

**UPPER BLUE PLANNING COMMISSION**  
**SUMMARY OF MOTIONS**  
**September 22, 2022– 5:30 p.m.**

**Call To Order:** Acting Chair, Jay Beckerman called the meeting to order at 5:31p.m.

**Commissioners Present:** Jay Beckerman, Steve Holcomb, Dan Cleary, Richard Holcroft, Emily Lawless

**Staff Present:** Jim Curnutte, Sid Rivers, Lindsay Hirsh, Keely Ambrose, Jeff Huntley, Paul Geiger, Robert Jacobs, Jessica Potter, Brandi Timm

**Approval of Summary of Motions:** The Summary of Motions for the July 28, 2022 meeting were approved as submitted.

**Approval of Agenda:** Additions, Deletions, Change of Order – None.

**NEW BUSINESS:** No items

**CONSENT AGENDA:** No Items

**PUBLIC HEARINGS**

**PLN21-030:** A Nonconforming Parcel Plan; Nannie Houston Lode MS #6349, Contact Lode MS #6349, Lizzie Lode MS #6349, Germania Lode MS #6349 May Lode MS #6349; TR 7-77, Sec 06, Qtr 4, approximately 18.67 acres, zoned A-1.

Commissioner Holcomb made a motion to deny PLN21-030 with the following findings:

1. The applicant has provided proof that the size of the 18.6 acre parcel did not violate Zoning Regulations when it was created and that the parcel complies with Section 14101.02.F. of the Code.
2. The parcel has adequate water, sewage disposal and utilities for the intended use as required by the provisions of the Code. The Red, White and Blue Fire District believes emergency access has been adequately addressed.
3. The geologic conditions of the site include steep slopes at 30% or greater that will be disturbed for the extensive driveway and retaining wall construction and Staff believes the proposal does not adequately mitigate the potential for significant environmental damage, nor does it properly account for all of the disturbance that will occur as a result of the proposed development. The geologic assessment is silent as to whether the extensive construction proposed on a hillside covered in slopes greater than 30% will result in any destabilization, excess runoff, or other associated risks.
4. The location of the proposed single-family residence complies with the development standards for the A-1 zone district. A proposed disturbance envelope has been designated; however it may not include a significant amount of area that could be disturbed as a result of the driveway construction, nor does it specifically include disturbance associated with well and septic systems.
5. The applicant has provided a survey of the vacant parcel.
6. The Nonconforming Parcel Plan could not be approved without potential substantial detriment to the public health, safety and welfare. The applicant has not provided sufficient information

regarding the extent of site disturbance necessary to construct the driveway, and the geologic assessment is silent on whether the hillside covered in slopes in excess of 30% will be destabilized in either the short or long term as a result of the proposed construction. While the proposed trail easement for the Illinois Gulch trail promotes public recreational access, staff does not believe that the proposed trail adequately mitigates or balances out the impacts resulting from the extensive cut and fill and tree removal that will result from the construction of the proposed driveway in particular and the building site in general. The applicant will be responsible for constructing the proposed trail and associated bridge structure, and maintaining the bridge. The County OST Department will maintain the trail after the completion of construction.

7. The least environmentally damaging building site has not been selected and the proposed disturbance envelope does not meet the requirements of the Code. The chosen building site is far up on a hill comprised of slopes at a grade of 30% or more and will require extensive cut and fill and tree removal. Furthermore, the proposal does not align with numerous Code provisions regarding avoiding areas of development constraints, including steep slopes.
8. There would appear to be substantial visual impacts to surrounding properties and public areas from the driveway cut and retaining wall installation in areas of steep slopes. The site is highly visible from both Highway 9 and Boreas Pass Road, and from across the valley.

Commissioner Lawless seconded the motion. The motion passed on a 4-1 vote.

**PLN22-063:** A Nonconforming Parcel Plan Review - Bunker Hill Lode M.S. 2379 for a 5.18-acre parcel zoned A-1, in order to accommodate a single-family residence, Bunker Hill Lode M.S. 2379, Section 5, T5S, R77W of the 6<sup>th</sup> P.M.

Commissioner Holcomb made a motion to approve PLN 22-063, a Nonconforming Parcel Plan Review - Bunker Hill Lode M.S. 2379 for a 5.18-acre parcel zoned A-1, in order to accommodate a single-family residence, Bunker Hill Lode M.S. 2379 with the following findings and conditions:

Findings:

1. The applicant has provided proof that the size of the parcel did not violate Zoning Regulations when it was created and that the parcel complies with Section 14101.02.F.
2. The parcel has adequate access, water, sewage disposal and utilities for the intended use as required by the provisions of this Code and public and emergency access has been adequately addressed.
3. There are no known unstable or highly erodible soils, geologic conditions, steep slopes or other potential hazards on the site that would result in a threat to public health, safety or welfare.
4. The location of the proposed single-family residence complies with the development standards for the A-1 zone district. The proposed building area has been designated and will meet setback requirements.
5. The applicant has provided a survey of the vacant parcel.
6. The non-conforming parcel plan approval can be granted without substantial detriment to the public health, safety and welfare.
7. The least environmentally damaging building site has been selected and a disturbance envelope has been established for the site.

8. The impacts of development upon adjacent properties have been addressed and conditioned appropriately.

Conditions:

1. No disturbance shall be allowed outside of the disturbance envelope except for; a.) the removal of trees infested with Mountain Pine Beetle; b.) the removal of trees for forest health, upon the submittal of documentation from a certified forester or wildfire mitigation officer and upon approval from the Planning Department; c.) the removal of trees for fire mitigation, upon the approval of the fire department; d.) planting of trees. All other improvements, including but not limited to, the driveway, retaining walls, structures, the OWTS system, well, and associated grading and improvements are required to be located within the disturbance envelope.
2. The permitted uses for this non-conforming A-1 parcel, as listed in Figure 3.3 of the Code, are: Residential, Renewable Energy Systems, Garage – private. These include all residential and accessory to residential uses including renewable energy systems, home occupations, and short-term vacation rental. Any agricultural or commercial uses are prohibited.
3. Prior to the issuance of any permits, the following shall be provided and approved by the County Engineer: formal geotechnical study, erosion control plan, a revegetation plan, and an urban run-off control plan as required by Code Section 7102.
4. Prior to issuance of any permits, the disturbance envelope shall be fenced with chain link and remain in place for the duration of construction.
5. Prior to the issuance of a building permit, all drawings shall be revised to the satisfaction of the County's Engineering Department.

Commissioner Cleary seconded the motion and the motion passed unanimously on a 5-0 vote.

**PLN22-107:** Major Amendment to the Aspen Springs PUD to add allowed and accessory trail, trailhead, and parking uses as well as shelter/storage uses and communications tower located within the boundaries of the PUD on the McDill Placer Parcel, Aspen Springs Subdivision, Filing #1, A Portion of McDill Placer USMS No 4120 & Aspen Springs Subdivision Filing #2, A Portion of McDill Placer USMS 4120

Commissioner Cleary made a motion to recommend approval to the BOCC of PLN22-107: Major Amendment to the Aspen Springs PUD to add allowed and accessory trail, trailhead, and parking uses as well as shelter/storage uses and communications tower located within the boundaries of the PUD on the McDill Placer Parcel, with the following findings:

Findings:

1. The modification is consistent with the efficient development and preservation of the entire PUD due to the public need for additional parking and trailhead usage at the Property. It is appropriate to amend the PUD to expressly provide for the enhanced parking use at the property. The proposed communication tower is to address another needed public amenity directly related to health, safety and welfare due to the increased need for better communication facilities and emergency response to this portion of the County.
2. The Proposed PUD Modification will not affect, in a substantially adverse manner the enjoyment of land abutting upon or across the street from the PUD or the public in light of the past development approvals for the PUD and the historical parking use for Quandary Peak on the Property and elsewhere within the PUD. In addition, the adjacent lots are large enough to put any future improvements at a distance from the subject lot.

3. The proposed PUD Modification is not granted solely to confer a special benefit upon any person but to the contrary, the proposed PUD amendment will only facilitate public benefits related to trails, trailheads and increased communications for emergency response.
4. The proposed PUD modification is in general conformance with the goals, policies/actions and provisions of the Summit County Countywide Comprehensive Plan and the Joint Upper Blue Master Plan elements related to recreation and trails.
5. The proposed PUD modification is consistent with the purpose and intent of the County's Zoning Regulations.
6. the proposed PUD amendment is consistent with the County's rezoning policies due to the fact that no development constraints are present to prohibit the proposed uses, the uses are/can be designed in a manner consistent with the terrain and natural features of the property, and the due to the size of the lots the potential improvements can be viewed as being compatible with existing development in the vicinity.
7. The proposal is consistent with the policies constituting the purpose and intent allowing for the establishment of the Planned Unit Development, as set forth in §12200.01 of the Code, as well as the policies supporting the purpose and intent of allowing a Major PUD Modification Zoning Amendment, per §12202.01 of this Code.
8. The proposal is consistent with public health, safety and welfare, as well as efficiency and economy in the use of land and its resources because, without limitation; a.) adequate provisions are available for the intended use; b.) legal access exists via a County road; c.) additional site disturbance will be negligible. In addition, specifically permitting a communication tower to facilitate emergency services in this portion of the County speaks directly to improving public health, safety, and welfare and has been a long term goal of the County.
9. The applicant has provided final evidence of adequate water, sewer, access, utilities and other required infrastructure to serve present demands, and adequate access and infrastructure is also available to serve reasonably anticipated future demands. All services are currently in place or in close proximity to serve both the permitted and proposed uses.
10. The proposed changes to the PUD Designation will be prepared and suitable for signature by the Chairman upon approval of the requested amendment by the BOCC.

Commissioner Lawless seconded the motion and the motion passed on a 4-1 vote with Commissioner Holcroft having the dissenting vote.

#### **WORK SESSION ITEMS**

- PLN21-060 & PLN21-061: PLN22-060 & PLN22-061: Discussion of proposed revisions to the Short-Term Rental (STR) Regulations and Ordinance.

#### **DISCUSSION ITEMS - None**

The meeting adjourned at 11:30 pm.

Submitted,  
Lindsay Hirsh, Senior Planner