IVINS
CITY COUNCIL
MINUTES
September 29, 2022

NOTICE: This meeting was held electronically and in person. City Hall was the anchor location for the electronic meeting. You may watch the audio and video feed by going to www.ivins.com under "City Council" on the right of the home page and selecting "Audio".

1) WELCOME AND CALL TO ORDER

MAYOR AND COUNCIL: The meeting was called to order at 5:30 p.m. and announced there was a quorum present.
All present included Mayor Hart, Council Member Scott, Council Member Johnson, Council Member Murphy, Council Member Anderson, and City Recorder Kari Jimenez.
STAFF: City Manager/Attorney Dale Coulam, Building and Zoning Administrator Mike Haycock, and Parks and Recreation Director Benny Sorensen.
EXCUSED: None.
Audience: Chris Haddad, James Barden, Shelly M., Lynne Johnson, Sharon Barton, Michael Barton, Barbara Lewis, Julie Dean, Sharon Gillespie, Becky & Chuck Warren, Kathy Alpaugh, Connie Butterfield, Frankie J. and others who did not sign in.

A. Acknowledgement of Quorum

Mayor Hart acknowledged there was a quorum present. Council Member Scott was in attendance via the Zoom application. Council Member Mehr was absent.

B. Flag Salute

Council Member Johnson led the Flag Salute

C. Invocation

Council Member Johnson gave the Invocation

D. Disclosures

Council Member Anderson referred to agenda items 4)E and 4)G and disclosed that he is the applicant on those agenda items. There were no other disclosures or conflicts of interest with items on this meeting's agenda.

2) REPORTS, PRESENTATIONS AND APPOINTMENTS

A. Concept Plan Report for Black Desert Resort Maintenance Facility/Warehouse located at approximately 1500 East Black Desert Drive. Enlaw, LLC-Owner. Stephenie Nast-Applicant

Mike Haycock reported that the Black Desert Resort Maintenance Facility/Warehouse Concept Plan consists of a total of 19.65 acres. The Land Use is RC-Resort Commercial, which is one of the zones allowed for Resort Mixed Use-RMU. The application is complete and meets the required zoning.

B. Concept Plan Report for Black Desert Family Village located at approximately 1500 East Black Desert Drive. Enlaw, LLC-Owner. Stephenie Nast-Applicant

Mike Haycock reported that the Black Desert Family Village Concept Plan consists of a total of 19.65 acres. The Land Use is RC-Resort Commercial, which is one of the zones allowed for RMU-Resort Mixed Use. The application is complete and meets the required zoning.

C. Amended Concept Plan Report for Kwavasa Phase 2 Subdivision located at approximately Kwavasa Drive and Kaleva Trail. Kayenta Development-Owner/Applicant

Mike Haycock reported that this Amended Concept Plan consists of a total of 40 lots on 49.78 acres. The Land Use is Low Density Residential and is zoned RE-43 (Single Family Residential estate, minimum lot sizes of 43,000 sq. ft.) with lot averaging, which is one of the zones allowed for Low Density Residential. The application is complete and meets the required zoning. The TRC (Technical Review Committee) identified drainage as a concern on the property that will need to be addressed. The TRC also discussed the developer's intention on where the sewer would connect.

D. Department Reports: Parks and Recreation and Public Safety

Benny Sorensen reported that Heritage Days went well. Flag Football will be finishing in October and Cross Country and Youth Volleyball are going well. Registration for basketball will begin on October 1st and Bing in the Park will start up again on Tuesday and Thursdays beginning on October 25th and go through November 17th from 5:00-5:45 p.m.

Fire Chief Parker reported that they are working on several agreements for their apparatus, including a lease of a fire truck to Dammeron Valley for use in their fire academy. They have consolidated some budget items to reflect their current staffing for Center Street and are working on program planning need to prepare for next year's budget. Two (2) members are undergoing EMS training at Dixie Tech and two (2) more will be attending Paramedic School at Mohave Community College in 2023. Discussion planning for the Center Street re-build/redesign are in process. Employee Mark Youngberg is certified in Fire Inspection for general business inspections and assigned to Ivins City for those needs. CERT (Community Emergency Response Team) training will be starting Oct 20th and offered through the County. The back page of his report addresses emergency response times by station, and they are going through the ISO rating again.

E. Planning Commission Report

Commissioner Dave Robinson reported that the Planning Commission heard Concept Plan reports on the Black Desert Resort Maintenance Facility and Warehouse, the Black Desert Family Village and on the Amended Concept Plan for Kwavasa Phase 2. The Planning Commission held a Public Hearing on a proposed Amended Class IV Conditional Use Permit for Sentierre Development and Construction offices and recommended approval. They also approved Final Plats for the Vista Estates and Black Stone subdivisions.

3) CITIZEN REQUEST FOR FUTURE AGENDA ITEMS REGARDING ORDINANCES, POLICIES OR OTHER LEGISLATIVE ITEMS - None

Mayor Hart requested that the Council suspend the rules and bring items 5)A and B to this point in the agenda

MOTION: Council Member Anderson moved to suspend the rules and bring agenda items 5)A and 5)B forward to this point in the agenda

SECOND: Council Member Murphy

VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Mehr	ABSENT

5) DISCUSSION AND POTENTIAL ACTION ITEMS

*A. Discuss and consider approval of Resolution No. 2022-20R, a Resolution of Ivins City, Utah, appointing an individual to the Sensitive Lands Committee

Mayor Hart publicly recognized Joanne Cooper and Lisa Rutherford and thanked them for their service on the committee. Lisa Rutherford had served on the committee for eight (8) years, was Chair for a number of those years and did a wonderful job. The appointment of Joanne Cooper was a professional appointment, and she did a wonderful job as well. The recommended appointments to replace those two positions are Kai Reed and Tyler Froelich. Kai Reed is a longtime resident and has given her all to the beautiful lands that surround us. Tyler Froelich was one of the Architects on the VCBO team that designed the current City Hall building and has lived in Ivins for three (3) or four (4) years. **Kai Reed** provided some history of service and advocacy work, and those experiences were really educational, and she felt comfortable serving on the Sensitive Lands Committee. **Mayor Hart** stated it's a citizen at large position. Tyler was one who was at the roots of the wonderful earth wall that is the centerpiece of the new City Hall and is environmentally conscious.

MOTION: Council Member Johnson moved to approve Resolution No. 2022-20R, a Resolution of Ivins City, Utah, appointing an individual to the Sensitive Lands Committee
SECOND: Council Member Murphy
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Mehr	ABSENT

Roll call vote. All Council Members who were present voted in favor. One Council Member was absent.

*B. Discuss and consider approval of Resolution No. 2022-21R, a Resolution of Ivins City, Utah, appointing an individual to the Sensitive Lands Committee

MOTION: Council Member Johnson moved to approve Resolution No. 2022-21R, a Resolution of Ivins City, Utah, appointing an individual to the Sensitive Lands Committee
SECOND: Council Member Murphy
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Mehr	ABSENT

Roll call vote. All Council Members who were present voted in favor. One Council Member was absent.

4) PUBLIC HEARING AND ACTION ITEMS

A. Public Hearing on the Planning Commission's recommendation for a Land Use Amendment from LDR (Low Density Residential) to RC (Resort Commercial) and a Zone Amendment from RE-20 (Residential Estates, minimum lot size 20,000 sq ft) to RC (Resort Commercial) and RE-37 (Residential Estates, minimum lot size 37,000 sq ft) on approximately 31.5 acres. Located at approximately Black Desert North Village on Snow Canyon Parkway and the future Hamblin Parkway. Enlaw, LLC-Owner. Patrick Manning-Applicant

Mike Haycock referred to the location of Snow Canyon Parkway and Black Desert Resort and reported that starting with the land use, the location of this property is on the north end of Black Desert Resort. The Western Corridor is on the south side of the property. The concurrent zone change request is currently LDR (Low Density Residential). The Planning Commission recommended changing this to RC (Resort Commercial) as the land use, with the zoning being RC also. The RC is consistent with the rest of the parcel that's being used for RC and on the left is RE-37 that adjoins the Padre Canyon subdivision. **Mayor Hart** inquired if that was the required buffer? **Mike Haycock** stated yes. **Mayor Hart** opened the Public Hearing. **Sharon Barton** resides at 571 Mesa Vista Drive and commented that she was requesting that the City Council not support the Planning Commission's recommendation for the land use amendment from LDR to RC and a zone amendment from RE-20 to RC. She indicated that not just in Ivins, but throughout Washington County, it is becoming more apparent that they have reached their tipping point throughout Southern Utah in resort commercial development. There have been articles in the news about tourism and the Washington County Solid Waste District reporting on difficulties with growth. In Ivins, there are over 1,700 room accommodations that have already been approved without this request. Most residents want Black Desert Resort to be successful, and they hope that they are, but at the same time approving additional resort commercial zoning for Black Desert, which includes short term rentals, adds more room accommodations, which challenges Ivins tipping point. She requested that the City Council deny the land use amendment to RC and a zone amendment to RC and commented that they should focus on supporting Black Desert in achieving success with their current and already approved Concept Plan and eliminate the risk of committing Ivins to even more resort commercial.

Becky Warren resides at 974 N Talasai Way and referred to a story to related to the issue of approval for the short-term rentals at Black Desert Resort when she and her husband began attending City Council meetings. Approximately nine (9) years ago there were about five (5) people that attended regularly. Her memory was that at one meeting there was an agenda item that came before the City Council regarding two (2) homeowners living on Highway 91 and one homeowner wanted to build an RV park. The homeowner next to the property was opposed it was to the point that they were talking about hiring a lawyer. The City Council was involved because of zoning issues. As the issue was discussed and not easily solved, Council Member Densley at the time said he knew both families and volunteered to meet with them to see if they could come up with a compromise. The City Council agreed, and he met with the parties. The process was successful, and they came to a mutually acceptable agreement. Her observation of this is that there is balance that needs to happen between the need for the City to produce income, to maintain necessary City services and the need for residents to build community and maintain a high quality of life, Looking at what short-term rentals add to the community, they add money to the City budget, they add jobs to the community, they add more opportunity to each shop and golf in Ivins and they add traffic to the roads. The increase in population will cause Snow Canyon State Park to have a lot more people in the park and parking will become an issue for residents. Tourists will not be volunteering, building the community or making Ivins a better and safer place to live. Safety on paved paths will become an issue because there will be a lot more electric bikes. Those safety issues will only increase with the influx of tourists. She requested that the City Council not approve changing the original plan and adding short term rentals.

Lisa Ganz resides at 557 West Bickmore in Ivins and indicated that she reiterated much of what had already been said. At the last City Council meeting the community made it clear that they

do not want more short-term rentals and approving this would add more congestion. Ivins does not need another Resort Commercial in the area. She supported Patrick Manning and his project at Black Desert but there is already a hotel there. She understood that this development was intended to be single family homes that that could be rented out but if those were turned into homes that weren't rental homes, that would add to the beauty of the property and be consistent with the other zones in the area.

Ed McDonald resides lives in the Encanto subdivision across from Black Desert Resort and five (5) years ago bought his lot with the intention of living in Encanto. He has been there for three (3) years and is not going anywhere - he loves Ivins. He expressed his appreciation to the Mayor on the great job he does. He has learned that with Encanto, there is a serious lack of community. There are people who own homes, and some are known but there isn't a real solid connection as would be in a regular neighborhood and he found that to be a little depressing. Ivins has enough short-term rentals and thought that the Council needs to stand up and do something right and not approve this at all, for the sake of the Ivins community.

Sharon Gillespie resides at 575 East Ridgecrest Circle indicated that at the September 1st City Council meeting, Ivins residents gave the Council a lot of data on the negatives of short-term rentals. Ivins residents understand that the positive is financial but until everyone decides to do it on their own and bypass all the roots of where they're giving money to property management companies and cities and States can keep it all in their pocket, it is well documented that this happens. Ivins residents are 1000% in support of Black Desert Resort and want it to be successful. Patrick Manning has been very thoughtful in the process until this request. This request is to build mega mansions for families to rent as short-term rentals. Who's going to own them, and will these be run through the hotel as part of the property? She gets that people take all these real glamorous trips and they rent these big elaborate homes but that's not Ivins and it shouldn't be Ivins.

Patrick Manning stated some of the people that have spoken tonight are friends and he respects their positions completely. He clarified that the map with the purple area on it looks scary because it's Resort Commercial, and typically that means higher density. But what is being presented is a downgrade in density than what is there currently because Black Desert is doing 33 lots on 31 1/2 acres, which is less than RE-20. The other important point is that these lots are all presold to people who have been waiting for these lots for a couple of years. Individuals, friends, and family. All of them are intending to design homes that are for their family, but they also want the ability to have the hotel rent the homes out. The homes aren't being designed and built to be sleep 45 people like they see in some other places. These are people who it's their home first and it's rented through the hotel second. It's important that when you add this property to the development area of Black Desert it goes from 70 acres that is being developed on and the rest is protected to 101 acres. The developers have fully designed Black Desert out, they know exactly how many residences there will be and hotel rooms. When you add the 33 lots here it is still below the allotment in the development agreement on just the 70 acres. With this being a gated community, Black Desert intents to build a golf cart path and public access underneath Snow Canyon Parkway to connect to Red Mountain Resort, which Black Desert should close on (real estate closing) in November and combining that with Black Desert operations. They are also planning a path underneath the future Hamblin Parkway, for a direct connection between this piece of property and all the amenities of Black Desert, without going out onto a road. With all respect to those that disagree, he believed this request was entirely appropriate for Black Desert.

Mayor Hart inquired if there was anyone attending the meeting through the Zoom application that would like to make a comment? **Cade Visser** stated "no". **Mayor Hart** closed the Public Hearing.

B. Discuss and consider approval of Ordinance No. 2022-10, an Ordinance of Ivins City, Utah, approving a Concurrent Land Use and Zone Change for the northwest corner of Black Desert Resort from Low Density Residential/RE-20 to Resort Commercial for both Land Use and Zoning

Council Member Scott indicated that Black Desert Resort has a Development Agreement that allows a total of 1,201 units on their property and the current site plans to build 1,153 units on the existing property. **Dale Coulam** stated that Patrick Manning was giving a thumbs up from the audience, indicating that was correct. **Council Member Scott** stated that with the 1,153 units on the existing property Black Desert wants to add 33 units on this 31-acre site, that still keeps them below the 1,201 units allowed under the Development Agreement. He inquired if the Development Agreement would also apply to this site? **Dale Coulam** clarified that it would apply to this site. There's an amendment that will be coming forward that amends the legal description to include this property. If it is zoned Resort Commercial, then it will be included in the Development Agreement that controls the rest of the resort. **Council Member Scott** indicated that he was not a fan of short-term rentals, but he doesn't really view this as standalone short-term rentals. It's part of the resort and he viewed this end product very differently from short-term rentals. The resort will have a lot of amenities, it'll be tied into the hotel and the resort operation. He is more favorably inclined to a resort type use like this. He was concerned about how much tourist accommodations Ivins can actually handle in the long run and he worried about water and has gotten emails from residents who are concerned about more development and water. His concern is that it's been said that Ivins has enough water, even for the new development that's in the pipeline but news from all around the southwest paints up a scarier picture about water situations in other communities. Hopefully Ivins does have enough water but there isn't enough information to be able to feel comfortable that we do have enough water. If there isn't a water problem, he would like information showing it. He contacted the USGS (U.S. Geological Survey) and spent time with the Data Chief and the Investigations Chief at the Water Science Center. He received data on stream flows for the Virgin and Santa Clara rivers going back to 2006. It shows that the median annual stream flow is 97,000-acre feet a year but last year was only 72,000-acre feet. It's things like that that that make people a little bit worried. He also received information about the ground water situation. Maybe there isn't a water problem yet but there just isn't the data to feel comfortable about it. He was really concerned about doing any rezone until they have enough information on water.

Council Member Johnson stated that in relationship to the water, based upon the fact that it's been stated there will be fewer dwellings in that area, water is not going to be drastically different one way or the other. So that's not necessarily an argument by itself and leading to that with the fact that there will be fewer dwellings than what was listed and still within the amount that was allowed within the Development Agreement is a positive thing. **Council Member Murphy** indicated that she liked hearing the fact that these are going to be owned by individual owners that are going to be using the homes and then put them in the rental pool and that they are not just going to be a bunch of units stuck back in the rental pool. It's also already a resort being added to with 1,201 allowed, and it's down to 1,186. It is talked about mega mansions but there is already plenty of them in Ivins and that is not the best argument to make. They will be in a rental pool part of the time, as well as used by the owners. This fear of Airbnb and VRBO and

those types of things being all over the place, Black Desert is going to have a central booking system for them. This is a resort and not just a bunch of houses being put out there and being put out on Airbnb with no controls. Since it's below the allotment, she did not have a problem with it. **Council Member Anderson** stated that he wanted to make sure that Black Desert maintains the buffer and he concurred with Council Member Johnson and Council Member Murphy. **Mayor Hart** commented that particularly after the previous Public Hearings and the discussion about short-term rentals, he felt that the Black Desert Resort was planned several years ago when most of the zoning took place. He agreed that Ivins was probably reaching the limit of how much of that zoning ought to be out there and there might be a couple of smaller pockets that would fit in the City, but he is not arguing that point. This property was zoned Resort Commercial for the entire 300 acres. Sensitive Lands would take some of that out of the acreage but to have a developer come in and propose to only develop 70 acres of that is remarkable, when more could have been developed. This must be looked at in a balanced way. These are residential units and keep in mind that the market is designed to determine where the limits are.

MOTION: Council Member Murphy moved to approve Ordinance No. 2022-10, an Ordinance of Ivins City, Utah, approving a Concurrent Land Use and Zone Change for the northwest corner of Black Desert Resort from Low Density Residential/RE-20 to Resort Commercial for both Land Use and Zoning, based upon comments made by City Council members tonight.

SECOND: Council Member Johnson

VOTE: The motion carried.

Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Scott	NAY
Council Member Mehr	ABSENT

Roll call vote. All Council Members that were present were in favor except for Council Member Scott. Council Member Mehr was absent.

C. Public Hearing on recommendations to update the Ivins City General Plan regarding Moderate Income Housing

Mike Haycock reported this has been discussed for the last few months and the Moderate-Income Housing report is due to the State in a couple days. The changes that were recommended from a few weeks ago have been made. **Dale Coulam** indicated that this has been discussed a number of times and the last time they saw this, it was in draft form. This is now a clean version and on the agenda for a Public Hearing. The Public Hearing is not necessarily required by law, it is just an extra meeting to give another opportunity for public comment. There was no comment at the last meeting with it in draft form. **Mayor Hart** opened the Public Hearing.

Lisa Ganz resides at 557 West Bickmore and commented that she understood that the forms must be submitted by October 1st to the State and that is a significant deadline, but she felt like this topic was really important. With a discussion happening later, regarding community input, she did not believe this document was a requirement to submit to the State. It was mentioned last time that it would be a nice to show the State that Ivins City is serious about a Moderate-Income Housing Plan and suggested that they take this opportunity to pause on this plan and include it in the discussion that they will be having with the community meetings. It has significant importance to the community, and she believed that there's going to be some strong opinions that

there is a need for Moderate Income Housing but inquired how they are going to achieve that. She referred to the information in the plan regarding households in Ivins City that earn less than $20,000 per year need the ability to purchase housing. She commented that those households could not afford housing under traditional lending standards and someone earning less than $20,000 a year should not be buying a house. It is not up to the government to give handouts for people to afford it. The County has been in this disaster before in 2008 with the housing crisis. Giving people loans that they can't afford is the wrong thing to do. The other need about houses in Ivins City, are renting housing that they cannot afford, and additional affordable single family and multifamily rental units are needed. She indicated that doesn't make sense because they are already living here and somehow they're affording it. The discussion needs to be a little bit more of a robust discussion with the community on what Moderate Income Housing means, to balance the requirements by the State and what is going to be the right thing for the City. This Public Hearing is important but there needs to be a more robust discussion. **Dale Coulam** clarified that the goals and strategies are absolutely required by the October 1st deadline. The State is expecting an update of the plan that was submitted previously in 2019. This follows that outline. This is not locked in stone and does not mean that the Council can't revisit it or use the Affordable Housing Committee to give further information. This is to update the data from what it was in 2019. He wanted to be clear about submitting both to the State so that Ivins City has clearly complied with the requirements of the State and to not jeopardize any State funding. **Becky Warren** resides at 974 North Talasi Way referred to the statement on page four (4) regarding including possible annexation opportunities and inquired what that meant. Does that mean that somebody could come in and take somebody else's land? **Dale Coulam** clarified that what she was referring to would be condemnation, as opposed to annexation. Annexation is a plan that the City could expand to another area. It takes a petition of a landowner saying they would like to be become part of the City, because the City may have some utilities or something that is needed for the property. There being no other comments, **Mayor Hart** closed the Public Hearing.

Mayor Hart stated in the County, there is the housing affordability coalition, and he is a member. There has been an active Housing Affordability Committee in the City for some time. He thought it was time as a Mayor to be more involved in that committee. It is an extraordinarily complex issue and solutions are nearly impossible to come by. That can be understood through some fairly extensive discussion about the market forces that drive the cost of housing and other things. He believed that over the next year after they are past the public meetings on the General Plan, he would like to have meetings that talk about this, so there is an understanding about how Ivins City can or can't address this. This takes time both to talk through and to figure out the strategies and specifically the lofty idea that to somehow magically create housing for every income level is a mirage. That is simply a fantasy, but there are things that can be done to make it possible, at least for some more affordable housing in the City. One of the greatest obstacles to affordable housing, is the resistance of the community to the type of housing that must be built for that to occur. There needs to be a heart-to-heart discussion about where it goes that without people filling the council chamber, resisting it happening because it's near them.

D. Discuss and consider approval of Resolution No. 2022-17R, a Resolution of Ivins City, Utah, amending the Moderate Income Housing Plan

Dale Coulam confirmed that there was no one in attendance on the Zoom application for the Public Hearing. **Council Member Scott** stated that at the last meeting, he had a memo with a bunch of suggestions for changes and thanked Dale Coulam for dealing with them all. A couple

of fine tunings were on page 3 in the second paragraph, starting with the second sentence that begins with the median monthly housing cost, titled "Executive Summary" at the top. To clarify the census data, he proposed rewriting the rewrite with "The median monthly housing cost for existing residents was $1,544 and the median gross rent, including current residents, was $1,199, according to the 2020 census." The next sentence would be that costs inflated to 2022 levels, indicate a reasonable balance between incomes and housing costs for existing residents and then continue the median monthly housing cost for new home buyers today, is $2,995 and just continue the rest of that sentence. There are more clean up items on page 4 on the third line to replace "missed use" housing with "mixed-use." On page 14 under Strategies, the sixth line same thing, replace "missed use" housing with "mixed-use" housing. Those are the technical issues, now the philosophical issues, starting on the Goals, number one (1) Rezone for densities necessary to facilitate the production of Moderate-Income Housing. That is what the State has given, a checklist of picking things but it's impossible to do. Density alone isn't going to create housing that fits the moderate-income definition. Moderate income is 80% of median and 30% of income and is going to be impossible to make housing affordable at moderate income levels. He had a problem with that one for that reason. Item number two (2) talks about mixed-use, increasing opportunities in mixed-use zones to have residential possibly on top of commercial, but generally if you look at most mixed-use properties, they're going to be four (4) or five (5) story buildings like are seen in the City of St. George. He didn't think a two-story mixed-use building was economically viable for the most part. That has been talked about at City Council meetings and is a difficult one, but he left that alone. The third one he did not understand and inquired what ratifying and joint agreement was? What is it that the City was agreeing to ratify and with whom? **Dale Coulam** clarified that would be combining with a neighboring City to do a project on the borders. As an example, in Santa Clara or St. George, there may be an opportunity to do a project combining resources to acquire property for moderate income housing and perhaps the two cities going in together jointly, may qualify for some additional funding that one City may not be able to get on their own. Council Member Scott was correct that those three goals are as written by the State statute. The objection is noted as to some of this being very difficult to achieve, as noted by the Mayor and Council Member Scott's comments. **Council Member Scott** indicated that he had a concern about goal number one (1) in particular. He suggested at the end of the report to add another section. The State is telling the City to do the impossible and the City needs to tell the State the truth. He suggested another paragraph, the title would be “Review of Past Actions and Recommendations”. The language would be “Lot averaging the single-family residential zones of R-1-7.5 and R-1-5 and Twin Home, Townhome multifamily zones were created a few years ago in Ivins City, with the goal that the higher densities would help create housing affordable for moderate income households as defined by the state. Unfortunately, as this report clearly shows increasing density did not produce the desired result. As a result, we (the City) believe increasing density is not a solution and the only reliable solution to addressing housing needs for moderate income households is through a variety of subsidy strategies that many cities, counties, and states in the US have implemented.” **Dale Coulam** stated he respectfully disagreed with that statement. He referred to the townhome projects and indicated that one of them did involve affordable housing. It was done by a group that made sure there was certain number of units in each building and met qualifications for affordability through the lending process. The other townhome projects had huge waiting lists for people who couldn’t qualify for any other type of housing and were scrambling to get into the townhomes. He respectfully disagreed with a blanket statement like

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that and does not think that's entirely accurate. He realizes that was Council Member Scott's opinion and if the Council wants to adopt that, then he will do that but that's his opinion in response. **Mayor Hart** stated his concern was that there's no denying that density is a contributing factor to housing affordability. The way the statement is phrased indicates that it does not bring about affordable housing. It may be technically accurate with that, but it makes it sound like the City should never consider density when it comes to housing affordability. He would take the complete opposite position that the City absolutely must look at density when it comes to housing affordability. **Council Member Scott** indicated he was not disagreeing with that. More density will definitely create more affordable housing, but his statement was that it won't create it for moderate income households, 80% of median, 30% of income, it won't reach that level. **Mayor Hart** suggested that if the Council decides that they want to adopt this amendment that the language be altered to say "Density alone will not..." rather than to say "...density does not. **Council Member Johnson** stated that she worried if they make that statement, it's going to basically negate their first goal. **Council Member Anderson** indicated that the formula for moderate income housing cannot buy that product in Ivins. **Mayor Hart** stated that the State looks at density as the key element in being able to create affordable housing. It's no question that Council Member Scott's conclusion is accurate but the refusal of cities to plan for in the form of creating high density zones, is what is driving the legislature to systematically remove land use authority from cities. The legislature looks at it like okay, the City doesn't have the courage to establish this high-density zone because of objection from the people. So, the legislature is going to insist that it happen regardless. There is a lot of pressure being put on cities by the legislature to increasingly remove the City's land use authority. **Council Member Murphy** commented she agreed with some of what Council Member Scott said but she didn't know why they would want to put that statement in this plan. The City is doing this moderate-income housing plan and then at the end, they are going to poke the bear kind of a thing. Saying we did this, but the City wants to say that we think this is a lot of nothing. Unfortunately, with all of this, the real estate market drives everything. How much things sell for, what people will pay. It's very difficult as a City to do this and to find how the city can have affordable housing. She is all for when some of these townhome projects come in that there as a requirement, so much of it has to be an owner-occupied type of situation and it can't just be investors but while she agreed with some of what Council Member Scott is saying in the'statement it's not appropriate here to put it in this plan. **Council Member Scott** indicated that he 'as not saying to not do higher density, just saying they need to be honest that increasing density will not allow for the creation of affordable housing for moderate income households. Dale Coulam was right in that if an comes in and has financial support, subsidy can work but higher density alone will not meet affordable housing based on that definition. **Mayor Hart** stated meeting is a State requirement and at the end of the day, the City needs to provide the State the plan, saying it has been discussed and there has been a Public Hearing. He recommended that the suggested changes be made, other than the statement at the end.

MOTION: Council Member Johnson moved to approve Resolution No. 2022-17R, a Resolution of Ivins City, Utah, amending the Moderate Income Housing Plan, as amended
SECOND: Council Member Anderson
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE

Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Mehr	ABSENT

Roll call vote. All Council Members who were present, voted in favor.

E. Public Hearing on the Planning Commission's recommendation on a Concurrent Land Use Amendment from LDR (Low Density Residential), MDR(Medium Density Residential), HDR (High Density Residential) and a Zone Amendment from RE-20 (Residential Estates, minimum 20,000 sq ft lots), RE-15 (Residential Estates, minimum 15,000 sq ft lots), RE-12.5 (Residential Estates, 12,500 sq ft lots) and RA-5 (Residential Agriculture, minimum lot size 5 acres) to RE-20 (Residential Estates, minimum 20,000 sq ft lots), RE-15 (Residential Estates, minimum 15,000 sq ft lots), RE-12.5 (Residential Estates, minimum 12,500 sq ft lots) and lot averaging overlay on approximately 15 acres located at approximately Kwavasa, 600 West to 800 West. Kayenta Development, Inc and RT Marten Utah, LLC-Owner. Lance Anderson-Applicant

Council Member Anderson recused himself and sat in the audience. **Mike Haycock** referred to the vicinity map along Kwavasa. The concurrent land use was required because the Neighborhood Commercial area has been historically in that location. For the developer to do the overlay, that land use needs to be changed. The applicant is asking for High Density Residential, which is consistent with the High Density Residential that's already located adjacent to it. The zoning that is being asked for is Medium Density Residential zoning. The lot averaging allows the developer to average the lots according to the zone.

Mayor Hart opened the Public Hearing. **Lance Anderson** indicated that the middle of the property has been Neighborhood Commercial since 2008. He would like to remove the Neighborhood Commercial and change it to RE-12.5 and then put in lot average on the east side. When the plans were submitted, there was an average of 17,000 sq. ft. lots, with some smaller ones that are just under 15,000 sq. ft. This looks complicated but it's simple – they are trying to get zoning of RE-12.5 with a lot averaging. **Ken Peterson** stated he was looking for more data and did not understand where in the process this was and commented that this did not appear to be ready to receive a motion. He is looking for information in terms of public utilities. The City needs to step back with some of these other developments and take a timeout, a breather, and look at how that goes and continue to gather some information in terms of the water table. For 30 years he helped big businesses and government put plans together, make decisions and do a thorough risk assessment on those plans. He hasn't seen a plan and he would like to see a plan and more than just the development side of this. **Mayor Hart** indicated that would be nice but unfortunately, the sequence is that the land use and zoning have to be established for the applicant to know what the plan is. The process would continue from this, should it be approved, to an actual development plan being put together and the request for preliminary plat, at which time all the engineering has to be put in place and then the studies will be done on potentially traffic and a variety of other things. All of those concerns have got to be answered before an actual development can be put together. The sequence is done through State Statute as it relates to the sequence of land use adaptation and zoning adaptation before a developer invests a considerable sum of money in actually putting together a plan, conducting studies and so forth. There will be opportunities in the future to look at the actual plan. **Ken Peterson** thanked the Mayor and commented that generally looking at the plan with a goal, a goal is a statement of intent, it doesn't give you how you're going to accomplish it. That would be an objective. Perhaps the goals are there but then maybe there's a disconnect in the communication with the

developer in terms of this being the road going forward, the developers path forward, because it has been moved to this point without really having any rational thought in terms of what the density is. He inquired if the developers are planning to put in $1 million condominiums or are they going to be $400,000 condominiums? That would be very important for the neighborhood. Maybe an opportunity for housing for those lower income families is going to be made available. He thinks there needs to be other statements of intent other than raising it to high density. Is any of that accounted for in thinking as moving this forward or does the Council just say high density? **Mayor Hart** clarified it would certainly make it easier to have all of this come together with the plan and everything else. It simply is that's how the legislative process works. **Ken Peterson** inquired if the City must abide by that, or can it be changed because there is a better way to do it? **Mayor Hart** clarified "no"" The Ivins ordinances would not permit that, nor would State Statute. The whole idea is that as a landowner or a developer, they have a right to know what the City is going to allow before they go into the expensive design process and conducting studies and other things. **Dale Coulam** clarified that State Statutes compel the City is required to abide by the statute. The City can't just change and do its own process. Ivins City is required to follow the process that the statutes outline and that is land use, zoning and then for the reasons Mayor Hart indicated, sensitive to the expensive of the additional studies. The plan is next after the zoning then there are more details that staff analyzes and then the public will have an opportunity to speak at a Public Hearing on the Preliminary Plan. **Ken Peterson** inquired if there was an opportunity in that sequence that the City could go backwards and make a change. **Mayor Hart** stated no, once the land use zoning is established, then the City does not have the prerogative to reverse that. It is an important decision that's being made and once the Council makes that decision, then no and the reason should be obvious. Once owners and/or developers have gone through all of the expenses to address all the issues, it would not be fair to pull the rug out completely from underneath the applicant and force them to go back and start over. **Ken Peterson** requested that the Council look at not changing this to high density at this point in time. If no other reason but to give more time as a community to better understand and to think through this before moving this critical step forward. **Mayor Hart** stated there has been a tremendous amount of time already spent on making these determinations in the past. As every revision on the land use plan and zoning map have occurred, there has been consideration of this and other areas of the City. He understood what was being suggested and the follow up question is, it fair to an applicant, who recognizes all of the consideration that's been given to this parcel of ground over the last many years by a number of different City Councils, to have a resident or even a group of residents say time out? **Ken Peterson** stated therein lies the critical balance, because looking at the community around it, and say there may be 150 homes all less the three (3) years old, that is the delicate balance and account for all the new people that have come into Ivins and are now surrounded by this island. He inquired if the City was just going to throw them out and say, "I'm sorry you not have not been here long enough. **Mayor Hart** indicated that there is information available to the public through Ivins City Staff. **Ken Peterson** stated the neighborhood is very greatly concerned with the whole water issue. A lot of that's coming from fear of the unknown. There needs to be better information that comes forward. If there is accurate information that can be had, fear can be abated.

Council Member Anderson indicated that there was a misunderstanding here because he is actually making it less dense than what it is. **Lisa Ganz** commented that she had spoken with Lance Anderson at one of the last meetings regarding this and she was still scratching her head. She referred to the land use map and stated that there is a combination of Low Density, Medium

Density, High Density and Commercial Neighborhood. She suggested that with lot averaging, Medium Density was appropriate and not High Density because 17,000 is a low-density zone. She inquired how they got to High Density for the land use change? Her biggest concern was once it was opened to High Density in one area, then the next-door neighbor will want High Density approved on their parcel. **Lance Anderson** commented that if they were to look at the original map, the area is a commercial neighborhood and in order to make it RE-12.5, it has to have residential and everything around the property is already high density. What's important is the land use, right now it's high density residential. The developers could go put in whatever, but instead, the developers want to change the Commercial Neighborhood to High Density Residential and for a zone change to be left at RE-15 down below and change the rest of the RE-12.5 with lot averaging, making it less dense. **Mayor Hart** inquired if the Council understood this clearly and indicated that it's a technical revision on the land use, to make that entire strip a matching land use, but the requested zoning is 15,000 sq ft and 12,500 sq. ft., with lot averaging. The existing High Density Residential could also be changed to Medium Density Residential and would still work but that's not necessary. It's really the Neighborhood Commercial that is being requested to change in the land use and that could either be Low Density Residential or Medium Density Residential and the zoning would still fit within that framework. **Mike Haycock** stated that it would be the same no matter if i''s called High Density Residential or Medium Density Residential. **Mayor Hart** indicated that the Council could go either way with this if they were inclined to approve it. He inquired if there was anyone in attendance through the Zoom application that wanted to make a commented. **Cade Visser** stated that there was not. There being no other comments, **Mayor Hart** closed the Public Hearing.

F. Discuss and consider approval of Ordinance No. 2022-11, an Ordinance of Ivins City, Utah, approving a Concurrent Land Use and Zone Change in the area of Kwavasa to 800 West

Mayor Hart stated that procedurally, due to Council Member Anderson recusing himself and Council Member Mehr not being present, if there is a single "nay" vote, the action would fail. **Dale Coulam** clarified that this could come back when there was a full quorum present. **Council Member Scott** indicated that this was discussed at the last meeting, and it is confusing. What this would do would actually reduce the number of housing units from what is currently allowed. He agreed it definitely would do that by possibly half. I''s confusing because there are so many land uses and zones in this situation, but he thought that the end result was a plus. There was no further discussion.

MOTION: Council Member Johnson moved to approve Ordinance No. 2022-11, an Ordinance of Ivins City, Utah, approving a Concurrent Land Use and Zone Change in the area of Kwavasa to 800 West
SECOND: Council Member Murphy
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	RECUSE
Council Member Mehr	ABSENT

Roll call vote. All Council Members who were present voted in favor. Council Member Anderson did not vote, and Council Member Mehr was not present.

G. Public Hearing on the Planning Commission's recommendation on a Zone Amendment from R-1-5 (Residential Single Family, minimum lot size 5,000 sq ft) and RM (Multi-Family) to

RC (Resort Commercial) on approximately 9.618 acres located at approximately Guy Lane and Fitness Way. Teancum Properties, LLC-Owner. Lance Anderson/ANA Enterprises, LLC-Applicant

Lance Anderson recused himself and sat in the audience. **Mike Haycock** reported that the property is along Highway 91, down Guy Lane to Fitness Way. The land use is RMU, and the current zoning is RM. The applicant is asking for RC. **Mayor Hart** opened the Public Hearing. There was no one in the Council room who made a comment. Mayor Hart inquired if there was anyone in attendance on the Zoom application that wished to make a comment. **Cade Visser** confirmed that there was not. There being no further comments, **Mayor Hart** closed the Public Hearing.

H. Discuss and consider approval of Ordinance No. 2022-12, an Ordinance of Ivins City, Utah, approving a Zone Change for approximately 9.618 acres near Guy Lane and Fitness Way from R-1-5 and R-M to RC

Council Member Scott stated Resort Commercial allows for short term rentals and he was not a fan of short-term rentals. Despite If Ivins City does short-term rentals, they should only be done after the requirements are modified for short-term rentals that have been discussed at the prior meetings and on future agendas, to address problems that other communities have had with them. Also, rezoning this from a High-Density Residential use to a commercial use, is the opposite action that the Council just committed to take in the affordable housing plan, goal number one. He was concerned about this change.

MOTION: Council Member Murphy moved to approve Ordinance No. 2022-12, an Ordinance of Ivins City, Utah, approving a Zone Change for approximately 9.618 acres near Guy Lane and Fitness Way from R-1-5 and R-M to RC
SECOND: Council Member Johnson
VOTE: The motion failed

Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Scott	NAY
Council Member Anderson	RECUSE
Council Member Mehr	ABSENT

Roll call vote. Council Member Murphy and Council Member Johnson voted "aye", Council Member Scott voted "nay" and Council Member Mehr was absent. The motion failed. **Mayor Hart** stated procedurally that the applicant could request that this be brought up when there was a full quorum. **Dale Coulam** stated yes, or the applicant could modify the request.

I. Public Hearing on the Planning Commission's recommendation on proposed amendments to Chapter 16 of the Zoning Ordinance regarding Building Heights

Mike Haycock stated that the recommendation from the Planning Commission was that the building heights stay the same as per the ordinance that is in effect now so essentially no change. **Council Member Anderson** indicated that what's important is that people realize how he intended for this to move forward, to help with the Ivins City guidelines. He thinks it kind of got lost in the conversations, talking about height to protect the Ivins City guidelines. **Sharon Gillespie** questioned if this gets approved, what it impacts and if it would impact Black Desert resort or the potential SITLA project and does it impact everything going forward whether i''s been zoned or rezoned? **Mayor Hart** clarified that anything that has an application that's already been submitted, is not impacted by any change to any ordinance. **Council Member Murphy** commented that she thought this was no change in anything and that the

recommendation was no change. **Mayor Hart** clarified that the recommendation was no change, but Sharon Gillespie was asking if the Council opted to change this, how would that impact things. **Sharon Gillespie** inquired if the code before then was the current code? **Mayor Hart** indicated yes, and it applies to every applicant. He inquired if there was anyone on the Zoom application that wished to make comments. **Cade Visser** stated that there was no one on Zoom with their hands up. **Mayor Hart** closed the Public Hearing.

J. Discuss and consider the Planning Commission's recommendation on proposed amendments to Chapter 16 of the Zoning Ordinance regarding Building Heights

Council Member Murphy inquired if there they are going to keep everything the same, how is the wording for a motion? **Mayor Hart** indicated that a Council Member would make the motion to approve the Planning Commission's recommendation, which is essentially to not change anything. **Council Member Anderson** made a motion. **Mayor Hart** inquired if there was any discussion. **Council Member Murphy** inquired if part of the reason this was brought forward, was because the State came down with the color rules and said cities cannot dictate color on residential? It was suggested that there would be a concession that if a builder or someone building a home would follow the color requirements or guidelines, that possibly they could get some wiggle room on heights. **Mayor Hart** stated that was precisely what has been done in some other cities that have been impacted by this. **Council Member Scott** pointed to the Town of Springdale. What they did was they lowered their building height to a maximum of 21 feet for residential but allowed a 5-foot increase if the developer or property owner agreed to follow Springdale's design guidelines, which includes building colors and they have found that to work well. He thought it was a great idea, however, he respected Dales Coulam's comments at the last City Council meeting. **Dale Coulam** stated that the Planning Commission thought it would be coercion to do this and found that distasteful, so no change was recommended. **Council Member Murphy** indicated that while she appreciated the sentiment, it's running around the legislation, and she doesn't know if that's the safest thing to do. It has been pointed out that there is some very strong lobbying going on to possibly get this legislation changed and get this requirement removed. She wondered if that's not the better route to go. **Mayor Hart** stated that in his opinion, the better way to go at this, is to seek for an amendment to the State Statute that takes away the cities ability to regulate color, by using a mechanism like the proximity to a State or National Park, which would also work for Springdale and other locations. One possibility would be for the Council to simply go along with the Planning Commission's recommendation and see what happens or they could continue this until after the meetings at the Utah League of Cities and Towns next week where they will be discussing this. **Council Member Anderson** withdrew his original motion and amended the motion to continue this on a future agenda. **Council Member Anderson** stated that the Council can wait for all of that, but when the Arts Commission brought in the color samples, the contrast can be seen very vivid, and it only takes a few of those to change a community. It's important for the Council to act and send a message to the legislature about what they've done to Ivins community.

MOTION: Council Member Anderson moved to deny the Planning Commission's recommendation
SECOND: None

DRAFT

MOTION: Council Member Anderson moved to table this discussion on a future agenda
SECOND: Council Member Murphy
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Mehr	ABSENT

5) DISCUSSION AND POTENTIAL ACTION ITEMS

C. Continued discussion on the Planning Commission's recommendation on a proposed amendment to Chapter 16 of the Zoning Ordinance regarding Short-Term Rentals

Council Member Murphy requested that Mike Haycock explain why the Planning Commission has recommended pulling the short-term rental overlay and talk to the concerns of parking, garbage and similar and if short-term rentals are centered in RC zones, how much of those are addressed. **Mike Haycock** indicated that the short-term rental overlay ordinance requirements do not apply to the RC zone, so if the Council wants to put all short-term rental overlays in the RC community, they would want to develop ordinances that are similar that would apply to the other areas. The Planning Commission did not address parking, but he offered a recommendation as an example of if someone has a 1500 sq. ft. property, they would be required to have two (2) parking spots and more spots per square foot, but that would need to be addressed in the parking ordinance. **Mayor Hart** inquired if it was suggested to eliminate the overlay all together. **Mike Haycock** stated yes and then allowed in resort zones only. **Council Member Scott** indicated that is part of it and the other part is short-term rentals are allowed in Resort Commercial, but there's currently no list of design requirements like parking, garbage and similar for short-term rentals in Resort Commercial and hoped that this could go back to the Planning Commission and review what those requirements would be in a RC zone. **Mayor Hart** inquired if the Council approves this tonight, it would effectively eliminate any applicant, for any neighborhood, the inability to have a short-term rental. **Dale Coulam** stated that was correct and clarified that approval of the recommendation would eliminate that ability going forward but would keep the requirements applicable to a short-term overlay in place for those already zoned with that overlay.

MOTION: Council Member Murphy moved to approve the on the Planning Commission's recommendation on a proposed amendment to Chapter 16 of the Zoning Ordinance regarding Short-Term Rentals, striking the ability to request a short-term rental overlay in the future, in a residential zone
SECOND: Council Member Anderson
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Mehr	ABSENT

DRAFT

Dale Coulam stated that as a formality, he will bring this back as an Ordinance to that affect for approval.

D. Continued discussion regarding updating the General Plan

Mayor Hart reported that he has been working on developing a plan moving forward on this and that will commence with a series of Town Hall meetings on October 11, 12 and 13 and on October 25, 26 and 27 and he has asked Judy Gubler, the former City Manager of Ivins City. She conducted former plan reviews and is going to facilitate those meetings. There will be a post card going out to every mailing address, inviting all residents to participate in the Town Hall meetings. The meetings will be available on Zoom.

6) CONSENT AGENDA

A. Approval of City Council Meeting Minutes for September 1, 2022

MOTION: Council Member Johnson moved to approve the Consent Agenda
SECOND: Council Member Murphy
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Mehr	ABSENT

7) CONSENT AGENDA ITEMS FOR DISCUSSION

8) REPORTS

A. Council

Council Member Scott - no report
Council Member Johnson - no report but had a question regarding if anything further has been done with regard to the bench placement idea. **Dale Coulam** reported that he spoke with Benny regarding that, and he is looking into using Park RAP tax money to place an order so that will be on a future agenda as an expenditure for approval.
Council Member Murphy - no report
Council Member Anderson - no report

B. Mayor

Mayor Hart reported that he was invited to attend water school that took place at Brian Head, and he will report on that in the future.

C. City Manager/Attorney Dale Coulam

Dale Coulam reported that the Christmas Party will be held on Wednesday, December 7th at the Santa Clara City banquet hall. He reported that there will be a 2.9% increase on health insurance and a Resolution will be brought forward at the next City Council meeting to continue employee core benefits.

D. Items to be placed on future agendas

Requirements for short-term rentals as suggested by Council Member Scott.

9) CLOSED MEETING

10) ADJOURNMENT

MOTION: Council Member Anderson moved to adjourn
SECOND: Council Member Johnson
VOTE: The motion carried.

Council Member Scott	AYE
Council Member Johnson	AYE
Council Member Murphy	AYE
Council Member Anderson	AYE
Council Member Mehr	ABSENT

The meeting adjourned at 8:38 p.m.

Respectfully,

Kari Jimenez
Ivins City Recorder

DRAFT