



Covered Bridge, 1:00 pm Monday February 2, 2022

Letters to Vail

VAIL HOMEOWNERS ASSOCIATION

Proposed New Zoning for Gore Creek

February 21, 2022

When Vail's founders began the development of what would become the premier U.S. Ski Resort, Gore Creek was a pristine, gold medal quality tributary snaking its way through the valley floor. It quickly became one of the crown jewels of the fledging development, a source of both beauty and pride, and remained as such for many years. It became the focus of many town activities and the primary source of the community's domestic water supply. But nothing was done to protect the Creek's water quality. The only thing, aside from the treatment of domestic sewage, that existed to prevent pollutants from entering the Creek was the natural passive ability of the surrounding land to filter inflows into the Creek.

When the town was incorporated and in the creation of its zoning classifications, all classes of zoning required set percentages of landscaping. In part this was to preserve the natural beauty of the area, but it also served to limit the footprint of structures and impermeable surfaces so that there would be ample land allotted for natural filtration to occur through the soil and root systems.

Initially, these steps worked, but eventually, the inevitable happened. Development overtook the ability of the land to protect the creek, as more and more buildings and associated roads, driveways, parking lots and other impermeable surfaces prevented ever increasing urban runoff from being filtered and that runoff found its way into the Creek. Coupled with ever increasing highway maintenance in the form of traction sand and magnesium chloride and residual roadway pollutants, which also found their way into the Creek, the water quality of Gore Creek began to deteriorate.

By 2012, the deterioration of Gore Creek had reached a critical stage, and it was declared an impaired waterway by the State of Colorado. Since then, the VHA has been urging action to clean up the Creek. [It published its first report on that subject in 2013](#) and has periodically continued to advocate for improvements in the Creek. While the TOV has taken some steps—banning the use of pesticides and fertilizers, undertaking a public education and outreach program, and installing a collection and filtration system at the East Vail I-70 interchange—an overall plan has yet to be realized. And, while a Gore Creek Strategic Plan was proposed in 2014, it was not adopted until 2016.

Now one of the elements of that plan—updating stream setbacks and creating buffer zones—is finally being realized. Under a new proposal that is making its way through the town approval process, zoning adjacent to the Creek and its tributaries would be upgraded by creating a 25’ building setback and a 10’ “no mow” zone that would be measured from a two-year flood line, rather than the stream centerlines as is currently the case. This will have the effect of banning development in 25’ swaths alongside the creek and its tributaries. The “no mow” zone would be an area of natural vegetation in which no mowing, landscaping, grading or other disturbance would be allowed except a limited path to the creek. Current structures that encroach on the building set back requirements (there are at least several) and existing fences, walls, patios, walkways, landscaping features, furniture or similar improvements within the 10’ “no mow” zone would be [permitted to continue as non-conforming uses](#). If, however they were destroyed and not reestablished within one year or abandoned for more than a year, then the conditional use would cease to exist.

The VHA supports these measures. By all indications, these changes will contribute to the overall health of Vail’s waterways. And allowing the continuation of existing uses is an equitable way to recognize the improvements that some landowners have made to their property. It should be noted that more than a few landowners, at their own expense, have taken steps to restore streamside features and repair streambank erosion.

It would, however, be a mistake to think that these changes alone, or even in connection with the other steps already taken by the TOV, are going to automatically correct the water quality of Gore Creek. If the town is serious about restoring the Creek to gold metal status, and VHA thinks that it is, more is going to have to be done to eliminate storm water and highway refuse run off.

There is also another proposed zoning change making its way through the town approval process which could impact Gore Creek. It is a definitional change that will direct whether areas under protruding decks are to be counted toward landscaping requirements and, if so, how much. TOV zoning requires that all building sites have a minimum amount of landscaping, ranging from 70% in hillside zones, to 60% for single family zones, to 30% for medium and high-density multiple family zones, to as low as 20% in some commercial zones. However, the zoning code is unclear whether areas under protruding decks count toward that requirement. The town staff has, historically, taken the conservative approach and held that they would not. But the lack of clarity has caused the town staff to now ask for clarification in the form of an amendment to the definition of landscaping that would allow either all of the area under decks, only 4’ or none of that area to count in fulfilling those requirements.

There are good reasons why under-deck areas should not count to satisfy landscaping requirements and that should be the definition the town council chooses. Landscaping within the town is not only an important element in

preserving and enhancing the natural character of the community but it also serves the important goal of maintaining the water quality of Gore Creek. Urban runoff is one of the causes of the derogation of Gore Creek. The intent of the requirement for landscaped areas in the TOV zoning regulations, when they were first adopted, called for landscape areas to remain “open to the sky.” The purpose of this rule is to use the earth that is open-to-the-sky as a passive method of filtering storm runoff. This was the earliest form of protecting the water quality of Gore Creek wetlands and tributaries, and for many years, until urban residue dramatically increased with the development of the town, it worked. It is, nonetheless, still an important component of filtration for the protection of Gore Creek. The VHA believes that this principle should not now be undercut by allowing some or all of under-deck areas to be counted to reduce the overall open-to-the-sky landscaped area and urges the Town Council to adopt the definition that would not allow under-deck areas to count towards fulfillment of landscaping requirements.

In *Letters to Vail*, VHA provides clear and concise discussions of matters affecting the Vail community in the belief that an informed citizenry will be an engaged citizenry. We intend for these *Letters* to promote more citizen involvement and community discussions of issues facing the Town. If these are issues that concern you, please make your views known to town officials. Public discussion of current issues by concerned citizens creates an environment to further our community initiatives. We heartily encourage your input in shaping the road ahead.

You are also welcome to join-in as a Paid-Subscriber or Member. Contact:

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