

**TOWN OF GRAND LAKE, COLORADO  
RESOLUTION NO. 33-2022**

**A RESOLUTION APPROVING THE REZONING FROM MULTI-FAMILY  
RESIDENTIAL HIGH DENSITY (MHD) TO COMMERCIAL TRANSITIONAL (CT)  
OF CERTAIN PROPERTY LOCATED AT 240 AND 300 HANCOCK STREET, ALSO  
REFERRED TO AS LOTS 3-5, BLOCK 1, SUNNYSIDE ADDITION TO GRAND LAKE.**

**WHEREAS**, the Board of Trustees of the Town of Grand Lake, Colorado, pursuant to Colorado statute and the Grand Lake Municipal Code, is vested with the authority of administering the affairs of the Town of Grand Lake, Colorado; and

**WHEREAS**, Martell Real Estate Group, LLC., (“the Applicant”) is the owner of certain real property located within the Town of Grand Lake described as Lots 3-5, Block 1, Sunnyside Addition to Grand Lake, also referred to as 240 Hancock and 30 Hancock Street, (“the Property”); and

**WHEREAS**, the Applicant has submitted an application requesting that the Property be rezoned from Multi-family Residential – High Density (MHD) to Commercial Transitional (CT) (“the Application”); and

**WHEREAS**, the Property was previously zoned Commercial Transitional (CT) and was rezoned to Multi-family Residential – High Density (MHD) although the use of the Property has not changed since at least the original CT zoning; and

**WHEREAS**, the owner of the Property desires to revert the zoning to the previous zoning to continue the long-established uses of the Property for hotel and nightly rental, while remaining in compliance with the Grand Lake Municipal Code; and

**WHEREAS**, the matter was referred to the Planning Commission for an advisory report and recommendation, as provided in Section 12-2-34 of the Grand Lake Municipal Code; and

**WHEREAS**, the criteria to be applied by the Planning Commission and the Board of Trustees in considering the Application are set forth in Section 12-2-34(A) of the Grand Lake Municipal Code, which provides in relevant part:

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.

**WHEREAS**, following proper notice, on September 7, 2022 the Planning Commission conducted a public meeting to consider the Application and, based on the Application, the presentation by staff, the presentation by the Applicant, and the comments of the public, the Planning Commission found that the Applicant had established Criteria 1., above, by clear and convincing evidence, specifically that the Property was rezoned in error in 2006 when the Town approved the change from Commercial Transitional to Multi-family Residential High Density based on representations of the owner at the time that they intended to change the use of the Property from hotel and nightly rentals to apartments. However, the Property's use never changed to apartments and has been used continuously since then for hotel and nightly rentals, making its rezoning to its previous status of Commercial Transitional appropriate. Based on those findings the Planning Commission voted to recommend approval of the Application to the Board of Trustees and directed staff to draft an advisory report reflecting the Planning Commission's determination; and

**WHEREAS**, at its meeting on October 5, 2022, the Planning Commission approved the Advisory Report prepared by staff and directed that the Advisory Report reflecting the Planning Commission's recommendation be forwarded to the Board of Trustees; and

**WHEREAS**, following proper notice, on October 24, 2022 the Board of Trustees conducted a public hearing to consider the Application. Based on the recommendation of the Planning Commission to approve the Application, the presentation by staff, the presentation by the Applicant, and the comments of the public, the Board of Trustees finds that the Application, as presented, satisfies the criteria for rezoning set forth in Section 12-2-34(A). Specifically, the Board finds:

1. The Applicant has proved by clear and convincing evidence that 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. In particular, when the Town approved the change from Commercial Transitional to Multi-family Residential High Density based on representations of the owner at the time that they intended to change the use of the Property from hotel and nightly rentals to apartments. However, the Property's use never changed to apartments and has been used continuously since then for hotel and nightly rentals, making its rezoning to its previous status of Commercial Transitional appropriate.
2. The rezoning is in conformance or will bring the property into conformance with the Comprehensive Plan goals, objectives and policies and other related policies or plans for the area.
3. The proposed rezoning is compatible with the surrounding area and there will be minimal adverse impacts considering the benefits to be derived.

4. The proposed rezoning will not adversely affect public health, safety or welfare by creating excessive traffic congestion, creating drainage problems or seriously reducing light and air to adjacent properties.
5. The rezoning will not create an isolated or spot land use district unrelated to adjacent or nearby areas.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO AS FOLLOWS:**

Section 1. The Application of Martell Real Estate Group, LLC for rezoning is approved. Lots 3-5, Block 1, Sunnyside Addition to Grand Lake, Colorado, also referred to as 240 Hancock and 30 Hancock Street, is rezoned from Multi-family Residential – High Density (MHD) to Commercial Transitional (CT).

Section 2. The Town Clerk is hereby authorized and directed to amend the Town Zoning map and take all necessary steps to reflect the updated zoning of the Property as Commercial Transitional (CT).

Section 3. The rezoning of the Property and the amendment of the Town Zoning Map by this resolution, shall not affect any offense or act committed, any penalty incurred, or any contract, right, or duty established or accruing before the effective date of this resolution.

Section 4. Severability. If any article, section, paragraph, sentence, clause, or phrase of this resolution is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The Board of Trustees declares that it would have passed this resolution and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this resolution are hereby repealed.

**PASSED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE ON THIS 24<sup>TH</sup> DAY OF OCTOBER, 2022.**

Votes Approving: \_\_\_\_\_  
Votes Opposed: \_\_\_\_\_  
Absent: \_\_\_\_\_  
Abstained: \_\_\_\_\_

ATTEST:

BOARD OF TRUSTEES  
TOWN OF GRAND LAKE, COLORADO

\_\_\_\_\_  
Alayna Carrell, Clerk

BY: \_\_\_\_\_  
Ernie Bjorkman, Mayor Pro-Tem