



STAFF REPORT

To: Summit County Council
From: Ray Milliner, County Planner
Date of Meeting: April 26, 2023
Type of Item: Code Amendment – Public Hearing/No Action Requested
Process: Legislative

RECOMMENDATION: The applicant is requesting that the County Council review the following amendments to the Snyderville Basin Development Code:

1. Increase the minimum height limit in the Service Commercial (SC) zone from 32 feet above grade to 45 feet above grade.
2. Amend the Use Table to make “Dwelling Unit, Multifamily as Part of a Commercial Development” a low impact permit in the SC zone.
3. Reduce the front yard setback requirement from 30 feet from the property line to 20 feet from the property line.

Staff recommends that the County Council conduct a public hearing and review the proposal no action is requested at this meeting.

Proposal

The applicant would like to build a climbing gym with an attached multifamily residential component at 4513 Forestdale Drive (Park City Business Center (PCBC) lot 12). The proposed use will not fit on the site, as it would not meet height or the required front yard setbacks. The climbing gym is a Low Impact Use in the SC zone, but multifamily residential is not allowed.

To remedy these problems, the applicant applied to add “Dwelling Unit, Multifamily as part of a Commercial Development” as a low impact use in the SC zone and to amend the height and setback requirements in the SC zone.

Background

The SC zone is a 141-acre area located northeast of Quinn's Junction off Highway 40. There are no other areas within Summit County zoned SC. Access to the zone is from the Highway 40 frontage road between Highway 248 and Silver Summit. Among other things, there is a concrete plant, towing business, gun range, auto repair shop, offices, commercial retail, art studio and live work development inside the zone.

The applicant is the owner of lot 12 of the Park City Business Center (PCBC) development in the SC zone. PCBC was approved as a Specially Planned Development (SPA) in July of 2005. The SPA created a series of design guidelines for buildings in the area, but defers to the Development Code for height, setback and allowed uses. The SPA has expired, so it cannot be amended.



Figure 1 Aerial View of the Service Commercial Zone

Timeline

October 11, 2022: Initially, the applicant proposed Multifamily Residential as a standalone use with no affordable requirement beyond what is required in the Development Code. Most of the Commissioners stated that because of the industrial nature of the SC zone Multifamily Residential would not be appropriate.

December 13, 2022: The applicant amended the proposal to create “Multifamily Residential as Part of a Commercial Development.” This proposal:

- Eliminated multifamily residential as a standalone use.
- Would allow a property owner to build 55% commercial square footage and 45% Multifamily Residential
- Created a provision that 100% of the Multifamily Residential units be deed restricted affordable housing.

The Planning Commission stated that they would be in favor of this proposal primarily because of the 100% affordable component. The Commission directed staff to make some adjustments to the language and return.

January 10, 2023: The County Attorney's office states that State Law may prohibit the County from creating regulations requiring affordable housing that exceed existing regulations in Chapter 5 of the Development Code (20%). After considerable debate, the Commission voted to forward a positive recommendation to the County Council (see discussion section below).

Discussion

Utah Code section 17-27a-531 states,

1. "A County may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:
 - a. The county and the applicant enter into a written agreement regarding the number of moderate income housing units; or
 - b. The county provides incentives for an application who agrees to include moderate income housing units in a development.
2. If an applicant does not agree to participate in the development of moderate income housing units under Subsection 1a or b, a county may not take into consideration the applicant's decision in the county's determination of whether to approve or deny a land use application.
3. Notwithstanding Subsections 1 and 2, a county of the third class, which has a ski resort located within the unincorporated area of the county, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the county before January 1, 2022."

On January 10, 2023 The County Attorney advised the Planning Commission that Utah Code section 17-27a-531 may or may not apply to prohibit their application. The issue is that during the 2022 Legislative session, the Legislature made inclusionary zoning illegal through Utah Code section 17-27a-531. As a result of this legislation, the County may only require up to 20% moderate income housing for a development in the Snyderville Basin. There are two exceptions in the statute: one for applicants who are willing to enter into an agreement with the county regarding the number of moderate income housing units, and the other for applicants who agree to provide moderate income housing in exchange for incentives. It seems these exceptions should apply to the applicant, except that they applied for a rezone. Therefore, any existing property owners who would like to create affordable housing in that zone would also be subject to that "condition."

On January 10, 2023, the Planning Commission discussed this issue, and despite the Attorney's Office concerns that State Code may prohibit the use, Commissioners felt that the proposal has enough merit to forward a positive recommendation to the County Council. Staff are requesting that the Council discuss the issues presented by State Code section 17-27a-531 and provide the applicant and staff with direction.

MULTIFAMILY RESIDENTIAL AS PART OF A COMMERCIAL DEVELOPMENT

The applicant is proposing the following criteria be inserted into the Development Code.

10-2-10 USE TABLE

| USE | RR | HS | MR | C | SC | NC | ADDITIONAL INFORMATION |
|---|----|----|----|---|----|----|-------------------------------|
| Multifamily Residential as Part of a Commercial Development | * | * | * | * | L | * | Chapter 10-8-18 of this Title |

10-8-18: Multifamily Residential as Part of a Commercial Development:

- A. Purpose:** The purpose of this chapter is to provide general regulations, for Multifamily Residential as Part of a Commercial Development in the Service Commercial (SC) zone.
- B. Use Limitations:** In addition to the applicable zoning regulations in chapter 10-2 of this Title, no multifamily residential development shall be permitted unless it complies with the restrictions set forth below:
 - a. All (100%) of the Multifamily residential units shall be deed restricted affordable housing.
 - b. A maximum forty five percent (45%) of the total building square footage on a Lot or Parcel may be developed as Multifamily Residential.
 - c. All units shall meet the standards set forth in Section 10-5-3: Affordable Housing Requirements, of this Title.
- C. Exceptions:** If the development meets all the criteria in 10-8-18. B, the following exceptions apply:
 - 1. **Height.** The maximum height of the structure may increase from the base SC zone height of thirty-two feet (32') to forty-five feet (45') above existing grade.
 - 2. **Front Yard Setback.** The minimum SC zone front yard setback may decrease from thirty feet (30') from the front property line to twenty feet (20') from the front property line.

Section 10-2-8 of the Snyderville Basin Development Code states that the purpose of the SC zone is:

“The purpose of the service commercial/light industrial (SC) zone district is to provide appropriate locations within the Snyderville Basin for service commercial and light industrial uses, recognizing that such uses provide vital support functions for the basin's resort and residential economy.”

The purpose of the zone is not mixed use residential. The zone was originally created as a place for “back of house” uses such as plumbers, auto shops, and light manufacturing uses. Generally, these types of zones do not allow residential uses. Nonetheless, over the years, the Commission has approved condominium plats within the SC zone that allow for an accessory apartment within a commercial unit (Park East II Park East II and Synergy Commons). These developments brought a residential component into an area that previously had none.

HEIGHT

The applicant would like to increase the maximum height in the SC zone from 32 feet to 45 feet. This increase in height would give all property owners in the SC zone the ability to build an additional 1-2 stories of density. If approved, the SC and NMU zones would be the only zones within the Snyderville Basin with a height limit above 32 feet (many buildings in the Basin have been approved above the 32-foot limit through the SPA/Development Agreement process).

SETBACK REDUCTION

The applicant is requesting that the front setback be reduced from 30 feet to 20 feet measured from the front property line. This would increase the buildable area of the lot and move the building closer to the street. Most of the time, reduced front yard setbacks are a good thing, they have the effect of making an area feel more walkable and pedestrian friendly. Setback areas for commercial structures usually end up being large unused landscape areas that require a lot of water to maintain or are ignored and go to seed. Reducing the front setback to 20 feet will still give the property owner enough area for snow storage, provide adequate site distances for cars pulling in and out of the property and preserve the look of the existing streetscape.

Recommendation: Staff recommends that the Council review the proposed language, conduct a public hearing, and provide staff and the applicant with direction.

Exhibits:

none