

**RESOLUTION OF DENIAL REGARDING A VARIANCE TO THE COMMUNITY
DEVELOPMENT CODE REQUIREMENTS FOR LOT 42B, UNIT 21-C, DEVIATIONS TO THE
PARKING REQUIREMENTS FOR A LODGE UNIT ZONING DESIGNATION.**

Resolution No. 2020-0319-05

- A. Gold Hill Holdings, LLC (“Owner”) is the owner of record of real property described as Lot 42B, Unit 21-C (“Property”).
- B. The Owner submitted a Class 4 application for a Rezone and Density Transfer to rezone the Property from efficiency lodge zoning designation to lodge zoning designation (the “**Rezone Application**”). The Rezone Application triggered the requirement to provide parking for the property in compliance with the applicable Community Development Code (“CDC”) parking requirements.
- C. The Owner submitted a Class 4 application for a Variance to allow for deviations in parking requirements for the Property (“**Application**”).
- D. The Application was submitted in compliance with the provisions of section 17.4.16 of the CDC.
- E. The Design Review Board (“DRB”) considered the Application, along with evidence and testimony, at a public meeting held on February 6, 2020. Upon concluding their review, the DRB recommended approval of the Application to the Town Council with a 3-1 vote.
- F. The Town Council considered and approved the Application, along with evidence and testimony, at a public hearing on February 20, 2020. Upon concluding their review, the Town Council voted to deny the Application with a 5-1 vote.
- G. The public hearings referred to above were preceded by publication of public notice of such hearings on such dates and/or dates from which such hearings were continued on the Town website, and by mailing of public notice to property owners within four hundred feet (400') of the Property, as required by the public hearing noticing requirements of the CDC.
- H. At the public hearings referred to above, the Town Council considered the Owner’s submittal materials, and all other relevant materials, public letters, and public testimony, and denied the Application with findings set forth at the Public Hearing and captured in this Resolution.
- I. The Town Council finds the Applications does not meet the Variance Criteria for Decision contained in CDC Section 17.4.16(D) as follows:

Variance Findings:

- 1. The strict development application of the CDC regulations would not result in exceptional and undue hardship upon the property owner in the development of the lot due to the availability of reasonable use under the existing zoning which does not require a Variance;
- 2. The variance cannot be granted without substantial detriment to the public health, safety and welfare;
- 3. The variance cannot be granted without substantial impairment of the intent of the CDC;

4. Granting the variance constitutes a grant of special privilege in excess of that enjoyed by other property owners in the same zoning district as any property in the same zone district which applied for a rezone would be required to comply with the parking regulations of the CDC ;
5. Reasonable use of the property is otherwise available without granting of a variance as the Property may still be used pursuant to its existing zoning designation or the Owner may provide the required parking in order to complete the Rezone Application;
6. The lot for which the variance is being denied was not created in violation of Town regulations or Colorado State Statutes in effect at the time the lot was created;
7. The variance is not solely based on economic hardship alone; and
8. The proposed variance does not meet all applicable Town regulations and standards.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL HEREBY DENIES A VARIANCE TO THE COMMUNITY DEVELOPMENT CODE REQUIREMENTS FOR LOT 42B, UNIT 21-C REQUESTING DEVIATIONS TO THE PARKING REQUIREMENTS FOR A LODGE UNIT ZONING DESIGNATION AND AUTHORIZES THE MAYOR TO SIGN THE RESOLUTION.

Be It Further Resolved that a copy of this Resolution be forwarded to the Owner, the Blue Mesa Lodge Homeowner Association, and recorded with Clerk and Recorder Office of San Miguel County.

Section 1. Resolution Effect

- A. This Resolution shall have no effect on pending litigation, if any, and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the resolutions repealed or amended as herein provided and the same shall be construed and concluded under such prior resolutions.
- B. All resolutions, of the Town, or parts thereof, inconsistent or in conflict with this Resolution, are hereby repealed, replaced and superseded to the extent only of such inconsistency or conflict.

Section 2. Severability

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

Section 3. Effective Date

This Resolution shall become effective on March 19, 2020 (the "Effective Date") as herein referenced throughout this Resolution.

Section 4. Public Hearing

A public meeting on this Resolution was held on the 19th day of March 2020 in the Town Council Chambers, Town Hall, 455 Mountain Village Blvd, Mountain Village, Colorado 81435.

DENIED by the Town Council at a public hearing held on March 19, 2020.

Town of Mountain Village, Town Council



By: _____
Laila Benitez, Mayor

Attest: **Kim E
Montgomery**

Digitally signed by Kim
E Montgomery
Date: 2020.03.31
15:08:10 -06'00'

By: _____
Kim Montgomery, Town Clerk

Approved as to Form:



Jim Mahoney, Town Attorney