

BEAVER CREEK

PROPERTY OWNERS ASSOCIATION

FACT SHEET

Opposition to Vail Resorts' Amusement Park at Beaver Creek

Beaver Creek Property Owner's Association (BCPOA)

Founded in 1990, the BCPOA represents interests of Beaver Creek property owners to protect the quality of life and property values in the community. The association has approximately 715 property owner households as members.

BCPOA Opposes an Amusement Park Complex at Beaver Creek

BCPOA is opposed to Vail Resorts' (NYSE: MTN) proposed development of an amusement park complex near the base and within view of the Beaver Creek Village and near residential neighborhoods. The proposed complex would be located on the mountain facing Beaver Creek Village, below a private dining facility known as Allie's Cabin. Plans include:

- **Roller Coaster** – with a ½ mile of steel track constructed on the mountainside,
- **Ropes Course** – with 50' tall structures; and to be situated on designated wetlands,
- **Tubing Course** – with a plastic mat 300' long and 48' wide situated on the hillside,
- **Support Building** – a brand new building to house equipment for the Amusement Complex,
- **Restroom Facilities** – restroom facilities constructed in close proximity to wetlands,
- **Ticketing Operations** – to be located in the Children's Ski School, and
- **Food/Beverage Facilities** – also to be located in the Children's Ski School.

The roller coaster, being branded by Vail Resorts (VR) as an alpine slide called the "Forest Flyer," is defined and regulated by the state of Colorado as an amusement park ride.

The coaster would require the installation of 2,000 feet of safety fencing and nearly 3,000 feet (10 football fields) of structural metal. The proximity and height of the roller coaster (a circle loop over 30-foot tall) would make it visible to most homes in the valley, permanently altering the views of this pristine area. In addition to the visual impact, the proximity of the coaster to these homes — capable of 500 riders per hour — would generate year-around noise for neighbors and visitors.



Actual to scale artist rendering of the proposed roller coaster at Beaver Creek.

It is BCPOA's position that amusement park rides are not a good fit and are off-brand for Beaver Creek, which Vail Resorts markets as a world-class luxury resort. The roller coasters proposed at Beaver Creek and Vail Mountain would be the only two that we know of that would be located in what would be considered 'luxury' resorts.

Lawsuit Filed to Prevent Construction

Following approval by the Beaver Creek Design Review board on August 21, 2013 in a 3-2 vote of Vail Resorts plans, the BCPOA attempted to solve the issues amicably with Vail Resorts.

After exhausting its options, on September 26, 2013 the BCPOA and Greystone Condominium Association, the closest homes to the proposed amusement park complex, filed a lawsuit in the Eagle County District Court to prevent construction.

The Associations' lawsuit contends that Vail Resorts has not honored prior agreements made with the BCPOA, is violating government regulations (including those pertaining to wetlands) and is also in violation of its own governing documents for Beaver Creek. Additionally, neighbors are contending that because of close proximity to homes, the amusement park will be a nuisance to neighbors, Vail Resorts has misrepresented/concealed its plans from neighbors, civil conspiracy and violation of the Colorado Consumer Protection Act.

The lawsuit reactivates litigation the BCPOA filed in 2007 to stop an alpine slide from being built in the same area. That lawsuit will no longer be on administrative hold in the court and the recent action adds additional claims.

Environmental Damage

Construction of the roller coaster and ropes challenge course would result in significant environmental impacts, including the removal of a mature aspen grove. It also would impact a stream and wetlands area that feeds into the Eagle River and eventually the Colorado River.

To construct the roller coaster on the face of the mountain, it is estimated that VR would have to remove 350 mature aspen trees in the forest below a private dining club called Allie's Cabin. The ropes challenge course would be built directly over a stream-fed wetlands area and negatively impact this pristine and fragile environment. Because the stream feeds into the Eagle and Colorado Rivers, any stream disturbances could trigger the need for VR to obtain a federal water quality permit, known as a 404 permit from the U.S. Army Corps of Engineers. The project also may be subject to an Environmental Impact Statement.

The conservation easement for the land VR wants to develop is held by Colorado Open Lands, a private, 501(c)3 non-profit land conservation and land trust organization. Their stated mission is to protect the landscapes and lifestyles that make Colorado unique by ensuring lasting protection of open spaces and by promoting Colorado's cultural heritage as farmers, ranchers, sportsmen and guardians of the land. Building an amusement park is incongruent with this organization's mission of open space preservation.

BCPOA also contends the amusement park is incongruent with the current summer and winter use of this land (i.e., hiking and mountain biking), and would bisect use of a popular nature trail. At public hearings, VR officials stated the entire area around the roller coaster would need to be fenced in order to protect the safety of skiers.

Vail Resorts Pattern of Deception and Misinformation

A roller coaster is not the first recreational amenity the BCPOA has opposed. In 2006, the property owners filed a lawsuit against VR to stop an alpine slide from being built within view of residential neighborhoods. The lawsuit filed by BCPOA against VR, which was on hold with the courts with the agreement of property owners, will now be re-instated and joined with the new lawsuit.

In 2007, VR urged individual BCPOA members to support the Ski Area Recreational Opportunity Enhancement Act introduced by former U.S. Representative Mark Udall. The bill passed and expanded recreational uses on Forest Service land beyond traditional ski and snowsport activities to include other outdoor recreational uses. According to the US Forest Services press release (<http://www.fs.fed.us/news/2011/releases/11/skicomm.shtml>), "Protecting natural resources will remain a priority and year-long facilities will be subject to the same review and approval processes as those for ski facilities such as the construction of ski lifts and ski trails. Not all recreation activities will be permitted. Those considered to be destructive to the natural environment will be excluded, including tennis courts, water slides and water parks, swimming pools, golf courses, and **amusement parks.**"

Building the roller coaster on land VR owns is allowing the corporation to circumvent the environmental checks and balances it would be required to complete on public land.

BCPOA also historically supported the construction of a children's ski school and the Buckaroo Express gondola that services the ski school. VR informed BCPOA that this infrastructure was needed specifically for the children's ski school, which proudly displays signs that say, "Thank you for keeping this a parent-free zone – It is essential in providing a secure environment for the children."

However, BCPOA discovered in the summer of 2013 that VR applied to the Eagle County Liquor Board to secure a liquor license at the ski school to allow the sale/consumption of alcohol inside the building that houses the children's ski school (referred to as The Ranch) and on exterior decks around the facility. There was no public notification of this request other than a note posted on the Ranch's door. This immediately had the BCPOA questioning whether the Ranch was built to support a children's ski school or to become a gathering place and entertainment spot for adults visiting the amusement park, which conveniently would be located a few steps from the Ranch. It begs the question, 'Why does a children's ski school need a liquor license?'

It is a pattern of "bait and switch" that has property owners very concerned and has built a level of distrust for current plans outlined by VR. The corporation has repeatedly taken advantage of the neighbors' trust and goodwill in order to advance its agenda to build an amusement park at the base of Beaver Creek.

Desired Outcome

BCPOA wants to understand why VR has not acted as a good neighbor, and has not been truthful and transparent about its plans to build amusement park rides within two city blocks of their Beaver Creek neighbors. Thus far, VR has failed to listen to or respond to BCPOA concerns about how the proposed amusement park will negatively impact their members' quality of life and the environment. VR is in direct conflict with its own stated value to Do Good by 'preserving our natural environment and contributing to the success of our local communities.'

The BCPOA does not oppose the construction and operation of appropriate activities at Beaver Creek. While we don't believe an amusement park is a good fit for Beaver Creek, if VR pursues this, the BCPOA is asking that they find a more suitable location away from residential neighborhoods and one that is less damaging to the environment.

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Beaver Creek Property Owners and Greystone Condominium Association Litigation Against Vail Resorts' Proposed Mountainside Amusement Complex

Who Are The Parties:

- The BCPOA is a non-profit corporation consisting of property owners throughout Beaver Creek who voluntarily choose to join the association.
- The Greystone Condominium Association is a non-profit corporation of owners of property in the Greystone development, which is less than 1,000 feet from the location of the proposed Amusement Complex.
- Vail Resorts, through a variety of related companies, seeks to develop and operate the mountainside Amusement Complex in order to increase its revenues from the operation of the Beaver Creek ski resort

What Is The Proposed Amusement Complex:

- Vail Resorts seeks to construct and operate a mountainside Amusement Complex in Beaver Creek.
- The proposed Amusement Complex will feature the following:
 - **Roller Coaster** – with a ½ mile of steel track constructed on the mountainside,
 - **Ropes Course** – with 50' tall structures; and to be situated on designated wetlands,
 - **Tubing Course** – with a plastic mat 300' long and 48' wide situated on the hillside,
 - **Support Building** – a brand new building to house equipment for the Amusement Complex,
 - **Restroom Facilities** – restroom facilities constructed in close proximity to wetlands,
 - **Ticketing Operations** – to be located in the Children's Ski School, and
 - **Food/Beverage Facilities** – also to be located in the Children's Ski School.
- These are the improvements proposed by Vail Resorts at this time. Vail Resorts may build more rides if the Amusement Complex is built.

Where Will The Proposed Amusement Complex Be Located:

- The proposed Amusement Complex will be located on the hillside of Beaver Creek for all to see.
- Specifically, the proposed Amusement Complex will be located on Tract S which is:
 - Zoned as **“Open Space Recreation”** and is
 - Subject to a **Conservation Easement**
- The hub of the Amusement Complex will be the existing Children's Ski School.
- Customers will reach the Amusement Complex by the gondola serving the ski school.
- The Alpine Slide/Coaster will be located adjacent to the “Haymeadow” ski run, portions of which will be fenced off from any skiing activity during the winter.
- Construction of the proposed Amusement Complex will cause a rerouting of the existing Aspen Glade hiking trail.

Why Do The Associations Oppose The Proposed Amusement Complex:

- The Associations support development in Beaver Creek: that is consistent with the design and development scheme for Beaver Creek; that creates and maintains a pleasant and desirable environment in Beaver Creek; and which is consistent with Beaver Creek's creation and standing as a premier, world-class resort.
- A mountainside amusement complex is inconsistent with these factors and is simply not appropriate for Beaver Creek.

Beaver Creek Property Owners and Greystone Condominium Association Litigation Against Vail Resorts' Proposed Mountainside Amusement Complex

What Specific Ground Do The Associations Have To Challenge Vail Resorts' Development Of A Mountainside Amusement Complex:

- As with any litigation, the grounds for the Association's opposition are based upon legal theories that are sometimes prone to "legalese."
- In the simplest of terms, the Associations oppose the proposed Amusement Complex because the construction and operation of an Amusement Complex on Tract S will violate:
 - **prior agreements** by Vail Resorts,
 - certain **government regulations**, including wetlands regulations,
 - certain **documents governing development in Beaver Creek**, and
 - the **Conservation Easement** for open space areas in Beaver Creek.
- On more complex grounds, the Associations have asserted claims against Vail Resorts for:
 - **nuisance** – because an Amusement Complex will interfere with the use/enjoyment of the existing residential properties and will substantially change the unique character of the area the public enjoys,
 - **misrepresentation/concealment/fraud** – arising from Vail Resorts' original representations when it developed the Children's Ski School/Gondola as a facility limited only to serving children in daylight hours, and from Vail Resorts' representations that it would seek approval to construct an Alpine Slide/Coaster in areas other than Tract S,
 - **civil conspiracy** – arising from the conspiracy of various Vail Resorts' entities to seek approval to construct the Children's Ski School as just that, a ski school for children, while otherwise rebranding the building as "The Ranch" in order to obtain a liquor license, and improperly attempting to run a club/restaurant from the Children's Ski School, and

- **violation of the Colorado Consumer Protection Act** –for Vail Resorts' deceptive trade practices in labeling the Children's Ski School as a children's facility in order to obtain prior development approvals but then rebranding the ski school as "The Ranch" in order to obtain a liquor license without ever disclosing the actual nature of the ski school to the local authorities, and for soliciting the Associations' support for certain legislation under the guise that the approval of such legislation would allow Vail Resorts to build an Alpine Slide/Coaster somewhere other than on Tract S.

What Do The Associations Desire From Litigation:

- As is common in litigation, the Associations have made numerous claims for relief, including claims for monetary damages from Vail Resorts.
- However, the Associations' true goal in litigation is to stop the development of the Proposed Amusement Complex on the Beaver Creek mountainside.
- Ultimately, the Associations desire is to preserve and protect the unique character of Beaver Creek.