with no aggregating of time through the representation of additional people
- Speakers shall refrain from personal attacks and shall keep comments to that of a civil tone
- No presentation of materials through the AV system shall be allowed for non-agendized speakers
- Written materials must be submitted 48 hours prior to the meeting date to be included in the meeting packet and of record. Written comment submitted within 48 hours will be accepted, but shall not be included in the packet or be deemed of record



TOWN OF MOUNTAIN VILLAGE
455 Mountain Village Blvd. Suite A
Mountain Village, Co 81435
970-728-8000
970-728-4342 Fax
mvclerk@mtnvillage.org

**TOWN OF MOUNTAIN VILLAGE
MINUTES OF THE FEBRUARY 20, 2020
REGULAR TOWN COUNCIL MEETING DRAFT**

AGENDA ITEM #5

The meeting of the Town Council was called to order by Mayor Laila Benitez at 8:31 a.m. on Thursday, February 20, 2020 in the Mountain Village Town Hall, 455 Mountain Village Boulevard, Mountain Village, Colorado.

Attendance:

The following Town Council members were present and acting:

Laila Benitez, Mayor
Dan Caton, Mayor Pro Tem
Jack Gilbride
Patrick Berry
Pete Duprey
Natalie Binder (Left the meeting at 3:00 p.m.)

The following Town Council members were absent:

Marti Prohaska

Also in attendance were:

Kim Montgomery, Town Manager
Susan Johnston, Deputy Town Clerk
Christina Lambert, Deputy Town Clerk
David Reed, Town Attorney
Jim Mahoney, Assistant Town Attorney
Andrew Boyko, Associate Town Attorney
Sue Kunz, Director of Human Resources
Chris Broady, Chief of Police
Kevin Swain, Finance Director
Julie Vergari, Chief Accountant
Zoe Dohnal, Business Development and Sustainability Manager
Steve Lehane, Broadband Services Director
Michelle Haynes, Director of Planning and Development Services
John Miller, Senior Planner
Like Adamson, Tenant Manager
Jim Soukup, Chief Technology Officer
Finn Kjome, Director of Public Works
Rob Johnson, Transit Manager
Jim Loebe, Director of Transit and Recreation
Chuck Thomlinson, Human Resources Coordinator
Kim Wheels

Bill Jensen
Tim Johnson
Banks Brown
Pam Pettee
Anton Benitez
Doug Tooley
Stephanie Fanos
Stefanie Solomon
Jeff Proteau
Garrett Bradford
Keith Brown
David Averill
Tom Kennedy
Julia Caulfield
Dr. Louis Alaia
Amelia Martin
Blake Builder
Thomas Scruton
Yvette Rauff
Tim Erdman

Executive Session for the Purpose of Receiving Legal Advice Pursuant to C.R.S. 24-6-402(4)(b), and for the Purpose of Negotiations Pursuant to C.R.S. 24-6-402(4)e (2)

On a **MOTION** by Patrick Berry and seconded by Dan Caton, Council voted unanimously to enter into Executive Session for the purposes of receiving legal advice pursuant to C.R.S. 24-6-402(4)(b), and for the purpose of negotiations pursuant to C.R.S. 24-6-402(4)e (2) at 8:31 a.m.

Council returned to open session at 9:57 a.m.

Public Comment on Non-Agenda Items (4)

Consideration of Approval Minutes: (5)

Deputy Town Clerk Susan Johnston presented.

a. December 12, 2019 Regular Town Council Meeting

On a **MOTION** by Dan Caton and seconded by Pete Duprey, Council voted unanimously to approve the December 12, 2019 Regular Town Council meeting minutes as presented.

b. Revision to the October 17, 2019 Regular Town Council Meeting Minutes

On a **MOTION** by Jack Gilbride and seconded by Peter Duprey, Council voted unanimously to approve the revision to the January 16, 2020 Regular Town Council meeting minutes.

Consideration of a Telluride Regional Airport Authority (TRAA) Appointment: (6)

a. One Regular Seat to Replace Lawrence Crosby's Vacated Seat Which Expires July 2023

Susan Johnston presented. Applications were received from alternate Board member Tom Richards and Banks Brown. Mr. Brown addressed Council. Council discussion ensued. On a **MOTION** by Dan Caton and seconded by Natalie Binder, Council voted unanimously to appoint Tom Richards to the regular seat vacated by Lawrence Crosby and Banks Brown to the alternate seat both expiring July 2023.

Consideration of Approval of an Amended and Restated Intergovernmental Agreement Concerning the Establishment of the Western Colorado Regional Dispatch Center Providing Emergency Dispatch Services Throughout Western Colorado (7)

Chief of Police Chris Broady presented. Council discussion ensued. On a **MOTION** by Jack Gilbride and seconded by Pete Duprey, Council voted unanimously to approve the Amended and Restated Intergovernmental Agreement concerning the establishment of the Western Colorado Regional Dispatch Center providing emergency dispatch services throughout Western Colorado.

Discussion Regarding Community Development Code (CDC) Amendments to the Planned Unit Development Regulations at CDC Section 17.4.12 and Hotbed Development and Condominium-Hotel Regulations at CDC Section 17.3.15 to Simplify, Clarify and Correct Errors (8)

Planning and Development Services Director Michelle Haynes and Assistant Town Attorney Jim Mahoney presented. Council discussion ensued. Council directed staff to continue discussions with community members and to agendize a worksession in March to discuss the changes to the PUD. Public comment was received by Douglas Tooley and Stephanie Fanos.

On a **MOTION** by Jack Gibride and seconded by Dan Caton, Council voted unanimously to convene as the Mountain Village Housing Authority.

Mountain Village Housing Authority: (9)

a. Consideration of the Village Court Apartments (VCA) Advisory Committee Framework

Michelle Haynes and Luke Adamson presented. Council discussion ensued. Public comment was received by Douglas Tooley and Pam Pettee. On a **MOTION** by Pete Duprey and seconded by Jack Gilbride, Council voted unanimously to approve the VCA Advisory Committee framework provided in attachment A.

b. Consideration of the Recommendation from the VCA Committee Regarding Five VCA Resident Seats and Appointment of Five Resident Committee Members-Interviews are Optional

On a **MOTION** by Pete Duprey and seconded by Jack Gilbride, Council voted to appoint the following candidates to the VCA Resident Advisory Committee:

1. Matthew Lewis – one-year term
2. Pam Pettee- one-year term
3. Ursula Cristol- two-year term
4. Amelia Martin – two-year term
5. Citlali Casillas – two-year term

On a **MOTION** by Jack Gilbride and seconded by Pete Duprey, Council voted unanimously to re-convene as the Mountain Village Town Council.

Village Court Apartments (VCA) Monthly Update(10)

Director of Public Works Finn Kjome and Michelle Haynes presented stating that progress was being made on the work plan.

Consideration of the Creation of a Council Advisory Committee on Compensation and Benefits, Adoption of Bylaws and Appointment of Committee Members (11)

Town Attorney David Reed and Associate Town Attorney Andrew Boyko presented. Council discussion ensued. Council directed staff to revise the bylaws with revisions to be reviewed by Patrick Berry and Pete Duprey. Approval of the Employee Development bylaws will be agendized in March. On a **MOTION** by Dan Caton and seconded by Patrick Berry, Council voted unanimously to create the Employee Development Committee and directed staff to present revised bylaws to Council at the March 19, 2020 Town Council meeting.

Finance: (12)

Director of Finance Kevin Swain presented.

- a. **Presentation of the January 31, 2020 Business & Government Activity Report (BAGAR)**
- b. **Consideration of the December 31, 2019 Financials**

On a **MOTION** by Dan Caton and seconded by Jack Gilbride, Council voted unanimously to approve the December 31, 2019 Financials as presented.

- c. **Consideration and Ratification of the 2021 Budget Process**

On a **MOTION** by Dan Caton and seconded by Jack Gilbride, Council voted unanimously to approve the 2021 Budget process as presented.

Council moved to Agenda Item 22 Staff Reports.

Discussion Regarding a Request for Additional Funding for the Fiber to Home Project to Include Fiber from the Curb to the Home and Fiber from Outside the Home to Inside the Home, Condominium or Multi-Family (14)

Chief Technology Officer Jim Soukup presented. Council discussion ensued. Council consensus was in favor of Option 2 where the install cost for the improvements will be billed back to customers over a time period or in one installment on their monthly broadband bill. The Technology Committee was authorized to determine payment options and communicate the options to the public. As part of the procurement process, Council authorized the Mayor to sign a waiver of bid with Lightworks to proceed with the work.

Second Reading, Public Hearing and Council Vote on an Ordinance Regarding a Rezone and Density Transfer Application at Lot 640A, 306 Adams Ranch Rd, to Increase Employee Apartment Density by 12 Units from 30 to 42 Units *Quasi-Judicial* (15)

Jim Mahoney and Senior Planner John Miller presented. Patrick Berry recused himself due to his affiliation with Telluride Ski & Golf (TSG). The Mayor made the following statement, "I want to disclose that after the hearing on first reading I had a brief conversation with the applicant in the hallway outside of Council Chambers. During that discussion I only reiterated the points that I had made in the first reading public hearing and emphasized the need to continue negotiations on the matters brought up throughout this application which was a condition of the first reading hearing. I don't believe that that conversation in any way limits my ability to consider the second reading in one way or another and that I did vote in favor of the application on first reading with conditions that I felt needed to be met." The Mayor opened the public hearing. Applicant Jeff Proteau and TSG Attorney Stefanie Solomon addressed Council. No public comment was received. Council discussion ensued. The Mayor closed the public hearing. On a **MOTION** by Natalie Binder and seconded by Jack Gilbride, Council voted 5-0 (with Patrick Berry recused and Marti Prohaska absent) to adopt an Ordinance regarding a rezone and density transfer application pursuant to CDC Sections 17.4.9 & 17.4.10 of the Community Development Code, to rezone Lot 640A and transfer 12 employee apartment density units (36-person equivalent density) to the subject lot with the following conditions:

1. All parking required by the CDC shall be provided by Mountain View Apartments. Parking shall be constructed on-site prior to the issuance of a final building permit and shall be subject to the applicable Design Review Process. Parking shall be actively managed by the Property Owner and shall require parking passes to be issued to the residents in accordance with the Town's Parking Requirements.
2. The applicant will work with the Town to preserve park space and/or access to the open space area. At a minimum, the applicant will provide the features described and required in the Comprehensive Plan and detailed in the Staff Memo.

3. The applicant will provide additional fencing to augment the landscape buffer adjacent to Northstar per the Comprehensive Plan.
4. The applicant will resolve access to the park by granting the Town an easement for access from Adams Ranch Road to the Open Space Parcel OSP-35A.
5. The owner of Lot 640A shall be required to submit a Design Review Process Application to the DRB for design approval consistent with the representation on massing, scale, and siting as presented and approved in the rezoning and density transfer.
6. 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.
7. In the event the final building siting for the additional density does not fit entirely on Lot 640A, the applicant shall replat Lot 640A and OSP-35A so that all improvements are within Lot 640A.
8. The owner of record of density shall be responsible for all dues, fees and any taxes associated with the assigned density and zoning until such time as the density is either transferred to a lot or another person or entity.
9. TSG shall discuss in good faith with the Town regarding the following four items and staff and TSG shall report back to the Town Council prior to filing the required replat application:
 - Plans for transportation enhancements,
 - Trails and pedestrian accessibility,
 - Meadows Park,
 - Parking in the Meadows Subarea

Consideration of Blue Mesa Lodge Rezoning: Quasi-Judicial (16)

- a. **Blue Mesa Lodge Lot 42, Unit 21C (This Item was Continued from the November 21 and December 12, 2019 and February 20, 2020 Town Council Meetings)**
 - i. **First Reading of an Ordinance, Setting of a Public Hearing and Council Vote Regarding a) a Rezone and Density Transfer Application to Rezone Blue Mesa Lodge (Lot 42B) Unit 21C from an Efficiency Lodge Zoning Designation to Lodge Zoning Designation**

John Miller presented stating that this is the first application requesting a parking variance. Applicant Tom Skruton addressed Council. Council discussion ensued. Public comment was received by Keith Brown. On a **MOTION** by Dan Caton and seconded by Jack Gilbride, Council voted 5-1 (with Patrick Berry dissenting and Marti Prohaska absent) to approve on first reading an Ordinance regarding a rezone and density transfer application to rezone Blue Mesa Lodge (Lot 42B) Unit 21C from an Efficiency Lodge Zoning designation to Lodge Zoning designation with the following findings and conditions:

Findings:

1. At the time the requisite required density of .25 person equivalents is acquired, the applicant will meet the density required to execute a rezone from efficiency lodge to lodge zoning designation.
2. At the time the requisite parking is obtained, then the parking requirement for Unit 21-C will be met.
3. Blue Mesa Lodge is not identified in the Comprehensive Plan for redevelopment.
4. A 2/3 partition wall is adequate to interpret that the unit consists of two rooms, comporting with the definition of a lodge zoning designation unit.

Conditions:

1. The applicant should work with the Blue Mesa HOA to update the declarations to recognize Unit 21-C as one Lodge unit.
2. The Lot list shall be updated to reflect the rezone from one efficiency lodge unit to one lodge unit.
3. Prior to the recordation of the Ordinance approving the Density Transfer and Rezone, the applicant shall demonstrate that the requisite parking of 0.5 units has been obtained within the Blue Mesa Lodge.

4. The applicant shall demonstrate that the required requisite density has been acquired prior to recording the associated ordinance rezoning Unit 21-C from efficiency lodge to lodge unit.

and to set the second reading, public hearing and final Council vote for March 19, 2020.

On a **MOTION** by Jack Gilbride and seconded by Pete Duprey Council voted unanimously to extend the meeting beyond 6 hours.

ii. Consideration of a Resolution Approving a Variance to the Lodge Parking Space Requirement Pursuant to CDC Section 17.4.16 (this should be considered 1st and then the Ordinance)

John Miller presented. Council discussion ensued. On a **MOTION** by Dan Caton and seconded by Jack Gilbride, Council voted 5-1 (with Patrick Berry dissenting) to deny a Resolution regarding a variance to the CDC parking requirement standards granting deviations to the required 0.5 parking spaces for Unit 21-C with the following findings:

1. The Variance application does not meet the criteria for decision as detailed in the staff memo of Record dated February 7, 2020.

b. First Reading, Setting of a Public Hearing and Council Vote of an Ordinance Regarding a Rezone and Density Transfer Application for Blue Mesa Lodge Lot 42B, Unit 20B to Rezone from Efficiency Lodge Zoning Designation Quasi-Judicial

John Miller presented. Public comment was received by Tom Scruton. Council discussion ensued. On a **MOTION** by Jack Gilbride and seconded by Dan Caton, Council voted 6-0 (Marti Prohaska was absent) to approve on first reading an Ordinance regarding a rezone and density transfer application for Blue Mesa Lodge Lot 42B, Unit 20B to rezone from Efficiency Lodge Zoning designation and to set the second reading, public hearing and final Council vote for March 19, 2020.

Consideration of Approval of a Funding Agreement with SMART to Provide Regional Transportation Services (17)

Director of Transit and Recreation Jim Loebe presented. Council discussion ensued. On a **MOTION** by Patrick Berry and seconded by Pete Duprey, Council voted unanimously to approve a funding agreement with SMART to provide regional transportation services.

Council moved to agenda item 21

Second Reading, Public Hearing, and Council vote on an Ordinance Regarding a Rezone and Density Transfer to Rezone Belvedere, Lot 27, Phase I, Units 2 and 3 from Two (2) Condominium Zoning Designation Units, to One (1) Condominium Zoning Designation Unit Quasi-Judicial (18)

John Miller presented. The Mayor opened the public hearing. No public comment was received. The Mayor closed the public hearing. Council discussion ensued. On a **MOTION** by Patrick Berry and seconded by Jack Gilbride, Council voted 6-0 (Marti Prohaska was absent) to adopt an Ordinance regarding a rezone and density transfer to rezone Belvedere, Lot 27, Phase I Units 2 and 3 from two (2) condominium zoning designations units to one (1) condominium zoning designation unit with the following findings and conditions:

Findings:

1. The applicant has the requisite required density of three person equivalents to execute a rezone from condominium to condominium zoning designation.
2. The applicant has met or exceeded the parking requirement of one parking space.
3. The application meets the criteria for decision as detailed within this staff memo of record.

Conditions:

1. The applicant shall submit a condominium map amendment and associated declarations, to the Town for review and approval showing the Units 2 and 3 as one(1) renumbered Condominium Unit prior to issuance of a certificate of occupancy to combine the units.
2. The lot list shall be updated to reflect the rezone from two (2) Condominium units to one (1) Condominium unit.
3. The applicant intends to hold the excess density in the density bank.
 - a. The Town will issue a density bank certificate.

- b. The owner is responsible for all dues, fees and any taxes associated with the assigned density and zoning until such time as the density is either transferred to a lot or another person or entity.
4. The approved Ordinance and density certificate must be submitted as part of the owner's building permit application prior to work commencing.
5. The applicant has agreed to keep two (2) parking spaces, above the one (1) parking space requirement, consistent with DRB's recommendation to Council.
6. As part of the building permit, the applicant must decommission one (1) kitchen to a wet bar as defined by the CDC, consistent with the definition of a multi-family dwelling unit.

Second Reading, Public Hearing and Council Vote on an Ordinance Regarding a Community Development Code Amendment to Section 17.5.12, Lighting Regulations, to Allow for Architectural and Landscape Lighting Pursuant to a Design Variation *Legislative* (19)

John Miller and Michelle Haynes presented. The Mayor opened the public hearing. Public comment was received by Evette Roth. The Mayor closed the public hearing. Council discussion ensued. On a **MOTION** by Dan Caton and seconded by Jack Gilbride, Council voted 6-0 (Marti Prohaska was absent) to adopt an Ordinance regarding a Community Development Code amendment to Section 12.5.12, Lighting Regulations, to allow for architectural and landscape lighting pursuant to the design variation.

Natalie Binder left the meeting at 3:00 p.m.

Consideration of a Resolution Regarding a Minor Subdivision on Lots AR-34, AR-35 and AR-36, 102 Single Tree Ridge, to Remove Existing Town Irrigation Easement on the Property (20)

John Miller presented. Council discussion ensued. Public comment was received from Attorney Tom Kennedy, representative for the applicant. On a **MOTION** by Pete Duprey and seconded by Dan Caton, Council approved unanimously to approve a Resolution regarding a minor subdivision on Lots AR-34, AR-35 and AR-36, 102 Single Tree Ridge, to remove existing Town irrigation easement on the property and with the following conditions:

1. The applicant shall work with Town Staff to record the finalized resolution approving the vacation of the irrigation easement and associated improvement survey plat.
2. The applicant shall pay all necessary fees associated with the recordation of all required documents with the San Miguel County Clerk and Records Office.
3. Town Staff and Legal have the authority to provide ministerial changes on any associated legal instruments prior to recordation with the San Miguel County Clerk and Records Office, provided the changes are not substantial.

Council moved to agenda item 24.

Consideration of a Town Hall Parking and Plaza License Agreement and Town Hall Parking Lot Management Agreement (21)

Jim Mahoney presented. The Mayor asked Mayor Pro tem Dan Caton to lead the meeting for this item due to her relationship with Anton Benitez. TMVOA representatives, Anton Benitez and Garrett Brafford were in attendance. Council discussion ensued. On a **MOTION** by Jack Gilbride and seconded by Natalie Binder, Council voted unanimously to approve a Town Hall Parking and Plaza License Agreement and Town Hall Parking Lot Management Agreement.

Moved back to agenda item 18

Staff Reports: (22)

a. Technology & Broadband Services

Chief Technology Officer Jim Soukup presented the broadband and technology reports. Council discussion ensued.

b. Human Resources

Director of Human Resources Sue Kunz presented her report. Council discussion ensued.

c. Town Manager

Kim Montgomery presented her report. Council discussion ensued.

Council took a lunch break from 11:46 to 12:09(13)

Council Boards and Commissions Updates: (23)

- a. Telluride Tourism Board-Berry
- b. Colorado Flights Alliance-Gilbride
- c. Transportation & Parking-Duprey/Benitez
- d. Budget & Finance Committee- Gilbride/Duprey
- e. Gondola Committee-Caton/Berry
- f. Colorado Communities for Climate Action-Berry
- g. San Miguel Authority for Regional Transportation -Caton/Prohaska/Benitez
- h. Eco Action Partners-Berry/Prohaska
- i. Telluride Historical Museum-Prohaska
- j. Telluride Conference Center-Binder/Gilbride
- k. Alliance for Inclusion-Binder
- l. Green Team Committee- Berry/Prohaska
- m. Community Grant Committee-Benitez/Binder
- n. Business Development Advisory Committee-Caton (meet 4 times a year)
- o. Mayor's Update- Benitez

Council moved to agenda item 14.

Consideration of Approval of a Recommendation by the Green Team to Consider Amending the Renewable Energy Mitigation Program (REMP) Worksheet to Allow for the Option to Purchase Off-Site Solar Panels at the Last Dollar Solar Array in Lieu of an Energy Mitigation Payment to the Town (24)

Business Development and Sustainability Senior Manager Zoe Dohnal presented. Council discussion ensued. Public comment was received by Kim Wheels and Tim Erdman. On a **MOTION** by Jack Gilbride and seconded by Dan Caton Council voted 4-1 (with Patrick Berry dissenting) to deny the approval.

Other Business: (25)

Zoe Dohnal presented letters of support to the State for a polystyrene and single use plastics ban. Council consensus was in favor of the letters of support. There being no further business, on a **MOTION** by Patrick Berry and seconded by Jack Gilbride, Council voted unanimously to adjourn the meeting at 3:21p.m.

Respectfully prepared,

Susan Johnston
Deputy Town Clerk

Respectfully submitted,

Kim Montgomery
Town Manager

RESOLUTION OF DENIAL REGARDING A VARIANCE TO THE COMMUNITY DEVELOPMENT CODE REQUIREMENTS FOR LOT 42B, UNIT 21-C, DEVIATIONS TO THE PARKING REQUIREMENTS FOR A LODGE UNIT ZONING DESIGNATION.

Resolution No. 2020-____ -__

- A. Gold Hill Holdings, LLC (“**Owner**”) is the owner of record of real property described as Lot 42B, Unit 21-C (“**Property**”).
- B. The Owner submitted a Class 4 application for a Rezone and Density Transfer to rezone the Property from efficiency lodge zoning designation to lodge zoning designation (the “**Rezone Application**”). The Rezone Application triggered the requirement to provide parking for the property in compliance with the applicable Community Development Code (“**CDC**”) parking requirements.
- C. The Owner submitted a Class 4 application for a Variance to allow for deviations in parking requirements for the Property (“**Application**”).
- D. The Application was submitted in compliance with the provisions of section 17.4.16 of the CDC.
- E. The Design Review Board (“**DRB**”) considered the Application, along with evidence and testimony, at a public meeting held on February 6, 2020. Upon concluding their review, the DRB recommended approval of the Application to the Town Council with a 3-1 vote.
- F. The Town Council considered and approved the Application, along with evidence and testimony, at a public hearing on February 20, 2020. Upon concluding their review, the Town Council voted to deny the Application with a 5-1 vote.
- G. 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 on the Town website, and by mailing of public notice to property owners within four hundred feet (400') of the Property, as required by the public hearing noticing requirements of the CDC.
- H. At the public hearings referred to above, the Town Council considered the Owner’s submittal materials, and all other relevant materials, public letters, and public testimony, and denied the Application with findings set forth at the Public Hearing and captured in this Resolution.
- I. The Town Council finds the Applications does not meet the Variance Criteria for Decision contained in CDC Section 17.4.16(D) as follows:

Variance Findings:

- 1. The strict development application of the CDC regulations would not result in exceptional and undue hardship upon the property owner in the development of the lot due to the availability of reasonable use under the existing zoning which does not require a Variance;
- 2. The variance cannot be granted without substantial detriment to the public health, safety and welfare;
- 3. The variance cannot be granted without substantial impairment of the intent of the CDC;

4. Granting the variance constitutes a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district as any property in the same zone district which applied for a rezone would be required to comply with the parking regulations of the CDC ;
5. Reasonable use of the property is otherwise available without granting of a variance as the Property may still be used pursuant to its existing zoning designation or the Owner may provide the required parking in order to complete the Rezone Application;
6. The lot for which the variance is being denied was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created;
7. The variance is not solely based on economic hardship alone; and
8. The proposed variance does not meet all applicable Town regulations and standards.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL HEREBY DENIES A VARIANCE TO THE COMMUNITY DEVELOPMENT CODE REQUIREMENTS FOR LOT 42B, UNIT 21-C REQUESTING DEVIATIONS TO THE PARKING REQUIREMENTS FOR A LODGE UNIT ZONING DESIGNATION AND AUTHORIZES THE MAYOR TO SIGN THE RESOLUTION.

Be It Further Resolved that a copy of this Resolution be forwarded to the Owner, the Blue Mesa Lodge Homeowner Association, and recorded with Clerk and Recorder Office of San Miguel County.

Section 1. Resolution Effect

- A. This Resolution shall have no effect on pending litigation, if any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions repealed or amended as herein provided and the same shall be construed and concluded under such prior resolutions.
- B. All resolutions, of the Town, or parts thereof, inconsistent or in conflict with this Resolution, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 2. Severability

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

Section 3. Effective Date

This Resolution shall become effective on February 20, 2020 (the "Effective Date") as herein referenced throughout this Resolution.

Section 4. Public Hearing

A public meeting on this Resolution was held on the 20th day of February 2020 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

DENIED by the Town Council at a public hearing held on February 20, 2020.

Town of Mountain Village, Town Council

By: _____
Laila Benitez, Mayor

Attest:

By: _____
Kim Montgomery, Town Clerk

Approved as to Form:

Jim Mahoney, Town Attorney



**Agenda Item No. 5.a
PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT**

455 Mountain Village Blvd.
Mountain Village, CO 81435

*Motion to Continue will be Considered Before
the Public Hearing is Opened*

(970) 369-8250

TO: Mountain Village Town Council
FROM: John Miller, Senior Planner
FOR: Regular Town Council Meeting, March 19, 2020
DATE: Updated March 10, 2020
RE: Second Reading, Public Hearing, and Council vote on, an Ordinance approving a density transfer and rezone application to rezone Blue Mesa Lodge unit 21-C from an efficiency lodge zoning designation unit to a Lodge zoning designation unit.

PROJECT GEOGRAPHY

Legal Description: *Condominium Unit 21-C, Blue Mesa Lodge Condominiums*
Address: 117 Lost Creek Lane
Owner: Gold Hill Holding, LLC
Zoning: Village Center
Existing Use: Accommodations and Commercial
Proposed Use: Multi-Family Residential and Commercial
Lot Size: 0.16 Acres

Adjacent Land Uses:

- **North:** Village Center
- **South:** Village Center
- **East:** Village Center
- **West:** Village Center

ATTACHMENTS

- Exhibit A: Applicant's narrative
- Exhibit B: Ordinance



CASE SUMMARY:

Gold Hill Holding, LLC is requesting to rezone Blue Mesa Lodge Unit 21-C from an efficiency lodge zoning designation to a lodge zoning designation. To accomplish this request, the unit in question must meet the rezoning criteria, must fit within the definition of a lodge unit per the Community Development Code (CDC), and must have or acquire the requisite density for the increase in person equivalents. A lodge unit is defined as a two-room space plus a mezzanine with up to two separate baths and a full kitchen. At the February 20, 2020, Town Council Meeting, the owner requested a Variance to the CDC, Section 17.5.8: Parking Regulations which was denied by the Town Council with a 5-1 Vote. If the Town Council determines that the Density

Transfer and Rezone for Unit 21-C otherwise meets the Criteria for Decision listed below in this Staff Memo of record, then the Town Council can approve this application with the condition that the parking requirements be otherwise met before the recordation of the associated Ordinance rezoning the unit.

To determine the appropriateness of this request, the Council has been provided the Criteria for Decision within the Criteria, Analysis, and Findings Section of this memo. These criteria must be met for the Town Council to approve the request.

BLUE MESA LODGES HISTORY

Zoning Designation History of Blue Mesa Lodges:

Blue Mesa Lodges (Lot 42B) were originally platted by the 1992 zoning map and preliminary PUD plat for eight condominiums and four hotels with a total person equivalent of 30 persons.

In 1997, Resolution No. 1997-0923-23 rezoned Lot 42B from 10 condominiums which included 18 lock-offs (the lock-offs carried no zoning designation or person equivalent, they were considered bedrooms to the condominium units), to 28 efficiency lodge units with a total of 14-person equivalent density. The Town allowed for parking to remain at 10 spaces, as a pre-existing condition and waived the additional four required parking spaces. The Town approved of the rezoning for the building as is, meaning that no interior or exterior alterations were required.

The condominium map unit configuration illustrates the units were labeled as Units A, B & C, units, for example, 20A, 20B, and 20C. These units had doors that connected the units between them. Each unit also had a door to the hallway so that they could be rented separately or used together. The most typical configuration was a former condominium unit and two lock-off bedrooms. In two cases, the 1998 condominium map only illustrated a unit A & B suite (no C unit).

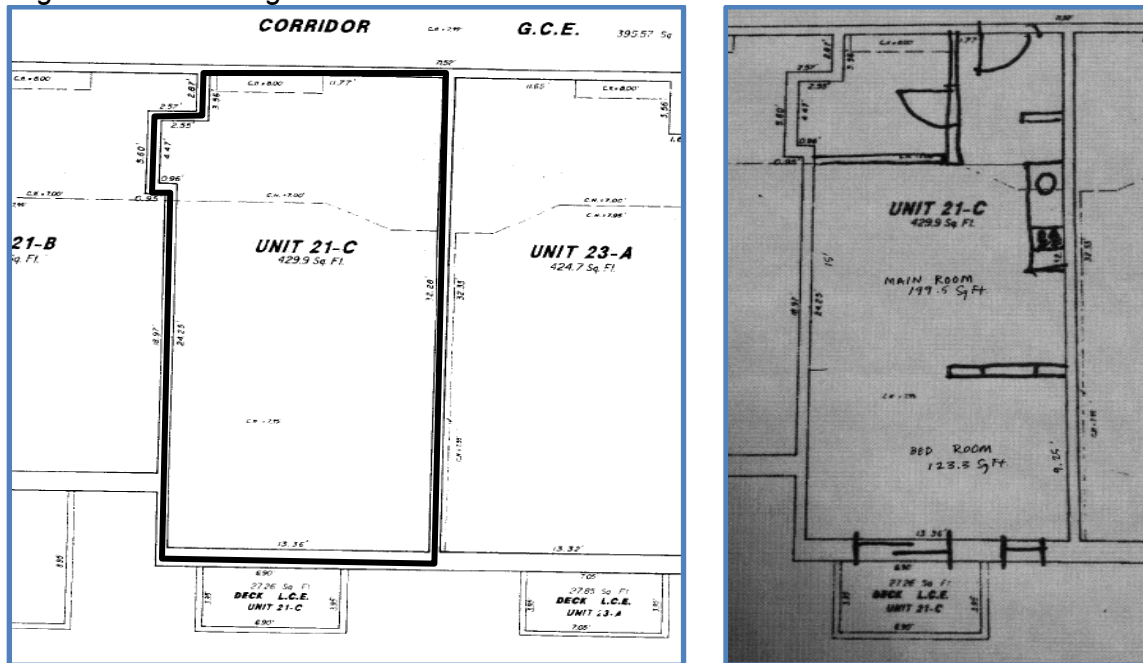
Rezone and Parking History of Unit 21-C:

Unit 21-C was purchased by Gold Hill Holdings, LLC in 2012. When the property transferred ownership there was no associated parking space dedicated to the unit. A rezone application requires that the application conforms with land use and zoning regulations, and a rezone to a lodge unit requires that the applicant meets the parking requirement of 0.5 parking spaces, or otherwise meet the parking requirements through a payment in lieu.

The condominium map for Blue Mesa Lodge demonstrates the overall floor area of the unit at 429.9 sq. ft. According to the applicant, this includes a “[living room, bedroom,], one full bath, a galley kitchen with appliances including an oven with 4 burner range, full-size microwave, and 13 [cubic feet] refrigerator/freezer”. See rezone criteria b. discussion of rooms on page 4. below.

The remainder of this page has been left blank intentionally.

Figure 1. Unit Configuration 21-C



CRITERIA, ANALYSIS, AND FINDINGS

The criteria for the decision to evaluate a variance and/or rezone that changes the zoning designation and/or density allocation assigned to a lot is listed below. The following criteria must be met for the review authority to approve the applications:

Chapter 17.4: DEVELOPMENT REVIEW PROCEDURES

17.4.9: Rezoning Process

Staff has evaluated the following standards (a-h) as the criteria that must be met for Town Council to approve the rezoning request:

- a. The proposed rezoning is in general conformance with the goals, policies and provisions of the Comprehensive Plan;

Staff: Blue Mesa Lodge is not contemplated for redevelopment or future visioning in the Comprehensive Plan and is simply mapped as within the Village Center Zone District which allows for broad uses. The application conforms with Mountain Village Center Subarea Plan Principles, Policies and Actions L., "Encourage deed-restricted units and full-time residency in Mountain Village Center, with provisions such as smaller units, the creation of a better sense of community, and other creative options."

- b. The proposed rezoning is consistent with the Zoning and Land Use Regulations;

The Zoning and Land Use Regulations allow for the requested rezone from efficiency lodge to lodge provided these criteria are met and the unit meets the definition of a lodge unit. Generally speaking, the Village Center zoning designation allows for lodge units as a permitted use consistent with the Land Use Regulations.

The current configuration of Unit 21-C does include physical separation of the bedroom and living room area. The applicants have included a floorplan demonstrating the current layout of the unit. The Council should ultimately consider their comfort level of rezoning from efficiency

lodge to lodge based on the conversion of one-room spaces to two-room spaces. There are no definitions of a room in the CDC. At the direction of the DRB and consistent with the authority granted to the Planning Director by the CDC, the Planning Director has provided an interpretation based on existing codes and historical uses as to what could constitute a room when rezoning from one zoning designation to another. The interpretation is consistent with this application to create a partition wall to define more than one room consistent with building code definitions.

Staff recommends the Council determine whether the applicant's proposed changes meet the intent of the CDC in relation to the requirement for a two-room space in order to rezone to a lodge unit.

- c. The proposed rezoning meets the Comprehensive Plan project standards;

Staff: There are no specific Comprehensive Plan project standards for Blue Mesa Lodge, thus, this criterion is not applicable.

- d. 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;

Staff: The proposed rezoning presents no public health, safety or welfare issues and is an efficient use of what is a mixed-use building carrying residential attributes.

- e. The proposed rezoning is justified because there is an error in the current zoning, [and/or] there have been changes in conditions in the vicinity [and/] or there are specific policies in the Comprehensive Plan that contemplate the rezoning;

Staff: The proposed rezone is due to a change in condition in the vicinity, namely recent education and voluntary compliance regarding efficiency lodge zoning designations.

- f. Adequate public facilities and services are available to serve the intended land uses;

Staff: No additional public facilities are needed for the rezone thus, they are adequate.

- g. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and

Staff: No change or negative impact.

- h. The proposed rezoning meets all applicable Town regulations and standards.

Staff: At the first reading, the Town Council determined that the addition of a partition wall is appropriate for meeting the definition of a lodge unit consisting of a two-room space. With that, the application will be compliant with all applicable Town regulations and standards at the time the following conditions are met: 1.) the required additional 0.25-person equivalent density units are purchased and sale finalized, and 2.) the required 0.5 parking space has been obtained or a parking payment in lieu has been finalized with the Town. Staff is requesting that any approval requires these conditions be met before the recordation of the associated ordinance rezoning the unit.

17.4.10: Density Transfer Process

(***)

D. Criteria for Decision

(***)

2. Class 4 Applications. The following criteria shall be met for the Review Authority to approve a density transfer.

- a. The criteria for decision for a rezoning are met since such density transfer must be processed concurrently with a rezoning development application (except for MPUD development applications);
- b. The density transfer meets the density transfer and density bank policies; and.
- c. The proposed density transfer meets all applicable Town regulations and standards.

Affirmed.

STAFF ANALYSIS

The existing configuration of the efficiency lodge unit meets the definition of a lodge unit per the CDC based on the Council's initial determination that a partition wall that creates visual separation defines one room from another room for the purpose of a rezone application. The applicants have a total of 0.5-person equivalent density for Unit 21-C and will be required to purchase an additional 0.25-person equivalent to comply with the 0.75-person equivalent density requirements for a lodge unit before any finalization of the rezone request. During multiple Town Council discussions, the Town Council recognized that Blue Mesa Lodges have never had onsite property management or amenities that would indicate accommodations use like a hotel. Since Blue Mesa Lodges is also not identified in the Comprehensive Plan for redevelopment, rezoning the efficiency lodge unit to one lodge unit meets the Town criteria for a rezone application.

The rezone application triggers parking requirements which must be met to approve the rezone application based on today's CDC standards. At the February 20th Town Council meeting, it was determined that the Variance request was not appropriate based on potential increased parking impacts subsequent to changes in use from Efficiency Lodge to Lodge, such as increased traffic and increased use of the unit that may otherwise affect the current parking arrangement that may have worked in the past. For that reason, obtaining the required parking or payment in lieu to satisfy the request are conditioned into any potential density transfer and rezone approval.

DESIGN REVIEW BOARD RECOMMENDATION: The Design Review Board reviewed both applications for Lot 42B, Unit 21-C at their December 5, 2019, Regular Meeting.

1. In regards to the Rezone and Density Transfer request, the Board voted to 6-0 to recommend approval to Town Council.
2. In regards to the Variance request, the board vote was evenly split and therefore continued to the February 6, 2020 DRB meeting. At the February meeting, the Board voted 3-1, Eckman dissenting, to recommend approval of the Variance to Town Council.

The DRB also asked staff to prepare a definition of a room for the purposes of current and future rezone applications when an owner of a one-room efficiency lodge unit applies to reclassify it as a lodge and create a second room within the unit. Staff received direction that the more generous interpretation, that a room can be created by a floor to ceiling partition wall so long as minimum room size, fire sprinkler, fire alarm, egress, electrical code requirements, and maximum openings

are building code compliant is adequate to create more than one room for a rezone application. Town Council also determined the interpretation to be appropriate.

RECOMMENDED MOTION: The Town Council may approve, continue, deny or request modifications to the application regarding the proposed Density Transfer and Rezone for Unit 21-C, Lot 42B.

Motion of Approval: *I move to approve a second reading of an Ordinance regarding the rezone and density transfer application for Lot 42B, Blue Mesa Lodges Unit 21-C, to rezone from an efficiency lodge zoning designation to lodge zoning designation with the following findings and conditions as noted in the staff report of record dated March 10, 2020:*

Findings:

- 1. At the time the requisite required density of .25 person equivalents is acquired, the applicant will meet the density required to execute a rezone from efficiency lodge to lodge zoning designation.*
- 2. At the time the requisite parking is obtained, then the parking requirement for Unit 21-C will be met.*
- 3. Blue Mesa Lodge is not identified in the Comprehensive Plan for redevelopment.*
- 4. A 2/3 partition wall is adequate to interpret that the unit consists of two rooms, comporting with the definition of a lodge zoning designation unit.*

Conditions:

- 1. The applicant should work with the Blue Mesa HOA to update the declarations to recognize Unit 21-C as one Lodge unit.*
- 2. The Lot list shall be updated to reflect the rezone from one efficiency lodge unit to one lodge unit.*
- 3. The applicant shall demonstrate the required requisite density has been acquired before recording the associated ordinance rezoning Unit 21-C from efficiency lodge to lodge unit.*
- 4. The applicant shall demonstrate the required parking has been acquired before recording the associated ordinance rezoning Unit 21-C from efficiency lodge to lodge unit.*

This motion is based on the evidence and testimony provided at a public hearing held on March 19, 2020, with notice of such hearing as required by the Community Development Code.

/jjm



**Agenda Item No. 16.a
PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT**

455 Mountain Village Blvd.
Mountain Village, CO 81435
(970) 369-8250

TO: Mountain Village Town Council
FROM: John Miller, Senior Planner
FOR: Regular Town Council Meeting, February 20, 2020
DATE: Updated February 7, 2020
RE: First Reading of an Ordinance considering a density transfer and rezone application to rezone Blue Mesa Lodge unit 21-C from an efficiency lodge zoning designation unit to a lodge zoning designation unit. Concurrent Consideration of a Resolution approving a variance to the Community Development Code (CDC) to allow deviations from parking requirements.

PROJECT GEOGRAPHY

Legal Description: *Condominium Unit 21-C, Blue Mesa Lodge Condominiums*
Address: 117 Lost Creek Lane
Owner: Gold Hill Holding, LLC
Zoning: Village Center
Existing Use: Accommodations and Commercial
Proposed Use: Multi-Family Residential and Commercial
Lot Size: 0.16 Acres

Adjacent Land Uses:

- **North:** Village Center
- **South:** Village Center
- **East:** Village Center
- **West:** Village Center

ATTACHMENTS

- Exhibit A: Applicant's narrative
- Exhibit B: Ordinance
- Exhibit C: Resolution



CASE SUMMARY:

Gold Hill Holding, LLC is requesting to rezone Blue Mesa Lodge Unit 21-C from an efficiency lodge zoning designation to a lodge zoning designation. In order to accomplish this request, the unit in question must meet the rezoning criteria, must fit within the definition of a lodge unit per the Community Development Code (CDC), and must have or acquire the requisite density for the increase in person equivalents. A lodge unit is defined as a two-room space plus a mezzanine with up to two separate baths and a full kitchen.

Rezoning variance application Blue Mesa Lodge Condominiums, Lot 42B, Unit 21C

Gold Hill Holding, LLC

Staff have requested we provide a more in-depth discussion for the Design Review Board to consider as we move forward with our application to rezone unit 21C at Blue Mesa Lodge from an 'efficiency lodge' to 'lodge'.

Background

This rezoning has been pursued exclusively in response to recent changes to the Community Development Code ordinance made by the Town of Mountain Village. The 2019 revision of CDC ordinances for efficiency lodge units unreasonably restricts use of this property in a manner that had never been intended or applied in the over 20 year history since the conversion to efficiency lodge was made in 1997. This regulatory change damages the value of our investment in a condominium unit ideally located in the pedestrian core of our village, to a comparable value of a timeshare unit with minimal options for use. This hardship is not tolerable and as a measure of goodwill the Town has graciously extended the opportunity to rezone properties in our building to a less restrictive 'lodge' definition.

Blue Mesa Lodge has filled an important niche in the village with mixed use; short term rentals, long term rentals, and one owner established permanent residency in our building. Rezoning our properties allows property owners to provide badly needed seasonal rentals to area employees and travelers who intend a longer stay than the typical short-term rental (30 days or less). There is a severe shortage of seasonal rental properties in Mountain Village, which directly impairs employers ability to retain workers, and directly impacts everything from the coffee shop to the construction company. There is much less demand for the short term stays that the new efficiency lodge ordinances would impose. Our short term occupancy rate is about 20%, and the town does not appear to have a shortage of short term lodging. Blue Mesa Lodge is an ideal building for mixed use; we have no central booking agency, front desk, or other amenities typical to the hotel condominium properties that are more prominently represented in the list of efficiency lodge units within Mountain Village.

Until recently, the town had demonstrated no interest in constraining use of our properties which were all converted to efficiency lodge zoning in 1997. Permitted renovations in our building have combined units larger than the lodge definition, smaller spaces have been improved to more livable lodge configurations, many units in our building have functional kitchens and multiple restrooms. A variance to the defined parking requirements allowed some properties to have fractional ownership of parking spaces less than 0.5 (Which is the CDC defined requirement for

both efficiency lodge and lodge units). With the variance granted by the town in 1997, some units have no deeded parking—such as the subject of this application.

The Design Review Board and Town Council have approved a group of rezoning applications from Blue Mesa Lodge property owners recently. It is important work to continue with this if we are going to preserve the value of our properties and continue to attract development to the village core. The variance process exists for this specific purpose: development of a unique and vital community is sometimes messy and mistakes will be made that can only be resolved by allowing that some ordinances and definitions do not apply to all circumstances. Loft spaces and partitioned rooms should be allowed as they meet the definition for lodge 'rooms', larger and smaller spaces should as well. Parking space requirements do not need to apply to all properties in the core. We hope that through a well-reasoned approach to the variance process the town can maintain values and encourage investment.

The founders of Mountain Village had a brilliant vision for developing a unique community unlike any in North America, inspired by European models. Thriving mountain communities with a lively and economically productive pedestrian core are attractive places to resemble. The clogged roads and noisy busses in Snowmass and Vail serve as a keen reminder of how special this place is. We have the landscape, and we are building the community. This vision did not include motor vehicles in the village core. Like our European archetype, a centralized parking scheme was seen as the best way to allow our development to continue in this vision. As building continues and the town attracts more investment, increasing our parking capacity in the central garage was the intended approach. This is why they did not require deeded parking spaces for all properties in the core, and thus created situations like ours.

When the town allowed parking spaces to be sold away from the condominium unit owners in our building, investors had an opportunity to buy and now there is a market to rent and sell these parking spaces. We have maintained access to parking for our property by engaging realtors and owners to provide for both short and long-term rental agreements for parking. For example, over the years we have run this property: many of our winter guests don't need a parking space at all, parking was available in our garage at a nightly rate brokered by a realtor ideal for short-term renters, an engineer for a local project needed long term housing for six months and we negotiated a six month parking lease to accommodate that need, we have a current long-term agreement to lease a space on annually renewing terms. The town is still collecting property tax on these spaces and also collects revenue from renters paying to park in the municipal garages when there isn't enough room for all. The town could increase supply and lower prices if further pressure is desired, proposing a bond measure to build more decks on our current parking structure would be a good start. As there were never enough spaces built in the village core for everyone to have a deeded parking space, this truly American model of market-based use has been the solution.

We are asking that the parking requirement be reconsidered for our case, as it does not significantly affect our parking usage for rezoning the property. Any future owners will have the

same options to consider for parking as we have: use the town garage, rent a space as needed, secure a long term parking lease, or buy a space. This variance is very important to our rezoning, please consider these responses carefully and recognize the greater challenges that are created with changes to the CDC regulations.

Responses

1. The following criteria shall be met for the review authority to approve a variance:

a. The strict development application of the CDC regulations would result in exceptional and undue hardship upon the property owner in the development of property lot because of special circumstances applicable to the lot such as size, shape, topography or other extraordinary or exceptional physical conditions;

The strict application of the CDC regulations for 0.5 parking space requirement imposes an unreasonable hardship as no parking was deeded to this property by a previously approved variance recorded in rezoning resolution 1997-0923-23. Rezoning this property is now essential to maintaining its value and preserving the vital characteristics of the village core. The development of the village core was specifically limited in vehicle access, properties in this area have a special circumstance for which variance to the parking requirements was and is still the best solution for non-conforming properties.

b. The variance can be granted without substantial detriment to the public health, safety and welfare;

This variance poses no substantial detriment to the public health, safety or welfare and does not constitute any change in the current property use. There would, if anything, be an increase in vehicle traffic into the village core if variances are not given to rezoning properties as demand for parking in the core may drive further development of parking structures in the village. It was wisely within our founders vision to develop parking outside of the village core in order to preserve the attractive and healthy pedestrian zone, with minimal noise and pollution.

c. The variance can be granted without substantial impairment of the intent of the CDC;

The same 0.5 parking space requirement exists for both efficiency lodge and lodge zoning. The variance that allowed this property to be sold without a space has not impaired mixed use of the property. The intent of the CDC is better reflected by rezoning our property as the new ordinances surrounding

efficiency lodge uses are not compatible with our property, building or history of use. Any perceived impairment to the intent of the CDC parking requirement was made over 20 years ago and has never been challenged. We are only asking that this previous variance continue to be honored, placing no more or less demand on the available spaces.

d. Granting the variance does not constitute a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district, such as without limitation, allowing for a larger home size or building height than those found in the same zone district;

Granting the variance does not constitute a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district; the 1997 variance was given for 4 full parking spaces leaving multiple units of Blue Mesa Lodge Condominiums without deeded parking. The variance is needed in order to continue similar use of our property to other units in our building by rezoning to lodge status.

e. Reasonable use of the property is not otherwise available without granting of a variance, and the variance being granted is the minimum necessary to allow for reasonable use;

Rezoning the property is necessary to allow reasonable use of the property due to new restrictions being imposed on efficiency lodge units. Blue Mesa Lodge is not a hotel property, the individual units should not be restricted as such. Granting of this parking variance to allow for rezoning is the minimum necessary to allow for reasonable use.

f. The lot for which the variance is being granted was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created;

The lot for which the variance is being granted was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created.

g. The variance is not solely based on economic hardship alone;

This variance is not exclusively an issue of economic hardship, though if unable to rezone our property it will be expected to suffer a significant loss of value. The basis for needing this variance is because a previously approved variance to parking requirements allowed this property to be separated from deeded parking over 20 years ago.

and h. The proposed variance meets all applicable Town regulations and standards unless a variance is sought for such regulations or standards.

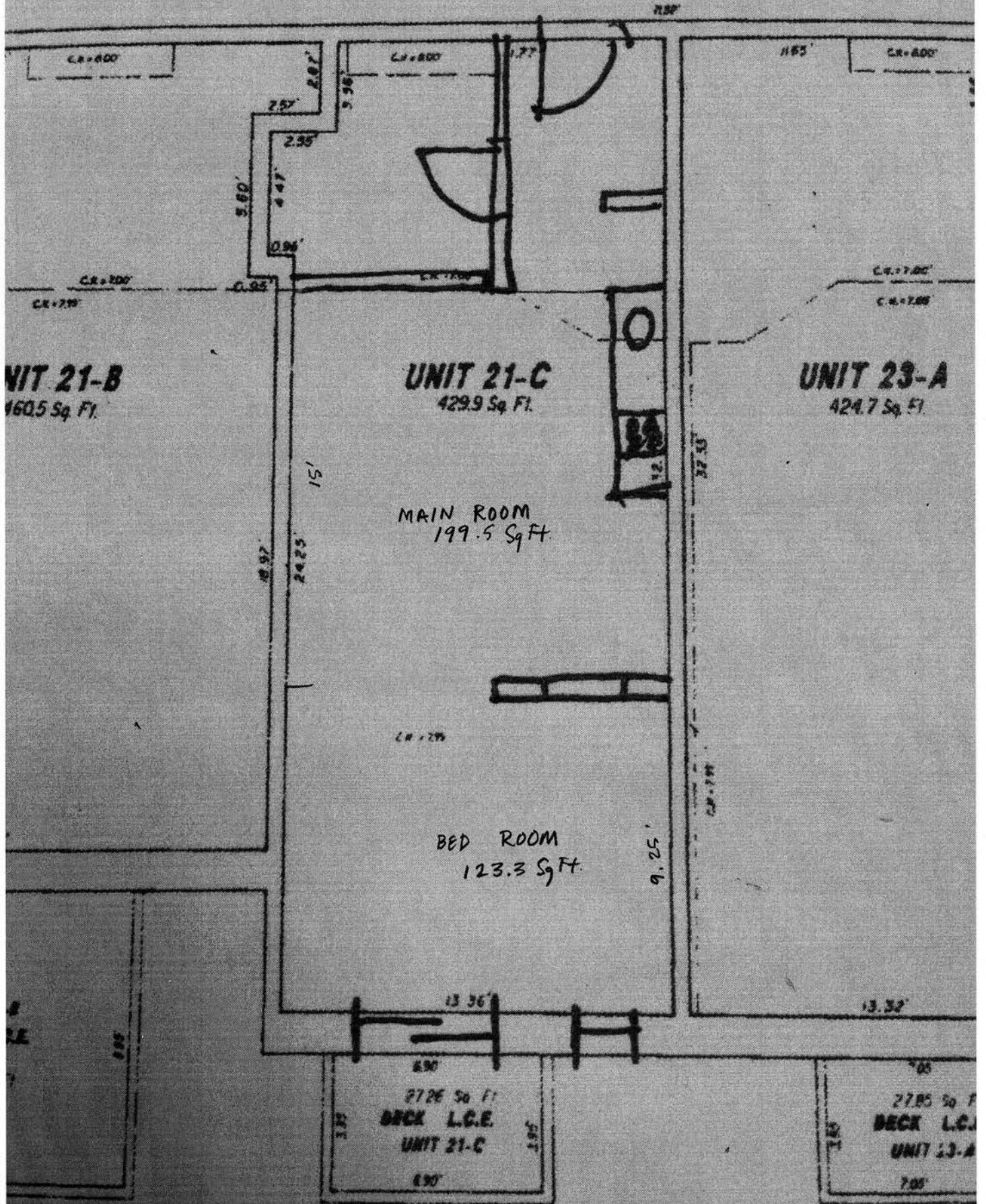
The proposed variance is sought for relief from regulations requiring 0.5 parking spaces for a property to be zoned as a lodge unit. This is not a significant difference in requirements that existed for the previous zoning, both zoning categories have the same 0.5 space requirements. If the standard did not need to apply once, it seems sensible that with no difference in the substantive requirement, it need not apply again.

Narrative for Application of Rezone for Blue Mesa Lodge Condominiums lot 42B, Unit 21C

Criteria for a Decision to Rezone: The following criteria shall be met for the review authority to approve a rezoning application:

1. The proposed rezoning is in general conformance with the goals, policies, provisions, and standards of the Comprehensive Plan
 - a. The Blue Mesa Lodge Condominiums are not referenced in the Comprehensive Plan.
 - b. The location in the Town of Mountain Village Core appeals to individual use, long and short term rentals and can improve TMV core economic development with more consistent occupancy.
2. The proposed rezoning is consistent with the Zoning and Land Use Regulations
 - a. The 21C property has been used for both long and short term rentals as since purchased in 2012. Prior to purchase the unit was used for long term rentals.
 - b. The layout of the combined unit conforms with the specifications which define a Lodge unit (two separated rooms with net floor area of 199.5 square feet in the main room and bedroom with 123.3 square feet, one full bath, a galley kitchen with appliances including an oven with 4 burner range, full size microwave and 13 Cft. refrigerator/freezer).
 - c. This property (and several others at Blue Mesa Lodge Condominiums) was platted by waiver without deeded parking, adequate spaces are available for rent in the Blue Mesa Garage.
 - d. The property will have the appropriate density units associated with a Lodge unit (0.75 density units, sale pending from other conversion).
3. 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
 - a. The infrastructure already exists to meet public health, safety and welfare, the proposed rezone will not create an additional burden.
 - b. No additional hazards will be created by this proposed rezone. No additional burden of trash or parking as underground parking is available to residents of this unit and sufficient method of trash disposable is in place.
 - c. The unit is either used by the owner or rented, consistent with existing use therefore the proposed rezone will not contribute to an increase in vehicular or pedestrian circulation.
4. The applicant is submitting appropriate documentation.
 - a. Copy of Deed that includes legal description of the property
 - b. Variance application to parking space requirement
 - c. Post a public notice of the proposed rezone
 - d. Map amendment of the property showing layout of the property (pending approval)

e. Bill of sale to acquire additional 0.25 density units (pending approval)



UNIT 21-C
429.9 Sq Ft.

UNIT 21-B
160.5 Sq Ft.

UNIT 23-A
424.7 Sq Ft.

MAIN ROOM
199.5 Sq Ft.

BED ROOM
123.3 Sq Ft.

27.26 Sq Ft
BECK L.C.E.
UNIT 21-C

27.85 Sq Ft
BECK L.C.E.
UNIT 23-A

ORDINANCE NO. 2020-__

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO APPROVING A REZONE AND DENSITY TRANSFER TO CONVERT BLUE MESA LODGES UNIT 21-C FROM AN EFFICIENCY LODGE ZONING DESIGNATION UNIT TO A LODGE ZONING DESIGNATION UNIT.

RECITALS

- A. Gold Hill Holding, LLC (“**Owner**”) has submitted to the Town: (1) a rezoning and density transfer development application for a rezone of Unit 21-C, Blue Mesa Lodge Condominiums (Lot 42B) from one efficiency lodge units to one lodge unit (“**Application**”); pursuant to the requirements of the Community Development Code (“**CDC**”).
- B. Gold Hill Holding, LLC is the owner of Unit 21-C Blue Mesa Lodge Condominiums, and the associated development rights and density allocated to Unit 21-C, Blue Mesa Lodge Condominiums.
- C. The proposed rezoning and density transfer is to convert one efficiency lodge unit into one lodge unit pursuant to the requirements of the CDC.
- D. In order to rezone Unit 21-C, the owner needs an additional .25-person equivalent density to satisfy the CDC requirements. The owners intend to purchase the required .25-person equivalent density prior to the recordation of this ordinance.
- E. In order to rezone Unit 21-C, the owner needs to meet the parking requirement of 0.5 parking spaces, prior to recordation of this Ordinance.
- F. 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:

Figure 1. Current Zoning Designation for 21-C, Lot 42B Blue Mesa Lodge Condominiums

Unit No.	Zone District	Zoning Designation	Actual Units	Person Equivalent
21-C	Village Center	Efficiency Lodge	1	.5

Figure 2. Proposed Zoning Designation

Unit No.	Zone District	Zoning Designation	Actual Units	Person Equivalent
21-C	Village Center	Lodge	1	.75 ¹

¹ As noted above the deficient density of .25 will be acquired by the owner of unit 21-C, Lot 42B, prior to recordation of this ordinance.

Figure 3. Lot 42B Current Zoning Designation for the Property

Lot	Zone District	Zoning Designation	Actual Units	Person Equivalent	Total Person Equivalent
42B	Village Center	Efficiency Lodge	28	.5	14
	Village Center	Commercial	n/a	n/a	n/a

Figure 4. Lot 42B Proposed Zoning Designation for the Property

Lot	Zone District	Zoning Designation	Actual Units	Person Equivalent	Total Person Equivalent
42B	Village Center	Efficiency Lodge	27	.5	13.5
	Village Center	Lodge	1	.75	.75
	Village Center	Commercial	n/a	n/a	n/a

- G. At a duly noticed public hearing held on December 5, 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.
- H. At its regularly scheduled meeting held on February 20, 2020, the Town Council conducted a first reading of an ordinance and set a public hearing, pursuant to the Town Charter.
- I. On March 19, 2020, Town Council held a second reading and public hearing on the ordinance and approved with conditions the Application.
- J. The meeting held on December 5, 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. At the time that the requisite required density of .25 person equivalents is acquired, the applicant will meet the density required to execute a rezone from efficiency lodge to lodge zoning designation
2. At the time the requisite parking is obtained, then the parking requirement for Unit 21-C will be met.
3. Blue Mesa Lodge is not identified in the Comprehensive Plan for redevelopment.
4. A 2/3 partition wall is adequate to interpret that the unit consists of two rooms, comporting with the definition of a lodge zoning designation unit.

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

1. The applicant should work with the Blue Mesa HOA to update the declarations to recognize Unit 21-C as one Lodge unit.
2. The Lot list shall be updated to reflect the rezone from one efficiency lodge unit to one lodge unit.
3. The applicant shall demonstrate the required requisite density has been acquired before recording the associated ordinance rezoning Unit 21-C from efficiency lodge to lodge unit.
4. The applicant shall demonstrate the required parking has been acquired before recording the associated ordinance rezoning Unit 21-C from efficiency lodge to lodge unit.

Section 1. Effect on Zoning Designations

- A. This Resolution does not change any other zoning designation on the Properties it only affects Unit 21-C.

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 March 19, 2020, following public hearing and approval by Council on second reading.

Section 5. Public Hearing

A public hearing on this Ordinance was held on the 19th of March 2020, 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 20th day of February 2019.

TOWN OF MOUNTAIN VILLAGE

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

By: _____
Laila Benitez, Mayor

ATTEST:

Kim Montgomery, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 19th day of March 2020

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

By: _____
Laila Benitez, Mayor

ATTEST:

Kim Montgomery, Town Clerk

Approved as To Form:

Jim Mahoney, Assistant Town Attorney



Agenda Item No. 5.b
PLANNING AND DEVELOPMENT SERVICES
DEPARTMENT

455 Mountain Village Blvd.
Mountain Village, CO 81435

*Motion to Continue will be Considered Before
the Public Hearing is Opened*

(970) 369-8250

TO: Mountain Village Town Council
FROM: John Miller, Senior Planner
FOR: Regular Town Council Meeting, March 19, 2020
DATE: January 20, 2020, *updated March 10, 2020*
RE: Second Reading, Public Hearing, and Council vote on, an Ordinance approving a density transfer and rezone application to rezone Blue Mesa Lodge unit 20-B from an efficiency lodge zoning designation unit to a Lodge zoning designation unit.

PROJECT GEOGRAPHY

Legal Description: Condominium Unit 20-B, Blue Mesa Lodge Condominiums
Address: 117 Lost Creek Lane
Owner: Gulf Realty Trust, Irene Cochran
Zoning: Village Center
Existing Use: Accommodations and Commercial
Proposed Use: Multi-Family Residential and Commercial
Lot Size: 0.16 Acres

Adjacent Land Uses:

- **North:** Village Center
- **South:** Village Center
- **East:** Village Center
- **West:** Village Center

ATTACHMENTS

- Exhibit A: Applicant's narrative
- Exhibit B: Proposed Modifications
- Exhibit C: Existing Conditions



CASE SUMMARY:

Keith Brown, acting on behalf of the Gulf Realty Trust, is requesting to rezone Blue Mesa Lodge Unit 20-B from an efficiency lodge zoning designation to a lodge zoning designation. In order to accomplish this request, the unit in question must meet the rezoning criteria, must fit within the definition of a lodge unit per the Community Development Code (CDC) and acquire the requisite density for the increase in personal equivalents. A lodge unit is defined as a two-room space plus a mezzanine with up to two separate baths and a full kitchen.

BLUE MESA LODGES HISTORY

Zoning Designation History of Blue Mesa Lodges:

Blue Mesa Lodges (Lot 42B) were originally platted by the 1992 zoning map and preliminary PUD plat for eight condominiums and four hotels with a total person equivalent of 30 persons.

In 1997, Resolution No. 1997-0923-23 rezoned Lot 42B from 10 condominiums which included 18 lock-offs (the lock-offs carried no zoning designation or person equivalent, they were considered bedrooms to the condominium units), to 28 efficiency lodge units with a total of 14-person equivalent density. The Town allowed for parking to remain at 10 spaces, as a pre-existing condition and waived the additional four required parking spaces. The Town approved of the rezoning for the building as is, meaning that no interior or exterior alterations were required.

The condominium map unit configuration illustrates the units were labeled as Units A, B & C, units, for example, 20A, 20B, and 20C. These units had doors that connected the units between them. Each unit also had a door to the hallway so that they could be rented separately or used together. The most typical configuration was a former condominium unit and two lock-off bedrooms. In two cases, the 1998 condominium map only illustrated a unit A & B suite (no C unit).

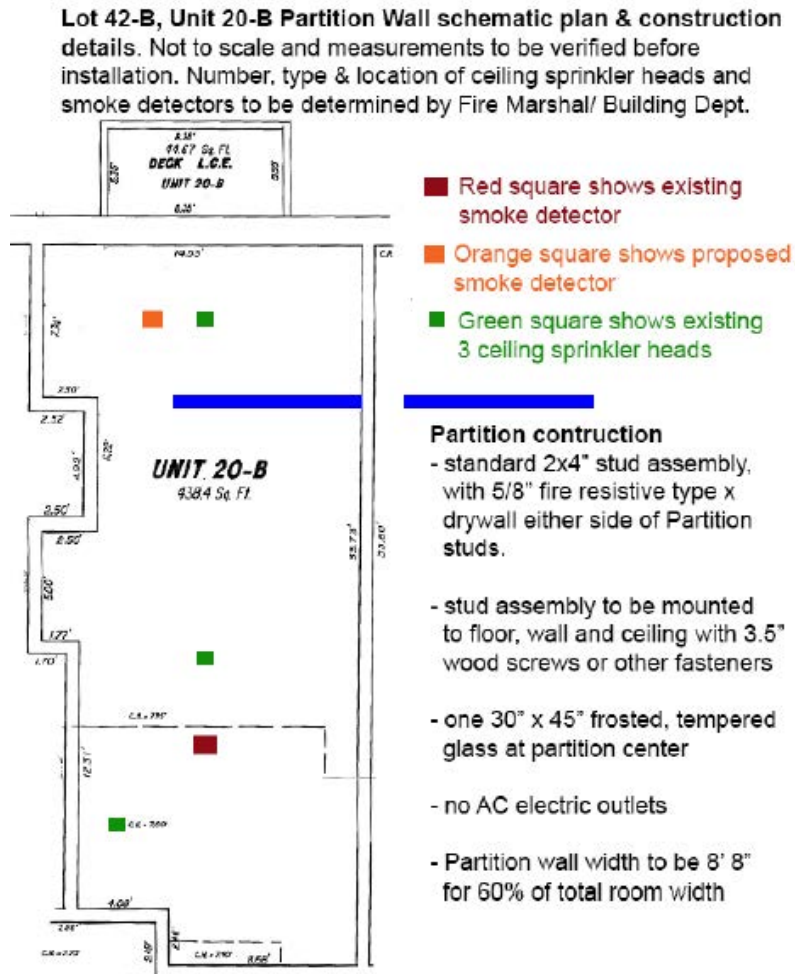
Rezone and Parking History of Unit 21-C:

Unit 20-B was purchased by Gulf Realty Trust in December of 2004. According to the applicants, since the purchase of the property, the unit has been used exclusively as a long-term rental.

The condominium map for Blue Mesa Lodge demonstrates the overall floor area of the unit at 438.4 sq. ft. In addition to the living area, there is also a 45 square foot exterior deck, a full kitchen that includes an oven with 4 burner range, full-sized microwave, and a full-size refrigerator/freezer. It should also be noted that when the owners purchased the unit, the sale included 2/3's ownership of a parking space in Blue Mesa Lodge. The owners maintain that interest in the parking and currently comply with the required parking standards.

The remainder of this page has been left intentionally blank.

Figure 1. Unit 20-B configuration and proposed modifications



CRITERIA, ANALYSIS, AND FINDINGS

The criteria for the decision to evaluate a variance and/or rezone that changes the zoning designation and/or density allocation assigned to a lot is listed below. The following criteria must be met for the review authority to approve the applications:

Chapter 17.4: DEVELOPMENT REVIEW PROCEDURES

17.4.9: Rezoning Process

(***)

3. Criteria for Decision: (***)
 - a. The proposed rezoning is in general conformance with the goals, policies, and provisions of the Comprehensive Plan;

Blue Mesa Lodge is not contemplated for redevelopment or future visioning in the Comprehensive Plan and is simply mapped as within the Village Center Zone District which allows for broad uses. The application conforms with Mountain Village Center Subarea Plan Principles, Policies, and Actions L., "Encourage deed-restricted units and full-time residency in Mountain Village Center, with provisions

such as smaller units, the creation of a better sense of community, and other creative options.”

- b. The proposed rezoning is consistent with the Zoning and Land Use Regulations;

The Zoning and Land Use Regulations allow for the requested rezone from efficiency lodge to lodge provided these criteria are met and the unit meets the definition of a lodge unit. Generally speaking, the Village Center zoning designation allows for lodge units as a permitted use consistent with the Land Use Regulations.

It should be noted that because the current configuration of the space does not include physical separation of the bedroom and living room area, in order to meet the intent of the definition of lodge, there will be a required installation of at least a partition wall to separate the spaces. The applicants have included a proposal to demonstrate the modifications that staff would require prior to the finalization of the rezoning process. This includes the installation of a partition wall, fire sprinklers, and smoke detectors. The Council should ultimately consider whether allowing the rezone to proceed with conditions requiring reconfiguration of the space to meet the special requirements of a Lodge unit is appropriate.

At the direction of the DRB and consistent with the authority granted to the Planning Director by the CDC, the Planning Director has provided an interpretation based on existing codes and historical uses as to what could constitute a room when rezoning from one zoning designation to another. The interpretation is consistent with this application to create a partition wall to define more than one room consistent with building code definitions.

Staff recommends the Council determine whether the applicant’s proposed changes meet the intent of the CDC in relation to the requirement for a two-room space in order to rezone to a lodge unit.

- c. The proposed rezoning meets the Comprehensive Plan project standards;

There are no specific Comprehensive Plan project standards for Blue Mesa Lodge, thus, this criterion is not applicable.

- d. 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;

The proposed rezoning presents no public health, safety or welfare issues and is an efficient use of what is a mixed-use building carrying residential attributes.

- e. The proposed rezoning is justified because there is an error in the current zoning, [and/or] there have been changes in conditions in the vicinity [and/] or there are specific policies in the Comprehensive Plan that contemplate the rezoning;

The proposed rezone is due to a change in condition in the vicinity, namely recent education and voluntary compliance regarding efficiency lodge zoning designations.

- f. Adequate public facilities and services are available to serve the intended land uses;

No additional public facilities are needed for the rezoning thus, they are adequate.

- g. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and

No change or negative impact.

- h. The proposed rezoning meets all applicable Town regulations and standards.

Provided the Town Council determines that the addition of a partition wall is appropriate to meet the standards that a lodge unit has a two-room space the application would be compliant with all applicable Town regulations and standards at the time that the proposed partition wall is constructed, and the purchase of the additional 0.25-person equivalent density units is finalized. Staff is requesting that any approval condition the completion of these items before the recordation of the associated ordinance rezoning the unit.

17.4.10: Density Transfer Process

(***)

- D. Criteria for Decision

(***)

- 2. Class 4 Applications. The following criteria shall be met for the Review Authority to approve a density transfer.

- a. The criteria for decision for a rezoning are met since such density transfer must be processed concurrently with a rezoning development application (except for MPUD development applications);
- b. The density transfer meets the density transfer and density bank policies; and.
- c. The proposed density transfer meets all applicable Town regulations and standards.

Affirmed.

STAFF ANALYSIS

Although the current configuration of the efficiency lodge unit does not meet the definition of a lodge unit per the CDC, the owners are proposing modifications to the space in order to provide for a 2/3 partition wall between the living room area and bedroom area creating two rooms consistent with the lodge definition. The applicants have a total of 0.5-person equivalent density for Unit 20-B and will be required to purchase an additional 0.25-person equivalent in order to comply with the 0.75-person equivalent density requirements for a lodge unit prior to any finalization of the rezone request. During multiple Town Council discussions, the Town Council recognized that Blue Mesa Lodges have never had onsite property management or amenities that would indicate accommodations use like a hotel. Since Blue Mesa Lodges is also not identified in the Comprehensive Plan for redevelopment, rezoning the efficiency lodge unit to one lodge unit meets the Town criteria for a rezone application related to conformance with the Comprehensive Plan.

DESIGN REVIEW BOARD RECOMMENDATION: The Design Review Board reviewed the application for rezoning and density transfer for Lot 42B, Units 20-B at their February 6, 2020, Regular Meeting and voted 5-0 to recommend approval to Town Council with staffs' recommended conditions.

The DRB also asked staff to prepare a definition of a room for the purposes of current and future rezone applications when an owner of a one-room efficiency lodge unit applies to reclassify it as a lodge and create a second room within the unit. Staff received direction that the more generous interpretation which provides that a room can be created by a floor to ceiling partition wall so long as minimum room size, fire sprinkler, fire alarm, egress, electrical code requirements, and maximum openings are building code compliant, is adequate to create more than one room for a rezone application.

RECOMMENDED MOTION: The Town Council may approve, continue, deny or request modifications to the application regarding the proposed Density Transfer and Rezone for Unit 20-B, Lot 42B.

Motion for Approval: *I move to approve a second reading of an Ordinance regarding the rezone and density transfer application for Lot 42B, Blue Mesa Lodges Unit 20-B to rezone from an efficiency lodge zoning designation to lodge zoning designation with the following findings and conditions as noted in the staff report of record dated March 10, 2020:*

Findings:

- 1. At the time the requisite required density of .25 person equivalents is acquired, the applicant will meet the density required to execute a rezone from efficiency lodge to lodge zoning designation.*
- 2. At the time the modifications to the unit, including the installation of the partition wall as shown, are complete, the applicant will meet the required definition of a Lodge Unit per the CDC. A 2/3 partition wall is adequate to interpret that the unit consists of two rooms, comporting with the definition of a lodge zoning designation unit.*
- 3. Blue Mesa Lodge is not identified in the Comprehensive Plan for redevelopment.*

Conditions:

- 1. The applicant should work with the Blue Mesa HOA to update the declarations to recognize Unit 20-B as one Lodge unit.*
- 2. The Lot list shall be updated to reflect the rezone from one efficiency lodge unit to one lodge unit.*
- 3. The applicant shall demonstrate the required requisite density has been acquired prior to recording the associated ordinance rezoning Unit 20-B from efficiency lodge to lodge unit.*
- 4. The applicant shall obtain a building permit and complete the proposed modifications prior to recording the associated ordinance rezoning Unit 20-B from efficiency lodge to lodge unit.*

This motion is based on the evidence and testimony provided at a public hearing held on March 19, 2020, with notice of such hearing as required by the Community Development Code.

/jjm

Keith Brown
117 Lost Creek Lane, Apt 41-A
Mountain Village, CO 81435 (970) 417-9513

December 19, 2019

Development Narrative for the Rezone to a Lodge designation of Apt. 20- B, 117 Lost Creek Lane, Lot 42-B, Mountain Village, CO 81435

I am the Owner Agent for Gulf Realty Trust, benefiting Irene Cochran and Denis Palmisciano for an application for the Rezone to a Lodge designation of Apt. 20-B.

The Owner seek a Rezone to a Lodge designation so the designation is in conformance with the physical attributes and intended uses of the property. The owners purchased on 12.02.2004 on the basis the property was a Residential Condo. They would not have purchased if an Efficiency Lodge designation had been known. They first learned their condo had an Efficiency Lodge designation on May 14, 2019.

20-B condo is 438 square feet with a 45 square foot deck and a full, original kitchen and a 2/3's parking ownership. Gulf Realty Trust is the 2nd owner of the Condo. The condo has been used exclusively for long-term rentals. The current tenant is an employee of Telluride Ski and Golf.

The owners intend to install a partition wall in accordance with the December 9, 2019 Room interpretation as it relates to zoning designation definitions.

The application meets the applicable criteria for a Rezone to a Lodge designation as follows:

A. The proposed rezoning is in General Conformance with the goals, policies and provisions of the Comprehensive Plan (CP) because:

- A Lodge designation of 20-B will help promote a rich social fabric within the community (page 9 CP) by allowing the continued use of the condo for locally employed housing meeting the goal of where "small-town values are important and people can make social and emotional connections."
- A Lodge designation of 20-B is in compliance with the intended mixed-use of the Village Center Zone District.

B. The proposed rezoning is consistent with the Zoning and Land Use Regulations because:

- The Lodge designation is in keeping with the Land Use Plan Policy (page 39 CP) for a Mixed-Use Center.
- Given the prior use, the applicant believes a designation of Lodge is appropriate and reasonable for 20-B

C. The proposed rezoning meets the Comprehensive Plan project standards because:

- The 20-B building was designed, approved, built and managed as a Residential Condominium property.

D. The proposed rezoning is consistent with public health, safety and welfare as well as the efficiency and economy in the use of land and its resources because:

- The 20-B building was designed and approved as a residential condominium building and is physically suitable for Lodge use.
- A Lodge designation provides for a higher property valuation and range of use. That in turn helps create pride of ownership and a willingness to upgrade and improve the property beyond interior condo renovations.

The 20-B owners, along with the other owners of the property made substantial financial and personal contributions in upgrading and maintaining not only condominium interiors but also the building and plaza infrastructure. A partial list of infrastructure improvements includes garage fireproofing (2019), roof drainage, a snow melt system, heat tape safety circuit breakers (2009-2017), extensive waterproofing and plaza repairs (2016) and building structural repairs from snow melt salt damage (2009-10). Additionally the property owners allowed the town an easement to install the Sunset Plaza snow melt system and another easement allowing the town to use delivery vehicles across HOA property.

E. The proposed rezoning is justified because there are the following errors in the current zoning:

- 20-B condo as well as other units in the property have been used as long-term residences since the original construction. The history of the property is mixed-use, with long-term occupancy in multiple units, including 20-B. The original Lot 42 plat was for Condominium-Commercial, not Efficiency Lodge-Commercial use. Blue Mesa Lodge Lot 42-B had Residential Condominium designation for the first decade, until the 1998 Town resolution that changed the condominiums to Efficiency Lodge designation. There was no removal of full kitchens and no enforcement of the parking obligations in 1998 or afterwards.
- The 20-B condo has an original full kitchen, which is in error to an Efficiency Lodge designation.
- The 1997 application for conversion to Efficiency Lodge was at the request of the developer/declarant and not by a properly constituted HOA on behalf of Owners. The developer/declarant then recorded a misleading amended declaration (recording nbr 321574) as part of the HOA governing documents. The amended declaration stated the conversion was from a Residential Condo designation to a 'Residential Studio Apartment' designation 'for Residential use', which is a designation that did not and does not exist. The full chain of buyers (23 past & present owners contacted) thinking they had purchased Residential Condos. In sum, the rezone to Efficiency Lodge appears in error because the purchases and uses were for Residential Condominium.

F. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion because:

- 20-B has a 2/3's parking space ownership (Unit 46 parking space) at the property.

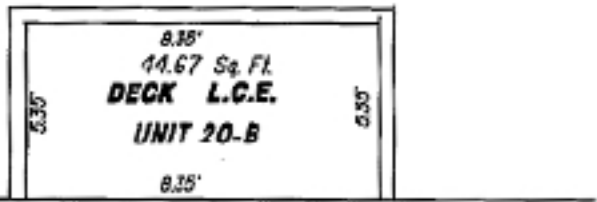
G. The proposed rezoning meets all applicable Town regulations and standards because:

- The subject property was constructed to a Residential Condo standard.
- The Lodge designation allows for the intended use.

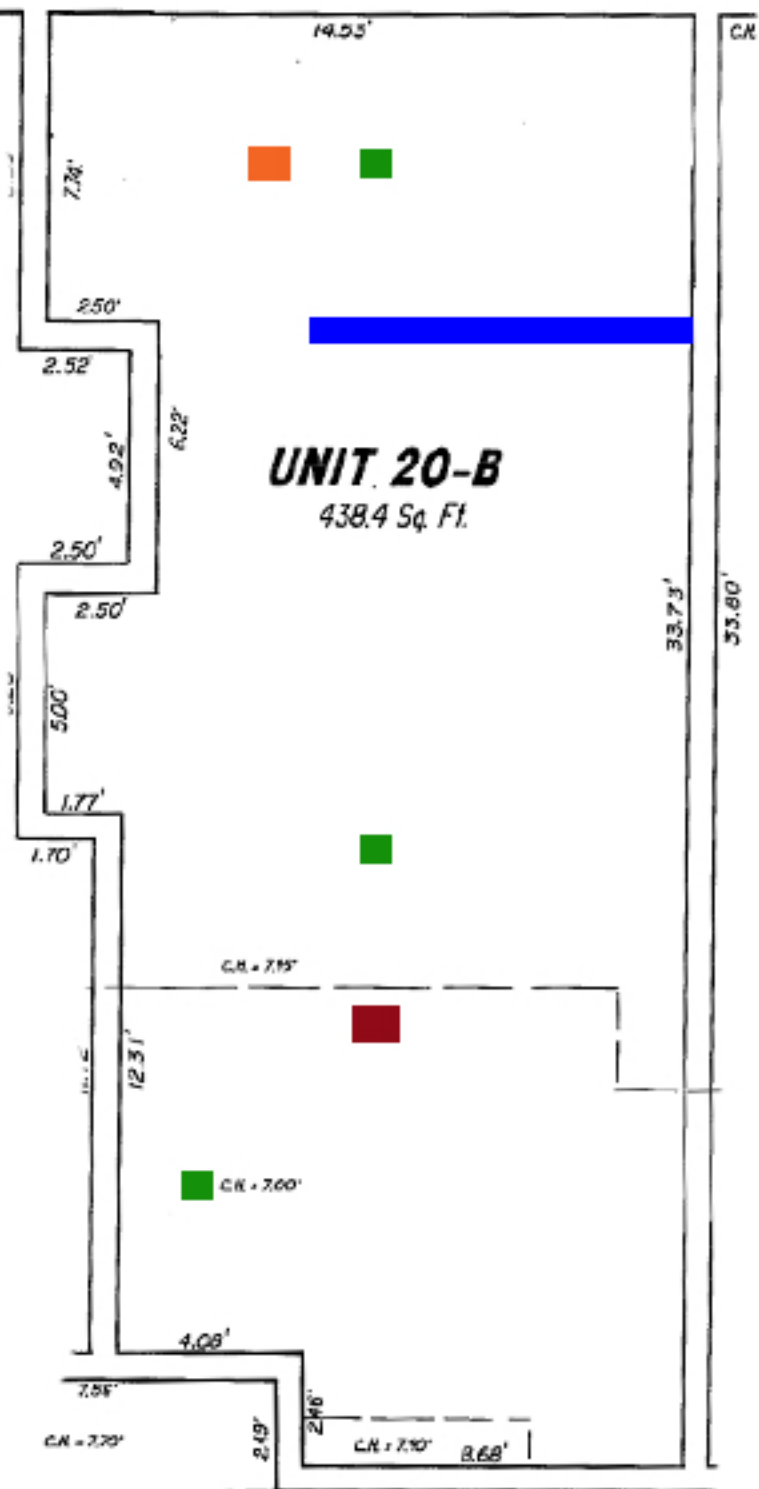
We want to thank town Planning and Town Council for considering this application and for the Council direction for the town to consider waiving related application fees.

Thank you,
Most Sincerely, Keith Brown, for Gulf Realty Trust

Lot 42-B, Unit 20-B Partition Wall schematic plan & construction details. Not to scale and measurements to be verified before installation. Number, type & location of ceiling sprinkler heads and smoke detectors to be determined by Fire Marshal/ Building Dept.

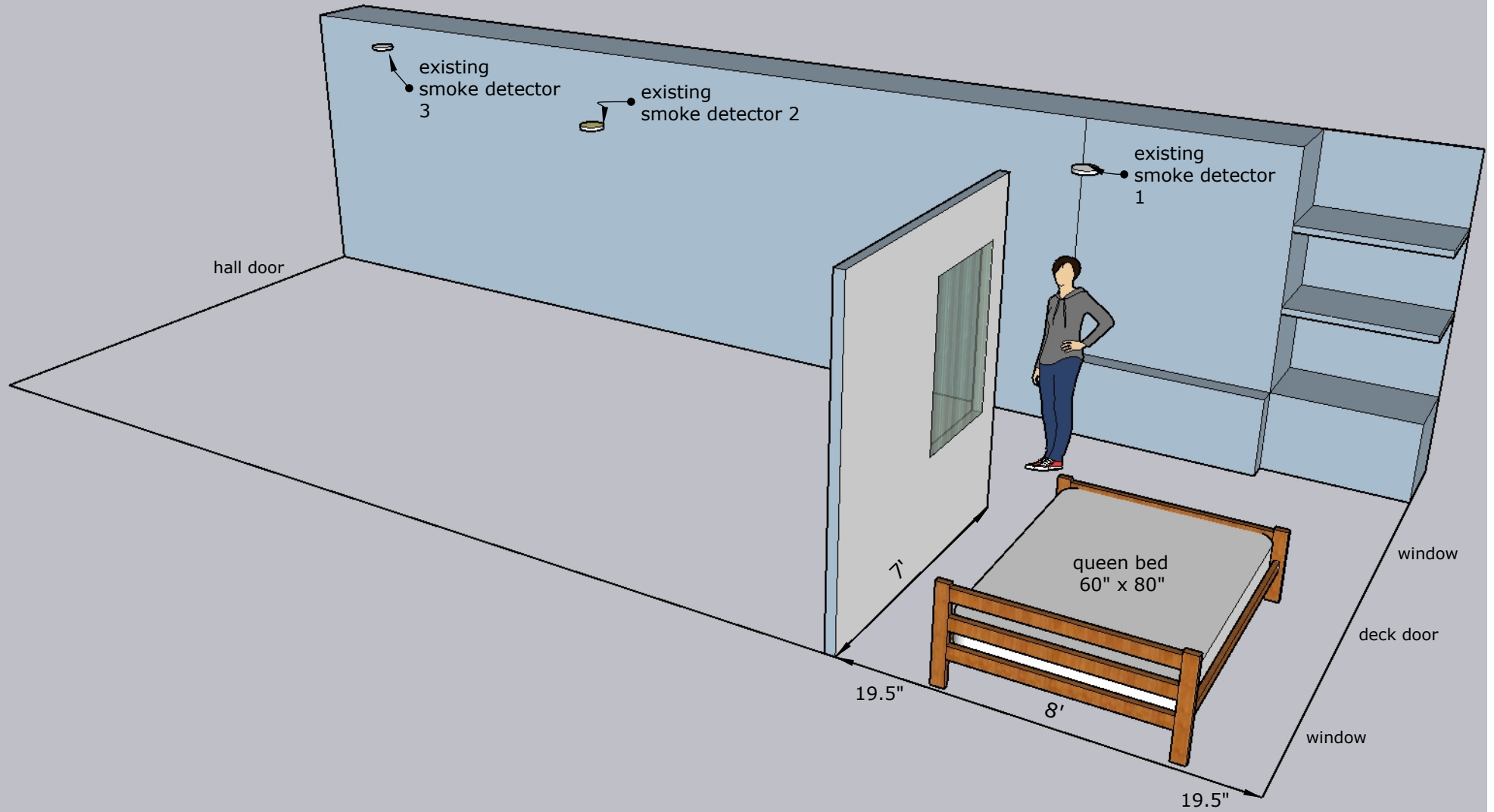


- Red square shows existing smoke detector
- Orange square shows proposed smoke detector
- Green square shows existing 3 ceiling sprinkler heads

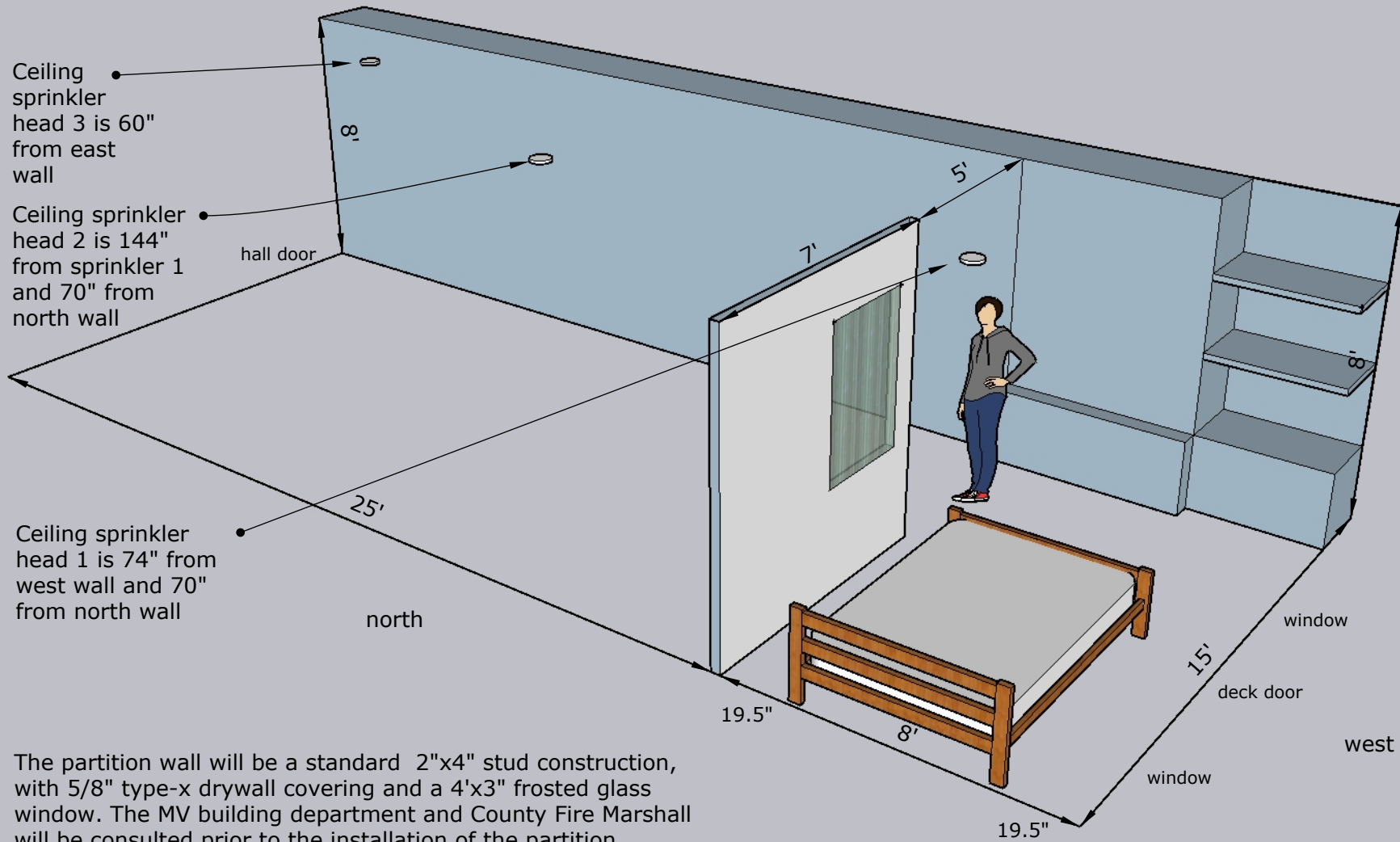


- Partition construction**
- standard 2x4" stud assembly, with 5/8" fire resistive type x drywall either side of Partition studs.
 - stud assembly to be mounted to floor, wall and ceiling with 3.5" wood screws or other fasteners
 - one 30" x 45" frosted, tempered glass at partition center
 - no AC electric outlets
 - Partition wall width to be 8' 8" for 60% of total room width

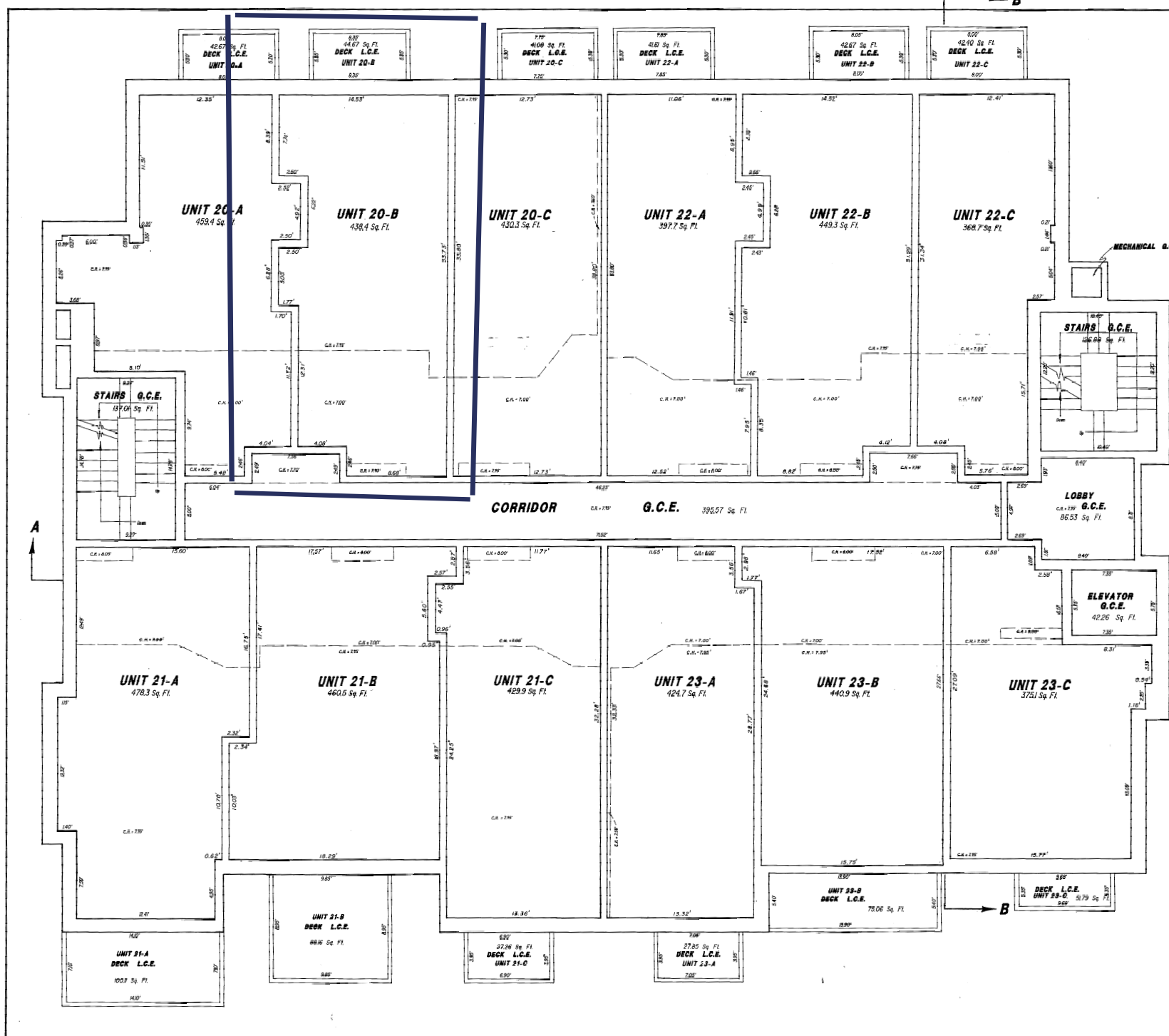
Lot 42-B, Unit 20-B showing the proposed partition wall and room clearance with a queen bed



Lot 42-B, Unit 20-B showing the proposed partition wall and location of existing ceiling sprinkler heads



The partition wall will be a standard 2"x4" stud construction, with 5/8" type-x drywall covering and a 4'x3" frosted glass window. The MV building department and County Fire Marshall will be consulted prior to the installation of the partition.



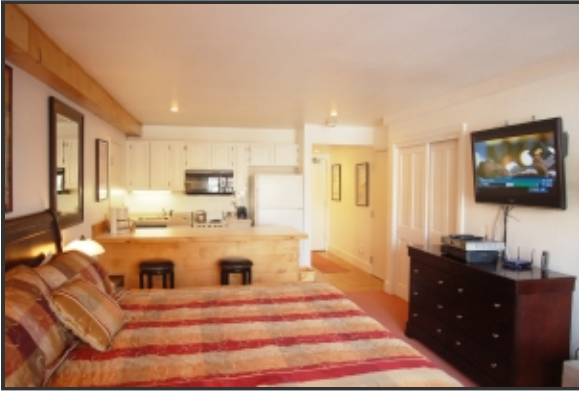
SECOND FLOOR PLAN



PAGE 2429

FOLEY ASSOCIATES, INC. ENGINEERING & SURVEYING
P.O. BOX 1385 TELLURIDE, COLORADO 81435 303-728-6153

20B



full kitchen



20B

full kitchen

20B



20B



20B

20B deck

20B

VIEW



20B

deck and view

bath



bath

20B



20B

ORDINANCE NO. 2020-__

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO APPROVING A REZONE AND DENSITY TRANSFER TO CONVERT BLUE MESA LODGES UNIT 20-B FROM AN EFFICIENCY LODGE ZONING DESIGNATION UNIT TO A LODGE ZONING DESIGNATION UNIT.

RECITALS

- A. Gulf Realty Trust (“**Owner**”) has submitted to the Town a rezoning and density transfer development application for a rezone of Unit 20-B, Blue Mesa Lodge Condominiums (Lot 42B) from one efficiency lodge units to one lodge unit (“**Application**”); pursuant to the requirements of the Community Development Code (“**CDC**”).
- B. Gulf Realty Trust is the owner of Unit 20-B Blue Mesa Lodge Condominiums, and the associated development rights and density allocated to Unit 20-B, Blue Mesa Lodge Condominiums.
- C. The proposed rezoning and density transfer is to convert one efficiency lodge unit into one lodge unit pursuant to the requirements of the CDC.
- D. In order to rezone Unit 20-B, the owner needs an additional .25-person equivalent density to satisfy the CDC requirements. The owners intend to purchase the required .25-person equivalent density prior to the recordation of this ordinance.
- E. The owner of Unit 20-B has a 2/3rd parking space ownership, meeting the parking requirement of at least 0.5 parking spaces.
- F. 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:

Figure 1. Current Zoning Designation for 20-B, Lot 42B Blue Mesa Lodge Condominiums

Unit No.	Zone District	Zoning Designation	Actual Units	Person Equivalent
20-B	Village Center	Efficiency Lodge	1	.5

Figure 2. Proposed Zoning Designation

Unit No.	Zone District	Zoning Designation	Actual Units	Person Equivalent
20-B	Village Center	Lodge	1	.75 ¹

¹ As noted above the deficient density of .25 will be acquired by the owner of unit 20-B, Lot 42B, prior to recordation of this ordinance.

Figure 3. Lot 42B Current Zoning Designation for the Property

Lot	Zone District	Zoning Designation	Actual Units	Person Equivalent	Total Person Equivalent
42B	Village Center	Efficiency Lodge	28	.5	14
	Village Center	Commercial	n/a	n/a	n/a

Figure 4. Lot 42B Proposed Zoning Designation for the Property

Lot	Zone District	Zoning Designation	Actual Units	Person Equivalent	Total Person Equivalent
42B	Village Center	Efficiency Lodge	27	.5	13.5
	Village Center	Lodge	1	.75	.75
	Village Center	Commercial	n/a	n/a	n/a

- G. At a duly noticed public hearing held on February 6, 2020, 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.
- H. At its regularly scheduled meeting held on February 20, 2020, the Town Council conducted a first reading of an ordinance and set a public hearing, pursuant to the Town Charter.
- I. On March 19, 2020, Town Council held a second reading and public hearing on the ordinance and approved with conditions the Application.
- J. The meeting held on February 6, 2020, 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. At the time the requisite required density of .25 person equivalents is acquired, the applicant will meet the density required to execute a rezone from efficiency lodge to lodge zoning designation.
2. At the time the modifications to the unit, including the installation of the partition wall as shown, are complete, the applicant will meet the required definition of a Lodge Unit per the CDC. A 2/3 partition wall is adequate to interpret that the unit consists of two rooms, comporting with the definition of a lodge zoning designation unit.
3. Blue Mesa Lodge is not identified in the Comprehensive Plan for redevelopment.

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

1. The applicant should work with the Blue Mesa HOA to update the declarations to recognize Unit 20-B as one Lodge unit.
2. The Lot list shall be updated to reflect the rezone from one efficiency lodge unit to one lodge unit.
3. The applicant shall demonstrate the required density has been acquired prior to recording the associated ordinance rezoning unit 20-B from efficiency lodge to lodge unit.
4. The applicant shall obtain a building permit and complete the proposed modifications prior to recording the associated ordinance rezoning Unit 20-B from efficiency lodge to lodge unit.

Section 1. Effect on Zoning Designations

- A. This Resolution does not change any other zoning designation on the Properties it only affects Unit 20-B.

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 March 19, 2020, following public hearing and approval by Council on second reading.

Section 5. Public Hearing

A public hearing on this Ordinance was held on the 19th of March 2020, 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 20th day of February 2020.

TOWN OF MOUNTAIN VILLAGE

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

By: _____
Laila Benitez, Mayor

ATTEST:

Kim Montgomery, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 19th day of March 2020

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

By: _____
Laila Benitez, Mayor

ATTEST:

Kim Montgomery, Town Clerk

Approved as To Form:

Jim Mahoney, Assistant Town Attorney



J. David Reed, P.C.

ATTORNEYS AT LAW

J. David Reed | James D. Mahoney | Bo James Nerlin | Sarah H. Abbott

MONTROSE • RIDGWAY • TELLURIDE

Memo

Agenda Items #6-8

To: Mayor and Town Council
From: James Mahoney
Date: March 17, 2020
Re: Covid-19 Resolutions and Ordinance

Background and Purpose.

As we are all aware all levels of government around the world are dealing with and putting into place differing levels of measures to combat the spread and impact of Covid-19. For the Mountain Village there are a number of steps the Town can legislatively in order to be ready to take actions necessary for combating this public health disaster.

There are three items that will be considered:

1. Consideration of a Resolution of the Town of Mountain Village, Colorado Declaring a Local Disaster Related to the Coronavirus (Covid-19)
 2. Consideration of a Resolution of the Town of Mountain Village, Colorado on Emergency and/or Virtual Meetings Due to Coronavirus (Covid-19) Disaster Declaration
 3. Consideration of an Emergency Ordinance Concerning the Coronavirus (Covid-19) Public Health Emergency Establishing Certain Rules and Regulations Pursuant to C.R.S. 31-15-401(1)(b)
-
1. Resolution of the Town of Mountain Village, Colorado Declaring a Local Disaster Related to Coronavirus (Covid-19).

This resolution is required by state statute for any emergency declaration which extends beyond seven days. By declaring a disaster it opens up certain tools and actions that are not otherwise available to the Town without the disaster declaration.

2. Resolution of Town of Mountain Village Colorado on Emergency and/or Virtual Meetings Due to Coronavirus (Covid-19) Disaster Declaration.

The Town already has the ability to conduct emergency meetings pursuant to the Charter; however, this resolution clarifies the procedures around emergency. Further the Town already has the ability to allow for remote attendance for Council Members but this resolution expands that ability to hold full virtual meetings should the need arise while still understanding that public's ability to see and participate in meetings is important even in a virtual setting. Town staff is working on an appropriate platform for virtual meetings should the need arise.

3. Emergency Ordinance Concerning the Coronavirus (Covid-19) Public Health Emergency Establishing Certain Rules and Regulations Pursuant to C.R.S. 31-15-401(1)(b).

Colorado statutes authorize local governments to take action during times of disasters and public health emergencies which are additional police powers reserved for such times. This ordinance would authorize the Mayor to issue certain enumerated orders in order to protect the public health, safety and welfare of the Town of Mountain Village. It would also give the police department the ability to enforce such orders as it is unclear what ability the Town's police department has to enforce county health departments orders. To be clear this ordinance would only be in place during the time the disaster declaration is in place, so as soon as the disaster declaration is repealed this ordinance would be of no further force and effect.

Proposed Motions.

1. Item 6: I move to approve the Resolution of the Town of Mountain Village, Colorado Declaring a Local Disaster Related to the Coronavirus (Covid-19).
2. Item 7: I move to approve a Resolution of the Town of Mountain Village, Colorado on Emergency and/or Virtual Meetings Due to Coronavirus (Covid-19) Disaster Declaration.
3. Item 8: I move to approve an Emergency Ordinance Concerning the Coronavirus (Covid-19) Public Health Emergency Establishing Certain Rules and Regulations Pursuant to C.R.S. 31-15-401(1)(b).

**RESOLUTION OF THE TOWN OF MOUNTAIN, COLORADO
DECLARING A LOCAL DISASTER RELATED TO THE CORONAVIRUS (COVID-19)**

RESOLUTION No. 2020 - _____

RECITALS:

WHEREAS, the Town of Mountain Village Coordinator of Emergency Management (Chief of Police) and/or Public Health Director has advised the Town of Mountain Village (the “Town”), Town Council (“the Council”) of a disaster pursuant to C.R.S. 24-33.5-709, currently present in the Town of Mountain Village, to wit, the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from the coronavirus (Covid-19) requiring emergency action to avert danger or damage; and

WHEREAS, on March 10, 2020 Jared Polis, the Governor of the State of Colorado, declared a statewide state of emergency in response to coronavirus (COVID-19); and

WHEREAS, the World Health Organization has declared the COVID-19 to be a worldwide pandemic; and

WHEREAS, the cost and magnitude of responding to and recovery from the impact of COVID-19 is far in excess of the town’s available resources; and

WHEREAS, the Coordinator of Emergency Management has recommended that the Council declare a local disaster; and WHEREAS, it would be appropriate and in the interests of the public health and safety, and would further protect property, for the Council to implement said recommendation; and

WHEREAS, pursuant to C.R.S. § 24-33.5- 709 and the emergency management and operations plans and resolutions of the Town of Mountain Village, Colorado the Council is authorized to declare a local disaster.

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Mountain Village, Colorado, that:

Section 1. That the Council hereby declares that there is a local disaster in the incorporated area of the Town of Mountain Village, to wit, the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from the coronavirus (Covid-19) requiring emergency action to avert danger or damage.

Section 2. The effect of this declaration of disaster shall be to activate the response and recovery aspects of any and all applicable local and inter-jurisdictional disaster emergency plans and to authorize the

furnishing of aid and assistance under such plans.

BE IT FURTHER RESOLVED that the principal executive officers of all other cities and towns in San Miguel County affected by said disaster are urged to proclaim similar declarations and to cooperate with San Miguel County as necessary to cope with this incident.

BE IT FURTHER RESOLVED that this resolution shall be effective immediately and shall remain in effect until the disaster the Town Council declares the disaster has passed and nullifies this Resolution. True copies will be filed promptly with the Colorado Division of Disaster Emergency Services and the San Miguel County Clerk and Recorder and shall be promptly distributed to the appropriate representatives of the news media.

BE IT FURTHER RESOLVED that during the current public health emergency the Town Manager shall have access to the Town's emergency funds mandated by the Taxpayer's Bill of Rights (TABOR) as set forth in Article X, Section 20, Subsection (5) of the Colorado Constitution, entitled "Emergency Reserves." Funds utilized pursuant to this Resolution shall be replenished no later than the conclusion of the fiscal year following the end of the current public health emergency as determined by the Town Council.

ADOPTED AND APPROVED by the Town Council at a regular public meeting held on the 19th day of March 2020.

TOWN OF MOUNTAIN VILLAGE,
TOWN COUNCIL

By: _____
Laila Benitez, Mayor

ATTEST:

Kim Montgomery, Acting Town Clerk

APPROVED AS TO FORM:

Jim Mahoney, Assistant Town Attorney

**RESOLUTION OF THE TOWN OF MOUNTAIN, COLORADO
ON EMERGENCY AND/OR VIRTUAL MEETINGS DUE TO CORONAVIRUS
(COVID-19) DISASTER DECLARATION**

RESOLUTION No. 2020 - _____

RECITALS:

WHEREAS, The Town of Mountain Village (the “Town”) declared a disaster related to coronavirus (Covid-19) pursuant to C.R.S. 24-33.3-709; and

WHEREAS, on March 10, 2020 Jared Polis, the Governor of the State of Colorado, declared a statewide state of emergency in response to coronavirus (COVID-19); and 13

WHEREAS, the World Health Organization has declared the coronavirus (COVID-19) to be a worldwide pandemic; and

WHEREAS, in order to comply with the declaration and recommendations of local, state and federal health organizations the Town Council finds it appropriate to amend the Mountain Village Town Council Rules for Conduct of Meetings and General Business last adopted at the July 18, 2019 Town Council meeting in order to address the conduct of meetings during a period in which a local disaster emergency exists; and

WHEREAS, the Town of Mountain Village Town Charter (the “Charter”) section 4.5 provides as follows:

Emergency meetings may be held without the twenty-four (24) hour advance notice when necessary for the immediate preservation of public property, health, peace, or safety, as determined by the Mayor, the Mayor Pro-Tem, or any two (2) Town Councilors. An emergency meeting shall be held only after a diligent and good-faith effort has been made to provide actual notice to all Town Councilors.

WHEREAS, the Town Council desires to further clarify procedures regarding emergency meetings and provide for the allowance of virtual or electronic meetings for Town Council members and the members of the public during which the period of a local disaster emergency has been declared.

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Mountain Village, Colorado, that:

Section 1. The Town Council hereby amends the Rules for the Conduct of Meetings and General Business by adding the following Sections:

Emergency Meetings: An emergency meeting may be called by the Mayor and Mayor Pro-Tem or any two (2) Town Councilors without the twenty-four (24) hour advance notice pursuant to Section 4.5 of the Charter. At such emergency meeting, any action within the police power of the Town Council that is necessary for the immediate protection of the public health, safety and welfare may be taken, provided however, any action taken at an emergency meeting shall be effective only until the first to occur of (a) the next regular meeting, or (b) the next special meeting of the Town Council at which the emergency issue is on the public notice of such meeting. At such subsequent meeting the Board may ratify any emergency action taken. If any emergency action taken is not ratified, then it shall be deemed rescinded.

Virtual or Electronic Meetings. During the period of a disaster declaration, the Mayor, with consultation of the Town Manager and Town Attorney, may provide for the conducting of Town Council meetings through virtual or electronic means provided, under the circumstances, the electronic access to the meeting is sufficient to practically and legally emulate the degree of public access and participation that would be true under normal circumstances in a live meeting conducted in person.

ADOPTED AND APPROVED by the Town Council at a regular public meeting held on the 19th day of March 2020.

TOWN OF MOUNTAIN VILLAGE,
TOWN COUNCIL

By: _____
Laila Benitez, Mayor

ATTEST:

Kim Montgomery, Acting Town Clerk

APPROVED AS TO FORM:

Jim Mahoney, Assistant Town Attorney

**AN EMERGENCY ORDINANCE CONCERNING
THE CORONAVIRUS (COVID -19) PUBLIC HEALTH EMERGENCY**

WHEREAS, on March 10, 2020 Jared Polis, the Governor of the State of Colorado, declared a statewide state of emergency in response to COVID-19; and

WHEREAS, the World Health Organization has declared COVID-19 to be a worldwide pandemic; and

WHEREAS, the coronavirus (COVID-19) has been confirmed to exist in the State of Colorado with only recent testing occurring in San Miguel County where it is suspected to exist; and

WHEREAS, the Town Council of the Town of Mountain Village confirms that protecting public health is the Council's top priority; and

WHEREAS, the Town Council through Resolution Number _____ has declared a disaster pursuant to C.R.S. 24-33.3-709.

WHEREAS, the Town Council is empowered by Section 31-15-401(1)(b), C.R.S., to do all acts and make all regulations, which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, the Town Council finds and determines that the adoption of this Ordinance is necessary for the promotion of health and the suppression of disease; and

WHEREAS, the Town Council further finds and determines that the adoption of this Ordinance is proper under Section 31-15-401(1)(b), C.R.S., and other applicable law.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO:

Section 1. Title. This Ordinance shall be known and may be cited as the "Town of Mountain Village Coronavirus (COVID-19) Ordinance."

Section 2. Intent. It is the intent of this Ordinance to provide the necessary organization, powers, and authority to enable the timely and effective use of all available Town resources to prepare for, respond to, and recover from the declared local public health disaster. This Ordinance is intended to grant as broad a power as is permitted within the letter and spirit of the Town Charter and this Ordinance shall be interpreted in accordance with such intent. The Town Council retains the power to direct the Mayor and Town Manager during the pendency of the current coronavirus (COVID-19) public health disaster.

Section 3. Duration of Declaration of Public Health Emergency. The declaration of the public health disaster as provided in the Covid-19 Resolution shall remain in effect until the Town Council rescinds or repeals such disaster declaration.

Section 4. Powers: While the disaster remains in effect as provided by the Covid-19 Resolution the Mayor in consultation with the Town Manager and Police Chief has full power and authority to take the following

actions and issue the following orders:

(a) any action necessary for the protection of life and property, including, but not limited to, establishing regulations governing conduct related to the cause of the public health emergency.

(b) an order establishing a curfew during such hours of the days or nights and affecting such categories of persons as may be designated.

(c) an order to direct and compel the evacuation of all or a part of the population from any stricken or threatened areas within the Town if the Town Manager deems this action is necessary for the preservation of life, property or other public health emergency mitigation, response or recovery activities and to prescribe routes, modes of transportation and destination in connection with an evacuation.

(d) an order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, clothing, and other commodities, materials, goods, services and resources.

(e) an order requiring the closing of businesses deemed nonessential by the Town Manager.

(f) suspend Town board and commission meetings or modify meeting rules to allow for telephone, teleconferencing or meeting by other electronic means.

(g) appropriate and expend funds, execute contracts, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with procurement regulations or procedures.

(h) transfer the direction, personnel, or functions of Town departments and agencies for the purposes of performing or facilitating public health emergency services.

(i) utilize all available resources of the Town as may be reasonably necessary to cope with this public health emergency whether in preparation for, response to, or recovery from this public health emergency.

(j) suspend or modify the provisions of any ordinance if strict compliance with such ordinance would in any way prevent, hinder or delay necessary action in coping with this public health emergency.

(k) accept services, gifts, grants and loans, equipment, supplies, and materials whether from private, nonprofit or governmental sources.

(l) make application for local, state or federal assistance.

(m) terminate or suspend any process, operation, machine, device or event that is or may negatively impact the health, safety and welfare of persons or property within the Town.

(n) delegate authority to such Town officials as determined to be reasonably necessary or expedient.

(o) limit the use of any Town-owned building, facility, or property as to time, manner, and permitted activities, including, but not limited to, limiting the permissible number of people that may lawfully occupy such building, facility, or property at any one time.

(p) close and prohibit the use of any Town-owned building, facility, or property.

(q) exercise such powers and functions in light of the exigencies of this public health emergency, including, but not limited to, the waiving of compliance with any time consuming procedures and formalities, including notices, as may be prescribed by law pertaining thereto.

(r) issue any and all other order or undertake such other functions and activities as is reasonably required under the circumstances to protect the health, safety, welfare of persons or property within the Town of Mountain Village, or to otherwise preserve the public peace or abate, clean up, or mitigate the effects of the public health emergency.

(s) limit, modify or suspend the operation of public transportation within the Town.

(t) limit the size of any gathering, meeting or event within the Town.

The restrictions may be changed from time to time during the time frame of the declaration based upon the discretion of the Mayor. The Mayor may by order delegate the powers granted in this Section 4 in whole or in part to the Town Manager.

Section 5. Enforcement Of Orders:

(a) The members of the Town's Police Department, code enforcement, and such other law enforcement and peace officers as may be authorized by the Town Manager are hereby authorized and directed to enforce the orders, rules, and regulations made or issued pursuant to this Ordinance. All members of the public shall be deemed to have been given notice of all orders, rules, and regulations made or issued pursuant to this Ordinance upon their dissemination to the news media or publication on the Town website or other means of publicity.

(b) Until the Town Council has declared that the public health emergency has passed, no person shall:

(1) enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment.

(2) violate the provisions of this Ordinance.

(3) violate any of the orders duly issued by the Mayor or designee pursuant to Section 4 of this Ordinance.

(4) willfully obstruct, hinder, or delay any duly authorized Town officer, employee or volunteer in the enforcement or exercise of the provisions of this Ordinance, or of the undertaking of any activity pursuant to this Ordinance.

(c) It is unlawful and a misdemeanor offense for any person to violate any provision of this Ordinance. Any person convicted of a violation of this section shall be subject to a three hundred dollar (\$300.00) fine.

Section 6. Authority To Enter Property: During the period of the public health disaster, a Town employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto the private land will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to lives or property from the declared public health emergency.

Section 7. Conflict With Other Laws: If any provision of this Ordinance conflicts with the Town Charter, the Town Charter shall control. If any provision of this Ordinance conflicts with any provision of the Mountain Village Municipal Code, this Ordinance shall control.

Section 8. Police Power Finding. The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the Town of Mountain Village and the inhabitants thereof.

Section 9. Authority. The Town Council hereby finds, determines and declares that it has the power to adopt this Ordinance pursuant to the provisions of Section 31-15-401(1)(b) C.R.S., and the powers possessed by home rule municipalities in Colorado, and the Town Charter.

Section 10. Effective Date. This Ordinance shall take effect and be in full force immediately upon adoption by the Town Council.

Section 11. 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 the Ordinance.

ADOPTED AND APPROVED as an Emergency Ordinance this ___ day of _____, 2020.

TOWN OF MOUNTAIN VILLAGE, TOWN
COUNCIL

By: _____
Laila Benitez, Mayor

ATTEST:

Kim Montgomery, Acting Town Clerk

APPROVED AS TO FORM:

Jim Mahoney, Assistant Town Attorney

I, Kim Montgomery, 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. _____ (“Ordinance”) is a true, correct and complete copy thereof.
2. The Ordinance was introduced, read by title, approved as an Emergency Ordinance with minor amendments by the Town Council the Town (“Council”) at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on March 19th, 2020, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	“Yes”	“No”	Absent	Abstain
Laila Benitez, Mayor				
Dan Caton				
Patrick Berry				
Natalie Binder				
Peter Duprey				
Jack Gilbride				
Marti Prohaska				

3. 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 ____ day of _____, 2020.

 Kim Montgomery, Acting Town Clerk