

Background Summary

Todger Anderson, who owns the last two undeveloped vacant lots at the top of Casolar Drive, has been working with the Board and the Town of Vail for the last few years to try and resolve some issues which have resulted in him (or any future owner) being unable to build dwelling units on those Lots. From the Associations perspective it has always been assumed that these two lots would at some future date be developed. The Board would like to do its part on behalf of the Association to assist Mr. Anderson in reaching an agreement with the Town of Vail that will properly resolve the situation and clearly establish the future building rights of Mr. Anderson or any future owner of these Lots.

With respect to the Association there are two issues of concern that the Board would like to address. Because these circumstances were not predicted in our governing documents the Board and Mr. Anderson are reaching out through a special vote of the membership seeking approval and empowerment of the Board on the following actions which we feel will help Mr. Anderson and at the same time best serve the Association as a whole. **We ask your assistance in casting your vote in favor of these items.**

The first issue is that the lower portion of Lot 5 and Casolar Drive encroach on one another (the road runs on the Lot or vs. vs.). In order to resolve this situation Mr. Anderson has suggested that Lot 5 be moved up hill slightly so that it and any future dwelling unit on it no longer overlap Casolar Drive. The Board agrees that this is a good solution and is asking that the membership empower the Board to grant approval to relocate Lot 5 accordingly. A picture outlining where Lot 5's boundaries are today and where Mr. Anderson is proposing moving Lot 5 to is attached as Exhibit A. Note that the lot size is not changing – it is just being moved to avoid overlapping with the Road.

The second issue is that the original development plans of Lots 4 and 5 called for three dwelling units to be built (one single family home and a duplex). Mr. Anderson has suggested that it would be preferable to have the right to instead build two slightly larger single family dwelling units, each utilizing half of the square footage historically allocated to what would then become a “never to be developed” third dwelling unit. The Board is in agreement that this would be preferable, as long as the future projected assessments for three dwelling units (and future votes which would associated with those three dwelling units) are not impacted. In addition, many years ago a former Board put in place an arrangement with Mr. Anderson that while the dwelling units for Lots remained undeveloped that they would be assessed 40% of a normal assessment and each would receive 40% of a normal vote, with the three (3) unbuild dwelling units resulting in a total of 1.2 assessment charges and carrying 1.2 votes. Mr. Anderson would like to continue this arrangement, modified for two proposed dwelling units that would each then be assessed 60% of a normal assessment and each to carry 60% of a normal vote, with the resulting total remaining unchanged until such a time as the Lots are actually

developed. Once a dwelling unit is developed that dwelling unit, which would also utilize half of the square footage of the duplex unit that will never be built, would then be subject to 1.5 assessment charges and would carry 1.5 votes. In other words, from the Board's perspective the Association should be made financially whole on current and expected future revenue and, as a consequence, Mr. Anderson should not have less voting rights than he otherwise would have had in building three dwelling units vs. the two he is now proposing.

The Board and Mr. Anderson have agreed that an equitable arrangement would therefore be to make an amendment to the current governing documents to reflect this longstanding arrangement and to properly note that as part of the Association agreeing to the density change from three (3) planned dwelling units down to two (2) slightly larger dwelling units (each of which will split the square footage that would have gone into the "never to be built" half of the originally planned duplex unit) that each of these dwelling units would be charged 1.5 assessments and be able to cast 1.5 votes once developed. This provides Mr. Anderson with the density change he is seeking and preserves the intended future revenue (and votes) that were originally planned with respect to these two Lots and the dwelling units to be built on them.

The Board therefore asks that the membership lend their support in voting for this amendment of the governing documents to reflect this arrangement. Language for the proposed change that we are asking you to vote in favor of is included in Exhibit B of this document.

In summary, the Board asks that you vote in favor of empowering the Board to act on behalf of the Association in providing approval from the Association's perspective to relocate Lot 5 so that it and Casolar Drive no longer encroaches on one another as well as authority to amend the governing documents to detail the variance in assessments and votes associated with these two undeveloped lots and the future variance in assessments and votes that will occur when these dwelling units are developed.

Respectfully,

Casolar Del Norte HOA Board

EXHIBIT A: Drawing of existing and proposed relocation of Lot 5 so that it no longer encroaches on Casolar Drive or vice versa. . *Note that lot size does not change at all – just location.*

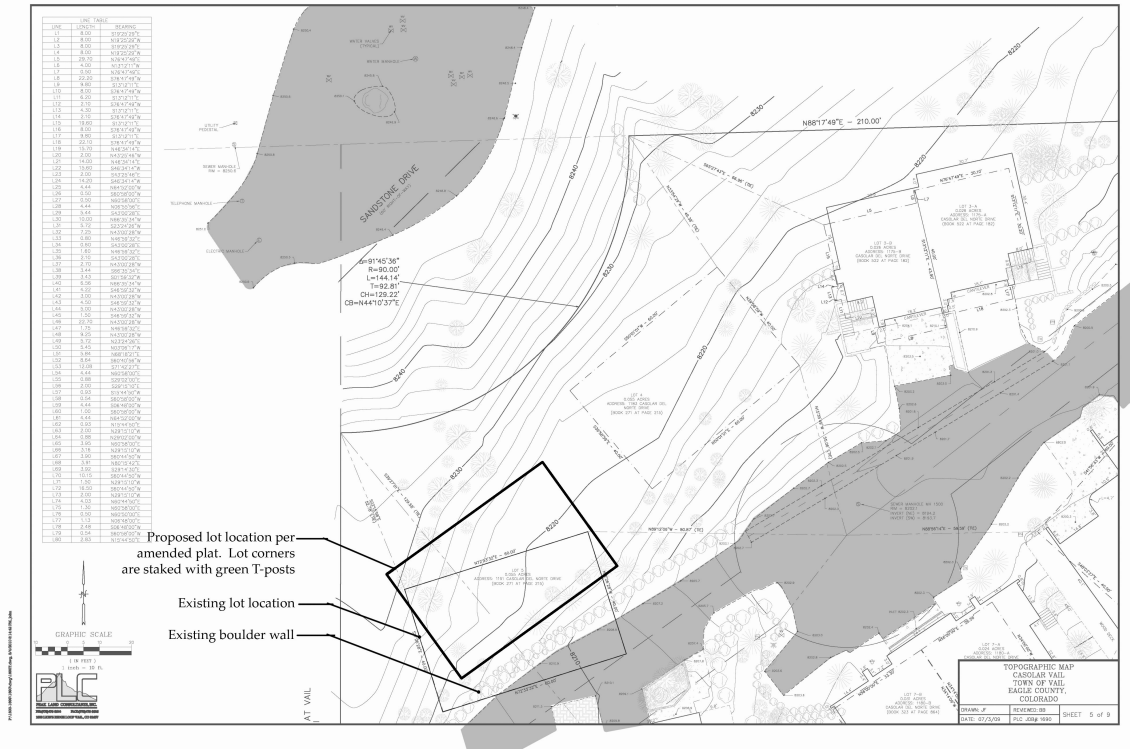


EXHIBIT B – Language change to governing documents to specify current and proposed future arrangement for assessment and votes associated with undeveloped Lots 4 & 5 as well as future dwelling unit density change from 3 units to 2 units.

CHANGE ARTICLE III Section 2 from
Current wording:

Section 2. Voting Rights. The Association shall have one class of voting membership and rights. All Owner of Lots shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any Lot, all such persons shall be members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

To new wording:

Section 2. Voting Rights. The Association shall have one class of voting membership and rights. All Owner of Lots, with the exception of undeveloped Lots 4 & 5, shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. The Owner(s) of undeveloped Lot 4 and undeveloped Lot 5 shall each be entitled to 60% of a vote until the commencement of the development of single family dwelling unit on the Lot. Once the building of a single family dwelling unit has commenced the Owner of that Lot shall then be entitled to 1.5 votes (due to a reduction in density from the originally planned three dwelling units down to two dwelling units on these Lots and the right for each dwelling unit to utilize half of the un-built units planned square footage). Assessment calculations for the each single family dwelling unit built on Lot 4 and Lot 5 shall similarly be assessed at 1.5 times the regular assessment charge (as part of the Associations agreement to change the original planned density from three (3) dwelling units down to two (2) dwelling units and the right for each dwelling unit to utilize half of the un-built units planned square footage).

When more than one person holds such interest or interests in any Lot, all such persons shall be members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote (or in the case of Lots 4 & 5 the above specified votes) be cast with respect to any such Lot.