

***The following are the unapproved draft minutes of the Planning Commission meeting discussion of Scenic Mountain Phase C Master Site Plan and Conditional Use Permit during the December 8, 2020 meeting. The minutes are subject to change.***

*The Scenic Mountain Phase C Master Site Plan and Conditional Use Permit were presented and discussed concurrently.*

Mr. Kane presented the item. The entire Scenic Mountain development project includes just under 35 acres of land on the south side of Wride Memorial Highway and northeast of The Ranches. The project was granted an approved master development plan (MDP) and master development agreement (MDA), with the latest amended and restated agreement signed in March 2017. The MDA requires a slope transition area/natural open space along the eastern and southeastern portions of Phase C due to topography and to create a transition between uses. Phase C requires 1,000 square feet of open space per residential unit. The land use proposed is townhome residential for 84 units with alley-loaded garages.

Based on the size of the subject property as over 5 acres, the proposed use of townhomes, and the development occurring in three separate phases, the development requires the approval of a master site plan, which Municipal Code allows to be used as the preliminary plat. The City can choose to waive the requirement for site plan applications for the individual phases based on the master site plan submission. Each separate phase will require individual final plats. A multifamily project, according to City standards at the time of the MDA signing, also requires the approval of a conditional use permit.

The MDA divides the project into three planning areas. Planning Area 1/Phase A is a single-family home cluster development with the right to build up to 86 residential units with a gross density not to exceed 5.49 units/acre. The approved preliminary plat for Phase A includes 80 cluster homes on 15.65 acres. Planning Area 2/Phase B is a townhome development with the right to build up to 83 townhome units with a gross density not to exceed 8.23 units/acre. The approved preliminary plat for Phase B includes 40 townhome units on 4.16 acres, reduced from the original 10.09 acres due to land acquisitions by the Utah Department of Transportation (UDOT). Planning Area/Phase C is the subject of these applications and was preserved as a flexible use area development allowing either a commercial office/retail development, residential units under the previous Tier III-Tier IV subdivision requirements, or a combination of residential and commercial units. The Phase C acreage was reduced from 7.22 acres to 5.39 acres due to UDOT acquisitions. The original approval permitting 120 units was reduced to 89 units due to these acquisitions. The application proposes 84 units for Phase C. The MDA allows for a maximum density of the entire project of 10.15 units/acre.

The MDA requires compliance with the Municipal Code standards at the time of the March 2017 signing. The MDA also includes a statement that "[n]otwithstanding anything to the contrary herein, any City ordinance, amendment to the City's laws, or other development standard enacted by the City after the date of this Agreement which has the effect of prohibiting and/or materially and unreasonably restricting Developer's rights to develop the vested densities set forth in this Agreement and the Master Development Plan for the Property shall be inapplicable to the Property

... and shall not affect or regulate the development and use of the Property, unless the City Council, on the record, finds that a compelling, countervailing public interest would be jeopardized by applying the provisions of this Agreement.“

Based on the approvals in Phases A and B and the request for Phase C, the overall density is 8.1 units/acre. The applicant proposes to develop Phase C in three phases. Phase 1 includes 13 townhomes west of Vernham Lane. Phase 2 includes 39 townhomes south of Hurstbourne Drive. Phase 3 includes 32 townhomes north of Hurstbourne Drive.

The development will utilize the road network currently under construction in the development as well as additional alleys. Access is provided to Wride Memorial Highway on the north, to Phase A to the south, to Phase B to the east, and a stub road to the west for the future development of vacant land. Staff recommends renaming Elkhorn Drive as Elkhorn Road is an existing road in the City in the Valley View North subdivision. “No parking” signs and restrictions need to be applied to one side of any road that is under 32 feet in width and should be applied to the same side of the street where fire hydrants are located with the signs separated no more than 100 feet apart.

Multifamily developments require one off-street guest parking space for every three units. With 84 townhomes, Phase C is required to have 28 off-street parking spaces. The plan calls for 35 guest parking spaces with 21 standard off-street spaces and 14 parallel parking spaces along the north side of Hurstbourne Drive. A fire hydrant should be added near unit 146. The fire hydrant detail in the MDP should be updated to the City standards. All alleys need a turning radius at the entry/exit points for fire apparatus.

Retaining walls are proposed adjacent to the open space along the southeast edge of the property. Retaining walls should be limited to five feet in height; any wall needed in excess of five feet should be tiered with each wall a maximum of five feet and a horizontal separation of six feet. The open space along the southeast portion of the project is required by the MDA as a slope transition area/natural open space. Phase C includes a pickleball court on the south side and a playground on the east side. The entire Scenic Mountain project requires at least 468 amenity points. Phase C includes amenities totaling 155.8 points. When added to the current points for phases A and B, the overall total is 537.5 points. Staff recommends a path/stair connection from the pickleball court to the trail to the east.

The applicant has proposed a wood-alternative composite fence of six feet in height in a grey color; the City Code at the time of MDA signing permitted this type of fence. Chain-link sport fencing of eight feet in height is proposed around the pickleball courts. Chain-link fencing is permitted for this type of use. The USA Pickleball Association, however, recommends a fence height of ten feet.

The project complies with the development and design standards at the time of MDA signing except for variance in roof height, cluster mailboxes, and the location of mechanical equipment. EMMC 17.72.040(C) requires varying roof heights. EMMC 17.72.040(J) states cluster mailboxes should “emulate the buildings in materials and color.” Additionally, staff recommends that the cluster mailbox be located on Hurstbourne Drive adjacent to the retention area for safer access and to permit residents to utilize guest parking when picking up their mail. EMMC 17.72.040(K)

requires the screening of mechanical equipment; the plans do not note the location of each townhome's mechanical equipment such as HVAC compressors.

The potential use to the west of the property is commercial, the use to the south is cluster homes with an approximate RC to MF1 current zoning class, and the use to the east is townhomes with an approximate MF1 current zoning class. The proposed development of Phase C correlates equivalently to between MF1 to MF2 under the current zoning designations.

The development includes a road network of public and private roads as well as alleys. Although the standard regarding impact on surrounding areas typically applies to commercial developments, Phase C includes congregation and activity areas for a pickleball court off Elkhorn Drive and a playground off Crowley Way. A conditional use permit for Phase B was granted without conditions.

Staff recommends that the Planning Commission make a motion to recommend approval of the master site plan to the City Council, for the reasons set forth in the staff report and the meeting, with the following conditions:

1. Approval of the master site plan to serve as approval of the preliminary plat;
2. Adjacent buildings cannot have the same color palette;
3. Rename Elkhorn Drive;
4. "No Parking" restriction for one side of any road under 32-feet in width;
5. Replace fire hydrant detail with City's fire hydrant detail;
6. All alleys need a turning radius at the entry/exit points;
7. Approved fencing for Phase C shall be used in Phase B as well;
8. Retaining walls at a maximum of five feet, or tiered, with a fence between retaining wall and trails;
9. Addition of a path/stairway from the pickleball court to the trail to the southeast;
10. Pickleball court fencing to be ten-feet in height;
11. The cluster mailbox shall be relocated to Hurstbourne Drive by the retention area;
12. The cluster mailbox shall be designed to emulate the design of the townhomes in materials and colors;
13. Each townhome's exterior mechanical equipment to be screened from view; and
14. Site plans for each of the separate phases are not required.

Staff recommends the Planning Commission approve the conditional use permit, for the reasons set forth in the staff report and the meeting.

Mr. Kane explained that due to the two egress points, Longleaf Lane meets connectivity and road length standards. Northup Way would not be used for fire service access as fire apparatus would be located on Vernham Lane. He explained that the alleys to access the rear-loading garages have been assigned street names and the townhomes would be assigned house numbers in correlation with the roads, not the alleys.

Commissioner Wood expressed concern that naming the alleys could cause address confusion for emergency services.

Mr. Kane stated Captain Dan DeVoogd, Fire Marshal for Eagle Mountain City, mentioned the named alleys during the project review; however, named alleys have been permitted in other areas in the City and emergency services distinguish between the alleys and roadways.

Commissioner Everett expressed concern regarding the accessibility of the open space.

Mr. Kane stated that in the MDA the area was identified as flex space and as such did not have open space requirements, other than the slope transition, but the project is still required to adhere to City amenity point requirements.

Commissioner Wood expressed concern that the open space was not centrally located and said he believed the requirement for centrally located amenities within a set distance from all residences predated the MDA for the project. He inquired regarding the location of the guest parking.

Mr. Kane stated that the amenities for the project will be utilized by all members of the HOA. The centrality of the amenities could be evaluated in relation to the entire development rather than the individual phases. The project has not been evaluated to determine if the residences are all within a quarter-mile of a park. The standards regarding guest parking stipulate the number of stalls but not the location or the even distribution of the stalls.

Mr. Mumford stated that the City Engineer has recommended short, split-rail fencing along sloped open space areas similar to fencing along the wash in other projects.

Commissioner Wright inquired if parallel parking stalls are allowed to be counted towards the guest parking stall requirement and if the path/stair connection from the pickleball court to the trail to the east recommended by staff would increase the amenity points to the required number. He asked if the units met the man door requirements listed in EMMC 17.72.030(C).

Mr. Kane explained that on-street parking is not permitted to be counted as guest parking stalls. The parallel parking in this development is located outside of the public right-of-way. The recommended path/stair connection would not achieve amenity points; however, the total amenity point calculation for the overall Scenic Mountain project exceeds the required amount.

Commissioner Wood said EMMC 17.72.030(C) was added to Municipal Code after the approval of this MDA at the request of Captain DeVoogd as a townhome access safety measure.

Commissioner Pengra inquired if the 38-foot road width measurement included curb and gutter and sidewalk. He expressed concern regarding the health, safety, and welfare of the residents due to egress for emergency vehicles. He said that during his tenure as United Fire Authority (UFA) Vice-Chair, he witnessed street parking reducing emergency vehicle apparatus site access. He felt the road width was insufficient to adequately accommodate street parking, especially in the case of larger or inappropriately parked vehicles. He expressed his disfavor for the proposed parking configuration, but the removal of the parallel guest parking stalls would result in the project's failure to comply with Municipal Code requirements. He recommended tabling the item if the applicants were unable to propose resolutions to the parking and emergency vehicle access concerns.

Mr. Kane clarified that Captain DeVoogd was aware of the parallel guest parking and stated the stalls are located outside of the public right-of-way. This topic was discussed during the Development Review Committee (DRC) evaluation. If the right-of-way width is under 32-feet, parking should be prohibited along one side of the street. The addition of a fire hydrant near unit 146 and the prohibition of parking along the south side of Hurstbourne Drive would resolve the fire safety concerns expressed during the DRC meeting.

Commissioner Pengra acknowledged that even though Captain DeVoogd determined the plan meets UFA requirements, in practical application, he believes the plan poses concerns for the health, safety, and welfare of the residents.

Commissioner Wells stated that her questions had been answered by staff prior to the meeting.

Applicant representative Julie Smith with Fieldstone Homes stated she had reviewed the master site plan with Captain DeVoogd and addressed his concerns regarding the townhome street addresses, the parallel parking, and desired road width. In 2017, Municipal Code standards did not require a man door on the garage. She said this a small portion of the overall development and the open space is placed in relation to the overall development and the area meets the sizing standards for the open space requirement. She noted the difficulty in spacing off-street parking throughout the development. As they knew that guest parking is a concern in other multifamily developments, the plan exceeds the required number of guest parking stalls. The alignment of the townhome units is staggered to increase articulation of the front and rear elevations and the roofline.

Commissioner Wood reiterated that the update to Municipal Code regarding a garage man door for rear-loaded townhome products to allow access to townhomes from the alley and for the street addresses to be identified on the rear of the homes to be able to identify units was at the request of the Fire Marshal. He said that the standards were to increase accessibility for all emergency services, not only fire response.

Ms. Smith stated that the layout allows for sufficient emergency access. She reaffirmed that the plan meets the Municipal Code requirements at the time of the MDA signing in 2017 and that Captain DeVoogd had evaluated and was satisfied with the plan as presented.

Commissioner Wood stated that the plan design does not meet the intent of the safety requirements. He said that as the need for a man door on rear-loading townhomes has been identified as a safety concern for the City, it would be reckless to approve a plan that did not provide man door access.

Commissioner Everett cited EMMC 16.35.105 regarding park placement and access and expressed concern regarding the street access to and parking near the pickleball courts and park area.

Ms. Smith stated the original MDA approval established the trail system placement and the placement of the park amenities in this phase of the development is in accordance with the MDA. They have bonded for the amenities during each phase of the development. The amenities plan considers the layout and connectivity of the project as a whole and exceeds requirements.

Commissioner Everett clarified his concern is the accessibility and usability of the pickleball for the residents not the number of amenity points for this phase. He expressed concern that the 20-foot by 20-foot garages, which would not be allowed under current garage width standards, would result in the residents in units 153 through 167 on Hurstbourne Drive parking in the guest parking stalls along the street in front of their homes and impede snow removal.

Ms. Smith stated the guest parking areas will be designated with signage and the HOA could address and enforce the improper use of guest parking as resident parking.

Applicant representative Brett Woodland stated that the pickleball court placement is central to the overall project with the intention of residents accessing the court via the trail system rather than driving. He recognized Commissioner Everett's concerns regarding snow removal and stated the guest parking is not intended for long-time use and the HOA can address issues of parking violation enforcement such as residents using the guest parking for a third vehicle.

Commissioner Everett expressed concern in approving a design that is likely to cause parking violations and enforcement burdens to the HOA.

Ms. Smith stated that most cities express concerns regarding sufficient parking. She feels this project implemented a creative approach to provide additional guest parking. She noted the project has significant elevation differences in portions of the project and requested that the staff-recommended conditions to require five-foot retaining walls be amended to include the verbiage "where possible" and the recommended ten-foot pickleball court fencing be reduced to eight-feet, as she believed eight-feet would be sufficient.

Commissioner Pengra expressed his appreciation to the applicants for providing additional guest parking; however, he felt the location of the parking created safety impediments. He advocated for off-street guest parking to be distributed throughout the projects to increase guest parking accessibility for all the units. He acknowledged that his recommendation would reduce the number of units but felt it was necessary in consideration for the health, safety, and welfare of the residents.

*Commissioner Wood opened the public hearing at 8:30 p.m.*

Doug Freeman submitted a public comment via email. "Before Phase C is started 1. Can existing streetlights be turned on 2. What happened to the second road exiting the subdivision mentioned in Phase B documents 3. Complete 2nd road exiting the subdivision before Phase C is started 4. We need some kind of traffic control (speed bumps, better signage) on Vernham Rd. Between construction traffic and other subdivisions using as an exit traffic conditions are progressively becoming unsafe on this street. Somethings needs done on all items before additional construction begins."

Mr. Mumford stated that Rocky Mountain Power changed their streetlight connection process. The new process is lengthier. Many of the streetlights that have been installed in the previous six months have not been connected. The City is in the process of approving and connecting the streetlights. He explained that Vernham Lane was intended to be used as a connection road for

some of the neighborhoods. Staff and the developer can address construction traffic and parking with the contractors.

Discussion ensued regarding traffic patterns and access concerns in the area.

*Commissioner Wood closed the public hearing at 8:36 p.m.*

Commissioner Wood stated he concurs with Commissioner Pengra's and Everett's concerns regarding the parallel parking and the likelihood of the parking being used by residents creating an enforcement and contention burden to the HOA. He believes that Hurstbourne Drive is too narrow as it will likely be used as a public road and thinks the road should be widened to a 53-foot public right-of-way. He stated the installation of a man door on the garage side of the townhomes should be included as a condition of approval for the conditional use permit for the accessibility of emergency services. He stated that the pickleball court should be readily accessible to all the residents and include parking. He felt the residents in the northwest portion of the project were unlikely to walk to the amenities area.

Commissioner Pengra concurred with Commissioner Wood regarding the need for the man door for emergency accessibility. He expressed concern regarding the spread of fire between the units due to delays in accessibility should a man door not be required, and firefighters have to circle the units to gain access.

Mr. Kane verified that EMMC 16.35.105(A)(3) was in place in 2017 at the time of the MDA signing.

Commissioner Wright concurred with the concerns expressed by the other Commissioners and expressed concern regarding the elevations. He requested that the approved elevation renderings on pages 30 to 32 of the MDA agreement to be presented in the meeting for the benefit of the public as a comparison of the elevations included in this proposal. He felt the elevations in this proposal do not meet Municipal Code standards.

Commissioner Wells expressed concern regarding the comments of the other Commissioners regarding the man door requirement. She agrees with the benefits of the inclusion of a man door and would prefer for the applicants to include man doors; however, as the installation of a man door was not a requirement at the time of the signing of the MDA, it cannot be included as a condition of approval for this application. She expressed concern regarding imposing fire safety mitigation measures the Fire Marshal had not indicated were necessary.

Commissioner Wood stated that the safety, health, and welfare of the residents is one of the State Code criteria included in the evaluation of a conditional use permit approval. As the Fire Marshal has recommended the man door as a required safety feature, the approval of the townhomes can include the requirement for a man door as a safety, health, and welfare measure or the conditional use permit could be denied based upon the findings of fact that the proposed plan included hazards to the safety, health, and welfare of the residents.

Commissioner Wells expressed concern with the Commission requiring a road-width expansion not indicated in the staff recommendations. As the pickleball courts are connected by trails and were intended as a private HOA amenity, she feels the location was appropriate and did not need to be required to be located along and accessible via a roadway. However, she would prefer vehicle access and some parking near the amenity. She concurred the building elevations needed additional articulation, roof height fluctuation, and increased color variation.

Commissioner Everett said although the amenities are for HOA use and are connected by trails, EMMC 16.35(A)(5) requires that parks “have access along a public road and may not contain ‘hidden’ areas that are not clearly visible,” and the location of the park between a sloped area and townhomes does not meet the requirement nor the intent of the standards. He stated he was inclined to recommend denial to the City Council of the master site plan.

Commissioner Wright stated that although the guest parking is located outside of the public right-of-way, it did not meet the intent of the off-street guest parking requirement. He stated he would support Commissioner Everett’s recommendation of denial to the City Council.

Commissioner Pengra stated that staff, City Council, and the Planning Commission have frequently discussed MDA vested right protections; however, Municipal Code standards were not created arbitrarily. The MDA permits a total density count and he believes the applicant is attempting to maximize the allowable density for the project in the final phase. He stated the responsibility of the Planning Commission is to protect the health, safety, and welfare of the residents. He said that the applicants and staff can hopefully revise the plan to address the concern expressed during the meeting and retain the same unit counts. He felt the Planning Commission and the applicants were at an impasse regarding the master site plan and concurred with Commissioner Everett’s suggestion to recommend denial to the City Council.

**MOTION:** *Commissioner Wood moved to recommend denial to the City Council of the Scenic Mountain Phase C Master Site Plan. Commissioner Wright seconded the motion. Those voting aye: Matthew Everett, Brett Wright, Rich Wood, and Christopher Pengra. Those voting nay: Erin Wells. The motion carried with a vote of 4:1.*

The dissenting vote by Commissioner Wells was based on her willingness to work with the applicant on the concerns raised by the Planning Commission.

**MOTION:** *Commissioner Wood moved to deny the Scenic Mountain Phase C condition use permit based on the following findings of fact:*

- 1. Townhome units do not include man doors at the garage, as specified by the Fire Marshal;*
- 2. Parallel parking spaces create a safety issue for ingress and egress for safety vehicles and do not present a guest-type parking space; and*
- 3. The open space features do not meet the requirement of EMMC 16.35.105, as presented at the signing of the MDA.*



***Commissioner Pengra seconded the motion. Those voting aye: Matthew Everett, Brett Wright, Rich Wood, Christopher Pengra. Those voting nay: Erin Wells. The motion carried with a vote of 4:1.***

The dissenting vote by Commissioner Wells was based on her willingness to work with the applicant on the concerns raised by the Planning Commission.

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