

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE,
COLORADO APPROVING ENCROACHMENTS INTO THE MOUNTAIN VILLAGE BOULEVARD
RIGHT-OF-WAY FOR SOIL NAILING FOR THE ADJACENT PROPOSED DEVELOPMENT
KNOWN AS THE FOUR SEASONS ON LOT OS 3Y**

RESOLUTION NO. 2024-__

WHEREAS, Merrimac Fort Partners, LLC (the “Applicant”) has applied for encroachments into the Mountain Village Boulevard right-of-way adjacent to Lot OS 3Y (the “Property”) for necessary soil nailing for the proposed development, also known as the future Four Seasons (the “Development”), on Lots 69R2, OS 3Y, 67, 71R, OS 3BR-2R-2, OS 3XRR-2, 71R, and 161C-R; and

WHEREAS, the Applicant intends to acquire the Property, and the Town has separately approved the proposed Development thereon; and

WHEREAS, for purposes of this Resolution the “Application” consists of the materials submitted to the Town and itemized on Exhibit A, plus all statements, representations, and additional documents of the Applicant and its representatives made or submitted at the public meetings before the Town Council; and

WHEREAS, the Town Council held a public hearing on September 19, 2024, to consider the Application and testimony and comments from the Applicant, Town Staff, and members of the public, and such other information as may be included in the record of the hearing, and voted ___ to approve the Application; and

WHEREAS, the public hearing to consider the Application was duly noticed and held in accordance with the Town’s Community Development Code (“CDC”); and

WHEREAS, pursuant to CDC Section 17.3.22(2), Town Staff determined that the requested encroachment is substantial and, therefore, should be reviewed by the Town Council as a Class 5 Review; and

WHEREAS, the Town Council, in its discretion, may allow for encroachments into road rights-of-way; and

WHEREAS, the Town Council now desires to approve the Application, subject to the terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Mountain Village, Colorado, that:

Section 1. Recitals. The above recitals are hereby incorporated as findings of the Town Council in support of the enactment of this Resolution.

Section 2. Approval. The Town Council hereby approves encroachments into the Mountain Village Boulevard right-of-way for necessarily soil nailing for the Development, as more particularly described in the Application and the agreement outlined in Condition No. 2 below. The Town Council authorizes the Town Manager to approve and execute such agreement in accordance with this approval.

Section 3. Conditions. The Approval is subject to the following terms and conditions:

- 1) The Applicant shall become the record title owner of the Property prior to the installation of any soil nails.
- 2) Prior to issuance of a building permit, the engineered soil nail design must be reviewed by Town Public Works and/or Town Engineers for necessary approvals.

- 3) As required by CDC Section 17.3.22, the Applicant shall enter into an agreement with the Town for the road right-of-way encroachments prior to the issuance of a building permit. The form of the agreement shall be reviewed by the Town Attorney and may be approved and executed by the Town Manager without further action of the Town Council.
- 4) An updated as-built exhibit showing all constructed encroachments in the Mountain Village Boulevard right-of-way will be recorded with the license agreement and recorded with the County prior to the issuance of a Certificate of Occupancy.
- 5) The right-of-way encroachments granted by this Resolution are premised on the subdivision and site-specific design approvals. If the design approval expires, the right-of-way encroachment approval also expires.

Section 4. Effective Date. This Resolution shall be in full force and effect upon its passage and adoption.

ADOPTED AND APPROVED by the Town of Mountain Village Town Council at a regular public meeting held on September 19, 2024.

TOWN OF MOUNTAIN VILLAGE, COLORADO

By: _____
Marti Prohaska, Mayor

ATTEST:

Susan Johnston, Town Clerk

APPROVED AS TO FORM:

David McConaughy, Town Attorney

Exhibit A

[LIST OF APPLICATION MATERIALS]