



Memorandum

TO: Planning and Environmental Commission

FROM: Community Development Department

DATE: July 23, 2018

SUBJECT: A request for a recommendation to the Vail Town Council for a Prescribed Regulations Amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Section 12-2-2, Definitions of Words and Terms, Vail Town Code, to amend and clarify the definition of Commercial Ski Storage, and setting forth details in regard thereto. (PEC17-0042)

Applicant: Town of Vail
Planner: Jonathan Spence

I. SUMMARY

The Town of Vail requests the review of a Prescribed Regulation Amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Section 12-2-2, Definitions of Words and Terms, Vail Town Code, to amend and clarify the definition of Commercial Ski Storage. Based upon Staff's review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented, the Community Development Department recommends the Planning and Environmental Commission (PEC) **forward a recommendation of approval** to the Vail Town Council, of this application, subject to the findings noted in Section VIII of this memorandum.

II. DESCRIPTION OF REQUEST/APPROACH

Before returning to the PEC at this time for a recommendation, staff first updated the Vail Town Council regarding the Town's policy concerning the regulation of commercial ski storage, ski valet and ski concierge services on June 19th of this year. Staff has encouraged a policy that is focused on the following elements:

- Guest Service consistent with the Vail Brand;
- Considerate to existing and future business models;
- Considerate of the aesthetic expectations of our guests and residents;
- Considerate of pedestrian and vehicular safety; and
- A policy that is fair, consistent, understandable and easily enforceable.

To this end, staff has worked with Jeff Babb of Vail Resorts and Alison Wadey of the Vail Chamber and Business Association to propose minor amendments to the Vail Town Code that will further facilitate the elements of the policy. The purposes of the amendments are to:

- Provide further clarification as to what is, and is not, considered commercial ski storage; and
- Clarify ski storage that is part of a lodge or dwelling unit.

It is our belief that these changes, although minor, provide the needed clarifications regarding what does and does not constitute commercial ski storage while allowing the continuation of services consistent with guest expectations and the Vail Brand.

The Town Council expressed support for this approach and for staff to return to the Planning and Environmental Commission for a recommendation on the proposed code changes.

III. PROPOSED TEXT AMENDMENT LANGUAGE

Based upon the concerns expressed by the PEC and in further discussions and coordination with the Vail Resorts and the Vail Chamber and Business Association, as well as previous conversations and feedback from the Ski Storage Task Force, a decision was made not to expand permitted locations for the commercial ski storage and to not codify the relationship between ski racks and pedestrian or other easements. It was determined that the utilization of existing regulations related to Outdoor Storage and the examination of any conflicting easements was best done on an individual basis.

In an effort to provide the community, retailers and code enforcement with a better understanding of what does and does not constitute commercial ski storage, staff, Vail Resorts and the Vail Chamber and Business Association recommend the following additional language be added to the definition section (Section 12-2-2) of the Vail Town Code. New language proposed is shown in **bold**.

COMMERCIAL SKI STORAGE/SKI CLUB: Storage for equipment (skis, snowboards, boots and poles) and/or clothing used in skiing related sports, which is available to the public or members, operated by a business, club or government organization, and where a fee is charged for hourly, daily, monthly, seasonal or annual usage. This use may have, but does not require, the following components:

- A. Personal lockers,
- B. Boot dryers,
- C. Ski storage racks,
- D. Ski tuning,

- E. Food and beverage service,
- F. Areas for congregation and/or socializing,
- G. Restrooms and/or shower facilities,
- H. Nonwinter activities,
- I. Concierge ski services,
- J. Retail sales,
- K. Business center.

Ski storage that is part of a lodge, or dwelling unit, in which a fee is not charged **and is located within the lodge or dwelling unit**, is not considered commercial ski storage/ski club.

The following activities, when accessory to a retail operation, shall not be considered ski storage:

- A. The outdoor display of skis or skiing related equipment that is available for sale, available for rent, rented or recently serviced. Outdoor display is subject to requirements of Section 12-14-21: OUTDOOR DISPLAY OF GOODS.**
- B. The storage, on levels other than the basement or garden level, of skis or skiing related equipment that is available for sale, available for rent, rented or recently serviced.**

IV. BACKGROUND

The Town of Vail and its regulations of ski storage, ski valet and ski concierge services have not kept pace with the evolving nature of the ski industry. As a result, the Town is experiencing the following challenges with the current regulations on commercial ski storage:

- Regulations that may be ambiguous and vague.
- Regulations that appear to be inconsistent with evolving customer expectations.
- Regulations that may be difficult and/or impractical to enforce, resulting in a perception of inconsistent enforcement.

On August 1, 2017, the Community Development Department presented a report to the Town Council on Commercial Ski Storage to engage the Council in a discussion regarding the Town's policy concerning commercial ski storage, ski valet and ski

concierge services. At the end of the discussion, Town Council supported the creation of a Task Force consisting of business owners and managers in Vail's ski and lodging industry, and Town staff. The mission of the Task Force was to study this issue in greater detail, and provide feedback to the Town Council on amendments that may be needed to the Town's current regulations.

Fourteen members of the local ski and lodging industry signed up for the Task Force, and several others contacted the Community Development Department after the August 1, 2017 meeting, expressing interest in participating. Following are members of the Task Force that attended at least one of these meetings:

Chris Cremer	Intrawest / Ski Haus
Jeff Evans	Christy Sports
Jeff Babb	Vail Resorts
Marco Valenti	Vail Resorts Retail
Scott Gubrud	Four Seasons
Brent Martin	Four Seasons
Jacob Bangston	Sebastian Base Camp
Jay Lucas	Ski Base
Tom Neyens	Ski Valet
Zack Meyers	Arrabelle
Tom Higgins	American Ski Exchange
Chris Howe	Ski Butlers / Antlers
Alison Wadey	Vail Chamber and Business Association
Jenn Bruno	Vail Town Council
Kevin Foley	Vail Town Council

Task Force meetings were held on August 18, August 23, and August 25, 2017. Based on input from the Task Force at these meetings, and tours of the some of the participating businesses, the Community Development Department and the Task Force developed recommendations for the Town Council to consider.

On September 5, 2017, the Community Development Department and Task Force presented their recommendations to the Town Council. The Town Council supported the recommendations, and directed staff to begin to draft text amendments to implement the changes.

On September 11, 2017, the Community Development Department presented the Commercial Ski Storage Task Force's recommendations to the PEC. The PEC requested more time to review specific code language, and requested that this topic return for further discussion.

On September 25, 2017, the Community Development Department presented the Commercial Ski Storage Task Force's recommendations to the PEC. The PEC requested site visits to several of the ski shops, ski valet services and ski clubs

impacted by these regulations. A tour of these properties is scheduled for October 9, 2017 as part of the PEC meeting.

On October 9, 2017 the Planning and Environmental Commission further reviewed the proposed recommendations of the Task Force, expressing concerns with the proposed changes and possible unintended consequences, particularly as related to expanding allowable commercial ski storage to building levels other than the basement/garden levels and the placement of ski racks within pedestrian or other established easements. The staff memorandum and minutes from this meeting are included as Attachments A and B.

V. ROLES OF REVIEWING BODIES

Order of Review: Generally, text amendment applications will be reviewed by the Planning and Environmental Commission and the Commission will forward a recommendation to the Town Council. The Town Council will then review the text amendment application and make the final decision.

Planning and Environmental Commission:

The Planning and Environmental Commission is responsible for the review of a text amendment application, pursuant to Section 12-3-7, Amendment, Vail Town Code, and forwarding of a recommendation to the Town Council.

Design Review Board:

The Design Review Board has no review authority over a text amendment to the Vail Town Code.

Town Council:

The Town Council is responsible for final approval, approval with modifications, or denial of a text amendment application, pursuant to Section 12-3-7, Amendment, Vail Town Code.

Staff:

The Town Staff facilitates the application review process. Staff reviews the submitted application materials for completeness and general compliance with the appropriate requirements of the Town Code. Staff also provides the Planning and Environmental Commission a memorandum containing a description and background of the application; an evaluation of the application in regard to the criteria and findings outlined by the Town Code; and a recommendation of approval, approval with modifications, or denial.

VI. APPLICABLE PLANNING DOCUMENTS

Staff believes that following provisions of the Vail Town Code and Vail Land Use Plan are relevant to the review of this proposal:

Title 12, Zoning Regulations, Vail Town Code

CHAPTER 12-1, TITLE, PURPOSE AND APPLICABILITY (in part)

Section 12-1-2: 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.*

VII. CRITERIA FOR REVIEW

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

Staff finds the proposed zoning code amendments further the general and specific purposes of the zoning regulations by promoting the harmonious development of the Town's villages while maintaining established community qualities and economic values.

Staff finds that this criterion has been 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**

Staff finds that the proposed prescribed regulations amendments will better implement or achieve the applicable elements of the adopted goals, objectives, and policies outlined in the Vail Comprehensive Plan. Specifically in the Vail Land Use Plan's adopted Goals and Policies, staff identified the following applicable statements:

1. General Growth /Development

- 1.1. Vail should continue to grow in a controlled environment, maintaining a balance between residential, commercial and recreational uses to serve both the visitor and the permanent resident.*

2. Skier /Tourist Concerns

- 2.1. The community should emphasize its role as a destination resort while accommodating day visitors.*
- 2.2. The ski area owner, the business community and the Town leaders should work together closely to make existing facilities and the Town function more efficiently.*
- 2.3. The ski area owner, the business community and the Town leaders should work together to improve facilities for day skiers.*

4. Village Core / Lionshead

- 4.3. The ambiance of the Village is important to the identity of Vail and should be preserved. (Scale, alpine character, small town feeling, mountains, natural settings, intimate size, cosmopolitan feeling, environmental quality.)*

Staff finds that this criterion has been met.

- 3. 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 storage of skis and skiing related gear has evolved from the storage of equipment to a personal service desired and often expected by our guests. As this land use has evolved, the Vail Town Code has remained largely static. As a result of this inaction, the town code is unable to provide the necessary regulatory framework to effectively and fairly uphold the intent of the Lionshead and Vail Village Master

Plans and the Town Zoning Code itself. The new definition takes into account the substantial changes that have occurred concerning the use since the adoption of the current regulation.

Staff finds that this criterion has been 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

Staff believes this text amendment will ensure a harmonious, convenient, workable relationship among land use regulations consistent with the Town's development objectives. Specifically, clarification of what is, and is not, considered commercial ski storage assists merchants and code enforcement personnel with a clear regulatory framework.

Staff finds that this criterion has been met.

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

VIII. ENVIRONMENTAL IMPACTS

The proposed prescribed regulation amendment does not have any identifiable environmental impacts.

IX. STAFF RECOMMENDATION

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. This recommendation is based upon the review of the criteria outlined in Section VII of this memorandum and the evidence and testimony presented.

Should the Planning and Environmental Commission choose to forward a recommendation of approval to the Vail Town Council for the proposed text amendment, the Community Development Department recommends the Commission pass the following **motion**:

"The Planning and Environmental Commission forwards a recommendation of approval to the Vail Town Council for a prescribed regulation amendment, pursuant to Section 12-3-7, Amendment, Vail Town Code, to amend Section 12-2-2, Definitions of Words and Terms, Vail Town Code, to amend and clarify the definitions of Commercial Ski Storage, and setting forth details in regard thereto."

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 a review of Section VII of the July 23, 2018 staff memorandum to the Planning and Environmental Commission, 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 outlined in Section 12-1-2, Purpose, Vail Town Code; 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."*

X. ATTACHMENTS

- A. Staff Memorandum to the PEC, 10-09-2017
- B. PEC Meeting Minutes, 10-09-2017