



HIDEOUT, UTAH PLANNING COMMISSION SPECIAL MEETING AND PUBLIC HEARING

August 09, 2021

Agenda

PUBLIC NOTICE IS HEREBY GIVEN that the Planning Commission of Hideout, Utah will hold a Special Meeting and Public Hearing electronically for the purposes and at the times as described below on Monday, August 09, 2021.

This meeting will be an electronic meeting without an anchor location pursuant to Planning Commission Chair Anthony Matyszczyk's August 6, 2021 No Anchor Site determination letter.

All public meetings are available via ZOOM conference call and net meeting.

Interested parties may join by dialing in as follows:

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

1. [August 6, 2021 No Anchor Site Determination Letter](#)

II. Roll Call

III. Approval of Meeting Minutes

1. [May 20, 2021 Planning Commission Minutes DRAFT](#)

IV. Public Hearings

1. [Amend the AMDA \(Annexation Master Development Agreement\) for the Silver Meadows Annexation to revise several deadlines in light of the District Court's ruling finding the Annexation is invalid and the appeal thereof.](#)
2. [Ratify and adopt the Official Zoning Map of the Town of Hideout](#)

V. 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. August 6, 2021 No Anchor Site Determination Letter



August 6, 2021

DETERMINATION REGARDING CONDUCTING TOWN OF HIDEOUT PUBLIC MEETINGS
WITHOUT AN ANCHOR LOCATION

The Planning Commission Chair of the Town of Hideout hereby determines that conducting a meeting with an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location pursuant to Utah Code section 52-4-207(5) and Hideout Town Ordinance 2020-03. The facts upon which this determination is based include: The seven-day rolling percent and number of positive COVID-19 cases in Utah has been over 14.93% of those tested since July 31, 2021. The seven-day average number of positive cases has been, on average, 906 per day since August 4, 2021.

This meeting will not have a physical anchor location. All participants will connect remotely. All public meetings are available via YouTube Live Stream on the Hideout, Utah YouTube channel at: <https://www.youtube.com/channel/UCKdWnJad-WwvcAK75QjRb1w/>

Interested parties may join by dialing in as follows:

Meeting URL: <https://zoom.us/j/4356594739>

To join by telephone dial: US: +1 408-638-0986

Meeting ID: 435 659 4739

Additionally, comments may be emailed to hideoututah@hideoututah.gov. Emailed comments received prior to the scheduled meeting will be read during the public comment portion and entered into public record.

This determination will expire in 30 days on September 5, 2021.

BY:

Tony Matyszczyk,
Planning Commission Chair

ATTEST:

Kathleen Hopkins, Deputy Town Clerk

File Attachments for Item:

1. May 20, 2021 Planning Commission Minutes DRAFT

1 **Minutes**
2 **Town of Hideout**
3 **Planning Commission Regular Meeting**
4 **May 20, 2021**
5 **6:00 PM**
6
7

8 The Planning Commission of Hideout, Wasatch County, Utah met in Regular Meeting on May 20, 2021 at
9 6:00 PM electronically via Zoom meeting due to the ongoing COVID-19 pandemic.
10

11 Regular Meeting

12 **I. Call to Order**

13 Chair Tony Matyszczuk called the meeting to order at 6:00 PM and referenced the current no
14 anchor site determination letter included in the meeting materials. All attendees were present
15 electronically.

16 **II. Roll Call**

17 **PRESENT:** Chair Tony Matyszczuk
18 Commissioner Ryan Sapp (joined at 6:08 PM)
19 Commissioner Glynnis Tihansky
20 Commissioner Donna Turner
21 Commissioner Bruce Woelfle
22 Commissioner Rachel Cooper (alternate)
23

24 **STAFF PRESENT:** Thomas Eddington, Town Planner
25 Alicia Fairbourne, Town Clerk
26 Kathleen Hopkins, Deputy Town Clerk
27

28 **OTHERS IN ATTENDANCE:** Bret Rutter and others who may not have signed in using proper
29 names via Zoom.
30

31 **III. Approval of Meeting Minutes**

32 **1. April 15, 2021 Planning Commission Regular Meeting Minutes DRAFT**
33

34 There was one minor edit incorporated into the meeting draft minutes.

35 *Motion: Commissioner Turner made the motion to approve the April 15, 2021 Planning*
36 *Commission Minutes. Commissioner Tihansky made the second. Voting Aye:*
37 *Commissioners Cooper, Tihansky, Turner and Woelfle. Voting Nay: None. Abstaining:*
38 *Chair Matyszczuk. The motion carried.*
39
40

1 **2. April 28, 2021 Planning Commission Special Meeting and Public Hearing Minutes**
2 **DRAFT**

3 There were no corrections to the minutes.

4 *Motion: Commissioner Tihansky made the motion to approve the April 28, 2021 Planning*
5 *Commission Special Meeting and Public Hearing Minutes. Commissioner Cooper made*
6 *the second. Voting Aye: Commissioners Cooper, Matyszczyk, Tihansky, and Turner.*
7 *Voting Nay: None. Abstaining: Commissioner Woelfle. The motion carried.*

8
9 **IV. Agenda Items**

10 **1. KLAIM – Update and Planning Commission input on proposed retaining wall and**
11 **signage**

12 Town Planner Thomas Eddington provided an overview and update on the KLAIM
13 retaining wall design and landscape plan. He discussed the renderings of the revised
14 retaining wall design which utilized gabion metal baskets and natural rock rather than a
15 stacked rock construction and highlighted elements of the landscape plan. Mr. Eddington
16 noted the wall design was more modern than other walls throughout the town and shared
17 the positive feedback he had received from the town engineering team regarding the
18 structural integrity of this type of structure. He also noted the development’s signage
19 design was integrated with the retaining wall and overall development’s design aesthetic. In
20 response to a question from Chair Matyszczyk regarding the heights of the retaining walls,
21 Mr. Eddington stated they would be as high as 10-feet in some sections which met the town
22 code at the time they were approved. Commissioner Glynnis Tihansky said she liked the
23 design which she hoped would be more stable and provide fewer problems with erosion
24 and falling rocks than some of the other walls in the town.

25 Mr. Eddington answered a variety of questions from the Commissioners regarding the
26 landscape plan, irrigation system, sidewalks, potential for erosion in the wall design,
27 expected lifespan for the walls and sizes of rocks to be utilized in the retaining wall
28 construction. Commissioner Bruce Woelfle requested in the future, when developers
29 submit changes from originally approved designs, they provide details on the as-originally
30 approved and as-changed versions of the design.

31 Mr. Eddington noted this matter was being presented to the Planning Commission for input
32 only and formal approval was not required. Commissioner Donna Turner stated she liked
33 the wall design and landscaping plan but would prefer to see a mix of larger and smaller
34 rocks in the wall construction. Mr. Eddington agreed to share the Commissioners’ feedback
35 regarding their preferences for a mix of rock sizes to be utilized, drought tolerant native
36 plants and grasses, minimum tree sizes, and the installation of a drip irrigation system in
37 the landscape areas.

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V. Meeting Adjournment

There being no further business, Chair Matyszczyk asked for the meeting to be adjourned.

Motion: Commissioner Tihansky made the motion to adjourn the meeting. Commissioner Woelfle made the second. Voting Aye: Commissioners Matyszczyk, Tihansky, Turner, Sapp, and Woelfle. Voting Nay: None. The motion carried.

The meeting adjourned at 6:35 PM.

Kathleen Hopkins, Deputy Town Clerk

Draft

File Attachments for Item:

1. Amend the AMDA (Annexation Master Development Agreement) for the Silver Meadows Annexation to revise several deadlines in light of the District Court's ruling finding the Annexation is invalid and the appeal thereof.

WHEN RECORDED, RETURN TO:

Bruce R. Baird
Bruce R. Baird PLLC
2150 South 1300 East # 500
Salt Lake City, UT 84106

**FIRST AMENDMENT TO THE OCTOBER 16, 2020
ANNEXATION AND MASTER DEVELOPMENT AGREEMENT
FOR THE SILVER MEADOWS MASTER PLANNED
COMMUNITY**

THIS FIRST AMENDMENT TO THE ANNEXATION AND MASTER DEVELOPMENT AGREEMENT FOR THE SILVER SPRINGS MASTER PLANNED COMMUNITY is made and entered as of the— day of _____, 2021 by and between the Town of Hideout, a political subdivision of the State of Utah, NB 248, L.L.C. a Delaware limited liability company and Stichting Mayflower Mountain Fonds, a Netherlands association, and Stichting Mayflower Recreational Fonds, a Netherlands association.

RECITALS

A. After October 16, 2020, when the of Town of Hideout adopted Ordinance 2020-10, which approved the annexation of the Silver Meadows Master Planned Community and voted in favor of entering the October 16, 2020 Annexation and Master Development Agreement (“AMDA”), a referendum was petitioned for and granted;

B. The vote for the referendum was held on June 22, 2021 and the voters supported the Annexation by over a 2 to 1 margin.

C. Litigation with Summit County has been ongoing in Fourth District Court over this annexation. Judge Jennifer Brown issued an oral ruling on June 22, 2021, in

case number 200500107, finding that Ordinance No. 2020-10, in its entirety, together with the Certificate of Annexation, are declared to be void ab initio and of no legal force or effect.

D. A Motion to Reconsider has been filed by the Town of Hideout on that ruling and will be heard by the Court on September 16, 2021.

E. Other counts in the case will be argued before the Court on October 14, 2021.

F. Based on the stance of the litigants it is almost certain that any ruling by the Court will be appealed.

G. Based on the above recitals, it is necessary for the Parties to revise the dates of certain actions in the October 16, 2020 AMDA.

H. After it being duly noticed, the Hideout Planning Commission reviewed this First Amendment after holding a public hearing on August 9, 2021 and forwarded a recommendation to the Town Council.

I. After it being duly noticed, the Hideout Town Council reviewed this First Amendment after holding a public hearing on August 12, 2021.

NOW, THEREFORE, the Town, Owners and Master Developer hereby agree to amend the following:

7.7 Land for Public Service Facilities and Town Hall. On or before ~~March 1, 2021~~ one hundred and twenty (120) days from the date of the final decision on litigation, including appellate courts, related to the approval and passage of the Annexation, Master Developer shall dedicate approximately 3 acres of land as determined by the Town within the Project to the Town for the Town's potential construction of a police and/or fire station and a potential Town Hall. The location of this site shall be

mutually determined. The deed for this site shall contain a reversionary clause limiting the uses to those specified above. The time for this dedication shall be extended *pari passu* if the effective date of this AMDA is extended as a result of any litigation or other statutory grounds. The Town Hall and the Community Center will be constructed to a design agreed upon by the Town, at the Developer's expense.

8.1 Creation of Design Standards. The Parties acknowledge that an integrated, consistent, high-quality design for Silver Meadows is important to its success and to the image of the Town. The Parties further acknowledge that the level of detail required for the Design Standards including architectural elements, massing, setbacks, building materials, surface treatments, landscaping, signage and other such items are beyond what is contemplated in the Zoning Ordinance. The Parties intend to work cooperatively to create a mutually acceptable set of the Design Standards on or before ~~March 1, 2021~~ one hundred and twenty (120) days from the date of the final decision on litigation including appellate courts related to the approval and passage of the Annexation, including meetings with the Town's Planner, the Planning Commission, the Town Council and public input. The Design Standards, when adopted, shall automatically become a part of this AMDA.

12.1 School Site Set Aside. The Concept Plan shows a site of approximately eight and one half (8.5) acres to be set aside for sale as a potential future school site. Master Developer shall dedicate that site to the Town on or before one hundred

and twenty (120) days from the date of the final decision on litigation including appellate courts related to the approval and passage of the Annexation for the purpose of the Town's later donating that site to public school. The deed for the school site shall contain a reversionary clause limiting the uses to that of a public school. The time for this dedication shall be extended *pari passu* if the effective date of this AMDA is extended as a result of any litigation or other statutory grounds.

12.4 Secondary Access and Parking: If issues regarding the SR 248 connection and parking along Richardson Flats road are not resolved to the Town's satisfaction by ~~August 31, 2021~~ one hundred and twenty (120) days from the date of the final decision on litigation including appellate courts related to the approval and passage of the Annexation then the AMDA ~~shall be null, void & may be terminated at the Town's discretion.~~

12.5 Condition Precedent: This AMDA shall not take effect until after the results of a referendum, if any, are certified and any litigation related to the passage and adoption of the annexation is resolved.

All other terms of the October 16, 2020 AMDA remain in effect.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to the October 16, 2020 AMDA by and through their respective, duly authorized representatives as of the day and year first herein above written.

MASTER DEVELOPER
NB 248, LLC

TOWN
Town of Hideout

By: _____
Its: _____

By: _____,
Its: _____

OWNERS
Stichting Mayflower Mountain Fonds,
a Netherlands association
By: Stichting Beheer Mayflower Project
Its: Manager

Stichting Mayflower Recreational Fonds,
a Netherlands association
By: Stichting Beheer Mayflower Project
Its: Manager

By: _____
Its: _____

By: _____
Its: _____

Approved as to form for the Town:

Attest for the Town:

Town Attorney

Town Recorder

TOWN ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On the ____ day of 2021, personally appeared before me Phil Rubin who being by me duly sworn, did say that he is the Mayor of the Town of Hideout, a political subdivision of the State of Utah, and that said instrument was signed in behalf of the Town by authority of its Town Council and said _____ acknowledged to me that the Town executed the same.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

MASTER DEVELOPER ACKNOWLEDGMENT

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

On the ____ day of _____, 2021 personally appeared before me Nate Brockbank, who being by me duly sworn, did say that he is the Manager of Western States Ventures, 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

My Commission Expires: _____

Residing at: _____

OWNERS ACKNOWLEDGMENT

STICHTING MAYFLOWER RECREATIONAL FONDS

STATE OF UTAH)

:ss.

COUNTY OF SALT LAKE)

On the ____ day of _____, 2021, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of Stichting Beheer Mayflower Project which is the Manager of Stichting Mayflower Recreational Fonds a Netherlands association and that the foregoing instrument was duly authorized by the association in a lawful manner by authority of its association and signed in behalf of said association.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

STICHTING MAYFLOWER MOUNTAIN FONDS

STATE OF UTAH)

:ss.

COUNTY OF SALT LAKE)

On the ____ day of _____, 2021, personally appeared before me _____, who being by me duly sworn, did say that he is the Manager of Stichting Beheer Mayflower Project which is the Manager of Stichting Mayflower Mountain Fonds a Netherlands association and that the foregoing instrument was duly authorized by the association in a lawful manner by authority of its association and signed in behalf of said association.

NOTARY PUBLIC

My Commission Expires: _____

Residing at: _____

File Attachments for Item:

2. Ratify and adopt the Official Zoning Map of the Town of Hideout



Staff Report for Proposed Official Zoning Map Adoption and Ratification

To: Chairman Tony Matyszczyk
Town of Hideout Planning Commission

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

Re: Official Zoning Map – Adoption and Ratification

Date: 29 July 2021

Included Materials: Official Zoning Map for the Town of Hideout

Over the past few years, the Town of Hideout has relied on the Zoning Map included in the 2019 General Plan and incorporated within the Wasatch County GIS online mapping website. Staff review of prior ordinances, etc. has not resulted in locating a formally adopted Zoning Map. As a result, the General Plan and Wasatch County GIS Zoning Map have been the de facto Zoning Map for the Town.

Staff recommends the Planning Commission review the attached Zoning Map and forward a positive recommendation to the Town Council to adopt and ratify it as the Town's Official Zoning Map. Using GIS and overlays, this map takes into account a detailed review of the 2019 General Plan Zoning Map, subdivision approvals, master development agreements, etc. to ensure the Zoning Map is current. This Zoning Map does not change or amend any zoning in the Town. Instead it is a ratification of the Map we have already been using.

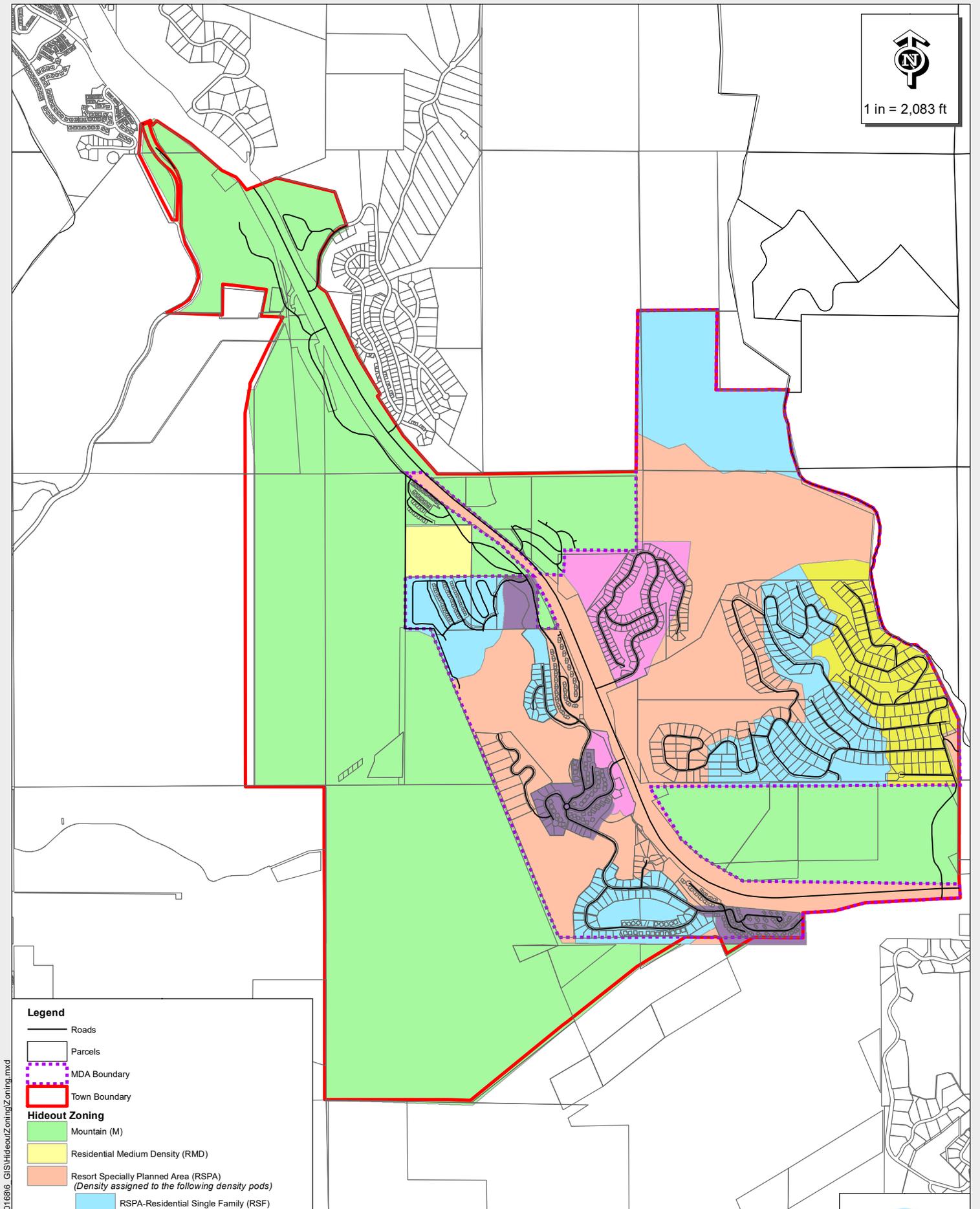
The recommended Zoning Map includes the following zoning districts per the Town Code as vested in 2009:

- Mountain (M)
- Residential Medium Density (RMD)
- Resort Specially Planned Area (RSPA)
 - RSPA – Residential Single Family (RSF)
 - RSPA – Residential Medium Density (RMD)
 - RSPA – Resort Village Medium Density (RVMD)
 - RSPA – Resort Village High Density (RVHD)

The map also includes the boundary for the 2010 Master Development Agreement (MDA) area.



1 in = 2,083 ft



Legend

- Roads
- Parcels
- MDA Boundary
- Town Boundary

Hideout Zoning

- Mountain (M)
- Residential Medium Density (RMD)
- Resort Specially Planned Area (RSPA)
(Density assigned to the following density pods)
- RSPA-Residential Single Family (RSF)
- RSPA-Residential Medium Density (RMD)
- RSPA-Resort Village Medium Density (RVMD)
- RSPA-Resort Village High Density (RVHD)

Document Path: P:\110016866 GIS\HideoutZoning\Zoning.mxd

TOWN OF HIDEOUT OFFICIAL ZONING MAP

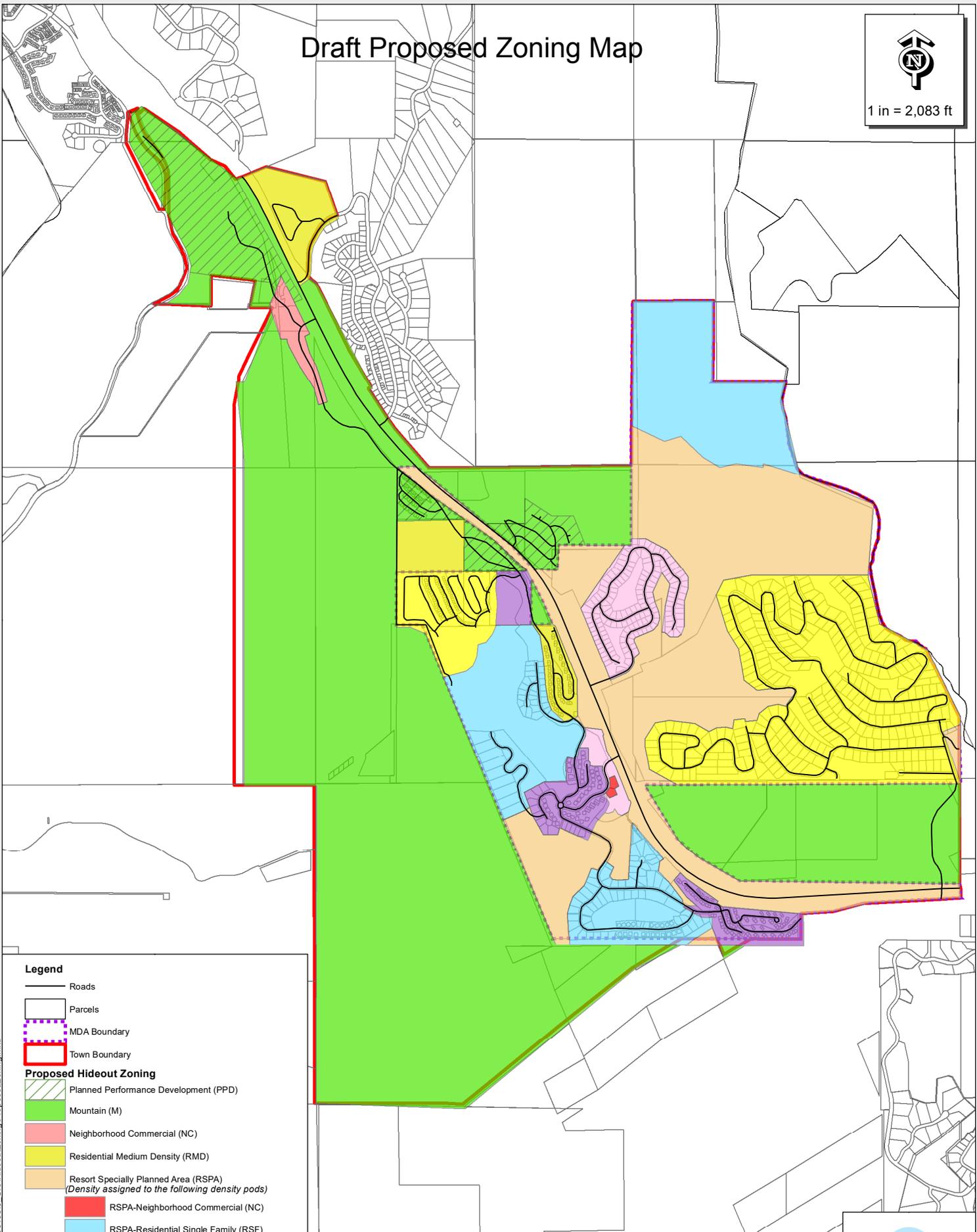
DATE: 7/29/2021



Draft Proposed Zoning Map



1 in = 2,083 ft



Legend

- Roads
- ▭ Parcels
- - - MDA Boundary
- ▭ Town Boundary

Proposed Hideout Zoning

- ▭ Planned Performance Development (PPD)
- ▭ Mountain (M)
- ▭ Neighborhood Commercial (NC)
- ▭ Residential Medium Density (RMD)
- ▭ Resort Specially Planned Area (RSPA)
(Density assigned to the following density pods)
- ▭ RSPA-Neighborhood Commercial (NC)
- ▭ RSPA-Residential Single Family (RSF)
- ▭ RSPA-Residential Medium Density (RMD)
- ▭ RSPA-Resort Village Medium Density (RVMD)
- ▭ RSPA-Resort Village High Density (RVHD)

TOWN OF HIDEOUT PROPOSED ZONING MAP

DATE: 8/9/2021



Public Comments

[REDACTED]

From: mayacams ridge [REDACTED]
Sent: Monday, August 9, 2021 3:30 PM
To: hideoututah
Subject: public comment for the hearing on the ratification of zoning

Follow Up Flag: Follow up
Flag Status: Flagged

The town of Hideout has a general plan adopted by the Town Council on 19 February 2019.

It is meant to be a comprehensive plan for the town, and is believed to have been created well after the zoning map that the town council intends to ratify and adopt.

Zoning must be in accordance with the general plan. Therefore, before ratifying the zoning map, and detailed analysis of the zoning map and the contents therein should be undertaken to see that the zoning comports with the general plan.

Until and unless such a detailed analysis is undertaken, and the results published and well understood, a map and the zoning details that it contains should not and cannot rightly be adopted and ratified without violating the general plan and proper town planning and governance principles.

Just as an example, such an analysis should determine if the zoning map comports with the following sections of the General Plan: Section 2.1 including subsections 2.2.1-3 on the Vision Statement; Section 2.2 and 3.4 including all subsections the Goals of the General Plan; Section 3 and all subsections therein on Land Use; Section 3.3 and 7.3 on Public Input; Section 4 on Housing and all the subsections therein; Section 5 on Economic Development and all the subsections therein; Section 6 on Transportation and all the subsections therein; Section 7 on Public Facilities and all the subsections therein; and Section 8 on the Environment and all the subsections therein etc.

This is respectfully sent on behalf of MKL Industries LLC and MAKAJ5 LLC, owners in Hideout Canyon.

[REDACTED]

From: Chip Schneider [REDACTED]
Sent: Monday, August 9, 2021 12:00 PM
To: hideoututah
Subject: Zoning Hearing

Follow Up Flag: Follow up
Flag Status: Flagged

Is there any Commercial zoning proposed in the 7/29 map? Now is the time to acknowledge that we are way over allocated to residential and add some commercial to the mix.

Also, it's not clear how the annexation fits into this.

Chip Schneider
[REDACTED]

[REDACTED]

From: Bret Rutter [REDACTED]
Sent: Monday, August 9, 2021 11:37 AM
To: hideoututah
Cc: Thomas Eddington Jr.; Phil Rubin; Polly McLean; Alicia Fairbourne
Subject: Public Hearing on ratification and Adoption of Official Zoning Map for the Town of Hideout

Follow Up Flag: Follow up
Flag Status: Flagged

Planning Commission,

The golf course area within the Glistening Ridge that includes the "pond" (which I believe is Hole #2) should be designated as RSPA - OP (open space) and not RSPA - RSF as there does not appear to have ever been any intention to build any housing or structure (including single family homes) on what is currently the pond and golf course based on any information I've been able to find until the recent attempt by Bob Martino and Mustang Development to potentially sell the golf course land to the Hideout Canyon HOA that was accompanied by statements from Mustang/Martino that the golf course could be developed (presumably into housing). In the proposed zoning map this is the only area of the golf course that appears to be included along with the same-colored zoning definition as the lots adjacent to the golf course.

Accordingly, the area I believe is Hole #2 within Glistening Ridge (encircled by Lasso Trail and Longview Drive) proposed to be zoned as blue "RSPA-RSF" and all other areas of the golf course that appear to be proposed to be zoned orange "RSPA", but without specified density, and any other space currently occupied by the golf course should all be zoned as RSPA-OP to preserve the open space that has been in existence since the golf course was created and how it's been used for many years with no other apparent intent.

I'm happy to address any questions or provide additional information that would be helpful to the Planning Commission in regards to this proposed zoning map or other matters.

Bret Rutter
Resident of Hideout

[REDACTED]

From: Jared Fields [REDACTED]
Sent: Thursday, August 5, 2021 12:51 PM
To: hideoututah; Polly McLean
Cc: Phil Rubin; Scott DuBois
Subject: Notice of Hearings Regarding Zoning Map - Written Comment
Attachments: 2021.08.05 JCF Letter Town.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon,
Please see the attached comment on behalf of Mustang Development regarding the Notice of Public Hearings scheduled for August 9, 2021 (Planning Commission) and September 9, 2021 (Town Council).

Jared C. Fields
Chief Legal Counsel
Star Community Builders
Mustang Development
[REDACTED]

MUSTANG

DEVELOPMENT

August 5, 2021

Mayor Phil Rubin
Town Council
Planning Commission
Town of Hideout
10860 No. Hideout Trail
Hideout, UT 84036

VIA EMAIL: hideoututah@hideoututah.gov

**Re: Notice of Public Hearings Regarding Zoning Map
Written Comments from Mustang Development**

Dear Mr. Mayor, Council Members, and Planning Commission Members:

I serve as general counsel to Mustang Development, LLC. We recently received notice of planned public hearings in the Planning Commission and Town Council to "Ratify and Adopt the Official Zoning Map of the Town of Hideout to reflect existing zoning." Mustang Development is greatly concerned that the map the Town proposes to adopt, and is holding out to be the current depiction of zoning and density pods requiring only "ratification," is not consistent with the actual current zoning and density pods adopted by the Town. Moving ahead with adopting this map would have no benefit to the Town, and would necessitate litigation by Mustang and other developers and property owners who have relied for many years on a different density pod map that has been previously approved and/or ratified by the Council.

The map included with the Notice ("Proposed Map") appears to depict as zoning classifications the areas that were originally shown as planned "Density Pod Areas" on the RSPA map attached to the Master Development Agreement (MDA) between the Town of Hideout and Mustang Development dated March 11, 2010. All areas within the Town outside the property subject to the MDA are shown on the Proposed Map in green as Mountain zone (except for the former Van Den Akker property, which was zoned Residential Medium Density in 2019).

As a preliminary matter, no ratification is necessary to approve the original RSPA map. The MDA (to which the RSPA map was attached as an exhibit) and the RSPA map were each approved by separate votes at the Town Council meeting on March 11, 2010. At that time, the only zoning outside of the RSPA available under the Town's Municipal Code was Mountain zone. See Title 11, Chapter 7, 2009 Municipal Code. As a result, even if the Proposed Map represented current zoning, the Town's proposed "ratification" would merely repeat an action taken over a decade ago. Public hearings and votes of the Planning Commission and Council would accomplish nothing.

However, more importantly, the originally-planned Density Pods do not represent current development or density pods under the MDA.

First, for context, the MDA provides that the zoning for all of the property under the MDA is Resort Specially Planned Area (RSPA). See MDA Sec. 4.1 (“The Project is currently zoned RSPA and the Town has approved the RSPA Zoning Map.”). Within the RSPA zoning, different areas of permissible uses are designated by the term “density pod.” The Town Code in effect at the time referred to density pods as “areas of development,” and provided that “Hideout and the participating landowners understand that these Density Pods are subject to change in size and location as the RSPA master plan actually develops from the concept stage to actual buildable site.”

In other words, the Town Code and MDA provided that the MDA property was zoned RSPA, and the particular uses within the RSPA were subject to change and adjustment over time due to market considerations and other factors. This was consistent with the overall flexible plan of the MDA. The MDA capped the total number of Equivalent Residential Units (ERUs) throughout the MDA property at 1,975, so the adjustment of density pods was simply a matter of assigning the given density to different areas. Because the overall zoning is RSPA, adjustment of density pods does not require a zoning change.

Second, as anticipated, the density pods have indeed changed over the years. As proposed development applications and plats have been presented to the Town’s Planning Commission and Council, Mustang and other developers of MDA property have provided updated density pod plans. In certain instances the density pod changes have been the subject of specific discussion and approval in the Council’s meeting minutes. By way of example only, at its meeting on December 8, 2016, the Town Council voted to accept the Resort Village Medium Density designation for the property known as the Shoreline development, which is within the RSPA zoning. In other instances the changes were provided along with development applications, but specific discussion of density pods was not reflected in the Council’s meeting minutes. But regardless, it is clear from the Council’s own records that the Proposed Map is not suitable for simple “ratification” because it does not reflect existing plans or practice.

Third, the Town has published, approved and led property owners to rely upon a different density pod map for several years. This different map (the “Correct Map”) reflects what Mustang has proposed and the Town has approved for density pods within the RSPA. The Correct Map appears in at least two public locations. It appears as “Map 1: Zoning” on pages 32-33 of the Hideout General Plan, which was approved by the Town Council after several public hearings and extensive public comment on February 19, 2019 (See Exhibit A.) It is also available on the Wasatch County GIS map by selecting the “Municipal Zoning” map layer. (See Exhibit B.) Mustang and other developers have spent millions of dollars developing their property in reliance on the Correct Map. The Town cannot now seek to retract that map, years after the fact. Ratification of the Proposed Map would conflict with the Town’s own General Plan.

Finally, there are many clear instances where the subdivision plats that have been approved and developed in the Town are clearly different from the Proposed Map’s zoning. This should make it evident that the Proposed Map does not reflect current zoning and approvals in place and is not suitable for “ratification.” For example, the Proposed Map shows the Deer Water, Deer Springs and Klaim subdivisions as being zoned Mountain, which allows density of only 1 unit per acre, while those subdivisions have much greater density. The Proposed Map shows much of Shoreline as being designated RSPA-Residential Single Family, which allows only for detached housing, despite the fact that the recorded plats in that area so far are primarily for attached townhome units. Other portions of Shoreline are depicted on the Proposed

Map as general RSPA, when the Town approved preliminary plans for higher density with Resort Village amenities. The Proposed Map also shows portions of approved plats in Golden Eagle, Soaring Hawk, Forevermore and Rustler as being part of general RSPA and outside of any density pod. In short, the Proposed Map bears little resemblance to the actual development, as approved by the Town Council over the course of multiple subdivisions and many years, within the Town.

The statement in the Notice of Public hearings that "Town records fail to show that an Official Zoning Map has been adopted" is not accurate, as evident from the General Plan and other sources. As such, adoption of the Proposed Map serves no legitimate purpose. But it is very clear that, if adopted, it would introduce such confusion and uncertainty to the vested rights of Mustang and other property owners that it would surely result in litigation to undo the damage. Those problems can still be avoided. I encourage you to remove this item from the agenda for the Planning Commission and Council meetings.

Sincerely,

A handwritten signature in black ink, appearing to read "Jared C. Fields". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Jared C. Fields, Esq.
Chief Legal Counsel
Mustang Development, LLC

EXHIBIT A – Excerpt of Map from 2019 General Plan

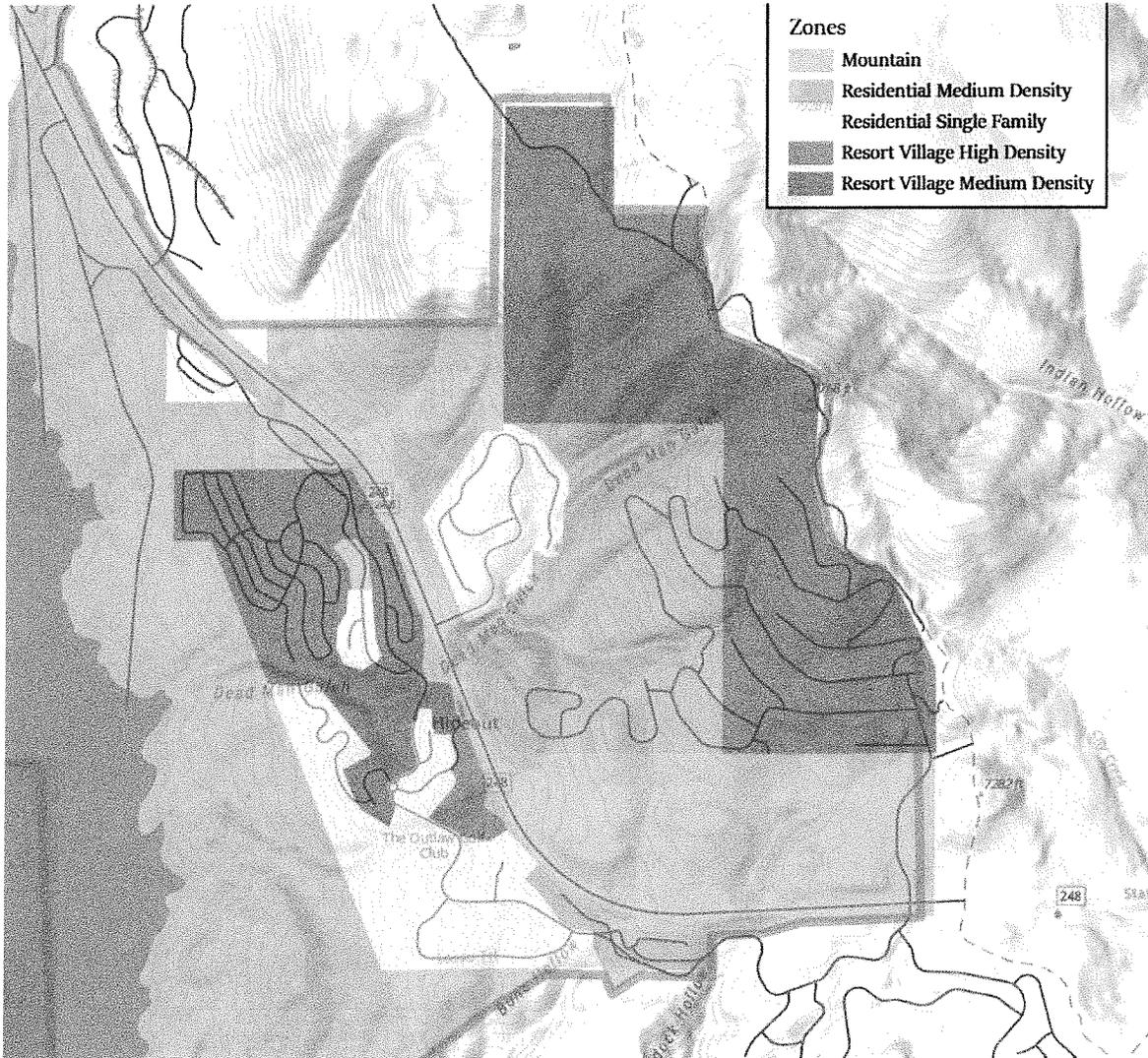
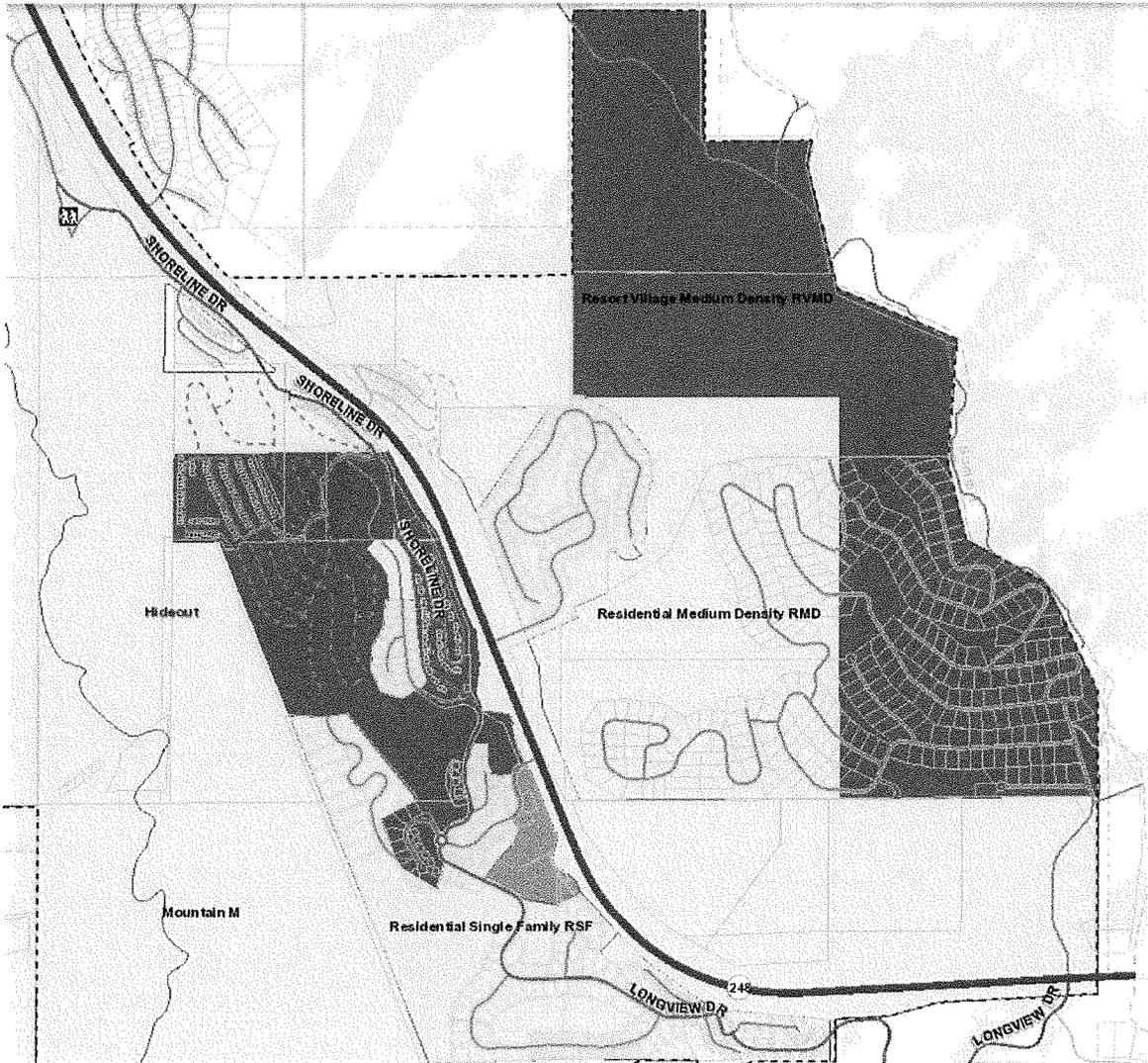


EXHIBIT B – Excerpt of Map from Wasatch County GIS



[REDACTED]

From: Bret Rutter [REDACTED]
Sent: Tuesday, August 3, 2021 11:33 AM
To: Alicia Fairbourne
Cc: hideoututah
Subject: Request additional material or direction thereto re: Public Hearing on ratification and Adoption of Official Zoning Map for the Town of Hideout
Attachments: 2021-07-29 Proposed Zoning Map.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

In connection with the Town of Hideout's upcoming public hearing on the topic of "Ratify and Adopt the Official Zoning Map of the Town of Hideout" scheduled for August 9th and September 9th, I'd like to better understand the process involved and what is the expected action at each of these two meetings. My questions and comments are as follows:

1. Are these both informational public comment meetings at which no action on the zoning map ratification will be taken or will there be a vote/recommendation made by the planning commission?
2. What happens next after these two scheduled meetings in order for Hideout to adopt a zoning map?
3. Please provide or direct me to where I can find the official definition and permitted development activities/projects that can take place for each of the 7 identified zoning types as there doesn't appear to be a definition for the orange "RSPA" orange designated areas within the Town Code 12.30.06 like there is for other specific types within the RSPA such as the following sub-categories of RSPA: RSF, RMD, RVMD, and RVHD.
4. How can a zoning map be proposed that reflects the light blue proposed zoning of RSPA - Residential Single family (RSF) for areas that have quad-plexes already built in the lower Shoreline area, green (Mountain) for Deer Waters and Klaim, orange (RSPA) for Forevermore Court, parts of Reflection Ridge down by the Town Boundary line, parts of Soaring Hawk, Golden Eagle, Rustler Shoreline phase 1, etc. and as shown on the proposed zoning map (attached)? This would seem to put all of these existing developments out of compliance
5. Seems that the golf course area within the Glistening Ridge should be designated as RSPA - OP (open space) and not RSPA - RSF as there was never any intention to build single family homes on what is currently the pond and golf course based on any information I've been able to find until the recent threats by Bob Martino and Mustang Development to potentially sell the golf course land and that it could be developed into housing. This and all other areas of the golf course that appear to be proposed to be zoned orange "RSPA" but without specified density and that space currently occupied by the golf course should also be zoned as RSPA-OP to preserve the open space.

Thank you for your help with the above,
Bret Rutter,
Hideout Resident

[REDACTED]

From: Glenn and Tracy Seymour [REDACTED]
Sent: Tuesday, August 3, 2021 8:07 AM
To: hideoututah
Subject: Zoning Comments and Questions

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you for sending out the zoning map. Is it possible to post the definitions along with the different types of Zoning. Also, can you define MDA vs Town Boundary.

I don't understand why we have development in "Mountain" zones (i.e. Deer Springs and Deer Waters). Additionally, why is Shoreline 2 "single family" zoning when Shoreline 1 is RMD? Some of the zoning seems to be arbitrary.

Glenn Seymour

[REDACTED]

From: jgunn [REDACTED]
Sent: Sunday, August 1, 2021 12:50 PM
To: Alicia Fairbourne; kshepley [REDACTED]
Subject: Re: COURTESY NOTICE OF PUBLIC HEARING ON RATIFICATION AND ADOPTION OF OFFICIAL ZONING MAP FOR THE TOWN OF HIDEOUT
Attachments: Zoning Map (1).pdf
Follow Up Flag: Follow up
Flag Status: Flagged

Hello Alicia:

Thank you for the very quick response.

In looking at the proposed zoning map (attached), it appears that the Deer Waters Subdivision (where we live) is not located within the Hideout Canyon MDA. Is this correct?

It also appears that nearly all other areas of Hideout (other than the Jordanelle Park) are located within the Hideout Canyon MDA. Is this also correct? If so, this raises additional questions:

1. Why does the proposed Zoning map not specify the MDA area for Deer Waters, but does delineate the area for the Hideout Canyon MDA?
2. The Resort Specially Planned Area (RSPA) appears to be within the Hideout Canyon MDA Boundary. Is the Hideout Canyon MDA synonymous with RSPA?
3. Why is Deer Waters MDA not part of the RSPA?
4. Can we please get copies (electronic are preferred) of the Hideout Canyon MDA and the Deer Waters MDAs? These will help us understand the implications of being outside of the Hideout Canyon MDA?

Your assistance is greatly appreciated.

Katie and Jonathan

-----Original Message-----

From: Alicia Fairbourne [REDACTED]
To: Jgunn [REDACTED]; kshepley [REDACTED]
Sent: Sat, Jul 31, 2021 4:02 pm
Subject: Re: COURTESY NOTICE OF PUBLIC HEARING ON RATIFICATION AND ADOPTION OF OFFICIAL ZONING MAP FOR THE TOWN OF HIDEOUT

Hi Katie and Jonathan,

You are welcome to attend either of the public hearing meetings held on August 9th and August 12th at 6:00 pm, or you can submit your question via email to me.

The public hearings are held electronically via Zoom conference call, with the link provided in the original email.

Thank you,
Alicia Fairbourne

From: kshepley [REDACTED]
Sent: Saturday, July 31, 2021 2:50:16 PM
To: Alicia Fairbourne [REDACTED] Jgunn [REDACTED]
Subject: COURTESY NOTICE OF PUBLIC HEARING ON RATIFICATION AND ADOPTION OF OFFICIAL ZONING MAP FOR THE TOWN OF HIDEOUT

As residents of Deer Waters in Hideout we have a few questions regarding the "Official Zoning Map of the Town of Hideout" based on the information you provided. How do I get our questions answered? Shall we send to you or is there a specific email/website where I can post my questions and get answers?

Appreciate your guidance.
Katie and Jonathan

**FORMAL OBJECTIONS TO BOTH OF THE HIDEOUT DRAFT PROPOSED ZONING
MAPS DATED JULY 29, 2021 AND AUGUST 9, 2021**

I. Background information

Objectors are the owners of 11885 N. Star Gazer Cir., Hideout, UT 84036. Objectors' home is located within the Deer Waters Resort Subdivision, approximately 30 feet from the eastern boundary of the Jordanelle State Park. There is only about 30 feet between the foundation of Objectors' home and the eastern edge of the Jordanelle State Park.

On or about the first week in January of, 2020, the Town of Hideout apparently approved a plan for development of the Deer Waters Subdivision, in which Objectors' home is located. That plan contains a map¹. That map **expressly** calls for a path running from Shoreline Dr. in a southerly direction, along the eastern edge of the Jordanelle State Park, directly behind Objectors' home. According to this map, the path is to be **Six (6) feet** wide at a point directly behind Objectors' home, then runs in a southerly direction to the Shoreline subdivision. It is important to note that the plan does not call for (nor approve) anything wider than Six (6) feet running south of Objectors' home.

On 7/29/2021 and 8/9/2021, the Town of Hideout published Proposed Zoning Maps. Both of these maps contain map legends. Both map legends reflect a "road" as a solid black line. This solid black line is indicated by arrows drawn by Objectors on attached Exhibit "A". This line (or "road") runs approximately 13 feet from Objectors' home.

According to Utah Code 41-6a-102(58) a:

- (a) **"Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.**

Objectors assume that the Town's use of the term "road" in the map legends was intentional, to reflect a "roadway" or "road" as that term is defined under Utah State law. The difference between the previously approved **Six (6) foot wide path** and a "road" sufficiently wide and/or open for use by private vehicles is the mainstay of Objectors' formal objections. For the reasons set forth below, Objectors expressly object to: (i) any path wider than Six (6) feet; and/or (ii) that any such "path" be open for use by private vehicles. **Objectors do not object to the use of any Six (6) foot wide path by Official State, County, or Municipal vehicles on official government business.**

¹ That map was supplied by the Town of Hideout in response to a Government Records Request. Objectors have received repeated assurances from both Hideout Town officials and the Developer that this "path" will be only Six (6) feet wide and will be closed to private vehicular traffic. Objectors have detrimentally relied upon these repeated assurances.

II. Overview of the Objections.

Both of the proposed zoning maps depict a “road” running approximately 13 feet from the foundation of Objectors’ home. Any such “road” would violate: (i) the 2020 development plan/drawing previously approved by the Town of Hideout for the Deer Waters subdivision; and (ii) multiple sections of Title 11 of the Town’s own Code concerning required setbacks. Therefore, because both of the Proposed Zoning maps may approve, sanction, recognize and/or authorize any “path” or “road”: (i) wider than Six (6) feet; and/or (ii) use of any such path or “road” by private vehicles, Objectors formally and vociferously object. **Once again, Objectors do not object to the use of any Six (6) foot wide path by any Official State, County, or Municipal vehicles on official government business.**

Objectors are alarmed by the fact that despite the Town’s limited approval of a Six (6) foot wide path in 2020, early in 2021, unknown persons/entities constructed an unlawful stone and gravel way that is approximately Twelve (12) feet wide. To the best of Objectors’ knowledge and belief, such construction and the change to the land was not formally approved by the Town. Moreover, the stone and gravel way clearly violates multiple sections of Title 11 requirements.

III. Arguments and Legal Authority.

a) Strict Compliance with Title 11 of the Town Code is Mandatory and Not Optional

The Town is required by its own Title 11 rules to follow and abide by its own Title 11 rules². In fact, The Town’s own Title 11 rules expressly make any action by the Town that is in violation of Title 11 rules, “**null and void**” as a matter of law. More specifically, Section 11.01.109 is entitled: “PERMITS TO COMPLY WITH LAND USE REGULATIONS”. It states, in pertinent part:

“Permits shall not be granted for the construction, reconstruction or alteration of any building or structure, or for the moving of a building onto a lot, or for the change of the use of any land, building, or structure if such construction, alteration, moving, or change in use violates any of the provisions of this Title”. (Emphasis added).

Section 11.01.109 could not clearer. The rules are not optional. They are mandatory and binding upon the Town. Moreover, Section 11.01.106 is entitled “LICENSE TO CONFORM”. It states in pertinent part:

“All departments, officials, and employees of the Town of Hideout that are vested with a duty or authority to issue permits and licenses shall do so in conformance with the provisions of this Title. No permit or license for a use, building, or purpose shall be issued where the same would be in conflict with the provisions of this Title. A permit or license, if issued in conflict with the provisions of this Title, shall be null and void”. (Emphasis added).

² All citations from: <https://hideoututah.gov/wp-content/uploads/2018/07/Title-11-Zoning-Regulations.pdf>

The Town Code could not be more clear. Any action taken in contravention of Title 11 is a legal nullity. When read together, these two sections make it crystal clear that the Town's rules must be followed by all - and that expressly includes by the Town itself. Any action (by anyone, including the Town) in violation of these rules is, as a matter of law "null and void". Any permit, license or approval issued by the Town in violation of its own rules is therefore "null and void", *ab-initio*.

b) Specific Violations of Title 11 Depicted by the Proposed Maps.

(i) Any changes to the previously approved 2020 plan must comply with current Title 11 requirements.

While the Town may have approved a Six (6) foot wide "path" in 2020 (apparently just days before the new Title 11 was enacted)³ changing the character of that land and path now, in 2021, after adoption of the new Title 11, would require strict compliance with the new Title 11 requirements. Said differently, any change to the previously approved 2020 plan will require compliance with the current Title 11 requirements. Because the Proposed Zoning Maps depict a "road" does not comply with the 2020 plan, it must be revised. Any approval by the Town, whether express or implied, must be avoided.

(ii) The proposed Zoning maps violate multiple current Title 11 Setback requirements.

In January of 2020, the Town of Hideout apparently adopted new Zoning rules and regulations. Those regulations include Title 11. Section 11.02.101 of Title 11 defines the terms used in Title 11. Paragraph #168 of this Section defines the "Minimum Setback" of residences from streets or roads within Hideout. It states, in pertinent part:

(168) "Setback. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line".

Section 11.07.111 goes on to set out 3 separate requirements for setbacks. The proposed "road" clearly violates 2 of these provisions. That section mandates, in pertinent part:

1. Front Setback. The front setbacks for dwellings shall be a minimum of sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of way, whichever is greater....."

2. Corner Lots. For corner lots, the side setback on the street side shall be the same setback as that required for the front.

³ Exact dates of adoption of the development plan and the new Title 11 are not entirely clear to Objectors.

3. Rear Setbacks. All permitted structures shall be set back from the rear property line a minimum of thirty (30) feet. (Emphasis added). See 11.07.111.

Title 11.07.111 sub sections (2) and (3) that will be violated if the proposed "road" is any greater than Six (6) feet wide or is open to vehicular traffic is authorized by the Town's map.

IV. Summary

The "road" depicted by both of the proposed Zoning maps violates the previously approved 2020 plan for the Deer Waters Subdivision. It is therefore unlawful. Any change to the 2020 plan requires compliance with current 2021 requirements. Because it is impossible for the proposed "road" to comply with current 2021 Title 11 requirements, it must not be approved, sanctioned, or recognized by the town, whether expressly or impliedly, in any map or in any other fashion what so ever. The Town must avoid any explicit or implicit (and unlawful) approval of any "road" or "path" which is inconsistent with the 2020 plan.

WHEREFORE, because the Proposed Zoning Maps may unlawfully expressly or impliedly authorize, sanction, and/or recognize a "road" which is inconsistent with the 2020 plan (*i.e.* a Six (6) foot wide path) and which blatantly violates Title 11, Objectors herewith file their Formal objections to both proposed Zoning Maps. Objectors respectfully request that the Town revise the Proposed Zoning Map legend so as to reflect that the "path" in question is not in fact a "road", but rather a Six (6) foot wide path. In this way, the Town can avoid any unlawful, explicit or implicit, approval, sanction, and/or recognition.

Respectfully submitted on this 10th day of August, 2021 *via* Certified US and Electronic mail to the Town of Hideout, addressed to its Honorable Mayor, Phil Rubin, with an electronic copy to the Town's attorney, Ms. Poly McClean.

Objector



Jonathan S. Gunn

[Redacted]

Objector

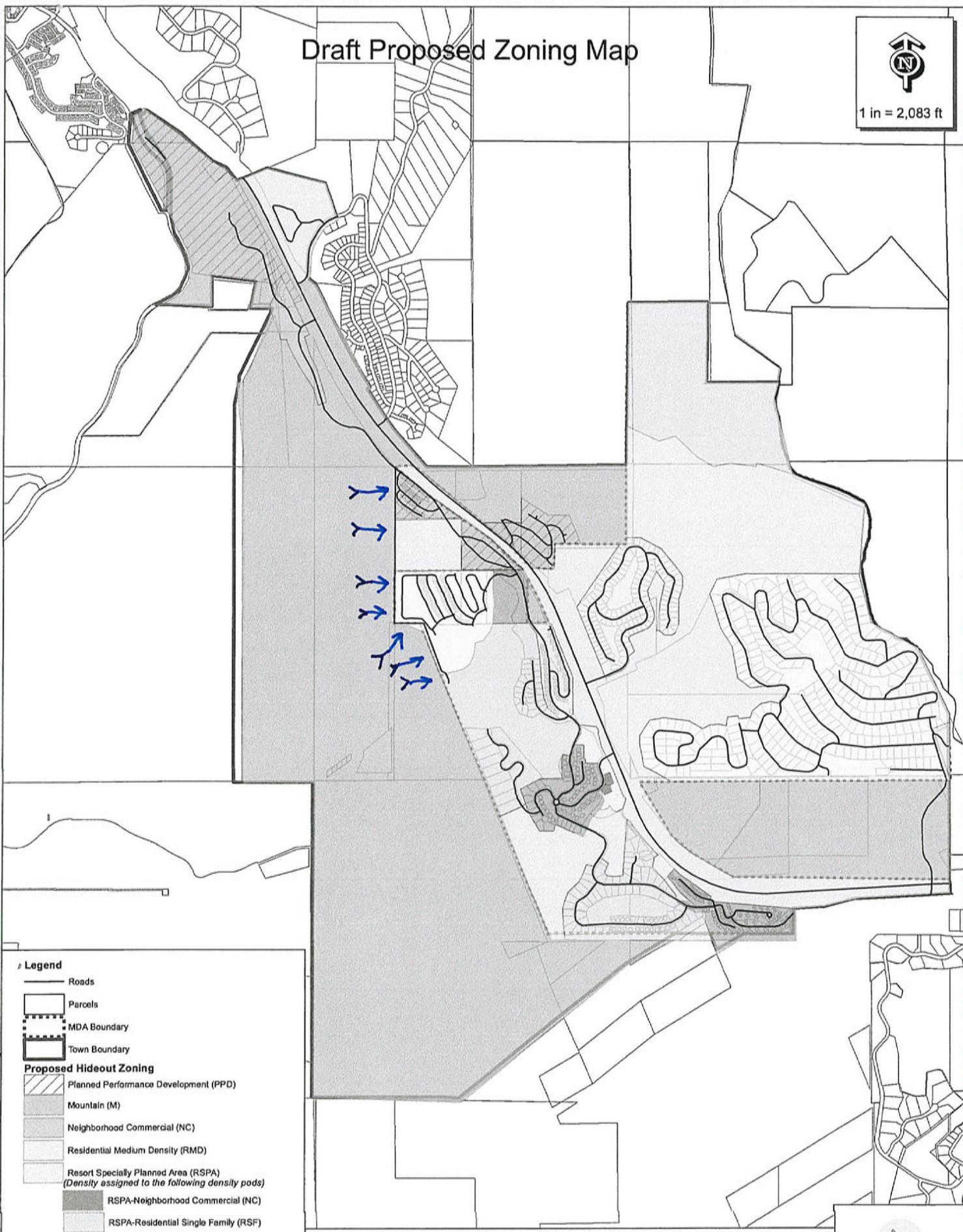


Kathleen E. Shepley

Draft Proposed Zoning Map



1 in = 2,083 ft



Legend

- Roads
- Parcels
- MDA Boundary
- Town Boundary

Proposed Hideout Zoning

- Planned Performance Development (PPD)
- Mountain (M)
- Neighborhood Commercial (NC)
- Residential Medium Density (RMD)
- Resort Specially Planned Area (RSPA)
(Density assigned to the following density pods)
- RSPA-Neighborhood Commercial (NC)
- RSPA-Residential Single Family (RSF)
- RSPA-Residential Medium Density (RMD)
- RSPA-Resort Village Medium Density (RVMD)
- RSPA-Resort Village High Density (RVHD)

TOWN OF HIDEOUT PROPOSED ZONING MAP

EXHIBIT "A"

DATE: 8/9/2021

