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April 25, 2022

VIA EMAIL

Snyderville Basin Planning Commission

**RE: OBJECTIONS TO PROPOSED PINEBROOK TOWNHOMES REZONE AND
CONDITIONAL USE PERMIT FOR PARCEL PP-43-A-7**

Dear Planning Commission Members:

This firm is counsel for the homeowner associations for Elk Run phases II and III (the “Associations”). We are writing on behalf of these Associations to lodge their objections to the proposed Pinebrook Townhomes Rezone and Conditional Use permit for Parcel PP-43-A-7 (the “Project”). As a preliminary matter, approval of this application would be improper spot zoning. *See Toman v. Logan City, 167 P. 3d 489, (Utah Ct.App. 2007)*. Under Utah's jurisprudence, spot zoning occurs when a municipality either grants a special privilege or imposes a restriction on a particular small property that is not otherwise granted or imposed on surrounding properties in the larger area. *See id.* at 711 (explaining that spot zoning occurs “where a particular small tract, within a large district” is zoned differently than the larger district, and “not done in pursuance of any general or comprehensive plan”); *see also Crestview-Holladay, 545 P.2d 1150, 1151 (Utah 1976)* (“[s]pot zoning results in the creation of [these] two types of ‘islands’”). The Associations feel strongly that units allowing for 90 day rentals with no on-site management to prevent over-occupancy and nuisance, do not satisfy the spirit of the General Plan’s policy to support development of “viable opportunities for affordable housing and affordable home ownership” in Snyderville Basin. *See* General Plan policy 2.41

While the law prohibiting this kind of spot zoning should be determinative here, the Associations also believe that some of the analysis and conclusions in the Staff Report for this Project are inaccurate and that the Project, as proposed, should not be approved and should instead be sent back to the drawing board.

Specifically, among other things, the Association disagrees with Staff’s analysis and conclusion that the Project plan “is compatible with adjacent land uses and will not be overly burdensome to the local community.” The Project at this level of density is not compatible with adjacent land use. The proposed density for this project, approximately 22 units per acre, is wildly divergent from the density of the existing surrounding multi-family unit developments which Staff

acknowledges is between approximately 6 and 10 units per acre. The enormity of the requested change is inconsistent with and inappropriate for that location. Indeed, the General Plan expressly notes that Town Centers and Resort Centers are intended as the areas where density should be concentrated. The proposed building massing on such a small development parcel is also divergent from and incompatible with the building massing in the immediately surrounding neighborhoods. The need for affordable housing does not, in the Associations' view, represent such a compelling countervailing public interest so as to warrant such a drastic change in unit density. There is a reasonability factor that must be considered.

The Associations believe that the burdens this Project would impose on the immediately adjacent neighborhoods have not been properly evaluated, particularly with respect to increased traffic and congestion. It bears reminding that the main road access point for the Project is Pinebrook Road, immediately adjacent to which is the Park City Day School. Existing levels of on-street parking and the existing traffic levels have already effectively reduced that portion of Pinebrook Road to a single lane during the mornings and afternoons for student drop off and pick up. Below is a link to video of typical traffic activity on this section of Pinebrook Road taken by the Associations' members evidencing the problem. <https://www.youtube.com/watch?v=okmwu-GDYYU>. The increase in vehicle traffic and congestion in this already congested area that this crush of additional units would invariably bring would be unduly burdensome and raise significant safety concerns for both vehicle drivers, transit, and pedestrians, particularly in the winter months.

The Associations are similarly concerned about the sufficiency of the proposed parking. The reality of this Project is that with no provisions for an on-site manager, and with allowed rental terms as short as 90 days, the rental occupancy will likely far exceed allowed single-family occupancy levels, particularly during the high season. Vehicle parking for such over-occupancy will invariably spill over on to the streets in the surrounding neighborhoods, increasing congestion and interfering with snow removal. It will also likely result in occupants' and visitors' unauthorized use of the neighboring business park's private parking area. There is real concern by the Associations and their members that the desire for immediate affordable housing is resulting in short cuts being taken and a blind-eye being turned to these difficulties and harms this Project would bring to the current neighboring residents. While the minimum number of parking spaces required for single-family occupancy under the development code appear, on the surface, to be satisfied by the proposed development plans, we urge the Planning Commission to recognize that the reality of the Project is very much different than what the applicant is presenting on paper. With no on-site management, these units will be grossly over-occupied and the vehicles which will come with that over-occupancy will be incredibly burdensome to the surrounding communities. The reality is that the proposed parking is woefully insufficient for the over-occupancy that will invariably result. That burden on the neighboring communities must be taken into account.

Similarly, and contrary to conclusory statement in the Staff Report regarding the sufficiency of snow removal and snow storage, it is not at all clear from the Project plans that there is adequate snow removal and snow storage. No areas are designated for snow storage, and no information has been provided relative to snow removal. There is concern that snow within the Project may be improperly shifted on to surrounding streets and neighborhoods.

The Associations would also emphasize to Planning Commission members the Project's current noncompliance with code provisions regarding neighborhood park facilities and connectivity and the insufficient architectural and landscaping detail. The lack of any lighting plan addressing light pollution from the proposed increase density is also concerning.

The lack of any development agreement for this Project is also very troubling. If the applicant's requested zoning change and conditional use were to be approved at this point, there are no protections even contemplated for the adjacent neighborhoods if the Project was not completed. There are also no provisions for reversion of the parcel to Rural Residential zoning if the promised affordable units requiring the drastic zoning change were to fail to prevent a developer from taking unfair advantage of the spot zoning change.

To be clear, the Associations' objections to the proposed project are not a product of a not-in-my-backyard sentiment. The Associations and their members are not opposed to the addition of affordable housing in the Pinebrook neighborhood or even on that particular parcel. Affordable housing units at a density level more consistent with the other surrounding multi-family developments and which would not impose such traffic and parking burdens on the immediately adjacent neighborhoods would be welcome.

The Associations are, however, vehemently opposed to what appears to be an overt and improper request for spot zoning to benefit a developer. They are likewise opposed to the Project on grounds that it would be unduly burdensome and would be a detriment to the existing community. It appears that little, if any, actual consideration has been given to the very practical and real problems a project of this density level will impose on the neighboring communities or to any possible burden mitigation. We therefore respectfully urge you to deny this application.

Sincerely,

ROSING DAVIDSON FROST

/s/ Melyssa D. Davidson

cc: Amir Caus
William Barry