

## PLANNING COMMISSION MEETING

The meeting was called to order at 5:30 p.m. by Chair Gerard. The meeting was a virtual electronic meeting through the Zoom platform, as a result of the COVID-19 crisis.

### ROLL CALL

Christie Mathews-Leidal	Ron Schuman	Jay Beckerman
Mike Giller	Steve Gerard	Lowell Moore - absent

### APPROVAL OF MINUTES

With no changes, the September 15, 2020 Planning Commission Minutes were approved.

### APPROVAL OF AGENDA

With no changes, the October 6, 2020 Planning Commission Agenda was approved.

### PUBLIC COMMENT ON HISTORIC PRESERVATION ISSUES:

- None.

### WORK SESSIONS:

#### 1. Amenity Club Policy Work Session (CK)

Mr. Kulick presented a work session to discuss proposed code amendments for fee-based day usage of amenity areas at large resort properties in Town.

Mr. Truckey: As you might recall, the Council put a moratorium on amenity clubs for 6 months. We will go to council for a Work Session in October and 1<sup>st</sup> and 2<sup>nd</sup> reading in November.

#### *Commissioner Questions / Comments:*

Mr. Gerard: We learned about how Breckenridge Grand Vacation owners can use their amenity spaces when they are not overnight guests. Even though owners can use amenities outside of their deeded weeks, they cannot use the amenities unless there is capacity of all the rooms not being filled. At no time will there be more people on the property than there are deeded weeks. They control day usage with a reservation systems. One other thing that everybody agreed on the consensus points listed at the beginning of the memo. Chris did a good job with the Peak 8 hotel of calculating the ratio of what would be for the hotel and the amenity club but everybody on the Task Force agreed staff should not have to do that analysis. 100% of amenity club should be counted as commercial space. There was not any pushback from anybody on that, Jack Wolfe especially as a commercial realtor guy agreed.

Mr. Giller: I remember at the hotel hearing thinking that was a complicated formula. When you refer to deeded interest, does that apply to owner interest in a trust which refers to a points system. Does deeded interest also apply to points, which I understand legal ownership of a trust. (Mr. Kulick: Prior to bringing to Council, we can incorporate the correct terminology associated with various time share formulas. Also, we will have the Town Attorney check the terminology.) (Mr. Truckey: Marriot is example of that system, I don't own a unit but own interest). Points owner could not get a room. Self limiting. Could not have more deeded owners than there are rooms at any one time.

Ms. Leidal: Under the amenity club definition, items a-j "may have, but not required". If they have one, will they be considered amenity club? (Mr. Kulick: No.) Consider removing "resort" from the second line of the amenity club definition because condo-hotel have rec room and workout rooms. 3<sup>rd</sup> line: fee is charged, but what if I obtain a free pass, like I won a raffle

and I get to go use this, I don't think it would be captured as written. Consider other means to capture that. In amenity space definition, cross reference to Code, and consider adding condos or condo hotels. Rather be proactive than reactive. Add "other means" to second line. Philosophical question: Is amenity space or workout facility, could it be in, like the definition of a condo-hotel, don't you need workout room to meet definition? If we allow folks to convert amenity space, they may not meet definition of condo-hotel. I would say you can convert excess but if you needed to meet a certain definition, you need meet a minimum. (Ms. Puester: Just FYI, we removed condo-hotels, now those are just condos, due to issues required with condo hotels that were outdated such as 24 hour front office lobby, etc. The 1:35 ratio is still in effect for hotels etc.) I support the traffic analysis requirement. Is the parking code silent on as to what is required for a rec-center? (Mr. Kulick: It is by special review. During discussion, we had initially identified that we needed to come up with something. Graham Frank the Town of Vail's requirement and it sounded reasonable since it has been working in Vail.) I like that you are not relying on someone else to do a parking analysis.

Mr. Schuman: Back to parking equation, if a project was approved at .85 or 1.0 and we add .6, that room space while it is an amenity, it has a 1.4 parking ratio. We are increasing the parking requirement just with amenity club, I think. (Mr. Kulick: If there was a small amenity space and they had excess parking and the unit was formerly a conference room that didn't have a parking requirement, if they had to pave and add more spaces that would trigger the traffic study requirement.) Is the Covenant requirement of a reservation system okay with Jack and Graham? (Mr. Kulick: Both would prefer not to have a reservation system requirement and allow resort operators the ability to manage their properties. However, staff based on preliminary discussion, thought that was a good compromise to allow timeshare owners use of the facilities but have it in a more controlled manner similar to how BGV operates currently.) It seems to be throughout the entire new Policy, very negative. I am curious how someone would ever get positive points under this system. We should just prohibit the use if we are not interested in having amenity clubs. Again, I worry about the plus and minuses of our system. (Mr. Kulick: More in line with how we would treat a ski shop, restaurant or any other commercial in the same space. The only real difference is the Class A review with a potential traffic study since there is a more true peak period of traffic associated with its use. That is where we are coming from.) Are there any properties that you have run an amenity based scenario to see if it is even possible? (Mr. Kulick: We have not run a true hypothetical, but knowing some of the properties, there probably would be some potential on some of the properties along Four O'clock and Village road since requirements for meeting rooms have gone away and many have additional density and parking available onsite. Beaver Run could potentially transfer in density. Gravity Haus essentially did this before we had a formal policy. They converted commercial space to club space and met the parking requirement of the Master Plan. There definitely is some possibility. Creating a large club with 100 memberships would be tough. A little further out of Town it may be possible to create a larger club.)

Mr. Beckerman: I did not go through the Peak 8 process, so this is my first time digesting some of this. I apologize if my remarks have been discussed previously. The regulation process has very pure motives. I appreciate framework to work off of in the future. It is a muddy situation with trying to think of all the different workarounds. With the BGV exemption, what is the Town opening ourselves up to? Would that same exemption apply to a 1 time purchase in the Residence Inn for example. How are those treated, and how will it regulate those exemptions that are put in there. The one off scenarios. Not looking for answer. What ways can this be taken advantage of. I thinking you guys have done an amazing job of defining an amenity

club and how it is treated. I thought it would be interesting if there was an amenity club that offered positive impact on the town, if there was an amenity club where guests could park further there and be transferred on the mountain, most of these properties are addressed towards on mountain and have high desirability, but how nice would it be if we could encourage amenity clubs that help our traffic situation by having members park further out and take bus or shuttles. Is that too pie in the sky? Is there a way to provide positive points to award behavior that we are encouraging. Reservation system is, we have very great team players in our community right now, if Peak 8 hotel said we are going to do reservation system, but if rooms are not occupied, enforcement is not our job, if you had a bad actor, how would that be treated, if they are doing what other timeshares are doing, but are not acting in good faith, how would that be processed, so I found the policy well written and think it is great and I look forward to seeing it move forward.

Ms. Leidal: We could award positive points under a separate policy (Transit) if they provide a shuttle for their guests. (Mr. Kulick: When reviewing applications we look at all of the policies and could potentially recommend transportation points.)

Mr. Gerard: Regarding bad actor, they would pay the price if the overnight guests went to the amenity area and it was full, they would get negative reviews, and it would be self-policing. That was Jack and Graham's opinion.

Mr. Schuman: 1-4: Yes, 5: I think the staff has done a great job of putting this together. Tough topic. Value of having Graham and Jack put some validity in the process. Good job and thank you.

Ms. Leidal: I echo Ron's comments. 1-4: Yes. Please consider my comments, because it can only get better.

Mr. Giller: 1-4: Yes. Please tighten up and refine the definitions. Will serve town and developers well.

Mr. Beckerman: 1-4 Yes.

Mr. Gerard: 1-4 Yes. I support comments made, and observation that they get around the definition of a fee being charged, to somehow being a gift or purchase or something else. We don't want people giving away these amenity club benefits for doing something else. There is a lot of room for this to have a positive benefit. We did talk about Welk and Highlands Green which run shuttles and have plenty of parking. May not be adding amenity club, but could get positive points. Only going to get more crowded. Chris did a good job of taking task force input and putting into code.

#### **CONSENT CALENDAR:**

1. Gold Flake Demolition and New SFR (LS), 217 Wellington Rd., PL-2020-0364:

Ms. Leidal made a motion to call up the Gold Flake Demolition and New SFR, seconded by Mr. Giller. The motion passed 5-0 and the application was called up.

#### *Commissioner Questions / Comments:*

Mr. Gerard: The second floor area with the outside entrance calls for lockers and coats, washer dryer, two locked off possible bedrooms, sitting area, private bathroom and wetbar area. Looking at a property owned by a LLC., if they put in one door, you have a lock-off apartment. (Mr. Sponable: Possibility is there, but as shown the design is code compliant. We allow wetbars if they are in a room of 300 sq. ft. or greater. Spoke with applicants and they like having a

- 2<sup>nd</sup> access to garage. They claim they have no intent of short term renting.) I a previous project, we put a Condition of Approval that the area shall not be used as an ADU, this assists enforcement.
- Ms. Puester: We could place a condition similar to another recent project that the Commission had concerns with in which a recorded covenant would state that this is not an ADU. This would flag future buyers that to have an ADU, a permit would be required.
- Mr. Gerard: If you said the property cannot be short term rented as more than one unit. I see it being rented as two units. (Mr. Sponable: If they do list it as two units, without being a separate dwelling unit, they would still be in violation.)
- Ms. Leidal: The definition of ADU prohibits short-term rental, so why do we need to say that it is not an ADU?
- Mr. Truckey: If you want us to, we can continue to next meeting to see what the applicant is comfortable with additional conditions.
- Mr. Gerard: I think that is a good idea.

The application was opened to public comment. No public comment was received.

Ms. Leidal made motion to continue the project to the October 20<sup>th</sup> meeting, seconded by Mr. Giller. The motion passed 5-0.

## 2. Warriors Mark Association Ponds (LS), Warriors Mark Townhouses Recreation Area, PL-2020-0420

Hal Vatcher: I would like to make a general positive comment. Many of you know me. Unfortunately, you guys get a lot of flack for being tough to get through, but everything that I have listened to says you guys are genuinely watching out for the interests of the town.

The project was approved as presented.

### **OTHER MATTERS:**

1. Town Council Update (Memo Only)
2. Class D Majors Q3 2020 (JP) (Memo Only)
3. Class C Subdivisions Q3 2020 (JP) (Memo Only)

Other Matters:

- Ms. Leidal: Are you going to be bringing back the Accessory Apartment code amendments to the Commission? I don't think our current Code is working. (Ms. Puester: Yes, we can bring it back as a work session).
- Ms. Puester: The National Preservation conference is virtual this year. This training is important to fulfill our annual training requirements to remain our Certified Local Government standing, being able to review historic preservation projects in Town rather than having the State do so. I will follow up with all of you regarding registration.

### **ADJOURNMENT:**

The meeting was adjourned at 6:53 pm.

---

Steve Gerard, Chair