

ORDINANCE NO. 2021-13

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO APPROVING A DENSITY TRANSFER AND REZONE AT LOT 30, 98 ASPEN RIDGE, TO INCREASE THE CONDOMINIUM DENSITY FROM NINE (9) CONDOMINIUM ZONING DESIGNATION UNITS AND TWO (2), EMPLOYEE CONDOMINIUM ZONING DESIGNATION UNITS TO SIXTEEN (16) CONDOMINIUM ZONING DESIGNATION UNITS AND FOUR (4) EMPLOYEE CONDOMINIUM ZONING DESIGNATION UNITS

RECITALS

- A. Avventura, LLC (“**Owner**”) is the owner of Lot 30 and the associated development rights and density allocated to Lot 30.
- B. Owner has submitted to the Town of Mountain Village (“**Town**”) a density transfer and rezone development application for Lot 30 to increase the condominium density from nine condominium units and two employee apartment units to sixteen condominium units and four employee condominiums (“**Application**”) pursuant to the requirements of the Community Development Code (“**CDC**”).
- C. The proposed rezoning and density transfer is to rezone existing employee apartment density and commercial density on Lot 30, converting these existing zoning designations to 4 employee condominium units pursuant to the requirements of the CDC.
- D. The proposed rezoning and density transfer also transfers condominium density onto Lot 30, increasing the condominium zoning designations to 16 condominium units pursuant to the requirements of the CDC.
- E. The Property has the following zoning designations pursuant to the Official Land Use and Density Allocation List and zoning as set forth on the Town Official Zoning Map:

Lot	Acreage	Zone District	Zoning Designation	Actual Units	Person Equivalent per Actual Unit	Total Person Equivalent Density
Zoned Density						
30	0.60	Multi-Family	Condominium	9	3	27
			Employee Apartment	2	3	6
			Commercial	1		
Total Zoned Density:				11		33

- F. At a duly noticed public hearing held on July 1, 2021, the DRB considered the Application, testimony and public comment and recommended to the Town Council that the Application be approved with conditions pursuant to the requirement of the CDC.
- G. At its regularly scheduled meeting held on July 15, 2021, the Town Council conducted a first reading of an Ordinance, pursuant to the Town Charter and after receiving testimony and public comment, approved on first reading the Ordinance.

- H. At its regularly scheduled meeting held on August 19, 2021, the Town Council conducted a public hearing and second reading of an Ordinance, pursuant to the Town Charter and after receiving testimony and public comment approved on second reading of an Ordinance the application with conditions.
- I. This Ordinance approves a density transfer and rezone creating 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:

Proposed Density	Condominium	16	3	48
	Employee Condominium	4	3	12
	Commercial	n/a	n/a	n/a
Total Density after Transfer and Rezone		19		60

- J. The meeting held on July 15, 2021, was duly publicly noticed as required by the CDC Public Hearing Noticing Requirements, including but not limited to notification of all property owners within four hundred feet of the Property, posting of a sign and posting on the respective agendas.
- K. The Town Council hereby finds and determines that the Application meets 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 Application meets the Rezoning Density Transfer Process criteria for decision contained in CDC Section 17.4.10(D)(2) as follows:

Density Transfer Findings

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

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

Finding:

1. The Town Council finds that the proposed alternative parking requirements shall provide sufficient parking spaces to serve the proposed use and directs the DRB to waive the requirement for 1 additional required space under the current parking regulations, Table 5-2, Section 17.5.8 of the CDC.

Conditions:

1. The Ordinance shall indicate the change in commercial space and the size of the converted employee condominiums in square feet.
2. Prior to the issuance of a building permit, the Applicant shall submit proposed floorplans for Building 100 to the Town of Mountain Village Housing Authority for review and approval. The applicant shall simultaneously provide these plans to the Planning Division for the appropriate design review approval for the conversion of the existing commercial space into 2 additional residential units.
3. 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.
4. The Lot list shall be updated to reflect one built employee condominium, 4 unbuilt employee condominiums, and 16 unbuilt condominiums assigned to the Lot.
5. Town of Mountain Village Deed Restrictions for each built unit shall be executed prior to the issuance of a Certificate of Occupancy per Section 17.3.9 consistent with the requirements found at CDC Section 17.3.9.
6. The Owner of Lot 30 shall enter into a development agreement with the Town of Mountain Village to specify that all unconstructed employee condominium density assigned to Lot 30 must be constructed and completed within 5 years of the issuance of a Certificate of Occupancy for 98 Aspen Ridge.
7. Prior to the issuance of a Certificate of Occupancy, the Owner of Lot 30 enter into a development agreement memorialize the underlying parking requirements per unit and designating that all parking at Lot 30 shall not be sold or otherwise conveyed away from the LCE or GCE of the development.
8. Town of Mountain Village 1997 Deed Restrictions for each built employee unit shall be executed and recorded prior to the issuance of a Certificate of Occupancy per Section 17.3.9 consistent with the requirements found at CDC Section 17.3.9.

9. Prior to the issuance of a Certificate of Occupancy Condominium Map and Declarations addressing Section 17.5.8 of the CDC shall be provided to the Town for review.

Section 1. Effect on Zoning Designations

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

Section 2. Ordinance Effect

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

Section 3. Severability

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

Section 4. Effective Date

This Ordinance shall become effective on September 18, 2021 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 August 2021 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 15th day of July 2021.

TOWN OF MOUNTAIN VILLAGE

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

By: 
Laila Benitez, Mayor

ATTEST:


Susan Johnston, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this 19th day of August 2021.

TOWN OF MOUNTAIN VILLAGE
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COLORADO, A HOME-RULE
MUNICIPALITY

By: 
Laila Benitez, Mayor

ATTEST:


Susan Johnston, Town Clerk

Approved as To Form:

Paul Wisor, Town Attorney

I, Susan Johnston, 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. 2021-13 ("Ordinance") is a true, correct and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on, Thursday, July 15, 2021, by the affirmative vote of a quorum of the Town Council as follows:

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

3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on Wednesday, July 21, 2021 in accordance with Section 5.2b of the Town of Mountain Village Home Rule Charter.

4. A public hearing on the Ordinance was held by the Town Council at a regular meeting of the Town Council held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on Thursday, August 19, 2021. At the public hearing, the Ordinance was considered, read by title, and approved without amendment by the Town Council, by the affirmative vote of a quorum of the Town Council as follows:

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town this 19th day of August 2021.


Susan Johnston, Town Clerk

(SEAL)

