

**ORDINANCE NO. 2023-02**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,  
COLORADO CONDITIONALLY APPROVING DENSITY TRANSFER FOR  
LOTS 619 AND 638-C (TO BE REPLATTED AS LOT 619-R)**

WHEREAS, the Harvey Bertram Mogenson Revocable Trust and the Gwen Mary Mogenson Revocable Trust (collectively, the “Owner”) are the owners of certain real property described as Lot 619 and Lot 638-C, commonly known as 214 Adams Ranch Road, Mountain Village, Colorado (together, the “Property”); and

WHEREAS, Harvey Mogenson and Gwen Mogenson (together, the “Applicant”), as trustees of the Owner, have submitted a Minor Subdivision application to the Town of Mountain Village (the “Town”) to replat the Property into a single parcel known as Lot 619-R (“Subdivision Application”); and

WHEREAS, in connection with its Subdivision Application, the Applicant has applied to transfer the one unit of single-family density resulting from the creation of Lot 619-R into the Mountain Village Density Bank (“Density Application”), which application consists of the materials submitted and itemized on Exhibit A, attached hereto, plus all statements, representations, and additional documents of the Applicant and its representatives made or submitted at the public hearings before the Design Review Board (“DRB”) and the Town of Mountain Village Town Council (“Town Council”); and

WHEREAS, the Subdivision Application and the Density Application are being processed and considered concurrently by the DRB and Town Council; and

WHEREAS, the DRB held a public hearing on February 2, 2023, to consider the Density Application and testimony and comments from the Applicant, Town Staff, and members of the public, and voted unanimously to issue a recommendation of approval to Town Council of the Density Application, subject to conditions; and

WHEREAS, the Town Council held a public hearing on February 16, 2023 to consider the Density Application, the DRB’s recommendations, and testimony and comments from the Applicant, Town Staff, and members of the public, and voted 6-0 to approve the Density Application, subject to conditions and a second reading of this Ordinance to be held at a public hearing on March 16, 2023; and

WHEREAS, the Town Council held a public hearing on March 16, 2023 to consider the second reading of this Ordinance and testimony and comments from the Applicant, Town Staff, and members of the public, and voted 6-0 to approve the Density Application; and

WHEREAS, the public hearings and meetings to consider the Density Application were duly noticed and held in accordance with the Town’s Community Development Code (“CDC”); and

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.9 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below:

1. The proposed rezoning is in general conformity with the policies, principles and standards set forth in 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; and
8. The proposed rezoning meets all applicable Town regulations and standards.

WHEREAS, the Town Council has considered the criteria set forth in Section 17.4.10 of the CDC and finds that each of the following has been satisfied or will be satisfied upon compliance with the conditions of this Ordinance set forth below:

1. 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);
2. The density transfer meets the density transfer and density bank policies; and
3. The proposed density transfer meets all applicable Town regulations and standards.

WHEREAS, the Town Council now desires to approve the Density Application, subject to the terms and conditions set forth below.

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

**Section 1. Recitals.** The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Ordinance.

**Section 2. Approvals.** The Town Council hereby approves the Density Application, subject to the conditions set forth below. All exhibits to this Ordinance are available for inspection at the Town Clerk’s Office. The Town Council specifically approves the following density transfer:

Table 1. Lots 619 and 638-C Zoning Designations and Density – Existing and Proposed

	<b>Existing Zoning Designations Built</b>	<b>Existing Zoning Designations Platted, Unbuilt</b>	<b>Proposed Zoning Designations Built</b>	<b>Proposed Zoning Designations Platted, Unbuilt</b>	<b>Person Equivalents</b>	<b>Total Person Equivalents</b>
<b>Lot 619</b>	1	0	1	0	4	
<b>Lot 638-C</b>	0	1	0	0	4	
			<b>TOTAL:</b>			<b>8</b>

<b>Lot 619-R</b>	1	0	1	0	4	4
<b>To Density Bank (from 6358-C)</b>				1	4	4
			<b>TOTAL:</b>			<b>8</b>

**Section 3. Conditions.** The approval of the Density Application is subject to the following terms and conditions:

3.1. The Town Council must separately approve the Subdivision Application.

3.2. All conditions of approval of the Subdivision Application as set forth in Resolution 2023-0216-02 (“Subdivision Approval”) are incorporated as conditions of this approval.

3.3. The density transfer authorized hereby shall not be effective until the Effective Date of this Ordinance.

3.4. The owner of record of density in the Density Bank 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.

3.6. All representations of the Applicant, whether within Rezoning or Subdivision Applications submittal materials or at the DRB or Town Council public hearings, are conditions of this approval.

3.7. Town staff shall update the density bank and lot list accordingly.

**Section 4. Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

**Section 5. Effective Date.** This Ordinance shall become effective on April 15, 2023 (“Effective Date”) and shall be recorded in the official records of the Town kept for that purpose and shall be authenticated by the signatures of the Mayor and the Town Clerk.

**Section 6. Public Hearing.** A public hearing on this Ordinance was held on the 16<sup>th</sup> day of March 2023 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd., Mountain Village, Colorado 81435.

**Section 7. Publication.** The Town Clerk or Deputy Town Clerk shall post and publish notice of this Ordinance as required by Article V, Section 5.8 of the Charter.

**INTRODUCED, READ, AND REFERRED to public hearing before the Town Council of the Town of Mountain Village, Colorado on the 16<sup>th</sup> day of February, 2023.**

**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 16<sup>th</sup> day of March 2023.**

**TOWN OF MOUNTAIN VILLAGE:**

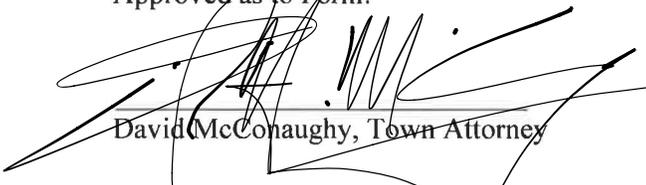
**TOWN OF MOUNTAIN VILLAGE, COLORADO  
A HOME-RULE MUNICIPALITY**

By:   
Laila Benitez, Mayor

ATTEST:

  
Susan Johnston, Town Clerk

Approved as to Form:

  
David McConaughy, 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. 2023-02 ("Ordinance") is a true, correct, and complete copy thereof.
2. The Ordinance was introduced, read by title, approved on first reading 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 February 16, 2023, 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			
Marti Prohaska	X			
Harvey Mogenson				X
Patrick Berry	X			
Peter Duprey	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 February 24, 2023 in accordance with Section 5.2(d) 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 March 16, 2023. 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			
Marti Prohaska	X			
Harvey Mogenson				X
Patrick Berry	X			
Peter Duprey	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 16<sup>th</sup> day of March 2023.

Susan Johnston, Town Clerk  
(SEAL)



Exhibit A

- Improvements Exhibit Dated 7.26.22
- Replat Dated 7.26.22
- Minor Subdivision Application
- Rezoning Density Transfer Application
- Narrative