

The Regular Meeting of the
Brian Head Planning Commission
Town Hall - 56 North Highway 143
Brian Head, UT 84719
Zoom Meetings ([click here](#))
Zoom Meeting ID# 853 0992 0332
TUESDAY, February 21, 2023 @ 1:00 PM

Roll Call.

Members Present: Chairperson Doug Deutschlander, Commissioner Carrie Dever, Commissioner Jeff Morgan, Commissioner Cecile Wallis, Alternate Commissioner Sheri Brown.

Members Absent: Commissioner Mitch Ricks

Staff Present: Bret Howser, Town Manager; Nancy Leigh, Town Clerk.

A. CALL TO ORDER

Chairperson Deutschlander called the regular meeting of the Brian Head Planning Commission to order at 1:00 on February 21, 2023

B. PLEDGE OF ALLEGIANCE

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

C. DISCLOSURES

- Chairperson Deutschlander stated he may have a potential conflict of interest with Agenda Item, Aspen Meadows Agreement, in which the developer, Flint Decker, rents office spaces from Brianhead Sports in which he is a partial owner.

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. APPROVAL OF THE MINUTES:

No minutes were presented for approval.

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

Bret Howser, Town Manager reported that the Town has gone live with the new software My City Inspector, for the building permit process. There are currently two applicants that are working on their permit application through the new software. The link for the software is on the Town's website under Planning & Zoning. Applicants can now apply once without having to go through the Town and County for a separate application process.

Chairperson Deutschlander

- The snow berm is extremely high around the S turn on Hwy. 143 with four feet of snow left in the travel lane. The school bus driver had difficulty maneuvering the turn and inquired if the Town could assist by contacting Utah Department of Transportation (UDOT) to clean the S-turn area for safety reasons.
- Asked Flint Decker, Aspen Meadows Development, if the Commission can tour Aspen Meadows in the snowcat. Flint responded that he would identify some availability of dates for the Planning Commission to tour Aspen Meadows after March 1, 2023. Bret Howser recommended they extend the invite to Parowan City officials so the mayor can participate in the tour.

The attorney for Chalet Village / The Ridges HOA inquired if he could make a comment regarding the MLV Townhome Preliminary Plat now under Public Input or if he could wait and make comment during the agenda item. Chairperson Deutschlander responded that he could have three minutes to comment during the discussion on the agenda item.

F. AGENDA ITEMS:

1. **DISCUSSION – ASPEN MEADOW PROPOSED MOUNTAIN ZONING.** A discussion on the proposed “Mountain Zoning” in the draft Aspen Meadows

Bret Howser, Town Manager, presented a draft agreement for the Mountain Zoning for Aspen Meadows development (see attached). Bret explained the Commission will be reviewing and giving input on the Mountain Zone that is being proposed by the developer. Bret explained that the staff has identified some bullet points identified in the staff report that highlights the mountain zone. There is also a matrix identified in the agreement which identifies the differences between the Town's current zones and the proposed mountain zone (see attached).

The Commission discussed the following:

Mountain Zones:

Single Family Residential zones (R1):

- a. Max Height: 35' with town requirement, acknowledgment, and notary of required Building Bonus Request Statement. Bret explained the building bonus is identified in the Land Management Code as an option for R1 to build a home larger than 1,000 sq. ft. and would allow the Town to regulate the design standards. Whatever is in the LMC is the Town's standard.
- b. Driveway setbacks: Minimum of five-foot setback from side corners at road frontage of all driveway edging, pavement, or other surfaces. Chairperson Deutschlander commented that this provision should be incorporated into the LMC.
- c. Driveway standards: The minimum width is 12' and the LMC requires 16'. Chairperson Deutschlander inquired if it complies with the Town's fire standards. Bret responded that what is in the LMC would be the fire standard. Flint Decker explained that 12' is standard in other ski communities and varies from 10' to 12' on average in 98% of their findings, but they have never seen a 16' standard.
- d. Commissioner Dever commented that the LMC identifies if a driveway exceeds 150' in length and a 12% grade, it will need to be approved by the Public Safety Director. Bret responded that the Town requested fire hydrants at the end of the turnaround. Bret explained the Public Safety Director could require them to install fire sprinklers or a turnaround large enough to turn the fire engines around.
- e. Bret explained that everything they are proposing is identified in the matrix, otherwise, the LMC would apply.

Village Commercial Zone (VC)

- a. Maximum height: Identifies the process for a conditional use permit (CUP) / Variance application process to take into account the design, uses, massing, stepping, commercial and residential mix, and ceiling heights such as those found within an anchor hotel. The condition applies to one of two envisioned villages, the Art Village for Aspen Meadows.
 - 1) Bret explained they are looking to have the ability to retain an exception by identifying a CUP or variance, but not sure if that is the proper approach. In discussion with Flint, it was proposed to incorporate it into the development agreement or the LMC.

- 2) Flint Decker commented that they are looking for this provision for one location in the Art Village neighborhood and looking at low massing and stepping back on the hillside for less intrusion to the hillside.
 - 3) Bret suggested that language be incorporated to identify that this provision is identified in the LMC that would refer to a development agreement.
 - 4) Chairperson Deutschlander commented that he believes the 70' in height would be a better height than the current 85' height allowance identified in the Land Management Code.
- b. Chairperson Deutschlander expressed his concerns regarding fire engine access in which the Town would need another fire apparatus to reach the top story with snow removal issues. Flint responded that he discussed this with Chief Benson concerning snow storage and the second and third levels and it was determined to use best practices in the future and ensure there is clearance.
 - c. Chairperson Deutschlander commented he would like to see this identified in the development agreement vs. a CUP. He would like the language changed from "CUP to Resort Development Agreement. **Consensus of the Commission** is to change the language from "CUP to "Resort Development Agreement".

Recreational Open Space (ROS):

- a. Outfitter cabins, Ski Lodges, and other resort-planned support buildings may exceed 1,500 sq. ft. in size.
- b. Flint Decker explained that outfitter cabins are a common area building for the storage of rental equipment along with other potential uses. They will be taking a host of outdoor activities and identifying the type of program including staffing.
- c. Chairperson Deutschlander inquired if this should be identified in the development agreement instead of allowing a cart Blanche. Bret recommended that the Commission identify a maximum square footage requirement.
- d. Chairperson Deutschlander commented that it should be a development agreement at the time when the proposed project is submitted to the Town. Flint commented that they would be satisfied with that requirement and recommended that the language identify "may" instead of "shall".
- e. Flint explained that ROS and other zones that are currently existing zones are their envision of applying to Aspen Meadows and if there are zones such as ROS that are substituted for a commercial zone, they would bring the request to the Town, but they do not envision those types of major changes.
- f. Horse Boarding: Bret explained they foresee neighborhoods of ranch properties that would allow for horses and would be a cross between R1 and ROS and would be a permitted use.
- g. Flint explained they envision their ranch properties which are five acres and above would identify their private horse boarding or the HOA could envision equestrian facilities.

Temporary Structures and Tents (9-10-7)

- a. Bret explained that when the building bonus was incorporated into the LMC, the container home agreement which was in response to House Bill 98, the Town would have to allow container homes, but there is a provision in the statute that allows an exception in which the Town could regulate them or outlaw them if it is by a development agreement. The developer does not want to see container homes in the Aspen Meadows development, but they will allow for tents, yurts, and temporary structures to use as storage. This would be allowed under the development agreement.
- b. Bret explained that by state law, the town cannot disallow container homes, but there is a provision that requires container homes to apply for the building bonus, which in effect, is a development agreement and allows the Town to regulate them.

Landscaping / Fences

- a. Flint explained that the Aspen Meadows properties are challenged by access from snowmobiles and OHVs which can come onto the property with little or no

control. This would allow for perimeter fencing with the gated areas to control their area. This would be fencing in compliance with the style and design of the LMC. This would allow for control of trespassing.

- b. Commissioner Morgan commented that during heavy snow years, fencing would not be seen by snowmobilers. Flint explained that the Long Meadow area is where the perimeter would be fenced and would be the standard buck and rail fencing, which is one of the three standards for fencing, and are not looking to exceed the fencing height.
- c. Chairperson Deutschlander that the section of the Aspen Meadows Design Guidelines shows only the rail fencing Pg. 23, section 23. Flint explained the exhibits for fencing are still being developed and will be presenting the fencing to the Planning Commission at that time.

Consensus of the Commission

- 1) is to change the language from "CUP to "Resort Development Agreement".
- 2) ROS zone – Outfitter Cabin, will identify in the development agreement and will identify maximum square footage.

Bret reported he will incorporate the comments received by the Commission into the next draft of the development agreement.

2. ACTION – Ridge View Townhomes Subdivision Preliminary Plat. A review of the proposed Preliminary Plat for Ridge View Townhomes

Bret Howser, Town Manager, explained the Commission has held the public hearing and reviewed the Ridge View Townhomes Subdivision Preliminary Plat, also known as the MLV Townhomes. Bret explained there were two outstanding issues from the last review:

- a. Ownership of the Chalet Village Road in which the developer will need to verify the property lines.
- b. Renderings of the retaining walls

Chalet Village Road:

Bret explained that a title report has been submitted by the developer and from what the title company is identifying, the land where the road is located appears to be owned by MLV. Bret explained that in reviewing Iron County Parcel Locator map, it appeared that the road was its own parcel and after the review of the title company, the title company contacted Iron County regarding their parcel locator map and provided the correct information which Iron County reviewed the information and updated their parcel locator map to adjust for the land that now shows the road owned by the developer.

The Town assumed the road was owned by Chalet Village and The Ridges and the applicant had or needed to obtain an easement to use that road, but with the updated information on the ownership of the road the Town then needed to look at the road as a subdivision road and would be required to meet the Town's Public Standards for that road. Bret explained it is a new recommendation from staff at this point in the review that one of the conditions, is that Chalet Village Way Drive is brought up to the Public Works Standards for roads. Bret explained during a discussion with the Public Works Director, regarding the 30' width of the pavement would be a public work standard and that the Public Works Director would be comfortable having an independent engineer review the road and determine if it was stable. To ensure the road met the Town's standards for road width and depth of the road up to Highway 143.

Renderings of the retaining walls

Bret explained they are looking for a determination if the retaining walls meet the Town Code and if the renderings are sufficient for a decision. Commissioner Dever commented

1 that the renderings presented are very basic and don't show the details she was looking
2 for such as what the view will look like when driving along Highway 143.

3
4 Josh Peterson, MLV Townhomes, explained they are still working on the renderings but
5 did submit what has been completed. Bret inquired what is the limitation of tiering the
6 structure downhill rather than building them on the upside. Josh explained that from his
7 understanding it would have to be a downward slope to the driveway and to get the contour
8 of the land to line up with the east side units, they have as much slope as possible on the
9 east side units as allowed for the walkout basement which means would have to drop the
10 basements lower. If the garages were moved up another floor would be a challenge since
11 the space under the garage would be lost. Josh explained he has spoken to the engineers
12 about tiering and the walls will not be a 17' straight height wall.

13
14 Mr. Johnson, Attorney for Chalet Village/The Ridges commented that he appreciates the
15 assistance of staff. Mr. Johnson commented that the Chalet Village/The Ridges HOA until
16 very recently believe they own the road, and they still believe they may still own the road.
17 They have learned that MLV owns the road and they have been forwarded the email from
18 Security Title and Marcus that MLV owns the road. The reasoning that Marcus uses in road
19 ownership is not determinative. He cites the fact there are easements in the Chalet Village
20 governing documents, and easement and ownership are exclusive, but the problem is that
21 the Ridges at Chalet Village owns the land, and they are requesting that approval not be
22 recommended. They have concerns regarding notice on whether all of the owners did
23 receive notice, which he was made aware that owners in Chalet Village did not receive
24 notice. Bret forwarded him a list of individuals who were mailed a notice and will need to
25 review the list, but several owners stated they did not receive the notice that is required.

26
27 Mr. Johnson commented on another issue in which the HOA is concerned about the
28 parking alignments that are provided since they don't appear sufficient and what would
29 happen if they were not and the overflow that could happen. Mr. Johnson commented his
30 firm is moving quickly so as not to delay the developer on this project but believes it is a
31 threshold issue and needs to be determined with certainty. Bret inquired if there is a
32 process that the Town should do to ascertain ownership of the road. Mr. Johnson
33 commented that surveys should be completed and Bruce Jenkins, attorney for The Ridges
34 and Chalet Village alerted him to some documents that he still needs to review and if it is
35 determined that MLV owns the road, then they will withdraw their concerns. Mr. Johnson
36 reported he believes that within a week they should have that information and asked the
37 Commission to delay their approval until that time.

38
39 The Commission discussed the following:

40
41 The bullet points identified in the staff report on items that were a concern and/or items that
42 needed to be provided to the Commission before a decision is made:

- 43 a. Storm drainage detention pond as recommended by UDOT. This has been
44 addressed.
- 45 b. Traffic study to cover Ridge View Street between Highway 143 and the entrance
46 to MLV subdivision, and both intersections with Hwy. 143 (Ridge View and Chalet
47 Village). Commissioner Dever commented that she would like the traffic study
48 completed. Josh explained he has received two proposals for the traffic study.
- 49 c. Second dumpster enclosure site as recommended by Public Works.
50 Commissioner Dever identified the two locations. Those have been addressed.
- 51 d. Retention walls are tiered at four-foot (4') increments where possible. The retaining
52 wall has been tiered.
- 53 e. Ensure adequate snow storage. The snow storage came to 23%. Bret explained
54 that he recalculated the percentage for the snow storage. The percentage that was
55 presented was only based on Road A. Bret explained that snow storage
56 percentage is based on 20% of the hard surface. Bret inquired if the Commission

wants to identify a provision to provide a snow storage area for the road driveways and if it is on the side of the driveways. If done on the side of the driveway, it would be done at the time of the building review, but this is a situation where is an R3 and each unit has its driveway and is mixing a couple of review styles. The driveways are identified in the plat process for this project.

- f. Snow Storage: Josh Peterson commented they envision going to the side of the driveways but would have the engineers review. Another option could be identified in the CC&Rs that snow removal is completed by an outside source so the owners wouldn't be responsible for snow storage and the snow could be moved into the road at the same time the road is being cleared but will have his engineers review it. Chairperson Deutschlander commented that between the roadways and driveway, it shows there are 1.25 acres vs. 1.75 acres and the 20% would be based on the 1.25 acres.
- g. Record easement for new trail location. Possibly add a second trail spurring to Chalet Village. An easement for the trail will be one of the conditions.

Consensus of the Commission:

- a. Snow storage will be addressed and will be presented to the Commission.
- b. Updated renderings of the retaining wall in more detail. Josh commented he understands the Commission is more concerned with the east retaining wall than the west retaining wall. Commissioner Dever explained the biggest concern is the view from Highway 143 and the impact.
- c. Traffic impact study to be completed. Commissioner Dever commented the traffic study can be identified as a condition.
- d. The Chalet Village/The Ridge Road ownership.
- e. The second trail connecting to Chalet Village that is proposed is between the 9608 and 9610 line that is on the east side of the structures. Bret explained the Town will review the trail when the snow melts.

Motion: Commissioner Dever moved to table the Ridge View (MLV) Townhomes until the following are submitted:

- 1) The developer presents further renderings of the proposed retaining walls.
- 2) A determination of the ownership of the Chalet Village Way Road.
- 3) The review of the Chalet Village/Ridges attorney, Jeremy Johnson, on the Chalet Village Road.
- 4) Additional analysis of the snow removal/storage including the driveways.

Chairperson Deutschlander commented he would like to address private road maintenance. Chairperson Deutschlander recommended that all three parties; Chalet Village, The Ridges, and MLV Townhomes need to agree on how the road would be maintained. Bret explained that the Town requires the CC&Rs for the HOA to address the road maintenance.

Commissioner Morgan seconded the motion.

Mr. Johnson commented on the snow removal and snow storage that the analysis would need to include the Chalet Village Road since in the past the snow storage has been put onto MLV's property. Bret clarified that snow removal analysis would need to include the Chalet Village Road as well.

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

G. ADJOURNMENT

Motion: Commissioner Morgan moved to adjourn the regular meeting of the Brian Head Planning Commission for February 21, 2023. Commissioner Dever seconded the motion.

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

The regular meeting of the Brian Head Planning Commission was adjourned at 2:39 pm on February 21, 2023.

March 7, 2023

Date Approved

Nancy Leigh, Town Clerk