

**WORK SESSION – March 8, 2021**  
**Town Council – Compass Rose – Hyde 2016 Development Agreement**

Minutes of the Huntsville Town Council Work Session held at Town Hall 7309 East 200 South, Huntsville, Utah at 8:00 PM. The meeting is regarding the Hyde's 2016 Development Agreement and the proposed phase II of the Compass Rose Hotel.

Attending at Town Hall: Mayor Truett, TCM Max Ferre', TCM Richard Sorensen, TCM Blake Bingham, TCM Wendy McKay, Attorney Bill Morris, Lt. Hutchinson, Rex Harris, Beckki Endicott, Doug Allen, Angel Truett, Jeff Hyde, Dakota Hyde, Steven Dougherty (Attorney for the Hyde's on the phone)

Mayor Truett opened the meeting by introducing those present to Steven Dougherty on the phone. There have been a lot of opinions going around Town on the Hyde's phase II project. At the last Planning Commission Meeting the Hyde's request for an Overlay Zone was withdrawn by the Hyde's. Mayor Truett explained the Hyde's withdrew their application due to a Development Agreement made in 2016 that they felt was still in force.

Mayor Truett had Attorney Morris review the agreement. He has an opinion on that agreement that he is going to share tonight. Mayor Truett also thought it would be a good idea to get an additional opinion from Robert Keller, an attorney for Snow, Christensen & Martineau. The attorneys have been provided with the minutes from the meetings, original CUP application and the 2016 Development Agreement.

Attorney Morris shared a summary of the 2016 Development Agreement with the Hyde's and then read the opinion presented in an email to Mayor Truett at 5:05 that day on March 8<sup>th</sup>, by Robert Keller. Attorney Morris stated in his opinion that the Hyde's proposal for Phase II complies with the 2016 Development Agreement.

TCM Blake Bingham has not seen the 2016 Development Agreement. He would like to see a copy of the agreement so that he can see how the recent proposal can comply. TCM Blake Bingham asked for some additional history and understanding with regards to the agreement.

Rex Harris recounted the history. In 2016, he sat on the Planning Commission. The Hyde's had an original agreement that contained mixed use. They withdrew their petition for mixed use because there was a lot of controversy in the Town. The Town entered into the amended agreement. This is the agreement from 2016 that the attorneys have given their opinion on tonight. The agreement supersedes the previous agreement, and outlined the conditions of the allowed uses of the property.

Rex stated he originally advised the Hyde's to apply for an overlay zone. In his opinion, this was needed because the original use the Hyde's applied for on the CUP was a hotel with 16 rooms or less. Prior to the CUP coming into existence, the Hyde's withdrew their application to rezone for mixed use in 2016 and desired to use the existing commercial zoning. The Hyde's submitted the CUP application and highlighted all things on the Conditional Use Table that they would be interested in developing on the property. One of those things the Hyde's highlighted was a hotel with 16 rooms or less. One of the reasons Rex felt they needed an overlay zone in 2021 was that he felt the CUP only applied to the items highlighted by the Hyde's on the 2016 Conditional Use Table. He now understands that the Hyde's agreement allows them to amend the 2016 CUP to anything that was listed on the 2016 Conditional Use Table and not just the highlighted items. One of the items on the Conditional Use Table is a hotel with 16 or more rooms. This is consistent with the 2016 Development Agreement which is still in force.

TCM Bingham confirmed that the Hyde's are bound by what is in the Conditional Use Table in 2016. Initially Rex thought that what the Hyde's are proposing in 2021 is outside the original CUP but the Development Agreement binds them to anything on the 2016 Conditional Use Table. A hotel with 16 rooms or more is on the 2016 Conditional Use Table. Attorney Morris agreed that the Hyde's are vested to the 2016 Conditional Use Table in a Village Style Commercial Development. TCM Bingham wanted to confirm that condominiums were not a part of the Allowable Use Table in 2016.

Rex wanted to ask one additional question on point #12 in the 2016 Development Agreement. It states,

*Nothing contained in the DA shall be construed as creating a joint venture, partnership or association between Huntsville Town and Developer. Both parties are separate and independent entities acting on their own behalf. This DA does not create any rights or obligations of any persons or parties other than the Developer and Town.*

Rex wants to know how that plays into the condominium concept. TCM Blake Bingham added on to the question stating that he understands that the Town cannot dictate ownership. The Town can only control "Use." Rex wanted to know if the Hyde's set up an agreement with other parties for ownership, how are those entities part of the DA with the Town. Attorney Morris replied that the other parties could be set up as a Corporation and that would be considered an independent entity. He went on to explain that the third-party clause of the contract means that those that were not party to this agreement can not sue us over the agreement. The additional parties can benefit from the agreement with a lease or some other means, but they are not part of the agreement between the Town and Bonnie & Hyde, Inc.

TCM McKay asked if condominiums were not allowed on the 2016 Use Table, how could they be allowed today. TCM Bingham responded that the Town could not control ownership. Dakota Hyde read a definition of condominiumization which stated that condominiumization is an ownership regime, not a conditional use.

TCM Blake Bingham explained that it is important to think of the Development Agreement, the Conditional Use Application, and the Conditional Use Tables as separate items. It is easy to think of them and refer to them all together. The 2016 Development Agreement binds the Hyde's to using the 2016 Conditional Use Table items. The item of hotel with less than 16 rooms was a conditional use that they applied for with the CUP. Both Rex and Chairman Allen believe the Hyde's are amending their original use permit, and they should submit a new Conditional Use Permit.

The Town Council discussed requiring the Hyde's filing a new Conditional Use Permit. Attorney Dougherty, Attorney for the Hyde's agreed that filing for a new Conditional Use Permit is an appropriate course of action.

**TCM Richard Sorensen motioned to adjourn. TCM Wendy McKay seconded.**

**Meeting was adjourned at 6:43 p.m.**

  
Beckki Endicott, Recorder