

February 7, 2018

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VIA ELECTRONIC MAIL:

Summit County Council
Summit County Planning Department
601 North Main Street
PO Box 128
Coalville, UT 84017

Re: Notice of Appeal of Approval of Conditional Use Permit for Woodward Gorgoza Park City on Parcel # SS-8-C-1;
3863 West Kilby Road, Park City, Utah 84098

Dear Summit County Council and Summit County Planning Department:

The aggrieved persons are appealing the decision of the Snyderville Basin Planning Commission, on January 9, 2018, to grant the Conditional Use Permit for the Woodward Gorgoza Park City. The aggrieved persons are also appealing the fact that it was even allowed to go through the Conditional Use Permit process based on the erroneous characterization by the Director of Community Development that the "indoor action sports training facility" could be an accessory building.

The aggrieved persons, residing within one-thousand feet of the exterior boundaries of the proposed development, as well as many others, will be adversely affected by the excessive noise, snowmaking blow over, lighting and traffic generated by this proposed development, not to mention the loss of view shed and open spaces.

The basis for the appeal is that the 45 foot tall, 420 foot long, 52,107 square foot indoor action sports training facility is a "recreation and athletic facility, commercial" and is a prohibited use in the Hillside Stewardship Zone.

The building, as described by the applicant, will serve as an indoor training space for multiple action sports including, skiing, snowboarding, skate boarding, BMX biking, gymnastics, and cheerleading. Dictionary.com defines sport as "an athletic activity requiring skill or physical prowess and often in a competitive nature".

The applicant also states that the size/volume of the facility is intended to serve the indoor training space with the required floor space and ceiling height/volume to create a safe and high quality environment for multiple action sports.

In a number of staff reports on the project, under the heading of "Findings of Fact", it is stated, "The proposed sports training facility is a private recreational business that is unique to Summit County".

The applicant further states that the facility would also include ancillary functions, such as food and beverage space, a ticket counter, trainer/first aid space, a digital media lab, lockers, restrooms, circulation and back house spaces to support these functions. Of course, the trainer/first aid space and lockers are also directly related to the indoor sports activities.

The building specifications show that roughly 75% of the space is dedicated to indoor action sports activities.

The current Gorgoza Park is an outdoor recreation facility and the existing developed recreational uses are vested. Those uses are the snow tubing hill, associated tow ropes, snowmaking, sales yurt and a parking lot. The use has remained relatively unchanged. (The temporary buildings which were established to be used for sales rentals and restroom facilities were not to exceed five years, and all activity was to be non-motorized which would exclude the mini snowmobiles.)

Compared to the existing developed vested uses, the proposed 52,107 square foot indoor action sports training facility would be the Principal Building on the site. Principal Building as describe in the Snyderville Basin Development Code (10-11-1.43) says “a building in which is conducted the principal use of the lot on which it is situated and the use of which must be consistent with the permitted uses of the zone district it is located”.

The principal use of the lot is outdoor recreational. The Principal Building’s use is indoor recreational. The principal building is a recreation and athletic facility, commercial as defined in the Snyderville Basin Development Code (10-11-1.245) as “a recreation facility operated as a business on private or public property and open to the public for a fee, such as a tennis court, skating rink, or substantially similar use, and support facilities customarily associated with the development”.

Recreation and athletic facilities, commercial are prohibited uses in the Hillside Stewardship Zone, per Section 10-2-10 of the Snyderville Basin Development Code. Consequently, they are not subject to the Conditional Use Permit process in this zone.

The fact that the application went through the Conditional Use Permit process was in error. The error was due to the assumption that the indoor action sports training facility could be an accessory building. Snyderville Basin Development Code (10-11-1.37) states an accessory building is “a building or structure which is subordinate to, and the use of which is incidental to, that of the principal building, structure or use on the same lot”.

Oxford Dictionaries defines incidental as “accompanying but not a major part of something”. Merriam-Webster defines incidental as “occurring merely by chance or without intention”.

Oxford Dictionaries defines subordinate as “treat or regard as of lesser importance than something else”. Merriam-Webster defines subordinate as “placed in or occupying a lower class, rank, or position”.

The indoor action sports training facility is not an accessory building because it is not a building or structure which is subordinate to a principal building or structure, because there is none. It is also not a building or structure subordinate to the use on the same lot, which is merely a tubing hill.

The Snyderville Basin Development Code, in Section 10-2-10: Use Table, also states “in cases where a proposed use is not listed in the table, the Community Development Director shall compare the nature and characteristics of the proposed use with those of the uses specifically listed and make a determination if the proposed use is similar in nature and logically fits into any of the categories listed”. The proposed use is listed in the Use Table, therefore the above provision does not apply.

But the Code goes on to state, "in cases where a use is similar nature to more than one category, the more specific category shall apply." In the Dave Thomas Legal Memorandum to the County Council, regarding the Gorgoza Park (Woodward) Application, dated December 1, 2016, he states in item # 12, "The expiration of the Development Agreement presents a unique problem. A Training Facility is most analogous to a 'Recreation and athletic facility, commercial' on the Use Table. Such facilities are prohibited in the Hillside Stewardship Zone District. However, the existing recreational uses are vested. Gorgoza Park is an outdoor recreation facility. As a result, the Training Facility could be viewed as an 'Accessory Building over 10,000 square feet' because it is 'a building or structure which is subordinate to, and the use of which is incidental to that of ,the principal building, structure or use on the same lot.' The Director of Community Development, consistent with authority granted to him by the Snyderville Basin Development Code, has determined that this redevelopment application falls into the latter category. As such, the Training Facility is subject to a conditional use permit process."

Again, as stated above, the Codes says, "in cases where a use is similar nature to more than one category, the more specific shall apply", and that is Recreation and Athletic facility, commercial which is a prohibited use. The Director of Community Development does not have the authority to say it could be something that is less specific. For the Director of Community Development to say it could be an accessory building is in violation of the Code. The fact that it was allowed to go through the conditional use permit process is an egregious error in violation of the Code.

The aggrieved persons, and others affected, request that conditional use permit approval of Woodward Gorgoza Park City be voided, and the indoor action sports facility be prohibited in the Hillside Stewardship Zone.

Sincerely,

Tom Farkas and Dan Bass

(on behalf of 47 aggrieved persons in Southridge and Jeremy Point and 81 persons from other neighborhoods)

Southridge

Aggrieved Persons (within 1000 feet)

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Jeremy Point

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Woodward Gorgoza Park City Appeal Supporters from other Neighborhoods

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