



Memorandum

TO: Vail Town Council

FROM: Community Development Department

DATE: December 19, 2017

SUBJECT: Second reading of Ordinance No. 21, Series of 2017, an ordinance repealing and reenacting Ordinance No. 20, Series of 2005, providing for a major amendment to Special Development District No. 36, Four Seasons Resort, in accordance with Chapter 12-9A, Special Development (SDD) District, Vail Town Code, to allow for the reconfiguration of existing accommodation units (AUs), fractional fee units (FFUs), and dwelling units (DUs), located at 1 Vail Road / Lots A-C, Vail Village Filing 2 (Four Seasons Resort), and setting forth details in regard thereto (PEC17-0038).

Applicant: Four Seasons Resort, represented by Braun Associates, Inc.
Planner: Matt Panfil

I. SUMMARY

The applicant, Four Seasons Resort, represented by Braun Associates, Inc., is requesting a second reading of Ordinance No. 21, Series of 2017, an ordinance repealing and reenacting Ordinance No. 20, Series of 2005, providing for a major amendment to Special Development District No. 36, Four Seasons Resort, in accordance with Chapter 12-9A, Special Development (SDD) District, Vail Town Code, to allow for the reconfiguration of existing accommodation units (AUs), fractional fee units (FFUs), and dwelling units (DUs), located at 1 Vail Road.

On September 11, 2017, the Town of Vail Planning and Environmental Commission (PEC) held a public hearing on the request for a recommendation to the Vail Town Council for a major amendment to Special Development District No. 36, Four Seasons Resort, pursuant to the requirement of Section 12-9A, Special Development (SDD) District, Vail Town Code. At the conclusion of the public hearing, the PEC voted 6-0-0 to forward a recommendation of approval, with conditions, to the Vail Town Council.

On December 5, 2017, the Vail Town Council approved, on first reading, Ordinance No. 21, Series of 2017 by a vote of 6-1-0 (Foley opposed), with an additional condition that prior to issuance of any building permit for altering the unit mix and/or unit count in the

subject property, the applicant shall provide 2,000 square feet of off-site, deed-restricted employee housing within the Town of Vail, in addition to the applicant's original proposal of a two-bedroom, 788 minimum square foot, deed-restricted employee housing unit.

II. ACTION REQUESTED OF THE TOWN COUNCIL

The Vail Town Council shall approve, approve with modifications, or deny Ordinance No. 21, Series of 2017, upon second reading.

III. BACKGROUND

The subject property was once occupied by a 120 room Holiday Inn hotel and a gas station. Ordinance No. 14, Series of 2001 established SDD No. 36, Four Seasons. SDD No. 36, Four Seasons, was subsequently amended to alter the unit mix in 2003 (Ordinance No. 9, Series of 2003) and 2005 (Ordinance No. 20, Series of 2005).

The changes that occurred throughout this process are as follows:

	2001	2003	2005
AUs	116	118	122
DUs	15	18	16
FFUs	40	22	19
EHUs*	4,971 SF	34	28
Total Units	171 + EHUs	192	185

* *The property was developed prior to the Town of Vail codifying EHU requirements. The developer at the time included EHUs as part of a public benefit for an SDD. The quantity of EHUs in 2001 was established in overall square footage rather than in number of units.*

Though approved in 2001, construction did not begin until 2006 and the project did not open as the Four Seasons until 2010. While there have been changes to the internal programming of the building, no other significant changes have been made to the resort since its opening.

After purchasing the subject property in November 2016, the applicant established new goals in order to operate the Four Seasons more efficiently and effectively. Said goals include:

- Increasing the number of standard sized hotel rooms / AUs;
- Reducing the number of suites;
- Repurposing thirteen (13) FFUs that remain unsold since the building's construction;

- Creating additional for-sale real estate; and
- Providing an incentivized rental program via the addition of attached accommodation units (AAUs) / “lock-offs.”

In order to achieve these goals, the applicant proposes the following changes to the existing unit mix:

Existing Unit Mix	Proposed Unit Mix	Net Change
122 AUs	130 AUs	+8 AUs
16 DUs	28 Dwelling Units (with 18 AAUs)	+12 DUs / + 18 AAUs
19 FFUs	6 FFUs	-13 FFUs
28 EHU	28 EHU	---

The applicant has deemed it necessary to repurpose the thirteen (13) FFUs for two (2) primary reasons:

- The project was approved in 2001, but did not open as the Four Seasons until 2010. The applicant states that the luxury lodging industry changed significantly over this time period and FFUs have fallen out of favor with the market.
- The property was owned and operated by a bank between 2011 and November 2016, when the applicant purchased the property. As the applicant states, financial institutions are not well suited to operate luxury properties and there was a lack of a long-term vision for the property.

The applicant has deemed it necessary to decrease the number of suites and increase the number of standard-sized AUs based on a comparison to industry standards. Currently, 28% of the Four Seasons’ rooms are suites, compared to 4-9% at resorts such as the Park Hyatt in Beaver Creek, Ritz-Carlton Bachelor Gulch, and the Sonnenalp in Vail.

The Town of Vail has a history of utilizing the SDD process as a means to amend the densities and unit mixes within lodges. For example, SDD No. 17, Ramshorn Lodge Condominiums, SDD No. 19, Garden of the Gods / Galatyn Lodge, and SDD No. 28, Christiania at Vail have all requested, and received approval of, similar major amendments.

As all of the conversions occur within the existing structure; there are no changes to development standards such as setbacks, building height, site coverage, and landscaping. The resulting unit mix also does not result in any new gross residential floor area (GRFA), thus no inclusionary zoning fees apply. However, the proposed change to the unit mix of the resort does impact two (2) specific regulations: parking and commercial linkage.

Parking:

The existing SDD (Ord. No. 20, Series of 2005) requires a minimum of 211 parking spaces. Currently, the Four Seasons has a total of 215 parking spaces, which are all managed by a 24-hour concierge service. As demonstrated by the applicant on page nine to ten of the project narrative (Attachment B), the reconfiguration of units results in a requirement for 19 additional parking spaces. The applicant is unable to create new space for parking, but has managed to provide an additional 20 parking spaces by restriping some of the standard-sized vehicle parking spaces to compact-sized vehicle parking spaces.

Commercial Linkage:

Section 12-23-4, Redevelopment, Vail Town Code, specifies that commercial linkage fees apply for any increase in the number of accommodation units in the redevelopment. In order to calculate the applicable commercial linkage fees, the employee generation and mitigation rates must be identified for each conversion of DUs or FFUs into new AUs:

- The conversion of four (4) FFUs to sixteen (16) AUs results in a net increase of sixteen (16) AUs:

$$16 \times 0.7 = 11.2 \text{ employees}$$

Per Section 12-23-2, Employee Generation and Mitigation Rates, a commercial redevelopment shall mitigate its impact on employee housing by providing EHUs for 20% of the employees generated:

$$11.2 \text{ employees} \times 0.2 = 2.24 \text{ employees}$$

As the applicant mention in the narrative (page 11, Attachment B), four (4) FFUs are lost in the conversion and their associated employee housing impact should be deducted. This is difficult as the employee housing mitigation associated with FFUs is determined by the inclusionary zoning formula, which is based on square feet, not employees generated. While comparing the employee housing impact for AUs versus FFUs is essentially comparing apples to oranges, the applicant has provided an analysis that is logical in its approach:

- Employee housing impact for FFUs is based on square footage. The square footage of the four (4) FFUs lost in the conversion to AUs totals 10,312 square feet.
- Section 12-24-2, Employee Housing Requirements, Vail Town Code, requires a mitigation rate of ten percent (10%) of the total new GRFA. Therefore, in this analysis, the applicant would be responsible for mitigating 1,031.2 square feet.

- Section 12-24-3, Building Requirements, Vail Town Code, establishes a minimum square footage for different types of EHUs. The smallest type of unit, dormitories, requires a minimum 250 square feet of GRFA.
- If the 1,031.2 square feet is divided into dormitory space, the result would be four (4) dormitory units required as mitigation for the four (4) FFUs. At a minimum, the four (4) dormitory units would house four (4) employees.
- The number of employees generated by the sixteen (16) new AUs (2.24) is less than that required by the previously existing four (4) FFUs, which, by comparison, generated a minimum of four (4) employees. There is therefore no net increase, but an actual decrease in 1.48 employees generated by the conversion of four (4) FFUs to sixteen (16) AUs. Therefore, the applicant believes there is no mitigation necessary.
- The conversion of two (2) AU suites to four (4) standard AUs results in a net increase of two (2) AUs. Per Table 23-1, Employee Generation Rates by Type of Commercial Use, the employee generation rate for AUs is 0.7 employee per net new units:

$$2 \times 0.7 = 1.4 \text{ employees}$$

$$1.4 \times 0.2 = 0.28 \text{ employees}$$

As the total number of employees generated is less than one, the applicant may provide a payment of fees in lieu of providing on-site employee housing:

$$0.28 \text{ employees} \times \$177,733 \text{ (fee per employee generated)} = \$49,765.24$$

Instead of the total above, the applicant has voluntarily proposed to purchase and place a deed restriction on a two-bedroom DU in excess of 788 square feet. By comparison, a 788 square foot two-bedroom DU could accommodate 2.25 employees, per Section 12-23-3, Size and Building Requirements, Vail Town Code. Therefore, the proposed employee housing mitigation is 1.97 employees more than required.

However, the applicant's request is unique in that it uncovered an inherent contradiction within the Vail Town Code. The definition of fractional fee unit has always considered FFUs as individual dwelling units. Moreover, the definition of residential development within the Vail Town Code includes FFUs, while the definition of commercial development includes accommodation units (AUs). This became problematic with the adoption of Ordinance No. 23, Series of 1999, which grouped FFUs (a residential product) and AUs (a commercial product) together in regards to square footage calculations. Based on research of Ordinance No. 23, Series of 1999, a major reason for grouping FFUs and AUs together in square footage calculations was to incentivize the creation of more FFUs as they were considered one of the preferred lodging/residential types and resort projects with FFUs were more likely to receive development financing than strictly AU resort projects.

Unfortunately for FFUs, the market has almost completely dissipated, and the subject property contains thirteen (13) FFUs that remain unsold since the building's construction. Therefore, staff asks that the Town Council consider directing staff to further research the impact of a diminished FFU market in relation to existing regulations and the need for any prescribed regulations amendments.

IV. ZONING / SDD NO. 36 ANALYSIS

Address: 1 Vail Road
 Legal Description: Vail Village Filing 2, Lot A - C
 Existing Zoning: Public Accommodation (PA)
 Existing Land Use Designation: Resort Accommodations and Services
 Mapped Geological Hazards: Steep Slope > 40% (Man-Made)
 View Corridor: None

Development Standard	Allowed / Required	Existing	Proposed	Change
Site Area	10,000 SF	2.32 acres (101,140 SF)		No Change
Setbacks	As set forth in the Approved Development Plan referenced in Section 4 of Ord. No. 20, Series of 2005, Four Seasons SDD			No Change
Building Height	89'	N/A		No Change
Density		AUs: 122 DUs: 16 FFUs: 19 EHUs: 28	AUs: 130 DUs: 28 (+18 AAUs) FFUs: 6 EHUs: 28	AUs: +8 DUs: +12 (+18 AAUs) FFUs: - 13 EHUs: No Change
GRFA		177,609 SF		No Change
Retail SF		2,386 SF		No Change
Restaurant SF		5,946 SF		No Change
Conference SF		11,139 SF		No Change
Health Club		18,577 SF		No Change
Site Coverage		85,091 SF (71%) (Below Grade) 70,150 SF (59%) (Above Grade)		No Change
Landscaping		35,268 SF (30%)		No Change
Parking & Loading	230 Spaces	215 Spaces	235 Spaces	+ 20 Spaces

V. RECOMMENDATIONS

Recommendation Based on First Reading

Should the Vail Town Council choose to approve Ordinance No. 21, Series of 2017, upon second reading, the Planning and Environmental Commission recommends the Town Council pass the following **motion**:

“The Vail Town Council approves on second reading Ordinance No. 21, Series of 2017, an ordinance repealing and reenacting Ordinance No. 20, Series of 2005, establishing Special Development District No. 36, Four Seasons Resort, pursuant to Article A, Special Development (SDD) District, Chapter 9, Title 12, Zoning Regulations, Vail Town Code and setting forth details in regard thereto.”

Should the Vail Town Council choose to approve Ordinance No. 21, Series of 2017, upon second reading, the Planning and Environmental Commission recommends the Town Council includes the following **conditions**:

- 1. “The exterior building changes associated with this major amendment to SDD No. 36, Four Seasons, are contingent upon the applicant obtaining Town of Vail approval of an associated design review board application for all exterior changes to the property;*
- 2. Prior to issuance of any certificate of occupancy for altering the unit mix and/or unit count in the subject property, the applicant shall record with the Eagle County Clerk and Recorder a Town of Vail employee housing deed restriction for a minimum two-bedroom dwelling unit of at least 788 square feet, located within the Town of Vail;*
- 3. Prior to issuance of any building permit for altering the unit mix and/or unit count in the subject property, the applicant shall pay to the Town of Vail a \$81,312 traffic mitigation fee, based on the Department of Public Works’ estimate of eight (8) net new PM peak hour vehicular trips in the amount of \$11,200 per net new trip, unless the applicant provides a traffic study that demonstrates less than eight (8) net new PM peak hour vehicular trips and said study is accepted by the Department of Public Works; and*
- 4. Prior to issuance of any certificate of occupancy for altering the unit mix and/or unit count in the subject property, the applicant shall provide 2,000 square feet of off-site, deed-restricted employee housing within the Town of Vail, in addition to the original proposal of a two-bedroom, 788 minimum square foot, deed-restricted unit.”*

Recommendation Based on Applicant’s Proposed Amended Conditions

The changes proposed by the applicant required employee housing for 0.28 employees and the applicant originally proposed housing for 2.25 employees. In response to discussions during First Reading, the applicant has proposed increasing the employee housing from 788 square feet to a total of 2,000 square feet, to be provided in the manner outlined in their proposed second condition.

Should the Vail Town Council choose to approve Ordinance No. 21, Series of 2017, upon second reading, and with the amended conditions proposed by the applicant, the Town Council shall include the following **conditions**:

1. *“The exterior building changes associated with this major amendment to SDD No. 36, Four Seasons, are contingent upon the applicant obtaining Town of Vail approval of an associated design review board application for all exterior changes to the property;*
2. *The applicant shall provide a minimum of 2,000 square feet of deed-restricted employee housing within the Town of Vail, to be recorded with the Eagle County Clerk and Recorder. Said deed-restricted employee housing shall be provided in the following manner:*
 - a. *Prior to the issuance of any certificate of occupancy resulting in any decrease in the amount of accommodation units (AUs) or increase in the amount of dwelling units (DUs), the applicant shall provide a deed-restricted employee housing unit with a minimum of two bedrooms and approximately 788 square feet; and*
 - b. *Prior to March 31, 2019, the applicant shall provide a deed-restricted employee housing unit, with a minimum of approximately 1,212 square feet.*
3. *Prior to issuance of any building permit resulting in any decrease in the amount of accommodation units (AUs) or increase in the amount of dwelling units (DUs), the applicant shall pay to the Town of Vail a \$81,312 traffic mitigation fee, based on the Department of Public Works’ estimate of 7.2 net new PM peak hour vehicular trips.”*

Findings

Should the Vail Town Council choose to approve Ordinance No. 21, Series of 2017, upon second reading, the Planning and Environmental Commission recommends the Town Council makes the following **findings**:

1. *“That the SDD complies with the standards listed in Section 12-9A-8-A, Vail Town Code, or the applicant has demonstrated that one or more of the standards is not applicable, or that a practical solution consistent with the public interest has been achieved;*
2. *That the SDD is consistent with the adopted goals, objectives, and policies outlined in the Vail comprehensive plan and compatible with the development objectives of the town;*
3. *That the SDD is compatible with and suitable to adjacent uses and appropriate for the surrounding areas; and*
4. *That the SDD 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.”

VI. ATTACHMENTS

- A. Vicinity Map
- B. Ordinance No. 21, Series of 2017
- C. PEC Memorandum, with Plan Set, dated September 11, 2017
- D. Record of approved PEC minutes, dated September 11, 2017
- E. Project Narrative, dated July, 2017
- F. Ordinance No. 20, Series of 2005