

**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, PURSUANT TO ARTICLE A, SPECIAL DEVELOPMENT (SDD) DISTRICT, CHAPTER 9, TITLE 12, ZONING REGULATIONS, VAIL TOWN CODE, AND SETTING FORTH DETAILS IN REGARD THERETO**

WHEREAS, the Town of Vail, in the County of Eagle and State of Colorado (the "Town"), is a home rule municipal corporation duly organized and existing under the laws of the State of Colorado and the Vail Town Charter;

WHEREAS, the members of the Town Council of the Town (the "Council") have been duly elected and qualified;

WHEREAS, Ordinance No. 20, Series of 2005, reestablished Special Development District No. 36, Four Seasons Resort;

WHEREAS, amendments to a Special Development District are permitted pursuant to the parameters set forth in Section 12-9A-10, Vail Town Code;

WHEREAS, the Planning and Environmental Commission of the Town held a public hearing on September 11, 2017 to consider the proposed amendments in accordance with the provisions of the Vail Town Code and forwarded a recommendation of approval to the Council by a vote of 6-0-0;

WHEREAS, the Council finds that the proposed amendments to Special Development District No. 36, Four Seasons Resort, comply with the design criteria outlined in Section 12-9A-8, Vail Town Code;

WHEREAS, the Council finds that the Special Development District amendments comply with the standards listed Article 12-9A, Special Development District, or that a practical solution consistent with the public interest has been achieved;

WHEREAS, the Council finds that the Special Development District amendments are consistent with the adopted goals, objectives and policies outlined in the Vail comprehensive plan and compatible with the development objectives of the town;

WHEREAS, the Council finds that the Special Development District amendments are compatible with and suitable to adjacent uses and appropriate for the surrounding areas;

WHEREAS, the Council finds that the Special Development District amendments promote the health, safety, morals, and general welfare of the Town and promote 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;

WHEREAS, the approval of these Special Development District amendments, and the development standards in regard thereto, shall not establish a precedent or entitlements elsewhere within the Town;

WHEREAS, all notices as required by the Town of Vail Municipal Code have been sent to the appropriate parties.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VAIL, COLORADO, THAT:**

**Section 1.** Ordinance No. 20, Series of 2005, is hereby repealed and reenacted as follows: (all additions are illustrated with ***bold italics***, deletions are illustrated with ~~strikethrough~~):

**Section 1. Purpose of the Ordinance**

The purpose of Ordinance No. ~~20~~ ***21***, Series of ~~2005~~ ***2017***, is to amend an Approved Development Plan for Special Development District No. 36 Four Seasons Resort, and to prescribe appropriate development standards for Special Development District No. 36, in accordance with the provisions of Chapter 12-9A, Vail Town Code. The "underlying" zone district for Special Development District No. 36 shall remain Public Accommodation zone district.

**Section 2. Establishment Procedures Fulfilled, Planning Commission Report**

The procedural requirements described in Chapter 12-9A of the Vail Town Code have been fulfilled and the Vail Town Council has received the recommendation of approval from the Planning & Environmental Commission for the major amendment to Special Development District No. 36, Four Seasons Resort. Requests for the amendment of a special development district follow the procedures outlined in Chapter 12-9A of the Vail Town Code.

**Section 3. Special Development District No. 36**

The Special Development District is hereby amended to assure comprehensive development and use of the area in a manner that would be harmonious with the general character of the Town, provide adequate open space and recreation

amenities, and promote the goals, objectives and policies of the Town of Vail Comprehensive Plan. Special Development District No. 36, Four Seasons Resort, is regarded as being complementary to the Town of Vail by the Vail Town Council and the Planning & Environmental Commission, and has been amended because there are significant aspects of the Special Development District that cannot be satisfied through the imposition of the standard Public Accommodation zone district requirements.

**Section 4. Development Standards – Special Development District No. 36, Four Seasons Resort Development Plan**

The Approved Development Plan for Special Development District No. 36, Four Seasons Resort, shall include the following plans and materials provided by Zehren and Associates, Inc., and Hill Glazier Architects, and Alpine Engineering, dated August 8, 2005, and stamped approved by the Town of Vail, dated August 8, 2005 **and the plans provided by Braun Associates, dated July, 2017:**

- a. C1. Existing Conditions Plan
- b. C3. Water and Sanitary Sewer Plan
- c. C4. Grading and Drainage Plan
- d. C5. Erosion and Sediment Control Plan
- e. C6. Shall Utility Plan
- f. A-2.0.1 Level 1 Plan (132')
- g. A-2.0.2 Level 2 Plan (140', 142')
- h. A-2.0.3 Level 3 Plan (152')
- i. A-2.0.4 Level 4 Plan (162')
- j. A-2.0.5 Level 5 Plan (172')
- k. A-2.0.6 Level 6 Plan (182')
- l. A-2.0.7 Level 7 Plan (192')
- m. A-2.0.8 Level 8 Plan (202')
- n. A-2.0.9 Level 9 Plan (212')
- o. A-2.0.10 Level 10 Plan (222')
- p. A-2.0.11 Roof Plan
- q. A-5.0.1 Elevations
- r. A-5.0.2 Elevations
- s. A-5.0.3 Elevations
- t. A-8.0.1 Site Plan North
- u. A-8.0.2 Site Plan South
- v. A-9.0.1 Landscape Plan North
- w. A-9.0.2 Landscape Plan South
- x. A-10.0.1 Building Height Calculations – Absolute Height/Interpolated Contours
- y. A-10.0.2 Building Height Calculations – Maximum Height/Interpolated Contours
- z. A-10.0.3 Building Height Calculations at Proposed Grades

- aa. A-11.0.1 Existing Circulations
- bb. A-11.0.2 Proposed Circulations
- cc. A-12.0.1 Off-site Improvements Plan
- dd. A-13.0.1 Landscape Area
- ee. A-14.0.1 Hardscape Area
- ff. A-15.0.1 Above Ground Site Coverage
- gg. A-15.0.2 Site Coverage Below Grade
- hh. A-16.0.1 Streetscape Elevations
- ii. Level 1 – Existing and Proposed Condition**
- jj. Level 2 – Existing and Proposed Condition**
- kk. Level 3 – Existing and Proposed Condition**
- ll. Level 4 – Existing and Proposed Condition**
- mm. Level 5 – Existing and Proposed Condition**
- nn. Level 6 – Existing and Proposed Condition**
- oo. Level 7 – Existing and Proposed Condition**
- pp. Level 8 – Existing and Proposed Condition**
- qq. Level 9 – Existing and Proposed Condition**
- rr. Level 10 – Existing and Proposed Condition**
- ss. Level 1 and Level 2 – Existing Parking**
- tt. Level 1 and Level 2 – Proposed Parking**

**Permitted Uses –**

The permitted uses in Special Development District No. 36 shall be as set forth in the development plans referenced in Section 4 of this ordinance.

**Conditional Use –**

The conditional uses for Special Development District No. 36, Four Seasons Resort, shall be set forth in Section 12-7A-3 of the Town of Vail Zoning Regulations. All conditional uses shall be reviewed per the procedures as outlined in Chapter 12-16 of the Town of Vail Zoning Regulations.

**Density – Units per Acre – Dwelling Units, Accommodation Units, Fractional Fee Club Units and Employee Housing Units –**

The number of units permitted in Special Development District No. 36, Four Seasons Resort, shall not exceed the following:

- Dwelling Units – ~~46~~ **28**
- Accommodation Units – ~~422~~ **130**
- Fractional Fee Club Units – ~~49~~ **6**
- Type III Employee Housing Units – 28
- Attached Accommodation Units – 18**

### **Density – Floor Area –**

The gross residential floor area (GRFA), common area and commercial square footage permitted for Special Development District No. 36, Four Seasons Resort, shall be as set forth in the Approved Development Plan referenced in Section 4 of this ordinance.

#### Specifically:

GRFA – 177,609 square feet

Retail – 2,386 square feet

Restaurant/Lounge – 5,946 square feet (seating capacity)

Conference Facilities – 11,139 square feet

Health Club and Spa – 18,577 square feet

### **Setbacks –**

Required setbacks for Special Development District No. 36, Four Seasons Resort, shall be as set forth in the Approved Development Plan referenced in Section 4 of this ordinance.

### **Height –**

The maximum building height for Special Development District No. 36, Four Seasons Resort, shall be as set forth in the Approved Development Plan referenced in Section 4 of this ordinance (89 feet maximum).

### **Site Coverage –**

The maximum site coverage allowed for Special Development District No. 36, Four Seasons Resort, shall be as set forth in the Approved Development Plan referenced in Section 4 of this ordinance (70,150 square feet above grade or 59%; and 85,091 square feet below grade or 71%).

### **Landscaping –**

The minimum landscape area requirement for Special Development District No. 36, Four Seasons Resort, shall be as set forth in the Approved Development Plan referenced in Section 4 of this ordinance (35,268 square feet or 30%).

## **Parking and Loading –**

The required number of off-street parking spaces and loading/delivery berths for Special Development District No. 36, Four Seasons Resort, shall be provided as set forth in the Approved Development Plan referenced in Section 4 of this ordinance (~~214~~ **230** spaces required, ~~215~~ **235** spaces provided). In no instance shall Vail Road, West Meadow Drive or the South Frontage Road be used for loading/delivery or guest drop-off/pick-up without the prior written approval of the Town of Vail. The required parking spaces shall not be individually sold, transferred, leased, conveyed, rented or restricted to any person other than a condominium owner, fractional fee owner, tenant, occupant or other user of the building, except that six (6) of the required spaces may be utilized by the Holiday House Condominium Association, d/b/a Nine Vail Road Condominiums for parking pursuant to the terms of a recorded Easement Agreement. The foregoing language shall not prohibit the temporary use of the parking spaces for events or uses outside of the building, subject to the approval of the Town of Vail nor shall it limit the number of spaces available for sale or lease to condominium and/or fractional fee owners.

### **Section 5. Approval Agreements for Special Development District No. 36, Four Seasons Resort**

The approval Special Development District No. 36, Four Seasons Resort shall be conditioned upon the developer's demonstrated compliance with the following approval agreements:

1. That the developer shall provide deed-restricted housing that complies with the Town of Vail Employee Housing requirements (Chapter 12-13) for a minimum of 56 employees on the Four Seasons Resort site, and that said deed-restricted employee housing shall be made available for occupancy, and that the deed restrictions shall be recorded with the Eagle County Clerk & Recorder, prior to issuance of a Temporary Certificate of Occupancy for the Four Seasons Resort.
2. That the Memorandum of Understanding as provided in Exhibit A, shall be adopted with the second reading of Ordinance No. 20, Series of 2005. This fulfills approval agreement number 2 of first reading of Ordinance No. 20, Series of 2005.
3. That the developer shall record a drainage easement for Spraddle Creek. The easement shall be prepared by the developer and submitted for review and approval by the Town Attorney. The easement shall be recorded with the Eagle County Clerk & Recorder's Office prior to the issuance of a Temporary Certificate of Occupancy for the Four Seasons Resort.

4. That the developer shall submit a final exterior building materials list, a typical wall section and complete color renderings for review and approval of the Design Review Board, prior to submittal of an application for a building permit.
5. That the developer shall submit a comprehensive sign program proposal for the Four Seasons Resort for review and approval by the Design Review Board, prior to the issuance of a Temporary Certificate of Occupancy for the Four Seasons Resort.
6. That the developer shall submit a rooftop mechanical equipment plan for review and approval by the Design Review Board prior to the issuance of a building permit. All rooftop mechanical equipment shall be incorporated into the overall design of the hotel and enclosed and visually screened from public view.
7. That the developer shall post a bond to provide financial security for the 150% of the total cost of the required off-site public improvements. The bond shall be in place with the Town prior to the issuance of a building permit.
8. That the developer shall comply with all fire department staging and access requirements pursuant to Title 14, Development Standards, Vail Town Code. This will be demonstrated on a set of revised plans for Town review and approval prior to building permit submittal.
9. That the required Type III deed-restricted employee housing units shall not be eligible for resale and that the units be owned and operated by the hotel and that said ownership shall transfer with the deed to the hotel property.
10. That the developer shall coordinate the relocation of the existing electric transformers on the property with local utility providers. The revised location of the transformers shall be part of the final landscape plan to be submitted for review and approval by the Design Review Board.
11. That the developer shall submit a written letter of approval from Nine Vail Road Condominium Association, the Scorpio Condominium Association, and the Alhorn Condominium Association granting access to allow for the construction of sidewalk, drainage, Spraddle Creek relocation, and landscaping improvements, respectively, prior to the issuance of a building permit.
12. That the developer provides a 6 ft. to 8 ft. heated paver pedestrian walkway from the Frontage Road bus stop adjacent to the West Star Bank then continuing east to Vail Road and then south to the 9 Vail Road property line.

All work related to providing these improvements including lighting, retaining, utility relocation, curb and gutter, drainage and landscaping shall be included. A plan shall be submitted for review and approval by the Town and the Design Review Board prior to submittal of a building permit.

13. That the developer shall provide a heated pedestrian walk connection from the Frontage Road to West Meadow Drive. The developer shall record a pedestrian easement for this connection for review and approval by the Town Attorney prior to issuance of a Temporary Certificate of Occupancy.
14. That the developer shall prepare and submit all applicable roadway and drainage easements for dedication to the Town for review and approval by the Town Attorney. All easements shall be recorded with the Eagle County Clerk and Recorder's Office prior to issuance of a Temporary Certificate of Occupancy.
15. That the developer shall be assessed an impact fee of \$5,000 for all net increase in pm traffic generation as shown in the revised April 4, 2003, Traffic Study. The net increase shall be calculated using the proposed peak generating trips less the existing Resort Hotel and Auto Care Center trips, respectively being  $155 - (108 + 7) = 40$  net peak trips @ \$5,000 = \$200,000. This fee will be offset by the cost of non-adjacent improvements constructed.
16. That the developer shall receive approval for all required permits (CDOT access, ACOE, dewatering, storm-water discharge, etc.) prior to issuance of a building permit.
17. That the developer shall submit a full site grading and drainage plan for review and approval by the Town and the Design Review Board. The drainage plan will need to be substantiated by a drainage report provided by a Colorado professional Engineer, include all drainage, roof drains, landscape drains etc., and how they will connect with the TOV storm system. The developer shall submit all final civil plans and final drainage report to the Town for civil approval by the Department of Public Works, prior to submittal of a building permit.
18. That the developer shall provide detailed civil plans, profiles, details, limits of disturbance and construction fence for review and civil approval by the Department of Public Works, prior to submittal of a building permit.
19. That the developer shall be responsible for all work related to providing landscaping and lighting within the proposed Frontage Rd. medians. A detailed landscape plan of the medians shall be provided for review and approval by the Design Review Board.



20. That the developer shall provide additional survey information of the south side of the Frontage Road to show existing trees to be removed and additional survey in front of the Scorpio building in order to show accurate grades for the construction of the path from the Four Seasons to the bus stop at West Star bank. Final design shall be reviewed and approved by the Town and the Design Review Board.
21. That the developer is responsible for 100% of final design improvements along West Meadow Drive from the centerline of the road back to the Four Seasons property line from Mayors' park to western most property line of the Four Seasons, including any drainage and grade tie-ins beyond the west property line. This includes all improvements, including, drainage, lighting, art, streetscape enhancements, edge treatments, curbs, heated walks, etc. Final plans shall match and be coordinated with the proposed Town of Vail Streetscape plan for West Meadow Drive and shall be provided for review and approval by the Design Review Board.
22. That the developer shall incorporate public art into the development, and shall coordinate all art proposals with the Art in Public Places Board, subject to review and approval by the Design Review Board.
23. That the developer shall resolve all of the following design-related issues for final Design Review Board review and approval:
  - a. Proposed hydrant relocation at the NW corner of the property shall be graded to be level with the proposed sidewalk and landscaping will be located as to not interfere with the operation of the hydrant.
  - b. The cross-slope on the West Meadow Drive walk shall maintain a max. 2.0% cross slope that is sloped towards the road.
  - c. The boulder walls and grading at the SE corner of the property shall be modified as to not impact the existing 2-36" CMP's.
  - d. The foundation wall at the SE corner of the parking structure shall be modified to accommodate the existing Spraddle Creek vault.
  - e. The proposed Spraddle Creek vault and concrete box culvert shall be modified to work with the existing phone vault.
  - f. All known existing utilities shall be shown on a plan with the proposed drainage and utilities in order to clarify potential conflicts.
  - g. The proposed walk that meets the frontage road walk at the eastern portion of the property shall be realigned slightly to the west to avoid the existing inlet.
  - h. Fire staging turning movements shall be show on plans.
  - i. Retaining walls west of the loading and delivery access drive shall be curved/angled in order to "bench" access drive wall.
  - j. Top of wall elevation for the Frontage Rd-West Meadow Drive path

reads as 185.S?(Typo).

- k. Railings shall be provided for paths where necessary.
  - l. Show edge of existing pavement for Frontage road on civil plans and show match point.
  - m. Erosion control plan shall be updated.
  - n. Show grading around proposed electric vault.
  - o. Show driveway grades, spot elevations on civil plans.
  - p. Show additional TOW/BOW elevations on pool walls.
24. That the developer shall begin initial construction of the Four Seasons Resort within three years from the time of its final approval at second reading of the ordinance amending Special Development District No. 36, Four Seasons Resort, and continue diligently toward the completion of the project. If the developer does not begin and diligently work toward the completion of the special development district or any stage of the special development district within the time limits imposed, the approval of said special development district shall be void. The Planning and Environmental Commission and Town Council shall review the special development district upon submittal of an application to reestablish the special development district following the procedures outlined in Section 12-9A-4, Vail Town Code.
25. That the developer shall commit no act or omission in any way to cause the current operation of the Chateau at Vail to cease until such time as a demolition permit is issued by the Department of Community Development.
26. ***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.***
27. ***Prior to issuance of any certificate of occupancy for any unit associated with the altering of 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 with the Town of Vail.***
28. ***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 7.2 net new PM peak hour vehicular trips.***
29. ***Prior to issuance of any certificate of occupancy for any unit associated with the altering of 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.***

**Section 6.**

If any part, section subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Town Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

**Section 7.**

The repeal or the repeal and re-enactment of any provisions of the Vail Municipal Code as provided in this ordinance shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision repealed or repealed and reenacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

**Section 8.**

All bylaws orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. The repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

**Section 2.** The Town Council hereby finds, determines and declares that this Ordinance is necessary and proper for the health, safety and welfare of the Town of Vail and inhabitants thereof.

**Section 3.** If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Town Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases by declared invalid.

**Section 4.** The repeal or the repeal and reenactment of any provisions of Vail Municipal Code as provided in this ordinance shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any

prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision repealed or repealed and reenacted. The repeal of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

**Section 5.** All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this 5<sup>th</sup> day of December, 2017 and a public hearing for second reading of this Ordinance set for the 19<sup>th</sup> day of December, 2017, at 6:00 p.m. in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

\_\_\_\_\_  
Dave Chapin, Mayor

ATTEST:

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Patty McKenny, Town Clerk

READ AND APPROVED ON SECOND READING AND ORDER PUBLISHED in full this 19<sup>th</sup> day of December, 2017.

\_\_\_\_\_  
Dave Chapin, Mayor

ATTEST:

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Patty McKenny, Town Clerk