

Minutes
Town of Hideout
Town Council - Special Meeting
October 14, 2020

The Town Council of Hideout, Wasatch County, Utah met in Special Meeting on October 14, 2020 at 6:00 pm electronically via Zoom meeting due to the ongoing COVID-19 pandemic.

Special Meeting

I. Call to Order and Reading of Mayor Rubin's September 24th No Anchor Site Determination Letter

1. Mayor Rubin's No Anchor Site Determination Letter

Mayor Rubin called the meeting to order at 6:01 pm and read the No Anchor Site Determination Letter in its entirety.

II. Roll Call

Present: Mayor Phil Rubin
Council Member Chris Baier
Council Member Jerry Dwinell
Council Member Carol Haselton
Council Member Bob Nadelberg
Council Member Ralph Severini

Staff Present: Town Attorney Polly McLean
Town Administrator Jan McCosh
Town Planner Thomas Eddington
Town Clerk Alicia Fairbourne

Others Present: Nate Brockbank, Bruce Baird, Eric Langvardt, and others who may not have signed in using full or proper names when logging in via Zoom.

III. Agenda Items

1. Discussion and Possible Action on Ordinance 2020-10 AN ORDINANCE ANNEXING the Silver Meadows annexation the land which is described in Exhibit A.

Mayor Rubin provided an overview of the session and noted there would be no discussion of, or action taken on the first agenda item regarding an ordinance annexing the Silver Meadows annexation. He noted this topic was tabled until the following meeting.

2. Discussion and Possible Action on authorizing the mayor to enter into an Annexation and Master Development Agreement pertaining to the Silver Meadows Annexation.

Mayor Rubin stated the Council would discuss the content and revisions made to the draft Annexation and Master Development Agreement (AMDA) but there would be no action taken on this item until the next meeting. He asked the Council members for input on any additional items for inclusion in the agreement.

Eric Langvardt, planner for the developer, discussed the updated proposed development map. He noted the revised proposal represented an overall reduction in density with fewer single-family homes on larger lots, fewer cottage homes, and townhouse units reduced from 95 to 40 and to consist of duplex structures. He noted the addition of another community park, a site for a 17,000 square foot city hall and community center building, and stated the commercial component had been increased to 120,000 square feet. He also noted the location of the nearby EPA (Environmental Protection Agency) OU-1 site on the map. Regarding the updated zoning map, Thomas Eddington, Town Planner, noted there could be a few small changes made before submission of the final proposal. Nate Brockbank, developer, discussed options under consideration for an assisted living/senior center.

In response to a question from Council Member Jerry Dwinell regarding inclusion of a gas station in the plan, Mr. Langvardt noted such a business was not compatible with the proposed design of the Town Center. He also noted the design did not envision drive-through restaurants. He discussed the proposed commercial parking plans which would include on-street parking along Richardson Flats Road and parking lots in the Town Center. Residential parking within the Town Center would be below the buildings. Mr. Langvardt added some of the commercial parking could be reallocated to residential depending on the businesses, and noted the commercial area was accessible from the trail system.

Mayor Rubin noted Richardson Flats Road was currently a county road and asked about the process to obtain approvals for its widening and addition of on-street parking if the proposed annexation moved forward. Town Attorney Polly McLean responded it would remain a county road and would research the process for making changes to the road. In response to a question from Council Member Ralph Severini regarding potential electric vehicle charging stations, Mr. Langvardt stated they could be included. Council Member Chris Baier asked about the adequacy of handicapped parking in the plan to which Mr. Langvardt responded it was included. Mr. Langvardt responded to several additional questions and comments from Council Members regarding a church site, school site, chair lift, and rail trail road crossings.

Council Member Baier asked for clarification on residential parking and whether there would be sufficient guest parking. Mr. Langvardt detailed the plan for each home's garage and guest parking and noted spaces available for additional parking could be created as the plan was finalized. He noted the proposed twin homes would have space for two car garages and guest parking. After answering several more questions, at approximately 6:45 pm, Mr. Langvardt was excused from the meeting.

As follow up to feedback he had received from several constituents, Council Member Bob Nadelberg requested clarification that these discussions regarding the draft AMDA did not imply the certainty of approval of the annexation. Mayor Rubin stated these matters were somewhat linked, as the terms of the AMDA needed to be acceptable before a potential annexation approval. Ms. McLean agreed the AMDA must be ready in the event the annexation was adopted but did not imply the annexation would be approved.

Mayor Rubin presented the updated draft agreement which reflected the comments discussed during the previous Town Council's Work Session, and hoped any remaining items could be discussed at this session in order to be ready to vote on the document at the next meeting.

Mr. Bruce Baird, attorney for the developer, explained various definitions and changes within the agreement.

Mayor Rubin noted Ms. McLean had assisted in identifying an environmental lawyer who had agreed to represent the Town and review the agreement's environmental language. Mr. Baird stated he would also have his environmental counsel review these sections.

Mr. Baird agreed to review Section 1.2.12 to ensure the net and gross lease figures were correct. Mayor Rubin requested reciprocal language regarding potential OU1 site runoff mitigation.

Mr. Baird detailed the proposed changes to Section 3.3 regarding the phasing schedule for the commercial development relative to residential development to prioritize the building of the Town Center. Discussion ensued, which clarified the assisted living/senior center facility would not be considered either residential or commercial for purposes of computing this phasing schedule.

Council Member Severini asked if an anchor location would be needed upfront to attract other businesses. Mr. Brockbank responded it would be optimal to secure as much commercial commitment as possible early on, and he would seek to bring on a grocery store tenant as soon as the annexation was approved. Discussion ensued regarding the square footage for a grocery store. Council Member Baier requested this language not be overly restrictive in order to attract an appropriate store for the community.

Mr. Eddington suggested including language to ensure the affordable housing units would be built in the same proportion as other types of housing.

Mr. Eddington suggested amending Section 7.3.2 to require parks and trails to be constructed in proportion to the overall development. Mr. Brockbank noted he had agreed to include construction of the major open spaces and back bone trails in Phase I (the first 10 percent) of the project.

Discussion ensued regarding Section 7.3.3 and Homeowners Association (HOA) fees for the affordable/workforce housing units. Mr. Eddington suggested setting the terms for calculating these fees based on specific income levels to ensure affordability. It was noted these details could be changed to address future conditions.

Discussion ensued regarding the language surrounding access to SR-248 and it was noted the development would not be held up waiting for all state and county approvals prior to starting the project. Mayor Rubin cited the example of the KLAIM development's drawn-out process for obtaining final approvals from the state for its access road to SR-248.

Council Member Dwinell asked at what point applications and approvals would occur, and as conditions changed over time, would this agreement be amended to address those changes. Mr. Baird responded all development project applications would need to be processed through the Town's Planning Commission and Town Council processes. It was agreed to require a full project phasing plan upon submission of the first building application, consistent with other multi-phase projects in the town.

In response to questions from Council Members, Ms. McLean was asked if a feasibility study which matched with the state code's requirements for an annexation should be included. She agreed to provide an overview of these requirements to help Council evaluate whether to reference them in the agreement in advance of the next meeting.

Ms. McLean requested Mr. Baird provide a letter explaining the relationships of all the developer-related entities party to the indemnification agreement.

Council Member Baier asked about the indemnifications and protection options in the event of insolvency of one of LLC entities party to the indemnification agreement. Mr. Baird stated this had been discussed at the last meeting and these risks would always exist. He discussed the bankruptcy process and noted the Town would be in the position to work with another developer to continue the project under such a scenario. Council Member Dwinell asked about the Town's exposure under a scenario where a problem developed with the adjacent superfund site and noted another developer would be less likely to step in to take on the project. Mr. Baird noted another Utah area development with similar indemnification terms and detailed the low likelihood of the Town having exposure to an environmental problem given the reviews conducted.

Ms. McLean asked about a scenario where the developer became insolvent midway through the project and asked how the Town would ensure the successors would be obligated to complete the requirements of the projects. Mr. Baird responded the development agreement would cease and a bankruptcy process would most likely induce the project's financing entity to take on the project in order to protect its interests. Mayor Rubin noted these types of risks already existed for other projects under development in the Town, and the Town would rely on advice from its legal counsel to confirm the terms of the development agreement were normal and customary.

Mr. Brockbank stated he paid cash for the land, and like the projects he built in Deer Waters and Deer Springs, he did not anticipate financing this project. He added he could not fathom a situation that would lead him to walk away from the project prior to completion. Mayor Rubin stated there was always some level of risk, which the Council would need to be comfortable accepting.

Council Member Baier asked if Hideout should consider enacting a soil ordinance similar to one enacted by Park City. Ms. McLean and Mr. Baird noted the language included in the agreement which had been added by the Town's environmental attorney regarding a soil plan. Mr. Baird also discussed Section 4.3.7 Other Planning and Zoning Modifications and suggested inserting language to subject the developer to compliance with a future soils ordinance the Town may adopt.

Council Member Severini asked how the Town would be protected if the developer could not withstand an economic downturn. He noted as with any type of business deal, the time component of risk which would encourage Mr. Brockbank to complete the project while the market was strong and money cheap.

Council Member Bob Nadelberg had no further questions.

Council Member Carol Haselton shared her concerns with a potential economic slowdown and future over-building in the area. She stated she felt this decision was being rushed. Mayor Rubin noted this was not a three-year project and it was important to think about it over a longer time frame. If the annexation advanced, there were still a number of legal matters to be resolved and studies to be conducted before breaking ground. He added this was probably an eight to ten-year project.

Council Member Dwinell suggested a provision to ensure remediation and restoration to any land if excavation was started but development did not proceed as scheduled. Mr. Baird referred to existing state law which addressed this concern. Ms. McLean suggested inclusion of completion bonds or remediation bonds for each building permit. Mr. Baird respectfully disagreed with this suggestion and noted these types of bonds were currently difficult to acquire and prohibitively expensive. He suggested instead to consider strengthening the default clauses in the agreement which could put the entire development agreement at risk should the developer fail to complete required items.

Council Member Baier asked about the cost of the proposed chair lift and alternate uses for those funds. Mr. Brockbank discussed two options under consideration which would cost approximately \$400,000 to purchase and noted the town could utilize those funds for another purpose. Discussion ensued regarding what the total costs would be to purchase equipment, install, and operate the lift and how to compute its complete value within the AMDA. It was also noted the forthcoming feasibility study would provide additional information to aid the Council in deciding whether to proceed with the chair lift or consider directing those funds to another community project. Mr. Brockbank agreed to provide an alternative estimate on this subject in advance of the next meeting.

Mr. Baird agreed to send a new draft to the Council by noon the following day.

Council Member Baier asked for Section 4.3.7 Other Planning and Zoning Modifications to also include adherence with the Town's weed ordinance.

IV. Closed Executive Session - Discussion of pending or reasonably imminent litigation, personnel matters, and/or sale or acquisition of real property as needed

There being no further public business, Mayor Rubin asked for a motion to close the public portion of the meeting at 8:31 pm and move into Executive Session.

Motion: Council Member Dwinell made the motion to enter into executive session to discuss pending or reasonably imminent litigation, personnel matters, and/or sale or acquisition of real property as needed. Council Member Nadelberg made the second. Voting Aye: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed.

Whereupon the closed executive session convened at 8:40 pm.

Present:

Mayor Phil Rubin
Council Member Chris Baier
Council Member Jerry Dwinell
Council Member Carol Haselton
Council Member Bob Nadelberg
Council Member Ralph Severini

Staff and Others Present:

Town Attorney Polly McLean
Summit County Litigation Attorney Rob Mansfield
Town Planner Thomas Eddington

V. **Meeting Adjournment**

At approximately 9:15 pm, the Executive Session adjourned and the meeting moved into public session.

Motion: Council Member Baier moved to close the Executive Session and adjourn the meeting. Council Member Haselton made the second. Voting Aye: Council Members Baier, Dwinell, Haselton, Nadelberg and Severini. None opposed.

The meeting adjourned at 9:15 pm.



Alicia Fairbourne
Alicia Fairbourne, Town Clerk

APPROVED