



TO: Mountain Village Town Council

FROM: Drew Nelson, Senior Planner

FOR: Town Council Regular Meeting; November 21, 2024

DATE: November 12, 2024

RE: Staff Memo – First Reading, Setting of a Public Hearing, and Council Vote on an Ordinance to Consider a Rezone and Density Transfer Application for Lot 908 Per Community Development Code Sections 17.4.9 and 17.4.10

APPLICATION OVERVIEW: Density Transfer and Rezone Application

PROJECT GEOGRAPHY

Legal Description:

LOT 908, TELLURIDE MOUNTAIN VILLAGE, FILING 9, ACCORDING TO THE SUBSTANTIAL AMENDMENT TO LOT 903, LOT 908 AND TRACT OS-903 RECORDED DECEMBER 9, 1993 IN PLAT BOOK 1 AT PAGE 1602, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

Address: TBD Victoria Drive

Applicant/Agent: Stephanie Fanos, attorney

Owner: 908 Associates, LLC

Zoning: Single-family

Existing Use: Vacant

Proposed Use: Passive Open Space

Lot Size: 0.895 acres

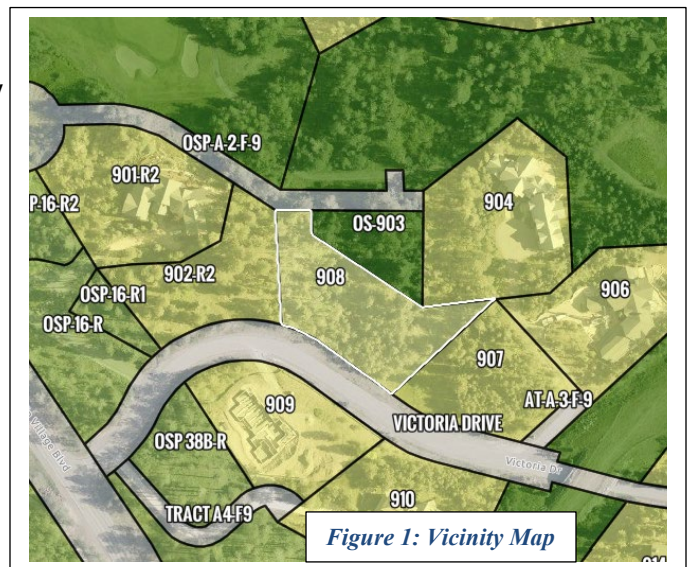
Adjacent Land Uses:

- **North:** Active Open Space
- **South:** Single Family Residence
- **East:** Vacant / Single Family Residence
- **West:** Vacant / Single Family Residence

ATTACHMENTS

Exhibit A: Narrative

Exhibit B: Staff/Public Comment



Case Summary: 908 Associates, LLC, represented by Stephanie Fanos, is the owner of Lot 908 and have applied for a Rezone and Density Transfer to create additional open space on Victoria Drive. The lot is currently vacant and has one unit of single-family equivalent density on it.

Applicable CDC Requirement Analysis: The applicable requirements cited may not be exhaustive or all-inclusive. The applicant is required to follow all requirements even if an applicable section of the CDC is not cited. ***Please note that Staff comments will be indicated by italicized Text.***

Table 1

	Existing Zoning Designations Built	Existing Zoning Designations Platted and unbuilt	Proposed Zoning Designations Built	Proposed Zoning Designations Platted and Unbuilt	Person Equivalents	Total Person Equivalents
Lot 908	0	1	0	0	4	0
Lot 908 To Density Bank				1	4	4
			Total:			4

Staff: The proposal will result in a net decrease of one Single Family Unit of Density, or 4 person equivalents on Lot 908. The density will be transferred to the Density Bank and the owners will continue to pay any associated fees for this density.

CRITERIA, ANALYSIS AND FINDINGS

The criteria for the decision to evaluate a 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 a rezoning application:

CRITERIA, ANALYSIS, AND FINDINGS

The criteria for the decision to evaluate a 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 a rezoning application:

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;
Staff Finding: The applicant is requesting to rezone the property to Passive Open Space, which is a use contemplated in the general vicinity of Victoria Drive. The Comprehensive Plan’s Land Use Map also designates Victoria Drive as suitable for single-family development. With both Passive and Active Open Space in the vicinity or directly adjacent to this property, it appears to be in conformance with the Comprehensive Plan.
- b. The proposed rezoning is consistent with the Zoning and Land Use Regulations.
Staff Finding: The proposed rezone and density transfer meets the requirements of the CDC. By reducing density and increasing open space in the general vicinity of the property, the owners would be meeting the intent of the CDC. Further, Section 17.3.4.F.4 of the CDC specifically states that Single-Family lots may only be rezoned to the Passive Open Space District.
- c. The proposed rezoning meets the Comprehensive Plan project standards;
The Comprehensive Plan project standards are listed as follows:

1. Visual impacts shall be minimized and mitigated to the extent practical, while also providing the targeted density identified in each subarea plan development table. It is understood that visual impacts will occur with development.
2. Appropriate scale and mass that fits the site(s) under review shall be provided.
3. Environmental and geotechnical impacts shall be avoided, minimized and mitigated, to the extent practical, consistent with the Comprehensive Plan, while also providing the target density identified in each subarea plan development table.
4. Site-specific issues such as, but not limited to the location of trash facilities, grease trap cleanouts, restaurant vents and access points shall be addressed to the satisfaction of the Town.
5. The skier experience shall not be adversely affected, and any ski run width reductions or grade changes shall be within industry standards.

Staff Finding: The proposed rezone and density transfer does not include any additional development, and therefore impacts to visual/scenic, environmental, geotechnical and ski resources are not anticipated.

- 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 Finding: This neighborhood is a single-family zone and is being maintained as a single-family neighborhood with the addition of more passive open space. There should be a reduced impact to public health, safety and welfare through the reduction of transportation demand associated with less overall density in this neighborhood.
- e. 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;
Staff Finding: The Future Land Use Map in the Comprehensive Plan identifies Lot 908 as a single-family residential lot. The neighborhood will continue to operate in a similar fashion, albeit with a reduction in density and impact.
- f. Adequate public facilities and services are available to serve the intended land uses;
Staff Finding: Public facilities and services currently serve the existing development in the area. The proposed rezone and density transfer would reduce the need for services in this area.
- g. The proposed rezoning shall not create vehicular or pedestrian circulation hazards or cause parking, trash or service delivery congestion; and
Staff Finding: The rezoning will not create vehicular or pedestrian circulation hazards. There will be an overall reduction in curb cuts and vehicular movements through the reduction in the density on the lot.
- h. The proposed rezoning meets all applicable Town regulations and standards.

Staff Finding: The application meets all applicable regulations and standards.

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 rezoning are met since such density transfer must be processed concurrently with a rezoning development application (except for MPUD development applications);

Staff Finding: The applicant has met the criteria for the decision for rezoning as provided above.

b. The density transfer meets the density transfer and density bank policies; and.

Staff Finding: The application meets all applicable density transfer and density bank policies. The applicant is proposing to transfer existing density into the density bank.

c. The proposed density transfer meets all applicable Town regulations and standards.

Staff Finding: The application meets all applicable regulations and standards.

DESIGN REVIEW BOARD REVIEW AND RECOMMENDATION:

The Design Review Board reviewed this proposal at their November 7, 2024 regular meeting and voted unanimously to recommend approval of the Ordinance to the Town Council.

Staff Note: It should be noted that reasons for approval or rejection should be stated in the findings of fact and motion.

RECOMMENDATION: If the Town Council determines that the application for a Density Transfer and Rezone of Lot 908 meets the criteria for decision listed within this staff memo, then staff has provided the following suggested motion:

I move to approve an Ordinance on first reading regarding the Density Transfer and Rezone application, pursuant to CDC Sections 17.4.9 & 17.4.10 of the Community Development Code, to rezone Lot 908 from Single-Family to Passive Open Space and transfer 1 single-family density unit (4-person equivalent density) to the density bank based on the evidence provided within the staff report of record dated November 12, 2024, and with the following conditions:

- 1. The density transfer authorized hereby shall not be effective until the Effective Date of this Ordinance.*
- 2. 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. All representations of the Applicant, whether within Rezoning submittal materials or at the DRB or Town Council public hearings, are conditions of this approval.*
- 4. Town staff shall update the density bank and lot list accordingly.*

And further set a second reading and public hearing for December 19, 2024.

ORDINANCE NO. 2024-__

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,
COLORADO CONDITIONALLY APPROVING DENSITY TRANSFER FOR
LOT 908**

WHEREAS, 908 Associates, LLC, a Colorado limited liability company, (the “Owner”), are the owners of certain real property described as Lot 908, commonly known as TBD Victoria Drive, Mountain Village, Colorado (the “Property”); and

WHEREAS, the Owner has applied to transfer the one unit of single-family density resulting from the rezoning of Lot 908 to Passive Open Space 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 DRB held a public hearing on November 7, 2024, 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 November 21, 2024 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 ____ to approve the Density Application, subject to conditions and a second reading of this Ordinance to be held at a public hearing on _____, 2024; and

WHEREAS, the Town Council held a public hearing on _____, 2024 to consider the second reading of this Ordinance and testimony and comments from the Applicant, Town Staff, and members of the public, and voted ____ 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 373R and 374R Zoning Designations and Density – Existing and Proposed

	Existing Zoning Designations Built	Existing Zoning Designations Platted and unbuilt	Proposed Zoning Designations Built	Proposed Zoning Designations Platted and Unbuilt	Person Equivalents	Total Person Equivalents
Lot 908	0	1	0	0	4	0
Lot 908 To Density Bank				1	4	4
			Total:			4

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

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

3.2. 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.

3.3. 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.

3.4. 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 _____, 2024 (“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 ___ day of _____, 2024 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 21st day of November, 2024.

TOWN OF MOUNTAIN VILLAGE:

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

By: _____
Martinique Prohaska, Mayor

ATTEST:

Susan Johnston, Town Clerk

HEARD AND FINALLY ADOPTED by the Town Council of the Town of Mountain Village, Colorado this ___ day of _____, 2024.

TOWN OF MOUNTAIN VILLAGE:

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

By: _____
Martinique Prohaska, 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. 2024-__ ("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 _____, 2024, by the affirmative vote of a quorum of the Town Council as follows:

Council Member Name	"Yes"	"No"	Absent	Abstain
Martinique Prohaska, Mayor				
Scott Pearson, Mayor Pro-Tem				
Harvey Mogenson				
Peter Duprey				
Jack Gilbride				
Tucker Magid				
Huascar Gomez				

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 _____, 2024 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 _____, 2024. 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
Martinique Prohaska, Mayor				
Scott Pearson, Mayor Pro-Tem				
Harvey Mogenson				
Peter Duprey				
Jack Gilbride				
Tucker Magid				
Huascar Gomez				

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 ___ day of _____, 2024.

 Susan Johnston, Town Clerk
 (SEAL)

Exhibit A

[LIST OF REZONING APPLICATION MATERIALS]

LOT 908

REZONE AND DENSITY TRANSFER APPLICATION

OWNER: 908 ASSOCIATES, LLC

LEGAL DESCRIPTION: LOT 908, TELLURIDE MOUNTAIN VILLAGE, FILING 9, ACCORDING TO THE SUBSTANTIAL AMENDMENT TO LOT 903, LOT 908 AND TRACT OS-903 RECORDED DECEMBER 9, 1993 IN PLAT BOOK 1 AT PAGE 1602, COUNTY OF SAN MIGUEL, STATE OF COLORADO.

ACREAGE: 0.895 acres (as measured per Improvement Survey Plat certified on February 12, 2021); 0.896 acres per plat recorded at Reception No. 289064

CURRENT ZONING: SINGLE FAMILY

CURRENT USE: VACANT

PROPOSED ZONING: PASSIVE OPEN SPACE

DENSITY TRANSFER TO DENSITY BANK: One (1) single-family unit of density (4 persons) to be held in the Town of Mountain Village Density Bank by 908 Associates, LLC.

908 ASSOCIATES, LLC proposes to rezone Lot 908 from Single-Family to Passive Open Space and to transfer one (1) single-family unit of density (4 persons) to the Town of Mountain Village Density Bank.

Lot 908 is located in the Single-Family Zone District accessed off of Victoria Drive. See attached map. Lot 908 is adjacent to: (i) two vacant single-family lots, Lot 902-R2 and Lot 907;) (ii) Active Open Space Tract 903; and (iv) single-family Lot 904, which has been improved with a single-family residence. 908 Associates, LLC is jointly owned by the owners of Lot 902R-2 and Lot 904.

CRITERIA FOR REZONING APPLICATION (CDC Section 17.4.9(C)(3):

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

Rezoning from Single Family to Passive Open Space is consistent with the Single-Family land use principles and policies set forth in the Comprehensive plan as it preserves the character of existing low-density residential areas by reducing density and protects the natural open space and wildlife habitat in this single-family neighborhood.

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

CDC Section 17.3.4(F)(4) specifically contemplates that Single Family Lots may be rezoned to Passive Open Space (“Single-family lots may only be rezoned to the Passive Open Space District.”)

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

Rezoning from Single Family to Passive Open Space is consistent with the Single-Family land use principles and policies set forth in the Comprehensive plan as it preserves the character of existing low-density residential areas by reducing density and protects the natural open space and wildlife habitat in this single-family neighborhood.

- 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;

Rezoning from Single Family to Passive Open Space reduces the impacts to and use of the land by downzoning to Passive Open Space and reducing density, thereby reducing the impacts to this single-family neighborhood.

- e. 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;

Rezoning from Single Family to Passive Open Space increases the total Passive Open Space acreage required in the Town under the Comprehensive Plan, the CDC and the 1999 Settlement Agreement between the Town and San Miguel County. CDC Section 17.3.4(F)(4) specifically contemplates the rezoning of Single-family lots to Passive Open Space. (“Single-family lots may only be rezoned to the Passive Open Space District.”)

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

Rezoning from Single Family to Passive Open Space bank reduces the need for public facilities and services by reducing density.

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

Rezoning from Single Family to Passive Open Space reduces the need for public facilities and services by reducing density, thereby decreasing vehicular and pedestrian parking and trash and delivery services.

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

Rezoning from Single Family to Passive Open Space consistent with all applicable Town regulations and standards. CDC Section 17.3.4(F)(4) specifically contemplates the rezoning of Single-family lots to Passive Open Space. ("Single-family lots may only be rezoned to the Passive Open Space District.")

Criteria for Density Transfer Application CDC Section 17.4.10(2)

- 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);

See above

- b. The density transfer meets the density transfer and density bank policies; and

See above

- c. The proposed density transfer meets all applicable Town regulations and standards.

See above

Rezoning and Density Transfer Ordinance.

Pursuant to the CDC Section 17.4.9(D)(2)(b), "If the current, recorded plat for the lot(s) affected by the rezoning lists either the zone district, zoning designation and/or associated density, the rezoning ordinance shall include a statement that the zoning set forth in the rezoning ordinance shall prevail over any inconsistent plat notations on all validly recorded plats for the lots affected by such rezoning.

908 Associates, LLC requests that the Ordinance approving this Rezone and Density Transfer Application contain the following statement: ***"The zoning set forth in this rezoning ordinance shall prevail over any inconsistent plat notations on all validly recorded plats for the lots affected by such rezoning."***



657R
A J DR

659R

OSP 15B

OSP 15R

525

526R

527R

528

531

532

391

392

OSP 2N

MOUNTAIN VILLAGE BLVD

OSP 36

901-R2

OSP 16R2

OS 903

904

902-R2

908

906

OSP 16R1

907

OSP 2S

393R

OSP 16R

909

VICTORIA DR

911

1004AR

177

179R

180R

910

OSP 38

OSP 37

913R

912R

175R2

181

OSP 41

914R

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