

**IVINS CITY
PLANNING COMMISSION
MINUTES
June 4, 2019
435-628-0606**

1) WELCOME AND CALL TO ORDER

CHAIRMAN AND COMMISSIONERS: The meeting was called to order at 5:30 p.m. All present included Chairman Jeff Loris, Commissioner Bryan Pack, Commissioner Lance Anderson, Commissioner Doug Clifford, and Commissioner Bob Morris.

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

Audience Attending: Lynnette Miller, Chris Haddad, Rich Svien, CJ Koharcheck, Joe Platt, Lisa Rutherford, Patrick Manning, Regina Roper, Kathy Barth, Sharon Barton, Shelley Moeller, Rob Reid, George Stoddard, Sherry Breitenbach, Logan Blake, Kent Bylund, as well as others that did not sign in.

A. Acknowledgement of Quorum

B. Flag Salute--Commissioner Doug Clifford

C. Invocation--Commissioner Doug Clifford

D. Disclosures

Commissioner Lance Anderson stated that he has a concept plan on the agenda for Kwavasa. No other conflicts. **Chairman Jeff Loris** stated that he works for Rosenberg but has nothing to do with the Kanta Village project they are bringing forward. **Dale Coulam** stated that the Commission needs to suspend the rules to move 5(a) before Section 4.

2) REPORTS AND PRESENTATIONS --

A. Concept Plan Report for Kwavasa Phase 2, located at approximately Kwavasa and Keleva. Kayenta Development/SITLA—Owner. Lance Anderson—Applicant.

Commissioner Lance Anderson recused himself. **Mike Rodriguez** stated that this is 27.188 acres being subdivided into 20 lots and TRC has looked at this plan. It is compliance with our city ordinances. **Commissioner Bryan Pack** stated that the directional showing North should be to the left.

B. Concept Plan Report for Black Desert construction/project information office, located at approximately Snow Canyon Parkway and the horse roundabout. Enlaw, LLC—Owner. Applicant—Patrick Manning.

Mike Rodriguez stated that this is for the Black Desert Project information office 18,500 sq ft site on an overall 70 acre site just South of the horse roundabout across from The Reserve. The applicant is requesting to place three temporary modular offices, as a project office, construction office, and storage facility. Construction permits have been issued for a ranch road and there is a new water line being constructed by St George City. A Class IV Conditional Use Permit will be submitted at a future Planning Commission meeting to talk more about the overall project. There will be a golf course, retail and resort uses on the overall project. This Concept Plan is to have the approvals to place these three temporary buildings on this small site. TRC reviewed this last week. What we have seen so far appears to be in compliance. The golf course is being designed and so they have architects and others as part of the construction of the overall site and they would have a meeting place on site and also have storage materials and for a side by side to

1 travel onto the site. The project information office will be for the public to go in and get
2 information about the development. **Chairman Jeff Loris** inquired if the storage container is a
3 cargo container? **Mike Rodriguez** stated no, those are prohibited in Ivins. It will be a
4 construction trailer. **Commissioner Lance Anderson** inquired if these buildings were for the
5 construction of the water line and future use? **Mike Rodriguez** stated that currently there is a
6 ranch road being constructed from Santa Clara up into the northern portion of the 70 acre site.
7 And the water line is being put in by the City of St George. That spurred the need to have a
8 construction trailer. There will be a Conditional Use Permit that will be heard at a future
9 meeting. **Dale Coulam** stated that the road and water line construction permit entitles them to
10 have a construction trailer, but they are also asking for a professional office for architects and
11 engineers to meet and also where they can provide and receive back information from the public
12 as they plan their overall main project. **Commissioner Doug Clifford** inquired what utilities will
13 be there? **Mike Rodriguez** stated water is out there and a sewer connection for the restrooms in
14 the trailers. They are already in place. **Commissioner Lance Anderson** inquired if the
15 Conditional Use Permit will be temporary or will it lead to something more later? **Dale**
16 **Coulam** stated we will grant this use and then it will be superseded by the overall project that is
17 built. These trailers will stay during development and then go away. They will file a new
18 Conditional Use Permit for the overall project. It is only in the design stage.

3) **BUSINESS LICENSES -None**

5) **DISCUSSION AND POTENTIAL ACTION ITEMS—**

A. **Continued discussion and consider recommendation regarding a Project Plan for Kanta Village, located at approximately 343 W Hwy 91. Mac Howell-Applicant. Kanta Holdings, LLC-Owner.**

19 **MOTION: Commissioner Bryan Pack moved to suspend rules to move Item 5A, Continued**
20 **discussion and consider recommendation regarding a Project Plan for Kanta Village,**
21 **located at approximately 343 W Hwy 91. Mac Howell-Applicant. Kanta Holdings, LLC-**
22 **Owner before Item 4.**

23 **SECOND: Commissioner Lance Anderson**

24 **VOTE: The motion carried.**

Chairman Jeff Loris	AYE
Commissioner Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	AYE

Dale Coulam stated that things were delayed last meeting for a legal opinion. You have all had a chance to review the amended project plans against the original project plan. In comparing those, there were uses such as hotel and resort that would allow short term rentals uses that were previously approved that are still in the amended project plan. That use is vested if they want to continue that use. The original project plan runs with the land. Rob Reid had mentioned they didn't really need to amend it because the uses were similar, but the layout was completely different and the key thing is that they are no longer tied directly with Movara as they were in the original project plan. As far as density, they are allowed in our ordinance up to a maximum of 15 units per acre. This project is less than that. Being 40 ft from Hwy 91 right of way does match the requirements of the Highway 91 Corridor plan. The objection to the subdivision name that Terry Marten wrote a letter regarding, we don't regulate names. Any conflict would be determined by the County recorder through civil litigation. Anthem subdivision was

changed to Amber Estates through that type of civil name dispute. Short-term rentals are still included in the plan, but if you look in the use table, which is where the uses came from in the project plan, off to the side of definitions it states what type of conditional use permit is required if it is a commercial use. For hotel and resort, those require a Class V Conditional Use Permit. Section 16.16.104 of the zoning ordinance sets forth the application requirements for Class IV and V Conditional Use Permits. In Section 16.16.107 there are 14 enumerated applicable standards for determining reasonable conditions. The applicant is at a crossroads. One option would be to withdraw the conditional uses that require a Class IV or V Conditional Use Permit and take short-term rentals off the table. Class III or below is a permitted use. Option two would be to retain the right that was in the original project plan and the use of hotel resort, which would allow the ability to have short term rentals, tweak the project plan, and apply for a Conditional Use Permit. In either event, we may need to continue this item to allow them time to talk to their clients and continue the Public Hearing again on this and Item 4A. Because it contained Class IV or V uses, they need to apply for a Conditional Use Permit if they want to retain those uses. We would be looking at July for further discussion. **Chairman Jeff Loris** inquired if they can amend the preliminary plan and keep the project plan if they choose to? **Dale Coulam** stated they have that choice, but they maybe can't answer that question tonight. Lynnette Miller stated that initially their client was not interested in short-term rentals, but that progressed in TRC meetings to this and meeting the conditions of the previous project plan and that meant having some commercial aspect. **Commissioner Lance Anderson** stated they kept it in there, because they thought they needed to. **Dale Coulam** stated that may have been a misunderstanding because staff understood they wanted a short-term rental aspect for overflow from Movara. **Commissioner Lance Anderson** inquired can they move forward without the short-term rental use? **Dale Coulam** stated if they remove any Class IV and Class V uses. Lynnette Miller stated she would need to talk to their client. Rob Reid stated that he will make a bold decision and go forward with the Preliminary Plan without any Class IV or Class V uses and eliminate all those uses. **Dale Coulam** stated you want to amend the project plan right now eliminating all Class IV and Class V uses, so no short-term rentals would be allowed. Rob Reid stated they were never after short-term rentals. Approve with those contingencies and we will move onto City Council. **Dale Coulam** stated make the amendments so it is a clean document for City Council and be willing to stipulate that the color will be other than white and will be within our color range specified in our zoning text. Stipulate that as an amendment to the project plan. **Commissioner Lance Anderson** inquired does it meet offsets? **Chairman Jeff Loris** stated yes it does. **Commissioner Lance Anderson** stated Learnkey wanted to put buildings on Snow Canyon Parkway and we didn't let them because we wanted space between them, and the ridgelines to be varied. **Dale Coulam** stated they do have variation in the ridgelines and eave lines. He doesn't believe there is anything in Chapter 18 that requires anything further. With Rob Reid's stipulated amendments we can act on the project plan and then get to the Preliminary Plan. **Commissioner Lance Anderson** stated he tried to call Mac Howell and was never able to reach him. It is not a good phone number. **Commissioner Bryan Pack** stated his concern was the density. There were 8 buildings of 5 units each on this 9 acre parcel which was 40 units and this is now 80 units. **Chairman Jeff Loris** stated they are only putting buildings on half of it. **Dale Coulam** stated this is more dense and that density is not vested but it is still well below the maximum density allowed of 15 units per acre. It is no longer a Conditional Use Permit so our discretion is lessened. **Mike Rodriguez** stated this is an RM

zone. **Commissioner Lance Anderson** stated that the problem he has with it is the skimpy pool gets built and the people residing there will go somewhere. They will not stay in their area they will go out into other people's areas. We need people to want to stay home and enjoy their own environment. **Chairman Jeff Loris** stated the density is set. There is no longer a Conditional Use Permit and the system as it is now allows the project plan and recommending it. **Dale Coulam** stated that there is at least 10% open space. That is the minimum requirement. **Commissioner Lance Anderson** stated his belief system was that we had a density of up to 15 so that we have a range to choose from and fit what is best for the community. That is how he has interpreted the ordinance all this time. **Dale Coulam** stated that State legislature has made it clear that we read an ordinance in favor of an applicant. We would have to go through the process to change the density number stated in the ordinance. **Commissioner Bryan Pack** stated so their amendment is they are removing the Conditional Use Permit and that takes our discretion away to really do anything so it really just needs to move forward. **Commissioner Lance Anderson** stated that they still meet design guidelines of the City. **Dale Coulam** stated in Chapter 18, yes. Roll Call Vote was unanimous. **MOTION: Commissioner Doug Clifford moved to approve recommendation regarding a Project Plan for Kanta Village, located at approximately 343 W Hwy 91. Mac Bowell-Applicant. Kanta Holdings, LLC-Owner, as amended by the applicant.**

SECOND: Commissioner Bob Morris

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	AYE

4) PUBLIC HEARING AND ACTION ITEMS—

A. Continued Public Hearing regarding a Preliminary Plan for Kanta Village, located at approximately 343 W Hwy 91. Mac Bowell-Applicant. Kanta Holdings, LLC-Owner.

Commissioner Bryan Pack inquired if there was any discretion for the Planning Commission with this agenda item? **Dale Coulam** stated this is an administrative decision so you are determining if it meets the requirements of the Preliminary Plan application. If it does, then it moves forward. The public comments are about lots and how they are laid out and the infrastructure and if this meets the design process of the Preliminary Plan. **Chairman Jeff Loris** opened the Public Hearing. Terry Marten stated that the Planning Commission should have some discretion. Why sit there if we have to approve everything that comes across the counter? He feels the project is offensive in a number of ways. He remembers the discussions this community had and concerns about the density and the massing of the projects. How has it come to this? How can we continue to look at these projects with very little in design quality, but only how many boxes we can fit on 9 acres? Movara looks like the spirit of what we initially proposed. The property is already for sale. Lisa Rutherford stated she is very supportive of Ivins dealing with housing that is affordable. We have become a high-end community and deal with the problem to create housing for everyone. We need to look at this carefully and be sure we are not creating a situation that will come back to bite us in the future. We did not see design drawings, or many. She would like to see others. It needs to work with the landscape out there. We can do affordable housing and have it look nice too. Kathy Barth stated that she is not familiar with Kanta Village, but in quickly looking at it, we do need

affordable housing, and this will not be short-term rentals now, but how frequently will the owners be there and if it is affordable housing, there is not much there for families. If it is for the snow-bird crowd, extra family members come down so where is the extra parking? Firetrucks being able to access and service, etc. Those are the things that jump out of me. George Stoddard stated that through the years there have been some really healthy decisions about the development of this community. Driving down Center Street is no accident that it looks the way it does. No comment on the medical building. It all blends in with the red mountain that we are all proud of. It fits the geographical area. He sees development taking place on Hwy 91 and it is a whole different thing. We have to have rules and regulations and meet the legal aspect, but what about the community feel? Rob Reid stated that he represents the applicant. A lot of valid concerns have been brought up. The property owner owns property with certain rights to do with his land that we as a City have written down with rules, regulations and ordinances. His value is based on those uses. He is developing his property what he believes to be the highest and best use. He knows that is always subjective, but they are using the existing rules that have been set for this zone, that were made years ago. If it was their property, people would feel differently. It is for sale, if people don't like it, they are welcome to negotiate with the owner and buy it and try to change it. This meets your requirements. If it doesn't we are willing to modify and change it to meet your requirements. Candice Koharcheck inquired how quickly and what does it take to change the existing rules? All the points about parking, no parks, are valid impacts on Ivins as a whole. Water, sewage, everything is an impact. We need to rethink the ordinance as soon as possible since apparently there is no discretion to work with. Hearing no further comments, **Chairman Jeff Loris** closed the Public Hearing.

B. Discuss and consider recommendation of a Preliminary Plan for Kanta Village, located at approximately 343 W Hwy 91. Mac Howell-Applicant. Kanta Holdings, LLC-Owner.

Commissioner Bryan Pack stated that the issues that are raised are significant and are concerns that have been raised by himself as well, and he would encourage citizens to continue to raise these issues. We had a Public Hearing on affordable housing for people to just come in and give input and share, and three people showed up. When we have hearings, he invited people to come and share those concerns because that is when we can make a change. We can't do that here in this meeting. These comments are irrelevant to us here in this setting. When Multi-Family was created in 2011 that discretion left us. There will always be a conflict between affordable housing and not in my backyard. If people only come when it pertains to them, oftentimes that is too late. How is this a mixed use overlay without a commercial element? If so, is the commercial element a Class IV or V Conditional Use Permit? They can eliminate mixed use and just say they are Multi-Family? **Dale Coulam** stated they haven't entirely eliminated all commercial uses. There are still some commercial uses allowed. They are just eliminating Class IV and V uses that trigger the Conditional Use Permit. For example, an art studio is allowed, that is a permitted use. Our Zoning Administrator reads it as they can pull the use from one list or the other, reading it as either. But it is ambiguous. The legislature says that if it is ambiguous it is construed against the City. This Preliminary Plan discussion is administrative and involves whether or not this project as proposed meets the requirements of our ordinances as they exist today. **Commissioner Lance Anderson** stated he has been here in these meetings since 2003 and there are different passions and sometimes we lose the intent when the rule has never been applied. We are seeing the ill effects of the 2011 rule. He is

concerned about where people are going to go in this development, where they are going to park. He doesn't agree that it meets our design guidelines. That needs to be read and accomplish what those design guidelines say. We can't do a Conditional Use Permit, but they still need to meet Design Guidelines. **Commissioner Bob Morris** stated that last meeting it was portrayed to him, and he understood that they needed a commercial element. Now today he is hearing that they don't. **Dale Coulam** stated it is a difference of opinion between himself and the Zoning Administrator. He thinks it is ambiguous. Mike Rodriguez has stated he thinks it can be pulled from one list or the other. The fact is they still have commercial uses listed, whether they use them or not that still meet mixed use. We haven't had a lot of mixed use developments. Movara was the first. Fitness Ridge back then. They listed these uses just like this amended plan does. They closely followed the original project plan. **Commissioner Lance Anderson** stated on Crescent Moon, he remembers that they had to do both and there is a statement in there that it was the least amount of density or something like that. **Dale Coulam** stated the ordinance also allows as provided in the project plan. Movara's amended project plan had 10 ft separation between those buildings, which was different than our zoning text requirements on normal side setbacks. **Commissioner Lance Anderson** inquired why we don't have discretion on project plans then? **Dale Coulam** stated that if they propose what meets the current ordinance they are entitled to that. **Commissioner Doug Clifford** stated this is a good indication of what finally happens when someone meets a boundary of when we establish something in our zoning laws. We need to be careful what we put in there because we will eventually get it. They are allowed to do it because the law says so. We need to look at the future and establish these laws carefully. **Commissioner Lance Anderson** stated that he used to be able to ask Kevin Rudd the rule and he would always know the intent and the explanation of that rule. That has gotten lost. When the rule was written, he can guarantee it wasn't to allow 15. But today that is our interpretation. He believed all these years we had discretion for it, that it was up to 15. We always need the intent behind the rule. **Dale Coulam** stated that since Kevin Rudd, our legislature has ruled that we go by ordinance and any ambiguity is construed against the City and in favor of the applicant. So now we need to be more careful how we draft our ordinances. **Chairman Jeff Loris** stated if he moved to Ivins and he wants a three-car garage and he checks on plan and size and setbacks and he can build the building he wants if he stays inside setbacks and the rules that apply to him. Then he decides he needs a detached one as well as long as he follows the rules he can build that in his backyard. He is under those City's rules. He doesn't need to worry about the neighbors views etc because he is under the rules of the City. We need to be talking about the same thing. We are trying to control other people's rights to build on their land and need to make sure we are not taking or opening ourselves up to litigation. We need to write these ordinances correctly. **Commissioner Lance Anderson** stated we need to take into consideration the community we live in and Ivins has changed dramatically from 1977. We need to respect the people that live here. The out of towners get their dollar and they move on, but we have to live with the consequences. We as citizens pay for that. Take into consideration the community. We can't even get ahold of this guy to see what his intentions are. He would like it to be on the agenda to discuss having some more discretion. No one wants a Bluff Street or a Sunset but we are getting them. **Dale Coulam** stated that the Planning Commission has the ability to say they agree with staff's assessment that it meets the ordinances and with TRC which is public safety, fire safety, and it meets required parking. He is not aware of any ordinance that this preliminary plan violates and

he relies on staff for that. Unless the Planning Commission can point to an ordinance that it violates, they are entitled to a recommended approval.

MOTION: Commissioner Bryan Pack moved to approve recommendation of a Preliminary Plan for Kanta Village, located at approximately 343 W Hwy 91. Mac Bowell-Applicant. Kanta Holdings, LLC-Owner.

SECOND: Commissioner Doug Clifford

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Bryan Pack	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	AYE
Commissioner Lance Anderson	NAY

5B. Continued discussion and consider recommendation regarding a Preliminary Plan for Sage Cove, located at approximately Earl Road and Fitness Way. Quality Development, LLC—Owner. Development Solutions Group-Applicant.

Mike Rodriguez stated we had a Public Hearing on this that opened and closed, but they had some items they needed to still discuss. **Chairman Jeff Loris** stated they fixed the grading by about two feet and it took a lot to get it there he is sure. **Commissioner Lance Anderson** stated he has a conflict on this item because the property is adjacent to his and recused himself. **Commissioner Bryan Pack** stated that the issues were grading and those have been resolved. No other concerns.

MOTION: Commissioner Bryan Pack moved to approve recommendation regarding a Preliminary Plan for Sage Cove, located at approximately Earl Road and Fitness Way. Quality Development, LLC—Owner. Development Solutions Group-Applicant.

SECOND: Commissioner Doug Clifford

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Bryan Pack	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	AYE
Commissioner Lance Anderson	RECUSE

C. Discuss and consider recommendation of an Amended Preliminary Plan for Posovi Phase 3, located at approximately Talatawi Way. Kayenta Development—Owner. Lance Anderson-Applicant.

Commissioner Lance Anderson recused himself. **Mike Rodriguez** stated that this amended because on the upper right-hand lot there was some drainage area that couldn't be built on. The area getting access from the cul-de-sac had to be resolved with the engineer. That no build area is still designated that way. They enlarged the cul-de-sac to 96 ft to meet with fire code.

MOTION: Commissioner Doug Clifford moved to approve recommendation of an Amended Preliminary Plan for Posovi Phase 3, located at approximately Talatawi Way. Kayenta Development—Owner. Lance Anderson-Applicant.

SECOND: Commissioner Bryan Pack

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Bryan Pack	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	AYE
Commissioner Lance Anderson	RECUSE

D. Discuss and consider approval of Red Desert Phase 2 Final Plat, located at approximately East Red Desert Trail. Red Earth Development-Owner. Rob Roush-Applicant.

Mike Rodriguez stated that this is Phase 2 of Red Desert, north of Palisades development and it backs up to the reserve state lands. It is a little less than an acre. The final plat complies with the Preliminary Plan. TRC and staff recommend approval. This is for lots #13 and #16.

MOTION: Commissioner Bryan Pack moved to approve Red Desert Phase 2 Final Plat, located at approximately East Red Desert Trail. Red Earth Development-Owner. Rob Roush-Applicant.

SECOND: Commissioner Bob Morris

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	AYE

E. Discuss and consider approval of the Ivins City Planning Commission minutes for May 14th 2019.

MOTION: Commissioner Bryan Pack moved to approve the Ivins City Planning Commission minutes for May 14th 2019.

SECOND: Commissioner Doug Clifford

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	AYE

6) REPORTS

A. Planning Commission

Commissioner Lance Anderson stated that he would like ridgelines of buildings, and density for Multi-Family, and to also require more amenities on the next agenda.

B. Chairman

C. Building and Zoning Administrator, Mike Rodriguez

D. City Attorney, Dale Coulam

Dale Coulam stated to discuss amenities, under Multi-Family design guidelines the use of the word "may include" is what we may want to revisit and see what is discretionary on the applicants part and use the word "shall" if we want those things to be mandatory.

E. Items to be placed on future agendas

Mike Rodriguez stated that the Conditional Use Permit for Black Desert will be on our next agenda.

7) **ADJOURNMENT**

MOTION: Commissioner Lance Anderson moved to approve ADJOURNMENT

SECOND: Commissioner Doug Clifford

VOTE: The motion carried.

Chairman Jeff Loris	AYE
Commissioner Bryan Pack	AYE
Commissioner Lance Anderson	AYE
Commissioner Doug Clifford	AYE
Commissioner Bob Morris	AYE