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Aspen city council denies TDR requests for Ute Avenue homes

Madeleine Osberger, Aspen Daily News Staff Writer
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Aspen City Council this week denied a request to add TDRs from elsewhere onto this home at 1001 Ute Avenue. The applicants requested to use six TDRs for two homes on the property. Including subgrade space, both homes in the subdivision currently exceed 18,000 square feet.

Madeleine Osberger/Aspen Daily News

The separate owners of two homes along the south side of Ute Avenue won't be allowed to expand their square footage through transferable development rights acquired from other city properties, after Aspen City Council this week firmly shut the door on the application to amend the planned unit development for the 1001 Ute Avenue subdivision.

Council voted 4-0 to deny the request for those owners to “land” six TDRs between the two homes at 1001 Ute Ave. and 1011 Ute Ave.; each transferable development right could have added 250 square feet of floor area.

The homes, located at the base of Aspen Mountain, were allowed to be built up to 5,040 square feet of floor area — roughly 1,100 square feet more than was initially permitted through the R-15 neighborhood zoning. That’s because in the original 2006 approval, allowances were granted in exchange for providing open space, as well as three tennis courts that are available to guests at the nearby Gant property through a 100-year lease.

During his presentation Tuesday night, Aspen city planner Kevin Rayes said 5,000 square feet is only a portion of the homes’ total size because of how the floor area is counted.

When considering the subgrade floor area, 1001 Ute Ave. has over 19,000 square feet of space, with its neighbor sizing in at 18,432 square feet. 1001 Ute Avenue is owned by Ute Mesa Lot 1 LLC and represented by Leathem Stearn.

Built in 2020, the home has an indoor lap pool and bowling alley contained within its roughly 20,000 square feet of space. Christie’s International Real Estate lists the seven-bedroom, seven-bath home at \$75 million.

The home at 1011 Ute Ave. is owned by an LLC controlled by Christy Thompson, said Chris Bendon of Bendon Adams, who is representing the applicants, before council this week. As previously reported by the Daily News, the six-bedroom, eight-bath home at 1011 Ute Ave. sold last year for \$22 million to Thompson, who is part of the family of the late Texas oil executive J. Cleo Thompson.

Bendon told council that the homeowners planned to enclose exterior spaces and that the expansions would not impact the exterior massing.

According to the application, “each existing free-market home has a partially enclosed patio area at the rear (uphill) of the property. Because these areas are not fully enclosed, they do not count towards floor area. By landing six TDRs on the site, the applicant hopes to enclose these spaces. Enclosing these spaces would increase the conditioned, indoor area of each property but would not increase the visible mass of the structures.”

Bendon told council, “If you’re looking to hide TDRs somewhere in town, this is the best place to do it.”

City staff on Tuesday recommended denial of the application in part because “increasing the bulk and mass of these dwellings is inconsistent with previous approvals and weakens any visual relationship to the surrounding neighborhood.”

Sensitivity and scale missing

The original planned unit development for what was then called the Ute Mesa Subdivision PUD saw the city receiving a 4.1-acre parcel of open space along the property, which was considered “a critical link in open space properties in the area, including Ajax Park, the Ute Trail and Ajax Trail.” Also developed on-site was a three-bedroom Category 4 affordable housing unit.

The TDR program is allowed in planned unit developments only if specifically stated. Bendon - reminded council Tuesday night that while working as a longterm planner with the city, he and a cadre of others were instrumental in creating the TDR program. In February, a TDR extinguished with the city had a disclosed price of \$210,000.

Bendon pointed out that TDRs are used successfully in residences at the Maroon Creek Club, which he said offer “similar type of properties” to those of 1001 and 1011 Ute Avenue.

The Five Trees subdivision has also seen TDRs used to increase square footage. City council member Rachel Richards, however, pointed out the difference in the two developments in that the Ute Avenue proposal was close to the historic resource of the Ute Cemetery. One of the city’s criteria was sensitivity to massing and scale of historic resources.

For multiple reasons, council member Ward Hauenstein said he couldn’t get behind the ordinance that would have allowed the TDR-led expansion.

“The square footage now is beyond what was discussed in the original PUD,” Hauenstein said. “I can’t support landing more TDRs and more development on this property.”

Councillor Ann Mullins said the original aspiration — of minimizing the bulk and mass of the two free-market dwellings — failed to achieve.

“They are quite impactful as they are,” Mullins said. “Minimizing the massing from Ute [Avenue] was not successful.”

Several councilors were also concerned that with the additional square footage, the properties could be ripe for future teardown and redevelopment. But Bendon said he didn't believe that would be the case with Stearn's property.

"The properties are going to be in this condition for quite some time," Bendon said.

As a compromise, later in the meeting Bendon proposed using less than the six transferable development rights originally requested. Aspen Community Development Director Phillip Supino, however, told council the recommendation for denial would stand "regardless of the number of TDRs that may or may not be approved through this review."

Aspen Mayor Torre said he was also voting against the PUD amendment because it didn't meet standards for the 8040 Greenline Review to allow development within an environmentally sensitive area.

Madeleine Osberger is a contributing editor of the Aspen Daily News. She can be reached at madski@aspendedailynews.com or on Twitter @Madski99

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