

Alta Planning Commission

Staff Report



To: Alta Planning Commission

From: Chris Cawley, Town Manager

Date: April 17, 2024

Re: Shallow Shaft Restaurant Proposed Base Facilities Zone Ordinance Text Amendment and Redevelopment Vision

Attachments: *The Shallow Shaft Redevelopment Vision presentation powerpoint/.pdf*

Introduction

The owners of the Shallow Shaft restaurant are considering a project to demolish the existing structure and pursue a redevelopment on the property. Both the existing structure and the proposed future structure and land uses exhibit nonconformity and noncompliance issues under Town of Alta zoning regulations. The owners of the Shallow Shaft will join the Alta Planning Commission on April 24th to discuss a proposed amendment to the text of the Town of Alta zoning ordinance and their redevelopment vision.

Existing Property, Applicable Zoning

The existing land use is an 80-seat restaurant, with an apartment in the basement primarily used by employees or facility caretakers. The existing structure is 28 feet tall above the lowest adjacent finished grade, with at least 44 % lot coverage. The Shallow Shaft parcel is .21 acres.

The Shallow Shaft parcel is zoned Base Facilities under [Town of Alta Code 10-6D](#), and further defined as Zone C of the Base Facilities Zone (BFZ). The adjacent "Photohaus" property is the only other property in BFZ Zone C. The following are relevant provisions of the BFZ:

Purpose: *The purpose of the base facilities zone is to allow land to be used for retail and service commercial establishments and uses, together with transient accommodations uses. The base facilities zone is the commercial hub of the town and, as a result, no residential uses, including, but not limited to, condominiums and single-family residences shall be permitted within the base facilities zone.*

Permitted Uses: Hotels, conferences, retail commercial services, storage of materials accessory to permitted uses, parking, parks and open spaces, and designated employee housing

Prohibited Uses: All other uses not permitted in the BFZ (including residential uses as stated in 10-6D-2 Purpose)

Minimum Lot Size: 1 acre

Minimum Lot Width: 100 feet

Maximum Coverage: 65%

Yard Regulations (Setbacks): Individually determined by the land use authority

Maximum Height, Zone C: Individually determined by the land use authority

The BFZ was last updated substantially in 2014, when provisions related to lot coverage, height, and other elements were amended.

Existing Zoning Noncompliance and Nonconformity Issues

- The .21 acre, 95.5 foot wide Shallow Shaft parcel does not comply with the BFZ minimum lot size and width requirements under [10-6D-8](#). The adjacent Photohaus parcel is also below the minimum lot size and width requirement in the BFZ.
- Parking occurs on the Shallow Shaft parcel at present, with up to 8 vehicles parking partially on private property, and partially on land within the UDOT right-of-way easement for SR 210. Under the current code, parking “as is” is allowed for existing uses.
- If the property is enlarged or increased in capacity or there is a new use or new construction then parking requirements in the Code apply. [Alta Town Code Chapter 10-12](#) requires 1 parking space per 2.5 seats or 3 spaces per 100 feet of gross floor area; under this requirement, the 80-seat Shallow Shaft restaurant would require at least 30 parking spaces to comply with the ordinance. The ordinance also requires parking to occur on-site, although exceptions can be made in some circumstances. Current parking on site is included in the northside parking permit program or in the Alta Marshals Office “official zone” by permission from the Shallow Shaft. The Town of Alta manages snow removal in the parking area.
- Given these noncompliance issues, the only option under the current code to demolish and rebuild or expand the structure is to use the same footprint, with the option to add an additional 250 gross square feet of floor area, per updates to ordinance [10-8-4 adopted in 2021](#).

Redevelopment Proposal

The property owners propose to develop a two-story building with two short-term rental units on each floor, on top of a basement 7-stall parking garage. The proposed structure would have 56% coverage, stand 36’ above the lowest adjacent finished grade, and have setbacks between 5’ and 30’ from various lot lines. *See page 9 “Coverage/Setback of New Structure” in the attached presentation.* The proposed use is short-term rentals.

Proposed Zoning Ordinance Text Amendment

The property owners propose a text amendment to Town of Alta Code 10-6D-8 to reduce the minimum lot size in Zone C to .13 acres, and to reduce the minimum lot width to 70 feet, in order to mitigate both Zone C properties’ noncompliance with 10-6D-8. *See page 13 “Proposed Code Change” in the attached presentation.* Such a text amendment would allow for a new building to meet the lot size and width requirements and be a larger building, therefore allowing it to be placed in a new footprint and be larger than the old footprint plus 250 square feet.

Problems with the Redevelopment Vision: Short-Term Rentals

Since the BFZ was last updated, Short-Term Rentals (STRs) have become one of the hottest topics in local land use regulation across the United States and especially in resort communities like Alta. The reasons why are numerous, including:

- In communities such as Park City, Moab, and Springdale, as well as in urban communities, considerable portions of local housing stock, especially more affordable

units, have been purchased by investors and converted into STRs. STR rates can generate substantially more income for a property owner than long-term, residential style rentals.

- When commercial properties are converted to STR, what were once spaces open to public commerce and thus had social significance to community members and visitors become inaccessible. STR also do not typically create and sustain as many jobs as businesses like restaurants and retail shops. A classic example of this comes from Springdale, where conversion of a beloved local art gallery to STR lead the Town of Springdale to undertake a significant project to regulate short-term rentals: <https://www.kuer.org/business-economy/2022-02-25/springdale-puts-the-brakes-on-new-short-term-rentals>. This could be seen as an analogous situation to what would occur on the Shallow Shaft property, where the only restaurant in Alta not part of and primarily intended for guests at a hotel or day-skiers at Alta Ski Area would be converted into transient accommodations accessible only to guests

There are also many commonly acknowledged benefits of STRs:

- STRs are very popular for destination visitors and can provide diverse transient lodging options. Many properties in Alta's residential zones are rented as STRs.
- STR's are generally considered a safe or easy business model. They do not require substantial staffing or other overhead costs required for a successful retail or food service business. Depending on property owners' specific financial circumstances, STR could be more stable businesses to operate in Alta's extremely seasonal economic environment.

The BFZ ordinance does not include the terms "short term rental" or "nightly rentals." Nightly rentals are permitted in certain other Town of Alta zoning districts, but not the BFZ. The BFZ is intended to promote pure hotel use, service commercial uses such as restaurants and retail shops, and employee housing. Under [State of Utah Code 10-8-85.4](#). "Short-term rental" means any residential unit or any portion of a residential unit that the owner of record or the lessee of the residential unit offers for occupancy for fewer than 30 consecutive days." Residential uses are expressly prohibited in the BFZ. Thus, short-term rental use is not permitted in the BFZ.

The property owners argue that short term rental use is permitted under the definition of a hotel contained in [Town of Alta Code 10-1-6](#):

Any building containing guestrooms intended or designed to be used, or which are used, rented, or hired out to be occupied on a nightly basis, or which are occupied for sleeping purposes by guests, and which may include accessory facilities such as a lobby, meeting rooms, recreation facilities, group dining facilities and other facilities customarily associated with hotels. A "hotel" shall not include any building used for residential purposes, including, but not limited to, condominiums and single-family residences.

Staff believes the planning commission and town council intended to prohibit short-term rental use in the BFZ during the most recent process to update the ordinance, which was in 2013-2015. Short term rentals are based on single family dwellings being used for nightly rentals. Single family dwellings are explicitly prohibited in the zone.

Allowing the Shallow Shaft to convert to STR under this definition would require the town to allow other properties in the BFZ, such as Alta's existing hotels, to convert to STR.

These units are not condominiums. A “condominium project” is defined as “A real estate plan or project whereby two (2) or more units, whether contained in an existing or proposed building or buildings, are separately offered or proposed to be offered for sale. “Condominium project” shall also mean the property when the context so requires,” and the units are not proposed to be independently offered or sold.

For more information on STR as a land-use topic, [click here to read a white paper on STR from the Utah Land Use Institute](#).

Additional Problems with the Redevelopment Vision

- As described above, the Shallow Shaft parcel is below the 1-acre minimum lot size and 100-foot minimum lot width requirements in the BFZ. The proposed redevelopment substantially changes the footprint of the structure and appears to increase the floor area by more than 250 gross square feet. *The purpose of the proposed text amendment is to mitigate this noncompliance.*
- A large culvert exists on the southeast corner of the Shallow Shaft parcel. 10-6D-14-G Stream Regulations provides that *no building, structure, improvement, or appurtenance shall be constructed, raised or established, the nearest point of which is within fifty feet (50') of the high-water line of any Waterway*, and 10-1-6 Definitions defines a culvert as a “Waterway.” The plan and renderings contained in the Shallow Shaft’s proposal appears to show improvements within 50 feet of the culvert. The culvert helps manage heavy runoff from spring melt out and rainstorms that would otherwise flood or undermine SR 210. Addressing this setback would change the layout, location and size of the proposed redevelopment.
- 10-6D-11 provides that “Maximum Coverage” *“for the aggregate of all buildings, structures, graded surfaces, paved areas, overhangs, driveways, decks, parking areas and walkways shall be 65% of the gross lot area.* If the text amendment was approved, any new building would be permitted so long as it met the 65% of the gross lot area.
- [10-7-22 Avalanche Hazard Review](#) requires building permit applicants to define and analyze a “100-year avalanche” event and design the building to withstand and protect human life from such an event. On properties with significant exposure to avalanches, designing to this requirement can be a primary driver of feasibility and construction costs and the Town encourages property owners to evaluate avalanche hazard early in the design process on any significant project. Various avalanche studies have shown significant avalanches originating on Flagstaff Shoulder and Flagstaff face affecting nearby properties. Renderings in the proposal appear to show uphill-facing windows, which would require extensive engineering and reinforcement if a dedicated study confirms significant exposure.
- The proposed underground parking garage is shown to be accessed from the US Forest Service road that accesses Alta Central and has historically been covered by deep snowpack all winter. Adding vehicle circulation on, and plowing the lowest segment of the road would be technically challenging, and the Shallow Shaft would need permission from US Forest Service and the Utah Department of Transportation.
- Parking will be required to be completely on-site unless the Shallow Shaft is granted an exemption to this under [10-6D-6](#).

Minimum Lot Size and Width Requirements in General and in Alta

Lot size and width requirements are common regulations in municipal zoning ordinances. They are a primary mechanism to regulate density, the look and feel of neighborhoods and communities, and the social intensity of a given land use, which can affect demand for municipal services and parking, vehicular and pedestrian traffic and circulation, environmental impacts, and other factors.

The smallest minimum lot size allowed in any Town of Alta Zoning District is ½ acre, in the Peruvian Estates Zone. The minimum lot size in Alta's commercial zone has always been 1 contiguous acre, which the Town of Alta inherited from Salt Lake County upon incorporation in 1970.

Changing the minimum lot size in BFZ Zone C could be considered "spot zoning," which is when special zoning ordinances are narrowly tailored to a single property or other small number of properties.

If this text amendment were granted it would apply to both properties in the "C" zone of the BFZ. Therefore, the adjacent Photohaus property, which is a parcel less than 2. acres, would also be permitted to redevelop under this amendment and could expand to 65% of the lot coverage.

Additional Note on the Photohaus

The Photohaus was originally built as a mixed residential and commercial property on a US Forest Service special use permit, prior to the Town of Alta's incorporation. Both the Shallow Shaft and the Photohaus either purchased their land from the US Forest Service or participated in a land exchange with the agency. The owners of the Photohaus rent the residential dwellings in the building as short-term rentals. The Photohaus is zoned Base Facilities Zone C, like the Shallow Shaft. The Town considers the residential uses in the Photohaus grandfathered nonconforming uses. The Photohaus was substantially remodeled in the past decade, but prior to the recent amendment to the Town of Alta nonconforming use and noncomplying structure ordinance allowing limited tear-down and rebuild, and neither dimensions, coverage, or uses of the building changed.

Proposed Town of Alta and Planning Commission Process and other Next Steps

Staff recommends the Town of Alta and the planning commission undertake a process to study impacts of the proposed text amendment and affirm Staff's finding that Single Family Dwellings and thus STR are not allowed in the BFZ. The process should involve the following elements:

- Seek from the applicant three-dimensional massing renderings to study the impacts on neighborhood look and feel, viewsheds from adjacent properties, etc. that could result from adopting the proposed text amendment
- Consider whether reducing the minimum lot size requirement in BFZ Zone C would set a precedent for proposals to change minimum lot size requirements in other zoning districts

If the Planning Commission is interested in considering STRs in the Base Facilities Zone, they could direct staff to do the following:

- Develop a definition of STR and determine whether, or under what conditions, to allow STR

- Study the economic benefit of STR to the Town of Alta compared to other potential commercial uses such as restaurants or retail shops, especially in light of the potential for UDOT's proposed enhanced bus service or gondola to impact pedestrian traffic and demand for services in central Alta
- Evaluate any other potential impacts that permitting STR in the BFZ could create. Would STRs enhance, complement, or degrade Alta's character and community?

If the planning commission eventually decides to support the proposed text amendment, or to develop ordinance language regulating STR in the BFZ, it can vote to recommend any such changes to the town council. The council has final authority to approve all zoning amendments or rezoning requests.