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**Memorandum**

TO: Vail Town Council

FROM: Community Development Department

DATE: January 3, 2017

SUBJECT: First reading of Ordinance No. 35, Series of 2016, an ordinance establishing Special Development District No. 41 (Marriott Residence Inn), pursuant to Section 12-9(A), Special Development Districts, Vail Town Code, to allow for the development of a limited service lodge and deed restricted employee housing units and a conditional use permit for public or commercial parking facilities or structures, located at 1783 North Frontage Road West/Lots 9-12, Buffehr Creek Resubdivision, and setting forth details in regard thereto. (PEC16-0030)

Applicant: Vail Hotel Owner ESHV, LLC, represented by Mauriello Planning Group

Planner: Matt Panfil

As the first reading of Ordinance No. 35, Series of 2016, was continued to the January 3, 2017 Town Council meeting, please note that the staff memorandum and attachments have not changed. However, based upon comments received during the December 20, 2016 public hearing, staff offers points of clarification on the following:

1. Parking Requirement:

Public comment suggested that the amount of parking spaces proposed was insufficient for the development.

Section 12-10-10-B, Vail Town Code, states that multiple-family dwelling units between 500 to 2,000 square feet shall provide two (2) parking spaces per unit. There are 113 proposed dwelling units, each between 500 to 2,000 square feet, which requires a minimum of 226 parking spaces for the residential rental component of the proposal.

Limited service lodge units (LSLUs) require 0.7 parking spaces per LSLU. Based on the proposed 170 LSLUs, 119 parking spaces are required. The combined total of parking required for the proposal is 345 parking spaces.

However, Section 12-10-12, Vail Town Code, allows for a 7.5% reduction in the number of required parking spaces for multiple use parking facilities. Therefore, and as indicated on the December 20, 2016 staff memorandum, the total number of parking spaces required for the proposal is 320, which is 40 parking spaces fewer than the amount proposed by the applicant.

## 2. Spot Zoning:

Public comment suggested that the requested special development district was an example of “spot zoning.”

According to *King’s Mill Homeowners Association v. City of Westminster*, 192 Colo. 305, 557 P.2d 1186 (1976), the test for determining whether a particular action constitutes spot zoning is whether the change is “*made with the purpose of furthering a comprehensive zoning plan or merely to relieve a particular property from the restrictions of the zoning regulations.*”

Criterion 4 of Section VII of the staff memorandum cites the multiple goals and objectives in the various documents that make up the Town Comprehensive Plan, which support the proposed land uses. Also, the proposed land uses are consistent with the permitted and conditional uses in the Public Accommodation-2 zone district.

## 3. Employee Housing Units (EHUs), LSLUs, Density, and GRFA

Various comments were made suggesting the number of EHUs and LSLUs should be included in the Town’s calculation of density and that EHUs should also be included in the Town’s calculation of GRFA.

As a reminder, Section 12-7J-8, Density Control, Vail Town Code, specifies that for the purposes of calculating density, “employee housing units, limited service lodge units, accommodation units and fractional fee club units shall not be counted towards density (dwelling units per acre).” EHUs and LSLUs do not count towards density because the community chose to incentivize their construction in this zone district to advance community goals.

The deduction of floor area of EHUs from the total GRFA is permitted in multiple zone districts throughout the Town. As is the case with density calculations, the intent of excluding EHU floor area is to incentivize their construction.

No special privilege is granted to the applicant for additional density or GRFA that is not otherwise available to similar uses in this zone district.