

**Alta Planning Commission Meeting Summary**  
**Alta Community Center/Library, Alta, Utah**  
**August 28, 2018: 3PM**

**IN ATTENDANCE:**

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

**Town of Alta staff:** John Guldner, Chris Cawley, Nora Pincus

**Members of the public:** Christina Gates, Del Draper, Cliff Curry, Marcus Dippo, Elenore Page, Carly Castle, Jen Clancy, John Skalbeck, Mike Maughan

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

Planning Commission Chair Jon Nepstad opened the meeting.

**00:01:00 APPROVAL OF MINUTES FROM THE APRIL 24 AND JUNE 26, 2018 PLANNING COMMISSION MEETINGS.**

Jeff Niermeyer made a motion to approve the minutes from the April 24<sup>th</sup> Alta Planning Commission meeting. Rob Voye seconded. The motion was carried.

Roger Bourke made a motion to approve the June 26<sup>th</sup> planning commission meeting minutes. Jeff Niermeyer seconded the motion, and the motion was carried.

**00:08:07 PLANNING COMMISSION TO HEAR A PRESENTATION ON THE PROPOSED LAND EXCHANGE ORIGINATING FROM THE MOUNTAIN ACCORD, NOW THE CENTRAL WASATCH COMMISSION.**

Jon Nepstad described that his invitation for Central Wasatch Commission (CWC) Chair Chris McCandless to address the planning commission related to the planning commission's goal to seek information about matters that, while they may not specifically affect matters within the planning commission's jurisdiction, could affect Alta generally and which are relevant to the planning commission's responsibilities. Chris McCandless introduced himself and described that the Mountain Accord process, and the "Accord" agreement itself, are the foundation of the Central Wasatch Commission's mission and purpose. Mr. McCandless described some of the important elements of the Accord, which include land exchanges between the ski areas and the US Forest Service, elements related to water resource protection, transportation improvements, and other priorities. However, Mr. McCandless observed, the Accord did not itself affect the actions it identified, nor did it bestow any authority to implement those actions. Mr. McCandless described that the (CWC) has grown from its original four, founding members to include numerous other parties including the Town of Alta, bringing the total number of entities

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represented on the commission to 10. Mr. McCandless confirmed that the CWC cannot usurp or override the jurisdiction of any of any existing government entities. Mr. McCandless described that idea of the CWC was based to some extent on the Jordan River Commission, another interlocal entity formed to implement actions agreed to by numerous government entities in an area that spanned multiple jurisdictions. Mr. McCandless reported that he had chaired the Jordan River Commission, and he opined that the Central Wasatch Commission's objectives were more complex than the Jordan River Commission's goals.

Mr. McCandless addressed accusations that the CWC intends to "give away" US Forest Service property in the Wasatch Mountains. Mr. McCandless confirmed that the CWC does not have the authority to "give away" US Forest Service property, and he described that any land exchanges that do occur will be evaluated on a "value for value" basis, with the opportunity for a party to equalize values with a cash payment of up to 25 percent of the value of the greater amount.

Mr. McCandless described that the Central Wasatch National Conversation and Recreation Area Act (CWNCRAA) was originally introduced by former Utah Representative Jason Chaffetz in 2016. Mr. McCandless described that the CWC has been working toward recommending the introduction of a new version of the CWNCRAA by Utah's congressional delegation. Mr. McCandless described that the new version of the legislation included a provision that would require cash used to equalized land exchange values to remain within the boundaries of the Central Wasatch National Conservation and Recreation Area.

Mr. McCandless reported the former Salt Lake City Mayor Ralph Becker was selected by the CWC as it's executive director, and that the CWC had hired two additional employees to assist Mr. Becker in carrying out CWC priorities.

Mr. McCandless described that the Utah Department of Transportation (UDOT) Little Cottonwood Canyon Environmental Impact Statement project was occurring in parallel to the CWC's efforts to refine and introduce the CWNCRAA.

Jeff Niermeyer asked Mr. McCandless how the CWC would be funded going forward. Mr. McCandless described that most of the funding for the CWC came from the member entities, while some funds remained in the CWCs account that were transferred from the Mountain Accord project. Mr. McCandless confirmed that the current CWC funding agreement does not extend beyond 2019 and that a new funding arrangement will need to be implemented for the CWC to continue to exist. Jeff Niermeyer asked whether there's anything the Alta Planning Commission can do to support the CWC's efforts, and while Mr. McCandless deferred to Mayor Sondak to provide direction to the planning commission, he offered that the planning commission will need to be involved in shaping any outcome that results from a land exchange between the US Forest Service and Alta Ski Area. Mr. McCandless stated that the status of this particular land exchange was in question due to Alta Ski Area's decision not to include Alta Ski Area's private holdings in Grizzly Gulch in the land exchange as originally defined in

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the Accord. Mr. McCandless opined that while the CWNCRRAA could be introduced and signed into law without the town's input, the land exchange may not proceed without the town's consent.

Jon Nepstad asked Chris McCandless to describe the factors that would be evaluated under a National Environmental Policy Act (NEPA) analysis of a land exchange between the US Forest Service and Alta Ski Area. Mr. McCandless described that the CWNCRRAA will direct the US Forest Service to initiate the land exchange process, but that the process itself will proceed under standard guidelines for such processes, including the provisions of NEPA. Jon opined that one principle behind the land exchange is the notion that the US Forest Service is not the appropriate entity to regulate land use in developed areas such as ski area base facilities. Mr. McCandless confirmed that many US Forest Service land exchanges with ski areas are often considered in that light.

Dave Abraham asked Mr. McCandless to describe the organization of the CWC. Mr. McCandless described that the founding members of the CWC were Salt Lake City, Salt Lake County, Sandy City, and Cottonwood Heights, all of whom entered into an interlocal agreement to create the CWC. Mr. McCandless described that the CWC had deliberately developed a policy by which it would consider adding new members, and proceeded to invite additional members including UDOT, Millcreek City, Park City, Summit County, and the Town of Alta. Mr. McCandless affirmed that future funding for the CWC is undefined.

Jon Nepstad asked Mr. McCandless whether there is a definitive map of the proposed land exchanges that represents the parcels that are currently being considered for exchange. Mr. McCandless stated that the best representation of the proposed exchanges continues to be the map included as part of the original CWNCRRAA, which can be found on the CWC's page on the Utah Public Notice Website and on the Mountain Accord website. Mr. McCandless continued to describe that the Town of Alta would be a sort of secondary party to a land exchange between Alta Ski Area and the US Forest Service, and Mayor Sondak argued that the Town would not actually be a party to the exchange itself, although it would have jurisdiction over lands that become private. Mr. McCandless opined in clarification that the parties to an exchange may seek to confirm their desired use of the lands to be received before finalizing an exchange; for instance, the ski area may seek an agreement from the Town of Alta that it will be able to make use of lands it receives before finalizing an exchange.

Marcus Dippo asked Mr. McCandless whether the new version of the CWNCRRAA was available, and Mr. McCandless confirmed that drafts of the proposed legislation are available on the CWC's page on the Utah Public Notice Website.

Mike Maughan asked to address the planning commission from Alta Ski Area's perspective with regard to the proposed land exchanges and the CWNCRRAA. Mr. Maughan stated that while Alta Ski Area remains generally supportive of the process, it would prefer to see transportation improvements identified in the Accord move forward in concert with the legislation, or for the legislation to be contingent upon transportation improvements. Mr. Maughan opined that the original legislation was

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tabled by a congressional subcommittee due to these same concerns. Mr. Maughan described that Alta Ski Area decided to retain its holdings in Grizzly Gulch in order to accommodate future growth in demand for ski area terrain. Mr. Maughan confirmed that Alta Ski Area continues to work with stakeholders and interested parties to identify alternative solutions.

John Guldner introduced Nora Pincus, an attorney at Parsons, Behle and Latimer who has taken over for Rich Mrazik, who was appointed to be a judge in 3rd District Court.

**01:00:00 PLANNING COMMISSION TO DISCUSS WITH POSSIBLE ACTION A RECOMMENDATION TO FORWARD THE PROPOSED ZONING AMENDMENTS TO THE ALTA TOWN COUNCIL**

John Guldner described that the ongoing ordinance update process began several years ago. John indicated that Albion Basin Cabin Owners have expressed concern about impacts from the proposed Albion Basin Protection Overlay Zone (ABPOZ) to their properties. John stated that while the town's intent with the ABPOZ was not to further restrict the existing cabins in Albion Basin, all of those cabins are already nonconforming. John reported that two of the existing cabins would violate the proposed 100-foot waterway setback, but that these cabins were already nonconforming for several other reasons, including that none of the cabins have access to enough drinking water capacity to meet state regulations.

John Guldner described that at the June planning commission meeting, the commission discussed whether it preferred to allow, and whether the town could allow, nonconforming structures to be torn down and rebuilt, or to what extent those structures could be torn down and rebuilt. John described that nonconforming uses can be substantially maintained and remodeled, although they cannot be structurally altered or enlarged, which is a very common treatment of uses or structures that do not comply with various regulations. Roger Bourke asked whether nonconforming structures can be rebuilt in the event of a natural disaster, and John confirmed that nonconforming structures can be rebuilt following a calamity. John reported that he discussed the notion of allowing cabin owners to voluntarily demolish and rebuild their cabins with the Salt Lake Valley Health Department (SLVHD) and (Salt Lake City Public Utilities), and those agencies confirmed they would not allow such projects to occur within their watershed jurisdictions unless their regulations could be satisfied. Rob Voye asked whether the town is "under the thumb" of those jurisdictions, and John confirmed that the town cannot issue a building permit unless an applicant can meet SLVHD and SLC regulations. John confirmed once again that the town's intent is not to further restrict Albion Basin cabin owners, and that Albion Basin cabin owners are already restricted from tearing down and rebuilding their cabins due to their long-standing nonconforming status.

John described recommendations from the planning commission to define "intensity of use" in the ordinance update package, and to add a requirement that an applicant must show that a development would be accessible to emergency vehicles 24 hours per day, 365 days per year, and that a development could connect to a sewer. Jeff Niermeyer clarified that the recommendation to require an applicant to

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show access and a sewer connection was meant to apply only to applications for development on previously undeveloped lots. Jeff added that the planning commission needed to better identify the ABPOZ and justify its enhanced environmental protections. Nora Pincus opined that the current proposed language may be sufficient to protect the town from a claim that the ABPOZ would create an arbitrary and capricious distinction. Jeff added that the definition of intensity of use needs to be specifically provided, because the term is used in the proposed ordinance amendment.

Del Draper, a cabin owner in the Secret Lake neighborhood, asked why the proposed language before the planning commission did not seem to allow cabin owners within the ABPOZ to tear down and rebuild, as he thought the commission's direction following the June meeting was to explore such a provision. John Guldner confirmed again that he'd investigated whether the town could establish such a provision, given that SLVHD and SLC would not allow cabin owners to tear down and rebuild, and that the town must comply with SLVHD and SLC requirements. Del Draper asked why, for instance, the cabin located roughly halfway up the upper segment of the Albion Basin Summer Road was not considered to be within the ABPOZ, while cabins further up the road were considered to be inside the ABPOZ. John Guldner described that the town's engineers had interpreted a hydrologic report on the greater Albion Basin area to find that portions of "upper" Albion Basin were particularly sensitive, and that this interpretation led the town to draw the proposed ABPOZ boundary as it currently stands. Mr. Draper opined that Albion Basin is commonly understood to be a much larger area than what the ABPOZ includes.

Jeff Niermeyer recommended that the town develop a "grandfather clause" clarifying that the ABPOZ is meant primarily to apply to undeveloped parcels. Mr. Draper opined that, despite statements of intent such as Mr. Niemeyer's, he doubted the town did not, in fact, intend to further restrict existing Albion Basin cabins. Mr. Draper asserted that the prohibition against cabin owners tearing down and rebuilding their cabins had been first proposed as part of the ABPOZ, but John Guldner and the planning commission stated that this prohibition is already in place due to the numerous conditions present on each of the current Albion Basin cabins which cause them to be nonconforming under Town of Alta, SLVHD, and SLC regulations. Mr. Draper mentioned an ongoing project on one of the Albion Basin cabins that appeared to be a complete tear down and rebuild, undertaken with a Town of Alta building permit, and (1:36:25) John Guldner described that this project had originally been permitted as a substantial remodel, before accidents occurred during the project which led to structural elements not originally intended to be modified needing to be rebuilt. Mr. Draper reiterated skepticism of the town's assertion that the portion of Albion Basin included in the ABPOZ was more sensitive than other portions of the area and recommended the town include all the residential areas in Albion Basin in the overlay zone. Mr. Draper recommended the town consider connecting existing cabins in Albion Basin to the sewer line.

Jon Nepstad opined that the ordinance should clearly state in an introduction or purpose statement that it was not intended to further restrict improvements to existing cabins in Albion Basin. Nora Pincus recommended that the town did not specifically identify the 21 cabins in Albion Basin, and Jeff

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Niermeyer added that the ordinance could contain a date of adoption. A cabin owner described a situation in which winter snow load pushed her cabin slightly off its foundation. The planning commission discussed a proposed new provision that would allow cabins owners more time to repair or rebuild a cabin that had been damaged or destroyed by a natural disaster.

Jeff Niermeyer described what he understood to be the outstanding additional revisions the ordinance package needs for the planning commission to approve it: a definition of “intensity of use;” a clarification that proposed new requirements for a sewer connection and property access were meant only to apply to development proposals on undeveloped lots as of the date of the adoption of the ordinance package; and a clarification of the proposal to allow some intensification of use and expansion of building footprint on existing cabins within the ABPOZ. Jeff stated that he understood the justification the town has established for adopting the ABPOZ.

Roger Bourke asked staff to conduct an inventory of lights that are on at night in Alta. The planning commission discussed including a field trip to Albion Basin in their September meeting.

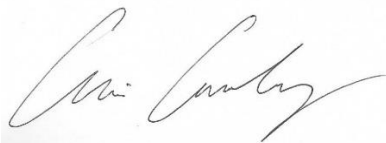
**1:58:50 MOTION TO ADJOURN**

Roger Bourke made a motion to adjourn the meeting, Jeff Niermeyer seconded the motion, and the motion was carried.

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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.

These minutes were approved on September 25, 2018.



Chris Cawley  
Assistant Town Administrator

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