1			Town of Hideout
2			Planning Commission Meeting Minutes
3			10860 North Hideout Trail
4			Hideout, Utah
5			May 16, 2019
6			17111 10, 2017
7	Prese	nt:	Jerry Dwinell, Chair
8			Sara Goldkind
9			Kurt Shadle, Alternate
10			Vytas Rupinskas
11			Ralph Severini (via telephone)
12			Bruce Woelfle
13			
14	Other	:s:	Dan Dansie, Town Attorney (via telephone)
15			Jan McCosh, Town Administrator
16			
17	BUSI	NESS	MEETING
18			
19	1.	<u>OPF</u>	ENING:
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21		a.	Call to Order.
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23	Chair	Jerry 1	Dwinell called the Planning Commission Meeting to order at approximately 6:00 p.m.
24			
25		b.	Pledge of Allegiance.
26	C1 .	ъ.	11.1 .1.4 . DI .1
27	Chair	Dwine	ell led the Pledge.
28			
29		c.	Roll Call.
30	Thoma	****	mall and of the gas museumt
31	There	was a	roll call of those present.
32 33	2.	DIID	BLIC HEARING: Zoning Change Petition for Van Dan Acker Property (Lake
34	4.		v Resort) from Mountain to Single-Family Residential.
35		VICV	V Resort) from Mountain to Single-Painny Residential.
36	The at	nnlica	nt, Nate Brockbank, reported that the subject property is located between the two Deer
37	Water phases, and would include 112 townhome units. The property is owned by the Van Dan		
38			o were present. An open house was held early in May to which 15 people were in
39			The invitation included the plat map. They are planning to develop two or three lots
40			t are 5,000 to 6,000 square feet in size. They will have 25 feet of front yard, 20 feet of
41			nd two 10-foot side yards. Every third lot will have at least 30 feet of open space

Chair Dwinell identified Deer Water Phases 1 and 2 on a map displayed. It was confirmed that 44 34.25% open space is proposed. He reminded the Commission that there are two reasons the Code 45 allows for what is proposed. The first is that it furthers the goals of the General Plan. The second 46

42 43 between the lots.

is that substantial changes have been made to the property or the surrounding property that make it reasonable to rezone. Chair Dwinell did not think the second applies but the first would. With a rezone, they should look for ways to advance the goals of the General Plan.

Chair Dwinell reported that the second item on the agenda is zone definition changes that will be forthcoming. He expected a few to impact this property. Nate is asking for single-family residential, which would not fit under the new definition. It would, however, fit under Residential Medium-Density. Nate was asked to incorporate other aspects of the zone as well such as a 25-foot offset rather than 20 feet and minimum driveway lengths of 25 feet. There are offset requirements as well. As drawn, all of the buildings are lined up parallel to the road. What they are asking for in the new zoning and for Nate to incorporate into the plan was either a five-foot offset difference from the neighboring home or at least a 15 degree tilt off of the road.

Chair Dwinell explained that the zone is not yet re-defined, but they want to do something similar to what was done with the Plumb property where they put a deed restriction in place that specified what was desired as a condition of the rezoning. Nate mentioned earlier that he had lost some density, which was likely due to the changes. The proposed changes were described, which would include a water feature and an open space area. Nate stated that the intent was to create a park-like feel. He noted that most of the lots will have lake views. The possibility was mentioned of joining Deer Water to Lake View to provide another egress point. Nate stated that he met with the builder in Deer Water who wanted to keep them separate. If it is required, however, it can be done.

Chair Dwinell stated that currently in the SFR zone the density can be up to six units per acre. The Commission is looking to change that to three ERUs (Equivalent Residential Unit per acre). The Residential Medium-Density zone would be six ERUs. The building height in RMD would be reduced as well. With regard to egress, it will be up to the Fire District as to whether it is required.

In response to a question by Chair Dwinell, Nate stated that a playground, park area, and trails are planned. They will make trail connections where they are able. Chair Dwinell reported that Nate would be asked to work with the Parks and Trails Committee to design something that helps further those goals. Nate reiterated their commitment to trails.

Chair Dwinell remarked that Nate has requested that both Deer Water, and potentially the proposed development, be included in the MIDA project. Nate described the process and stated that they are seeking to be added into what is essentially a taxing district. MIDA typically receives 70% and the developer gets 30%. In this care, the Town would receive 35%, MIDA would get 35%, and the developer would get 30% of the tax revenues. The proposed project equates to \$3 million to the Town with funds not being received until the homes are built. Over a 25-year period, the Town will receive the tax revenues. Chair Dwinell explained that if the property were rezoned and development were to occur, there would be a financial benefit to the Town.

Renderings of the proposed homes were displayed. Nate reported that three years ago they had the property under contract and planned to develop townhomes. The project did not come to fruition and they decided not to pursue more townhomes in the Town. They are now proposing single-family homes in the \$600,000 to \$700,000 price range. The Council expressed a desire for mountain modern contemporary style homes rather than traditional. The homes will be 2,200 to

2,600 square feet in size. If they have basements, the homes will be around 3,800 square feet in size. He noted that they are significantly larger than the townhomes. There will be three separate renderings of each building so they will not all look the same.

Zoning issues were discussed. Ralph Severini asked about the proposed zone change that would result in an additional five-foot setback. It was noted that the front setback in the zone is defined as 20 feet. The minimum driveway length is also 20 feet. The desire was to increase the length to 25 feet to accommodate a full-size extended cab pickup. The potential of extending the side yards by five feet was also mentioned. Commissioner Severini considered that important to the Town.

With regard to revenue generation of \$3 million, it was noted that there would be a ramp up period. There would be very little generated the first five years but would increase over time as development occurs and more tax money comes in. Nate described the benefits of being part of MIDA and stated that provides a windfall for everyone. Utopia is currently putting lines around Jordanelle Reservoir but will run the lines from Highway 40 to Hideout. In Deer Water Phase 1, they recently opened the power trench and Utopia was coming up on Monday to put in the conduit.

It was confirmed that the building heights will be approximately 28 feet. Currently the height restriction is 35 feet to maintain viewsheds. For Residential Single-Family it is 35 feet or 2 ½ stories, whichever is greater. Nate reported that the homes that have been built are 28 feet tall. Currently, there was no proposal to lower the building heights. As part of the next agenda item, there was discussion of a new Protected Viewshed zone that would include additional requirements.

In response to a question of slope, it was noted that it will be presented with the next phase. The General Plan addresses providing a balance of types of homes. Commissioner Rupinskas was of the opinion that the town had gone too far in allowing so many townhomes. The General Plan stipulates that a balance of home types is required. He was of the opinion that Nate and the Van Dan Ackers are making the appropriate action by going with detached single-family. From a General Plan standpoint, he believed it provides balance. It was noted that there is nothing currently in Hideout that is even remotely similar to what is proposed in this price range.

Chair Dwinell proposed that the request be amended slightly to be a rezone to Residential Medium-Density with the following deed restrictions: A 25-foot minimum front setback, 25-foot minimum driveway length, and a five-foot or 15-degree offset from any neighboring building or road. It was clarified that the zone exists, but the definitions were to be amended.

Commission Severini commented that there would be value to the Town and to these single-family homeowners if there was greater side setback, which would provide 10 additional feet and result in a better view. Another metric could be entertained that addresses the minimum distance between buildings. That would not impact the side setback or affect the open space. It does, however, specify that a building cannot be placed directly on the setback line. The developer designed the project with the open space between the lots.

Ralph Severini suggested the side setback remain in its current location and add another metric that would apply to the zone and specify the minimum distance from any neighboring building. It

was noted that the way the homes are being built, the second home creates a huge space between two lots and the other two homes have almost no space because the intent is to get as high up on the lot as possible to get the best view. The only way to protect the first lot owner on the higher end is to have a larger setback or a minimum distance or angle showing how the second home would be built.

The question was raised as to whether any part of the discussion should pertain to a deed restriction separate from the zone discussion. Sara Goldkind's understanding was that the zoning can only be changed based on what already exists. Residential Medium-Density zoning exists currently. In order to modify it for this project, it would be in the form of a deed restriction. There was previous mention of what might be the New Residential Medium-Density zoning requirement, but they were not yet known. It seemed to Commissioner Goldkind that the only way to do them properly was to specify that it would be approved under the current existing Residential Medium Density with appropriate deed restrictions. It could be zoned as Single-Family Residential with deed restrictions, but that if we rezoned to Residential Medium-Density there would be no need to rezone the property in the future.

Commissioner Rupinskas was concerned about operating in that manner. Chair Dwinell explained that we are trying to clean up the zoning and have a few exceptions as possible. In the long term, we don't want to have to reference an exception list to determine what's permissible in an area. Another option would be to rezone the property after the zone definitions are final; and grandfather in anything that doesn't match the new zone. The developers, however, would have to agree. The point was made that the rezone is essentially an MDA and both parties would have to agree to it. Some will, but the intent is to clean up the zoning.

Commissioner Rupinskas commented that the zoning as it exists does not make sense. Nate's project, however, is coming in in the midst of this change. He did not think that issues like the ones identified by Commissioner Severini, which are valid, can be imposed on Nate unless he agrees to it. Chair Dwinell commented that once the deed restrictions are voted on, they are permanent. If the zoning is changed on Nate's property, he will be grandfathered in. For that reason, it is important to agree on the major issues and include them in the deed restriction.

Nate explained that their plan is not going to change, and they can work with either option. In looking toward, the future, Chair Dwinell commented that when the zone map is distributed, he would want to eliminate as many aberrates as possible. He wanted to zone it today to fit future needs.

The vision for the project was acknowledged with the understanding that a rezone is discretionary. Possible options were discussed. It was noted that an MDA could be done in conjunction with a rezone. The possibility of entering into a development agreement was discussed. Height issues were discussed with the current maximum being 35 feet. Chair Dwinell commented that he and the Mayor discussed how heights are measured. The desire was to standardize it and require it be from the lowest point where the building meets the finished grade, to the highest roof line of the building. Further, the measurement would be subject to review by the Planning Commission.

 Commissioner Goldkind conducted research on the issue at the direction of the Mayor and stated that it is very complicated. In different counties there are different ways of measuring building height. In this case, it would be measured from finished grade. In speaking with the Town Engineer and the Mayor the desire was to make sure that building height is always subject to review.

In Deer Springs, two Town Representatives will be serving on the Design Review Committee. The Commission likes to see something similar for this development. Chair Dwinell summarized the rezoning request to Residential Medium Density with the following restrictions:

- 1. 25-foot minimum front setback.
- 2. 25-foot minimum driveway length.
- 3. Five-foot or 15-degree offset from the neighboring building or road.
- 4. Single-Family Detached only
  - 5. Max ERU of six.
  - 6. 35-foot maximum building height, subject to review.
    - 7. DRC will consist of two Town officials.

It was suggested that the property be rezoned Residential Medium Density since it would most match that zone after the zoning definitions are updated.

Chair Dwinell opened the public hearing.

<u>Joel Van Dan Acker</u> reported that his family owns the subject property and they like the concept of single-family homes over townhomes or other options. He confirmed that the reason behind increasing the length of the driveway from 20 feet to 25 feet was to accommodate a pickup truck. It was noted that the truck measured was a Ford F-150 extended cab full bed length, which is ~23 feet. It is the longest production non-commercial vehicle. The increased setback and driveway length is to support longer vehicles.

Mr. Van Dan Acker asked if there are other municipalities with similar requirements. Nate repied that this was common in other developments. Mr. Van Dan Acker next inquired about the five-foot offset difference or the 15-degree angle and was of the understanding that it decreases the overall open space. He was informed that that is not the case but that a side setback change would. The intent was to orient the building and improve the visual appeal. As part of Rustler Phase 1, the homes are aligned with the street and in Phase 2 they are tilted, which creates a completely different feel. Mr. Van Dan Acker expressed his support for the project to go forward with Nate. If it doesn't go forward with Nate, they want to be able to attract other potential buyers. For that reason, he was curious about the numbers and the proposed changes.

<u>Dennis Van Dan Acker</u> echoed the comments of his brother, Joel with regard to Nate and what they are proposing. He was pleased with the vision of the Town and how they plan to accomplish that vision. In the past it has been difficult, and this group has been very open and professional. He and his siblings were confident working with the Town and Nate. Regardless of what is decided on the issues, it will not limit their ability to sell the property. Mr. Van Dan Acker was informed that if the Town agrees to the zone change, whatever the zone is today with the restrictions

overlaid, will be what they get. If any other changes are made to the zone definitions, they would be grandfathered in.

It was suggested that if the Town agrees to the zone change, they want to make sure that the restriction mechanism is tied to the zone change. The Town does not yet have its own design review standards. It was stated that an MDA would be tied to the subdivision.

 In response to a question raised, it was clarified that the currently defined maximum density for Residential Medium Density is six to 20 units. In the new definition, there would no longer be a range but simply a maximum. Currently, a home in Silver Sky that is zoned Single-Family Residential has the zone's ERU, but also has an RSPA overlay, which alters the ERUs. The hope was that the new zone definitions will make the process much less complicated.

14 Chair Dwinell reminded the Commissioners that the rezoning needs to further the goals of the General Plan.

There were no further public comments. The public hearing was closed.

**MOTION:** Commissioner Dwinell moved to accept the zone change subject to the following stipulations:

Residential Medium-Density:

- 1. 25-foot minimum front setback.
- 2. 25-foot minimum driveway length.
  - 3. Five-foot or 15-degree offset from any neighboring buildings or the road.
  - 4. Single-Family Detached Only
  - 5. Maximum ERUs of six.
  - 6. Maximum building height of 35 feet (subject to review).
  - 7. Establishment of a Design Review Committee with at least two Town Council or Planning Commission members represented.

Commissioner Woelfle seconded the motion. Vote on motion: Bruce Woelfle-Aye, Ralph Severini-Aye, Sara Goldkind-Aye, Vytas Rupinskas-Aye, Chair Jerry Dwinell-Aye. The motion passed unanimously. Alternate Planning Commission Member Kurt Shadle did not participate in the vote.

3. <u>PUBLIC HEARING: Review and Recommend Draft Ordinance Concerning Development Restrictions based upon Delinquent Taxes, Fees or Other Monies Owed to the Town; to be Recommended to the Town Council.</u>

Kurt Shadle reported that after conducting an analysis, it was discovered that there are approximately 32,000 residents in Wasatch County. Hideout represents 1/32 of the population of Wasatch County yet they comprise 25% of the tax delinquencies. A mechanism was proposed to address property owners with tax delinquencies or outstanding water charges.

 Sara Goldkind asked how situations will be addressed if a developer or individual partners with someone else to submit an application. She wanted to avoid granting an approval to the partner entity if they know that the developer is delinquent. Commissioner Shadle commented that if a principal from a company that is delinquent in tax goes to or forms another company, they are still a principal; the moratorium would apply. The thought was that the applicant would have to present an affidavit stating that no property taxes are owed to the Town.

Chair Dwinell explained that if an ordinance is in place, it would only apply to properties that are not covered under an MDA going forward. As a result, it needs to be a two-pronged approach. The ordinance can specify any and all property that is owned within Hideout. The second prong is a procedural approach in the form of a resolution that staff can implement. The scope, however, can only be for the parcel under consideration. In addition, no business will be allowed to operate within the Town if they are delinquent in property taxes, fees, etc. Procedurally, a business license can be revoked without concern for the MDA. Within the ordinance, they want to make it law as well that a business cannot be run within the Town of Hideout if the owner is delinquent in taxes, fees, etc. While the focus is on property taxes, the scope would involve any monies going to Hideout.

Sara Goldkind asked if a developer, entity, or individual was applying for a new permit in the Town and is delinquent if they can go beyond the scope of the single site for which the building permit is being requested for and require all delinquent taxes be paid in full. She asked if it would be possible to have taxes for all parcels paid before a permit will be issued. Mr. Dansie stated that such an approach may go beyond what can be done in terms of a procedural implementation. He was not, however, aware of anything in State Code that would prevent them from doing that. He explained that the lien for property taxes is called a supervening lien. It was noted that interest and penalties accrue for unpaid fees, but it is very small.

Mr. Dansie reported that he had spoken to David Church, who previously provided legal advice to the Town, and he was not aware of a prohibition. With regard to the application of a business license, it was suggested that in addition to providing an affidavit, if at any point a property owner becomes delinquent, the business license can be revoked. It was suggested that the Town draft an ordinance and include language to amend Sections 3.2.105 and 3.2.111. A resolution should also be drafted that includes the same restrictions.

Commissioner Goldkind wanted to prevent a developer who is delinquent from skirting the requirements. It was noted that both development applications and property taxes are specific to a property. For that reason, a property tax lien is filed against the property. Possible options were discussed.

Chair Dwinell explained that the intent is to address a developer who owes a large sum of money who comes in for an application or permit. The application would be accepted but not processed until the taxes and fees are paid and current. The matter was not ready for a vote since additional language needed to be added. Procedural issues were discussed. The decision was made to form a small sub-committee consisting of Chair Dwinell and Commissioner Shadle to refine the language. The matter would then be ready for inclusion on the agenda on next Town Council meeting with no further action from the Planning Commission.

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Chair Dwinell opened the public hearing. There were no public comments. The public hearing was closed.

 MOTION: Commissioner \_\_\_\_\_ moved that the ordinance and resolution presented about the delinquent tax be recommended for a vote at the next Town Council Meeting but with modifications to be made by Chair Dwinell and Kurt Shadle between now and then, as discussed. Commissioner Goldkind seconded the motion. Vote on motion: Bruce Woelfle-Aye, Ralph Severini-Aye, Sara Goldkind-Aye, Vytas Rupinskas-Aye, Chair Jerry Dwinell-Aye. The motion passed unanimously. Alternate Planning Commission Member Kurt Shadle did not participate in the vote.

## 4. <u>ADMINISTRATION: Discussion of Proposed Zone Definition Changes.</u>

Chair Dwinell reported that this is the beginning of the discussion on this topic. The Commission can address as much as desired; and it can be further discussed at the next meeting. He explained that there are serious problems with the current zoning. There is an overly complex zoning structure with the intent being to simplify it. Some zones mention a particular characteristic such as a front offset or driveway materials, for example, and others that don't address it at all. The goal is to standardize the characteristics and what each zone says about those characteristics. The result will be to have uniformity across all of the zones and eliminate the complexity.

Chair Dwinell proposed the addition of a couple of new zones and the retirement of a few as well. The following existing, proposed new, and to be retired zones were identified:

- Residential Single-Family (existing will remain);
- Residential Medium Density (existing will remain);
- Residential Protected Viewshed (new);
- Residential High-Density (new);
  - Resort Village Medium-Density (to be retired);
  - Resort Village High-Density (to be retired);
  - Neighborhood Commercial (existing will remain);
- Commercial (new);
  - Community Site (existing will remain);
  - Open Space (existing will remain);
    - RSPA (to be retired);
    - Planned Performance Development (to be retired); and
    - Hospitality Casita (to be retired).

In response to a question raised by Commissioner Goldkind, Chair Dwinell stated that if a hotel were annexed in it would be under Commercial.

The notion of conditional use was discussed. Chair Dwinell reported that while the Utah League of Cities and Towns advises against Conditional Use, there are, however, times when a conditional use is desirable such as in Commercial areas. While a big box use may be desired, the Town would want to apply restrictions to it.

Chair Dwinell stated that with respect to Short-Term Rentals, they are understood as allowing a residential unit to be rented for less than 90 days. There is, however, no definition of "short-term" or "rental". For some uses, definitions will need to be provided if they are to remain. It was noted that some definitions exist on the MDAs. One option was to determine whether there is a definition on the MDA and then decide if it is one, they would like to accept.

 Chair Dwinell commented that the land uses are separated into residential, community, commercial, and infrastructure. At the bottom are the more specific characteristics such as density, frontage, setbacks, building, driveway, garage, etc. They are also characterized as new and existing.

The Commission Members were asked to review the document using the process described. They can then give input and refine the document. With regard to infrastructure, it was assumed that aspects of infrastructure will exist in every zone. Town Engineer Taylor commented that there should be some definition of what types of Infrastructure were restricted to specific zones (like a water storage facility).

Chair Dwinell next addressed the residential protected viewshed, which was an idea that came up earlier in the week. The Mayor recently visited Deer Vista, which is a master planned community where the designer has oriented every home to have minimal impact on the view of the surrounding residences. The lot prices in Deer Vista are very high as a result. With regard to dining, Chair Dwinell asked if they want to narrow their focus and allow certain types of eating establishments in the Town. The three categories were identified as casual sit-down, counter service or fast food, and fine dining. The Commission Members were encouraged to give feedback.

 Other categories included Health Care and Hospital. They are specific designating what would be allowed in each category. Procedural issues were discussed. Chair Dwinell asked that the Commission Members review the documents and be prepared at the next meeting to discuss them in detail. A Special Meeting could also be scheduled, if necessary.

Ralph Severini reported that he spoke to Brent Bateman, lead attorney in the Office of the Property Rights Ombudsman, five or six weeks ago who suggested the Town consider retaining a certified outside planner with experience. If the desire is to utilize the services of a Planning Consultant, that information should be relayed to Town Administrator, Jan McCosh. Chair Dwinell stated that that determination would need to be made by the Mayor.

Commissioner Severini stated that the City's Engineering firm may have someone with those qualifications on staff.

Town Engineer, Ryan Turner commented that the spreadsheets are a great idea and stated that their firm could provide the needed expertise in rewriting the Code. He stressed that it would need to be a joint effort since in the end it will need to reflect the needs and desires of the Town.

Over the next two weeks, the Commission Members were asked to review the draft and give feedback in Teams when the review is complete.

## 5. <u>ADMINISTRATION: Discussion of Publishing Methods/Process for Meeting Video/Audio/Minutes.</u>

Chair Dwinell wished to change the context of the discussion and use the Town's site for publication. Ultimately, he wanted to understand what the Town's site is capable of and follow that model. He remarked that no minutes were being approved tonight because the minutes that were received from the March 25 meeting, which was a two-hour meeting, were less than three pages, which seemed out of balance for the content. He began reviewing the April meeting and found that he would have to listen to the recording because there were sections that did not adequately cover what was discussed. He communicated his concerns to Ms. McCosh and had a conversation about what meeting minutes actually need to be. He questioned whether they should be a transcription of the meeting or a summary of what was discussed and the decisions made. His former mindset was that they need to accurately describe the deliberations of the Commission. If they are not doing that, they are deficient.

Mr. Dansie commented that the purpose of minutes can be to allow people who did not participate to be able to understand what took place. He frequently uses meeting minutes to ensure that they accurately reflect all of the discussion that took place. They should also indicate how each member voted. Minutes can also be helpful when there is a dispute. Sparse meeting minutes are not as helpful in retrospect although they do not need to include every word that was said. If someone makes a comment, he suggested the substance of the comment be relayed.

Chair Dwinell agreed and wanted the minutes to fairly capture the discussion and the major points that were made. Sara Goldkind suggested the minutes include a detailed summary, which would be more helpful as long as it accurately reflects the important points from the meeting. Chair Dwinell remarked that in his line of work, writing programming code should be done is such a way that when you look back in 6 months, you can easily understand the thought process of why it was written in that manner. He viewed meeting minutes much in the same way.

The comment was made that often a Scribe is appointed who is part of the group. Chair Dwinell stated that they began that way and Ralph Severini serving in that capacity. The issue was that he was no longer involved in meetings because he was busy trying to take notes. Lynette also used to help take notes. The advantage was that she had a sense of what the issues were. Possible alternatives for having minutes prepared were discussed.

Chair Dwinell wanted to have a discussion about expectations to ensure that his were in line with the other Commission Members who agreed. With respect to the March meeting minutes, he stated that it would be faster to relisten to the recording and start over than make changes to what they were given. Various options were discussed.

 There was concern expressed about a member acting as scribe since they cannot really be involved in the meeting. The possibility of having the person who transcribes the meeting attend the remotely and take notes was discussed. The effectiveness of that method was questioned since she would not be present in person. Another solution was to turn on the meeting video, so the scribe

1	could see who was talking. Ms. McCosh described her efforts to hire someone locally to produce		
2	minutes.		
3			
4	6. <u>ADMINISTRATION: Discussion and Review of the Planning Commission Docket.</u>		
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6	This item was skipped.		
7			
8	7. Adjournment.		
9			
10	MOTION: Commissioner Goldkind moved to adjourn. Commissioner seconded		
11	the motion. The motion passed with the unanimous consent of the Commission.		
12			
13	The Planning Commission Meeting adjourned at approximately 8:41 p.m.		