

**Town of Hideout Town Council Meeting Minutes**  
**10860 North Hideout Trail**  
**Hideout, Utah**  
**March 19, 2019**

**Present:** Mayor Phil Rubin  
Chris Baier  
Hanz Johansson (via telephone)  
Kurt Shadle

**Others:** Lynette Hallam, Town Clerk  
Dan Dansie, Town Attorney (via telephone)  
Jerry Dwinell  
Mike Stewart

**Absent:** Dean Heavrin  
Jim Wahl

**1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Phil Rubin called the meeting of the Town Council of the Town of Hideout to order at 6:00 p.m. and led the Pledge of Allegiance.

**2. ROLL CALL**

All members of the Town Council were present with the exception of Dean Heavrin and Jim Wahl, who were absent.

**3. PUBLIC HEARING – Consideration and Possible Approval of Final Plan for Deer Springs Subdivision.**

Planning Commission Chair, Jerry Dwinell, reported that the Planning Commission forwarded a conditional recommendation of approval based on receipt of a clean engineering report and the developer resolving any discrepancies on the report. Chair Dwinell indicated that the Fire District Report included a request for an additional access road near the pump station. The developer agreed that without the connection to Jordanelle Parkway by the time of occupancy, an additional access road will be constructed.

The developer/applicant, Nate Brockbank, reported that the Fire Department requires a distance of 1,300 feet for 30 lots. The current distance is 2,100 feet. The property was identified on a site map displayed. It was noted that an existing road is currently used to access the property and the developers have been asked to apply road base. It was noted that there were no changes from the preliminary plat.

In response to a question raised, Mr. Brockbank reported that the Planning Commission recommended construction of a hammerhead at the end of the road rather than a temporary turnaround, which would be added to the final map. Town Attorney, Dan Dansie, suggested that if the Council is inclined to grant approval, that a condition be added that it be subject to finalization of the CC&Rs between the Town and the developer. Provisions will be added to clarify the Town's rights with respect to enforcement of the CC&Rs and another that specifies that the CC&Rs cannot be amended as they relate to the provisions that pertain to the Town without Council approval.

Chris Baier reported that she attended the Planning Commission Meeting and commented that there were many reasons behind the decision to annex the property into the Town. She noted that it would bring tangible benefits that they look forward to realizing. During the Planning Commission Meeting, a question was raised with respect to when the parks and trails will go in. Mr. Brockbank stated that they will be completed with Phase 2. The proposed park location was identified.

Council Member Baier remarked that the trails will benefit both the Town and the development, and the community has expressed how important they are. Mr. Brockbank stated that with Phase 1 they plan to do the flow trail, which is a dirt trail intended for biking. It will be a downhill trail in one direction that cannot be used for hiking or pedestrian use.

Mr. Brockbank explained that they spent a considerable amount of time with Council Member Johansson on the flow trail. Council Member Johansson and the Project Engineer walked the site and laid out the location of the flow trail. He assured the Council that whatever trails are proposed as part of Phase 1 will be installed, however, the entire trail system will not be completed as part of Phase 1.

The proposed trails, the associated phases, and connectivity issues were discussed. Chris Baier was interested in the lower trail along Highway 248 that connects the rail trail to Jordanelle Parkway. Mr. Brockbank stated that he may be able to commit to a soft surface trail. The determination was made that it be graded and asphalted as part of Phase 2.

Hanz Johansson joined the meeting in person.

Chris Baier asked Mr. Brockbank about the dog park and why it would not be completed with Phase 1. Mr. Brockbank explained that the MDA specifies that it is to be completed as part of Phase 2.

It was noted that the plan was provided to the Town's new engineering firm. Mr. Brockbank stated that with respect to timing, they expect to begin work within one month. Epic Engineering was originally asked to perform the work but declined given that they were not chosen as the engineering partner for the project. Approval would be contingent upon meeting all the requirements. Mr. Brockbank did not foresee any issues.

Chris Baier asked about the timing of the lower dirt trail. Mr. Brockbank expected to complete it this summer, construct the single-family lots immediately, and finish the townhomes to Jordanelle this year. It was expected to take five months to construct the park. Jordanelle Parkway was scheduled to be finished by September 1.

Mr. Brockbank reported that at the Legislature two underpasses under Highway 40 were approved and funded. The one going to the parking lot is 105 feet wide with a truck trail. There are also two hiking trails planned. \$11 million was requested for the project and \$10 million was received. The details of additional future improvements were discussed.

Chris Baier was pleased to see the development progress as quickly as possible. It was determined to be in the best interest of all involved to minimize the amount and duration of disturbed lands.

Mr. Brockbank reported that they are working with the State Park to connect their trail system with the State Park trail system. His understanding was that they must build it and maintain 200 feet that will connect to the State Park.

Hanz Johansson explained that there was a proposal to have two trails run from Sky Ridge through Jordanelle Parkway to the perimeter trail. One of the trails will end on what is referred to as the beach area. Council Member Johansson disclosed that his company submitted a bid to construct one of the trails. Details of the proposed trail were described and identified on a map displayed. Chris Baier remarked that it will be beneficial to partner with the State Park.

Mr. Brockbank briefed the Council on the status of the sale of the project and reported that the Larry Miller Group has the property under contract and plan to meet with the mayor the following week. If the sale is not completed this year, some components may have to wait until next year. Regardless, the building will be finished this year. Mr. Brockbank explained that his group will build the roads and infrastructure. Council Member Shadle asked about the timing of the project if the negotiations with the purchaser fall through. Mr. Brockbank stated that those details could be discussed at a future time.

Kurt Shadle commented that the request had been reviewed at the Planning Commission level for a long time. He was pleased that the Town has set a high standard for how a town and developer should interact. He hoped that future and current developers will follow suit. He expressed his support for the project. Mr. Brockbank reported that he has two more projects that will be coming forward.

Mayor Rubin opened the public hearing.

Jerry Dwinell commented on the death last year of Doug Egerton and suggested the park be named after him. Support was expressed by the Council.

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

**Kurt Shadle moved to approve the Final Plat for the Deer Springs Subdivision subject to the following:**

**Conditions:**

1. **Resolving the issues of the CC&Rs as described by the Town Attorney.**
2. **Compliance with all Planning Commission conditions imposed and agreed to by the developer consisting of the following:**
  - i. **Engineering review and approval.**
  - ii. **Construction of a hammerhead at the end of the Shoreline Secondary Access Road coming up from the sewer lift station or connecting to Jordanelle Parkway prior to occupancy.**
  - iii. **Phase 1 shall include completion of the flow trail.**
  - iv. **A 10-foot asphalt trail shall be completed to the end of Phase 1 after which it becomes a graded dirt trail along Highway 248 to Jordanelle Parkway.**

**The motion was seconded by Hanz Johansson. Vote on motion: Kurt Shadle-Aye, Chris Baier-Aye, Hanz Johansson-Aye. The motion passed unanimously.**

4. **PUBLIC HEARING – Consideration and Possible Approval of Petitions filed by Mountain Resort Land Company for 1) A Plat Amendment to Combine Six Lots into Three New Lots, Eliminate and Vacate One Lot from the Plat and add an Easement for a Storm Drain Pipe, and 2) a Plat Amendment to Combine Six Lots into Four New Lots, Eliminate and Vacate Two Lots from the Plat and Vacate part of the Public Road at the end of Fox Hollow Court (and Dedicate a new Cul-de-sac. These Changes are in the Soaring Hawk Subdivision.**

Kurt Shadle made a point of order and stated that the matter did not go through the Planning Commission as required by the ordinance. He recommended it be tabled to a future meeting.

Town Attorney, Dan Dansie, explained that the practice of the Town has been for the Council to review these types of issues without requiring them to go through the Planning Commission, which is consistent with the State statute that addresses amendments to a subdivision plat. The State statute requires that initial plats go through the Planning Commission but does not require the same for plat amendments. In addition, one inconsistency with the Code is that Titles 10 and 11 contain some overlap and it was unclear whether a full set of hearings and processes are required. It made sense to him to interpret it as referring to the application process provided for under Title 10 since otherwise, a subdivision or plat amendment would result in a preliminary and final amendment. That did not seem to be the intent of Title 11. His opinion was that the Council can move ahead with the application based on that provision in Title 10.

Chris Baier asked when the materials were received from the applicants. Mr. Dansie estimated that it had been three weeks since they were submitted and was well within the timeline. Hanz Johansson recalled seeing similar requests in the past.

Kurt Shadle commented that the intent would be to get the Town to follow its ordinances. He referred to Title 10.03.403(2) and stated that the procedure for amending or altering a subdivision plat is the same as for approval of a new subdivision. He commented that the Planning Commission spends a great deal of time reviewing requests and their input and advice is valuable. He was confused by the controversy.

Chris Baier remarked that just because the Council has taken action in the past that may not have followed the Code as written, does not mean they should not stop that bad behavior and follow the Code as written. Council Member Shadle recommended the Planning Commission be tasked with fleshing out the issues. He saw no reason to bypass the Planning Commission and believed that doing so sets a bad precedent.

In response to a question raised, Mr. Dansie explained that the notice provisions would need to go out to residents in the event they plan to modify a substantive provision of the land use ordinance. The statute is prone to ambiguity and, therefore, a very permissible reading of that section applies to the application provisions of Chapter 3 of Title 10. If it is the desire of the Council to interpret that, it is to apply to Title 11 as well and determine whether to require a preliminary and final review of a subdivision amendment or have the Planning Commission review it. Under State law, there is no provision for Planning Commission review.

Kurt Shadle explained that the issue involves not only the interpretation of the statute but a procedure and advice. He stressed the importance of getting recommendations from the Planning Commission. Mr. Dansie stated that for the applicable standards under State law there must be a finding that good cause exists for the amendment to the plat and that the public and no person will be harmed. That could be determined in many different ways. In the past, they relied on an engineer to do much of that research.

Mr. Dansie reported that the Council could move forward tonight and require the full participation of the Planning Commission, which he considered to be a more ambiguous interpretation than the one he was advocating. If the Council specifies that it goes back to the Planning Commission, a determination should be made with regard to the appropriate scope of the review. In the past, in similar situations, they determined that the request can benefit the community. They can also hear from the applicant. Based on the presentation, if there appears to be good cause, they can move forward with approval contingent upon receipt of a statement from the Town's Engineer that there is good cause and the public and no person will be harmed as a result of the vacation of the easements.

Kurt Shadle commented that there has been very little vetting done and the Council Members are seeing most of the documents for the first time. He indicated that he would vote against the request tonight if a motion is put forward.

Hanz Johansson suggested the Council consider the request for future plat amendments. If no one is harmed, he considered the issue to fairly minor and based on input from the engineer. He saw no drawback to proposing larger lots.

Chris Baier stated that a line must be drawn at which point they will stop allowing requests the Council is not prepared for. Given that the applicant was present tonight, she was interested in learning more about the details of the request.

Mike Johnston was present on behalf of the applicant. He agreed that it was important for the Council to understand the request. It was determined that the public hearing, which was properly noticed, could be conducted. It was noted that all of the properties are owned by Mountain Land Resort Company. Mr. Johnston stated that from their perspective the request is for simple lot line adjustments. For various reasons, property owners wish to combine lots and create more space between them and their neighbors. In this case, the developer is making the request because the lots as previously platted are extremely difficult to build on. In the process of constructing the road, the developer would like to combine the lots so that they become buildable.

The location of the property was identified on a map displayed. Mr. Johnston noted that in other jurisdictions in Wasatch County, staff reviews these types of requests and if there is a complaint, the matter is sent on to the Planning Commission for review. Typically, there are no issues with lots being combined. A public hearing is required because they are vacating the public utility easements that are placed on every lot line.

Chris Baier inquired about the trail at the rear of the site. Mr. Johnston indicated that the plat does not show a trail. Council Member Baier reported that a trail is identified on a trail map that was provided by the HOA. Hanz Johansson stated that the trail can be conditional. Council Member Baier preferred to have someone present from the HOA who will confirm that the proposed change to the end of Fox Hollow will not adversely affect the promised trail.

Mr. Dansie stated that the grounds for approving this type of plat amendment are that there is good cause and that the public and no person will be negatively impacted. To the extent that the Council believes there is an existing or impacted trail that would serve as a benefit to the community at large, that would be an appropriate condition to impose. If the trails are not shown on the plat, he asked what the basis would be for establishing them and the parameters.

Mayor Rubin noted that the HOA proposed a future trail network that includes a tie into the upper portions of the space. There is high-level trail that will cut in up above, has been roughed in, and has been shown to the public. Mr. Dansie described two scenarios where the trail system is on privately owned property and the developer could potentially change his mind about constructing them. The other involved the trails as part of a previous approval. He suggested that the facts be determined before proceeding. Procedural issues were discussed.

Chris Baier wanted surety in terms of what it will look like and the overall impact on the community. Mr. Dansie suggested that clarity be provided with respect to what is expected of the developer. Kurt Shadle's preference was to not go through both preliminary and final and instead pursue one combined process.

Mr. Dansie reported that in the past there were instances where preliminary and final approvals were combined. With respect to a subdivision, if the applicant can demonstrate that they meet all of the criteria for final approval, they have agreed to combine the process. Title 11 sets forth the standards, which have already been approved and vetted. If this is the route the Council decides to go, they should empower the Planning Commission to recommend final approval on the first review. Procedural issues were discussed. It was noted that the Town recently adopted a new General Plan. The Mayor recommended the Council review the entire scope of the subdivision.

A question was raised as to whether when the request goes to the Planning Commission for the lot line adjustment if they can review the entire scope of the subdivision and determine whether it meets the Town's Codes. Mr. Dansie explained that the statute only allows consideration of whether by virtue of the proposed amendment, there is good cause for approval and if a person would be harmed. He considered it a much more limited scope than to review the entire subdivision. He commented that the scope of review exceeds the scope of the adjustment. Mike Stewart remarked that he would support an approval with conditions tonight.

Mayor Rubin opened the public hearing.

Jerry Dwinell agreed with the interpretation that what is proposed is an amendment to a final plat so having one review by the Planning Commission seemed to make sense. He also suggested the Council reconsider the impact the request may have on the approved final scope.

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

Mayor Rubin recommended that the matter be tabled to allow for Planning Commission and Engineering review before moving forward with approval.

**Kurt Shadle moved to table the matter to allow for Planning Commission and Engineering review prior to consideration of approval. The motion was seconded by Chris Baier. Vote on motion: Kurt Shadle-Aye, Chris Baier-Aye, Hanz Johansson-Aye. The motion passed unanimously.**

## **5. ADJOURNMENT OF PUBLIC MEETING**

Scheduling issues were discussed. Council Member Baier reported that she sent an email to the Council Members prior to tonight's meeting in an effort to schedule a joint meeting with the Planning Commission. She had not yet received a response from the Mayor or Mr. Dansie. After discussing dates and availability, an informational meeting was scheduled for Thursday, April 4 from 6:00 p.m. to 7:00 p.m. The intent was to discuss the standards and pros and cons of the Town imposing a temporary land use restriction. A 24-hour notice would need to be given of the meeting.

**Kurt Shadle moved to adjourn. The motion was seconded by Chris Baier. Vote on motion: Kurt Shadle-Aye, Chris Baier-Aye, Hanz Johansson-Aye. The motion passed unanimously.**

The Town Council Meeting adjourned at 7:38 p.m.

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Lynette Hallam, Town Clerk

APPROVED