



HIDEOUT, UTAH PLANNING COMMISSION SPECIAL MEETING AND PUBLIC HEARING

September 04, 2024

Agenda

PUBLIC NOTICE IS HEREBY GIVEN that the Planning Commission of Hideout, Utah will hold a Special Meeting and Public Hearing electronically and in-person at Hideout Town Hall, located at 10860 N. Hideout Trail, Hideout Utah, for the purposes and at the times as described below on Wednesday, September 4, 2024.

All public meetings are available via ZOOM conference call and YouTube Live.

Interested parties may join by dialing in as follows:

Zoom Meeting URL: <https://zoom.us/j/4356594739>
To join by telephone dial: US: +1 408 638 0986 **Meeting ID:** 435 659 4739
YouTube Live Channel: <https://www.youtube.com/channel/UCKdWnJad-WwvcAK75QjRb1w/>

Special Meeting and Public Hearing

6:00 PM

I. Call to Order

II. Roll Call

III. Public Hearings (*continued from August 15, 2024*)

1. [Discussion and possible recommendation to Hideout Town Council regarding an amendment of the Official Town of Hideout Zoning Map to rezone parcels 00-0020-8182 and 00-0020-8184 \(the “Elk Horn Springs” Development\) from Mountain \(M\) zone to Neighborhood Mixed Use \(NMU\), Residential 6 \(R6\), Residential 20 \(R20\), and Natural Preservation \(NP\)](#)
2. Discussion and possible recommendation to Hideout Town Council regarding a Master Development Agreement (MDA) for the Elk Horn Springs Development, which would include nightly rentals in zoning districts that do not currently allow for nightly rentals
3. Discussion and possible recommendation to Hideout Town Council regarding a final subdivision approval for the Shoreline Phase 4 subdivision ***This item is postponed to the September 19, 2024 meeting at 6:00 pm and will not be discussed during this meeting.***

IV. Meeting Adjournment

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Mayor or Town Clerk at 435-659-4739 at least 24 hours prior to the meeting.

File Attachments for Item:

1. Discussion and possible recommendation to Hideout Town Council regarding an amendment of the Official Town of Hideout Zoning Map to rezone parcels 00-0020-8182 and 00-0020-8184 (the “Elk Horn Springs” Development) from Mountain (M) zone to Neighborhood Mixed Use (NMU), Residential 6 (R6), Residential 20 (R20), and Natural Preservation (NP)



Staff Report for Rezoning Request and Plan Review – Elk Horn Springs

To: Chairman Tony Matyszczyk
Town of Hideout Planning Commission

From: Thomas Eddington Jr., AICP, ASLA
Town Planner

Re: Elk Horn Springs Re-Zone Request for the Salzman Property

Date: Prepared for the September 4, 2024 Special Planning Commission Meeting

Submittals: Rezone Application with associated documents including the updated Concept Plan (via email on July 25, 2024), a Rezone Plan dated August 9, 2024, and a revised Concept Plan and Slope Analysis (via email on August 21, 2024)

Introduction and Background

The Planning Commission approved a Concept Plan, with recommended revisions, for the Elk Horn Springs development (located on the +/-70-acre Salzman property) on July 18, 2024. The Applicant was scheduled to appear before the Planning Commission on August 15th but asked to continue due to some pending revisions to the proposed plan. The current proposal is a request to:

- Review an updated version of the Concept Plan
- Rezone the property with a proposed Master Development Agreement (MDA).
- Review the preliminary subdivision (lot sizes, etc.)

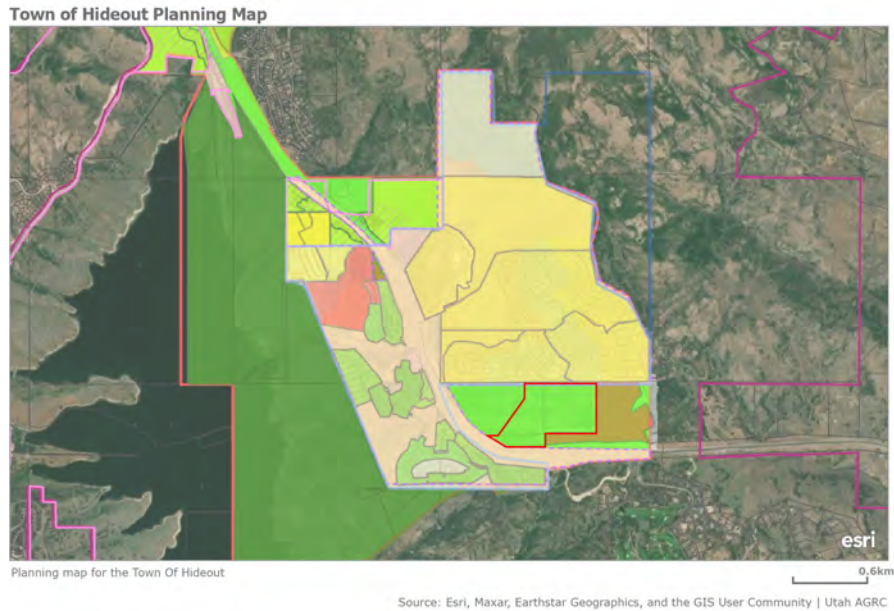
Once the rezoning request has been approved by both the Planning Commission and the Town Council, the next step in the process is typically preliminary and final subdivision review with the Planning Commission and Town Council, however, given the Applicant's tight contractual timeline with the Salzman family, the Applicant has simultaneously submitted the preliminary subdivision for review (based on the revisions made to the Concept Plan). While the Planning Commission and Town Council cannot approve a preliminary (or final) subdivision application until after the Town Council has adopted the new zoning designations, the Planning Commission can provide review and input conditioned upon the rezone request being formally adopted by the Town Council.

The proposed rezone generally requests the following:

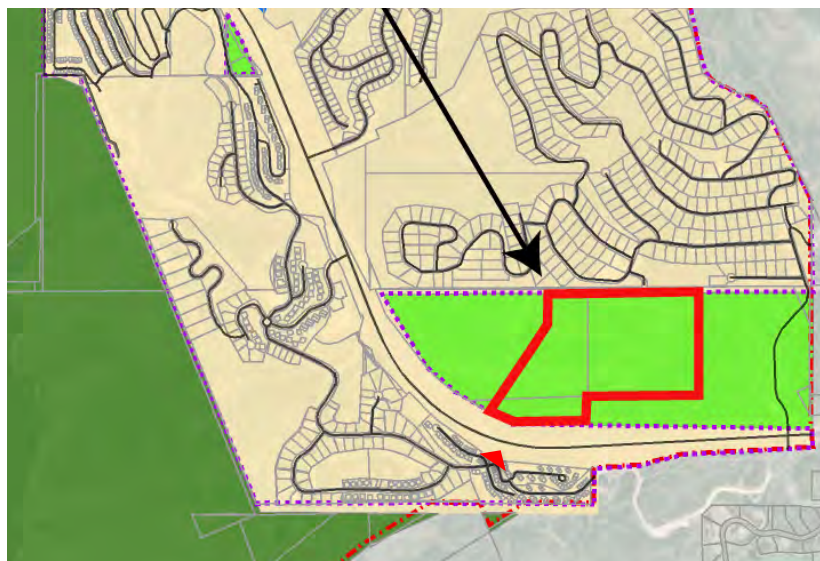
- The site is proposed to be a mix of zoning districts (all from the New Town Code):

- Neighborhood Mixed Use (NMU) – for the commercial area and townhomes at the lower part of the mountain/the entrance to the development
- Residential 20 (R20) – for the proposed townhomes and small lots
- Residential 6 (R6) – for the proposed +/- quarter acre lots on the upper part of the mountain
- Natural Preservation (NP) – for the open space and parkland

Site Location (proposed site in red outline)



Portion of Site Proposed for Rezoning Classification



Existing Site Characteristics

Total Acres of Site: +/-70 Acres

Current Zoning: Mountain (M) (per the Former Town Code)

Allowed Density: One (1) unit per acre, or approximately 60 units after road infrastructure is built and steep slopes preserved

Proposed Concept Plan Density

The initially proposed Concept Plan (7/18) included the following density requests:

+/-164 units primarily concentrated on the +/-70 acres that make up the site. 15,000 – 20,000 SF of neighborhood commercial space is also proposed. The units are generally designated for the following use or housing types:

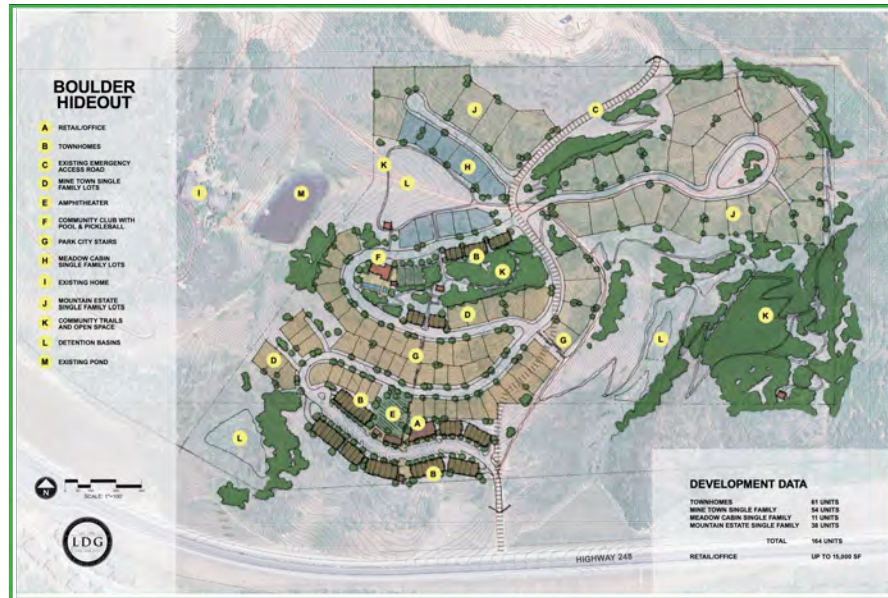
- Neighborhood Commercial: 15,000 - 20,000 SF
- Townhomes: 61 units
- Single-Family Lots: 54 lots
- Cabin Single-Family Units: 11 lots
- Mountain Estate Single-Family Units: 38 lots

The newly proposed Concept Plan reduces the total density for the project and includes the following specifics:

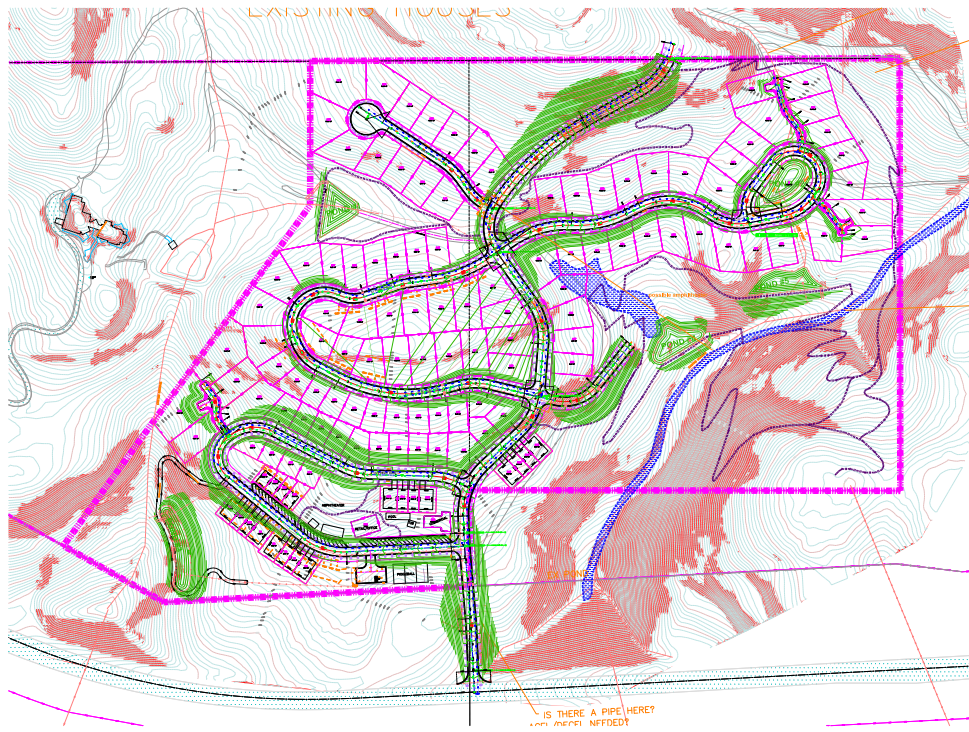
+/-125 units primarily concentrated on the +/-70 acres that make up the site. 15,000 – 20,000 SF of neighborhood commercial space is still proposed but the density has been reduced and the units are generally designated for the following use or housing types:

- Neighborhood Commercial: 15,000 - 20,000 SF
- Townhomes: 20 units
- Single-Family Lots: 105 lots

Elk Horn Springs Concept Plan (prior to the updates per PC input on 7/18)



Elk Horn Springs Concept Plan (updated per Planning Commission input on 7/18 and the Applicant's desire to further reduce the total density of the project)

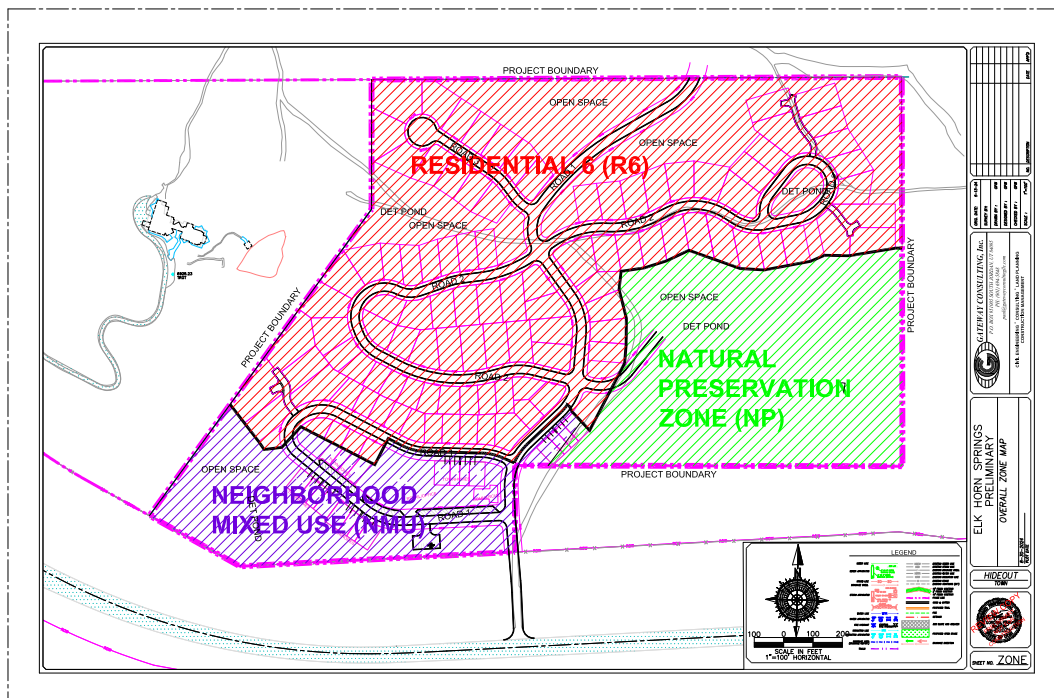


* The areas in red indicate slopes greater than 30%

Preliminary Subdivision

The preliminary subdivision layout above is based on the Concept Plan that was submitted to the Planning Commission in July and includes the Commission's recommendations to move the community/recreation center down to the commercial area and expand the park area near the commercial area. This is presented for informational purposes only and cannot be approved prior to the Town Council review and adoption of the proposed rezone request which is outlined below.

Requested Zoning Designations



Proposed Zoning Designations

The Applicant proposes to rezone the property from Mountain (M), which allows one residential unit per acre to the following:

- Neighborhood Mixed Use (NMU) – mixed use, commercial and residential (townhomes)
- Residential 6 (R6) – residential development up to 6 units per acre for the medium size lots (8,000SF + lots)
- Natural Preservation Zone (NP) – for the proposed open space/park area and trails

General Plan Analysis

Zoning requests can have significant impacts on the community. As such, they must conform to the recommendations and requirements of the General Plan. The 2019 General Plan for Hideout includes the following Vision Statement:

2.1 Vision Statement

Hideout, Utah is a community that treasures both its residents and its environment. As such, Hideout's vision is to:

1
preserve
outstanding
views

2.1.1 To Preserve
Outstanding
Views,

All development will be intentionally designed around enhancing and accentuating the existing environment, recreational open space, and livability of the community.

2
cultivate
an inviting
neighborhood
atmosphere

2.1.2 To Cultivate an
Inviting Neighborhood
Atmosphere,

The intensity of land use will be managed to promote the design standards and environmental ideals laid out in the General Plan and other town documents.

3
build a
connected
community

2.1.3 To Build
a Connected
Community,

Public gathering spaces and appropriate commercial growth will be accessible by a variety of transportation options.

2019 General Plan's Land Use Goals

3.4.1 Hideout's land use goals are to:

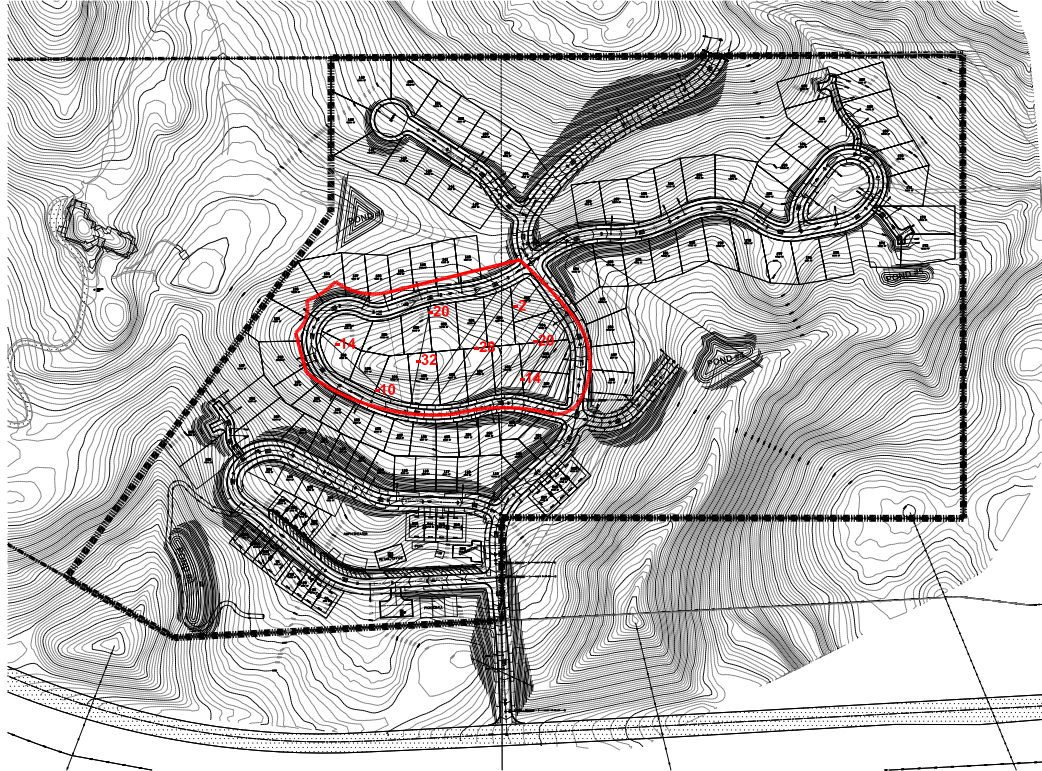
1. Preserve the viewsheds, green space, and unique topography by updating and enforcing a zoning code that reflects Hideout's Community Vision.
2. Maintain the unique character of Hideout by managing intensity of land use and promoting a mix of residential and commercial uses appropriate for the community.

The Planning Commission must review the Town of Hideout's General Plan and determine if the proposed rezone request meets the intent of the plan – open space, viewshed, neighborhood character and connectivity are part of the Vision Statements and Goals.

The proposal is to create a resort development with nightly rental units, many of which are proposed as fractional units, or timeshare units, which allow multiple entities or individuals to own a single unit. Within the resort, +/-20,000 square feet of commercial space, surrounding a park area is proposed, along with a community/recreation center. The proposal does include a commercial component that will provide much needed retail and commercial amenities for the community.

Planning Issues for Discussion

- Short-Term Rental (< 30 days): Currently nightly rentals, a.k.a. short-term rentals (<30 days), are not permitted in the Town per the Zoning Ordinance. The Applicant is requesting that the entire development allow for nightly rentals – the proposal is to develop a new resort area in Hideout. Subject to the recommendation of the Planning Commission and adoption by the Town Council, the Applicants will include this formal rezoning request in their application. The MDA can clarify this allowance, or the extent of this allowance, based on the Planning Commission's recommendation and Town Council's approval for this proposed project.
- Hilltop Removal and Development on Steep Slopes: The Hideout Municipal Code includes the following provisions:
 - 10.08.28 Sensitive Lands: No development shall be allowed on slopes in excess of thirty (30) percent, lands subject to landslides, regular flooding, soils deemed unsuitable for development, and other high-hazard geological areas.
 - 10.08.30 Steep Slope / Significant Grade Change Criteria for Subdivision: Any proposed subdivision that results in a significant change of grade – existing grade to proposed grade – that is greater than five feet (5'-0") and encompasses more than 10% of the total subdivision area is subject to additional restrictions and/or criteria for development, including reduced densities, requirement for a visual analysis, etc.
 - The Applicant would like to remove a hilltop to create views for proposed single-family lots (see the site plan on the following page). The hilltop is approximately 32' high and would be eliminated in its entirety. The Applicant should indicate where this proposed soil will be moved to (a cut and fill map should be provided). The Planning Commission should discuss whether they would consider a deviation from the Hideout Municipal Code to allow for the removal of a hilltop, via a Master Development Agreement (MDA) provision. If considered, the Applicant should provide the location(s) on the site plan where this soil would be deposited or whether an offsite location is proposed and how many dump truck trips this would require.



- The Applicant should also provide a map, and percentages, indicating where native vegetation and slopes will be preserved for the entire +/-70-acre development site.
- Phasing: The Applicant should provide a phasing plan (timeline and map) for the entire project.
- Water Conveyance: Water must be conveyed to the Town at the time of recordation for each final subdivision pursuant to the Hideout Municipal Code (HMC). Does the Applicant currently have enough water rights for 125 residential units and +/-20,000 SF of commercial development?
- Road Maintenance
 - The Applicant must clarify that an HOA will be created, the roads will be private, and the HOA will be responsible for the maintenance of the roads throughout the resort.
 - The Applicant will need to coordinate with Mustang Development who constructed the emergency access road that extends from the Golden Eagle neighborhood to SR248. This road must be maintained, and likely improved, if it is to be used by the resort and visitors, in addition to the Golden Eagle residents. It appears the lower portion of this road, pursuant to the Concept Plan and the updated Preliminary Subdivision Plan, will be reconfigured. The Applicant shall provide the Planning Commissioners with an update regarding coordination with Mustang Development.
- The preliminary subdivision plan indicates five “detention ponds” scattered around the 70-acre site. The Applicant shall provide images of what these will look like upon completion, in terms of landscaping, etc. and provide the size (area) of each and the estimated depth.

- Clubhouse, Pool, and Indoor Pickleball Courts: The Applicant shall explain whether Hideout residents will be allowed to buy a membership to the recreational community center for the resort. If so, is there a limited allotment? What are the estimated annual/monthly costs?
- Open Space/Park Land Dedication: The Applicant proposes to dedicate a +/-15-acre site to the Town for trails, park, undisturbed open space, or other...future use TBD by the Town. The Applicant shall provide additional information regarding changes proposed for this area – will the site be altered significantly to accommodate the detention basins (#4 and #5 in particular)? What about changes to the slope via any proposed cut and fill? What percentage of the +/-15 acres will remain in their natural vegetated state? The Applicant should explain the schedule for dedication of this property to the Town and to what extent access, parking, and trail construction will be completed prior to dedication.
- Community Impact Mitigation: Any rezone, or upzone that allows additional density and/or uses, will impact the community in a variety of ways – additional traffic, construction and noise, a greater amount of land disturbance and native landscape removal, loss of existing wildlife corridors, increased stormwater runoff downslope, etc. The Planning Commission must determine what measures are appropriate in terms of impact mitigation. The Planning Commission must take into consideration the increased density, the nightly rental and fractional ownership component, etc. While these allowances significantly increase the value of the project for the developer (a nightly rental allowance can increase the value of a unit by \$100k - \$200k), the impacts to the community are also significant. The Planning Commission must weigh the impacts with mitigation recommendations. The following have been discussed by the Planning Commission in the past regarding various proposed developments for this property:
 - Dedication of funds to the Town to construct a bridge over or tunnel under SR248 to connect the community across this asphalt divide. While a detailed estimate of costs has not been determined by the Town, either could cost between \$2mn - \$9mn. With the +/-20,000 square feet of commercial and the community/recreation center, the need for a community connection is significant – many residents on the lakeside of SR248 could then easily access this area by foot or bike. Conversely, the resort population would be able to access the lake/State Park by foot or bike.
 - Entry signs for the Town of Hideout at the north and south entry points. The developer has committed funding as part of the Deer Springs development on the north side of Town, to construct a new entry sign for the Town. Given this development on the south side of Town, a similar or matching sign should be considered.
 - Funds to cover soft (e.g., survey work, design, etc.) or hard costs (construction) for the proposed SR248 spine trail as recommended in the POST plan. Again, connectivity is one of the three components of the Town's Vision in the General Plan.
 - Other opportunities might include:
 - Affordable or workforce housing units that could be built on the second floor of the the proposed commercial space allowing future employees in this commercial space to live

within the Hideout community, while reducing traffic impacts associated with employees having to commute in from outside the community.

- Contribution of funds for a new Town Hall or public works facility as the community continues to grow rapidly, thus outgrowing its current brick and mortar facilities.
 - Other input as recommended by the Planning Commission.
-
- Design Review Committee (DRC): A Design Review Committee should be established as part of the MDA that is similar to the DRC in place for Deer Springs and Lakeview. Design Guidelines should be included with the MDA.
 - All other Zoning Ordinance requirements will remain in effect including: the protection of environmentally sensitive lands, preservation of wildlife corridors, preservation of existing landscape/vegetation, etc.
 - Master Development Agreement (MDA): The Applicant provided a draft MDA that is attached as an exhibit. The Town Attorney, Town Planner, and Town Engineer are currently reviewing the details of this MDA as part of the rezone request. The Planning Commissioners should review this draft document and provide any input, recommendations for inclusion, questions or concerns, etc.

Next Steps

The Planning Commission should review the proposed rezone request and provide input to the Applicant. Before a final vote is determined, the Town Attorney, the Town Planner and the Applicant must finalize a Master Development Agreement (MDA) that clearly outlines the details of what is and is not allowed within the proposed master development, specifically the recommendations for mitigation of the proposed resort's community impacts, whether there are uses or area and bulk standards that will vary from the strict interpretation of the Town's zoning code requirements, and confirmation of any outstanding language that shall be included in the MDA. This application should be continued to the next meeting. Exhibit A includes the draft Master Development Agreement (MDA).

**Exhibit A
Draft Master Development Agreement**

(*Note: this has not been updated since the proposed reduction in density by the Applicant)

(see following pages)

WHEN RECORDED RETURN TO:

Holmes Elkhorn Springs, LLC.
Attn: Eric K. Davenport
126 W. Segoe Lily Drive, Suite 250
Sandy, UT 84070

**MASTER DEVELOPMENT AGREEMENT FOR
ELKHORN SPRINGS COMMUNITY**

THIS MASTER DEVELOPMENT AGREEMENT FOR ELKHORN SPRINGS
COMMUNITY is made and entered as of the __ day of July, 2024, by and between the Town of
Hideout, a political subdivision of the State of Utah, and Holmes Elkhorn Springs, a Utah limited
liability company.

RECITALS

- A. The capitalized terms used in these Recitals are defined in Section 1.2, below.
- B. Developer will hereafter acquire, and be developing, the Property.
- C. Developer and the Town desire that the Property be developed in a unified and
consistent fashion pursuant to the Concept Plan and this MDA.
- D. Development of the Property pursuant to this MDA is acknowledged by the parties
to be consistent with the Act and the Zoning Ordinance, and to operate to the benefit of the Town,
Developer, and the general public.
- E. The Town Council has reviewed this MDA, including the Concept Plan, and
determined that it is consistent with the Act and the Zoning Ordinance.
- F. The parties acknowledge that Development of the Property pursuant to this MDA
will result in planning and economic benefits to the Town and its residents by, among other things,
requiring orderly Development of the Property, increasing property tax and other revenues to the

Town based on improvements to be constructed on the Property.

G. Development of the Property pursuant to this MDA will also result in benefits to Developer by providing assurances to Developer that it will have the ability to develop the Property in accordance with this MDA.

H. Developer and the Town have cooperated in the preparation of this MDA.

I. The parties desire to enter into this MDA to specify the rights and responsibilities of the Developer to develop the Property as expressed in this MDA and the rights and responsibilities of the Town to allow and regulate such Development pursuant to the requirements of this MDA.

J. The parties understand and intend that this MDA is a "development agreement" as contemplated by Section 10-9a-102 of the Utah Code Annot. (2019) and Section 10.03.501 of the Town's Vested Laws.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and Developer hereby agree to the following:

TERMS

I. Incorporation of Recitals, Exhibits and Definitions.

1.1 **Incorporation.** The foregoing Recitals and Exhibits "A" - "D" are hereby incorporated into this MDA.

1.2. **Definitions.** As used in this MDA, the words and phrases specified below shall have the following meanings:

1.2.1. **Act** means the Land Use, Development and Management Act, Sections 10-9a-101, *et seq.* of the Utah Code Annot.

1.2.2. **Amphitheater** means the Amphitheater within the Project illustrated on Exhibit "A".

- 1.2.3. **Applicant** means a person or entity submitting a Development Application.
- 1.2.4. **Buildout** means the completion of all of the Development on the entire Project in accordance with approved plans.
- 1.2.5. **CC&Rs** means the Covenants, Conditions, and Restrictions applicable to the Project and the HOA.
- 1.2.6. **Community Clubhouse, Pool and Pickleball Courts** means the community clubhouse, pool and pickleball courts within the Project illustrated on Exhibit "A".
- 1.2.7. **Community Trails** means the community trails within the Project illustrated on Exhibit "A".
- 1.2.8. **Community Open Space** means the community open space within the Project illustrated on Exhibit "A".
- 1.2.9. **Concept Plan** means that plan for the Development of the Project attached as Exhibit "A".
- 1.2.10. **Council** means the elected Town Council of the Town.
- 1.2.11. **Default** means a material breach of this MDA as specified herein.
- 1.2.12. **Denial** means a formal denial issued by the final decision-making body of the Town for a particular type of Development Application but does not include review comments or "redlines" provided by Town staff.
- 1.2.13. **Design Guidelines** means those guidelines for the look, feel and specifications for the Residential Dwelling Units to be developed in the Project, including Landscape Design Guidelines, as specified in Exhibit "B".
- 1.2.14. **Developer** means Holmes Elkhorn Springs, L.L.C., a Utah limited liability Company, and its assignees or transferees as permitted by this MDA.
- 1.2.15. **Development** means development, including construction of infrastructure,

Residential Dwelling Units, or other improvements on a portion of the Property, pursuant to an approved Development Application.

1.2.16. **Development Application** means an application to the Town for development of a portion of the Property or any other permit, certificate or other authorization from the Town required for Development of the Project.

1.2.17. **Fire District** means the Wasatch County Fire District or any successor entity providing fire suppression and/or emergency response services to the Project.

1.2.18. **HOA** means a homeowners association to be created for the Project.

1.2.19. **Maximum Residential Dwelling Units** means the Development on the Property of up to one hundred seventy (170) Residential Dwelling Units.

1.2.20. **Maximum Retail/Office Space** means the Development on the Property of up to 15,000 square feet of Retail/Office Space.

1.2.21. **MDA** means this Master Development Agreement for Elkhorn Springs Community, including all of its Exhibits.

1.2.22. **Notice** means any notice to or from any party to this MDA that is either required or permitted to be given to another party.

1.2.23. **Park City Stairs** mean those stairs within the Project illustrated on Exhibit "A".

1.2.24. **Project** means the total Development to be constructed on the Property pursuant to this MDA with the associated public and private facilities, and all of the other aspects approved as part of this MDA.

1.2.25. **Property** means that approximately fifty-one to fifty-two (52-53) acres of real property to be acquired (and developed) by Developer, as more fully described in Exhibit "B" and excluding the approximately fifteen to sixteen (15-16) acres outlined in black marker in Exhibit "C".

1.2.26. **Public Infrastructure** means those elements of infrastructure that are planned to be dedicated to the Town as a condition of the approval of a Development Application.

1.2.27. **Residential Dwelling Unit** means a structure or portion thereof designed and intended for use as a single-family residence on a single-family lot, or a Townhome on a townhome lot.

1.2.28. **Retail/Office Space** means a structure or portion thereof designed and intended for use as retail and/or office space.

1.2.29. **Town** means the Town of Hideout, a political subdivision of the State of Utah.

1.2.30. **Town's Future Laws** means the ordinances, policies, standards, procedures and processing fee schedules of the Town which may be in effect as of a particular time in the future when a Development Application is submitted for a part of the Project and which may or may not be applicable to the Development Application depending upon the provisions of this MDA.

1.2.31. **Town's Vested Laws** means the ordinances, policies, standards and procedures of the Town in effect as of the date of this MDA, a copy of which is attached as Exhibit "D".

1.2.32. **Townhomes** means multiple Residential Dwellings Units that share a common wall and are each located on a separate lot.

1.2.33. **Zoning Ordinance** means the Town's Land Use and Development Ordinance adopted pursuant to the Act that was in effect as of the date of this MDA as a part of the Town's Vested Laws.

1. **Conditions.**

1.1. **Indemnification.** Developer agrees to indemnify the Town Parties against all claims, costs, damages, expenses, liabilities or other losses incurred by, or asserted against, the Town Parties which are related to, or arise from, any portion of the Property owned (at the time) by Developer and relating to the Development of the Project.

2. **Development of the Project.**

2.1. **Compliance with the Concept Plan and this MDA.** Development of the Project shall be in accordance with the Town's Vested Laws, the Town's Future Laws (to the extent that these are applicable as otherwise specified in this MDA), the Concept Plan and this MDA. Developer anticipates developing the Project in multiple phases. Developer has flexibility regarding the order in which phases are constructed.

2.2. **Maximum Residential Dwelling Units.** At Buildout of the Project, Developer shall be entitled to have developed the Maximum Residential Dwelling Units as specified in and pursuant to this MDA.

2.3. **No Warranty About Using Units.** The Town does not warrant to Developer, or know, if it is possible to build the Maximum Residential Dwelling Units. Developer assumes all risk associated with the constraints that might limit density including, but not limited to, the City's Vested Laws and applicable provisions of the Town's Future Laws.

2.4. **Project Subject to CC&Rs.** Developer shall prepare CC&Rs for the Project consistent with the requirements of this MDA and the Town's Vested Laws. All duties and obligations of the HOA, as set forth in this MDA, must be incorporated into the CC&Rs. Before the CC&Rs are recorded, the Town shall have the right to review and approve the provisions of the CC&Rs which pertain to this MDA or the Town's Vested Laws.

2.5. **Utilities.** Developer shall be responsible, at Developer's sole cost and expense, to obtain and/or install all connections and other utility infrastructure necessary for the construction of Residential Dwelling Units and Retail/Office Space within the Project.

3. **Zoning and Vested Rights.**

3.1. **Zoning.** The Town will zone the Property as Mountain Zone, as defined in Town's Vested Laws, with a "Planned Performance Development" designation.

3.2. **Short-Term Rentals (also known as Nightly Rentals).** Notwithstanding anything to the contrary in the MDA, the Zoning Ordinance, the Town of Hideout's Code, the Town's Vested Laws, and the Town's Future Laws, the Short-Term Rental land use type, (also known as Nightly Rentals), is, and will be, permitted in all portions of the Project on the Property, including in all phases of the Project on the Property. Short-term rentals are required to follow all ordinances and regulations of the Town of Hideout pertaining to short-term (nightly) rentals, including Ordinance #2022-0-5, (and any other applicable governmental ordinances, regulations and/or laws as amended from time to time). All Residential Dwelling Unit owners will be required to use one of two short-term rental (nightly rental) management companies selected by Developer and agreed to by the Town. The following criteria must be met for any and all short-term rentals (nightly rentals):

3.2.1. All requirements of Section 4.07 of the Hideout Municipal Code must be met.

3.2.2. No Accessory Dwelling Units ("ADUs") may be used for a nightly rental.

3.2.3. All nightly rentals must be for a minimum period of two consecutive days; and this must be included on all advertising materials.

3.2.4. No more than six (6) unrelated persons may stay overnight in a single Residential Dwelling Unit at any one time; and this must be included on all advertising materials.

3.2.5. No more than two (2) automobiles are allowed to park on the property pertaining to the Residential Dwelling Unit at any time; and this must be included on all advertising materials.

3.2.6. All nightly rental contracts must include a copy of Hideout's trash, parking and noise ordinances and a "Good Neighbor Brochure" that summarizes these requirements and what is expected of the renter; and these documents must be clearly posted in the rental unit at all times.

3.2.7. The owner of the nightly rental Residential Dwelling Unit agrees to allow the Wasatch County Health Department or designee and the Wasatch Fire Department's designee to conduct an annual walk-through inspection of each rental Residential Dwelling Unit to ensure compliance with all Town health, safety and welfare requirements; and this review will also include an assessment of local government and/or local service district responses to the property. If three (3) substantiated code violation complaints (by police, fire, or similar emergency management service) relative to a particular Residential Dwelling Unit within a 24-month period are confirmed, the nightly rental may be revoked for a period of up to one (1) year.

3.3. **Vested Rights Granted by Approval of this MDA.** To the maximum extent permissible under the laws of Utah and the United States and at equity, the Town and Developer intend that this MDA grant Developer all rights to develop the Project consistent with this MDA, the Town's Vested Laws and the Concept Plan, including the Development of up to one hundred seventy (170) Residential Dwelling Units and up to 15,000 square feet of Retail/Office Space, except as specifically provided herein. The Parties intend that the rights granted to Developer under this MDA are contractual, in addition to those rights that exist under statute, common law and at equity. The parties specifically intend that this MDA grant to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Section 10-9a-509 (2024) of the Utah Code Annot.

Therefore, to the maximum extent permissible under the laws of Utah and the United States and at equity, the Town hereby grants Developer all rights to develop the Project consistent with this MDA, the Town's Vested Laws and the Concept Plan, including the Development of up to one hundred seventy (170) Residential Dwelling Units and up to 15,000 square feet of Retail/Office Space, except as specifically provided herein. The rights granted to Developer under this MDA are contractual, in addition to those rights that exist under statute, common law and at

equity. This MDA grants to Developer "vested rights" as that term is construed in Utah's common law and pursuant to Section 10-9a-509 (2024) of the Utah Code Annot.

3.4. **Bonus Density Qualification.** The Town acknowledges that the Project, upon compliance with the provisions of this MDA, has met the requirements of the Town's Vested Laws for the award of the maximum bonus density increase pursuant to Sections 11.06.114 and 11.07.131 of the Town's Vested Laws and therefore is vested for the Maximum Residential Dwelling Units subject to the terms of Section 3.2 of this MDA.

3.5. **Exceptions.** The restrictions on the applicability of the Town's Future Laws to the Project as specified in Section 4.2 are subject to only any or all of the following exceptions:

3.5.1. Developer Agreement. Town's Future Laws that Developer agrees in writing to the application thereof to the Project;

3.5.2. State and Federal Compliance. Town's Future Laws which are generally applicable to all properties in the Town and which are required to comply with State and Federal laws and regulations affecting the Project;

3.5.3. Codes. Town's Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, AAHSTO Standards, the Manual of Uniform Traffic Control Devices or similar standards that are generated by a nationally or statewide recognized construction/safety organization, or by the State or Federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

3.5.4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the Town to all properties, applications, persons and entities similarly

situated;

3.5.5. Fees. Changes to the amounts of fees (but not changes to the times provided in the Town's Vested Laws for the imposition or collection of such fees) for the processing of Development Applications that are generally applicable to all development within the Town (or a portion of the Town as specified in the lawfully adopted fee schedule) and which are adopted pursuant to State law;

3.5.6. Planning and Zoning Modification. Changes by the Town to its planning principles and design standards such as architectural or design requirements, setbacks or similar items so long as such changes do not work to reduce the Maximum Residential Dwelling Units, are generally applicable across the entire Town to the respective Zones within the Project and do not materially and unreasonably increase the costs of any Development;

3.5.7. Compelling, Countervailing Interest. Laws, rules or regulations that the Town's land use authority finds, on the record, are necessary to avoid jeopardizing a compelling, countervailing public interest pursuant to Section 10-9a-509(1)(a)(ii)(A) of the Utah Code Annot. (2024); or

3.5.8. Impact Fees. Any impact fees which are lawfully adopted pursuant to the laws of the State of Utah, and Developer waives the provisions of Section 11-36a-401(2) regarding the ninety (90) day waiting period after the impact fee enactment is approved by the Town; provided, however, that other than waiver set forth in this Section, Developer does not waive any rights to challenge the impact fees for any reason allowed pursuant to Chapter 11-36a of the Utah Code.

4. Term of Agreement. The term of this MDA shall be until December 31, 2042. This MDA shall also terminate automatically at Buildout and it is not transferable to any other properties. Notwithstanding any expiration of the term of this MDA, all obligations of the HOA for maintenance of Public Infrastructure, as provided herein or as further agreed to by the parties,

shall continue in perpetuity. Upon expiration of the term of this MDA, the Property shall be developed, if at all, pursuant to the Town's Future Laws.

5. **Processing of Development Applications.**

5.1. **No Pending Development Applications.** The parties acknowledge that, as of the date of this MDA, there are no pending Development Applications with respect to the Property or the Project.

5.2. **Submitting Development Applications.** Developer and any other Applicant shall submit Development Applications for improvements within the Project in the manner required under this MDA and the Town's Vested Laws (or, if applicable, the Town's Future Laws). The subdivision plat for any phase within the Project must, in addition to all other applicable requirements, be reviewed and signed by an authorized representative of the Fire District.

5.3. **Town Denial of a Development Application.** If the Town denies a Development Application, the Town shall provide a written determination advising the Applicant of the reasons for Denial, including specifying the reasons the Town believes that the Development Application is not consistent with this MDA, and/or the Town's Vested Laws (or, if applicable, the Town's Future Laws).

5.4. **Meet and Confer regarding Development Application Denials.** The Town and Applicant shall meet within fifteen (15) business days of any Denial to resolve the issues specified in the Denial of a Development Application.

5.5. **Mediation of Development Application Denials.**

5.5.1. **Issues Subject to Mediation.** Issues resulting from the Town's Denial of a Development Application that are not subject to arbitration provided in Section 5.6 (and its subsections), shall be mediated.

5.5.2. **Mediation Process.** If the Town and Applicant are unable to resolve a

disagreement subject to mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable mediator with knowledge of the legal issue in dispute. If the parties are unable to agree on a single acceptable mediator, they shall each, within ten (10) business days, appoint their own representative. These two representatives shall, between them, choose the single mediator. Applicant shall pay the fees of the chosen mediator. The chosen mediator shall within fifteen (15) business days from selection, or such other time as is reasonable under the circumstances, review the positions of the parties regarding the mediation issue and promptly attempt to mediate the issue between the parties. If the parties are unable to reach an agreement, the parties shall request that the mediator notify the parties in writing of the resolution that the mediator deems appropriate. The mediator's opinion shall not be binding on the parties.

5.6. Arbitration of Development Application Objections.

5.6.1. Issues Subject to Arbitration. Issues regarding the Town's Denial of a Development Application that are subject to resolution by scientific or technical experts such as traffic impacts, water quality impacts, pollution impacts, etc. are subject to arbitration.

5.6.2. Mediation Required Before Arbitration. Prior to any arbitration, the parties shall first attempt mediation as specified in Section 5.5 (and its subsections).

5.6.3. Arbitration Process. If the Town and Applicant are unable to resolve an arbitrable issue through mediation, the parties shall attempt within ten (10) business days to appoint a mutually acceptable expert in the professional discipline(s) of the issue in question or another experienced arbitrator with relevant expertise or experience. If the parties are unable to agree on a single acceptable arbitrator, they shall each, within ten (10) business days, appoint their own proposed expert. These two experts shall, between them, choose the single arbitrator. Applicant shall pay the fees of the chosen arbitrator. The chosen arbitrator shall within fifteen (15) business days from appointment, or such other time as is reasonable under the circumstances, review the

positions of the parties regarding the arbitration issue and render a decision. The arbitrator shall ask the prevailing party to draft a proposed order for consideration and objection by the other side.

Upon adoption by the arbitrator, and consideration of such objections, the arbitrator's decision shall be final and binding upon both parties.

5.7. Application Under Town's Future Laws. Without waiving any rights granted by this MDA, Developer may at any time, choose to submit a Development Application for some or all of the Project under the Town's Future Laws in effect at the time of the Development Application so long as Developer is not in current breach of this MDA. Any Development Application filed for consideration under the Town's Future Laws shall be governed by all portions of the Town's Future Laws related to the Development Application. The election by Developer at any time to submit a Development Application under the Town's Future Laws shall not be construed to prevent Developer making subsequent Development Applications under the Town's Vested Laws where allowed by this MDA.

6. Construction and Public Infrastructure.

6.1. Construction by Developer. Developer shall have the right and the obligation to construct or cause to be constructed and installed all Public Infrastructure reasonably and lawfully required by the Town in connection with, and as a condition of approval for, a Development Application. All required easement rights that the Town does not have the authority to grant, and all other rights required for the Development of the Project, shall be the obligation of the Developer to obtain.

6.2. Sewer Treatment and Sewer Conveyance. The Parties acknowledge that sewer treatment facilities, sewer collection systems, and sewer pumping conveyance systems were planned, funded and constructed by JSSD through bonds which were paid through assessment to

properties including some properties within the Town. These sewer facilities did not account for the full needed capacity of the proposed units for the Project beyond those equivalent residential units ("ERU") associated with the parcels which did participate in the bond assessments. JSSD has established a sewer impact fee schedule for bonded ERUs and unbonded ERUs. Developer shall obtain from JSSD a "Will Serve Letter" addressed to the Town defining the amount of sewer impact fees associated with the Project to be collected by the Town for pass through to JSSD. The Will Serve Letter may also identify capital facility project(s) required by JSSD in order to provide sewer collection and treatment service for the Project. The Town must receive acknowledgment from JSSD that required conditions of this Section and the Will Serve Letter have been satisfied prior to approval of any Development Application for the Project.

6.3. **Culinary Water Distribution, Source Development and Treatment.** The Parties acknowledge that water sources, water treatment facilities, water storage and water conveyance systems were planned, funded and constructed by JSSD through bonds which were paid through assessment to properties including some properties within the Town. These water facilities did not account for the full needed capacity of the proposed units for the Project beyond those ERUs associated with the parcels which did participate in the bond assessments. JSSD has established a water impact fee schedule for bonded ERUs and unbonded ERUs. Developer shall obtain from JSSD a "Will Serve Letter" addressed to the Town defining the amount of water impact fees associated with the Project to be collected by the Town for pass through to JSSD. The Will Serve Letter may also identify capital facility project(s) required by JSSD in order to provide water source, water treatment, water storage and/or water conveyance systems for the Project. The Town must receive acknowledgment from JSSD that required conditions of this Section and the Will Serve Letter have been satisfied prior to approval of any Development Application for the Project.

6.4. **Water Rights.** The Parties acknowledge that the Town has an agreement with JSSD for a fixed number of water reservation rights which does not account for the total number of units proposed for the portion of the Project within the Town. Developer shall be responsible to provide JSSD with water rights sufficient for the indoor and outdoor water uses for the Project. Developer shall obtain in writing from JSSD acknowledgement that the Town shall receive this quantity of water represented by these water rights in addition to the contract amount of water delivery from JSSD prior to approval of any Development Application for the Project.

6.5. **Bonding.** If and to the extent required by the Town's Vested Laws or the Town's Future Laws (whichever is in force when a Development Application is submitted), unless otherwise provided by Chapter 10-9a of the Utah Code as amended, Developer shall provide security for any completion of Public Infrastructure and such components of private infrastructure owned by the HOA which will be open to the public under this MDA. Developer shall provide such security in a form acceptable to the Town or as specified in the Town's Vested Laws or the Town's Future Laws (as applicable). Partial releases of any such required security shall be made as work progresses based on the Town's Vested Laws or the Town's Future Laws (as applicable).

6.6. **Clubhouse, Pool and Indoor Pickleball Facilities.** The Project will contain a clubhouse, pool and indoor pickleball court facility (collectively, the “**Facilities**”). Developer shall construct the Facilities in locations shown on the Concept Plan. ***Developer is investigating the feasibility of having the Facilities open to a limited number of the members of the public through paid public memberships and fees; however, at this juncture, having the facilities open to the public, (even with such payments by members of the public,) does not appear to be feasible for multiple obvious and not so obvious reasons. Developer has placed the following language in this MDA for possible draft consideration purposes only, while Developer further explores the feasibility of having the Facilities open to a limited number of the member of the***

public through paid memberships and fees. The Facilities will be open to, and for the use of, a certain limited number of members of the public solely by way of a paid membership and other paid fees, as established by the HOA. At the time of the recordation of a plat containing any Facility of the Project, Developer shall, at the Town's election (a) dedicate the platted land for the Facilities to the Town or (b) dedicate such platted land for the Facilities to the HOA, subject to the right of entry and use by a certain limited number of members of the public solely by way of paid memberships and other paid fees, as established by the HOA. It is the intent of the parties hereto that the paid membership and other fees paid by a certain limited number of members of the public cover, at the very least, the entire costs, (including but not limited to maintenance, insurance, overhead, depreciation and other costs), of use of the Facilities by each such member of the public. Subject to the paid membership and fees paid by a certain limited number of members of the public and HOA dues and fees paid by unit owners, the HOA shall pay all costs and expenses associated with maintaining the Facilities, consistent with the maintenance standard applicable under Town's Vested Code, but in any event in a commercially reasonable manner. Subject to the paid membership and fees paid by a certain limited number of members of the public and HOA dues and fees paid by unit owners, the HOA will also maintain insurance for the Facilities in the manner applicable under Utah law.

6.7. **Parks.** The Project will also contain an amphitheater, Park City stairs, open space and trails (collectively, the "**Parks**"). Developer shall construct the amphitheater, Park City stairs, open space and trails in locations shown on the Concept Plan. The Park City stairs and trails will be open to, and for the use of, the public. At the time of the recordation of a plat containing any Park of the Project, Developer shall, at the Town's election: (a) dedicate the platted land for the Parks to the Town; or (b) dedicate such platted land for the Parks to the HOA, subject to the right of entry and use by the public. The HOA shall bear all costs and expenses associated with maintaining

the Parks, consistent with the maintenance standard applicable under Town's Vested Code, but in any event in a commercially reasonable manner. The HOA will also maintain insurance for the Parks in the manner applicable under Utah law.

6.8. **Public Streets in the Project.** Developer shall construct the streets in the Project to the standards specified in the Town's Code and as required by the Fire District, and shall dedicate the streets to the Town when and as such streets are substantially completed and accepted by the Town. Developer shall bear all costs and expenses associated with constructing the streets.

6.9. **Common Areas.** The HOA shall be responsible for all other common areas shown on the Concept Plan or required by the Town under this MDA or the Town's Vested Code or, if applicable, the Town's Future Code, in connection with a Development Application. The HOA will bear the cost of maintaining such common areas in a commercially reasonable manner.

7. **Model Homes.** The Town hereby authorizes Developer to construct any combination of product types chosen by Developer as "Model Homes", subject to the terms of this MDA, the Town's Vested Code, and the normal approval of such building plans. Developer acknowledges that certificates of occupancy for these homes will not be issued by the Town except as otherwise provided by the Town's Vested Code and this MDA.

8. **Design Guidelines.** All Residential Dwelling Units and other improvements constructed in the Project shall comply with the Design Guidelines, unless otherwise approved by the Council. Among other things, the Design Guidelines include example elevations. The example elevations illustrate the architectural look and feel the Design Guidelines are intended to create but may not be the specific design Developer constructs within the Project. All plans for Residential Dwelling Units in the Project will be substantially similar in quality and design from the example elevations included in the Design Guidelines unless otherwise approved by the Council. The Town shall have no obligation to issue a building permit or certificate of occupancy for any

Residential Dwelling Units or other improvements which do not comply with the Design Guidelines. When used in the Design Guidelines, the terms "should," "encouraged," "preferred," "appropriate," "discouraged," and other similar terms, may, at the Town's discretion, be enforced as mandatory or prohibitory (as applicable). From time to time, Developer may request that the Design Guidelines be updated or revised, but no such updates or revisions will be effective unless approved by the Council.

8.1. **HOA Responsibilities.** Before the plans for any Residential Dwelling Units or other improvements within the Project are submitted to the Town with an application for a building permit, the HOA's Design Review Committee ("**Committee**") shall review such plans and certify to the Town that such plans comply with the Design Guidelines. The Committee shall consist of five (5) members and the Council shall have the right to appoint two (2) members of the Committee, who must be selected from the elected or appointed officials or officers of the Town. The Committee's certification of plans will be subject to confirmation by the Town.

8.2. **Town Review.** After receiving the Committee's certification of compliance with the Design Guidelines, the Town, through a designated employee or agent, will review such plans for compliance with the other provisions of this MDA and with the Town's Vested Laws or the Town's Future Laws, as applicable. If, at any time, the Town has reason to question the accuracy of the Committee's certification, the Town may, directly or through a third-party consultant, conduct its own review of compliance with the Design Guidelines and the Applicant will bear the cost of the Town's review of the Design Guidelines.

8.3. **Enforcement.** In the event that the Town is required to take action to enforce the Design Guidelines, whether or not legal action is initiated, the non-complying Applicant shall be liable for all costs and expenses, including reasonable legal fees, incurred in such enforcement actions.

9. **Default.**

9.1. **Periodic Review and Notice of Default.** The Town may conduct a review of this MDA annually to evaluate compliance with this MDA by Developer. In addition, either party may, when such party becomes aware of a default in the performance of the respective obligations hereunder, provide Notice to the other party.

9.2. **Contents of the Notice of Default.** The Notice of Default shall:

9.2.1. Specific Claim. Specify the claimed event of Default;

9.2.2. Applicable Provisions. Identify with particularity the provisions of any applicable law, ordinance, rule, regulation or provision of this MDA that is claimed to be in Default; and

9.2.3. Optional Cure. If the Town chooses, in its discretion, it may propose a method and time for curing the Default which shall be of no less than thirty (30) days duration.

9.3. **Meet and Confer, Mediation, Arbitration.** Upon the issuance of a Notice of Default, the parties shall engage in the "Meet and Confer" and "Mediation" processes specified in Sections 5.5. If the claimed Default is subject to Arbitration as provided in Section 5.6, then the parties shall follow such processes.

9.4. **Remedies.** If the parties are not able to resolve the Default by the dispute resolution provisions of Section 9.3, or if the Default is not subject to Arbitration, then the parties may have the following remedies, except as specifically limited in Section 9.8.:

9.4.1. Law and Equity. All rights and remedies available at law and in equity, including, but not limited to, injunctive relief and/or specific performance.

9.4.2. Security. The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular Default.

9.4.3. Future Approvals. The right to withhold all further reviews, approvals, licenses,

building permits and/or other permits for Development of the Project.

9.5. **Public Meeting.** Before any remedy provided for in Section 9.4. may be imposed by the Town, the party allegedly in Default shall be afforded the right to attend a public meeting before the Town Council and address the Town Council regarding the claimed Default.

9.6. **Emergency Defaults.** Anything in this MDA notwithstanding, if the Town Council finds on the record that a default materially impairs a compelling interest of the Town and that any delays in imposing such a default would also impair a compelling interest of the Town, then the Town may impose the remedies of Section 9.4. without complying with the requirements of Section 9.5. The Town shall give Notice to Developer of any public meeting at which an emergency default is to be considered and the Developer shall be allowed to address the Town Council at that meeting regarding the claimed emergency Default.

9.7. **Extended Cure Period.** If any Default cannot be reasonably cured within thirty (30) days, then such cure period shall be extended so long as the defaulting party is continuously pursuing a cure with reasonable diligence.

9.8. **Limitation on Developer's Recovery for Default.** Anything in this MDA notwithstanding, Developer shall not be entitled to any claim for any monetary damages as a result of any breach by the Town of this MDA and Developer expressly waives any claims thereto. The sole remedy available to Developer shall be that of specific performance. Notwithstanding the foregoing, in addition to any rights specifically set forth in this MDA, in the event of a default by Developer, the Town may seek applicable remedies under law and equity, including actual monetary damages incurred by the Town as a result of the Developer's failure to perform hereunder.

10. **Notices.** All notices required or permitted under this MDA shall, in addition to any other means of transmission, be given in writing by certified mail and regular mail to the following

address:

To the Developer:

Holmes Elkhorn Springs, LLC
Attn: Patrick H. Holmes
126 West Segoe Lily Drive, Suite 250
Sandy, UT 84070
Email: patrick@holmeshomes.com

To the Town:

Town of Hideout
Attn: Town Clerk
10860 North Hideout Trail
Hideout, UT 84036
Email: [REDACTED]

10.1. **Effectiveness of Notice.** Except as otherwise provided in this MDA, each Notice shall be effective and shall be deemed delivered on the earlier of:

10.1.1. Hand Delivery. Its actual receipt, if delivered personally, or by courier service.

10.1.2. Electronic Delivery. Its actual receipt if delivered electronically by email provided that a copy of the email is printed out in physical form and mailed or personally delivered as set forth herein on the same day and the sending party has an electronic receipt of the delivery of the Notice. If the copy is not sent on the same day, then notice shall be deemed effective the date that the mailing or personal delivery occurs.

10.1.3. Mailing. On the third business day after the Notice is postmarked for mailing, postage prepaid, by First Class or Certified United States Mail and actually deposited in or delivered to the United States Mail. Any party may change its address for Notice under this MDA by giving written Notice to the other party in accordance with the provisions of this Section.

11. **Estoppel Certificate.** Upon twenty (20) days prior written request by the Town or Developer, then the other party will execute an estoppel certificate to any third party certifying that requesting party is not, at that time, in default of the terms of this MDA or identify a default which the responding party claims to exist.

12. **Headings.** The captions used in this MDA are for convenience only and are not intended to be substantive provisions or evidences of intent.

13. **No Third Party Rights/No Joint Venture.** This MDA does not create a joint venture relationship, partnership or agency relationship between the Town and Developer. Further, the parties do not intend this MDA to create any third-party beneficiary rights. The parties acknowledge that this MDA refers to a private development. The Town has no interest in, responsibility for or duty to any third parties concerning any improvements to the Property or unless the Town has accepted the dedication of such improvements. At the time of acceptance, all rights and responsibilities - except for warranty bond requirements under Town's Vested Laws and as allowed by state law - for the dedicated public improvement shall be the Town's, except as otherwise provided in this MDA.

14. **Assignability.** The rights and responsibilities of Developer under this MDA may be assigned in whole or in part by Developer with the prior written consent of the Town as provided herein.

14.1. **Sale of Lots.** Developer's selling or conveying lots in any approved Subdivision to homebuilders or end users, (i.e. owners of individual Residential Dwelling Units), shall not be deemed to be an "assignment" subject to the above- referenced approval by the Town.

14.2. **Related Entity.** Developer's transfer of all or any part of the Property to any entity "related" to Developer (as defined by regulations of the Internal Revenue Service in Section 165),

Developer's entry into a joint venture for the Development of the Project or Developer's pledging of part or all of the Project as security for financing shall also not be deemed to be an "assignment" subject to the above-referenced approval by the Town unless specifically designated as such an assignment subject to approval by the Town. Developer shall give the Town Notice of any event specified in this sub-section within ten (10) days after the event has occurred. Such Notice shall include providing the Town with all necessary contact information for the affected entity. Nothing in this Section will relieve Developer of any obligations hereunder unless and until another party, acceptable to the Town assumes in writing the duties and obligations set forth herein.

14.3. **Notice.** If the Developer intends to assign this MDA in a manner that would require consent from the Town, Developer shall give Notice to the Town of any proposed assignment and provide such information regarding the proposed assignee that the Town may reasonably request in making the evaluation permitted under this Section. Such Notice shall include providing the Town with all necessary contact information for the proposed assignee.

14.4. **Time for Objection.** Unless the Town approves the proposed assignment in writing within twenty (20) business days of notice, the Town shall be deemed to have denied the proposed assignment.

14.5. **Partial Assignment.** If any proposed assignment is for less than all of Developer's rights and responsibilities under the MDA, then the assignee shall be responsible for the performance of each of the obligations specifically referenced in the assignment instrument. Upon the assignee's assumption of rights and obligations in any such approved partial assignment, Developer shall be released from any future obligations as to those obligations which are assigned, but Developer shall remain responsible for the performance of any obligations that were not assigned. No assignment of any rights of Developer will be permitted with respect to a portion of the Project less than a complete phase, as shown on the Phasing Map attached as an exhibit to this MDA.

14.6. **Denial.** The Town may withhold its consent to a proposed assignment if the Town is not reasonably satisfied of the assignee's financial or other ability to perform the obligations of Developer proposed to be assigned or if there is an existing breach of this MDA that either has not been cured or is not in the process of being cured in a manner acceptable to the Town.

14.7. **Successor and Assignees Bound by MDA.** Any successor or permitted assignee shall consent in writing to be bound by the assigned terms and conditions of this MDA as a condition precedent to the effectiveness of the assignment.

15. **No Waiver.** Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

16. **Severability.** If any provision of this MDA is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this MDA shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this MDA shall remain in full force and affect.

17. **Force Maieure.** Any prevention, delay or stoppage of the performance of any obligation under this MDA which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefor; acts of nature, governmental restrictions, regulations or controls, judicial orders, enemy or hostile government actions, wars, civil commotions, fires or other casualties or other causes beyond the reasonable control of the party obligated to perform hereunder shall excuse performance of the obligation by that party for a period equal to the duration of that prevention, delay or stoppage.

18. **Time is of the Essence.** Time is of the essence to this MDA and every right or responsibility shall be performed within the times specified.

19. **Appointment of Representatives.** To further the commitment of the parties to

cooperate in the implementation of this MDA, the Town and Developer each shall designate and appoint a representative to act as a liaison between the Town and its various departments and Developer. The initial representative for the Town shall be Phil Rubin and the initial representative for Developer shall be Eric Davenport. The parties may change their designated representatives by Notice. The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this MDA and the Development of the Project.

20. **Mutual Drafting.** Each party has participated in negotiating and drafting this MDA and therefore no provision of this MDA shall be construed for or against either party based on which party drafted any particular portion of this MDA.

21. **Applicable Law.** This MDA is entered into in Wasatch County in the State of Utah and shall be construed in accordance with the laws of the State of Utah irrespective of Utah's choice of law rules.

22. **Venue.** Any action to enforce this MDA shall be brought only in a court located in Wasatch County, State of Utah.

23. **Entire Agreement.** This MDA, and all Exhibits thereto, is the entire agreement between the Parties regarding the subject matter set forth herein and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

24. **Recordation and Running with the Land.** This MDA shall be recorded against the Property prior commencement of any work related to Development of the Project. This MDA shall be deemed to run with the land. The data disk of the Town's Vested Laws, Exhibit "D", shall not be recorded in the chain of title. A secure copy of Exhibit "C" shall be filed with the Town Recorder and each party shall also have an identical copy.

25. **Authority.** The parties to this MDA each warrant that they have all of the necessary

authority to execute this MDA. Specifically, on behalf of the Town, the signature of the Mayor of the Town is affixed to this MDA lawfully binding the Town pursuant to Resolution No. [REDACTED] adopted by the Town on July [REDACTED], 2024.

IN WITNESS WHEREOF, the parties hereto have executed this MDA by and through their respective, duly authorized representatives as of the day and year first herein above written.

HOLMES ELKHORN SPRINGS,
LLC,
By it General Manager Holmes
Homes, Inc.

TOWN OF HIDEOUT

By: _____

By: _____

Name: _____

Name: Phil Rubin

Title: _____

Title: Mayor

Approved as to
form:

Attest:

Town
Attorney

Town Clerk

TOWN ACKNOWLEDGMENT

STATE OF UTAH)
 :ss.
COUNTY OF WASATCH)

On the _____day of _____, 2024, personally appeared before me _____ who being by me duly sworn, did say that he is the Mayor of the Town of Hideout, a Utah municipal corporation, and that said instrument was signed in behalf of the Town by authority of its governing body and said Mayor acknowledged to me that the Mayor executed the same.

NOTARY PUBLIC

WESTERN ACKNOWLEDGMENT

STATE OF UTAH)
 :ss.
COUNTY OF SALT LAKE)

On the _____day of _____, 2024, personally appeared before me _____ who being by me duly sworn, did say that he is the _____ of Holmes Homes, Inc., the General Manager of Holmes Elkhorn Springs, LLC, a Utah limited liability company, and that the foregoing instrument was duly authorized by the company at a lawful meeting held by authority of its operating agreement and signed in behalf of said company.

NOTARY PUBLIC

EXHIBT "A"

Concept Plan

(See Attachment)

EXHIBT “B”

Design Guidelines

(See Attachment)

EXHIBT "C"

Excluded Acreage

(See Attachment)

EXHIBT “D”

The Towns Vested Laws

(See Attachment)