

## ***Payson City Council Staff Report, June 7, 2017***

- ***Request for Approval for a Zone Change from the A-5-H, Annexation Holding Zone to the RMF-10, Multi-Family Residential Zone***
- ***Request for Preliminary Plan Approval for Plat A of the Spring Creek Townhomes Subdivision***

### **Background**

The applicant, Evan Nixon has submitted two (2) land use applications to develop property located near the southwest corner of the intersection of 1130 South and 1700 West. The project divides Utah County Parcel 30-065-0076 to accommodate a townhome project known as the Spring Creek Townhomes Subdivision, Plat A. The proposed development includes fifty-three (53) townhome units with open space and project amenities. To develop the property as proposed, the applicant will need to obtain approval of a zone change and Preliminary Plan and Final Plat approval of the proposed subdivision. Following approval of the zone change and the Preliminary Plan, staff will complete a review of the Final Plat and prepare a development agreement for consideration by the City Council.

The property was annexed into the municipal boundaries in 2014 and assigned a zoning designation of A-5-H, Annexation Holding Zone, which is an agricultural zone that allows single family dwellings on five acre parcels. This zoning designation was assigned to allow agricultural pursuits to continue following annexation and to provide transitional zoning while the necessary land use and infrastructure studies were completed to support development in the area. A team of consultants, staff, landowners, residents, and various stakeholders worked together to prepare the studies that will be used to guide development in the South Meadows Planning Area. The Payson City Council adopted the South Meadows Area Specific Plan on January 20, 2016.

The Base Scenario Land Use Plan of the South Meadows Area Specific Plan identifies a density of 10 units/acre for the subject property. The City Council recently adopted amendments to the RMF Zone to accommodate the density ranges included in the South Meadows Area Specific Plan. The applicant participated in the ordinance amendment process and is now requesting approval of a zone change to the RMF-10, Multi-Family Residential Zone and approval of a townhome development.

Approval of a zone change as well as the subdivision request requires approval from the City Council following a recommendation from the Planning Commission. Both the Planning Commission and City Council are required to hold a public hearing and consider public input prior to reaching a recommendation or decision, respectively. The Planning Commission conducted a public hearing on March 8, 2017 and accepted additional comment on May 10, 2017 prior to forwarding a recommendation to the City Council for each land use application. The recommendations of the Planning Commission are summarized in the recommendation section of this report. Property owners within five hundred (500) feet of the proposed project have been notified, the notice has been posted in appropriate locations, and the public hearing was advertised in the newspaper for a minimum of fourteen (14) days.

### **Analysis**

Following a review of the land use applications submitted by the applicant, staff has prepared this report to assist the City Council in formulating a decision regarding the proposed development. Because there are two requests and a need for two separate motions, staff has divided this staff report into separate sections addressing the zone change and the subdivision request.

#### ***Zone Change Request***

The property is currently zoned A-5-H, Annexation Holding Zone and the applicant is requesting approval of a zone change to the RMF-10, Multi-Family Residential Zone. The proposed zoning designation is consistent with the densities anticipated in the South Meadows Area Specific Plan adopted by the City Council. Approval of a zone change is a legislative action and the City Council is under no obligation to approve the zone change request. However, without approval of the zone change, the proposed development cannot be approved because the layout is inconsistent with the requirements of the underlying zone, A-5-H.

An important factor in a request for a zone change is the effect the zone change will have on the legally allowed uses of the property. Although it is typical for City Councilmembers to inquire about the anticipated uses of the property, the City Council should consider all potential uses allowed in the zone because once the zoning designation has been changed, the owner of the property is entitled to use the property in any manner that satisfies the regulations of the zone. Therefore, if the City Council is comfortable with all of the potential uses of the proposed zoning district in this location a zone change would be appropriate. However, if some of the uses allowed would be inappropriate in this location, the zone change should not be approved.

#### *Spring Creek Townhomes Subdivision, Plat A*

The proposed development includes fifty-three (53) townhome units with open space and project amenities. The applicant is proposing two-story townhome units which are individual houses that are placed side-by-side, where one or two walls of each house are shared (common) walls with the adjacent unit. The common form of ownership is similar to a condominium project in that the property owner not only owns their respective unit, but also an undivided interest in the common area. The applicant must demonstrate to the City Council that the project layout and design, density, and amenities will accomplish the land use goals of the Payson City General Plan, the South Meadows Area Specific Plan, and the land use ordinances.

#### **Density**

Plat A of the Spring Creek Townhomes Subdivision is proposed to be located in the RMF-10, Multi-Family Residential Zone which would accommodate a density of up to 10 units/acre. The densities allowed in the RMF Zone are significantly higher than those allowed in the other residential zones in Payson. These densities were established to allow self-contained residential communities complete with open space and recreational areas, adequate parking, and economies of scale that promote affordable housing.

If the zone change is approved, the applicant is eligible for up to 10 units/acre, provided the applicable regulations of the Payson Municipal Code and the standard specifications and standard plans are satisfied. If the zone change is not approved, the subdivision request must be denied because the proposal would result in violation of the Zoning Ordinance.

#### **Project Layout and Design**

Spring Creek Townhomes Subdivision, Plat A includes fifty-three (53) townhome units located adjacent to 1130 South (public collector street) and 1700 West (public local street) with private streets within the boundaries of the development. The project layout includes eight (8) residential buildings with a centrally located open space area containing various project amenities. With the exception of the units in Building #8, the residential units in the development directly access private streets which will be owned and maintained by a Homeowners Association (HOA). Because the infrastructure within the development is located beneath a private street, the infrastructure will also be privately owned and maintained.

#### Private Road

The applicant is requesting approval of a private road with an alternate street cross-section. Section 20.19.1 of the Subdivision Ordinance enables the City Council to approve an alternate street cross-section; however, the City Council is not obligated to approve the request. The applicant must demonstrate the alternate cross-section is preferable and that adequate measures will be taken to ensure the private streets and infrastructure will be maintained and public safety access will not be interrupted. If the alternate cross-section is not approved, the subdivision cannot be approved as proposed because the development will not meet the minimum requirements of the land use ordinances. The applicant has provided a written request for the alternate cross-section and is attached hereto.

#### Off-Street Parking

The applicant is proposing two (2) off-street parking spaces for each unit, some of which will be covered. Forty-two (42) of the units will have a two-car garage with the remaining units having a single-car garage and parking in the driveway. Uncovered guest parking stalls are also proposed near the clubhouse.

Section 19.6.7.14 of Title 19, Zoning Ordinance requires applicants for development approval to address the provision of recreational vehicle parking and storage. The applicant is requesting the City Council waive the requirement for recreational vehicle parking and storage. The applicant must demonstrate that recreational vehicle parking and storage is not needed and that adequate measures will be taken to ensure that recreational vehicle parking and storage will not occur within the development and obstruct access for city service vehicles and public safety equipment and apparatus. The applicant has provided a written request to waive the recreational vehicle and storage requirement (attached).

### **Amenities**

Project amenities are a critical element of multi-family development in Payson. Applicants are required to provide at least 30% open space, landscaped areas, and a variety of project amenities for use by the residents of the development. The applicant has set aside 2.25 acres to be used as common area and limited common area. The applicant is proposing the following amenities throughout the project:

- Clubhouse, including indoor amenities
- Splash pad
- Sport court (required)
- Playground area, including equipment (required)
- Picnic area with tables and barbecue facilities (required)

The City Council will need to determine if the project layout, building design, and amenities are sufficient and of adequate quality to satisfy the minimum requirements of the RMF-10 Zone. Details of the project amenities and the timing of installation will be included in a development agreement and recorded in the office of the Utah County Recorder.

### **Compliance with City Regulations**

The proposed Spring Creek Townhomes Subdivision, Plat A has been reviewed for compliance with Title 19, Zoning Ordinance (February 1, 2017), Title 20, Subdivision Ordinance (December 7, 2016), and other applicable requirements of the land use ordinances of Payson City. Following staff review, a list of items has been generated that will need to be satisfied prior to the recordation of the Final Plat or development of the property, as applicable.

1. Approval of the zone change from the A-5-H Zone to the RMF-10, Multi-Family Residential Zone must be obtained by the City Council. If the zone change is not approved, the subdivision request of the applicant must be denied because the proposal would result in violation of the Zoning Ordinance.
2. The project drawings (preliminary plan, construction drawings, final plat) must be consistent with the adopted ordinances and the improvements completed consistent with the specifications of Payson City. Each lot must have access to municipal services and the applicant is responsible to provide utility services to each lot and structure, including, drinking water, pressurized irrigation, wastewater, and power service. Connection and impact fees will be assessed at the time of issuance of a building permit.
3. The applicant is requesting approval of several modifications to the requirements of the Payson Municipal Code. The City Council will need to determine if these requests are appropriate and will further the land use goals of Payson City. The City Council is not obligated to approve any modification to the requirements of the Payson Municipal Code.
  - a. Request to reduce the review fees for subdivision approval. The applicant is required to submit payment of Preliminary Plan and Final Plat review fees. The review fees include a base fee and a per lot cost. The applicant is requesting the per lot cost be modified. The City Council has the discretion to reduce the fees, but the applicant must provide evidence that the imposition of the fee would be inherently unfair.
  - b. Request to modify the street cross-section to allow private streets within the development. The applicant is proposing twenty-four (24) feet of asphalt rather than the typical forty (40) feet of asphalt for a public street.
  - c. Request to waive the recreational vehicle parking and storage requirement (as described above).
  - d. Request to waive the requirement for installation of the sewer main line in 1130 South. Due to topography and the depth of the existing sewer line in 1700 West, the South Meadows Area Specific Plan indicates the sewer line in 1130 South will flow to the west and north. The proposed project can be served by the extended sewer line in 1700 West; therefore, the line in 1130 South is not necessary for this project. In accordance

with Section 20.22.1 of the Subdivision Ordinance, the City Council could grant this request if it is determined the installation of the sewer main is not necessary for future development.

4. The electrical facilities will need to be installed consistent with the approved electrical layout and the Payson Power Standards and Specifications. The applicant is responsible for payment for all materials and labor provided by the Payson Power Department.
5. The applicant will need to modify the project drawings to include the revisions required by the Payson City Engineer and the members of the Development Review Committee (DRC).
6. Improvement of the property will require approvals from other agencies. Approvals from the Utah Division of Water Rights (Stream Alteration) and the Bureau of Reclamation are needed for the utility crossings of the Spring Creek channel and Lateral 20 respectively.
7. The project will be completed in several phases. The City Council will need to approve the proposed phasing plan following a recommendation by the Payson City Fire Chief and the Payson City Engineer. Each phase must maintain a second point of access as required by City ordinance.
8. The City Council will need to approve the housing product, exterior materials, project amenities, and other design features of the project. The housing product must be consistent with the design standards of the RMF Zone. To ensure the property is improved and maintained consistent with the approval of the City Council, a Development Agreement between Payson City and the Applicant will need to be approved by the City Council and recorded in the office of the Utah County Recorder.
9. The applicant will need to prepare project CC&R's to protect, preserve, and enhance property values in the project. At a minimum, the CC&R's must address acceptable housing product and materials; project fencing; use of visitor parking areas; installation and perpetual maintenance of the private streets, private infrastructure, landscaping, and project amenities; and enforcement of on-street parking and recreational vehicle parking and storage. Bylaws that address the organization and operation of the Homeowners Association will need to be provided as well.
10. The following items will need to be addressed prior to recordation of the Final Plat or during the construction phase, as required by City ordinance.
  - a. Complete the transfer of adequate amount of water shares into the name of Payson City. The amount of water shall be consistent with Title 10, Water Ordinance of the Payson City Municipal Code.
  - b. Provide a performance guarantee for project improvements and amenities; asphalt overlay bond; and testing and inspection fees.
  - c. Submit documentation that indicates all current and past property taxes have been paid for the property included in the proposed subdivision.
  - d. Conduct a pre-construction meeting with the City Engineer prior to the installation of project improvements. Construction standards, geotechnical requirements, Storm Water Pollution Protection Plan (SWPPP) regulations, traffic control, project schedules, and other improvement related issues will be discussed at the meeting.
  - e. The applicant will need to be aware that prior to excavation and installation of public improvements, the Final Plat must be recorded, and prior to the issuance of any building permit, all required infrastructure, including the installation of asphalt and private utilities will need to be completed, inspected and approved.
  - f. As specified in the South Meadows Annexation Agreement, a proportionate share of the cost of the Specific Plan studies will need to be paid by the applicant.

These items represent the issues staff found to be inconsistent with the Payson City Municipal Code. The City Council will need to determine if the proposed project is consistent with the land use goals of Payson City or if modifications are necessary to accomplish the goals established in the South Meadows Area Specific Plan. The City Council may require additional information in order to make a well-informed decision.

### **Recommendation**

The applicant is seeking approval to change the zoning designation of Utah County Parcel 30-065-0076 from the A-5-H, Annexation Holding Zone to the RMF-10, Multi-Family Residential Zone to accommodate a townhome project near the intersection of 1130 South 1700 West. Moreover, the applicant is requesting approval for the Preliminary Plan of Plat A of the Spring Creek Townhomes Subdivision.

### *Planning Commission Recommendation*

On March 8, 2017, the Planning Commission considered the land use applications for the Spring Creek Townhomes project. Following a public hearing, the Planning Commission recommended the City Council approve the request to rezone the parcel from the A-5-H, Annexation Holding Zone to the RMF-10, Multi-Family Residential Zone citing the zone change is consistent with the land use goals and objectives of the City Council and as outline in the South Meadows Plan. The Planning Commission remanded the Preliminary Plan back to staff with direction to further address issues related to drainage, fencing, potential well contamination, and roadway improvements.

On May 10, 2017, the Planning Commission revisited the request for Preliminary Plan approval of the Spring Creek Townhomes project. Following a review of additional information submitted by staff and the applicant, the Planning Commission recommended approval of the Preliminary Plan contingent upon the following: widen 1740 West to as close to 30 feet as possible; sidewalk on one side of the street is limited to interior streets only; provide RV parking and storage; require masonry fencing unless more data is provided on the proposed SimTek fence; install fencing along the west property line with Phase 1 and fencing along the south property line with Phase 3; require fencing to delineate between common area and limited common area (backyards); and recommend waiving the requirement for sewer in 1130 South.

The City Council will need to make a decision regarding two land use applications: zone change and the Preliminary Plan for the proposed subdivision. Because each application requires separate motions from the City Council, staff has appropriately separated the requests of the applicant:

#### *Zone Change Request*

Following a public hearing to receive public input and a review of the residential zoning districts, the City Council will need to determine if it is appropriate to modify the zoning designation of the subject parcel. If the City Council determines the uses of the RMF-10, Multi-Family Residential Zone are appropriate in this location and consistent with the land use goals and objectives of the City Council, the City Council should approve the request. Conversely, if the City Council determines the proposed uses are not appropriate in this location or inconsistent with the land use goals and objectives of the City Council, the request should be denied.

#### *Subdivision Approval*

Following a decision for the proposed zone change, the City Council will need to determine if the proposed development is appropriate in this location. The City Council, following a public hearing, may:

1. Remand the Preliminary Plan back to staff for further review or with direction to provide additional information. This action should be taken by the City Council if it is determined that there is not enough information provided by the applicant in order for the City Council to make a well-informed recommendation.
2. Approve the request contingent upon the satisfaction of conditions. Revisions are necessary to ensure the proposal is consistent with the Payson City Municipal Code. Furthermore, the applicant is requesting approval of several waivers or modifications that must be addressed by the City Council. The City Council will need to determine if these modifications are consistent with the land use goals of the City Council.
3. Deny the proposed request for Preliminary Plan approval. This action should be taken if the City Council determines the applicant is unwilling or unable to satisfy the regulations of the Payson City Municipal Code and the land use goals of the City.

Any motion of the City Council should include findings that indicate reasonable conclusions for the decision. If the City Council chooses to amend the zoning map to accommodate the zone change request, the amendment shall be completed by ordinance.