



**Top left & right: Bighorn rams in their habitat near Buzzard Park. Lower left: Sheep congregate on a road in the Booth Creek area.**

# Letters to Vail

## What's Next: Open Space and Wildlife – Part Three

January 11, 2025

The bighorn sheep herd in East Vail scored a win with the October 2024 settlement of the lawsuit between the Town of Vail (TOV) and Vail Resorts (VR) over possession of the site that became known as Booth Heights. The Town is in possession of the deed for the property and steps are being taken to preserve the land as permanent open space. With the bighorn sheep conflict resolved, the question “What next” comes to the forefront. While this critical wildlife habitat has been spared from the bulldozers, the legal settlement sets the stage for development of West Lionshead, formerly known as Ever Vail; part of the land is adjacent to the waste water treatment plant and other parcels currently house the VR Maintenance shops, office spaces and minimal retail. Some of the properties have become somewhat derelict after the Ever Vail project was basically abandoned following its approval in 2017.

Planning and development of West Lionshead requires close watch. Along with creating a new mountain access portal, VR and East West Partners, the developer, presumably, will put together an aggressive plan for residential housing, parking, workforce housing and transportation facilities.

At a gathering of people who helped bring the Booth Heights acquisition to fruition, the sentiment was that the TOV and citizens need to be very watchful of the West Lionshead process. We should anticipate that building plans from developers will be huge and overbearing. TOV and residents need to stay ahead of the process. Requests for variances, zoning, density and other changes could fly in the face of hard-fought regulations that have been successfully adopted over Vail's fifty years of growth. These building regulations have helped create the flavor and scope of the community we all enjoy.

A reader wrote, "I'm writing to say that I hope the VHA continues to serve its very important role as a watchdog and advocate. The VHA's efforts have been invaluable at keeping folks "honest" and letting local government and officials know that someone is watching. The bigger Vail gets, the more the VHA is needed."

VHA is credited with being a motivational force that has helped marshal an effort to protect the community's lifestyle and natural assets. It should strive to continue to preserve what makes Vail a special place.



**Trespass fencing on the northern boundary of Donovan Park, Middle Bench, in West Vail is a circulation hazard for wildlife.**

Neighbors report that in the early 1980s, a fence was built along a portion of the northern boundary dividing Donovan Park open space from adjoining private property. Vail's neighborhoods were designed to allow wildlife to migrate by providing interconnected open spaces and prohibitions against fencing.

The Town of Vail Planning and Environmental Commission (PEC) approved the fence based on a property owner's complaint of trespassing by skiers and boarders during the winter season. Part of the Town's rationale for approving the fence was the assumption that the responsibility to police out-of-bounds trespassing by its lift ticket holders fell on the mountain operator. By taking a seemingly straightforward approach, the Town may have unintentionally created a minefield of public controversy. The question is, should the fence have been prohibited because of the protective covenants for the area?

Subdivision records should exist in the archives of the Town of Vail and Eagle County. Each would have copies of any applicable protective covenants. In the '80s and before, it was not uncommon for protective covenants to contain language that prohibited fences so that wildlife would not be inhibited as it migrated within and through the valley. Legal stipulations would have applied when the TOV acquired Donovan Park, including its Middle Bench. The acquisition would have placed a prohibition on removing wildlife protection which is the intended use of the open space.

According to a Vail historian, the trespass fence in question was constructed before the TOV annexed West Vail in 1984. Annexation was opposed by several strident West Vail residents who questioned TOV regulatory efforts. Zoning and land use animosities dissipated over time, and redevelopment of the West Vail Mall and surrounding neighborhoods are in the planning pipeline. Changing circumstances and recognition of the benefit to wildlife may cause the need for trespass fencing to dissipate. Meanwhile, the TOV has erected signs described as large and unsightly, urging recreational users to remain on roadways.

While attention is on the Donovan Park area, it is timely to consider building a pedestrian crossing over I-70 to the West Timber Ridge housing currently under construction. A pedestrian overpass would enable residents on the north side of I-70 to easily access and benefit from Donovan Park amenities and connect to jobs and town services.

Over the years, Donovan Park Upper and Middle Benches have been eyed as a potential site for housing and other development, resulting in conflict between development and conservation interests. Competing interests should not be taken lightly or without regard to community sentiment and history. As a land owner, the TOV is subject to complying with covenants and the original terms of purchase. Steps should be taken to further protect the area from development and enforce trespass limitations so that uninhibited circulation of wildlife through neighborhoods remains as intended.

Installation of wildlife fencing along the length of I-70 by CDOT has created an impenetrable barrier to wildlife migration throughout the length of Vail. While fencing saves human and animal lives, evaluating wildlife and pedestrian crossings at essential locations in the Vail corridor is in order. A wildlife crossing is being constructed at the summit of Vail Pass. Other opportunities for crossings along the length of I-70 through Vail should be considered in TOV and CDOT master planning.

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VHA is funded by voluntary dues pledged annually from condominium associations and individual property owners. Members are primarily the part-time resident property owners from Vail's founding generations. As Vail grows, traditional assumptions of political activism have also become more complicated and costly.

VHA is a member and reader-supported non-profit. Memberships and contributions fuel the VHA reports, *Letters to Vail* and help VHA respond to important issues, expand our reach and ensure transparency and coverage. VHA is thankful for support and participation from the Vail community. We are pledged to remain at the forefront of advocating on behalf of the mutual interests of full and part-time residents and property owners.

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