

The Regular Meeting of the  
Brian Head Planning Commission  
56 North Highway 143 - Brian Head, UT 84719  
Zoom Meetings ([click here](#))  
Zoom Meeting ID# 826 4732 8733  
**TUESDAY, November 1, 2022 @ 1:00 PM**

**Members Present:** Chairperson Doug Deutschlander, Commissioner Carrie Dever, Commissioner Cecile Wallis, Commissioner Jeff Morgan (via Zoom Meetings), Commissioner Kade Bryant (via Zoom Meetings), Alternate Commissioner Sheri Brown.

**Staff Present:** Bret Howser, Town Manager; Amanda Hunter, Code Enforcement.

**A. CALL TO ORDER**

Chairperson Deutschlander called the regular meeting of the Brian Head Planning Commission to order at 1:07 pm on November 1, 2022.

**B. PLEDGE OF ALLEGIANCE**

Chairperson Deutschlander led the Commission and others in the Pledge of Allegiance.

**C. DISCLOSURES**

- Commissioner Bryant commented he is unsure if he has a potential conflict of interest for Agenda Item E-2, Food Truck Discussion, in which he owns The Mall which has restaurants located but wanted it noted.

There were no other conflicts of interest with today's agenda items. Chairperson Deutschlander stated that the disclosure statements are on file with the Town Clerk and are available for public inspection during normal business hours.

**D. PUBLIC INPUT/ REPORTS (Limited to three (3) minutes) Non-Agenda Items**

**Bret Howser, Town Manager**

- The Town has been advertising for a Town Planner and an offer was presented to an individual but was turned down. Bret reported that the staff will repost the open position after the holidays. Bret reported he is hoping to have the position filled by February 2023.
- For the next Planning Commission agenda, an individual is interested in submitting a Conditional Use Permit for a snowmobile rental business located at 406 South Highway 143. Bret reported this may be a special meeting for the Planning Commission since the notice requirements may push the meeting date past the December 20<sup>th</sup> meeting date.
- The annual Town Christmas party is scheduled for December 2, 2022 at 6:00 pm at the Big Shots Golf located in St. George. Bret asked that those interested in going please respond to the RSVP that will be sent out which will have the details.

**Motion:** Commissioner Morgan moved to amend the agenda to address Agenda E-2 Food Truck Ordinance Discussion first since the owner of MLV Life Ventures is currently not available to discuss the MLV Townhomes. Commissioner Wallis seconded the motion.

**Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Commissioner Morgan, Commissioner Wallis, Commissioner Bryant, Commissioner Dever, Chairperson Deutschlander).**



The Commission then addressed the Food Truck Ordinance Discussion as the first item on the agenda.

## **E. AGENDA ITEMS:**

### **1. FOOD TRUCK ORDINANCE DISCUSSION.** A discussion on an amendment to the food truck regulations.

Bret Howser, Town Manager, gave a brief background on the Town's current Mobile Food Vendor Code and explained the Town is considering an amendment to the Business License Code as it relates to food trucks operating in Brian Head. Bret explained that he is looking to identify food trucks as a special event process.

Bret explained if food trucks were identified in the Land Management Code, then they would be identified as a conditional use for the commercial and village commercial zones. Bret explained that state statute has regulations for food trucks that prohibits municipalities from enforcing certain requirements on food trucks.

Bret presented a draft amendment to the Commission for their input (see attached). Bret reported he identified the proposed amendment as part of the Business License Code.

The Commission discussed the following:

1. The proposed amendment identifies that a food truck could not dislocate parking. The intent is to not worsen the Town's parking issues.
2. Food trucks are required to have a commissary by state law. Where the commissary is located is where the sales taxes go unless they operate under a special event.
3. If the Town were to identify food trucks as a special event, then they would be required to acquire a special event tax permit and the sales taxes for that period would be remitted to the Town. The Tax Commission identifies a special event as an event for up to six (6) months.
4. Bret inquired if the Commission is interested in identifying food trucks as a land use for the Commercial and Village Commercial zones.
5. Commissioner Dever suggested keeping it under the Business License Code and recommended a one-year trial period and then re-evaluating the level of control after that period has lapsed. Commissioner Morgan agreed.
6. Nancy Leigh, Town Clerk, reported that under the proposed language, the property owner would be responsible for acquiring the special event permit and they would be responsible for food trucks that operate on their property.
7. Commissioner Bryant inquired as to the reasoning behind why the Town is considering amending the food truck code by easing the current restrictions. Bret responded there have been several inquiries from food truck operators to operate in Brian Head and the Town's current code conflicts with state code. The Town Council is interested in amending the code to meet the state statutes and would also meet the demand for more food establishments to accommodate visitors.
8. Commissioner Bryant stated he is opposed to a long-term food truck event in Town since it would take away from the brick n mortar businesses and recommended the Commission consider one to a two-week event be allowed.
9. Commissioner Brown commented she believes there is a need for food service and that the current food services do not meet the demand and believes the competition would be to the benefit of the public.
10. Commissioner Bryant commented that allowing food trucks to operate, he believes it would inhibit growth for brick n mortar businesses. Bret responded that Cedar City allowed the food trucks with the belief that they would eventually turn into a brick n mortar business. There have been several food trucks that became brick n mortar businesses.



11. Commissioner Bryant stated he does not want to see a food truck park and believes it would ruin the image of Brian Head along with causing parking issues.
12. Bret explained the areas that could allow for food truck events are limited with one location identified on Steam Engine Drive where a previous food establishment, Sasquatch Donuts, was located. The Chair 1 parking lot area could be another location, and the property above the Navajo Lodge Parking area is currently owned by Bingham. The resort is currently leasing space from him at this time.
13. Commissioner Wallis wanted to clarify that the food trucks could come to Brian Head during the weekend and leave during the week. Chairperson Deutschlander responded with the proposed amendment, the food trucks could stay longer if they chose to.
14. Chairperson Deutschlander inquired if Brian Head Resort has given their input on this subject. Bret reported he is not aware of any input from the Resort.
15. Chairperson Deutschlander commented he is in favor of allowing food trucks but believes they should be operated under the special permit code.
16. Chairperson Deutschlander inquired if the proposed amendment would allow for other uses other than food trucks, such as a mobile ski vendor. Bret responded that the proposed amendment identifies mobile vendors, not just food trucks, and could apply to other uses.
17. Commissioner Bryant reported the restaurants located in The Mall are concerned with the Town allowing food trucks which would negatively impact their business. Commissioner Bryant suggested the Town identify a shorter period such as only during the holidays and busy weekends. Bret reported that state statute prohibits municipalities from restricting the number of days in which a food truck could operate.
18. Commissioner Dever inquired if the Town can identify a one-year cap. Bret explained it could be identified specifically for mobile food vendors. Another option could be to pass a resolution that would ease the current restrictions, which is what the Council did previously. Bret went on to explain that business licenses are annual licenses and if the Code was amended and after one year, it was decided to amend the Code again to restrict food trucks, those businesses would not be able to renew their business license after the year.
19. Chairperson Deutschlander recommended the following:
  - a. The proposed amendment be limited to food trucks only.
  - b. Food trucks should be identified under the special event permit process.
  - c. A one-year time limit identified for the ordinance be identified.
20. Shaun Kelly, 150 W. Ridge View Street, commented in reviewing the Special Event Code, there are several provisions identified in the existing code that could address the Commission's concerns regarding parking, and crowd safety, and it allows a sworn law enforcement officer to shut down an event.
21. Chairperson Deutschlander inquired if the property owners who allow the food truck event would be required to have an all-weather surface for the food trucks to operate. Bret responded the Business License Code does not require hard surfaces to operate a business, but staff would need to research it further.
22. Commissioner Dever commented she is unsure about the displacement of parking and would prefer the Town Council address this issue. Chairperson Deutschlander responded that it would be at the discretion of the property owner to determine the length of time in which a food truck could be parked on their private property.

Bret thanked the Commission for their input and will bring the discussion to the Town Council for a final decision.

## 2. SCHEMATIC PLAN REVIEW – MTN LIFE VENTURES, RIDGE VIEW TOWNHOMES.

A review of the proposed schematic plan for a multi-family development on Ridge View Drive.



1 Bret Howser, Town Manager, presented a Schematic Plan for the Mountain Life Ventures  
2 Ridge View Townhomes (see attached). Bret reported the Commission will review the  
3 proposed schematic plan and give feedback to the developer for changes to be made for the  
4 Preliminary Plat process.  
5

6 Chairperson Deutschlander commented that in the staff report under "Findings of Fact &  
7 Conclusion of Law" in the first paragraph, there is a date missing as to when staff met with  
8 the developer. Bret responded he will verify the date for the minutes.  
9

10 The Commission discussed the following:

- 11 1. Chairperson Deutschlander commented on Section 9-12-3(M) (Design Standards)  
12 identified in the staff report "building pads incorporate a non-linear and staggered  
13 placement". Chairperson Deutschlander stated it is identified in the code, but the  
14 challenge is developers come to the Town and present developments that conflict  
15 with this statement. Chairperson Deutschlander inquired if the Town Code should be  
16 revised to ensure the Town receives a project that would be able to meet the Town's  
17 standards. Bret responded the Code could be revised, but it would be up to the  
18 Town to ensure that developers do not build buildings in a straight row or allow the  
19 cookie-cutter effect.
- 20 2. Bret explained the Commission will be reviewing this development according to the  
21 subdivision requirements such as the lot layout of the subdivided units, the building  
22 placement, and the structure of the infrastructure (water, sewer, and roads). Bret  
23 reported he identified some concerns during the staff review of this project.
- 24 3. Bret reported this development complied with the General Plan.
- 25 4. **The secondary access through Chalet Village.** Bret reported after the review of  
26 the road through Chalet Village that there is a chance that Chalet Village's existing  
27 private road could be on Mtn. Venture's property in which there would be access to  
28 the development, otherwise, the developer would need to work out an easement for  
29 the access. Mr. Peterson responded they are in the process of surveying the road  
30 and should have an answer soon.
- 31 5. **Road B** identified in the plans shows a six percent (6%) slope and the road is not  
32 wide enough to meet the Town's standards. They would also need a cul-de-sac or  
33 hammerhead at the end of the road. Bret explained that a cul-de-sac/hammerhead  
34 cannot exceed a four percent (4%) slope. Mr. Peterson responded they reached out  
35 to the Public Safety Department and were informed that since the road did not  
36 exceed 150' a cul-de-sac would not be required. Bret explained that would apply to a  
37 driveway, but not a roadway. Josh reported he will discuss this item with his  
38 engineer. Bret explained the plan submitted did not identify if the entire road or just  
39 the cul-de-sac area was at 6%. If the end of the road area is a 6% slope, then a cul-  
40 de-sac/hammerhead turnaround would be required.
- 41 6. Josh expressed his concern regarding the roadway, in which the development is  
42 located on a mountainside and there are limited options. Josh inquired if they should  
43 consider cutting the development in half with two roadways with cul-de-sacs on each  
44 side of the development to meet the Town Standards due to the terrain and slopes.  
45 If there is a certain amount of distance that is required between buildings that would  
46 meet the staggering effect to comply with the Town's standards.
- 47 7. **Parking:** Bret reported the parking would require 2.5 parking spaces and if two  
48 vehicles were parked in the garage, they would exceed the parking requirement.
- 49 8. **Short-Term Rentals:** Bret encouraged the developer to consider expanding the  
50 parking spaces to consider possible future short-term rentals, in which parking could  
51 be exceeded by guests bringing multiple vehicles.
- 52 9. Commissioner Bryant inquired if the staff should contact the Town's engineer  
53 regarding the roadway issue and if an adjustment could be made for this  
54 development. Bret explained it would require an amendment to the Land  
55 Management Code.
- 56 10. **Trash Enclosures:** Chairperson Deutschlander recommended the trash enclosures  
57 are not located in the snow storage area.



- 1 11. **Snow Storage:** Twenty percent (20%) of the entire hard surface is required for snow  
2 storage. Chairperson Deutschlander pointed out that the south end of the project  
3 identifies the snow storage area but also has a fire hydrant located within the same  
4 area and recommended the fire hydrant be moved to another location to prevent  
5 damage from snow removal efforts. Chairperson Deutschlander commented there is  
6 a second fire hydrant located between two buildings which could become a challenge  
7 with snow removal efforts as well. Josh reported he will bring this to the Engineer's  
8 attention.
- 9 12. Chairperson Deutschlander commented the snow storage is located on Road B  
10 located at the south end of the property and could cause issues with the roadway  
11 and melting snow. Chairperson Deutschlander commented that he would like to see  
12 the calculations on the snow storage.
- 13 13. **Owner to provide slope easement on lot:** Bret explained that it is 50% slope is a  
14 2:1 cut so they don't have to install a retaining wall. Josh reported he would need to  
15 confirm this with the Engineer but needs to understand why it was called out. They  
16 also own lot 6 where the proposed easement is identified.
- 17 14. **Utility Connection Verification for the junction of Chalet Village Road and MLV**  
18 **road:** Chairperson Deutschlander inquired as to what utility this address is. Josh  
19 responded that he believes it refers to the water and sewer lines. Chairperson  
20 Deutschlander inquired if the sewer line is sufficient for this development. Bret  
21 reported that the Public Works Director reviewed this plan and did not raise any  
22 concerns.
- 23 15. **Setbacks:** Chairperson Deutschlander commented if the roadway is widened, then it  
24 could affect the setback requirements. Bret explained the Town has a road width  
25 requirement and would address this development as a PUD in which the road would  
26 be identified as a private roadway.
- 27 16. **Linear nature of the buildings:** Section 9-12-3 of the Land Management Code. Bret  
28 commented he would like the Commission to address this section as it relates to the  
29 staggering of the buildings.
  - 30 a. Chairperson Deutschlander commented he is not sure if the Town should  
31 consider identifying a specific distance in the LMC to give the developers options  
32 in meeting this requirement. Chairperson Deutschlander commented the  
33 proposed building locations do not meet the requirement.
  - 34 b. Josh reported the current plan identifies townhome footprints and the units have  
35 not yet been figured out. There is a two-foot stagger on the backside of the  
36 buildings.
  - 37 c. Josh reported he could consider different options for staggering such as breaking  
38 the project up but to include the landscaping with trees along with the installation  
39 of a cul-de-sac the challenge becomes more difficult.
  - 40 d. Commissioner Dever inquired if there is a way to make the buildings look  
41 staggered. Her concern is the stretch of buildings that runs adjacent to Highway  
42 143. Josh reported that buildings 5-8 could be setback further and stagger further  
43 and they could tilt buildings 1-4. Buildings 9-12 and 13-16 are more of a  
44 challenge due to the steep terrain.
  - 45 e. Commissioner Dever suggested using a different exterior for the buildings with  
46 different textures that could deceive the eye for a staggering effect.
  - 47 f. Bret commented that the language in the LMC 9-12-3 states it is sensitive to the  
48 contours of the land and could play into the staggering concept. The retaining  
49 walls that are identified in the plan are shown as an eight-foot (8') retaining wall  
50 tiered and a twelve-foot (12') retaining wall tiered. Josh reported there will be  
51 some elevation changes with the buildings. There will be some units that have  
52 walk-out basements and will slope out to the retaining walls. Josh reported he will  
53 submit additional details on the retaining walls for the Commission for the height  
54 of the retaining walls.
  - 55 g. Josh reported the road is a 5% slope and there cannot be a big elevation change  
56 between the buildings with a flat road unless the driveways were sloped up or  
57 down towards the road which could create a staggering effect.



- h. Commissioner Bryant suggested changing the building height and size along with identifying driveways as sloping up or down and the backside of the buildings sloping down to the retaining walls so it could meet the Town requirements for staggering. Josh reported he would work with his engineer on this.
  - i. Dylan Combs, 342 Fir Street property owner, reported he is an architect and suggested an option: If buildings 9-12, buildings 13-16, and buildings 18-21 instead of being small independent buildings were each identified as large buildings, it would break up the multiple small units and would show as one development along with screening buildings 28-18. These would show as one development and would screen buildings 38-48.
  - j. Josh inquired if the Commission would be satisfied if the buildings were mixed up and stagger the elevation. Bret explained that the final decision would be the Town Council.
  - k. **Consensus of the Commission:** The concept of staggering the buildings by identifying different building heights, driveways that slope up or down, and the back area of the buildings sloping down towards the retaining walls would satisfy the Town's design requirements for the non-linear/staggering of the buildings.
  - l. Bret requested a rendering be completed for the preliminary plat process showing the development from Highway 143.
  - m. Bret inquired if the slope is cut 1:1 or if it is a natural slope and requested additional information for the next process on the retaining wall.
17. Chairperson Deutschlander stated that the Commission's acceptance review of the retaining wall does not guarantee approval at this time since there is a different process for retaining walls.

Chairperson asked for a consensus to continue the Planning Commission meeting since the meeting was scheduled to end by 3:00 pm. **Consensus of the Commission:** to continue with the meeting.

18. Shaun Kelly, 150 W. Ridge View Street, commented he is interested in ensuring the Navajo Trail Loop Trail easement remains. Shaun expressed his concern with new developments that are presented to the Town and the trails are not taken into consideration as part of the development process and seem to disappear. Shaun reported the Navajo Loop Trail was rerouted to go along this development. Bret reported there is an easement for the Navajo Loop Trail identified.
19. Bret inquired if the owner of this development is considering a re-route of the Navajo Loop Trail. No reply was identified.
20. **Landscaping:** Josh reported they do not have a landscaping plan at this time, but envision trees between the buildings and they have discussed trails throughout the property. Josh explained they are currently focusing on getting the units approved first and then addressing the landscaping for the project. Commissioner Wallis expressed her concern for developments that do not complete their landscaping requirements and leave scars on the land. Josh reported he will submit a landscaping plan. He would like to know what properties the Commission likes and doesn't like.
21. Bret reported that 37 acre-feet of water are available for residential development. Bret reported that he needed to correct the number of acre-feet for this development in which he first identified ten (10) acre-feet of water, but it is closer to fourteen (14) acre-feet of water. A Development Agreement would need to be drafted for the water rights for this development, which would be a Council action.

#### **Summary: Planning Commission's recommendations/concerns:**

1. **Chalet Village access road:** Developer is having the road surveyed to determine if the property is owned by Chalet Village or themselves as it applies to the roadway access into the development.
2. **Road B:** Will need details on whether the entire road or a portion of the road is six percent (6%). If the area located at the end of the roadway is at 6%, then a cul-de-sac would be required. The developer will review this with their engineer.



3. **Road B: Road width.** The twenty-foot (20') road currently does not meet the Public Works Standards for town road widths.
4. **Short-Term Rentals:** Bret encouraged the developer to consider expanding the parking spaces to four parking spaces for future short-term rentals.
5. **Trash Enclosures:** Chairperson Deutschlander recommended that the trash enclosures are not located in the snow storage area.
6. **Snow Storage/fire hydrants:** Chairperson Deutschlander recommended the fire hydrant be moved to another location to prevent damage from snow removal efforts. A second fire hydrant is located between two buildings and could become a challenge with snow removal efforts as well. Josh reported he will bring this to the Engineer's attention.
7. **Snow Storage on Road B:** Chairperson Deutschlander commented he would like to see the calculations on the snow storage.
8. **Owner to provide slope easement on lot:** Bret explained that it is 50% slope is a 2:1 cut so a retaining wall would not have to be installed. Josh reported he would need to confirm this with the Engineer but needs to understand why it was called out. They also own lot 6 where the proposed easement is identified.
9. **Linear nature of the buildings:** Section 9-12-3 of the Land Management Code: The proposed building locations do not meet the requirement. **Consensus of the Commission:** The concept of staggering the buildings by identifying different building heights, driveways that slope up or down, and the back area of the buildings sloping down towards the retaining walls would satisfy the Town's design requirements for the non-linear/staggering of the buildings.
10. Bret requested a rendering be completed for the preliminary plat process showing the development from Highway 143 since it is difficult to determine the height of the retaining walls/buildings with the topo lines identified on the plan.
11. **Landscaping:** Josh reported he will submit a landscaping plan. He would like to know what properties the Commission likes and doesn't like as a reference.
12. **Water Rights:** The updated acre-feet of water rights for the proposed development are fourteen (14) acre-feet and will be identified through a Development Agreement adopted by the Town Council.

## G. ADJOURNMENT

**Motion:** Commissioner Dever moved to adjourn the regular meeting of the Brian Head Planning Commission for November 1, 2023. Commissioner Wallis seconded the motion.

**Action:** **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Commissioner Dever, Commissioner Bryant, Commissioner Wallis, Alternate Commissioner Brown, Chairperson Deutschlander).

The regular meeting of the Brian Head Planning Commission was adjourned at 3:12 pm on November 1, 2023.

February 7, 2023

Date Approved

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Nancy Leigh, Town Clerk

