



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: March 14, 2016

SUBJECT: A request for a recommendation to the Vail Town Council for a Prescribed Regulations Amendment pursuant to Section 11-3-3 Prescribed Regulations Amendment, Vail Town Code to amend Section 11-7-15, Ski Base Area Signs of the Vail Town Code in order to allow advertising for on-mountain recreational activities and setting forth details in regard thereto. (PEC160007).

Applicant: Vail Resorts, represented by Mauriello Planning Group
Planner: Brian Garner

I. SUMMARY

This is a proposal to amend the text of Section 11-7-15, *Ski Base Area Signs*, of the Vail Town Code to clarify and differentiate between recreational activities and commercial uses and to be more consistent with the definition of *Sign*, *Ski Base* in Section 11-2-1, *Definitions*. The amendment is applicable to the ski base areas of Vail Village, Lionshead, Golden Peak, Cascade Village, and any other future portals immediately adjacent to a ski lift or tow.

Based upon staff's review of the criteria outlined in Section VI of this memorandum and the evidence and testimony presented, the Community Development Department recommends the Planning and Environmental Commission forward a **recommendation of approval** for the Prescribed Regulation Amendment to the Vail Town Council.

II. DESCRIPTION OF REQUEST

This is a request for a recommendation to the Vail Town Council to amend Section 11-7-15 of the Vail Town Code. The purpose of the amendment is to clarify and differentiate between recreational activities and commercial uses and be more consistent with the definition of *Sign*, *Ski Base* in Section 11-2-1, *Definitions*. In doing so, the applicant, Vail Resorts will be enabled to advertise summer activities that take place on the mountain such as Epic Discovery, which is a recreational activity that is a commercial enterprise. According to the Vail.com website, "Vail's existing Adventure Ridge has already undergone enhancements in preparation for Epic Discovery over the past few years with the addition of a zip line, two challenge courses, a kids challenge course and kids zip line, and summer tubing. All of these activities, along with the Forest Flyer and Game Creek canopy tour, will be incorporated into Epic Discovery when it debuts in summer

2016.” Therefore, the amendment is requested by Vail Resorts to allow signage within the ski base area to advertise Epic Discovery.

As currently written, staff interprets the prohibition of commercial uses to include any commercial enterprise on the mountain, including recreational activities. The applicant, Vail Resorts is unable to display signage for Epic Discovery as a result of this conclusion. Therefore, this amendment will make clear the distinction between eating and drinking establishments from recreational activities and allow the applicant, Vail Resorts the ability to erect signage for Epic Discovery and similar uses that are clearly distinct from commercial advertising.

Definition of Ski Base Area in Section 11-2-1, Definitions:

For the purpose of regulating ski base area signs, ski base areas are those areas of Vail Village, Lionshead, Golden Peak, Cascade Village, and any other future portals immediately adjacent to a ski lift or tow.

Definition of Sign, Ski Base in Section 11-2-1, Definitions:

A sign in a ski base area that informs the public about on mountain conditions, grooming reports, status of ski lifts and tows, and the location of ski school facilities, ski racing facilities, ski patrol facilities, outdoor recreation facilities and activities, lift ticket sales, skier and guest services.

Requested Amendment to 11-7-15 Ski Base Area Signs: The proposed amendment to the regulation for ski base area signs are as follows (additions are in **bold**, deletions are in strikethrough):

A. Description: These regulations apply to all signs erected within the ski base areas. These regulations are intended to provide the ski base areas with the signs necessary to operate the ski mountain. These signs are necessary to clearly communicate the multi-seasonal recreational offerings of activities available on the ski mountain. There shall be a sign program addressing the needs of both the winter and summer seasons. The intent of these regulations is to provide the highest level of guest services while maintaining the highest quality resort character. It is not the intent of these regulations to provide a competitive advantage to on mountain retail stores and eating and drinking establishments. commercial uses.

1. Number: Subject to design review.

2. Area: Subject to design review.

3. Height: Awning, projecting, wall, and electronic signs shall have a minimum clearance of eight feet (8') above pedestrian-ways and a minimum clearance of fifteen feet (15') above vehicular-ways. No part of a ski base sign shall extend more than twenty five feet (25') above grade.

4. Location: Subject to design review. Signs may be permitted in the public right of way subject to subsection [11-5-3](#), "Placement On Public Property", of this title.

5. Type: Awning, freestanding, portable, projecting, wall, and electronic signs. A-frame and sandwich board style signs are prohibited.

6. Lighting: Subject to design review.

7. Landscaping: Subject to design review.

8. Special Provisions:

a. A sign program is required in accordance with the provisions of [chapter 8](#) of this title.

*b. **Signs shall permit the advertising of multi-seasonal recreational activities available on the ski mountain as provided by the operator of the ski mountain.***

*c. Signs advertising on mountain **retail stores and** eating and drinking establishments, ~~retail stores and establishments, and other commercial uses~~ shall be prohibited.*

The amendment to the prescribed regulation will use language consistent with the definitions used for the regulation of ski base area signs as shown above and will not affect any other signage category. Additionally, portable signs will continue to be allowed within ski base areas as written in Section 11-9-2(O). Finally, there will be no change to the current process for review and approval of ski base area signs.

III. BACKGROUND

In the ski season of 2009/2010 staff and Jeff Babb, Vail Resorts Operations Director, performed a walk-through inspection of each of Vail Mountain's ski yards. The result was the identification of numerous types and locations for signage which did not conform with the regulations of Title 11, Sign Regulations, Vail Town Code. It was determined that Title 11, Sign Regulations, Vail Town Code, did not address ski yard signs because the base areas of Vail Mountain were not located within the Town of Vail boundaries, until annexation zoning occurred in 2006. Several examples of signs that did not meet the Town's sign regulations were portable signs, flags, digital lift availability signs and ticket office signs. Also, the quantity of signs was nonconforming. At that time, the Community Development Department worked with Vail Resorts to draft an amendment specifically for ski base area signs harmonious with the Sign Regulations of the Vail Town Code.

On September 27, 2010 the Planning and Environmental Commission recommended approval of proposed Prescribed Regulations Amendments to the Vail Town Council and was subsequently approved by Town Council.

An amendment of the regulations of this title or a change in zone district boundaries may be initiated by the Town Council on its own motion, by the Planning and Environmental Commission on its own motion, by petition of any resident or property owner in the town, or by the administrator, in accordance with the Vail Town Code. The process requires a public hearing before the Planning and Environmental Commission and a recommendation from the Planning and Environmental Commission to Town Council, where final action will be taken on the application via two (2) readings of an ordinance.

IV. APPLICABLE PLANNING DOCUMENTS

Title 12 – Zoning Regulations, Vail Town Code

Purpose:

A. General: These regulations are enacted for the purpose of promoting the health, safety, morals, and general welfare of the town, and to promote the coordinated and harmonious development of the town in a manner that will conserve and enhance its natural environment and its established character as a resort and residential community of high quality.

B. Specific: These regulations are intended to achieve the following more specific purposes:

- 1. To provide for adequate light, air, sanitation, drainage, and public facilities.*
- 2. To secure safety from fire, panic, flood, avalanche, accumulation of snow, and other dangerous conditions.*
- 3. To promote safe and efficient pedestrian and vehicular traffic circulation and to lessen congestion in the streets.*
- 4. To promote adequate and appropriately located off street parking and loading facilities.*
- 5. To conserve and maintain established community qualities and economic values.*
- 6. To encourage a harmonious, convenient, workable relationship among land uses, consistent with municipal development objectives.*
- 7. To prevent excessive population densities and overcrowding of the land with structures.*
- 8. To safeguard and enhance the appearance of the town.*
- 9. To conserve and protect wildlife, streams, woods, hillsides, and other desirable natural features.*
- 10. To assure adequate open space, recreation opportunities, and other amenities and facilities conducive to desired living quarters.*
- 11. To otherwise provide for the growth of an orderly and viable community.*

Section 3-7 Amendment (in part)

A. Prescription: The regulations prescribed in this title and the boundaries of the zone districts shown on the official zoning map may be amended, or repealed by the town council in accordance with the procedures prescribed in this chapter.

B. Initiation:

- 1. An amendment of the regulations of this title or a change in zone district boundaries may be initiated by the town council on its own motion, by the planning and environmental commission on its own motion, by petition of any resident or property owner in the town, or by the administrator.*
- 2. A petition for amendment of the regulations or a change in zone district boundaries shall be filed on a form to be prescribed by the administrator. The petition shall include a summary of the proposed revision of the regulations, or a*

complete description of proposed changes in zone district boundaries and a map indicating the existing and proposed zone district boundaries. If the petition is for a change in zone district boundaries, the petition shall include a list of the owners of all properties within the boundaries of the area to be rezoned or changed, and the property adjacent thereto. The owners' list shall include the names of all owners, their mailing and street addresses, and the legal description of the property owned by each. Accompanying the list shall be stamped, addressed envelopes to each owner to be used for the mailing of the notice of hearing. The petition also shall include such additional information as prescribed by the administrator.

V. DISCUSSION ITEMS

Impact Analysis: This section considers the intended and unintended consequences as a result of the action. The intention is to provide the applicant, Vail Resorts with reasonable and clear parameters to advertise on mountain recreational activities such as Epic Discovery.

The proposed amendment to the prescribed regulation for ski base area signs is intended to clarify and differentiate between recreational activities and commercial uses and be consistent with the definition of *Sign, Ski Base* in Section 11-2-1, *Definitions*. In doing so, the intended outcome is the provision of wayfinding directional signage that helps guests better navigate the ski base area and to see the recreational activities available on the mountain. The amendment is not intended to provide the ability for advertising of on-mountain retail stores and eating and drinking establishments that would compete for business with establishments in the Town of Vail. It is the opinion of staff that the word “commercial” is too vague and open to interpretation of how regulations can apply. Additionally, “commercial” is inconsistent with the definition of *Sign, Ski Base* as it is defined in the Town Code, which clearly was written to permit the advertising of outdoor recreation facilities and activities associated with the mountain.

As a result of approval of this Prescribed Regulations Amendment, signs advertising the recreational activities available at Vail Resorts Epic Discovery will be allowed. However, signs advertising on-mountain dining and/or retail options shall continue to be prohibited.

VI. CRITERIA FOR REVIEW

Section 12-3-7(C)(2) of the Zoning Regulations identifies the factors that the Planning and Environmental Commission must consider before making a recommendation for a change to the text of the code. These factors include the following:

1. The extent to which the text amendment furthers the general and specific purposes of the zoning regulations; and

The proposed text amendment is intended to further the general and specific purposes of the zoning regulations by clarifying and differentiating between regulating terminology and definitions used in the Town Code. Consistency of

terminology and definitions promotes a coordinated and harmonious development of the Town and helps to conserve and maintain community qualities and economic values. Therefore, staff finds this criterion to be met.

2. The extent to which the text amendment would better implement and better achieve the applicable elements of the adopted goals, objectives, and policies outlined in the Vail comprehensive plan and is compatible with the development objectives of the town; and

The proposed text amendment is compatible with the development objectives of the town by establishing clear and consistent language in the Vail Town Code. Allowing signage that promotes recreational activities available on the ski mountain is beneficial to the guest experience. As a result, staff finds this criterion to be met.

3. The extent to which the text amendment demonstrates how conditions have substantially changed since the adoption of the subject regulation and how the existing regulation is no longer appropriate or is inapplicable; and

The current terminology and definitions in the Vail Town Code are conflicting and vague and it is therefore appropriate to amend the text to have clear terminology and consistent definitions of terms. As a result, staff finds this criterion to be met.

4. The extent to which the text amendment provides a harmonious, convenient, workable relationship among land use regulations consistent with municipal development objectives; and

The proposed text amendment is intended to provide clear terminology and consistent defined terms within the Vail Town Code so that land use regulations are consistent with municipal development objectives to effect a positive guest experience. As a result, staff finds this criterion to be met.

5. Such other factors and criteria the planning and environmental commission and/or council deem applicable to the proposed text amendment.

VII. STAFF RECOMMENDATION

Based upon the analysis of the review criteria contained in Section V of this memorandum and on the evidence and testimony presented, the Community Development Department recommends that the Planning and Environmental Commission make a recommendation to the Vail Town Council to approve the Prescribed Regulations Amendment to Section 11-7-15, *Ski Base Area Signs*, of the Town Code to clarify and differentiate between recreational activities and commercial uses and be more consistent with the definition of *Sign*, *Ski Base* in Section 11-2-1, *Definitions*.

If the Planning and Environmental Commission chooses to recommend approval of the proposed text amendments, the Community Development Department recommends the following **motion**:

*“The Planning and Environmental Commission forwards a recommendation of **approval** to the Vail Town Council for a Prescribed Regulations Amendment to Section 11-7-15, Ski Base Area Signs, of the Vail Town Code to clarify and differentiate between recreational activities and commercial uses and be more consistent with the definition of Sign, Ski Base in Section 11-2-1, Definitions.”*

Should the Planning and Environmental Commission choose to forward a recommendation of approval to the Vail Town Council for the proposed prescribed regulation amendment, the Community Development Department recommends the Commission makes the following findings:

“Based upon the review of the criteria outlined in Section V this memorandum, and the evidence and testimony presented, the Planning and Environmental Commission finds:

- 1. That the amendment is consistent with the applicable elements of the adopted goals, objectives and policies outlined in the Vail comprehensive plan and is compatible with the development objectives of the town; and*
- 2. That the amendment furthers the general and specific purposes of the zoning regulations; and*
- 3. That the amendment promotes the health, safety, morals, and general welfare of the town and promotes the coordinated and harmonious development of the town in a manner that conserves and enhances its natural environment and its established character as a resort and residential community of the highest quality.*

VIII. ATTACHMENTS

- Attachment A: Vail Resorts Epic Discovery signage example.
- Attachment B: Applicant Submittal.