IVINS CITY
PLANNING COMMISSION
MINUTES
March 15, 2022
435-628-0606

1) WELCOME AND CALL TO ORDER

CHAIRMAN AND COMMISSIONERS: The meeting was called to order at 5:30 p.m. All present included Chairman Jeff Loris, Commissioner Doug Clifford, Commissioner Dave Robinson, and Commissioner Pam Gardiol.

Staff Attending: Dale Coulam-City Manager/Attorney, Mike Haycock-Building and Zoning Administrator, Sharon Allen-Deputy City Recorder and Jennifer Chapman.

Audience Attending: Kerry Reece, Steve Bingham, Wendy Loris, Celest Gardner, James Bardew, Barb Pridie, Chase and Amanda Hamblin, Stuart Sochrin, Dan and Jan Brown, Trevor Guerlain, Patrick Manning, Brad Osborn, Dave Appel, Nancy Martinez, Mike Hugo, Dusty and Karli Saxton, CJ Koharcheck, Jared Madsen, Lance Anderson, David Case, as well as others that did not sign in.

A. Acknowledgement of Quorum

B. Flag Salute--Commissioner Doug Clifford

C. Invocation--Commissioner Doug Clifford

D. Disclosures--None

2) REPORTS AND PRESENTATIONS -

A. Concept Plan report for Kwavasa Phase 2, located at approximately Evening Star Way. Kayenta Development-Owner/Applicant.

Mike Haycock stated that this is located in Kayenta and is zoned RE-43 with a lot-averaging overlay as well as surrounding zones. Lot averaging is not required for this property. Eveningstar is a minor collector street that fronts the property. **Chairman Jeff Loris** stated this is for 3 lots. **Commissioner Pam Gardiol** inquired if there were any geologic factors or underground water that would impact this development? **Mike Haycock** stated that engineering did not bring up any concerns at TRC. They will get studies in during Preliminary Plan that will identify any of those concerns. There was initial conversation about drainage on the property. That will all be addressed then. **Commissioner Pam Gardiol** inquired if they look beyond the plats that are being developed? **Mike Haycock** stated yes they look at surrounding areas until it gets in our drainage system. We have those sized already and the engineers have all that information. They know what can go into our system and what needs to be retained onsite. **Chairman Jeff Loris** inquired if there was anything we need to look at again or watch for at Preliminary Plan? **Mike Haycock** stated they were given a few options on where the sewer could connect. Other than that, it was an easy subdivision to do the initial review on. **Commissioner Dave Robinson** inquired if this is close to where the new reservoir is going in? **Mike Haycock** stated no it is on Eveningstar. **Commissioner Doug Clifford** stated that surrounding it there are other lots that have already been platted.

B. Concept Plan report for Desert Cove Subdivision, located at approximately 200 North and Kwavasa Drive. RT Marten Utah, LLC-Owner. Southland Ventures, LLC and Parkland Ventures-Applicant.

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Mike Haycock stated that this is zoned RE-12.5 and is located directly west of Arrowhead subdivision, which is zoned RE-15. the rest of the abutting property is not subdivided. To the north and west is zoned RE-12.5 and the land use is High-Density Residential to the north and Low-Density Residential to the west. **Commissioner Dave Robinson** stated that this is Medium-Density Residential splitting the difference is what they're doing. It follows the zone. **Commissioner Pam Gardiol** inquired if there were any geological or drainage issues that would impact this site or surrounding area? **Mike Haycock** stated that was not discussed at TRC. We will get those studies for Preliminary Plan. **Dale Coulam** stated that this has a regional detention basin to handle not only this subdivision's drainage, but also from some of the surrounding areas. There has an escrow pending and they are looking at possibly resizing that detention basin but may close on the one property and then purchase a second property, or actually enlarge the basin. They are working out those details and should have the answers to that by Preliminary Plan on which direction they want to go. Drainage is taken into account by an agreement that was entered into several years ago. **Chairman Jeff Loris** stated that you can see curb and gutter follows down Kwavasa Drive. Will that be required to continue down Kwavasa Drive? **Mike Haycock** stated on the Transportation Master Plan it designates exactly where it starts and stops and that will be addressed on the Preliminary Plan. **Chairman Jeff Loris** stated that it is about an acre so a pretty decent sized basin. There is a lot of water coming off Kayenta shelf coming south that erodes the roads in that area.

3) PUBLIC HEARING AND ACTION ITEMS—

A. <u>Discuss and consider recommendation of a Preliminary Plan for Black Desert North Estates Village Subdivision, located at approximately Snow Canyon Parkway and Splitrock Drive. Enlaw, LLC-Owner. Jared Madsen-Applicant.</u>

Mike Haycock stated that this is a mixed zone parcel and the west side of the project buffers Padre Canyon. When it was rezoned there was a buffer set aside there that is maintained as RE-37 and to the north and south-east are zoned Resort Commercial and to the south is zoned RA-5 and is separated by the future Western Corridor which is an undeveloped minor arterial street and the other road that borders the east is Snow Canyon Parkway, which is a major arterial collector. **Commissioner Dave Robinson** inquired where the Western Corridor intersects with Snow Canyon Parkway that will actually not be a roundabout? **Chairman Jeff Loris** stated that is correct. **Mike Haycock** stated our engineers look at those studies to determine where a roundabout goes. **Commissioner Doug Clifford** inquired if this is the first official subdivision in the Black Desert area? **Mike Haycock** stated we started the Resort itself, but yes this is the first residential subdivision for the area. Single Family homes with RE-37 and RE-20 zoning. **Commissioner Pam Gardiol** inquired if there will be a wall on the Snow Canyon Parkway and what will the setbacks be? **Mike Haycock** stated the wall will be shown on the construction drawings. We discussed the wall and the Corridor at length and there are a lot of different elevations there that will be aligned with the Western Corridor which is not completely designed yet. Those elevations will need to correlate and the construction drawings will reflect that as per the ordinance. **Commissioner Pam Gardiol** stated her concern is that the setback will be far enough back on Snow Canyon Parkway. **Mike Haycock** stated our ordinance requires setbacks on walls and will be stepped according to ordinance. **Commissioner Doug Clifford** stated that he was surprised at the grading plan and it was complex, but they have taken the upper crust off in a lot of places. It appears that the only piece that wasn't usable is a couple of sections along the northwest edge of that property. There is a shaded area that is in Sensitive Lands. **Dale Coulam** stated they have to leave 30%. **Mike Haycock** stated the golf course has

been worked on but they haven't started any construction in that area yet other than to stage the material. **Commissioner Doug Clifford** inquired if there is a certain depth they can't remove. **Dale Coulam** stated that for the entire site there has to be 30% left undisturbed. **Commissioner Doug Clifford** stated we were told they weren't even getting that close to that amount. **Mike Haycock** stated he will verify that is being done correctly. **Dale Coulam** stated for the overall site there has to be a total of 30% that is left undisturbed. If you count the overall lavaflow what they are disturbing is very minimal. He doesn't know what percentage this particular portion may have. Overall they are well within their requirements. **Chairman Jeff Loris** stated Black Desert Resort has approximately 613 acres and 200 acres are being left alone as open space or green space. **Commissioner Pam Gardiol** stated that the geology here is such a complex area. Any surprises in that geology that would impact the build or damaging that ecology or waterflow? **Mike Haycock** stated that Sensitive Lands Committee maintains that, by guiding that 30%. He has looked at the geotechnical report and they are following the guidelines as they are building the pad for the Resort area. We have not come across any unexpected water. Nothing like that has come up. **Commissioner Pam Gardiol** stated she recalls a situation from another Planning Commission where the geological studies were not done appropriately and in that case the whole mountainside sloughed away and houses disappeared. There was a comprehensive geologic study of all of the land involved? **Mike Haycock** stated that yes there was a study done. We will be watching for any changes in conditions during construction. **Commissioner Pam Gardiol** where can she read that study? **Mike Haycock** stated it is with the building permit. You can come in and read it. **Chairman Jeff Loris** stated that Tuacahn Wash and Sand Hollow Wash are the main tributaries for water. The lava flow doesn't have a lot of penetration and is almost impervious to an infiltration of water. It won't be an issue with infiltration below the subsurface to cause landslides or those kind of geological issues. In higher areas there is all sandstone which are very soft. The only landslide areas we have are within Sentierre. **Mike Haycock** stated that the structural engineers get these reports and then base their design off of those reports.

MOTION: Commissioner Doug Clifford moved to approve recommendation of a Preliminary Plan for Black Desert North Estates Village Subdivision, located at approximately Snow Canyon Parkway and Splitrock Drive. Enlaw, LLC-Owner. Jared Madsen-Applicant.

SECOND: Commissioner Pam Gardiol

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Doug Clifford	AYE
Commissioner Dave Robinson	AYE
Commissioner Pam Gardiol	AYE

B. <u>Discuss and consider Final Plat approval for Sentierre Padre Canyon Phase 1-C, located at approximately 800 Tuacahn Drive. Padre Canyon Resort, LC-Owner. David Case-Applicant.</u>

Mike Haycock stated that Sentierre is south of Tuacahn and shares the Resort Commercial zone. It is surrounded by open space to the south and the adjacent road is Tuacahn Drive and is an existing minor collector route. **Chairman Jeff Loris** stated that this is where we ask for any geological rockfall and drainage. There is a large fence that has been put up per the geotechnical engineer that will stop any rockfall or debris before it hits any residential or commercial buildings out there. The rockfall fence is very impressive. **Commissioner Pam Gardiol** inquired

about the open area across from this development and what mitigation there is to lessen impact to the open area? **Mike Haycock** stated that it has the turtle crossing and fencing in that area. The zoning itself protects that area. Sentierre is aware of the rules they have to follow being in that area and have been permitted by the BLM. **Chairman Jeff Loris** stated we have gone through this subdivision several times. Any differences to what we have seen before? This is the south piece below the hotel but next to where those homes have already been built. **Mike Haycock** stated we did not discuss any changes. There was talk on the south end of the property about where the water is being retained. No other identifiable changes. That will show in the construction drawings. **Dale Coulam** stated that on the south end it changed from a loop to a hammerhead to now what we see here. It is very similar to what the Preliminary Plan had shown and the configuration is basically the same, but the loop at one point had a hammerhead. That has changed slightly. David Case stated that this is in line with the approved Preliminary Plan. **Chairman Jeff Loris** stated that on Lot 3 it has widened turnout lane. David Case stated that is for parking. Our Conditional Use Permit doesn't allow parking on the street so intermittently we will have pull outs like that. In the note on the first page it states that we retained an 11 foot wide easement on the front of all parcels for parking purposes. **Commissioner Doug Clifford** stated this has been a phased development for some time. He has never been able to keep it straight on which phase was which, and where the hotel was as opposed to rentals or duplexes. Is there a master plan? David Case stated that the master plan is the Preliminary Plan and this is the south portion. The center is primarily composed of the hotel proper, and the northern portion is more residential. The entire development is a comprehensive resort, but this area is all private residential. We have always focused on the southern portion first and we've platted 6 lots and this finishes the remaining lots in the south loop. Lot 13 and Lot 19 are built and are just south, adjacent to those lots. He would be happy to present the plan and spend a few minutes answering questions for the overall project. **Commissioner Doug Clifford** stated he thinks that would be good because it has been awhile. **Dale Coulam** stated we have a lot of new Planning Commission members so it would be appropriate to put it on an agenda.

MOTION: Commissioner Dave Robinson moved to approve Final Plat approval for Sentierre Padre Canyon Phase 1-C, located at approximately 800 Tuacahn Drive. Padre Canyon Resort, LC-Owner. David Case-Applicant.

SECOND: Commissioner Pam Gardiol

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Doug Clifford	AYE
Commissioner Dave Robinson	AYE
Commissioner Pam Gardiol	AYE

C. <u>Public Hearing on proposed amendments to the non-residential Table of Uses to clarify definitions and Classes of Use.</u>

Dale Coulam stated that he added a residential item on this solar application that was passed by the city Council. This is a note to send it on to the codifier. In residential, if it is roof-top it is allowed by the zoning ordinance, but if it is ground-mount it is allowed in all single-family residential zones. The non-residential portion in the Table of Uses we had suggested removing golf courses form the Table of Uses due to water concerns. There was some discussion to leave certain types of golf courses or that there may be an annexation of property. This is not etched in stone and is a fluid document so if we annex a property, we could consider whether to add golf

courses or if we got a lot of water to maybe allow that. This is not applying to mini-golf. We would have to add a separate definition. Similarly with carwashes, what is down at Lightfoot's. Is that type of carwash okay as opposed to the automated quick-quack, tag-n-go type of carwashes? We also needed to clarify the definition of hotel because what was shown as single-family residential like Sentierre is really part of a hotel system with lock-off units, and you can rent the entire buildings. That all goes through a central booking company but it is all part of the hotel. Those are units are retained in ownership by the hotel group and the outer portion will be sold to private parties. They may choose to live in the main unit and rent out some of the lock-outs, but it all goes through that central system as part of that hotel. We don't favor vertical hotels, we favor horizontal hotels. Our previous definition said it was not a hotel unless there was a lobby and went up from there, which didn't recognize horizontal hotel use like Sentierre or Black Desert Resort. We wanted to clarify that. The next item is bringing forward to the Table of Uses the clarification that was made in the alcohol licensing ordinance. We brought forward where the Table of Uses referred to Chapter 4 for Sexually Oriented Businesses. That type of business was only allowed in Commercial with Light Manufacturing so it would be more appropriate to put x's in all other zoning categories and put a Class V Conditional Use Permit under Commercial with Light Manufacturing. Similar to that in another form of expression would be tattoo parlors. Would we want that in Resort Commercial like Canyon Crossing or C-1 like Lightfoot's or down on Hwy 91 and 200 East, or should those by in Commercial with Light Manufacturing as well? We are looking for public comment on what zones are these uses most appropriate and then pass it to the City Council and then to the codifiers and have our Table of Uses updated. **Commissioner Doug Clifford** inquired what a Class V Conditional Use Permit is to help people understand? **Dale Coulam** stated that a Class II would be Mike Haycock as Building and Zoning administrator issuing that permit. A Class III is heard by the Planning Commission but no Public Hearing. A Class IV the Planning Commission can issue after a Public Hearing. A Class V is where the Planning Commission holds the Public Hearing and makes a recommendation to City Council for final determination without a Public Hearing at City Council. **Chairman Jeff Loris** opened the Public Hearing. CJ Koharcheck stated she lives on Puerto and would like to speak in favor of items 1 and 2. It is easier to take something out of the Table of Uses than to explain to a future developer why they can't put in a golf course or a carwash. We live in a desert and we need to embrace that fact. **Jennifer Chapman** stated that there were no hands raised on Zoom. Barb Pridie lives on 170 West and stated that she supports the removal of carwashes and golf courses because of water. Nancy Martinez stated she supports removing carwash and golf courses for water restriction reasons. It would be smart to classify the Sexually Oriented Businesses and tattoo parlors as a Class V Conditional Use Permit to maintain morality in our community. Hearing no further comments, **Chairman Jeff Loris** closed the Public Hearing.

D. <u>Discuss and consider recommendation on proposed amendments to the non-residential Table of Uses to clarify definitions and Classes of Use.</u>

Commissioner Doug Clifford stated that a lot of studies show carwashes recycle the water and they actually result in using less water than if they were at home running it into the street. We have a passion for having clean cars here. He would like to see some data to see which is more efficient. Golf courses are a huge use of water and there is no land in the City where we are going to put one in anyway so it is kind of a moot point. **Commissioner Dave Robinson** inquired on golf courses, would something like Top Golf be included? **Dale Coulam** stated we could do a definition for a driving range. **Commissioner Dave**

Robinson stated he doesn't see us having another full-size golf course here but something like a driving range might come in down the road. **Commissioner Pam Gardiol** stated that in the 80's she watched when Green Valley and Bloomington were created, and the ecosystem changed because of the golf courses. It is wise to take it out of the Table of Uses. If something changes, we can add it and she agrees that there is nowhere on the map that we would put one. She is in favor of removing that. Along with Commissioner Doug Clifford, she would like to see if carwashes really are more water efficient. How many do we really need? **Commissioner Doug Clifford** stated we are a capitalist society and if the demand is there, someone will provide it. **Commissioner Pam Gardiol** stated she would lean to remove that as well to be more in keeping with our environment. We talk in the General Plan about building houses and structures that are indigenous with the environment and that should apply to all aspects of our uses in the community. Tattoo parlors she has to say that she respects the art that is created. She does not see a tattoo parlor having the same impact. They deal with the pain and then come out. She could see more possibilities of where that could go, not necessarily where a Sexually Oriented Business or a full bar establishment would go. Those have a more significant impact to the flow of what goes on in the community. She would say that could be a Class IV. **Dale Coulam** stated that where he has seen tattoo parlors would likely be in our C-1 zoning, where there are nail parlors and a bank right next to it in Santa Clara. **Commissioner Dave Robinson** stated that a lot of beauty techniques are tattooing eyeliner and eyebrows and that is hugely common in beauty shops. He could see Resort Commercial having some of these like Black Desert Resort boardwalk. How do we separate that? **Dale Coulam** stated they are becoming more commonplace. He sees many in general Commercial. **Commissioner Doug Clifford** stated if we are recommending on Item 6 we need to pick as Class use and a zone. He agrees they are not the same as a Sexually Oriented Business. A full bar is different than a restaurant as well. **Dale Coulam** stated that has already been done by City Council. They only reason it was compared to Sexually Oriented Businesses is that tattoos may be form of expression and therefore a form of speech that may be protected. We would have to designate someplace in the City where they can go. **Chairman Jeff Loris** stated that recently there was a civil engineer conference and Zack Renstrom from the Washington County Water Conservancy District did a presentation and gave a description of the water coming through the Colorado River Basin into Lake Powell. He has given a percentage and when the dam was first built the flow was approximately 103%. Over the last several decades it has declined and flows at 70%. The requirement for the release of a percentage of the water downstream was initiated when the dam was created. The agreement with Nevada and California is a volume, regardless of the percentage of water, that amount agreed upon is still released out of the lake. So even though there has been an almost 30% reduction, we will see that more reduced from our lifestyle rather than theirs. So anything that conserves water, which the Water Conservancy District has done with dams, recirculation and reuse for irrigation, is exceptional. **Commissioner Doug Clifford** stated that Lightfoot's is already there, but the zoning now could be a requirement to have recirculating water. **Chairman Jeff Loris** stated that removing Item 1 from the Table of Uses sounds appropriate. Item 2 we don't know which is more efficient. Item 3 expressly needs to be more horizontal, as this area has a height restriction, view corridors and the night sky that we would like to not have emboldened over our head to block out the stars. Does hotel just need to be stipulated as horizontal? **Dale Coulam** stated he thinks we would remove the requirement for a lobby as a must. We use height as a limitation but the definition is broader and includes the horizontal. We can put that in the Table of Uses and let you review one last time. **Mike Haycock** stated that Dave Robinson articulated that language

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change last meeting to be recommended. **Chairman Jeff Loris** stated that bar definitely needs to be a Class V Conditional Use Permit and Sexually Oriented Business. Anything that has alcohol. Tattooing we need to think about eyebrows and the permanent makeup element. Solar makes sense how we have those. **Dale Coulam** stated that solar is just noted so it could go to the codifier. There will be another Public Hearing on this at City Council since it is a zoning text amendment. **Chairman Jeff Loris** stated we are against water usage for golf courses, and carwashes we are on the fence. **Commissioner Dave Robinson** stated he is in favor of keeping it. **Commissioner Pam Gardiol** stated he would like to see data if they are now required to recycle and if kept, we stipulate they have to recycle. Otherwise she would say let it go. **Commissioner Doug Clifford** stated we need to look at it for not only recycle, but how much is used even in recycling. If we say no, we have citizens do it out front of their house, and that all goes down the drain. **Dale Coulam** stated he will put this together in the Table of Uses and see how it looks before making a recommendation. **Commissioner Doug Clifford** stated so regarding tattoos, that would be a C-1 Class IV. **Commissioner Pam Gardiol** stated regarding Item 7 she recently went on a field trip with residents and passed a parcel of land where some ground-mounted solar panels were, that surprised her on how huge they were. What concerned her was if she wants to put in her backyard with neighbors on both sides, it seems pretty invasive. It was a huge series of panels. **Mike Haycock** stated that City Council debated that topic for two sessions in a row and addressed clarifying screening. City Council passed the Ordinance and took that into consideration and it now talks about trying to mitigate the look of a solar ground-mount system. Individual and neighboring property rights were both addressed in that and considered. **Commissioner Pam Gardiol** stated that screening would almost be as obtrusive as the solar panels. **Commissioner Doug Clifford** stated if you took off those roof mounts and put it on the ground, it would take up so much property. **Chairman Jeff Loris** stated so Dale Coulam will put that together and we will table.

MOTION: Commissioner Doug Clifford moved to table recommendation on proposed amendments to the non-residential Table of Uses to clarify definitions and Classes of Use.
SECOND: Commissioner Pam Gardiol
VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Doug Clifford	AYE
Commissioner Dave Robinson	AYE
Commissioner Pam Gardiol	AYE

E. <u>Public Hearing on proposed amendments to exterior colors regarding Light Reflective Value.</u>

Chairman Jeff Loris stated that that he has received pages of comments by email for this item. He appreciates all the voices that were heard. Michon Robinson stated in her comment that she thinks residents of Ivins should be able to use whatever color and lighting on their homes that they would like. That was the succinct statement of every page he holds. He would like to talk about the House Bill that removed the requirement and the difference of what we are doing here and what is allowed by law. **Dale Coulam** stated that the legislature passed a bill that said a city can't regulate design requirements, like exterior colors and height, unless there was a development agreement that said we could. So in Ivins, every subdivision requires a development agreement so there is no misunderstanding what will be built there. These issues, if a developer or owner chooses, are negotiable. We present a standard form that says they will comply with the design guidelines since they are in our ordinances, but if a developer or property

owner wants to negotiate those design guidelines, they are free to do so, because of that law passed by the legislature last year. We tried to apply and live by our design guidelines, but that won't be the case every time because the State has usurped our power. They have given us that exception so we start with what part of the design guidelines they want to negotiate. Most times they don't. They like the way the City has developed and the look and the breaks instead of long roof lines, architectural features around windows and porches and to have shading and look interesting and take away some of the massing. There are a lot of developers who agree with our design guidelines and that is the way they want to develop. There may be some developers who would probably negotiate some of those items away. Exterior colors with Light Reflective Value as a measurement has created a lot of confusion and angst in the community. Is there a better or another standard defining color that is maybe better than Light Reflective Value? Today it is popular to have lighter and darker colors. He has heard about chroma, but he is not an expert in this area. Within our design guidelines you have building material color and then Light Reflective Value as your standard of measurement, and is that the correct measurement to use? **Mike Haycock** stated that this was brought before you to clarify the ordinance and he gave the whole chapter to the Planning Commission so they could read it in context. There are different requirements there, like how it matches the neighborhood. He may go out on a cloudy day and it will look totally different than on a sunny one. It is a difficult way to determine. Whatever we end up doing we need clarity out of it. As people change we see it differently. We need a solid ordinance to be helpful, and this gets interpreted differently. We are looking to improve on this Ordinance and make it easier for all of us to see it the same way. **Chairman Jeff Loris** stated and more importantly make it easier for the building official to give us consistency. There are houses that are existing now that do not have a restriction on color. Only houses agreed upon by the subdivision developer under these development agreements. They will be tied to that agreement and negotiated subdivision to subdivision. Light Reflective Value is one of those choices. Shall we use it, shall we not? Shall we modify it or leave it the same? He opened the Public Hearing. Mike Hugo lives on Mesa Vista. He stated that the State did not usurp our power. They protected our freedom to put what we want on our house. You are trying to look for a different way to control it. Don't. You don't have a right to. More and more our rights are getting eroded away. More laws and regulations take away more of our rights. He says just get rid of it. Nancy Martinez stated she thinks we should retain these guidelines because without guidelines you can end up with anarchy. When a developer comes in, generally that subdivision has a HOA and they do that to maintain consistency and keep an attractive neighborhood. They have some sort of agreement so that certain colors are allowed. Residents can then choose within that framework. That is quite appropriate. Some people don't get it and you can end up with a real eyesore in the neighborhood. Dan Brown stated we should have the freedom to do what we want with our house. It is our property. That should be allowed within certain parameters. He lived in an HOA off of Dixie that had to all be white but they know what they are getting into. Everyone should have the freedom to do what they want. Chase Hamblin stated he built a home up the street. He was in a modular home and the neighbor's cats went underneath it and his daughter started getting sick. He lost his daughter six years ago because of it. He had to rebuild and got a hard time from the City about the color of his house, the pitch of his roof and roofing material. Mike Rodriguez told him he couldn't paint his stucco white, so we agreed on a really light gray color. He retired, and then after he painted the house the City was not going to allow them to move in. We couldn't paint our trim white. Our roofing material was too shiny. It is a flat black. We couldn't do the lighting as well, but we had improved the property so much more than

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what it was. It was a run-down double wide. It is a good looking home worth $850k. To a certain standard we should do what we want with our property. We are improving the neighborhood which is what everyone wants. His Dad passed away a month ago and he dealt with this. This caused more stress on him than anything. He is making this argument on his behalf because of all we went through. Barb Pridie inquired regarding height and exterior colors, what happens to a developer and subdivision when they do not follow these Ordinances? is it different for them than the public if those guidelines are not followed? **Chairman Jeff Loris** stated that this is a Public Hearing right now but Mike Haycock could answer any of those enforcement questions after the Public Hearing is closed. Lance Anderson stated that he lives on Fitness Way and is speaking as a member of the community, not as a Councilmember. We have had our authority usurped. It has moved from City to State. When we move to an HOA they have certain rights. Anyone that has moved into this City after 2008 has agreed to those Ordinances. That is what our community has said we want to live by. This is not something new. We got a little out of control as we went through different building inspectors but people move in and saying they want the right to do what they want, but they also want the City to solve their problems for them. The neighbor's tree is too big. My neighbor has painted his house pink, or has garbage out front. He believes the Governor has usurped our authority as a City. The City is a group of people who come together like a family and agree on certain rules and regulations to live by. Someone should not be able to come in and just take that right away. These are our investments. There are rules in place to keep uniformity. These rules have been in place in our City a long time. He lived here when there was only 600 people. He knows what Ivins has become compared to what it was. People moved here for a purpose and he wants them to continue living the way they have. No one is trying to take away that right. Light Reflective Value is not the Ordinance. It is one little piece of the Ordinance. Light Reflective Value is not just for an individual developing. It is for the guy that wants townhomes, apartments. That is why it is important to keep in place. We are trying to protect the bigger items to keep Ivins what we want it to grow into. Along Hwy 91 there used to be a salvage yard. We bought them out or it would still be there. The Governor usurped our authority and took away what we as a community wanted for a long time. We have new people moving in, but that shouldn't take away what has been in place for a long time. Jan Brown stated she lives on Praya Drive. She loves Ivins for its uniqueness and the wall in the Council room, that color palette represents Ivins. Communities that are beautifully developed like Kayenta and Entrada, everything is appealing and blends with Ivins. She personally wishes common sense could prevail and prevent something really crazy from going on in our beautiful community. She wants to keep Ivins pretty. She loves it here and thanked the Commission for all they are doing to keep it that way. Rachel Christiansen stated she lives on 855 South. She is against this. The control level is getting out of control. We have rights for our property. **Jennifer Chapman** stated that no one on Zoom has raised their hand. Dusty Saxton stated he lives on Main Street and he agrees with getting rid of it. We should not go into relationships with homeowners or developers expecting them to do something like this. Developers are in business to make money not to throw it down the drain. **Commissioner Pam Gardiol** stated there was one individual that asked to be put on public record. Dear Ivins City Planning Commission, As an Ivins City resident, I am opposed to the strict enforcement of the City's current Light Reflective Value (LRV) requirements and believe these regulations should be abolished and not expanded. Having served on a planning commission for a city much larger than Ivins, I am well aware of the issues and pressures faced by planning commission members; and I appreciate this opportunity to share my feelings regarding the LRV regulations. My reasons for opposing the

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LRV regulations are presented below: Light Reflective Value regulations are apparently prohibited by Utah law. These regulations are an over-reach of City authority. Because Utah prohibits these regulations, enforcing the LRV regulations exposes Ivins City and it's taxpayers to costly litigation. City Officials should not bow to the wishes of a small vocal minority who are seeking to impose their will on the entire community, but rather consider the desires of a majority of Ivins City residents, even though they may not be nearly as vocal. Neighborhoods which have a majority of residents desiring "light pollution control" may impose LRV regulations or similar restrictions on their neighborhood by initiating a Planned Unit Development (PUD) governing structure, or a Home Owners Association (HOA), or some other similar organization. Restricting exterior lighting on homes, streets, intersections and commercial parking lots, as in the Kayenta Development, creates public safety and security issues. Since I will not be able to attend the Public Hearing in person, due to a previous commitment, I am hereby requesting that my email be read out loud by a member of the Planning Commission or Staff and entered into the official record of this Public Hearing. Thank you for this opportunity to expresses my feelings regarding Light Reflective Value regulations. Respectfully, James H Reynolds, Ames, Iowa. **Commissioner Dave Robinson** stated that all emails he received were for some level or reason to abolish Light Reflective Value. Cherise Spencer sent in her letter, stating: I am not able to attend the public hearing March 15th in regards to the Light Reflective Value, but I wanted you to know I am against Light Reflective Value requirements set by the city. According to Utah state law that was passed and signed by Utah Governor on 5-28-21 cities and counties, in that bill there is section 10-9a-534 Regulation of building design elements prohibited. I decided to listen to the minutes of the legislation to find out why this bill was created and passed. Rep. Paul Ray stated "City and County should be in charge of safety of a home", "Goes back to personal property rights, for example a homeowner wants to paint their home the same color as a neighbor down the street from a while back, but now the city does not allow that color. The cities should not do that". "It's for the homeowner to decide how to style outside of their home. For example what type of rock, stucco, or siding and how much of it" Again cities and counties should absolutely worry about safety when a home is built. One of the big pushes for a bill like this seems to be about the cost of construction for a home. As you know cities in the state of Utah are all struggling with keeping the cost of homes at a more moderate level. They are hoping by not having cities regulate the style, color, and types of building material costs can go down. This bill was intended to help cut some costs and for the property owner to actually have property rights. We should not zone people out of our city." "They can't tell you what color your house has to be, if you can't have siding, stucco, brick, rock, those types of things," Ray said. "As long as it meets safety and health codes, the rest is your choice." I agree with Rep. Ray and feel like cities should not require Light Reflective Value by doing so in my opinion overstep their authority. The color of your home does not have anything to do with Safety or Health. Hearing no further comments, Chairman Jeff Loris closed the Public Hearing.

F. <u>Discuss and consider recommendation on proposed amendments to exterior colors regarding Light Reflective Value.</u>

Chairman Jeff Loris stated the reason he had Dale Coulam talk about HB 82 is we all have the right to paint their home their own color. Each developer and development has an agreement with the City and everyone in that subdivision is bound by that agreement. In those CCRs it is stipulated that the colors and elements in that subdivision are stated and rectified in this document by the City or by that agreement. Should we keep, modify or remove this? We are

trying to make this community work really well together and Staff, City Manager, the Mayor, City Council, TRC are all just trying to make that easier. Mike Haycock is just trying to make this compliant. Whether we want to keep, remove or modify Light Reflective Value, that is the element we are looking for, for development agreements in the future. Nothing in the past. Everyone already has that right because of HB 82. **Commissioner Dave Robinson** stated that he would love to remove this altogether. We talked about living in a PUD in St George and when you move in there you know there is a governed color in that PUD. That is their requirement as a Planned Unit Development which has their own governing rules. He has no problem with that. That is what they want and that is what you know you are getting into. Any subdivision that has no HOA, like he moved into, we are regulating what we can do on exterior colors of our house and he had to alter his color. The house next door got approved and then had to paint the house before he could sell it. This is ridiculous. It is personal preference and if you are buying a home in an open area of Ivins it should be your choice what you do with your property and should be taken out of those agreements. His thought process is this is an end-run around usurping State law. We say we are not forcing them to do this. What contractor will put up a stink over color. He has millions of dollars on the line. He will sign whatever the City wants him to sign so he can start digging and get money back in his pocket. He won't put up a fight. This is citizens saying this is our right and this is what we want. **Commissioner Doug Clifford** stated that we have inconsistencies in how we approach this because we have these agreements and then say the word negotiate. If they can negotiate out of it, then it is not a standard. The majority may like but the minority may oppose and if he negotiates, he can get whatever he wants. The trouble is if we have a law or Ordinance, we need to weigh to measure it that can't be negotiable so you can look at it and say this meets the requirements, this doesn't. Negotiable makes it squishy. We are trying to apply something that fits our General Plan. It is the holy grail of the vision of the City and what we want it to be. How do we quantify that vision? It is amorphous. We have night sky and color and lighting for their kids and different things are important to different people. Those are all hard things that are really hard to quantify. The only way to allow it to happen is to have a HOA so that all people that buy into that agree they are going to live by that set of rules. You know those rules are binding. Can we extend that to a City? No. That is what the Governor said. We can't extend that to an entire community. He can choose to live there and follow those rules and maybe change them within his HOA but he made that choice. The problem is that people move into an area and don't know the rules or know the HOA and then they get upset. At some point we have to draw the line and we do that by saying within our local subdivisions and developments where we have restricted covenants that people accept when they buy into those areas, they bind their color. He thinks the City in general can't. All we can work on is the fact that we have a General Plan that says we want the area to blend with our environment. We have people say they want a black house because we have lava. A red house because of the red mountain. White because we have Snow Canyon. We can't argue with those. They fit in the description of blending with the community. We are trying to measure with an inaccurate tool. If John Deere green works, then it isn't the right measure. We should just drop it and let the color palette be left to the HOA. Remove it. **Commissioner Pam Gardiol** stated she pulled up all the minutes from this body that referred to Light Reflective Value. It seems to her that we are looking at Light Reflective Value as one leg as a four-legged stool. We have 16.19.103 Subparagraph 5 talks about building material color. It says the color of all exterior building materials and surfaces shall blend the proposed new buildings with the natural environment of the City. Color is an important and effective way to create harmony with the natural landscape

and minimize the visual impact of structures. Color variation using compatible hues can reduce the apparent scale and building mass. Exterior building colors that respect and enhance the natural tones of the southern Utah environment shall be used. So the four elements are minimize impact. Blend, not contrast with natural desert colors. Light Reflective Value and color intensity and brightness. Chroma shall be in a range from very weak to medium-weak and matte finishes are recommended. We are asking the wrong question. What we are looking at is what matters to the community. That is where the General Plan comes in. People own that which they have a voice in creating. The Commission is in the process of reviewing the General Plan and we encourage citizens to come in and talk. The General Plan should never be a document where some people believe that other people created it. If other people create it because they didn't use their voice that is their choice. She sits with the Planning Commission because she wants a voice in this amazing community. Before we decide on Light Reflective Value, one leg, that there are pre-requisites to answering what we do. First, we complete the review of the General Plan and do outreach on the community and come together and respectfully listen and disagree and then have a common criteria against which we make the decisions. If we don't know where we are going any road will take us there. We have the opportunity to say that we care about the quality of life in this community. Maybe we redefine Subparagraph 5. Democracy is not a spectator sport. Secondly, ensuring the capacity and capability to enforce subsequent elements and every community is going to have variation in the way things are. We as a community need to do some homework so there is consistency. The third pre-requisite is to communicate and satisfactorily address the Governors directive on who we are as a community. She senses we have not effectively communicated to our citizens any of this. If she chooses to be a spectator, has small children or works out of town or for whatever reason she is not aware of what is happening part of that is on me but part of it is on the community to find more organic ways to communicate. We can come up with a common standard here. She respects that everyone in this room cares about what happens in this community. Thank you for being here. She would like to table this item until the General Plan review is complete so that our recommendations align to the City Council with a revised General Plan. **Commissioner Dave Robinson** stated that as a rebuttal, that is why we do the Public Hearing is to allow input. He posted a Facebook post to make people aware of this and of the 20 that replied, one was in favor of keeping it. The rest wanted it gone. The community is responding. We are hearing that. Even reading about colors not being in contrast and blending with the City, if we look at that beautiful wall, that is representation of our City. We see white and we see black in there, yet neither of those colors fit Light Reflective Value. You could not do your house in those colors. It is impossible. The Browns used to be my neighbors and the ground we excavated there had all white rock. It is an element of color and black lava. There is no color in the spectrum that is not a natural color of Ivins. We put the green here in the desert. It wasn't here before. It is not our decision, the City's to say. That is your decision. The fact is now the agreement is only for new subdivisions coming in. This will all retrofit at some point. That is my opinion. We already know what the community wants and we have been dancing around this for a long time. The State told us what they wanted, and we danced around that. It is time to get rid of it and move on. **Mike Haycock** stated when we have to issue a Certificate of Occupancy that is when a contractor says what about these other houses? Why should I obey this ordinance? Because they signed a contract to obey this ordinance. They are competing against other guys and would like to do the same thing. The enforcement is through the contract they have signed and agreed upon. **Chairman Jeff Loris** stated that in the future, say a development agreement has been signed and a second or third owner in that

subdivision chooses to disagree or not follow the contract for that HOA, PUD or agreement. What is the ability to enforce that? **Mike Haycock** stated that it stays with the property. It was developed underneath that agreement. **Dale Coulam** stated a development agreement is similar to an HOA's CCRs. Some subdivisions choose to have an HOA and some don't. The Council has said that every subdivision is to have a development agreement. What goes in that agreement is up to the person developing that subdivision, just like if they were putting together CCRs for an HOA. If people don't know what they are getting into, it is recorded with your chain of title. Be sure to read your documents when you buy into your subdivision. It is a contractual agreement that is being enforced. The Governor recognized that there could still be contractual agreements for individual subdivisions. A development agreement, CCRs in an HOA. The spokesman is the developer who has the vision for what he wants that development to be and that is what they agree to in that development agreement. People who buy into that are subject to that agreement. A lot of people try to avoid HOAs because of dues and so they use a development agreement with the City. It is not City-wide but by subdivision. The Commission can keep or throw away Light Reflective Value, but what you recommend and what Council ultimately adopts is what we have to follow. It is not my role to say whether building material color should be specified or not in an ordinance. What you select will be set forth under our design guidelines. What the Governor signed did away with many of those things. Many would be upset if you had a four-story house built next to you. Technically everyone has the right to do that under the new law. They did away with height as well as exterior color. A developer starts out the initial CCRs and they control that HOA for quite awhile until there is enough to turn it over to the HOA. They control that development and how it looks in the end. We don't enforce CCRs. We do enforce development agreements. **Chairman Jeff Loris** stated that people state they weren't there when the developer built, but if you chose to move into that subdivision, you did essentially agree to the development agreement. Commissioner Pam Gardiol had suggested we table this, but to what end? The agreement is with a single applicant and the City. That group of people that will move into that subdivision will agree to live there or not. He doesn't know why we would need to extend or drag this out. Three of us are in agreement of removal of Light Reflective Value for future development agreements. **Commissioner Doug Clifford** stated that the big problem is it is an unquanitifiable metric. The metric is that home colors should blend with our natural environment. Light Reflective Value doesn't work. Let's just drop Section B. We still want to blend with the natural environment. We are not solving the problem by having it in there. It was a reach and it didn't work. **Commissioner Dave Robinson** stated that he gets frustrated with the comment that it is the developers choice. We lay out a document in front of them saying this is what we want you to go by. It even being in that document guides it. Take it out of the document, and they can still choose colors if they want to. Let's not imply what we want those colors to be anymore. We are holding their checkbook over their head to make a decision. **Dale Coulam** stated it is just a draft not a piece of paper with a hammer hidden behind it. **Commissioner Dave Robinson** stated that if they don't use ours, they have to go to an attorney and draft their own, so if they want to change this they have to spend money. **Dale Coulam** stated that is not what he is saying at all. **Commissioner Pam Gardiol** stated that regarding Light Reflective Value she still goes back to the larger issue that states exterior building colors that respect and enhance the natural tones of our Southern Utah environment shall be used. Dale Coulam in past minutes had defined Items A, C and D as subjective and Item E as objective. If we take out Light Reflective Value, do we not have same constraints with the other items which is shall be used? **Dale Coulam** stated if there is going to still be a limitation on

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building color, take out all the subparagraphs and put the line in from the General Plan. The General Plan is not an ordinance. It is not a binding document we enforce, it is just our vision. The binding document is the zoning ordinance. If you don't like restriction on exterior color and just follow the vision, remove that section and follow the visionary document. There would be no further guideline by the zoning ordinance. **Commissioner Pam Gardiol** stated she is not suggesting removing Subparagraph 5. **Commissioner Doug Clifford** stated remove Light Reflective Value but still have in the development agreements addressing building colors and that they naturally blend. They make their own plan in the subdivision that they blend with the environment. Then we can enforce it and it meets the General Plan. **Dale Coulam** stated how would Mike Haycock define it? **Commissioner Doug Clifford** stated he is given a color palette. **Mike Haycock** stated we do that on pre-approvals now when they bring in their plan review we see the palette. Rather than enforcement after the fact, we enforce the ordinance at plan review rather than the end. He tells contractors that are not compliant to have the block onsite for stucco inspection to be sure it complies what you agreed with at building permit stage. **Commissioner Doug Clifford** stated show the City the palette for their subdivision and that it enhances the natural environment of Ivins. If Mike Haycock agrees, that way they can choose. **Mike Haycock** stated they can do that without changing the wording at all. **Commissioner Doug Clifford** stated that this says everyone has to follow Light Reflective Value. Let's say they don't. That they just have to come up with a plan that is their way of meeting that objective just like CCRs and HOA we all come up with a set of rules to live by and we are bound by those. **Dale Coulam** stated he is hearing to maybe add a subparagraph that developer shall provide the building official with a palette of colors that blends with the natural environment of the City and remove Light Reflective Value. **Commissioner Pam Gardiol** stated before she votes, that she remembers sitting at Planning Commission meeting when Cody Mitchell stated that he needed something with some teeth, and we have just taken the teeth out. She thinks we have not solved the problem.

MOTION: Commissioner Dave Robinson moved to approve recommendation on proposed amendments to exterior colors regarding Light Reflective Value, removing Item B as a Light Reflective Value as a measurement and require developer to provide a color palette for the City that blends with the natural environment.
SECOND: Commissioner Doug Clifford
VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Doug Clifford	AYE
Commissioner Dave Robinson	AYE
Commissioner Pam Gardiol	AYE

G. <u>Discuss Land Use Map, Zoning Map and General Plan Amendments.</u>

Mike Haycock provided an asterisk and a good way to divide Commercial and Resort land use. Those are starting points to review and think about. As we talk to citizens and get input this may be something easier for developers. The asterisk is something we have discussed that would clarify on the zoning map on the RA-5 and RA-1, it would basically say see land use map and be able to see where the intentions are for the land. There is a more detailed note on the bottom of the same table telling people what the process is. They can do concurrent or a zone change but if you look at the land use that is the direction we would like to go. Hopefully concurrent will go away because we've done such a great job with amending the land use plan. **Commissioner Doug Clifford** stated that the map is very well done and it expresses a vision for the City that

would lead to consistent areas and different types of use. It is not cast in concrete though, because people have the right to come apply for almost anything if they want to, but that is the vision of what the community would be like based on the transportation map and corridors and existing areas that are already entrenched in what they're going to be. **Chairman Jeff Loris** stated he agrees with that. We are to the point of getting public involvement and hearings and open houses to get more input. Making larger areas with subsections to help us understand is a great idea to help understand what would work better in those areas. **Commissioner Dave Robinson** stated yes he likes it and agrees to move it to the public. **Commissioner Pam Gardiol** stated great minds think alike. **Mike Haycock** stated we have a three week break but he would like two Commissioners and two Councilmembers. We can speak with the Mayor to see what his suggestions are. Not to have a full quorum, we can split it up with different Commissioners and Councilmembers at different meetings. We are ready to schedule. **Commissioner Dave Robinson** inquired if we would meet at City Hall? **Chairman Jeff Loris** stated it would be easier to come here. **Commissioner Doug Clifford** stated we can showcase the new building. **Commissioner Pam Gardiol** stated she suggests holding it in a neighborhood to bring out different people. We'd get higher participation with a broader range of people. We can hold it at schools. **Mike Haycock** stated it is getting warm enough to have it at a park. **Commissioner Pam Gardiol** offered to be one of the Commissioners to attend.

H. Discuss and consider approval of the Ivins City Planning Commission Meeting Minutes for March 1, 2022

MOTION: Commissioner Pam Gardiol moved to approve the Ivins City Planning Commission Meeting Minutes for March 1, 2022
SECOND: Commissioner Doug Clifford
VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Doug Clifford	AYE
Commissioner Dave Robinson	AYE
Commissioner Pam Gardiol	AYE

4) REPORTS

A. Planning Commission

Commissioner Dave Robinson stated he is sad to lose Chairman Jeff Loris and thanked him for his service. **Commissioner Doug Clifford** stated the longest meeting in history was your last meeting. **Chairman Jeff Loris** stated he would like to thank each of the members specifically and personally for all the help and guidance and Dale Coulam's help keeping us all out of trouble. His wife will be happy to see him at home. **Mike Haycock** stated that nothing new to report. We are going to start looking at Home Occupations, but we will get through this process first and some inconsistencies in the walls as well to clarify. **Commissioner Dave Robinson** stated he would like to be involved in that with his experience.

B. Chairman

C. Building and Zoning Administrator, Mike Haycock

D. City Attorney, Dale Coulam

Dale Coulam stated that he wanted to thank Chairman Jeff Loris for his years of service and that we will no longer have someone to go over the plats in such detail to correct them. He has been a tremendous asset and will be greatly missed.

E. Items to be placed on future agendas

5) ADJOURNMENT

MOTION: Commissioner Doug Clifford moved to approve ADJOURNMENT
SECOND: Commissioner Dave Robinson
VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Doug Clifford	AYE
Commissioner Dave Robinson	AYE
Commissioner Pam Gardiol	AYE

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