

From: [REDACTED]
To: [hideoututah](#)
Subject: Comments Regarding Zoning Map
Date: Monday, August 9, 2021 5:41:12 PM

Hi there,

This is a question for the Planning Commission meeting today, regarding the ratification/adoption of the updated official zoning map for Hideout:

What does it mean, in terms of density, for an area to be in the RSPA zone but *not* in one of the density pods like RSF (i.e., the "salmon" colored area)? This includes Reflection Lane, a good portion of Shoreline's future phases, and part of Golden Eagle.

The vested Town code (11.07.137) states that the base density for the RSPA zone is 1.5 ERUs per acre. Is this the applicable allowed density for this zone?

Thank you,
Brian Amerige.

From: [REDACTED]
To: [hideoututah](#)
Subject: Zoning Map for Town of Hideout
Date: Monday, August 9, 2021 5:27:45 PM

If we are reading the map correctly, it looks like lower shoreline was zoned for single family homes...how is it possible that you built townhouses instead?

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Objections to Proposed Zoning Maps
Date: Tuesday, August 10, 2021 4:29:39 PM
Attachments: [OBJECTION TO MAPS - FINAL VERSION.pdf](#)

Phil:

In so far as the Proposed Zoning Maps appear to depict a "road" (as opposed to a 6 foot wide path as previously approved for the Deer Waters Subdivision in 2020) we file the attached objections. We most respectfully request that the Town revise the map legend on the Proposed Zoning Maps to reflect that the path running south from Shoreline Dr. along the Jordanelle State park down towards the Shoreline subdivision be correctly labeled as something other than a "road". We respectfully make this request so as to avoid any explicit or implicit approval, recognition and/or endorsement of an unlawful "road" in violation of Title 11. Please see the attached.

As always, we welcome open dialogue on this matter.

Thank you,

Jonathan S. Gunn

[REDACTED]

**FORMAL OBJECTIONS TO BOTH OF THE HIDEOUT DRAFT PROPOSED ZONING
MAPS DATED JULY 29, 2021 AND AUGUST 9, 2021**

I. Background information

Objectors are the owners of 11885 N. Star Gazer Cir., Hideout, UT 84036. Objectors' home is located within the Deer Waters Resort Subdivision, approximately 30 feet from the eastern boundary of the Jordanelle State Park. There is only about 30 feet between the foundation of Objectors' home and the eastern edge of the Jordanelle State Park.

On or about the first week in January of, 2020, the Town of Hideout apparently approved a plan for development of the Deer Waters Subdivision, in which Objectors' home is located. That plan contains a map¹. That map **expressly** calls for a path running from Shoreline Dr. in a southerly direction, along the eastern edge of the Jordanelle State Park, directly behind Objectors' home. According to this map, the path is to be **Six (6) feet** wide at a point directly behind Objectors' home, then runs in a southerly direction to the Shoreline subdivision. It is important to note that the plan does not call for (nor approve) anything wider than Six (6) feet running south of Objectors' home.

On 7/29/2021 and 8/9/2021, the Town of Hideout published Proposed Zoning Maps. Both of these maps contain map legends. Both map legends reflect a "road" as a solid black line. This solid black line is indicated by arrows drawn by Objectors on attached Exhibit "A". This line (or "road") runs approximately 13 feet from Objectors' home.

According to Utah Code 41-6a-102(58) a:

- (a) **"Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.**

Objectors assume that the Town's use of the term "road" in the map legends was intentional, to reflect a "roadway" or "road" as that term is defined under Utah State law. The difference between the previously approved **Six (6) foot wide path** and a "road" sufficiently wide and/or open for use by private vehicles is the mainstay of Objectors' formal objections. For the reasons set forth below, Objectors expressly object to: (i) any path wider than Six (6) feet; and/or (ii) that any such "path" be open for use by private vehicles. **Objectors do not object to the use of any Six (6) foot wide path by Official State, County, or Municipal vehicles on official government business.**

¹ That map was supplied by the Town of Hideout in response to a Government Records Request. Objectors have received repeated assurances from both Hideout Town officials and the Developer that this "path" will be only Six (6) feet wide and will be closed to private vehicular traffic. Objectors have detrimentally relied upon these repeated assurances.

II. Overview of the Objections.

Both of the proposed zoning maps depict a “road” running approximately 13 feet from the foundation of Objectors’ home. Any such “road” would violate: (i) the 2020 development plan/drawing previously approved by the Town of Hideout for the Deer Waters subdivision; and (ii) multiple sections of Title 11 of the Town’s own Code concerning required setbacks. Therefore, because both of the Proposed Zoning maps may approve, sanction, recognize and/or authorize any “path” or “road”: (i) wider than Six (6) feet; and/or (ii) use of any such path or “road” by private vehicles, Objectors formally and vociferously object. **Once again, Objectors do not object to the use of any Six (6) foot wide path by any Official State, County, or Municipal vehicles on official government business.**

Objectors are alarmed by the fact that despite the Town’s limited approval of a Six (6) foot wide path in 2020, early in 2021, unknown persons/entities constructed an unlawful stone and gravel way that is approximately Twelve (12) feet wide. To the best of Objectors’ knowledge and belief, such construction and the change to the land was not formally approved by the Town. Moreover, the stone and gravel way clearly violates multiple sections of Title 11 requirements.

III. Arguments and Legal Authority.

a) Strict Compliance with Title 11 of the Town Code is Mandatory and Not Optional

The Town is required by its own Title 11 rules to follow and abide by its own Title 11 rules². In fact, The Town’s own Title 11 rules expressly make any action by the Town that is in violation of Title 11 rules, “null and void” as a matter of law. More specifically, Section 11.01.109 is entitled: “PERMITS TO COMPLY WITH LAND USE REGULATIONS”. It states, in pertinent part:

“Permits shall not be granted for the construction, reconstruction or alteration of any building or structure, or for the moving of a building onto a lot, or for the change of the use of any land, building, or structure if such construction, alteration, moving, or change in use violates any of the provisions of this Title”. (Emphasis added).

Section 11.01.109 could not clearer. The rules are not optional. They are mandatory and binding upon the Town. Moreover, Section 11.01.106 is entitled “LICENSE TO CONFORM”. It states in pertinent part:

“All departments, officials, and employees of the Town of Hideout that are vested with a duty or authority to issue permits and licenses shall do so in conformance with the provisions of this Title. No permit or license for a use, building, or purpose shall be issued where the same would be in conflict with the provisions of this Title. A permit or license, if issued in conflict with the provisions of this Title, shall be null and void”. (Emphasis added).

² All citations from: <https://hideoututah.gov/wp-content/uploads/2018/07/Title-11-Zoning-Regulations.pdf>

The Town Code could not be more clear. Any action taken in contravention of Title 11 is a legal nullity. When read together, these two sections make it crystal clear that the Town's rules must be followed by all - and that expressly includes by the Town itself. Any action (by anyone, including the Town) in violation of these rules is, as a matter of law "null and void". Any permit, license or approval issued by the Town in violation of its own rules is therefore "null and void", *ab-initio*.

b) Specific Violations of Title 11 Depicted by the Proposed Maps.

(i) Any changes to the previously approved 2020 plan must comply with current Title 11 requirements.

While the Town may have approved a Six (6) foot wide "path" in 2020 (apparently just days before the new Title 11 was enacted)³ changing the character of that land and path now, in 2021, after adoption of the new Title 11, would require strict compliance with the new Title 11 requirements. Said differently, any change to the previously approved 2020 plan will require compliance with the current Title 11 requirements. Because the Proposed Zoning Maps depict a "road" does not comply with the 2020 plan, it must be revised. Any approval by the Town, whether express or implied, must be avoided.

(ii) The proposed Zoning maps violate multiple current Title 11 Setback requirements.

In January of 2020, the Town of Hideout apparently adopted new Zoning rules and regulations. Those regulations include Title 11. Section 11.02.101 of Title 11 defines the terms used in Title 11. Paragraph #168 of this Section defines the "Minimum Setback" of residences from streets or roads within Hideout. It states, in pertinent part:

(168) "Setback. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line".

Section 11.07.111 goes on to set out 3 separate requirements for setbacks. The proposed "road" clearly violates 2 of these provisions. That section mandates, in pertinent part:

1. Front Setback. The front setbacks for dwellings shall be a minimum of sixty (60) feet from the center of the road, or thirty (30) feet from the edge of the right-of way, whichever is greater....."

2. Corner Lots. For corner lots, the side setback on the street side shall be the same setback as that required for the front.

³ Exact dates of adoption of the development plan and the new Title 11 are not entirely clear to Objectors.

3. Rear Setbacks. All permitted structures shall be set back from the rear property line a minimum of thirty (30) feet. (*Emphasis added*). See 11.07.111.

Title 11.07.111 sub sections (2) and (3) that will be violated if the proposed "road" is any greater than Six (6) feet wide or is open to vehicular traffic is authorized by the Town's map.

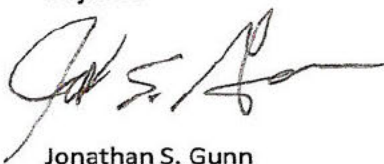
IV. Summary

The "road" depicted by both of the proposed Zoning maps violates the previously approved 2020 plan for the Deer Waters Subdivision. It is therefore unlawful. Any change to the 2020 plan requires compliance with current 2021 requirements. Because it is impossible for the proposed "road" to comply with current 2021 Title 11 requirements, it must not be approved, sanctioned, or recognized by the town, whether expressly or impliedly, in any map or in any other fashion what so ever. The Town must avoid any explicit or implicit (and unlawful) approval of any "road" or "path" which is inconsistent with the 2020 plan.

WHEREFORE, because the Proposed Zoning Maps may unlawfully expressly or impliedly authorize, sanction, and/or recognize a "road" which is inconsistent with the 2020 plan (*i.e.* a Six (6) foot wide path) and which blatantly violates Title 11, Objectors herewith file their Formal objections to both proposed Zoning Maps. Objectors respectfully request that the Town revise the Proposed Zoning Map legend so as to reflect that the "path" in question is not in fact a "road", but rather a Six (6) foot wide path. In this way, the Town can avoid any unlawful, explicit or implicit, approval, sanction, and/or recognition.

Respectfully submitted on this 10th day of August, 2021 *via* Certified US and Electronic mail to the Town of Hideout, addressed to its Honorable Mayor, Phil Rubin, with an electronic copy to the Town's attorney, Ms. Poly McClean.

Objector



Jonathan S. Gunn

[Redacted]

Objector

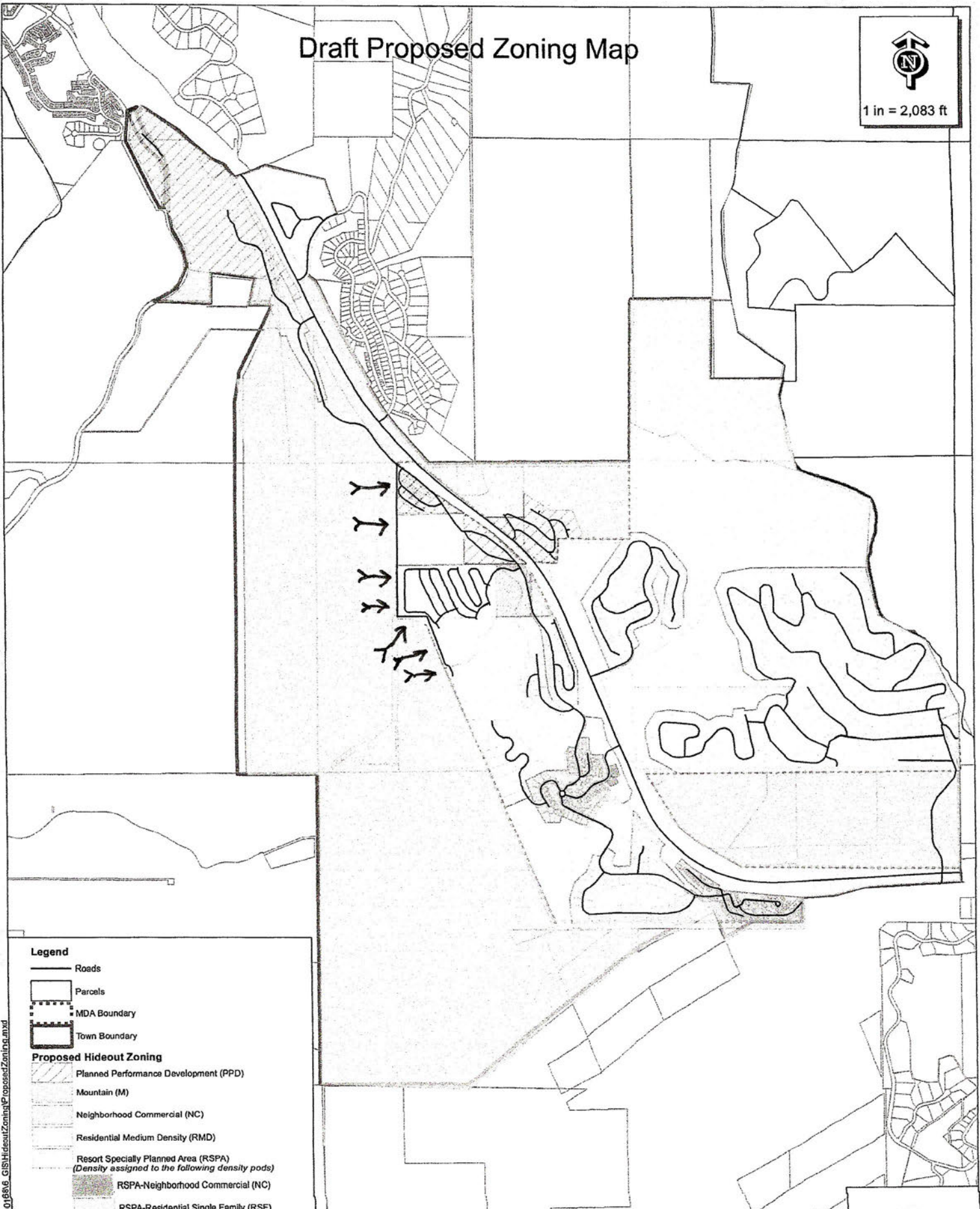


Kathleen E. Shepley

Draft Proposed Zoning Map



1 in = 2,083 ft



Legend

— Roads

▭ Parcels

▭ MDA Boundary

▭ Town Boundary

Proposed Hideout Zoning

▨ Planned Performance Development (PPD)

▨ Mountain (M)

▨ Neighborhood Commercial (NC)

▨ Residential Medium Density (RMD)

▨ Resort Specialty Planned Area (RSPA)
(Density assigned to the following density pods)

▨ RSPA-Neighborhood Commercial (NC)

▨ RSPA-Residential Single Family (RSF)

▨ RSPA-Residential Medium Density (RMD)

▨ RSPA-Resort Village Medium Density (RVMD)

▨ RSPA-Resort Village High Density (RVHD)

TOWN OF HIDEOUT PROPOSED ZONING MAP

EXHIBIT 'A'

DATE: 8/9/2021



From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Hideout zoning map
Date: Thursday, September 16, 2021 2:35:08 PM

Alicia – Please include the following for public comment on the zoning matter. Thanks, Polly

From: Jared Fields [REDACTED]
Sent: Tuesday, September 14, 2021 3:42 PM

Subject: RE: Hideout zoning map

Polly, thanks for your email. Please consider this email to be written comment on behalf of Mustang Development regarding the proposed map. The map that is now proposed for this week's Planning Commission wasn't with the original notice published and mailed out before the August 9 meeting. According to the state public notice website, that map was appended to the public meeting notice about an hour and a half before the 8/9 meeting. Our previous written comments prior to that meeting related only to the map that was published with the notice. (We provided those extensive comments the day after your August 4 email, and we considered that to be a response to your request for input).

As an initial matter, as far as I have seen, no mailing of the revised map pursuant to UCA 10-9a-205(2)(a) or (4) has been sent out. I believe there was a hard copy notice published and mailed to property owners in the Town before the 8/9 meeting, but that only included the earlier map. In fact, there is still no public notice posted for this week's meeting. This means the new map has not been properly noticed for consideration at this week's Planning Commission meeting. Relatedly, the existing meeting notice (from 8/9) is quite unclear. It states that the proposal at the meetings is to "ratify and adopt the Zoning Map which is currently in use," but now two maps are attached to the [electronic posting of that notice](#). One is labeled the "Zoning Map," and the other is labeled "proposed Zoning Map."

Notice issues aside, Mustang disagrees with the premise that an appropriate zoning map has not already been adopted, at least with respect to the MDA property. Under state law, a zoning map is simply a map "adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts." As I noted in my earlier written comments, the zoning applicable to the MDA property is RSPA. See, e.g., MDA Sec. 4.1 ("The Project is currently zoned RSPA and the Town has approved the RSPA Zoning Map."). The area of the RSPA zone was approved on March 11, 2010. This approval satisfied the requirements set forth in the statutes you cite that require legislative body approval of zoning districts.

Within the RSPA zone, the Town Code and the MDA permit various density pods. However, density pods are not defined by state statute and are not the same as zoning districts. The statutory provisions cited in your email do not require any kind of formal map of density pods showing particular uses within a zone. As it happens, Mustang over the years coordinated with the Town and during various development applications submitted updates to the proposed density pods. But

those updates were not zoning changes, and no zoning change was required (as evident from the approvals of RSPA areas like Reflection Lane, Forevermore, and portions of Rustler, Shoreline, Soaring Hawk and Golden Eagle without zoning changes). There is also no reason those density pods could not have been ratified in the Town's general plan, and in fact they were in the zoning map in that plan approved in 2019. Adjustments of density pods within the RSPA does not require a zoning change, particularly because the MDA provided a limit on the overall developed density throughout the RSPA area.

If the Town disregards the above notice issues and proceeds to consider adoption of the proposed new map, Mustang opposes the map. The newly proposed map (which I believe is [this map](#)) is problematic for some of the same reasons as the earlier map, and some different reasons. Mustang will dispute the application of such map to the MDA property as being contrary to the MDA's terms.

First, the new map purports to give density pods the same treatment as zoning, effectively limiting the intended flexibility of the zoning pods provided by the MDA. This is further evident by the statement on the map key that "density is assigned to the following density pods." This statement implies that density is not available in the other areas of the RSPA, which is not accurate under the MDA. Adoption of the map as such would ostensibly require Mustang to apply for a zoning change in order to develop much of its remaining property, which is contrary to the terms of the MDA and years of prior approvals.

Second, the new map is not a "ratification" of any existing zoning or density pod plans, and it seems implausible that anyone at the Town actually intends it as such. If the intent were simply "ratification," the proposal would be to approve (and designate as the zoning map) the map included in the approved General Plan. Mustang and other parties have, after all, been relying on that map for more than two and a half years. The proposed map is based on some selective determination of what density pods are considered to be approved. Even just compared to the last map the Town proposed, this map strips the parcel northwest of Soaring Hawk (parcel 20-8168) of any density pod designation. That parcel was designated RVHD in the 2010 MDA map, and RMD in the General Plan's map. The new map also omits any kind of Resort Village designation for Shoreline Village, which is contrary to the Town Council's approval of RVMD for all of the Shoreline Village area in December 2016.

Third, the new map imposes arbitrarily selected density pod designations and zoning districts to several areas. Reflection Lane is designated RSPA RSF, which in a way is fine, but the only source from which that designation could be made is the 2019 map in the General Plan. It is bizarre that the Town would use that map for Reflection Lane but not other areas. It assigns RSPA Neighborhood Commercial designation to two parcels previously designated RVHD despite a lack of any prior approval of that designation by the Council. It alters the existing density pods within the Golden Eagle and Soaring Hawk areas. Other areas outside the RSPA are zoned RMD (the Todd Hollow apartments) and Neighborhood Commercial (a strip south of Deer Springs).

That's a long way of saying there are material errors in the proposed map, which in any event has not been properly noticed for consideration. But all of this is unnecessary. If the Town wants to adopt a correct zoning map, it can recommend a map displaying the entire RSPA area as zoned

"RSPA." And if the Town wants a current map of the density pods planned within the RSPA zoning district, it already has one, in the General Plan and on the Wasatch County GIS site.

Jared

Jared C. Fields
Chief Legal Counsel
Mustang Development

[REDACTED]
[REDACTED]

From: Polly McLean [REDACTED]
Sent: Monday, September 13, 2021 5:34 PM
To: Jared Fields [REDACTED] Scott DuBois [REDACTED]
Cc: Dani N. Cepernich [REDACTED] Gary Crane [REDACTED] Thomas Eddington Jr. [REDACTED]
Subject: Hideout zoning map

Jared and Scott – As you likely are aware the zoning map ratification was continued to this Thursday before the planning commission. On August 4, we invited you to meet prior to the planning commission hearing but you never responded. Our invitation still stands. We received your email and public comment you sent on Thursday August 5. As you know the map was updated for the 8/7/21 meeting and the proposed map was updated based on your feedback as well as that of the public. We intend the map to reflect all zoning that has been approved by the town or reflects existing conditions. Your letter illustrates the problem when a town doesn't have an official zoning map. State Code requires us to adopt zoning districts by ordinance. (See UCA 10-9a-501, 503 505) and Unfortunately, adopting a General Plan that includes a map as an exhibit isn't enough to meet the standard of adopting an official zoning map by ordinance. The proposed map matches the density pods reflected in the MDA zoning map and existing conditions. The Town of Hideout wishes to work with Mustang and is working through the existing documentation for the Town to establish and ratify zoning that meets everyone's expectations. Any information you can provide regarding changes in the density pods or other zoning areas would be greatly appreciated.

Best,
Polly

Polly McLean – Town Attorney

[REDACTED]

From: [REDACTED]
To: [REDACTED]
Subject: FW: Town Council Meeting
Date: Thursday, September 9, 2021 6:33:42 PM

From: Allison McKinnon [REDACTED]
Sent: Thursday, September 9, 2021 1:27 PM
To: hideoututah <hideoututah@hideoututah.gov>
Cc: Rich Denness [REDACTED]; CJ Peters [REDACTED]; Susan Geyer [REDACTED]; Greg Geyer [REDACTED]; Andrew Marlow [REDACTED]; [REDACTED]; Jorge Toledo [REDACTED] Jody Schneider [REDACTED]; Ray Brideau [REDACTED]; Laura Downey [REDACTED]; CHRIS TIHANSKY [REDACTED]; Glynnis Tihansky [REDACTED]; Ben Putman [REDACTED] Stephen Besen [REDACTED]; Victoria Sharrar [REDACTED]; keith [REDACTED] raymond [REDACTED] Doug Tam [REDACTED]; Dennis Takasugi [REDACTED]; Jay Turkbas [REDACTED]
Subject: Town Council Meeting

"For the purpose of ratifying and adopting the Official Zoning Map of the Town of Hideout to reflect existing zoning. Town records fail to show that an Official Zoning Map was adopted, and therefore the Town wishes to officially ratify and adopt the Zoning Map which is currently in use."

This is exactly the same agenda from the last meeting...what about Hideout's vision?

"We will maintain longterm fiscal health while planning for the growth and development of quality services so support our community and provide for the safety and well being of it's residents. We will work closely with both public and private sectors to keep residents informed and involved in the continued growth of the Town"

Why is none of this on the agenda. The Lower Shoreline residents are so unhappy with the way we have been treated as far as not being informed about any major issues i.e. the trail building, the truck invasion... We were told the Holmes trucks were to start using the access road to leave the area...that lasted for maybe three days. Where are these trucks coming from with the dumping of all this dirt and how do we know it's safe and not contaminated.

These are questions we would like to be on the agenda.

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: OBJECTIONS to proposed zoning map dated 9-16-21
Date: Thursday, September 16, 2021 5:25:21 PM
Attachments: [9-16-21 ZONING MAP.pdf](#)

Members of the planning commission and Alicia:

About 50 minutes ago we received, for the first time, a copy of the new 9-6-21 proposed zoning map. Thank you for sending out this proposed map. In looking at the map, I see that the legend now reflects an "Access Easement" as a grey line. If I am reading the map (Page 4 of the attached) correctly, the map still reflects, via a bold solid black line, a "road" coming off Shoreline Dr. at the north end of Deer Waters, then running in a southerly direction along the edge of the Jordanelle, continuing in a southerly direction through Deer Springs. Then, at the line between Deer Springs and the Shoreline development, this "Road" appears to convert to an "Access Easement" as depicted by a grey line.

If I am reading this correctly (please correct me if I am incorrect in any respect) I adopt, restate, and reassert all of my prior objections, which include:

First, this path is a "utility easement". It is not a road. It is not and can not be a "road" because:

- 1) The recorded plats reflect a utility easement;
- 2) No "road" appears on the Hideout Town approved plan for the Deer Waters subdivision, which only reflects a 6 foot wide asphalt path south of the lift pump;
- 3) No "road" appears on any plat recorded for the Deer Waters Subdivision with Wasatch County;
- 4) No "road" can comply with the Town's own Title 11 set back requirements, which require no less than 30 feet between any home and the edge of any road; and
- 5) The path does not comply with applicable State and County requirements for "roads".

As a result, I object to the map, because it is inconsistent with the the recorded plats, the approved plan of development, Title 11 requirements, all as stated above and below.

I respectfully request that the 9-16-21 map be amended to properly reflect that the path in question, as it traverses through the Deer Waters subdivision is an "Access easement" and not a "road".

Respectfully,

Jonathan S. Gunn
[REDACTED]

-----Original Message-----

From: [REDACTED]
To: [REDACTED]
Sent: Fri, Sep 10, 2021 2:40 pm
Subject: Fwd: Proposed zoning map objection & correction

-----Original Message-----

[REDACTED]

[REDACTED]
Sent: Fri, Sep 10, 2021 2:37 pm
Subject: Proposed zoning map objection & correction

Members of the planning commission:

I understand from the town council meeting that you are involved in the development and revision of the Town of Hideout zoning map. The 8/9/21 version of this map (attached) is the latest that I am aware of. I vociferously object to the way the map is drawn for the following reasons:

The proposed 8/9/21 map inaccurately reflects a "road" coming off Shoreline Dr. (in Deer Waters) and running in a southerly direction along the edge of the Joardanelle park towards and into the Shoreline Subdivision Development.

This is not a road and can not be a road for the following reasons:

- 1) This path is, according to plats of survey duly recorded with Wasatch County, a utility easement. The plats do not reflect any "road".
- 2) The Hideout approved plan of development for Deer Waters reflects that this path is to be a 6 foot wide asphalt path south of the current sewage lift station, located behind 11885 Star Gazer Cir. The approved plan does not reflect a 15 foot wide road south of this point.
- 3) The path does not and can not comply with Hideout Title 11 setback rules. More specifically, the distance between the foundation of 11885 Star Gazer Cir. and the edge of the Joardanelle State Park is only 30 feet. Title 11 requires a minimum of a 30 foot setback. One need not be an engineer to understand that it is not possible to have a 30 foot road setback where the corridor is only 30 feet wide.

Therefore, I most respectfully request that the draft zoning map for Hideout be revised to accurately reflect a utility easement and not a road, as is currently the case.

Thank you most kindly,

Jonathan S. Gunn
[REDACTED]