

Alta Planning Commission Meeting Summary
Alta Community Center/Library, Alta, Utah
April 24, 2018: 3PM

IN ATTENDANCE:

Planning Commissioners: Jon Nepstad (chair), Roger Bourke (vice-chair), Rob Voye, Jeff Niermeyer, Mayor Harris Sondak (ex officio). Absent: Dave Abraham

Town of Alta staff: John Guldner, Rich Mrazik, Jared Bunch, Piper Lever

Members of the public: Jen Clancy, Marcus Diplo, Mike Maughan, Mark Haik

00:00:00 INTRODUCTION AND WELCOME FROM THE VICE CHAIR

Planning Commission Vice Chair Roger Bourke opened the meeting.

00:00:47 APPROVAL OF MINUTES FROM THE MARCH 27, 2018, PLANNING COMMISSION MEETING

The planning commission discussed the draft minutes from the March 27 meeting. Jeff Niermeyer made a motion to approve the draft minutes, Roger Bourke seconded the motion, and the motion was carried.

00:01:15 CONTINUATION OF THE REVIEW OF PROPOSED ZONING ORDINANCE AMENDMENTS. "HOT TOPICS" IDENTIFIED IN EARLIER REVIEW; WATERWAY OPTIONS, WATERWAY SETBACK, NON-CONFORMING USES, ALBION BASIN PROTECTION OVERLAY ZONE.

John Guldner described that at the November 2017 Alta Planning Commission Meeting, Dr. Jim Ehleringer testified that Albion Basin was distinct from other areas in Alta in ways that made it more ecologically sensitive, and the planning commission agreed during subsequent meetings they felt justified in establishing a special zoning overlay for Albion Basin given this testimony. John described different iterations of a graphic produced by Forsgren Associates engineers, working on the Town of Alta's behalf, depicting boundaries for the proposed Albion Basin Protection Overlay Zone (ABPOZ) and range sites from a 1993 study of Albion Basin's ecological and hydrological characteristics. John described that one purpose for establishing the ABPOZ was to preserve strict regulations of non-conforming uses, which currently do not allow a property owner to tear down and rebuild a non-conforming use. John described that outside of the ABPOZ, the non-conforming use regulation could be modified to allow property owners to tear down, rebuild, and possibly expand a nonconforming use. John added that the ABPOZ, as drafted, would establish deeper waterway setback requirements.

Jeff Niermeyer described that in the town's existing conditional use provisions, the language provides for permitted uses, conditional uses, and prohibited uses. Jeff asked whether the ABPOZ would include such use designations. John Guldner described that the only permitted use in Alta was a single-family

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house, with accessory uses. John added that the current zone applied to private parcels in Albion Basin is FR-1, which requires a minimum lot size of one acre. John added that conditional uses can be allowed that provide commercial or private recreation, and stated the definition of “commercial.” Rich described that one purpose contemplated in drafting the ABPOZ was to allow the town to relax certain regulations in the commercial core and other more developed areas of Alta, while maintaining strict regulations in the basin, given its more sensitive nature. Jon Nepstad mentioned an analysis of how expanding the setback regulation would affect current structures in Albion Basin, and John Guldner described that the analysis suggests that two current structures in the basin would be out of compliance if the town established a 100-foot setback requirement via the ABPOZ. Rob Voyer asked why the proposed nonconforming use ordinance revision includes a provision terminating a nonconforming use if more than 50 percent of the nonconforming use is demolished. Rich Mrazik described that State of Utah code requires a municipality to establish such a threshold. Rob Voyer asked whether the intention is to require nonconforming uses that have become dilapidated to be demolished, and Rich Mrazik confirmed that this effect of the regulation is provided for by State of Utah code. John Guldner added that property owners can still make substantial improvements to maintain a nonconforming use. Rich Mrazik added that staff can draft new language if the planning commission is not comfortable with the terminating effect of the nonconforming use regulation, but he assured the commission that state code empowers municipal zoning regulations to have this effect.

Mayor Sondak asked John Guldner whether the town’s position, in establishing the terminating effect of the nonconforming use regulation, was essentially that the town wishes for the existing cabins in Albion Basin to be demolished. John described that the town acknowledges and supports the presence of the 21 cabins in Albion Basin in the Town of Alta General Plan. Rich Mrazik and Mayor Sondak discussed that under the current regulation, a property owner could “game the system” by rebuilding a 100 percent of a structure over the course of multiple, separate projects, and acknowledged that the proposed amendment to the non-conforming use prohibits such an approach. Jon Nepstad asked whether a property owner could add floor area or building footprint, and Rich Mrazik confirmed that a property owner could not modify a nonconforming use in that way. John Guldner added that Salt Lake City and Salt Lake County Health Department watershed regulations prohibit the town from permitting expansions to Albion Basin cabins that would increase the use of water in those cabins. Jeff Niermeyer asked whether the town permits reconstruction in the case of catastrophe, and Rich Mrazik described that State of Utah code requires municipalities to allow this.

Jeff summarized that the primary purposes of the ABPOZ is to expand the waterway setback requirement in Albion Basin, and to require demolition of abandoned, dilapidated conforming uses in Albion Basin. Rich Mrazik clarified that the package of ordinance revisions includes a modernization of the town’s nonconforming use regulation, and a liberalization of the nonconforming use regulation outside of the ABPOZ, which essentially maintains the intent of the current nonconforming use regulation within the ABPOZ boundary.

Rob Voyer and Roger Bourke expressed discomfort with the notion of prohibiting a property owner from

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completely rebuilding a nonconforming use. Roger Bourke opined that property owners should be allowed more than a single year to maintain a property in the event the building official determines a structure is uninhabitable. John Guldner and Jon Nepstad discussed alternatives to this provision, such as allowing three years, or requiring only that a property owner demonstrate progress toward required maintenance within a year. John Guldner described that construction projects in Alta often take many years to finish, and Mayor Sondak observed that some recent projects have been delayed because they employed non-conventional building materials, or because they appeared to become noncompliant with various regulations during construction. Jeff Niermeyer recommended that the ordinance be amended to require a property owner to provide an approved plan to restore an uninhabitable structure within a single year, and to have completed the project within three years.

Jon Nepstad invited Mark Haik to comment. Mark referred to an earlier justification of the town's preference for a 100-foot setback that relied on a similar provision in the Salt Lake County Foothill and Canyons Overlay Zone. Mark observed that property owners commonly perform piecemeal renovations of structures that amount to a total rebuild and an intensification of that use. Mark added that for all properties to which FCOZ applies, Salt Lake County requires a property owner to obtain approval from the Salt Lake County Health Department to substantially remodel a structure. Mark opined that making it difficult for property owners to upgrade materials in their properties to materials that are safer for use in the watershed would be bad policy. John Guldner stated that the town requires property owners to seek approval from Salt Lake City and the Salt Lake County Health Department in order to perform structural alterations or remodels.

John Guldner and Roger Bourke discussed the question of whether property owners should be allowed to perform more than one maintenance project that comprises 50 percent of the structure, and they discussed, as an example, allowing a property owner to perform another such project after a seven-year period had passed. Jon Nepstad opined that it would be reasonable for the town to require property owners to maintain their properties consistently enough not to reach a state of such disrepair that numerous "fifty percent replacements" would be required. The commission continued to discuss this general question, and John Guldner clarified that the town's policy is that the 21 cabins in Albion Basin are legitimate, but that as nonconforming uses, they must be kept in good repair without being expanded or intensified.

Roger Bourke opined that the town should allow property owners to perform an additional "fifty percent replacement" after a defined period. The planning commission agreed that it would establish a fifteen-year period beyond which to allow additional such projects.

00:56:50 John Guldner asked the planning commission to discuss the ABPOZ boundary presented by Jared Bunch, the town's engineer. Jared addressed the planning commission and recommended that the commission consider simplifying the proposed boundary by adding additional areas identified in the 1993 *Ecological Characterization and Functional Evaluation of Wetlands* in Albion Basin. Mayor Sondak and Jared discussed the attributes evaluated in the study, and the hydrological significance of some of

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the range sites used in the study. Jeff Niermeyer opined that the boundary should be drawn in such a way that is not too burdensome for the town to apply administratively, and observed that ridgelines and creeks are the easiest boundaries to identify. Jeff asked Rich Mrazik whether such a consideration was a valid factor to consider in drafting a zoning regulation, and Rich opined that such a consideration would be valid. Jeff added that, since the original proposed boundary was drawn using USGS maps, its boundary graphic is not based on accurate enough spatial data to assure the boundary is defensible. Jared and the planning commission discussed potential modifications to the boundary that would simplify its application. Mike Maughan asked the planning commission to carefully consider the location of the ABPOZ boundary near the top of the Sunnyside Lift.

1:22:33 Jon Nepstad and John Guldner turned to the proposed changes to the town's definition of waterways, and waterway setbacks. John Guldner described option A and option B as drafted, and recommended the planning commission consider adopting option A, which provides more detail. John also recommended that the planning commission require 100-foot setbacks from waterways, or 20 feet from the top of a stream bank in the ABPOZ, while leaving current setback requirements in place elsewhere in Alta. Jeff Niermeyer described that Salt Lake City would occasionally grant exceptions to non-habitable structures to allow their placement within 25 feet of a waterway, but he acknowledged that human existence almost always entails pollution, and that activity related to most development will entail some level of pollution. Mike confirmed that the ski area was granted an exception by Salt Lake County Health Department to place the lift operator building for the new Supreme Lift within 50 feet of a nearby creek. Roger Bourke asked what the compromise for the 25-foot exception was. Jeff acknowledged that the 25-foot exception was a compromise that provides an applicant reasonable guidance. John Guldner and Rich Mrazik discussed the circumstances in which variances can be granted to allow a developer to violate a provision of the land use ordinance, which do not include economic hardship.

Mark Haik asked whose jurisdiction applies in the case that a project is developed on both public and private land. Jeff Niermeyer replied that both a local government and the US Forest Service would both have authority to approve such a project. Jon Nepstad asked whether the planning commission agreed with the waterway setback of 100 feet, as drafted, with a 25-foot setback required for non-habitable structures. Commission members expressed concern with the implications of allowing non-habitable structures within 25 feet of waterways in the ABPOZ as such allowances are not made elsewhere in Alta. The planning commission discussed the specific pollution sources that could be associated with ski lift towers. John Guldner agreed that establishing a 25-foot setback for non-habitable structures in the ABPOZ was not consistent with setback requirements throughout town, and Jeff Niermeyer agreed that a 50-foot setback for non-habitable structures within the ABPOZ was sufficient. John Guldner recommended the town specifically exempt projects on US Forest Service land. Mike Maughan asked about the town's memorandum of understanding (MOU) with Alta Ski Area, and John confirmed that the town and the ski area recognize an MOU under which the ski area obtains building permits from the town for certain types of projects on US Forest Service property with the Town of Alta boundary. Rich Mrazik recommended the planning commission consider the possibility that the ski area may seek to

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develop a ski lift in Grizzly Gulch on private land, which would require the town to act as the permit authority for such a project.

Jon Nepstad summarized the planning commission's preferences for waterway setbacks in the ABPOZ, which include a 100-foot setback requirement for habitable structures; 50-foot setbacks for non-habitable structures in the ABPOZ, and 20 feet setbacks from the top of a stream channel bank. Jon asked that for the next planning commission meeting, staff produce a modified ABPOZ boundary, modified language on waterways and setbacks, and modified language on nonconforming uses. John Guldner recommended that the planning commission review the entire proposed ordinance revision package prior to holding a public hearing and making a recommendation to the town council. Roger Bourke asked about including a "dark skies" provision within the ordinance package.

1:48:20 DISCUSSION OF COMMISSION PRIORITIES FOR THE REMAINDER OF 2018.

Jon Nepstad asked the planning commission to discuss its priorities for the remainder of 2018. Jon Nepstad recommended the planning commission seek education on the Central Wasatch Commission. Jon acknowledged Roger Bourke's recommendation to consider a dark sky ordinance, recommended the planning commission learn more about future ski area projects, and recommended the planning commission learn more about where its authority applies within the town boundary. Jon mentioned the proposed land exchange between Alta Ski Area and the US Forest Service, which would require the planning commission to consider a range of new issues. Mayor Sondak recommended the planning commission learn more about the Little Cottonwood Canyon EIS. The planning commission agreed with the topic list. Jeff Niermeyer reminded the planning commission about Roger Bourke's interest in considering climate change.

1:54:55 NEW BUSINESS FROM THE COMMISSION

The planning commission agreed to meet as scheduled on May 22nd at 3:30 PM, in the Alta Community Center/Library.

1:56:15 MOTION TO ADJOURN

Jeff Niermeyer made a motion to adjourn the planning commission meeting, Rob Voyer seconded the motion, and the motion was carried.

The content of the minutes is not a *verbatim* transcription of the meeting. These minutes are a general overview of what occurred at the meeting.

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These minutes were approved on June 26, 2018.

S/ Chris Cawley
Assistant Town Administrator

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