

CLEARFIELD CITY COUNCIL
AGENDA AND SUMMARY REPORT
October 27, 2021 –SPECIAL ELECTRONIC SESSION

Meetings of the City Council of Clearfield City may be conducted via electronic means pursuant to Utah Code Ann. § 52-4-207 as amended. In such circumstances, contact will be established and maintained via electronic means and the meetings will be conducted pursuant to the Electronic Meetings Policy established by the City Council for electronic meetings.

Join Special Session Zoom Meeting
<https://us02web.zoom.us/j/82041846072>

Meeting ID: 820 4184 6072

Anchor Location
City Council Chambers
55 South State Street
Third Floor
Clearfield, Utah

12:00 P.M. SPECIAL SESSION

CALL TO ORDER: Mayor Pro Tem Phipps

1. **CONSIDER APPROVAL OF THE MEMORANDUM OF UNDERSTANDING WITH COWLEY REAL ESTATE PARTNERS FOR LAKESIDE SQUARE DEVELOPMENT**

BACKGROUND: Staff has met with Cowley Real Estate Partners in order to discuss the development of the area known as Mabey Pond. The developer anticipated the need for a development agreement for the development of the site; however, in consideration of the developer's timetable for acquisitions staff felt it would be more efficient to enter into a Memorandum of Understanding (MOU) with the developer. Cowley Real Estate Partners is seeking to partner with the City as essentially the sole developer of the east side of the Mabey Place project with the project occurring in two phases. The MOU outlines generally the make of each phase and would allow the developer and City additional time to craft the development agreement appropriate for the development of the project.

RECOMMENDATION: Approve the Memorandum of Understanding with Cowley Real Estate Partners for Lakeside Square development and authorize the Mayor Pro Tem's signature to any necessary documents.

****ADJOURN SPECIAL SESSION****

Dated this 26th day of October, 2021.

/s/Nancy R. Dean, City Recorder

The City of Clearfield, in accordance with the 'Americans with Disabilities Act' provides accommodations and auxiliary communicative aids and services for all those citizens needing assistance. Persons requesting these accommodations for City sponsored public meetings, service programs or events should call Nancy Dean at 525-2714, giving her 48-hour notice.



STAFF REPORT

TO: City Council

FROM: Stuart Williams, City Attorney
Spencer W. Brimley, Community Development Director

MEETING DATE: Wednesday, October 27, 2021

SUBJECT: Memorandum of Understanding with COWLEY REAL ESTATE PARTNERS

RECOMMENDED ACTION

Approve the Memorandum of Understanding (MOU) with COWLEY REAL ESTATE PARTNERS for redevelopment of the Mabey Place area and authorize the Mayor Pro Tem's signature to any necessary documents.

DESCRIPTION / BACKGROUND

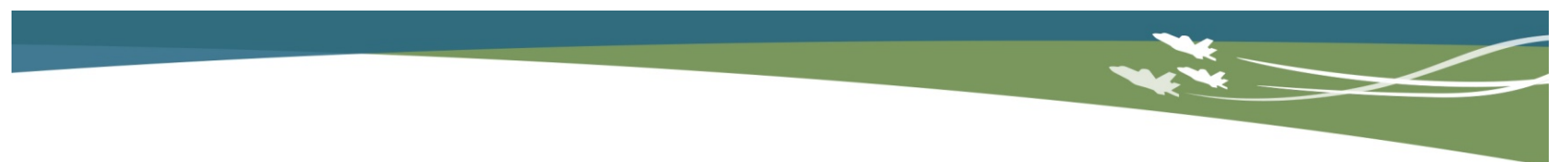
Staff has met with Cowley Real Estate Partners in order to discuss the development of the area known as Mabey Pond. The discussion commenced in September of this year and have progressed very quickly. The developer and staff discussed the process and the anticipated need for a development agreement for the development of the site. After reviewing a draft agreement, and in consideration of the developer's timetable for acquisitions staff felt it would be more efficient to enter into an MOU with the developer, to allow both parties a level of comfort in order to proceed. Cowley Real Estate Partners has been considering the site—with great excitement and anticipation—for several months, and they are now proposing to enter into a Memorandum of Understanding (MOU) with the City.

An MOU is a document that lays out an initial understanding and next steps, and is generally not meant to be contractually binding. In this case, Cowley Real Estate Partners is seeking to partner with the City as essentially the sole developer of the East side of the Mabey Place project—with the project occurring in two phases.

Phase 1 would include the northern portion of the property currently known as Lakeside Square/Mabey Place. Phase 2 would include the remaining portion of the site, along with some additional parcels, which is proposed to include the future headquarters for a major avionics company. The MOU outlines, generally the make of each phase, which will expire on August 1, 2022. This will allow the developer and the City to craft the development agreement appropriate for the development of the project.

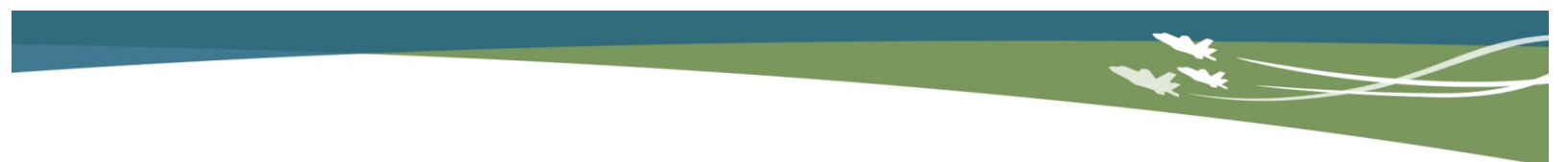
Under the MOU, Cowley Real Estate Partners would:

1. Property acquisition of the site for the development of a mixed-use project; and

- 
2. Coordinate entitlements, financing, design, and planning, closings, etc.; and
 3. Acquire adjacent properties, as desired; and
 4. Fund pre-development engineering and design costs such as site planning, infrastructure plans, etc.; and
 5. Develop street, architectural, and site development standards to be applied to the Project to the extent these elements are not addressed in the FBC; and
 6. Provide public open space at Mabey Pond consistent with the Plaza Requirements set forth in Chapter 8.5 of the FBC, and provide adequate public parking, anticipated to be 8 to 12 parking stalls, unless agreed upon by the parties through the development agreement; and
 7. Provide an art plaza on the corner of Waterfront Way and State Street.

Under the MOU, the City would:

1. Maintain the pond using aquascape best management practices, to be included within or attached to the development agreement; and
2. Allow modifications to the FBC standards through the execution of a development agreement to include, at a minimum, those modifications as set forth in Attachment 3; and
3. Allow a pedestrian path from Marilyn Drive, located on the north side of the Project Site (in lieu of a road); and
4. Allow the construction of a private road, Waterfront Way, which shall terminate at the pond; and
5. No longer require the Project's Site to contain any further private or public roadways as described in Chapter 4.0, Street & Block of the FBC or shown on the FBC Street Network map, which in turn may result, dependent on a Utah Department of Transportation determination, in the loss of ability to signalize the intersection of Bowen Blvd. and Waterfront Way at State Street; and
6. Provide for the rental of the bandstand and management of the programming; and

- 
7. Consider an offset of park impact fees for landscaping, irrigation, and civic open space improvement costs adjacent to Mabey Pond.

Regardless of who the developer is, to accomplish the vision for Mabey Place, a public-private partnership will be required. The MOU allows the parties to take the next steps forward—begin to negotiate and craft the development agreement, preparing site and architectural plans, etc. If either party doesn't like the way things are progressing, then the MOU can be terminated with a simple notice.

IMPACT

a. FISCAL

The City would anticipate increased revenues as a result of redevelopment. The timing and type of revenues remains to be seen (depending on CRA creation and the collection of tax increment), but in the long run, the City would benefit from redeveloped properties that are put to their highest and best use.

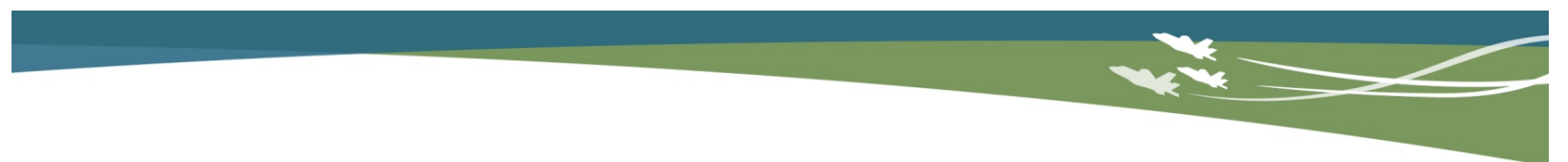
Common with projects of this size and complexity are incentives. The MOU does not include language for or about incentive, but staff felt it appropriate to mention these resources as something that is under consideration by the developer and their potential office tenant. As a part of their due diligence the developer will be meeting with EDCUtah and will be inquiring about state incentives for the location of their tenant. This negotiation may necessitate an incentive from the City, but anything anticipated would be based on what is provided by the State and be post performance for the tenant. Staff is hopeful that any TIF for this area could be applied to needs for public improvements, parking structures, etc.

b. OPERATIONS / SERVICE DELIVERY

This MOU would be a step toward the accomplishment of the vision for Mabey Place, and for the State Street corridor in general. The Elected and Appointed officials, residents, and staff have devoted significant time and effort to affecting change in the City. Efforts put into the Downtown Small Area Plan, a study by Better City, and the Form Based Code adoption has allowed the City to get to this point. The MOU would be effective until August 1, 2022 or until the developer and City are able to agree on the development agreement for the project.

ALTERNATIVES

The Council may choose not to enter into an MOU for the development of this site and may require the developer to make application for development of the site in accordance with FBC regulations.



The Council may require the developer to draft the development agreement in full including the proposed modifications and make application for land use approval on phase 1.

The Council may elect to require the developer begin phase 1 and 2 at the same time and that development and occupancy will be paired appropriately, require commercial to be approved, developed, or occupied before residential is developed.

SCHEDULE / TIME CONSTRAINTS

At this point there was a draft schedule discussed at the work session on October 5th, but no final schedule has been included in with the MOU. It will likely take several months to draft and finalize a development agreement, prepare site plans, undertake studies, develop pro formas, etc. As we move forward, we will provide the Council with updates that clarify the timing of the project and identify additional needs or issues that arise.

LIST OF ATTACHMENTS

- Cowley Real Estate Partners MOU
 - Attachment 1 – Assessor Parcel Numbers (APN)
 - Attachment 2 – Site Plan
 - Attachment 3 – FBC Modifications

LAKESIDE DEVELOPMENT
CLEARFIELD UTAH
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter “Memorandum”) is entered into on October __, 2021, by and between Cowley Real Estate Partners or assigns (“Developer”) and Clearfield City (hereinafter “City”) (collectively the “Parties”) for the purpose of achieving various aims and objectives relating to the redevelopment of 10.5 acres, currently known as Lakeside Square (along with adjacent or proximate parcels acquired by the Developer described by their Assessor Parcel Numbers (APN’s) in Attachment 1) (the “Project”) located in Clearfield City and generally bounded in part by State Street and 450 South (the “Site”).

WHEREAS, the Parties desire to enter into this Memorandum in which they will work together in good faith to conceptualize and approve the Project including issues related to roadways, buildings, infrastructure, recreation, pedestrian and community needs; and

WHEREAS, the Parties desire to allow for certain modifications from selected standards in the Form Based Code (FBC), adopted on February 11, 2020; and

WHEREAS, the Parties enter into this Memorandum to set forth the arrangements that each of the Parties agree are necessary to develop the Project in an efficient and effective manner; and

WHEREAS, the City anticipates that the Project will be developed in a manner that projects a high-quality image and achieves the goals and objectives of the City’s FBC design guidelines and zoning ordinances. In addition, the City desires to have a number of elements included in the Project to create community vibrancy and provide a community gathering place. These elements include a mix of residential and commercial uses, public gathering space, pedestrian promenades, and a bandstand to accommodate community programming. Such elements and their design are to be mutually agreed upon by the Parties; and

WHEREAS, the City’s staff has reviewed a preliminary site plan (Attachment 2) identifying appropriate land uses, amenities and programming for the Project, which will include a mixed-use environment including mid-rise multi-family housing, live-work space, restaurants, retail, office and other commercial opportunities, and civic open space including access to a fresh water pond and a bandstand; and

WHEREAS, the Developer intends to plan, design, construct and manage residential, retail, office and other commercial components along with attendant open space, amenities and parking; and

WHEREAS, there is no contractual relationship created between the Parties by this Memorandum; and

WHEREAS, the City can only be bound by action of the Clearfield City Council;

NOW THEREFORE, this Memorandum is to provide the framework for a future development agreement regarding the Project. The Parties agree to work together in good faith to ensure that there is a united and responsive leadership team for the Project and demonstrate willingness to enter into financial, administrative, and managerial commitments by providing the following services, subject to necessary approvals by Cowley Real Estate Partners and the City Council of Clearfield City.

OBLIGATIONS

Section 1. The activities and services for the Project shall include Cowley Real Estate Partners providing the following:

1. Property acquisition of the site for the development of a mixed-use project;
2. Coordinate entitlements, financing, design, and planning, closings, etc.;
3. Acquire adjacent properties, as desired; and
4. Fund pre-development engineering and design costs such as site planning, infrastructure plans, etc.; and
5. Develop street, architectural, and site development standards to be applied to the Project to the extent these elements are not addressed in the FBC; and
6. Provide public open space at Mabey Pond consistent with the Plaza Requirements set forth in Chapter 8.5 of the FBC, and provide adequate public parking, anticipated to be 8 to 12 parking stalls, unless agreed upon by the parties through the development agreement; and
7. Provide an art plaza on the corner of Waterfront Way and State Street.

Section 2. The value provided by the City will include:

1. Maintain the pond using aquascape best management practices, to be included within or attached to the development agreement; and
2. Allow modifications to the FBC standards through the execution of a development agreement to include, at a minimum, those modifications as set forth in Attachment 3; and
3. Allow a pedestrian path from Marilyn Drive, located on the north side of the Project Site (in lieu of a road); and
4. Allow the construction of a private road, Waterfront Way, which shall terminate at the pond; and
5. No longer require the Project's Site to contain any further private or public roadways as described in Chapter 4.0, Street & Block of the FBC or shown on the FBC Street Network map, which in turn may result, dependent on a Utah Department of Transportation determination, in the loss of ability to signalize the intersection of Bowen Blvd. and Waterfront Way at State Street; and
6. Provide for the rental of the bandstand and management of the programming; and
7. Consider an offset of park impact fees for landscaping, irrigation, and civic open space improvement costs adjacent to Mabey Pond.

SCHEDULE AND TERM OF MEMORANDUM

The Parties agree to work together to formalize a draft development agreement for consideration by the Clearfield City Council for the Project Site, and that this Memorandum shall expire on the date the development agreement is executed for the Project Site, or on August 1, 2022.

The Parties may agree to an extension of this Memorandum in writing.

Either party may terminate its participation in writing to the other party.

LIABILITY

No liability will arise or be assumed between the parties as a result of this Memorandum.

UNDERSTANDING

It is mutually agreed upon and understood among the parties that this Memorandum does not restrict the parties from participating in similar projects with other organizations.

IN WITNESS THEREOF, each party to this Memorandum has caused it to be executed on the date indicated below.

Cowley Real Estate Partners

Charles F. Cowley III
Authorized Signatory

Date

CLEARFIELD CITY

Vern R. Phipps
Mayor Pro Tempore

Date

Attest:

Nancy R. Dean, City Recorder

Approved as to form:

City Attorney

Lakeside Development

MOU – Attachment 1

APN's of Subject property and adjacent and proximate properties

12-003-0283

12-003-0282

12-003-0220

12-003-0077

12-003-0292

12-003-0122

12-003-0218

12-003-0058

12-003-0056

12-003-0057



LAKESIDE APARTMENTS

A MIXED-USE COMMUNITY

NORTH & SOUTH PHASE OF LAKESIDE DEVELOPMENT

MIXED-USE NORTH PHASE WITH SOUTH PHASE OF OFFICE PARK

COWLEY REAL ESTATE PARTNERS

BERNS PROPERTIES



A. Building Location (FBC 6.3)

Standard	Requested Modification
<i>Front Build to Zone 0-5 feet</i>	0–25-foot setback or as otherwise approved.
<i>Front Build to Zone with Plaza or Porte Cochere up to 25 feet</i>	0-50 feet at corners of building or as otherwise approved.
<i>Corner Build-to Zone 0-5 feet</i>	0-50 feet at corners of building or as otherwise approved.
<i>Front Property Line Coverage 90%</i>	80% consistent with office bldg. scheme or as otherwise approved.

B. Building Massing (FBC 6.4)

Standard	Requested Modification
<i>Building Stepbacks: Mixed-use buildings taller than four stories shall have a façade that steps back of a minimum of ten feet, at the top of the fourth story. The stepback is required on street frontages only. (See FBC figure 6.3 (7))</i>	Stepback not required, consistent with office bldg. scheme.

C. Street Facade Articulation/Details (FBC 6.5)

Standard	Requested Modification
<i>Vertical Facade Divisions every 25 feet</i>	Vertical Facade Divisions every 50 feet or as otherwise approved.

D. Building Fenestration (FBC 6.6)

Standard	Requested Modification
<i>Principal Entrance Location front facade</i>	Principal Entrance Location front façade or side, corner facade or as otherwise approved.
<i>Required Number of Street Entrances 1 per each 75'</i>	1 per each 100 feet consistent with Office Bldg. scheme or as otherwise approved



E. Building Uses (FBC 6.7 and table 3.3(2))

Standard	Requested Modification
<i>Ground Story: retail, service, office</i>	Ground Story: retail, service, office and live work for space not fronting State Street.

F. Signage Table 10.2 (1). Permitted Quantity of Signage by District

Standard	Requested Modification
<i>3 square feet per 1 linear foot of lot width with a maximum of 150 square feet (Table 10.2.1 – FBC p. 116)</i>	3 square feet per 1 linear foot of lot width/street frontage, consistent with code for smaller width lots

G. Accessory Structure (FBC 7.3 District Transition Buffer and Table 7.3)

Standard	Requested Modification
<i>District Transition Lot Buffer requirements</i>	Allow for the construction of single-story garage accessory structure (garages) along northern most property line