

ORDINANCE NO. 2021-14

APPROVAL OF A REZONE AND DENSITY TRANSFER ON LOT 27A PHASE ONE UNITS 2 AND 3, REZONING ONE CONDOMINIUM ZONING DESIGNATION UNIT TO TWO CONDOMINIUM ZONING DESIGNATION UNITS

RECITALS

- A. MV BP One LLC, a Colorado Limited Liability Company (“**Owners**”), with their attorney, Thomas G. Kennedy, have submitted to the Town: (1) a rezoning and density transfer development application for a rezone of Phase One Unit 2-3, Belvedere Condominiums (Lot 27A) (“**Property**”) from one Condominium unit to two Condominium units; and (“**Applications**”) pursuant to the requirements of the Community Development Code (“**CDC**”).
- B. Owners own Phase One Units 2-3, Belvedere Condominiums, and the associated development rights and density allocated to Unit 2-3, Belvedere Condominiums.
- C. The proposed rezoning and density transfer is to separate one condominium unit into two condominium units pursuant to the requirements of the CDC.
- D. Owners also own an excess 3 person equivalent density that is currently held in the Town of Mountain Village Density Bank. The Owner transferred the density from the density bank to the property as part of this rezone and density transfer application.
- 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:

Figure 1. Current Zoning Designation for Units 2-3, Lot 27A Belvedere Condominiums

Unit No.	Zone District	Zoning Designation	Actual Units	Person Equivalent
2-3	Village Center	Condominium	1	3

Figure 2. Proposed Zoning Designation

Unit No.	Zone District	Zoning Designation	Actual Units	Person Equivalent
2	Village Center	Condominium	1	3
3	Village Center	Condominium	1	3

Figure 3. Lot 27A Current Zoning Designation for the Property

Lot	Zone District	Zoning Designation	Actual Units	Person Equivalent	Total Person Equivalent
27A	Village Center	Condominium	26	3	78
	Village Center	Efficiency Lodge	2	.5	1
	Village Center	Lodge	10	.75	7.5

Figure 4. Lot 27A Proposed Zoning Designation for the Property

Lot		Zone District	Zoning Designation	Actual Units	Person Equivalent	Total Person Equivalent
27A		Village Center	Condominium	27	3	81
		Vilage Center	Efficiency Lodge	2	.5	1
		Vilage Center	Lodge	10	.75	7.5

- F. At a duly noticed public hearing held on October 7 2021, the DRB considered the Applications, testimony and public comment and recommended to the Town Council that the Applications be approved with conditions pursuant to the requirement of the CDC.
- G. At its regularly scheduled meeting held on October 21, 2021 the Town Council conducted a first reading of an ordinance and set a public hearing, pursuant to the Town Charter.
- H. On November 18, 2021 Town Council held a second reading and public hearing on the ordinance and approved with conditions the Application.
- I. The meetings held on October 21 and November, 2021 were 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.
- J. 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 there have been changes in conditions in the vicinity, namely voluntarily compliance and education regarding zoning designations and associated uses.
 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.
- K. The Town Council finds that the Applications meet the Rezoning Density Transfer Process criteria for decision contained in CDC Section 17.4.10(D)(2) as follows:

Density Transfer Findings

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

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

1. The applicant shall submit a condominium map amendment and associated declarations, to the Town for review and approval showing the Unit 2-3 as two renumbered Condominium Units, Unit 2 and Unit 3, prior to issuance of a certificate of occupancy for the building permit associated with the separation of the units.
2. The lot list shall be updated to reflect the rezone from one Condominium units to two Condominium units.
3. This ordinance will not be recorded until the owner has demonstrated that the needed density has been transferred onto the property and the associated density certificate be voided
4. 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 the Unit or another person or entity.

Section 1. Effect on Zoning Designations

A. This Ordinance does not change any other zoning designation on the Properties it only affects Phase One Unit 2-3.

Section 2. Ordinance Effect

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

Section 3. Severability

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

Section 4. Effective Date

This Ordinance shall become effective on December 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 18th of November 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 21st day of October 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 18th day of November 2021**

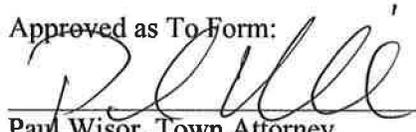
**TOWN OF MOUNTAIN VILLAGE
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By: 
Laila Benitez, Mayor

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. 2021-14 ("Ordinance") is a true, correct and complete copy thereof.

2. The Ordinance was introduced, read by title, approved on first reading with minor amendments and referred to public hearing by the Town Council the Town ("Council") at a regular meeting held at Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado, on October 21, 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			

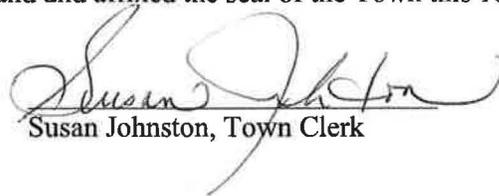
3. After the Council's approval of the first reading of the Ordinance, notice of the public hearing, containing the date, time and location of the public hearing and a description of the subject matter of the proposed Ordinance was posted and published in the Telluride Daily Planet, a newspaper of general circulation in the Town, on October 29, 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 November 18, 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 18th day of November 2021.


Susan Johnston, Town Clerk

(SEAL)

