

## MEMORANDUM

TO: Vail Town Council

FROM: Nina Timm & Russ Forrest

DATE: January 2, 2006

SUBJECT: Inclusionary Zoning and Commercial Linkage Follow Up

### **I. Introduction**

At the December 5, 2006, Vail Town Council meeting, the Council discussed Inclusionary Zoning and Commercial Linkage. Staff presented a combination of the two programs that achieved the overall goal of providing employee housing for at least 30% of Vail's workforce. Staff is also working on a draft ordinance, which was included in the December 5, 2006 packet, and will finalize that draft ordinance once Council provides input on the issues described in this memorandum. The proposed combination included Inclusionary Zoning applied to all residential uses (or dwelling units) at 15% of net new square feet and Commercial Linkage applied to commercial uses at 30% of net new employees generated. Staff received direction to create an additional policy alternative of placing an even greater amount of responsibility on residential development through inclusionary zoning versus commercial development. Council also discussed their desire to review and modify their preference for housing mitigation either periodically or with each application. In addition to the input provided by Council mentioned above, staff also heard from the Council that:

- Inclusionary zoning applied to residential units was an acceptable policy tool to further develop. There was debate, as mentioned in this memorandum, among council members as to how commercial linkage should be applied to commercial uses.
- There was also agreement that Council should periodically review the preferences for how development applicants shall mitigate their employee housing requirements.

## **II. Summary of Proposed Employee Housing Requirements for Commercial and Residential Uses**

The following is a summary of the key elements of the proposed housing policy framework staff proposed on December 5, 2006 which utilized both commercial linkage and inclusionary zoning.

- A. The ordinance would achieve the goal of providing housing for at least 30% of the new jobs generated by new development/redevelopment in the Town of Vail.
- B. Commercial Linkage would apply to only commercial uses. Accommodation units would continue to be a commercial use. Staff was proposing a 30% mitigation rate on December 5, 2006 and also suggested that the rate could be lower for certain uses which have significant public value such as accommodation units. Staff recommends that Commercial Linkage mitigation not be less than 15% which is the Town's policy today.
- C. Inclusionary Zoning would only apply to residential uses. Those uses will include: Dwelling Units including Hot Beds, Fractional Fee Units, Time Share Units, and Lodge Units. In order to house 30% of the new work force in the Town of Vail, this percentage will need to increase from 15% if Commercial Linkage remains at 15% (versus 30%).
- D. The preferred mitigation methods should be adjusted on an annual basis, when the fee-in-lieu is recalculated. The mitigation methods can be made a preference by adjusting the mitigation rates for each mitigation method used. Eagle County currently has a preference for on-site units and requires 20% mitigation Commercial Linkage and Inclusionary Zoning when the mitigation is provided on-site. The mitigation rate increases to 25% for off-site mitigation and increases to 30% if fee-in-lieu is used for employee housing mitigation. Staff recommends that the ordinance clearly state a mitigation preference rather than determining this preference on a case-by-case basis.

## **III. Issues from the December 5, 2006, Meeting**

### **A. Reduce commercial linkage and increase inclusionary zoning requirements on residential development.**

Issue: Members of the Council asked that staff develop an alternative to decrease the commercial linkage requirement for commercial uses that generate sales tax and increase the

requirement for residential development through inclusionary zoning. Attachment A includes the examples from the December 5, 2006 meeting (scenario 3) and new examples (scenarios 4-6) to reflect the desire to increase inclusionary zoning (from 15% to 20%) requirements for residential development while decreasing commercial linkage (from 30% to 15%). Staff also ran a scenario of having no commercial linkage and to obtain the same level of housing, a 45% inclusionary zoning requirement would be needed. Staff believes that this level of burden on residential development would inhibit this type of development which has historically paid for other beneficial uses such as retail and accommodation units.

Staff Recommendation:

- a. Staff recommends not reducing Commercial Linkage mitigation below 15%. Commercial uses generate the need for employees at a greater rate than residential uses and benefit the greatest from having employees live near the jobs.
- b. Looking at Aspen, employers, particularly the City of Aspen, have recognized that they have few options when it comes to employee housing. Aspen's City Housing Program states: "With the ever increasing competition for skilled employees and with local housing being out of financial reach of even the top paid city employees, the hiring of employees critical to the city's needs often hinges on the availability of housing for those employees." This is true in Vail as well. Ultimately business owners will need to pay employees commensurate with the local cost of housing, provide housing or operate the business without employees.
- c. Staff evaluated increasing inclusionary zoning for residential uses from 15% to 45%. It is important to note that this increase will not provide the same amount of employee housing, in most cases, as the previous policy recommendation that included 30% Commercial Linkage and 15% Inclusionary Zoning. Under the scenario (3) proposed by staff on December 5, 2006, redevelopment in West Lionshead and West Vail would generate housing for 30% of the net new employees based on the development model used by staff in the table below. This is because the net new increment of residential development in these two areas is significantly greater than all other areas. The following chart shows how this works.

### Anticipated Total Development in the Town of Vail

Town of Vail Development:	Residential SqFt/GRFA	Commercial/Retail/Office
Existing Today	8,905,435	585,879
Under Construction/Approved Existing	276,132	74,437
Under Construction/Approved Proposed	1,274,411	214,842
Under Construction/Approved Net New	998,279	140,405
Under Review Existing	56,732	0
Under Review Proposed	164,716	0
Under Review Net New	107,984	0
Potential Existing	639,027	332,987
Potential Redevelopment	3,163,029	699,479
Potential Net New (Build Out Assumption)	2,524,002	366,492

#### B. Preference for Mitigation

Issue: Council indicated a desire to review and choose the desired mitigation required for a project.

Staff Recommendation: Staff would recommend that the Council review their housing policy annually. Staff would propose that the Council annually adjust the pay in lieu fee and at the same time review the preferences for mitigation. A next step in the development of a housing ordinance would be to potentially create a higher mitigation rate for less desirable options or to simply require council approval before a less desirable option is approved (this occurs in Aspen).

#### C. Mitigation Bank

Issue: Council debated whether it was appropriate to have a credit system for affordable housing. The idea behind this concept is that a developer could purchase dwelling units (not required by the Town housing policy for net new development) and then deed restrict those units and then potentially sell those deed restricted units to other developers.

Staff Recommendation: Staff would recommend that the Council on an annual basis as explained above set preferences which would affect how a developer fulfills his/her housing requirements.

However, staff believes it could be beneficial to create a structured program for the private sector to provide create deed restricted housing and then sell those credits to other developers. However, it would be critical to utilize a clear standard for what constituted a housing credit using the table mentioned in the December 5, 2006 presentation (see below).

	<b>Minimum Sq Ft</b>	<b># of Employees Credit</b>
Studio Unit	550 sq ft average	1.25
One Bedroom Unit	750 sq ft average	1.75
Two Bedroom Unit	975 sq ft average	2.25
Three Bedroom Unit	1225 sq ft average	3

#### **D. Question of Council**

Given the above mentioned issues and recommendations staff has the following questions for the Town Council:

1. Does Council want to use both inclusionary zoning **and** commercial linkage for addressing new development?
2. What rates would the Council want to use for inclusionary zoning and commercial linkage?
3. Is the Town Council comfortable with the recommendation made above as it relates to:
  - a. Annual review by the Town Council on housing mitigation preferences, and
  - b. Maintaining an option to create housing credits that would allow the private sector to develop or provide deed restricted housing which could be sold to other developers needing to comply with the Town's housing policy.

#### **IV. Examples**

Using the December 5, 2006 redevelopment project as an example various mitigation rates have been paired to show the anticipated outcomes of total employees to be housed. Please see attachment A. The table is summarized below:

Scenario 1: Current policy for development projects that require density which exceed what zoning allows.

Scenario 2: Current housing policy for development projects that comply with zoning.

Scenario 3: This was the recommended approach for providing a level of balance for housing requirements on commercial and residential uses presented on December 5, 2006 (i.e. 15% inclusionary zoning and 30% commercial linkage).

Scenarios 4 & 5: These scenarios respond to comments by Council members to place a greater responsibility for affordable housing on residential uses while still maintaining a commercial linkage policy.

Scenario 6: Shows the same development project as used in scenarios 1-5 but with **no** commercial linkage policy and a **40%** inclusionary zoning requirement.

#### **V. Next Steps**

With Council direction received at this worksession, staff would propose the following next steps:

1. Complete a draft housing ordinance.
2. Conduct at least one public meeting to allow input from developers and housing advocates – Tentatively proposing January 23, 2007 at 4:00.
3. Review public input with Council on February 6, 2007.
4. Receive a recommendation by PEC (required by code for text amendment) by February 26, 2007.
5. Town Council evening meetings in March to consider approval of an ordinance on 1<sup>st</sup> and 2<sup>nd</sup> reading.