



Date: October 24th, 2022

To: Mayor Pro-Tem Bjorkman and Trustees

From: Kim White, Community Development Director

RE: **Public Hearing** – Resolution 33-2022, A resolution to amend the zoning from Multi-family Residential to Commercial Transitional at Subdivision: Sunnyside Addition, Block 1, Lots 3-5, also known as 240 and 300 Hancock.



Purpose:

To decide if the justification for the rezoning of 240/300 Hancock St from Multi-family Residential to Commercial Transitional is in line with municipal code requirements 12-2-34 (1-3) by holding a public hearing and reviewing the recommendations and Advisory Report from the Planning Commission.

The Board should conduct the Public Hearing as follows:

1. Open the Public Hearing
2. Allow Staff to present the matter
3. Allow for the Applicant to address the Board
4. Take all public comment
5. Close the Public Hearing
6. Allow for Board discussion
7. Take action as appropriate

Background:

- Prior to the 2006 Comprehensive plan, the property was zoned commercial transitional.
- In 2007, the Zoning was changed to multifamily residential after the 2006 comprehensive plan was adopted based on the following justification by the BOT on 06/25/2007:

The property proposed to be rezoned to Multiple Family Residential High Density is proposed as an anchor to the Commercial District. It is an area of the highest density in the Town and would support condominiums and townhomes along with single family. This area has already experienced this sort of growth and the Town feels this area is most appropriate because of the close proximity to the Commercial District. It will provide a definitive boundary to the Central Business District.

- In 2008, a development plan to build/convert condominiums in this area was proposed, but did not occur.



- The property has since changed ownership and the new owners would like to return the zoning to the previous zoning designation with the purpose of having less than 30-day rentals.

Staff Comments:

- Based on it's location on the corner of Park Ave and Hancock St., 240/300 Hancock would have better provided a definitive boundary and anchor to the business district if it had remained the commercial transitional zoning, rather than being changed to Multi-family in 2007 to accommodate a development that did not occur (FIG 1).
- The land immediately east and west adjacent to the property is commercial transitional, the land to the north and south are single family residential and public, respectfully, and east diagonal is multifamily.
- The applicant has submitted the required items for requesting a zoning amendment including a letter stating why this rezoning is necessary (Exhibit A) on August 3rd, 2022.
- Staff reviewed the letter, the applicant revised the letter and resubmitted it August 5th, 2022.
- The applicant posted said property August 20th, 2022 with a sign to notify the general public of the Sept 7th, 2022 meeting for discussion of an advisory report.
- At the Sept 7th, 2022 Planning Commission heard public comment, had discussion, and directed staff to draft an advisory report.
- At the Sept 21st Planning Commission meeting, staff presented the drafted advisory report for comment and approval. Planning Commission requested edits to be reviewed.
- At the October 5th, 2022 Planning Commission meeting, the commission voted 5:0 in favor of the advisory report as drafted. The changes were discussed and information that was not relevant to the zoning was not included in order to make the report more defensible. The applicant, Martell Real Estate, LLC., submitted a statement in favor of the changes to the advisory report.
- The Board Hearing was properly noticed in the paper 15 days prior to this meeting, on Oct. 7th, 2022.

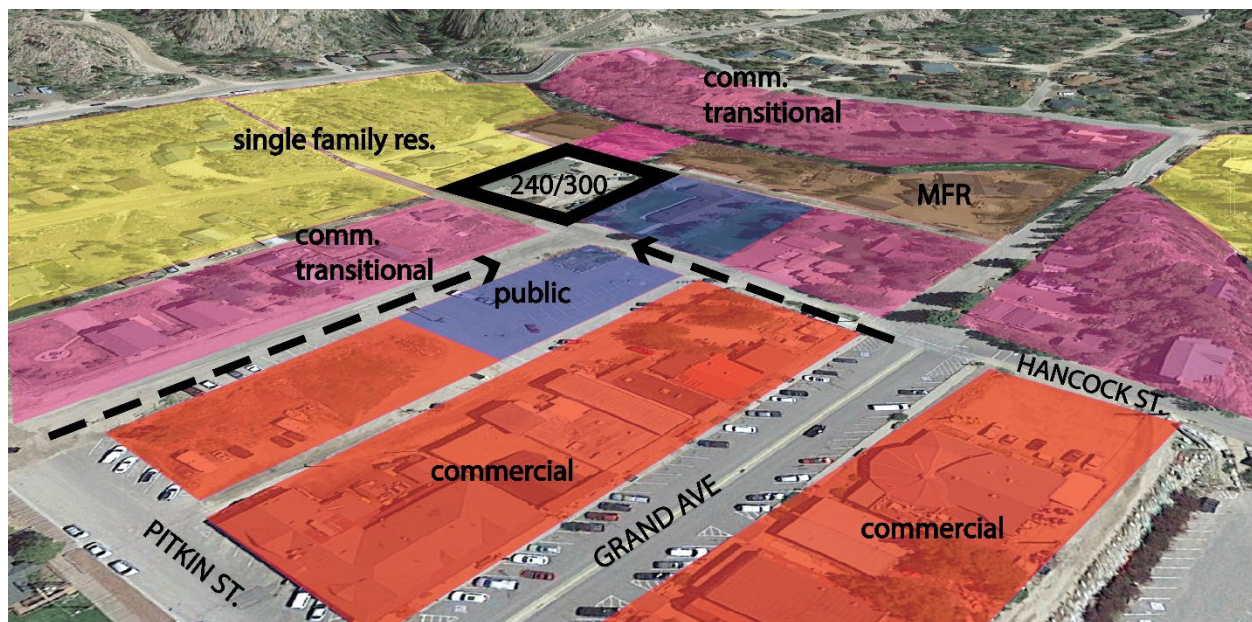


Figure 1



Municipal Code for Amending the Zoning Map:

12-2-34: Declaration of Policy and Standards for Rezoning.

(A) For the purpose of establishing and maintaining sound, stable and desirable development within the Town of Grand Lake, the rezoning of land is to be discouraged and allowed only under certain circumstances as provided hereafter. This policy is based on the opinion of the Town Board of Trustees that the Town's Zoning Map is the result of a detailed and comprehensive appraisal of the Town's present and future needs regarding land use allocation and as such, should not be amended unless to correct a manifest error or because of changed or changing conditions in a particular area of the Town in general. Rezoning shall only be allowed if the applicant demonstrates by clear and convincing evidence that rezoning is necessary because of one (1) or more of the following reasons:

1. The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Town's Comprehensive Plan.
2. The area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or new approach to development.
3. The proposed rezoning is necessary in order to provide land for a community-related use which was not anticipated at the time of the adoption of the Town's Comprehensive Plan and that such rezoning will be consistent with the policies and goals of the Comprehensive Plan. This Declaration of Standards for Rezoning shall not control a rezoning which occurs incidental to a comprehensive revision of the Town's Zoning Map.

(C) Amendments to the Official Zoning Map. Any person petitioning for amendment to the Official Zoning Map shall submit an application the Planning Commission through the Building Administrator.

1. *Planning Commission Advisory Report.* Any proposed amendment on the Zoning Map, when initiated by individual petition, shall be referred to the Planning Commission for an advisory report thereon...

3. *Procedure Before Town Board of Trustees.* After receiving the advisory report from the Planning Commission, the Town Board of Trustees shall hold a Public Hearing Before acting on the proposed amendment. Notice of the time and place of the Public Hearing before the Town Board of Trustees shall be given by Town Staff, by one (1) Publication of the same at least fifteen (15) days prior to the hearing, in a newspaper of general circulation in the Town of Grand Lake.

Board Discussion:

After reviewing the advisory report and recommendations to rezone the property, hold a Public Hearing and then decide if the justification for requesting the rezoning is in line with municipal code requirements 12-2-34 (1-3). The Board should carefully consider the Advisory Letter and recommendation of the Planning Commission. The Planning Commission found that Criteria 1 for rezoning had been satisfied - that the previous change of zone from CT to MHD was in error. The draft resolution in your packet was prepared in a manner that has the Board of Trustees accepting and making the same findings as the Planning Commission. However, the Planning Commission's recommendation is not binding on the Board of Trustees. The Board of Trustees may find Criteria 1 applies like the Planning Commission did, that the previous rezoning was in error. Or the Board may find that Criteria 2 applies, that the area has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or new approach to development. Or the Board of Trustees may find that Criteria 1 and 2 both apply. In all of those events the Board should adopt the resolution and approve the rezoning. If the Board concludes that neither Criteria 1 or 2 apply, then the Board should deny the rezoning.



Suggested Motions:

Motion to adopt Resolution 33-2022- A Resolution Rezoning Certain Real Property From Multi-Family Residential – High Density (MHD) To Commercial Transitional (CT).

OR

Motion to adopt Resolution 33-2022- A Resolution Rezoning Certain Real Property From Multi-Family Residential – High Density (MHD) To Commercial Transitional (CT) with conditions.

OR

Motion to deny Resolution 33-2022- A Resolution Rezoning Certain Real Property From Multi-Family Residential – High Density (MHD) To Commercial Transitional (CT).