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**Memorandum**

TO: Vail Town Council

FROM: Community Development Department

DATE: August 7, 2018

SUBJECT: First reading of Ordinance No. 12, Series of 2018, an ordinance rezoning two parcels of land located in the vicinity of 366 Hanson Ranch Road; A portion of Lot d-1, Block 2, Vail Village Fifth Filing and a portion of Tract E, Vail Village Fifth Filing. The rezoning will change the Zone District from Agriculture and Open Space (A) District to the Public Accommodation (PA) District, and setting forth details in regard thereto. (PEC18-0022)

Applicant: VailPoint LLC, represented by Pylman & Associates, Inc.  
Planner: Jonathan Spence

**I. SUMMARY**

The applicant, VailPoint LLC, represented by Pylman & Associates, Inc., is requesting a zone district boundary amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to allow for the rezoning of two parcels of land located in the vicinity of 366 Hanson Ranch Road; A portion of Lot d-1, Block 2, Vail Village Fifth Filing and a portion of Tract E, Vail Village Fifth Filing. The rezoning will change the Zone District from Agriculture and Open Space (A) District to the Public Accommodation (PA) District.

On June 25, 2018, the Planning and Environmental Commission (PEC) was unable to forward a recommendation to the Vail Town Council for a zone district boundary amendment. The PEC deadlocked 3-3 on a motion to recommend approval of the zone change with Commissioners Stockmar, Kurz and Kjesbo voting in the affirmative and Commissioners Gillette, Hopkins and Perez opposed. Commissioner Lockman was absent from this meeting. Please find the staff memorandum to the PEC included as Attachment B and the minutes from the June 25<sup>th</sup> meeting included as Attachment C.

**II. ACTION REQUESTED OF THE TOWN COUNCIL**

The Vail Town Council shall approve, approve with modifications, or deny Ordinance No. 12, Series of 2018, upon first reading.

### III. BACKGROUND

In 1963, Vail Associates conveyed the entirety of Lot d, Block 2, Vail Village First Filing (Lot d) to Christiania-at-Vail, Inc. (VailPoint's predecessor in title). Lot d is comprised of the present-day Christiania at Vail Lodge, the Chateau Christian Condominiums, and the single family residence at 366 Hanson Ranch Road.

Over time and apparently prior to enactment of subdivision regulations in the Town, Christiania- at-Vail, Inc. severed portions of Lot d. They did so by recording deeds that described these smaller parcels by metes and bounds description. These deeds effectively served to subdivide Lot d, although not through the process that would be required today. The property at 366 Hanson Ranch Road is one of these severed parcels.

The property has an existing residence that was built in the early 1960s, prior to the incorporation of Vail as a Town in 1966. It is located between the Christiania at Vail Lodge and Chateau Christian Condominiums to the west, and the Tivoli Lodge to the east. The land to the south of the home and to the east of the home (between the home and the Tivoli Lodge) is owned by Vail Resorts. The land to the east of the home is Lot d-1, Block 2, Vail Village Fifth Filing. The lands south of the home are a part of Tract E, Vail Village Fifth Filing.

For as long as 50 years, the existing property and the properties subject to the rezoning have been surrounded by a fence. For unknown reasons, the fence was not built on the deeded property line and instead encloses a larger area, both to the south and east. All previous owners have treated the fenced area as an integral part of the property and have landscaped and maintained it consistent with the remainder of the property.

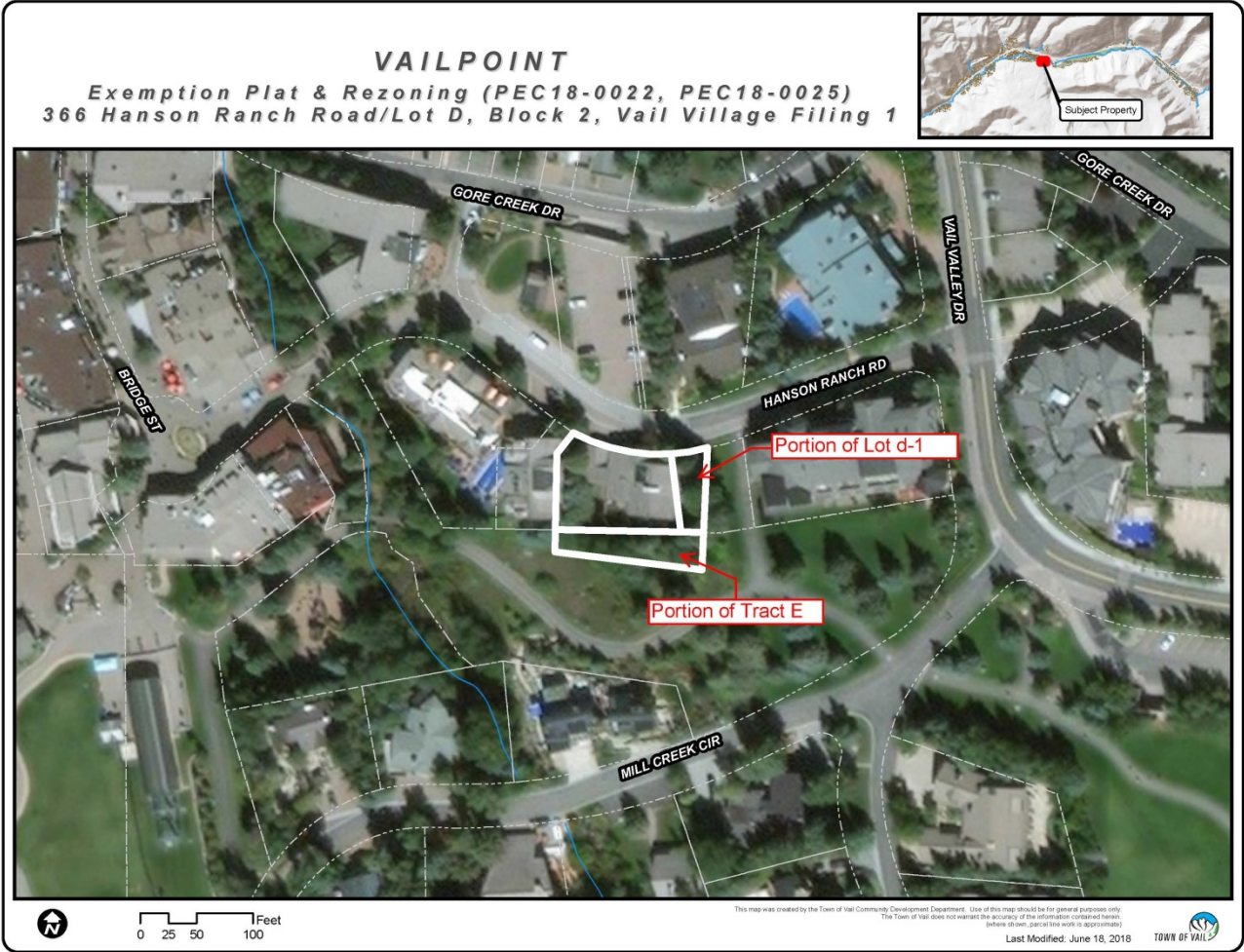
In January, 2018, the Eagle County District Court entered an Order and Decree Quieting Title (Court Order) to this area outside the deed boundary but inside the fence. Recognizing the historic conditions, the Court Order declared VailPoint to be the fee simple owner of all of the lands within the fence.

The intent of this application is to complete the process started by the Court Order. The rezoning application seeks to rezone the subject property from Agriculture and Open Space (A) to Public Accommodation (PA), consistent with the existing zoning of the remainder of Lot d. This action will also ensure that all lands within the subject property have the same zoning designation.

The total area of land within the existing fence and proposed lot is 13,242 square feet. The original metes and bounds description of the 366 Hanson Ranch Road property consists of 7,862 square feet. The additional area within the fence that the Court recognized as VailPoint's property is 5,380 square feet.

On June 25, 2018, the Planning and Environmental Commission approved an exemption plat, pursuant to Section 13-12-3, Plat Procedure and Criteria for Review, Vail Town Code, to incorporate a portion of Lot d-1, Block 2, Vail Village Fifth Filing and a portion of Tract E, Vail Village Fifth Filing into the existing property located at 366 Hanson Ranch Road/Lot d,

Block 2, Vail Village Filing 1. The map below shows the location of these parcels:



**IV. REVIEW CRITERIA**

Before acting on an application for a zone district boundary amendment, the planning and environmental commission and town council shall consider the following factors with respect to the requested zone district boundary amendment:

- 1. The extent to which the zone district amendments are consistent with all 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.**

The Vail Land Use Plan designation and applicable planning document for the subject property is the Vail Village Master Plan. The Public Accommodation Zone district designation for this property is consistent with the adjacent parcels and is consistent with the goals, objectives and policies outlined in the Vail Village Master Plan.

The lands within the fence have long been perceived and used as an integral part of the

existing home. The amendment of the zone district boundaries to conform to the fenced area will have little or no overall effect upon the larger goals of the community. The amendment, in concert with the exemption plat, will bring the property into greater conformance with the development standards of the Public Accommodation Zone District including minimum lot size, setbacks, site coverage and landscaping.

The proposed rezoning is supported by the Goals #1 and #2 of Vail Village Master Plan that speak to encouraging high quality redevelopment and the importance of the tourist industry to the health and vitality of the community.

Goal #4 is relative to open space and is relevant to the zone district boundary amendment request. Because it was within the fence, the 5,380 square feet of area proposed for zone change has likely not ever been a part of the perceived open space corridor behind or adjacent to the home. The Vail Village Master Plan was originally adopted in 1990. The area proposed for re-zoning has been enclosed by a fence, landscaped as part of the yard and used exclusively and privately by the owners of the home since well prior to, and since, 1990. The re-zoning of this land will not impact the historic area of perceived open space that exists in this area. The lands outside of the fence will remain zoned as Agricultural and Open Space.

Staff finds this criterion to be met.

**2. The extent to which the zone district amendments are suitable with the existing and potential land uses on the site and existing and potential surrounding land uses as set out in the town's adopted planning documents.**

The zone district boundary amendment is both suitable and compatible with the existing and proposed land uses on the site and the existing and potential surrounding land uses. The rezoning and accompanying exemption plat will bring the property into greater conformance with the development standards of the Public Accommodation Zone District including minimum lot size, setbacks, site coverage and landscaping that will assist in redevelopment.

As the rezoning follows the historical fence boundary, no impacts on surrounding land uses are anticipated.

Staff finds this criterion to be met.

**3. The extent to which the zone district amendments present a harmonious, convenient, workable relationship among land uses consistent with municipal development objectives.**

The proposed zone district amendments will create a cohesive land use scheme consistent with the development objectives of the town, namely orderly development and redevelopment under a unified zoning designation.

Staff finds this criterion to be met.

**4. The extent to which the zone district amendments provide for the growth of an orderly viable community and does not constitute spot zoning as the amendment serves the best interests of the community as a whole.**

The zone district boundary amendment proposes to recognize the lot boundary correction and maintains the Public Accommodation zoning of the 366 Hanson Ranch Road property. This zone district designation is consistent with the Vail Village Master Plan and does not constitute spot zoning. The application fosters order in the sense that it aligns zone district and subdivision boundaries.

Staff finds this criterion to be met.

**5. The extent to which the zone district amendments result in adverse or beneficial impacts on the natural environment, including, but not limited to, water quality, air quality, noise, vegetation, riparian corridors, hillsides and other desirable natural features.**

The proposed rezonings will not result in adverse impacts to the natural environment. Future developments on the reconfigured and rezoned parcels will be required to adhere to all applicable environmental standards during development review, construction and facility operation.

Staff finds this criterion to be met.

**6. The extent to which the zone district amendments are consistent with the purpose statement of the proposed zone district.**

The proposed rezoning is consistent with the purpose statement of the Public Accommodation (PA) Districts and future development on the property will also be required to be compatible with its intent. As stated previously, the rezoning and accompanying exemption plat bring the project into greater compliance with the development standards of the zone district.

**Staff finds this criterion to be met.**

**7. The extent to which the zone district amendments demonstrate how conditions have changed since the zoning designation of the subject property was adopted and is no longer appropriate.**

The proposed zone district boundary amendment recognizes the historical boundary of the property. With the recent court action concerning this property, maintaining the existing zoning designation would be inappropriate.

Staff finds this criterion to be met.

**8. Such other factors and criteria as the commission and/or council deem applicable to the proposed rezonings.**

**V. RECOMMENDED MOTION**

Should the Vail Town Council choose to approve Ordinance No. 12, Series of 2018, upon first reading, the Community Development Department recommends the Council pass the following **motion**:

*“The Vail Town Council approves, on first reading, Ordinance No. 12, Series of 2018, an ordinance rezoning two parcels of land located in the vicinity of 366 Hanson Ranch Road; A portion of Lot d-1, Block 2, Vail Village Fifth Filing and a portion of Tract E, Vail Village Fifth Filing. The rezoning will change the Zone District from Agriculture and Open Space (A) District to the Public Accommodation (PA) District, and setting forth details in regard thereto.”*

Should the Vail Town Council choose to approve Ordinance No. 12 Series of 2018, the Community Development Department recommends the Council make the following **findings**:

*“Based upon the review of the criteria outlined in Sections VIII of the Staff memorandum to the Planning and Environmental Commission dated June 25, 2018, and the evidence and testimony presented, the Vail Town Council finds:*

- 1. That the 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;*
- 2. That the amendments are compatible with and suitable to adjacent uses and appropriate for the surrounding areas; and,*
- 3. That the 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.”*

**VI. ATTACHMENTS**

- A. Ordinance No. 12, Series of 2018
- B. Staff Memorandum, PEC18-0022, June 25, 2018
- C. PEC Minutes, June 25, 2018
- D. Applicant Narrative, May 2018