

**SANTA CLARA CITY COUNCIL MEETING
WEDNESDAY, DECEMBER 13, 2023
MINUTES**

THE CITY COUNCIL FOR THE CITY OF SANTA CLARA, WASHINGTON COUNTY, UTAH, met for a Regular Meeting on Wednesday, December 13, 2023, at 5:00 p.m. in the City Council Chambers of the Town Hall at 2603 Santa Clara Drive, Santa Clara, Utah. Notice of the time, place, and agenda of the meeting was provided to *The Spectrum* and to each member of the governing body by emailing a copy of the Notice and Agenda to *The Spectrum* and also, along with any packet information, to the mayor and each council member, at least two days before the meeting. The meeting will be broadcast via YouTube linked on our website at <https://sccity.org/meetings>.

Mayor: Rick Rosenberg

Council Members: Denny Drake
Christa Hinton
Leina Mathis
Ben Shakespeare
Jarrett Waite

City Manager: Brock Jacobsen (via Zoom)

City Recorder: Chris Shelley

Others Present: Cody Mitchell, City Engineer
Matt Ence, City Attorney
Jim McNulty, Planning and Economic Development Manager
Ryan VonCannon, Parks Director
Andrew Parker, Fire Chief
Casey Stratton, Assistant Public Works Director
Gary Hall, Power Director
Kristelle Hendrickson, Executive Assistant

1. Call to Order.

Mayor Rick Rosenberg called the meeting to order at 5:00 p.m. and welcomed those present.

2. Opening Ceremony:

A. Pledge of Allegiance: Council Member Shakespeare

B. Opening Comments: Luke Merideth, Short Creek Dream Center, St. George Interfaith Council.

3. Conflicts and Disclosures.

Mayor Rosenberg reported conflicts with agenda item numbers 6 and 13 as he is employed by the engineering firm that has been working on the projects.

4. Working Agenda.

A. Public Hearings – None.

i. None.

B. Consent Agenda.

i. Approval of Claims and Minutes:

- November 8, 2023, Regular City Council Meeting Minutes;
- November 8, 2023, Executive Session Minutes;
- November 15, 2023, City Council Work Meeting Minutes;
- December 5, 2023, Special City Council Meeting Minutes; and
- Claims through December 13, 2023.

ii. Calendar of Events:

- December 27, 2023, Regular City Council Meeting;
- January 10, 2024, Regular City Council Meeting;
- January 17, 2024, City Council Work Meeting; and
- January 24, 2024, Regular City Council Meeting.

iii. Cancel the December 27, 2023 City Council Meeting.

It was reported that the New City Council Members will be sworn in on January 2, 2024 at 10:00 a.m.

Council Member Shakespeare moved to APPROVE the Consent Agenda, as presented. Council Member Mathis seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

C. General Business.

i. Discussion and Action to Appoint Koni Hafen Hunter and Kayde Roberts to the Planning Commission. Presented by Brock Jacobsen, City Manager.

Mayor Rosenberg reported that he has spoken to everyone on the City Council about the proposed appointments. He has known Koni Hafen Hunter since she was a child. She was born and raised in Santa Clara and has deep family roots in the City. She also represented the City as Miss Santa Clara as a teenager. Koni was part of the first graduating class of Snow Canyon High School and

earned her masters degree in Education from SUU. She began her teaching career at Woodward 6th Grade Center. After spending time in California, Koni and her husband, Dave returned to raise their five children in Santa Clara. Koni currently home schools her young children and considers it her most meaningful work. She volunteers at Swiss Days and supports and loves all things Santa Clara. She loves nothing more than to run along the river and through the Historic District and looks forward to preserve the City's unique history and charm for generations to come. Mayor Rosenberg presented Koni Hafen Hunter for appointment to the Planning Commission.

Mayor Rosenberg also presented the name of Kayde Roberts to serve on the Planning Commission. Kayde was born and raised in Ivins and has lived in Santa Clara for seven years. His father served on the Ivins City Council for many years. Kayde lives on Desert Heights Drive with is wife and four children aged 9 to 16. He is a professional Civil Engineer and partner at Mainline Engineering in St. George. Kayde worked for the Utah Department of Transportation ("UDOT") for several years, understands traffic studies and impacts from development, is very familiar with Santa Clara's history, and understands the longstanding relationship with Ivins City.

Council Member Drake moved to APPOINT Koni Hafen Hunter and Kayde Roberts to the Santa Clara Planning Commission. Council Member Hinton seconded the motion. The motion passed with the unanimous consent of the Council.

ii. Discussion and Action to Consider the Sand Hollow Aquatic Center ("SHAC") payment. Presented by Brock Jacobsen, City Manager.

City Manager, Brock Jacobsen, reported that as part of the Sand Hollow Aquatic Center ("SHAC"), when Santa Clara City chose to partner with St. George, the agreement was that they put money in at the beginning and then going forward share in shortfalls each year based on usage. At that time, the Council also agreed to automatically approve a payment of up to \$32,000. Anything above that would have to come back to the City Council for approval. Mr. Jacobsen reported this year's bill totaled \$47,183.65. Santa Clara's percentage of usage this year was 8.46%. He recommended that the City Council approve the expense.

Council Member Mathis reported that expenses are expected to remain the same. She looked at the figures for Fiscal Year 2024 and stated that they are at 41% with increases expected in January and February. The City's usage so far this fiscal year was 8.81%. She suggested that they budget extra every year since that number will likely continue to increase.

Council Member Shakespeare considered the proposed amount to be small to have a community pool. He recognized that costs are trending upward.

Council Member Hinton heard that the bathrooms at SHAC were recently updated, which may also be considered in the higher cost.

Council Member Mathis moved to APPROVE the payment to the St. George City Aquatic Center ("SHAC") in the amount of \$47,183.65. Council Member Waite seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council

Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

iii. Discussion and Action to Consider Approval of Resolution 2023-17R for the Recertification of the Santa Clara Justice Court. Presented by Brock Jacobsen, City Manager.

Mr. Jacobsen reported that every four years the State Administrative Office of the Courts requires the Justice Court be recertified. To do so, certain steps must be taken to ensure that all requirements are met with regard to security, the software used, and hours of operation all of which are mandated by the State. City Attorney, Matt Ence, conducts a review and submits a letter stating that all requirements have been met. Mr. Ence provided the City Council with a copy of the Opinion Letter that was prepared. It was also reviewed by the Court Clerk to ensure accuracy before submitting the final version.

Council Member Hinton asked about the Indigent Defense Fund. Mr. Ence was not familiar with how it works but confirmed that the City participates in it. Mayor Rosenberg stated that the municipality or the County provide that funding. Mr. Ence stated that the City does not have its own contracts with public defenders. His understanding was that it is run through the County.

Council Member Shakespeare moved to APPROVE Resolution 2023-17R for the Recertification of the Santa Clara Justice Court, as presented. Council Member Hinton seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

iv. Discussion and Action to Consider Amending the Service Agreement between Santa Clara City and Teri Forbes Transcribing City Council, Planning Commission, Heritage, Hillside and TRC Meetings. Presented by Brock Jacobsen, City Manager.

Mr. Jacobsen reported that the City has contracted with Teri Forbes for a number of years. She began by preparing Planning Commission Meeting minutes and evolved into preparing nearly all City meetings. Currently, she is paid \$37.50 per hour but will be raising her rate to \$40. He considered this to be fair for the work performed. The Council was asked to amend the contract to increase the hourly rate.

Council Member Hinton asked how the hourly rate is billed and if it is based on the length of the meeting or the time spent. Mr. Jacobsen stated that it is based on the time spent. He commented that it saves staff time and has been helpful to staff.

Council Member Waite moved to AMEND the Service Agreement between Santa Clara City and Teri Forbes for Transcription of City Council, Planning Commission, Heritage, Hillside, and TRC Meetings and changing her pay to \$40 per hour. Council Member Drake seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-

Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

v. Discussion and Action to Consider Approval of a Preliminary Subdivision Plat for the Pioneer Pointe Subdivision located at 400 East/Patricia Drive and Pioneer Parkway. Presented by Jim McNulty, City Planner.

Planning and Economic Development Manager, Jim McNulty, displayed the Subdivision Plat for the Pioneer Pointe Subdivision. The applicant, Clayton Leavitt, is requesting Preliminary Plat Approval of the Pioneer Pointe Subdivision. The subdivision includes a total of 133 units on just over 18 acres of property. This equates to a density of 7.35 units per acre. The Property Rezoning and Project Plan Approval included 82 single-family units with 51 multi-family townhome units, both front loaded and reloaded. The request was approved and adopted by the City Council on July 12, 2023. Code Chapter 17.68 – the Planned Development Zone Ordinance, contains requirements that must be met at the time of Preliminary Subdivision Plat Review as well as Code Chapter 16, which is the Subdivision Ordinance. In reviewing the plan, Staff determined that the Preliminary Subdivision Plat is consistent with the Project Plan for Pioneer Pointe.

The Phasing Plan was presented as follows:

- Phase 1A includes 14 single-family lots with a detention basin area.
- Phase 1B was shown in red and includes 21 single-family pad lots, an amenity area, a parking area, and project amenities. The amenities include restrooms/changing areas, a large pool, hot tub and outdoor seating.
- Phase 2 was shown in yellow and includes 11 single-family pad lots with project amenities including three pickleball courts, a green court open space area with walking paths, and a pavilion.
- Phase 3 was shown in beige and includes 11 single-family pad lots.
- Phase 4 was shown in blue and includes 19 single-family pad lots with project amenities including a large green court open space area with walking paths.
- Phase 5 was shown in green and includes 26 multi-family townhome units in five buildings and visitor parking.
- Phase 6 was shown in blue and includes 25 multi-family townhome units in six buildings.

The proposed building elevations were discussed. Mr. McNulty reported that they have been discussed at several meetings. The single-family home lots or wide pad lots include Lots 1 through 14 and were shown on the previous plan. They are traditional, single-family lots and will have 20-foot front yard, eight-foot side yards, and a 10-foot rear yard. The wider pad lots include Lots 23, 25, 29, 33, 37-46, 48-69, 71, and 74 will have a front yard set back of 15 feet to living space or 20 feet to the garage. The side yard setback will be 16 feet between each building.

The single-family pad lots and narrow lot homes will be on Lots 15 through 22, 24, 26-28-30-32, 34-36, 47, 70, 72, 73, 75, and 76-82. They will have 15-foot front setbacks to living space, 20 feet to the garage, sideyards of 16 feet between the buildings, and a rear setback of 10 feet.

The one-story townhomes were shown in blue as part of Phase 6. The units include two bedrooms and two bathrooms. The proposed units are approximately 1,100 square feet in size and include units 94 through 114. They will have a front yard setback of 15 feet to living space, 20 feet to the garage, side yard setbacks between buildings of 12 feet, and a rear set back of 10 feet. Mr. McNulty reported that the open space has been provided and is just under 35% at 34.83% on approximately six acres. The Public Trail Access is an eight-foot trail that is located along 400 East. It is required per the City's 2018 Trails Master Plan. It will provide connection along 400 East into the Tuscany Project and connect to other trails in the area. With regard to landscaping, there is a strict ordinance that addresses water efficient landscaping and conservation standards. The applicant has been working with staff and will be required to provide a secondary water connection for outdoor water use. It was noted that culinary water will not be used for outdoor use.

Mr. McNulty referred to the Subdivision Plat and the public road crosssections. It is a 45-foot public cross section within the interior of the project and includes 30 feet of asphalt, 2½ feet of curb and gutter on either side with a five-foot sidewalk on each side of the road that will allow for good pedestrian access and movement. A private driveway cross section is proposed in two locations. Lots 38, 39, 59, and 60 will be accessed via a 26-foot private driveway that will connect directly to the public street for just those four lots.

With regard to parking, the plat includes 203 parking spaces for the 51 multi-family townhome units. That equates to four parking spaces per unit. An additional 20 surface parking spaces have been provided adjacent to the project amenities in Phases 2 and 5. Code Chapter 17.32 requires two parking spaces per unit with one covered and one uncovered. That standard is far exceeded with the four parking stalls per dwelling unit. Mr. McNulty reported that each of the single-family or pad lots have been designed to include a two-car garage with a two-car driveway. Previously, a Geotechnical Report was received indicating that the site is suitable to support residential slab on-grade construction. A Traffic Impact Study was also conducted by Hales Engineering. It assumed two project accesses and results in an acceptable level of service for both the access off of Pioneer Parkway as well as 400 East.

A block privacy wall is proposed and will be required for rear-loaded lots on Pioneer Parkway and 400 East. Information was provided about a six-foot privacy wall with some detail, however, staff recommended that more specific details be required at Final Plat, Mr. McNulty reported that the ordinance that was adopted on March 15, 2023, required 50% of all units in the Pioneer Pointe Project to be owner occupied. Codes, Covenants, and Restrictions ("CC&Rs") will be required at Final Plat and reviewed by the City's legal counsel. A Dust Control Plan is required to protect existing residents as well as a temporary drivable access. At the public meeting that took place on October 26, 2023, the Planning Commission added a condition regarding temporary drivable access once a total of 30 units within the project interior have been platted. Condition 17 addresses this issue.

Proper notice of tonight's meeting was posted and staff received no comments. A public meeting was held to consider the Subdivision Plat. It was determined that all State Code requirements have been met. The City's reviewing departments evaluated the application and found it to be complete.

Staff recommended that the City Council consider granting Preliminary Plat Approval of the Pioneer Pointe Subdivision subject to the conditions enumerated in the Staff Report.

Council Member Waite asked about the proposed location of trails and sidewalks. Mr. McNulty reported that the eight-foot multi-purpose trail is proposed to be located along 400 East and will connect to Pioneer Parkway and Tuscany. The developer will be required to install sidewalk on their side of the road on Patricia Drive.

Commissioner Mathis asked if there is anything on the plat addressing the private drives that are to be maintained by the Homeowners Association (“HOA”). Mr. McNulty responded that a note to that effect can be added to the plat and the CC&Rs. Mr. Ence stated that it makes sense to include the four units that will be accessed by a 26-foot driveway rather than a public road on the plat instead of relying on it simply being in the CC&Rs. It was clarified that they are public roads to be maintained by the City with the exception of the private drives. Mr. McNulty stated that it will benefit future residents. In response to a previous question raised by Council Member Waite regarding the landscaping on the trail, Mayor Rosenberg stated that landscape strips are shown on the street cross sections on the wall plan on 400 East and Pioneer Parkway.

Council Member Shakespeare moved to APPROVE the Preliminary Subdivision Plat for the Pioneer Pointe Subdivision located at 400 East and Patricia Drive and Pioneer Parkway. A note should be added to the plat that the private drives are to be maintained by the HOA. Approval was subject to the following conditions:

- 1. That the applicant be required to comply with the recommendations from all city reviewing departments for each project phase.**
- 2. That the applicant be required to install public street improvements which meet City standards.**
- 3. That the Phasing Plan be approved for the overall project. That the Phasing Plan be reviewed for compliance with each project phase.**
- 4. That the building design/materials/height/setbacks comply with the information in the staff report as presented by the applicant. That substantial changes to these items require an amendment to the Project Plan.**
- 5. That at least 30% of the project area be in common open space. The Preliminary Plat includes approximately 34.83% (6.30 acres) of open space.**
- 6. That the project amenities be provided and put in place as per the approved Phasing Plan.**
- 7. That the required public multi-purpose trail along 400 East (2018 Trails Master Plan) be put in place as per the Preliminary Subdivision Plat.**

8. That the applicant be required to comply with City Ordinance #2022-05, Water Efficient Landscaping & Conservation Standards. That a final landscape and irrigation plan is required at Final Plat submittal. Also, secondary water connections are required for outdoor water use.
9. That a 45-foot public road cross-section per the Preliminary Subdivision Plat be required for the interior streets within the project. That a 26' private driveway be allowed to access Lots 38 – 39, and 59 60 only. That future improvements to Patricia Drive, Pioneer Parkway, and 400 East meet City requirements and be improved as indicated in the staff report.
10. That 203 parking spaces for the 51 multi-family units be provided along with 20 surface parking spaces adjacent to the amenity area in Phase 1B, and within Phase 5 as per the Preliminary Subdivision Plat and Phasing Plan.
11. That the Geotech Report for the project be implemented during site construction.
12. That the Traffic Impact Study, TIS for the project be implemented except for a third access to Patricia Drive.
13. That a six-foot solid block privacy wall be required along Pioneer Parkway and 400 East. That more specific detail be provided at Final Plat submittal.
14. That 50% of all units in the project be owner-occupied. That this requirement be included in the CC&Rs and enforced by the HOA.
15. That a copy of the CC&Rs for the project be submitted to City staff and legal counsel for review at Final Plat submittal.
16. That a Dust Control Plan be required and submitted to City staff for review and approval before a grading permit is issued or site work commences for overall project or any phase.
17. That temporary drivable access which includes road base be provided once a total of 30 units have been platted within the project's interior allowing for Fire & Emergency Vehicle access. That temporary drivable access be allowed from Phase 1B to Tuscany Drive. That temporary drivable access be required until the second point of ingress/egress is put in providing access to Pioneer Parkway.

Council Member Mathis seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

- vi. **Discussion and Action to Consider a Proposed Rezoning and Project Plan for Property at the Intersection of Pioneer Parkway and the Future Extension of Red Mountain Drive (Lots 1, 2, and of the Silverado Santa Clara Subdivision), and Directly East of the Harmon's Shopping Center. The applicant, Julian Stemmer, is proposing to Rezone the Property from the Planned Development Residential, PDR Zone to the Planned Development Commercial, PDC Zone to Allow for a Mixed-Use Project including Both Commercial and Residential Uses and Consider Approving Ordinance 2023-23. The Subject Properties are 14.27 acres. Presented by Jim McNulty, City Planner.**

Mayor Rosenberg reported that Dave Hunter was present representing the applicant rather than Julian Stemmer. Mr. McNulty stated that the City Council reviewed this project previously. A public hearing was held by the Planning Commission on July 14, 2022 at which time a motion was made to recommend approval to the City Council. On August 10, 2022, the City Council held a public meeting as required by State Code and a motion was made to table the item to allow the applicant to work with adjacent residents and incorporate City Council comments prior to resubmitting. For the last several months the applicant has been working on that. On November 9, 2023, the Planning Commission held a public hearing. The draft minutes were attached for the City Council's review. The Updated Project Plan consists of three project phases. The original Project Plan included a fourth phase that includes a pickleball facility with a sports bar and grill. That has since been removed. Lot 4 has since been sold to Intermountain Healthcare ("IHC") for a future Instacare facility.

The Project Plan includes a total of 124 units. Phase 1 consists of 28 two-story townhome toy garage units with a second story living area. Phase 2 includes 96 apartment units to be housed in four buildings. The acreage for the two phases is 11.66 acres, which equates to a density of 10.63 units per acre. The Project Plan includes three commercial buildings with an approximate square footage of 16,900 square feet to be in Phase 3 of the project or the phase with frontage on Pioneer Park. Mr. McNulty was recently informed that the buildings are closer to 6,000 square feet. In terms of project amenities, Phase 1 will include open space and a trail connection that extends from the pedestrian crossing on Red Mountain Drive. Phase 2 will include restrooms with the changing area. Phase 3 includes open space and outdoor seating areas adjacent to the proposed buildings.

The building design and materials were next discussed. Phase 3 includes an exterior stucco system with colored fiber cement or a pre-finished metal cladding system is proposed with an aluminum storefront and windows. The roofs will include a single-ply membrane. The building height for the commercial buildings is 21'4" to the top of the parapet. The applicant will be required to work with City Staff and meet all City requirements if what is proposed is considered appropriate. The townhome units or mancaves include a modern design with an aluminum panel system utilizing both a wood and metal finish appearance with large windows for natural light. The roof will include a single-ply membrane syste. The building height for the buildings is approximately 24'6". The apartment building includes a modern design with an exterior stucco system, a metal panel system, an aluminum panel system with wood finish metal for the guard rails, and large windows.

The roof is a single-ply membrane system. The building height is proposed at 34 feet to the top of the canopy. The zone allows for a maximum height of 35 feet.

The applicant is proposing to provide 4.65 acres of open space for the residential area with approximately 32% or point .82 acres of open space for the commercial area. The public trail access will be part of Phase 3. An existing pedestrian trail is also located along the property frontage. Pioneer Parkway will remain in place. Along the eastern edge of the project and Red Mountain Drive, a 15-foot maintenance trail easement is shown on the Project Plan and will allow for the future connection of the IHC property and the connection to Pioneer Parkway. The developer will also be required to construct a trail along the frontage of both sites along Pioneer Parkway as well as sidewalks on either side of Red Mountain Drive.

Landscaping water efficiency was next addressed and will be required to meet City ordinance. Secondary water is required for outdoor use. In terms of road cross sections, the developers will be required to make public roadway improvements. The public roadways include, but are not limited to, the proposed public road in Phase 1. There is a 50-foot public right-of-way from Rachel Drive to Red Mountain Drive. Red Mountain Drive has a 66-foot right-of-way that connects to Pioneer Parkway to gain access to the site. Phases 2 and 3 will have a private 66-foot wide driveway system. Parking was shown on the Parking Plan and includes a total of 384 parking spaces. This includes a minimum of 192 spaces, one covered, one uncovered for the apartment project. With 56 spaces required for the townhome toy garage units, the proposed commercial uses adjacent to Santa Clara Drive require 68 spaces; however, 84 spaces are provided. A total of 34 additional parking spaces have been provided in Phases 1, 2, and 3 for shared use as needed. Mr. McNulty noted that the applicant is providing more parking than the Code requires. A total of 316 spaces will be required per Code. A Geotechnical Report indicates that the site is suitable for various types of development, including commercial or residential.

A thorough Traffic Study was completed by Aaron Baker from Horrocks Engineering. Three project access were proposed that resulted in an acceptable level of service at each intersection. It was anticipated that the traffic signal at the intersection of Pioneer Parkway and Red Mountain Drive will be needed by 2029; however, the City is currently having a study done to move forward with the signal in the near future. Installing the signal sooner rather than later will keep the level of service at acceptable levels as development takes place. A project narrative was included in the packet along with an updated Development Agreement that was reviewed by the City Attorney.

Mr. McNulty reported that City Code provides Standards of Review for the City. The standards were identified as Items A through H in the Staff Report. The property is zoned PDR and the applicant has elected to apply for a rezone to PDC to allow for both commercial and residential uses. A General Plan Amendment was recently completed for the property with two land use designations. Proper notice was provided of tonight's meeting and no comments were received by Staff; however 9 or 10 residents addressed the item during the public hearing on November 9 before the Planning Commission. The required public hearing took place on November 9 and the property was noticed prior to that meeting. Notices were sent to property owners within 300 feet. Staff determined that the State Code requirements were met. Mr. McNulty reviewed the staff recommendation and the findings and conditions of approval.

Council Member Drake asked about the access in Phase 3 to Harmons. Mr. McNulty reported that it has been in the works. The desire was to have a reciprocal access that will be dealt with in greater detail as part of the Site Plan review. Council Member Drake recommended that it be a requirement rather than a suggestion. The applicant, Dave Hunter, stated that if they are allowed to do it they will include it in the Development Agreement.

Council Member Shakespeare stated that if the adjacent property owner does not allow it, it cannot be required by the City. Another option would be to provide a second access off of Pioneer Parkway. Mr. McNulty explained that there will be a signalized intersection at Red Mountain. Previously, there were multiple accesses spilling onto Pioneer. It would be better to limit those based on capacity and speed and tie directly into Harmons. Jared Bates from Rosenberg & Associates estimated that the distance from the intersection is 200 to 250 feet.

Council Member Shakespeare asked what density will be allowed under the current zoning. Mr. McNulty stated that the PDR Zone has a base density of eight units per acre. To get a density bonus, several requirements must be met but could up to 12 units per acre could be allowed.

Mr. Hunter reported that they have been working on the project for four years through numerous iterations of the site plan. Originally, they wanted to go with residential but after meeting with the City Council and the Mayor, it did not meet the needs of the City who needs a commercial base and tax revenue. They scrapped the first plan and came up with another plan that included storage units. That idea was abandoned as well. They then proposed a project with pickleball courts that was denied as well. They now have come up with a plan that has been a collaboration between the City Council and the developers. A neighborhood meeting was held with the neighbors to the south and there was a unanimous consensus. He reported that currently, the average home price in Santa Clara is \$833,000. That requires a 20% down payment of \$167,000 and an estimated payment of \$5,777 per month

Water is also an issue and a single-family detached home on a .2-acre lot uses 300 gallons of water per day. A three-bedroom, two-bathroom apartment uses less than 100 gallons of water per day. Urban sprawl is a problem since it creates traffic. With the activity taking place in Santa Clara and Ivins there will be a need for a variety of housing types. The need for tax revenue has also been acknowledged. Mr. Hunter stated that the proposed project answers a lot of outstanding questions by alleviating some pressure in terms of pricing and adding a tax base for the City. Many want to live near family, which has proven challenging. As developers, they listened and took the input into consideration as reflected in the plan.

Affordability issues were discussed. Council Member Drake expressed concern, however, it does not stretch far enough to make it affordable for new families. Mr. Hunter stated that they typically get a 7% return on their capital. Currently, the average is \$1,500 per month for an apartment, which by comparison, is low. They use a formula that is very specific. He invited the City Council Members and the Mayor to reach out to him with questions.

Commissioner Drake believed the subject property borders townhomes and commercial. He liked the fact that some commercial is included. Retail can offset tax base to prevent property taxes in the City from skyrocketing. It appeared to him to be a very viable project but one that will create

traffic issues on Pioneer Parkway. That was something the Council has been concerned about for some time. He considered it important to include commercial with the residential.

Council Member Waite appreciated work the developer has done to try to find common ground. They are rezoning the property to be Planned Development Commercial yet the majority of the project is residential. He questioned whether the commercial fits in the zone. He felt that the majority should be commercial with some residential but it is switched in the current plan. He preferred to have the majority be commercial to offset future property tax increases by generating sales taxes. He was also concerned with Phase 3 and stated that the renderings and elevations do not match what is on the Site Plan. He explained that they must match in order to be approved. Council Member Waite had spoken with representatives from Switch Point about how to resolve the affordable housing issue. One option is to provide more supply. Unfortunately, there seems to be almost an unlimited demand in Southern Utah. There has also been so much density approved in this part of the City that he was concerned about changing the feel of Santa Clara. If the majority of the project was commercial it would seem like an extension of the Harmons area and feel natural.

Council Member Shakespeare reported that the current density is approved at 142 units with the ability to achieve a bonus density of 60 additional residential units. There is very limited commercial space and commercial zoning in the City yet they have not approved projects that would generate sales taxes and opt for an IHC facility instead. The message the City is sending is that they do not want high-density residential even though the area is zoned for it. If they truly want sales tax generating commercial, they seem to have steered away from that in some ways. He would not want to see the area developed as all residential, which was the desired direction from most of the residents. The residential portion is the most problematic because they are changing to commercial. The subject property is desired for high-density residential because it is near public transportation and shopping. He doubted that 142 units in that location is truly what most people want. Possible options were discussed. Council Member Shakespeare commented that many are unhappy about Harmons coming in but from an economic standpoint it has been a great asset for the City. He liked the commercial layout within the proposed project and that the drive thrus were moved to the back. He also liked that the front of the stores are visible. His concern was with the residential, going from PDR to PDC, and having the density with no affordability.

Council Member Mathis liked the parcel as PDC and would support the entire area being developed as PDC with commercial development. The issue was that when they did the General Plan Amendment with the apartments, it appeared to be a way to get around the Residential Apartment Ordinance where they limit the number of units unless there is affordability, which the City desperately needs. She would not support the apartments without an affordability option. She noted that she walks the area often and lives in the area. She liked where the man caves have been positioned between the wash and the Harmons loading docks.

Mr. Hunter stated that the site plan is the compromise between them and City and that they do residential and not commercial development. What is presented is a culmination of work that has been ongoing. Council Member Mathis pointed out that under the current ordinance the developer

could not get the apartments in a PDR zone because they would not be allowed without an affordability component. At that point they would just be townhomes.

Council Member Hinton agreed and did not want to see the entire project developed as residential. She wanted to see the commercial as well. She worried about going from PDR to PDC without significantly more commercial within the project. She liked the placement of the man caves and stated that the placement makes sense. She considered this to be one of the last commercial areas and they need to get it right. She did not consider what is proposed to be there.

In response to a question raised, Mr. Ence commented that certain portions of the project could be approved tonight to allow the developer to move forward with specific components. He stated that where the property is clearly divided between the different use types that could be done. They would want to make sure that whatever decision is made that it be clear what is to be done with the remainder of the application. They need to consider the entire application regardless of whether they approve only a portion of it. Procedural issues were discussed.

Council Member Waite commented that there is a Development Agreement already on the property without apartments or townhomes and shows Neighborhood Commercial and Destination Mixed-Use. Council Member Shakespeare countered that if someone were to come back in the PDR zone, it still has to go through the same process. The density, however, would still remain PDR. Council Member Mathis explained that the difference is that it already has a zoning designation. At that point, all that would be needed is a Site Plan and to go through the approval process.

Council Member Shakespeare stated that the goal is to find what is best. He felt there was a misunderstanding in terms of what can go there. Mr. Ence reported that the acreage of Lot 1 is 6.44 acres, Lot 2 is 5.22 acres, and Lot 3 is 2.61 acres. Council Member Waite was concerned about how the meeting was noticed if they potentially leave it as PDR since that is not what was advertised. Mr. Ence disagreed because what would be approved is the same product. As long as the Council does not vary from what is before them, a portion of the project could be approved and not another.

Council Member Drake remarked that it is a difficult decision as there are positives and negatives. He has received a lot of comments from residents, many in support of commercial over high-density residential. Others do not want commercial. He asked if the developer would be willing to look at that. Mr. Hunter stated that they have taken all of the suggestions to heart for four years and compromised tremendously. A convenience store was proposed and rejected, which would have been a tremendous sales tax generator. He was not sure where to go from here. He stated that they could potential replace the 48 units with commercial, which would be their last compromise. They have to proceed as they have investors and are under pressure. Previously, they committed to taking 10% off the rent of any townhouse unit to City employees, which was also scrapped. He stated that if the rents are \$4,000 per month, they will be one of the most affordable options in the entire City.

Council Member Shakespeare provided information on rental pricing in the City and stated that the current market rent costs are \$1,400 for a studio unit, \$1,550 for a one-bedroom, \$1,700 for a

two-bedroom, and \$2,600 for a three-bedroom unit. He commented that if he lives nearby, he would not want townhomes developed there or a similar high density. He stated that a convenience store was built in Ivins that has complemented the neighborhood. He considered what was approved to be the wrong answer. He felt that they were trying to compromise. He acknowledged that affordability seems harder than ever with the current rates.

Council Member Mathis asked the developer if he would be amenable to Lot 1 being considered for the man caves with PDR zoning and Lots 2 and 3 being tabled to allow him to come back with a better plan. Mr. Hunter stated that he would be willing if done in concert with the City Council providing input before he returns. He was unhappy that they had to do away with the pickleball and restaurants. They also had in depth conversations about a convenience store that was denied. He stated that they cannot spend another \$100,000 on site plans and elevations to be denied again. He reiterated that they are not commercial developers and would prefer to keep the PD designation and develop only residential.

Mr. McNulty commented that 28 man caves are proposed with 96 apartments if half were eliminated, for a total of 76 units. The density was calculated at 8.4 units per acre. Phase 2 is currently apartments with a separation between uses.

Council Member Mathis sympathized with Mr. Hunter and acknowledged that he will not ever be able to make please everyone in the community. The City Council will have to come to terms with that.

Council Member Mathis moved to APPROVE Lot 1 remaining as a PDR but approving the Project Plan and TABLING Lots 2 and 3 to allow time to review it and not force the developer to wait another year. Approval was subject to the following:

Conditions:

- 1. That the applicant be required to go through the Subdivision Plat and Site Plan Review process for each project phase.**
- 2. That a total of one hundred twenty-four (124) units on 11.66 acres be allowed as per the Project Plan. This equates to a density of 10.63 units/acre.**
- 3. That a Project Phasing Plan be required for the overall project. That project amenities be provided and put in place as per the Project Plan and Phasing Plan. That this plan be reviewed for compliance with each project phase.**
- 4. That the building design/materials/height/setbacks comply with the Project Plan as presented by the applicant. That substantial changes to these items require an amendment to the Project Plan.**
- 5. That at least 30% of the overall project area be in common open space. The Project Plan includes approximately 40% (4.65 acres) of open space for the**

residential area (Phases 1 & 2), with approximately 32% (0.82 acres) of open space for the commercial area (Phase 3).

6. That along the eastern edge of the project (Phase 1) and Red Mountain Drive, a 15' maintenance/trail easement be provided to allow for a future connection to the IHC property and Pioneer Parkway.
7. That the applicant be required to comply with City Ordinance #2022-05, Water Efficient Landscaping & Conservation Standards. Also, secondary water connections are required for outdoor water use.
8. That a 50' public road cross-section as per the Project Plan be required for Phase 1 from Rachel Drive to Red Drive. That a 66' public road cross-section as per the Project Plan be required for Red Mountain Drive which connects to Pioneer Parkway to gain access to the site.
9. That a 26' private driveway be allowed within the interior of the project (Phases 2, and 3).
10. That 384 parking spaces be provided. This includes 192 parking spaces (1 covered, 1 uncovered) for the apartment project (Phase 2), with 56 parking spaces being required for the Townhome/Town Garage Units (Phase 1). That 84 parking spaces be provided for the commercial area (Phase 3) of the project as per the Project Plan. Additionally, 34 parking spaces be provided for Phases 1, 2, and 3 for shared use as needed.
11. That an updated Geotech Report for each project phase be required prior to site construction.
12. That the Traffic Impact Study, TIS for the project be implemented.
13. That a Development Agreement for the overall project be required and approved by the City Council prior to any site development.
14. That the proposed property Rezoning complies with Chapter 17.18.090 items, (except item c below):
 - a. The proposed use is suitable in view of the zoning and development of adjacent and nearby property;
 - b. The proposed use will not adversely affect the existing use or suitability of adjacent or nearby property;
 - c. There are not substantial reasons why the property cannot or should not be used as currently zoned;

- i. **The applicant intends to do a PDC mixed-use project as per the MUR (Lots 1 & 2) and MSC (Lot 3) land use designations of the General Plan.**
- d. **The proposed use will not cause an excessive or burdensome use of public facilities or services, including, but not limited to streets, schools, water or sewer utilities, and police or fire protection;**
- e. **The proposed use is compatible with the purpose and intent of the General Plan;**
- f. **The proposed use is consistent with the purpose and intent of the proposed zoning district.**
- g. **The proposed use is not supported by new or changing conditions anticipated by the General Plan;**
- h. **The proposed use does reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to the unrestricted use of property.**

Findings:

- 1. **That the Rezoning is complaint with the Santa Clara City General Plan, Section 3.4.2, Mixed-Use Land Uses (Mixed-Use Residential, MUR and Main Street Commercial, MSC).**
- 2. **That the MUR Land Use Designation allows for mostly residential uses including townhomes, multiunit buildings, and small lot single-family.**
- 3. **The MSC Land Use Designation allows for commercial uses on the ground floor, including stores, restaurants, and offices.**
- 4. **That the Harmon's Shopping Center directly west of the subject property is located within the Planned Development Commercial, PDC zone.**

Council Member Shakespeare seconded the motion.

Council Member Waite was concerned that what was stated differs from what was printed on the agenda. There was no language indicating that anything should remain PDR. Mr. Ence explained that the City Council can approve the application in its entirety including the zone changes and the Project Plan or deny the application, which leaves everything as PDR with no Project Plan. What is proposed is between those two extremes and includes approval of the Project Plan but no zone changes. The third option would be to table the request altogether and bring back the phases individually. Council Member Drake supported granting approval and letting the applicants come back with what they need to to comply.

Mayor Rosenberg called for a question on the motion.

Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-No; Council Member Waite-No. The motion passed 3-to-2.

- vii. **Discussion and Action to Consider a Proposed Rezoning and Historic District Overlay Map Adjustment for Property located at the Southeast Corner of Santa Clara Drive and Gates Lane (Parcel #SC-6-2-16-435, Described as 2.97 Acres). Granite Peaks Investment, LLC is Proposing a Rezoning of the Subject Property to Allow for the R-1-10 Single Family/Historic District Zone on a Portion of the Property (0.52 acres) with Frontage on Santa Clara Drive, with the Remaining Property (2.45 acres) with Frontage Along the Future Extension of Bonnell Trail to be with the RA Single-Family Zone and Consider Approving Ordinance 2023-24. Additionally, the Applicant has Requested that the Historic District Overlay be Adjusted on the City Zoning Map to Follow the Described Zoning Boundary. Presented by Jim McNulty, City Planner.**

Mr. McNulty presented the Staff Report and stated that two parcels are proposed for two different land use districts. It was noted that the current zoning in the area is unusual. On Santa Clara Drive, the R-1-10 zone is shown at the midpoint of Parcel 1 going south into Parcel 2. The developers are looking to reconfigure the zoning to make the property more developable. Parcel 1 would be rezoned R-1-10 in the Historic District Overlay and require Historic District Committee review of future homes. There is enough property for two building lots there. Parcel 2 would be in the RA zone, which allows for one-half acre lots. The rezoning request is to R-1-10 single-family and allows for two homes on 10,000 square-foot lots with frontage on Santa Clara Drive. The additional acreage as shown on Parcel 2, would be in the RA zone to allow for three homes on lots that are one-half acre in size or larger. The applicant intends to develop a single-family subdivision on the property. A Concept Plan was included showing the lot layers.

The second part of the application was the City zoning map. The applicant has requested that the Historic District Overlay be adjusted to follow the proposed Zoning Boundary Map. The Historic District Overlay is a layer that is included on the City's zoning map and may be adjusted concurrently with the rezoning application. The matter was properly noticed and staff received no public comments regarding the application. Mr. McNulty explained that the General Plan is supportive of very low density in the area as well as mixed-use residential with lots that front Santa Clara Drive. The proposed rezoning application would allow for single-family homes on lots that are 10,000 square feet in size or greater and one-half acre lots or greater. The proposed use of property is encouraged by the General Plan. Chapter 17.18.090 of City Code was referenced and provides standards for review in consideration of any zoning map amendment or rezoning. Utah State Code also includes requirements for the rezoning of property including holding at least one public hearing, which took place on November 9, 2023. Staff determined that all State Code

requirements have been met and recommended approval subject to the conditions and findings enumerated in the Staff Report.

In response to a question raised by Council Member Shakespeare, Mr. McNulty confirmed that the lots on Santa Clara Drive will now be accessed from Santa Clara Drive. There is a grade differential there of about 15 feet with the driveway access coming from Santa Clara Drive.

Council Member Mathis asked if the Historic District Overlay Zone adjustment will be worked into the ordinance. Mr. Ence confirmed that it would.

The applicant, Neil Walter, reported that last summer they presented the Concept Plan for an office building. After the meeting they spent a number of months trying to find a building design that would be acceptable and work for everyone. The recommendations from members did not align with the desires of the building owner. As a result, the decision was made to go a different direction, which was amenable to the neighbors who were concerned about a number of characteristics of the office building. Many who opposed the office building spoke in favor of the lot layout. The reason for the adjustments was that all of the lots on Santa Clara Drive are zoned R-1-10. In this case, however, there is a strip of R-1-10 that runs along Gates Lane. They are trying to align the lots to match the balance of the existing development on Santa Clara Drive. They were happy to work through the process to ensure that the homes facing Santa Clara Drive are compliant and meet all requirements.

Council Member Drake moved to APPROVE the Rezoning and Historic District Overlay Adjustment to the City Zoning Map by changing the zoning on the .52 acres with frontage onto Santa Clara Drive to R-1-10 Single-Family and Historic District and the remaining 2.45 acres with frontage onto Bonelli Drive to be RA single-family, adjust the Overlay boundaries to match, and approve Ordinance 2023-24 subject to the following:

Conditions:

- 1. That the proposed property Rezoning complies with Chapter 17.18.090 items below:**
 - a. The proposed use is suitable in view of the zoning and development of adjacent and nearby property;**
 - b. The proposed use will not adversely affect the existing use or suitability of adjacent or nearby property;**
 - c. There are substantial reasons why the property cannot or should not be used as currently zoned;**
 - d. The proposed use will not cause an excessive or burdensome use of public facilities or services, including, but not limited to streets, schools, water or sewer utilities, and police or fire protection;**

- e. The proposed use is compatible with the purpose and intent of the General Plan;
 - f. The proposed use is consistent with the purpose and intent of the proposed zoning district.
 - g. The proposed use is not supported by new or changing conditions anticipated by the General Plan;
 - h. The proposed use does reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to the unrestricted use of property.
2. That the proposed Historic District Overlay adjustment to the City Zoning Map be allowed as the application includes property with frontage along Santa Clara Drive that will remain in the Historic District.

Findings:

- 1. That the Rezoning is compliant with the Santa Clara City General Plan, Section 3.4.1, Residential Land Uses (Very Low-Density Residential, VLD).
- 2. That the Rezoning is compliant with the Santa Clara City General Plan, Section 3.4.2, Mixed-Use Land Uses (Mixed-Use Residential, MUR).
- 3. That the R-1-10 Single-Family/Historic District Zone allows for homes on lots of 10,000 square feet or larger.
- 4. That the RA Single-Family Zone allows for homes on lots of ½ acre or larger.
- 5. That the properties in the immediate vicinity of the proposed R-1-10 Single-Family/Historic District Zone with frontage along Santa Clara Drive are generally located within the Historic District.
- 6. That the properties in the immediate vicinity of the proposed RA Single-Family Zone are generally located within the RA Zone.

Council Member Mathis seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

viii. Discussion and Action to Consider a Subdivision Plat Amendment and Phasing Plan Update for Coyote Landing at Deserts Edge. The Subject Property is East of 400 East and North of North Town Road. Robert Smith, Applicant. Presented by Jim McNulty, City Planner.

Mr. McNulty presented the Staff Report and referenced the Phasing Plan. The applicant was identified as Robert Smith with Ben Willets present as his representative. One of the requests was for a plat amendment. The recorded plat for Phase 1 includes 24 townhome units within five buildings. The applicant is proposing to amend the plat to include the front porch within the designated building envelope with each unit. The front porch element is part of the primary structure. The applicant has also expanded the limited common area behind the units to include the entire area behind each unit. A correction was made to the amenity area to identify it as common area rather than a limited common area. The original Phasing Plan was presented. Phase 1 includes much of the internal street system, the 24 units that back onto Hamblin Parkway, and the Boat/RV parking area. When the project was approved, the applicant indicated that they were going to put all of the amenities in with Phase 1. Phase 3 includes 44 townhome units, relocated open space, a detention basin, and public road improvements. Phase 4 also includes townhome units.

In the new plan, the applicant is proposing to update the Phasing Amenity Plan for Coyote Landing at Desert Edge. Phase will include the clubhouse, the main pool, the spa, and pickleball courts to be completed by the end of Phase 1 vertical construction. Permits have been issued for Phase 1. Phase 3 will include the water play area to be completed by the end of the Phase 3 vertical construction. Depending on economic conditions, the Phase 4 slide area may change to artificial turf or a pool deck expansion area with shade structures and various games. The area must be completed by the end of the Phase 5 vertical construction.

With Phase 4, staff was concerned about the open ended proposal for the amenity area and recommended that the applicant be required to come back to the Planning Commission and City Council for approval when they have more information. Three water slides were shown. It was noted that Arcadia has one water slide. Due to cost, they may end up with fewer water slides, which are required to be staffed by lifeguards. Arcadia is grandfathered so that requirement does not apply. The property was posted per State Code even though a public hearing was held before the Planning Commission on November 9, 2023. No comments were received. Staff found the application to be complete in terms of the proposed changes to the plat amendment.

In response to a question raised by Council Member Waite, Mr. McNulty confirmed that when the project was originally approved, a density bonus was given based on the amenities, design, and the fact that the applicants were going through the process to provide Utah Housing, the affordable housing product. A decision on funding of the overall apartment project was expected in January 2024.

In response to a question raised by the Mayor, Mr. Willets stated that what is shown is not a true pool but a wading area. He noted that that pool was not part of the original Phase 1. The pool was added so that during the later phases there would still be an amenity. The slides are proposed but

will have to be economically sustainable. The water feature that is part of Phase 3 will be a splash pad as part of a play structure.

City Manager, Brock Jacobsen, reported that the applicant presented the plan and in so doing obtained a density bonus based on what was presented. To now pull that back but expect the density bonus was problematic. He suggested here be an understanding of how that will work. Mayor Rosenberg's opinion was that they can potentially hold back every unit in Phase 4. He stated that the amenity must be approved before Phase 4 can be developed. If the applicant decides not to do a Phase 4 amenity due to cost, the density bonus will be eliminated and he will lose the majority, if not all, of the units in Phase 4.

Council Member Mathis pointed out that the developer also added an amenity that was not listed previously that some credit must be given for. Council Member Shakespeare stated that nothing is specific in terms of what will be put in, which allows for the potential for far inferior amenities. It was acknowledged that amenities play a significant role in short-term rentals and must be better defined before every unit is built out. Council Member Waite commented that this project will set a precedence for other developments. He appreciated that the pool was added.

Council Member Shakespeare moved to APPROVE Subdivision Plat Amendment (Phase 1) and Updated Phasing/Amenity Plan (Phases 1, 3, and 4) for Coyote Landing at Deserts Edge subject to the following conditions:

- 1. That the applicant be required to comply with the recommendations from all city reviewing departments.**
- 2. That the applicant be required to record the Plat Amendment for Phase 1 and provide City staff with an electronic copy.**
- 3. That the applicant be required to submit a Geotechnical Report for all buildings in the project prior to building permit issuance.**
- 4. That the Updated Phasing/Amenity Plan for Deserts Edge be followed by the applicant and include the following amenities:**
 - a. Phase 1 will include the clubhouse, main pool, spa and pickleball courts to be completed by the end of Phase 1 vertical construction.**
 - b. Phase 3 will include the water play area to be completed by the end of Phase 3 vertical construction.**
 - c. Phase 4 will include a waterslide area by the end of Phase 4 vertical construction. If the Phase 4 amenities need to change based on future economic conditions, the applicant will be required to come back to the Planning Commission and City Council for approval when the applicant has more information to share with the City.**

5. The Phase 4 amenities must be approved by the City Council prior to issuing Building Permits for Phase 4.

Council Member Mathis seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

The Council next addressed agenda item number 13 before addressing the agenda items as printed on the agenda.

ix. Discussion and Action to Consider a Proposed Code Amendment to Title 5, Chapter 5.04, Business Licenses and Regulations and Title 9, Chapter 9.12.021, Excessive Noise Prohibited and Consider Approving Ordinance 2023-25. Presented by Jim McNulty, City Planner.

Mr. McNulty presented the Staff Report and stated that there was a discussion on November 15 with the City Council during a Work Meeting about Titles 5 and 9 of City Code. There have been concerns raised about commercial businesses and food trucks within close proximity of residential properties in the community. Staff brought the matter back for City Council review and consideration. The proposed ordinance adjustments were reviewed. At a previous meeting there was concern about food trucks and permitting them through Business Licensing as required by the State. Language was added to specify that a food truck is required to get a Business License as well as annual Health Department and Fire Safety Inspections. A Business License will be granted if the applicant can provide verification of a Business License, annual Health Department Inspection, and current Fire Safety Inspection from other Utah jurisdictions. A food truck, must meet the requirements of Chapter 19.12.021.

Mr. McNulty reported that Section 19.12.021 was modified to specify in item B before 7:00 AM or after 11:00 PM. Item D addresses yelling, shouting, or hooting in the streets before 7:00 AM or after 11:00 PM. Item I specifies before 6:00 AM or after 9:00 PM. Item K specifies before 6:00 AM or after 9:00 PM. The same was true for Items L and M. Items N and O included the previous language and Item P included new language to state that the use of a food truck with or without a generator within residential property or use of a food truck, with or without a generator within this distance, is prohibited. Noise levels associated with such use beyond this distance shall emit no more than 50 decibels as measured at the property boundary and should not be audible above daytime ambient noise levels beyond the property boundary. The proposed changes were an effort on the part of staff to address the concerns presented on November 15 by the City Council. Staff recommended the City Council consider approving the proposed updates to Chapter 5.04 – Business License and Regulations and Chapter 19.12.021 - Excessive Noise Prohibited.

Council Member Waite referenced Item B regarding playing music and suggested that it be limited to a specific decibel level. He noted that food trucks are limited to 50 decibels at a property boundary and suggested that it also apply to someone playing music from their business. Mr. Ence considered that to be a reasonable approach. Potential violations were identified such as races and ballgames. The possibility of adding language to specify that exceptions could include approved

special events were mentioned. The comment was made that 50 decibels is not very loud and sounds like whispering four inches from someone's ear.

Council Member Waite commented that there are businesses near his home that play loud music all day and late into the night and residents complain to him often about it. He suggested that the limitations be clearer. Sound at other decibel ranges were identified. It was noted that any sound that exceeds 70 decibels is considered disturbing. Residential limits typically start at 55 to 60 decibels, which is the equivalent of a vacuum cleaner. There was concern that they will impose a restriction that does not allow someone to perform lawn care since a leaf blower exceeds the proposed limitation. Mr. Ence referred to Section C and stated that it is relevant to consider that it is talking about sustained music over loud speakers or amplifiers for an extended period of time. It is not a few minutes with a leaf blower. He felt that was enough of a distinction. Possible options were discussed.

Council Member Drake moved to APPROVE Title 5, Chapter 5.04 – Business License Regulations and Title 9, Chapter 9.12.021 – Excessive Noise Prohibited and Ordinance 2023-25 with the recommendation of Staff filling in the decibel number as presented and discussed. The motion died for lack of a second.

Council Member Drake stated that leaving the decibel number to staff would allow staff to conduct research and compare what other cities are doing. Council Member Hinton referenced Chapter 5.04.190 which specifies no later than 12:00 PM, which is noon, on Friday. That needed to be changed to 12:00 AM. Council Member Mathis referenced Chapter 5.04.200 – Food Trucks and asked if all cities require annual Health Department and Fire Safety Inspections. Mr. Ence was not sure that every city requires inspections, but State law requires that if one is presented from another city they have to accept it. Mr. McNulty reported that most food trucks obtain a permit from St. George City. Santa Clara, however, will get some requests. In response to a question raised by Council Member Mathis, Mr. Ence stated that the City can still require a food truck operator to obtain a City Business License but to obtain one they must show the inspections that may have been issued by other jurisdictions.

Council Member Waite moved to TABLE Title 5, Chapter 5.04 – Business License Regulations and Title 9, Chapter 9.12.021 – Excessive Noise Prohibited and Ordinance 2023-25 to allow staff to make changes. The motion was seconded by Council Member Shakespeare. The motion passed with the unanimous consent of the Council.

x. Discussion and Action for Approval to Relocate and Upsize the North Boundary Pressure Valve. Presented by Dustin Mouritsen, Public Works Director.

Assistant Public Works Director, Casey Stratton, reported that with the development of the Sol Subdivision, the developer is required to relocate an existing 10-inch pressure reducing valve, which is old and under sized. With the addition of the new 16-inch Black Desert water line tying into the City's existing 16-inch line at the current PRV valve, the upsize of the valve is extremely necessary. It allows the City to provide the contractor with the new valve and vault. The developer will cover the cost of installing and relocating the valve and the vault. This needed upgrade has

been modeled by the City Engineer and is a project of the newly adopted Water Master Plan, which makes it impact fee eligible. The cost of the valve, the vault, and installation is \$138,254.52. The contractor is Desert Hills Construction.

Mayor Rosenberg reported that it needs to be relocated anyway, is impact fee eligible, and in the budget. Desert Hills Construction is currently doing the work and is obligated to complete the labor to relocate it. It was noted that Public Works Director, Dustin Mouritsen only wants specific people working on the line.

Council Member Mathis asked if a 16-inch line is sufficient to service the future growth. Mayor Rosenberg confirmed that it is. Mr. Stratton reported that the new line will be upsized to 12 inches, which has been modeled by the engineers to handle future growth.

Council Member Waite moved to APPROVE the relocation and upsizing of the North Boundary Pressure Valve and award the bid to Desert Hills Construction for \$138,254.52, as presented. The motion was seconded by Council Member Hinton. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

xi. Discussion and Action to Consider Approval of the 2024 Notice of Public Meetings. Presented by Chris Shelley, City Recorder.

City Recorder, Chris Shelley, presented the 2024 Notice of Public Meetings, which is done annually. No changes were proposed. The purpose of the notice is to remain in compliance with Utah Code Section 52-4-202-2A. Staff recommended approval.

Council Member Hinton moved to APPROVE the 2024 Notice of Public Meetings, as presented. The motion was seconded by Council Member Hinton. The motion passed with the unanimous consent of the Council.

xii. Discussion and Action to Consider Approval of the UAMPS Resolution 2023-16R, Stating that Santa Clara City Agrees to the Terms and Conditions of the Tax Certificate & Agreement Presented by Gary Hall, Power Director.

Power Director, Gary Hall, reported that the Utah Associated Municipal Power Systems (“UAMPS”) would like to make some prepaid purchases for energy consisting of natural gas or electricity. To obtain a tax-exempt bond it is necessary to sign an agreement stating that the energy from the tax-exempt bonded projects are to be sold to customers and not for commercial gain.

Council Member Mathis commented that there have been times when the City has produced extra energy and sold it back to the market. She asked if the proposed resolution would prevent them from doing that. Mr. Hall was not sure how they would differentiate between the two. Mayor Rosenberg stated that the resolution deals with energy the City would be purchasing from UAMPS, however, the City can still operate its generator. Mr. Hall reported that the City does not turn its generators on until the load exceeds the resources purchased. Nothing would be sold back at that

point. Anything sold would be from what the City's generators produce. Mr. Hall explained that there are existing contracts that are to be rolled into the tax-exempt bonds. The initial discount is expected to be at least 7½% and will be determined before closing. The expectation was that this action will save residents on power costs.

Council Member Hinton moved to APPROVE UAMPS Resolution 2023-16R . The motion was seconded by Council Member Waite. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

xiii. Discussion and Action to Consider an Amendment to the Black Desert Development Agreement. Presented by Matt Ence, City Attorney.

Mr. Ence reported that the proposed amendment to the Development Agreement was prompted by the progress that has been made at Black Desert since the original Development Agreement was signed. The original plan was to bring the matter forward when the Final Plat was received for South Village Phase 1 so that this could be considered for approval at the same time. It now appeared that the Final Plat would go through the new administrative process. With that change, the intent was to present the matter to the current City Council since they have a history and understanding of the project and the Development Agreement. The South Village Phase 1 Plat and subsequent plats will come later.

Mr. Ence explained that the original Development Agreement included language that was based on the idea that there would be a golf course maintenance facility in a particular location. As development commenced, that facility ended up being moved and a Temporary Maintenance Facility Agreement was signed with the developer that was previously approved by the City Council. Some of the provisions of the Development Agreement that were to be triggered by the facility were no longer applicable. Changes were proposed in the amendment to address that and how the development will proceed. The major changes to the text of the Development Agreement were addressed as well as the exhibits. Mr. Ence reported that when the initial Development Agreement was entered into, there was a rough Master Plan for the Black Desert Project. At the time it was approved, the only layout they had was for the golf course. More detail is available now and that information has been incorporated into the exhibits.

Area 6 was identified as a lava field that the City has been concerned about preserving. Mr. Ence reported that the configuration of the area has changed. The preliminary plat that was approved for South Village Phase 1 extends partially into what was previously Area 6 to make the road connection to the southeast of the subdivision. It was also contemplated that there would be a Phase 2 plat would be presented that would affect an additional portion of Area 6. The two exhibits provided show an overall plan as well a second map where an Area 6 is designated. An area shown in pink is designated as future South Village Phase 2. There was discussion with the developer about how to depict that. Certain aspects are unknown, which was why the designation was done the way it was. It was recognized that this will change Area 6 and reduces the area as previously designated. A large portion of that, however, was demanded by some of the things that have already been constructed or approved there including South Village Phase 1.

Council Member Shakespeare moved to APPROVE the Amendment to the Black Desert Development Agreement as presented. Council Member Drake seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-No; Council Member Hinton-No; Council Member Drake-Yes; Council Member Waite-No. The motion passed failed 3-to-2.

Council Member Waite was concerned that when the South Village was approved he did not realize that was also changing the boundary of Area 6. His understanding was that just a portion was left undefined. He was worried about changing the boundary without much discussion about where that line should end up. Mr. Ence clarified that the light blue on the map represents South Village Phase 1. The dark blue is everything outside of Phase 1. The hatching is the former Area 6 as previously configured. There has been some impact to Area 6 on the golf course side and the preliminary plat that was approved for Phase 1 of South Village impacts the northern portion of Area 6 to make the connection to the east. There is also a portion of the blue area that was never part of Area 6 that he anticipates will ultimately be part of a Phase 2 South Village application. The discussion that took place with the applicant was how to accurately show what is proposed. It is not accurate to show all of the blue area in Area 6 or the old Area 6. It has been a process for them to figure out the best way to show the current configuration.

Council Member Mathis stated that she was fine with the text of the agreement but not with the exhibit. She realized that originally there were pockets where things were placed but there were no homes on the east side at it was all lava. Because of how it aligned it allowed the developer to put in the South Village homes along the east side. For her, everything that was south and east of that was to remain as Area 6. She remarked that the City gave a concession when they allowed South Village to come in and put homes on the east side but she was opposed to seeing anything in Phase 2 for South Village because it was intentionally supposed to have remained lava.

Council Member Hinton commented that she was not a City Council Member when this was decided but she would not want to see anything coming closer to that trail and would like it to remain undisturbed.

Council Member Waite agreed and recalled that they previously discussed what would go into Phase 2 before the boundaries were changed. He had no objection to the text of the Development Agreement.

Mr. McNulty stated that the intent was for the developer to come back and make a change to the map prior to pursuing Phase 2 because much of the area shown in royal blue has not been approved. Mr. Ence agreed and commented that that was why they designated it the way they did on the exhibit. The concepts they have seen show that open space is preserved inside the concept as well. Staff did not make a concession that future Phase 2 could all be developed. They could present a plat for the area that could be considered with the open space they are proposing.

Council Member Shakespeare stated that his understanding was that anything in that phase would come back to the Council with do not disturb areas showing where the boundary is. Mayor Rosenberg added that there were renderings required showing what they were proposing and where and what would remain undisturbed.

Damon Georgelas was present via Zoom on behalf of Black Desert Resort and stated that they understand that nothing has been approved for the future Phase 2. They anticipate it coming back through the process. They wanted to reflect those discussions in what they were showing in terms of the exhibit.

Based on the feedback received, Mayor Rosenberg stated that the exhibit should be modified to remove the area shown in pink and reference to Phase 2, and increase the size of Area 6. At that time another amendment could be requested to the agreement based on additional plans and details. If that were the case, the agreement in its current form would be acceptable to the Council.

Mr. Georgelas asked that they be able to show the original Area 6 and perhaps show the area outside in a different color. Mr. Jacobsen indicated that effective February 1, 2024, final plats will no longer come to the City Council for approval. Procedural issues were discussed. Mayor Rosenberg stated that there is still a path to accomplish what is desired. Mr. Bates suggested that the area shown in royal blue be changed to light blue to make it clear that it is not part of Area 6.

Council Member Waite stated that the concern is that there were two lots that were in Area 6 that have been approved under the Preliminary Plat and are vested. That approval was based on this area not being approved and was the tradeoff for giving them the lots in exchange for not touching the rest of it. The Mayor stated that there is no guarantee that any lots can be developed in the expanded area currently. Mr. Georgelas asked for the ability to come back and potentially entertain it. He would not want it to be shown in light blue or Area 6 but have some other color to show that it is undetermined. Mayor Rosenberg's understanding was that the developer can come back any point in the future and change the boundary of Area 6 but it must be approved by the City Council. Mr. Georgelas commented that Area 6 is very sensitive and was concerned about coming back with it listed as Area 6. Council Member Shakespeare's understanding was that they were not approving any of the area until the developer came back before the Council. He agreed that he would not want it to be shown in blue. He noted that there are no guarantees.

Procedural issues were discussed. Mr. Ence explained that there are two maps that were to be attached to the Development Agreement. Both have the area divided off from Area 6. He suggested that the Council address the issue and understand what the Council will accept. He considered a critical part of amending the development to be updating the exhibits. There are several things that can be done to go forward but they need to find something that is acceptable to the City Council.

Mr. Georgelas suggested that the area shown in dark blue show what remains of the original Area 6 boundary and the area that was not in Area 6 and is not in Phase 1 would be marked as Area 5. Council Member Mathis pointed out that on the original map, Area 5 was within the golf course. Everything to the east was a concession that was made. Mr. Ence commented that the South Village area was planned for significantly higher density. There have been changes but not all have been for more development and higher density. It was noted that the density is being shifted within the project.

Council Member Mathis commented that she could support the Development Agreement if the area shown in hot pink was all in Area 6 but would require City Council approval to build there. That seemed to be acceptable to the Council but would put more of a burden on the developer.

Council Member Shakespeare moved to APPROVE the amendment to the Black Desert Development Agreement with the modification that the future South Village Phase 2 that is currently shown in hot pink at 6.53 acre be added to Area 6 making it a total of 16.84 acres. The second attachment in Exhibit B in pink and green reflect the proposed change and be consistent. Council Member Mathis seconded the motion. Vote on Motion: Council Member Shakespeare-Yes; Council Member Mathis-Yes; Council Member Hinton-Yes; Council Member Drake-Yes; Council Member Waite-Yes. The motion passed unanimously.

The City Council took a short break before returning to address agenda item 9.

7. Reports.

A. Mayor/Council Reports.

Council Member Shakespeare reported that Wreaths Across America will take place this coming Saturday. He encouraged the City Council Members to attend.

Council Member Mathis reported on the following:

- Thanks were expressed to Parks Director, Ryan VonCannon and his team for their work on the recent tree lighting event. They do an extraordinary job.
- The Governor has released the most recent budget. The focus is homelessness and affordable housing. He is presently working with the Legislature on housing initiatives and an Infrastructure District, where a developer can get money in the bond market and create his own board. It must, however, be paid off by the time the Certificate of Occupancy is issued. There were concerns with it but it has a lot of momentum at the current time. Mr. Ence stated that he helped write one version of that legislation and he was available to answer any questions.
- The Governor is adamant that every municipality have a Starter Home Policy within their Land Use Ordinance. Funding going into the Starter Home Fund is solely for new construction and is not allowed on existing homes or for renovations. It is solely for new home construction and can only be used for starter homes and first time home buyers. The cost must also be less than \$450,000, which most homes in the City will not qualify for. Another requirement is that the purchaser live in Utah for at least six months. Mr. Jacobsen stated that the Governor has said that cities are the problem. There were reports of one city that approved a project at 10 units per acre in an effort to do what the Mayor is asking. The units are 3,000 square feet in size and are selling for over \$600,000, which does not meet the requirement. Council Member Mathis stated that the Governor does not feel that the Accessory Dwelling Unit allowances are not sufficient. If mandated, the result will be higher density and smaller homes. She stated that the problem is finding developers who are willing to do what is required.

Council Member Waite reported on the following:

- He attended the recent UTOPIA meeting and they are doing better than ever before in terms of subscribers and revenue. There have been radio and t.v. ads in Northern Utah claiming that municipalities should not be involved in the internet. He explained that it is an organization that does not have to disclose their donors. The thought that big telecom is pushing the effort. He offered to answer questions the Council Members have. UTOPIA is currently deciding whether to start an ad campaign refuting the claims. The take rate percentages are currently at 4%, which is about one-tenth of what is needed.
- The Christmas Party was a success as well as the tree lighting.

Mayor Rosenberg reported on the following:

- The Water Advisory Committee Meeting with the Water District took place recently. They elected to allow the Town of Virgin to join the Regional Water Supply Agreement. There are now eight cities involved.
- Financing options were discussed for the 20-year plan and the other district projects. An update was given on water conservation, which was going well. Administrative rules were also set for how the AAC is going to function. It was supposed to be set up when the Regional Water Supply Agreement (“RWSA”) was first created but was not.
- The Smart Water Growth Conference is upcoming that a team from the City will attend in January in Cedar City.
- Flood Control approved the budget and set aside money for Santa Clara to design another grade control structure on the river and clean up the Tuacahn Wash Detention Basin and for beaver removal from the river. There have been problems with beavers damming up the river and causing sediment problems.

8. Executive Session.

There was no Executive Session.

9. Adjournment.

Council Member Hinton moved to ADJOURN. Council Member Shakepeare seconded the motion. The motion passed with the unanimous consent of the Council.

The City Council Meeting adjourned at 9:01 p.m.

Chris Shelley
City Recorder

Approved: _____

DRAFT