



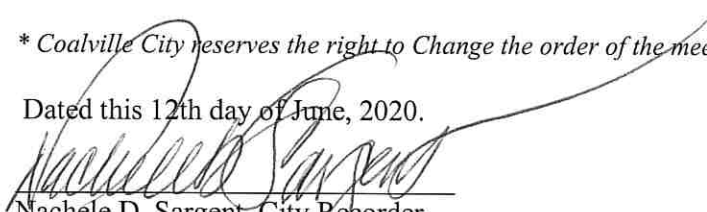
AMENDED COALVILLE CITY PLANNING COMMISSION MEETING AND WORK SESSION NOTICE AND AGENDA

Notice is hereby given that the Coalville City Planning Commission will hold its Regular Meeting and a Work Session on **Monday, June 15, 2020** at the Summit County Ledges Event Center, 202 East Park Road, Coalville, Utah. The meeting will begin at **6:00 P.M.** **Due to the Covid-19 restrictions, masks must be worn for attendance at the meeting and social distancing rules will apply.**

1. Roll Call
2. Pledge Of Allegiance
- Work Session Agenda:**
 3. Continued Review And Discussion Of The Wohali Partners LLC Property Existing Zoning, Permitted Use, MPD Application Phase I Preliminary Subdivision Plat
- Regular Meeting Agenda:**
 4. **Public Hearing:** Wohali Partners LLC Property Existing Zoning, Permitted Use, MPD Application Phase I Preliminary Subdivision Plat Recommendation
 5. Consultant Updates
 6. Planning Commission Updates
 7. Review and Possible Approval of Minutes
 8. Adjournment

** Coalville City reserves the right to Change the order of the meeting agenda as needed.*

Dated this 12th day of June, 2020.


Nachele D. Sargent, City Recorder

****In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the City Hall (435-336-5981) at least three days prior the meeting.**

Posted: June 12, 2020 City Hall, Coalville City Website, Utah State Public Notice Website

Mayor

Trever Johnson

Council

Cody Blonquist
Philip B Geary
Rodney Robbins
Tyler Rowser
Don C Winters

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Coalville City Planning Commission
Regular Meeting & Work Session
Held On
June 15, 2020
At The
Summit Council Ledges Event Center

Chair Linda Vernon called the meeting to order at 6:00 P.M.

PLANNING COMMISSION MEMBERS PRESENT:

Chair: Linda Vernon
Commissioners:
Tonja Hanson, Tim Bristow,
Jeff White, Dusty France

CITY STAFF PRESENT:

Don Sargent, Consultant
Sheldon Smith, Attorney
Shane McFarland, Engineer
Trevor Johnson, Mayor
Zane DeWeese, Public Works Director
Nachele Sargent, City Recorder

PUBLIC IN ATTENDANCE:

David Church, Kim Bowen, Kelly
Ovard, Laurie Hirzel, Steven Hirzel,
Lynn Wood, Jay Wood, Gretchen Klein,
Phil Geary, Paula McGee, Eric
Langvardt, Dave Boyden, Jim Boyden,
John Kaiser, Sandy Winters, Julie Pace,
Dan Pace, Cory Hull, Cordell Hull, Tom
Rees, Sheryl Rees, David Vernon,
Amanda Winters, Sam Rex, Jaimee
Rex, KCPX, Albert Richins, Camellia
Robbins, Louise Willoughby, Margarita
Richins, Don Winters, Wade Budge,
Polly McLean, Jack Walkenhorst, Jim
Blonquist, Donna Jean Blonquist

Item 1 – Roll Call:

A quorum was present.

Item 2 – Pledge of Allegiance:

Chair Linda Vernon led the Commissioners, Staff, and Public in the Pledge of Allegiance.

Work Session:

**Item 3 – Continued Review And Discussion Of The Wohali Partners LLC
Property Existing Zone, Permitted Use, MPD Application Phase I Preliminary
Subdivision Plat:**

Sheldon Smith apologized for missing the last Planning Commission meeting and stated he realized they needed some legal direction regarding the issue of the proposed nightly rentals for the Wohali project. He stated as he researched the information, he thought it made sense to get an outside third-party professional to also do an analysis for what should be allowed per the Code for nightly rentals. Sheldon stated the Mayor and Staff decided to ask David Church to provide an opinion for this one narrow issue of nightly rentals. He stated it would not be regarding the number of nightly rentals, but whether nightly rentals would be allowed. Sheldon stated David Church was a premier Municipal Attorney for the State of Utah and he had a vast reservoir of knowledge and also represented the Utah League of Cities and Towns.

David Church stated as Sheldon said, he called and asked for me to give an opinion (Exhibit A) on a very narrow issue of nightly rentals, lodge, cabins, or casitas, for the golf course as it applies to your particular zoning ordinances. In that review, I checked the ordinances, looked at the application, talked with Sheldon, had a brief conversation with the Attorney for the Applicant, and I was asked to just talk about whether under your ordinances I thought the concept of nightly rentals was included within the permitted use for recreational facilities. Let me just say, I don't have a dog in this fight as they say, and I don't know a whole lot about the application and what they are doing. I was asked to give a very narrow opinion and that is what I responded to. Let me just give you a little legal background. In Utah, the Legislature, we are in Utah what I describe to some people is a zone out State. A landowner has the right to do anything on his property unless you specifically zone it out. A lot of the public and people think we are a zone in and people have to come to cities to ask permission to do things. In fact, that is not true. The Legislature has adopted very specific language which says if a land use regulation does not plainly restrict a land use application, the Land Use Authority shall interpret and apply the land use regulations in favor of the land use applicant. Our Courts have likewise taken that attitude. Our Courts have very specifically said that any land use application when you apply the City's zoning regulations, zoning ordinances, that any ambiguities are to be interpreted in favor of the application. So, with that laws and basis, when I looked at your ordinance it clearly states recreational facilities are a permitted use in your Agricultural zone. You have a definition of recreational facilities that includes golf courses. Within that definition, it also includes what they term support facilities. The Applicant is contending that the rentals units are support facilities for this high-end golf course. You do not have a definition that I could find in the zoning ordinance of support facilities. So, any ambiguity in that respect has to be interpreted favor, it would have to be interpreted in favor of the Application. If there is a challenge in Court, Court Appeal, the Judge would interpret that ambiguity in favor of the use of the land. I could not also find anything in your ordinances that outlawed nightly rentals. You have nothing specifically that says a rental for less than 30 days is not allowed like some cities have. Nor do you have anything specifically that says that an owner of a golf course, that Members of it can't rent things or have nightly stay facilities, nightly rentals. Based on that, I came to the opinion that their application as it was described to me, is a permitted use under your ordinance. That if in fact the casitas, cabins, and lodge are on the same parcel of property as the golf course, owned by the golf course, not separated out for individual ownership, not available for general rental to the public, except in connection with the use of the golf course or other recreational facilities, that is in the fact the equivalent of the ski lodge of a ski facility if they had come in and applied to do a ski facility in your area, it would be a permitted use and ski facilities have

lodges where people come and they rent. Golf facilities in some areas in the country that are high end have the availability for Members of their club and their guests to stay overnight and in fact rent places to stay on the golf facility. So, based on that, what I was told the Application is, based on your ordinances what I was told the application is, that if in fact those conditions are met, I think it is my opinion, as someone that has done this since 1980, that it would be a permitted use under your ordinance. Mr. Church asked if they had any questions and stated he hoped he had been clear. Chair Linda Vernon thanked him and stated it was very clear. She stated it was the direction they were looking for. They didn't really have clear direction on how to interpret the Code based on that. Sheldon Smith questioned if this had an effect on density. David Church stated Sheldon had also asked him if they would be counted against the density for dwellings, single, multi-family dwellings on the property. They would not be dwellings only if in fact, they are only available for active rentals. It is conditioned on, that no one separates these out as individual properties, that no one can establish residency there, that it would have to be for, in the effect, short term use of the facilities. If they allowed long term use, long term rentals, like apartments or allowed people to live there in residences, then it would need to be counted against their density for the property or it would be a non-permitted use. Chair Linda Vernon questioned what would happen if down the road Wohali goes under and somebody else comes in after these rental units are built, is it still those conditions for ever and ever. David Church said yes, unless you change your zoning ordinance. The key is this, if you want to say no to this application and be successful in saying no, you need to identify language in your Code that says they cannot do it. That's the law in Utah. I looked through it and could not find it. Frankly, your agricultural zone allows quite a bit, quite a few uses. It's unlimited in Agriculture. It allows recreational facilities that have a very broad definition. It also allows other uses. Commissioner Dusty France questioned for clarification, he didn't think they were saying they can't have or use the facility as nightly rentals, even the homes they have designated in the density can also be used as nightly rentals as well as the accessory dwellings of those, so I don't think it's the use of the structure that we are saying no to, it's how is a separate structure that's like a home be overlooked as part of density versus having the use. David Church stated the density deals with the number of dwellings and not the number of buildings. It allows golf courses with support facilities. Now let's say if they came and said we're just going to build a big club house, no one here would not say it is a support facility for a golf course. If they came and said we're going to build a big club house that has a big locker room for the Members, no one here would say that's not a support facility. If they come and say that we're going to build a big club house with a big laundry room in it, and include thirty apartments that our Members can stay in when they come in from out of State, then would you say it's not a support facility because they built those in it? I couldn't say that because you don't have a definition of a support facility. Then when they say in addition to that we decided not to put those apartments all in the big clubhouse, whether you call them casitas or cabins, we're going to make those separate little buildings so our Members can come and enjoy the golf facility, sit on the veranda after they play golf, and enjoy the night sky, is that a support facility for the golf course or is that a dwelling that goes against their density? The definition of dwelling had some very specific things in it, but you don't have a definition of a support facility. And so if their Application is telling you these are for Members and their guests only, they will not live there, they will only stay there when they come to use the recreational facilities, then I could not say under your ordinance that is not a support facility for the recreational use any more than if a ski lodge wouldn't be a support facility if

it was a ski resort or if they had an equestrian stables and housing for guests. Now, if in fact these become dwellings, if people establish residency there, or if they are open for use not associated with the recreation facility, then it would be different. But, that's not what they are applying for as I understand it. Let me just say, I only represent cities. I don't represent land developers, never done any work for land developers, I've no relationship to any of the developers in this case. What I do more often than not is, representing people and cities in disputes with land developers. I was asked in this case to just look at the ordinances, look at the Application, and as I understand it, give an opinion as an outside person whether or not I think it would be a permitted use under your ordinance. I think it is, the way it was described to me. And, if it is a permitted use, there is State law that requires you to approve it. The Planning Commission thanked Mr. Church for his help. Sheldon Smith stated that was the reason he thought they needed some legal assistance in making their decision. The decision they are making in respect to nightly rentals is a legal decision, a legal conclusion. He stated my opinion is that as a Planning Commission, they are not talking about how many, but whether nightly rentals are allowed in addition to density. You either agree with what legal counsel says or you disagree and you recommend to the City Council a favorable recommendation or an unfavorable recommendation. If you agree with David Church or if you don't agree with him. That's the reason I say it's a very narrow issue for them to look at tonight.

Don Sargent referred to the Staff report (Exhibit B) and gave an overview of the application. He stated there was also information provided on the link on the website for review on the studies the Applicant had completed. He verified the following:

Secondary Water: There isn't existing infrastructure for secondary water. The secondary water will need to be provided by the Developer by other means. The Developer has contacted Weber Basin Water Conservancy to research purchasing water to accommodate their needs. They have also talked with Coalville City about participating in the secondary water if it could benefit the City which is a Council determination, to use the water, to pump out of the Weber River to water the golf course. Typically, they could use culinary water like anyone else in the City, but the Development Agreement had restricted that so they could not use culinary water for outdoor watering. The Development Agreement will be coming back for review and will address those items. Sheldon Smith stated the Applicant had stated they had no intention of using culinary water on the golf course. Don Sargent stated there have been discussions for the project not to use culinary water for any outdoor use.

Eric Langvardt stated they were here to answer any questions and this Application had been in front of the Planning Commission for over a year between the two proposed projects. The majority of the Application had not really changed. He stated one of the benefits of this version of the Application is the 138 acres of open space. Commissioner Dusty France questioned the difference between this and the prior Application and what had changed outside of the density. Eric Langvardt stated he was pretty sure it was just the density. The request for the zone change was strictly for density. Everything else was allowed for under the current zone and the amenities would be the same. It was now private and not public. Commissioner Tonja Hanson questioned if they would still be providing workforce housing. Eric Langvardt stated they will be addressing that with the Development Agreement. They do want some type of workforce housing, but the dynamics have changed and the numbers, what type, and timing would still need to be considered. He stated the Code doesn't require it, but they were committed to addressing it.

Chair Linda Vernon opened the public hearing at 6:45 P.M. She stated the comments would be restricted to three minutes, to only speak once, and requested they didn't rehash the same subject. She stated the public hearing would be restricted to comments concerning the nightly rental issue.

Lynn Wood – 97 North Main

Lynn Wood stated I just want address a couple of things, is this really an accessory, is it a support or has it grown into the size of, especially when I look at all they are requesting, into its own primary use. And that's one thing we need to avoid. We need to make sure that it really is an accessory. In our Code, it does talk about the need when it is an accessory use, it needs to be customarily found which I think they've demonstrated. But it also needs to be clearly incidental which means less than by comparison. It's got to be smaller than the primary. It's got to be a support to it. The accessory is the jewelry to the outfit. It's not the primary use. And so, at a level of 303 units, that becomes very large almost more substantial than the golf course. If we're looking at, so we don't have a definition of a support recreational facility, but we do have a definition for support commercial use. We could probably infer some information from that definition that will help us make a decision here and I'm reading from 10-3-2-30 and it talks about the types of uses that are intended to support the project. They are intended for; they're not intended for the general public and obviously the general public is not going to be able to come there and use these nightly rental units. And, it also talks about no use may occupy more than 2,000 gross square feet to be considered as a support for commercial. So, there's some exclusionary language that I, we could think about. There has to be some limit, some way to limit these otherwise its (inaudible). I'm all for nightly rentals. These are the most valuable thing to the City. I'd be a hypocrite because I have two of them myself located in a commercial zone. So, I know the value of these things and we want to see some nightly rentals, but 300, it grows to the area so it's, its own primary use. If you figure four people, that's 1,200 guests versus how many you could have. Let me just say this, I understand that the Developer wants to put things into the agriculture zone because we want to avoid a referendum, and what I want to say, I feel very comfortable speaking for the people that organized the first one, we do not want to go there again. There are solutions to make this project work. We want to be part of the solutions and we would like to have those discussions of how we can make this project really work for the City and for the Developer and for the people. Thank you.

Paula McGee – 281 North Main

Paula McGee stated I don't have any real well-prepared comments here. I appreciate everything that's been said and all the work that's been done by everybody, City Council, Planning Commission, Developer and the Citizens. They were all trying to reach the best project possible. I do have concerns about how you define an accessory unit. Is the golf course the accessory or are the nightly rentals the accessory? I have concerns about the number of nightly rentals and how is that defined. I think we all know that it's not Coalville, Planning Commission or the City Council obligation to make the project a success for the Developer. They know that's their responsibility. I don't know how; I just think there is a lot of things that need to be defined. How is the construction defined for a nightly rental?

Is it a building? How is it passed? How is it regulated? How do they stay nightly rentals if Wohali goes under? What does the future look like under this? Is there a precedent set for a future owner or Developer? Is there also a precedent set for the entire community for developing. The next person that comes in and says, you know, this is my private property and since it's not in the Code, I want to put in an ice-skating rink and the Code doesn't say I can't do that so therefore, I can do whatever I want. Again, I don't have any real prepared comments or specific things here, but let me just say, I have concerns and hope you guys consider all the angles and I think so far you have really been doing that. I appreciate all your time and efforts. Thank you.

Kelly Ovard – 199 E Bench Way

Kelly Ovard stated I appreciate having this open discussion tonight with the citizens of Coalville. I appreciate David Church's comments even though he has a reputation of being against referendums and the citizens having a say and letting the Council and governments do their job so obviously he would be for a big development going in. A couple of things to start off with, this is all of our faults for this getting to this point. The ordinances need to be more clear and more specific. We need a resort zoning ordinance that would put anything such as a golf course or amusement park into its own zone. And then discuss how it ought to be built rather than sticking a golf course in an Ag zone. It's kind of ridiculous. I do believe that property owners have the rights to develop their properties as they see fit. I agree with Paula McGee. I just happen to have a property that's on a utility easement and I sure would like to put another part of my garage right over top of those rocks and I'm sure I probably won't be able to. But we are going to put a 700 unit or a 428 unit situation in here and it's going to change the community forever. The number of units is really the discussion and I agree with the Developer. I don't have a problem with a certain number of nightly rentals going in. You're going to put the nightly rentals in? Eliminate the nightly rentals from the 125 homes. Eliminate it completely. Put the nightly rentals in 303 units. According to, well just mentioning the 303 nightly rentals plus 125 homes is 428. So basically, we're going to give 125 residents a home and all the other Members of the golf course a rental unit which doesn't sound like it's a very, well it's circumventing the whole referendum process. The 303 rental units, if I understand, are going to be used for rentals for the golf course. Is that correct? So, then I would expect October through April when there's no golf, there's no rental of those units. They should be specific to the golf course. Whether it's one rental unit, 100 rental units, or their proposed 303 rental units. The golf course ain't open, snow on the ground, those rental units don't get used. Again, we will work through this process and get to where we need to go, but the important thing here is we need, as Mr. Church said, unless it's in the ordinance, they can pretty much do whatever they want. We need to fix those ordinances.

Louise Willoughby – 151 S 50 W

Louise Willoughby stated Commissioners thank you. I'm sure all of us are a little angst because it sure would have been nice if we had got the information. If this is last minute information, that's one thing. Right now, I feel very frustrated and angry. About two years ago, our City hired a person to work on our Code and act to support Wohali through this project. This person has guided our Commission and Council on critical Code such fences, signs, lighting, that needs to be on the agenda instead of looking at critical Code that needs

to be written to support our community. Because you have been told that you can't refuse nightly rentals, I'm asking you to consider too seriously limit their nightly rentals and their large list of amenities included in their MPD. This list includes an 18-hole golf course, the 9-hole short golf course, the club, tennis, swimming pool, hot tubs, splash pad, village plaza, pickle ball platform, biking, hiking, trails, cross country skiing, snow shoeing, and skiing, shooting range, horseback riding, fishing, canoeing, and many other things. When you approve tonight, what are you approving? Do you know what you are approving? How many are you approving? Or is there a lot more that needs to be done on this? The reason I'm very concerned is because, of course, water. How much water would it take to make snow up there? I mean, there's a lot of questions. If you go back and look at their plan, what are you really approving tonight? According to a letter written by their Attorney, Wade Budge, Wohali is asking Coalville to help them become a World Class Facility comparable to courses designed by famed Golf Course Architects. Coalville citizens, should we be excited to face the unknown water and sewer problems so they can achieve their dream of being a renowned caliber golf course? If we don't give them 303 nightly rentals, they say they can't succeed. Maybe some private citizens in Coalville can share their dream and build some places for these people to stay. So, there's a lot of different ways to do this, but right now, I'm sure you are aware that in 2014 Title 8 Chapter 4 of our Code, says a Developer shall dedicate sufficient water rights to the City to serve the proposed development or pay a "fee in lieu" of and we have already agreed our fee is less than should be. So, if you look at all of those things and the nightly rentals and all of their houses, how much water? Mr. Church told you that apparently, we haven't written the Code like we need to and that we're wide open. But we are not. Because all of you guys, if we're wide open and no one has any say, why do we have Planning Commission Members and why do we have City Council Members? So, I think you've got a lot on your plate tonight to look at and decide, but I'm asking you not to give to give them 303 nightly rentals. As they said, their houses are nightly rentals too. So, I think there are a lot of ways this could be looked at. And one thing you do have is time. You don't have to make these decisions tonight. Thank you.

Camellia Robbins – 46 West 150 South

Camellia Robbins stated I would like to focus on the following quote from an office memorandum dated 3-12-2020 by Wade Budge and AJ Pepper on why they felt 303 nightly rentals are justified. "The Coalville City Code provides for the proposed nightly rental "lodges" and specifies that they are neither dwellings that require an allocation of density, nor are the lodges to be classified as hotels/motels. In fact, Coalville City has already confirmed this interpretation and approach pursuant to the existing project approvals which were granted on December 9, 2019. This interpretation and approach has been accepted by all stakeholders, and no one, including the petitioners under the current referendum, has challenged the prior interpretation. In other words, this approach is the same as the one that Coalville City has been following since the inception of the Wohali project." Now while I don't agree with some of the statements in there such as the fact that it was accepted by all stakeholders and it wasn't challenged, I do agree that the same approach should be used. And using that same approach for the 23% of the housing units, that would mean that 29 nightly rentals would be all that would fit in that zone. And I would like you to think about the approach and that statement as you guys make your decisions tonight on what you want to recommend to the Council. And I also want to say, I

agree with the statements of the other public that has stood up and spoke tonight. Thank you.

Steve Hirzel – 271 S Beacon Drive

Steve Hirzel stated more than just an observation. We've got to do better than this. I don't think the Attorney's still here, Mr. Church? (Mr. Church had left the meeting) Something I noted when he was talking is how many times he said "what I've been told", "as it was described to me". That can't be our legal guidance. It can't be. Do we even have a written opinion from him? Sheldon Smith answered, yes. Steve Hirzel stated that's better, but he himself said "as it was described to me", "what I was told". We've got to do better than that and that's all I've got to say. Thank you.

Polly McLean – Attorney for CFRG, arrived at 7:03 P.M.

Polly McLean stated although I've kind of been filled in a little bit, we weren't expecting the information that came in this evening and so we're kind of trying to play catch up. But there's so many unknowns for this Application as you as the Planning Commission mentioned at your last meeting. You have no idea how nightly rentals, and I can't help with all the units, because under your definition nightly rentals or apartments are dwellings. And I disagree with the other legal opinion that nightly rentals should not be considered dwellings because otherwise, what you're going to have is, every property owner in Coalville will be able to build a nightly rental, an extra home, on their property so long as that home is only rented for under 30 days. So, you are really opening up a can of worms and I think you need to look at this more carefully. In addition, what you have is, you don't even know the size of these units. They are going to look like homes and they are going to be treated like hotels because what is a hotel? A place where people stay, you know, a couple of nights, under 30 days. So, you're going to have all, you're basically putting a kind of condo hotel that can only be rented for 30 days at a time or you're building basically homes and what are the impacts of those homes? Those places are still going to require water, they are going to require sewer, and I look at all the information submitted to you, I think it was May 15th, from the Developer, which talks about the impacts from the Development on water and sewer and all that included was the 125 units. Our group is not contesting the 125 units. They are entitled to that if they go through the Master Planned Development process. But they are not entitled to these nightly rentals which are coming out of nowhere. And so, I think that there really needs to be more analysis. You don't know if these are one bedroom, five bedrooms, are they going to be limited? They are supposed to be accessory to the golf course, so does that mean they are only going to be available, under the definition of your Code, only accessory facilities need to be a support of the actual recreation facility which is the golf course. So, it's important that you have all these, you need to know what conditions will be placed on these units. Will they only be from June to October when golfing happens? What's going to happen then? Are they just going to lay empty? You're not going to get any tax revenue when they are empty. So, you're just going to have a really difficult time. You don't have to vote tonight. You don't have to make a recommendation tonight. You can continue this for another meeting and get more information and find out more about what the impacts are going to be of these. And it could go up to 1,000 nightly rental units. How do you, I mean, there's just no end to what they're asking for. And Code prohibits it. It specifically says if something is not an allowed use, it can't be, it can't be, it's

not allowed. It says that. Your Ag zone says you are allowed 1/20 for density. So, you don't have the density and you don't just get to make up density. So, you have the ability to vote to just continue this for one more meeting. And look into it. Get the facts and understand the impacts of it. Thank you.

Albert Richins – 40 North 50 East

Albert Richins stated he had a question about water. The last time Coalville City agreed to furnish water for the first 100 houses and now we are up to 428 that we are furnishing water for, when does that come about? When did the City Council approve that? Those kinds of things need to be straightened out and questions answered. I don't think Coalville City has enough water for that at the present time. That's a lot of water. And all those units probably, that's probably not counting the maintenance personnel units also. That's a lot of use. That's probably about as much use as we're putting on the entire system in Coalville or close to it. So, I think those questions need the answers before you approve anything for this thing. When was the amount jumped from 100 to 428? Did the Council approve that or who approved it or was it right here when you approve this Application? Does that approve the water too? Those questions need to be answered. I'm still wondering why they were permitted to build a golf course with no water guaranteed, none whatsoever. This makes no sense. The water should be a prerequisite before those things are permitted. Thank you.

Paula McGee

Paula McGee stated I know I already spoke, but I just want to clarify, 125 plus the 125 potential accessory dwelling units plus the 303 equals more than 428. Chair Linda Vernon stated that was correct.

Sandy Winters – 291 East 50 North

Sandy Winters stated honestly, I haven't been following this probably as much as I should on these recent changes. I guess all in all, going off what I heard tonight, it sounds like I heard, we're basically, we were able to get what they would like to get through because we don't have a designation of support facilities. So, if we don't have that definition, then it's pretty much for the landowner. And I'm fine with those type of things. I guess as I was sitting back there looking, the one thing that made me look at when I started looking at rental units, that could bring in some funds, for sure. But I guess the question I have is, are we set up to make sure that truly happens? I was just doing a quick look at an article that came up October 20th, 2018, in the Park Record that states, "With an influx of nightly rentals, Park City grapples with a changing community." So, it's part of an article that goes into what nightly rentals have done to Park City, all the other things that come about with nightly rentals. And landowners are now getting into the Airbnb and we have all probably used those and they're great. But now it starts getting into the aspects, can the City actually get funds, tax revenue from that? What I'm seeing here is very difficult. It starts turning into Airbnb's and now they are sold to somebody and that rental unit is still the nightly rental, but how are we getting the tax revenue? Are all those things in place there, to really make sure that happens? Along with honestly, water and those type of things that already have been discussed. Thanks.

Jay Wood – 97 North Main

Jay Wood stated I rarely stand up and say anything. I let my wife do all the talking, she's better at it. But, two things. Still really vague, even with Don talking, vague, vague about where the water is coming from. And it still doesn't make sense. They can still water the golf course accordingly, if they want to, with City water, and pay for it. There's no stipulation there. It's just vague. Nothing has been answered here. The other thing is that we have, with these nightly rentals, we own three quarters of an acre and under the current atmosphere that we're talking, I told my wife, let's put five more nightly rentals in our back yard. We can do it. If you pass this, we can do that too.

Polly McLean – CFRG Attorney

Polly McLean questioned if they wanted the Code site she was referring to where it says there are no permitted uses in zones. Chair Linda Vernon stated she could email the information to Niki Sargent and she would distribute it to the Commissioners.

Tom Rees – Adjacent Property Owner

Tom Rees stated I'd like to thank the Planning Commission. I think I've been to as many meetings as you guys have. Still a long process. I don't particularly want to drag this out any longer than anybody else. I think the bottom line is, do we want this to be a successful enterprise? Not only for the Developer, but for Coalville also. The meetings I've been to, they've used graphs and everything else, comparing to other places, to come up with the numbers for their nightly rentals, which they say they do need to make the golf course viable, because they had to cut back on their posts. Yes, they're going to use water. Does it matter how many bedrooms it has? We don't know a lot of things. We don't know how many people are going to rent somebody's house in Coalville. It could go from one person to 20 persons. They still pay the same, they still do the same taxes. These will be higher tax rates, and Coalville will get more money. They wanted to drill water wells previously. The citizens of Coalville said no, we don't want wells. Well, there's only a few places you can get water and it's from either a well or a spring or a river, and you treat it. Coalville has the water. And Wohali is willing to treat the water, or there's a facility in Coalville to treat it. It's a win. I think the bottom line is we want this to be successful. We don't want, all we hear is they are going to go broke; they're going to go broke. Well, I say we try to make it so they don't go broke. They need to have what they got to have to make it viable. To make it better for Coalville, to make it for them. I think Coalville lost out on a lot of amenities that they could have enjoyed. I know the City planners put a lot of work into the last one. I never heard Wohali say no once to anything they asked for. But the citizens of Coalville said, "No, we don't want anything." Well, you've got that now. You don't have it, because you said you didn't want it. So, I just think we need to move this along one way or another, because I'd like to have my Monday's free again like everybody else. Good job, everybody, I appreciate your time. Thank you.

Chair Linda Vernon closed the public hearing at 7:19 P.M.

Chair Linda Vernon stated she appreciated all of the comments. She stated she had tried to take some notes and questions if the Commissioner's wanted to clarify some things while it was on the table. She stated if she missed anything to jump in.

Eric Langvardt

Eric Langvardt questioned if he could jump in and clarify a few things on the comments made. He stated they had the Code and had diagnosed it to a great extent. So, the comments about the nightly rentals and whether they were allowed or approved or how many, the nightly rentals are not the use. It's the way you use a permitted use. The Wood's homes are the permitted uses which they choose to rent nightly with a business license. They can't go add a nightly rental on their property unless their zoning allows them to add a permitted use. Where that is, it could be a bed and breakfast. It could be a home. Or whatever zone they're in, it could be allowed. The Community Commercial zone doesn't say, a nightly rental is an allowed use. The home is, a bed and breakfast are and there's several other things that are. So that's the key difference is that, our permitted uses are the lofts, the cabins, the casitas. They are tied to the golf course. The other statement that is not correct is these are not accessory uses. These are support facilities and actually primary uses. If you look at the Code, and you look at the density, recreational facilities, the definition includes clubhouses, swimming pools, golf courses, tennis courts, equestrian centers, skating rinks, playgrounds, campgrounds. This other and similar uses as well as support facilities customarily associated with the recreation facility or facilities in that case. Those are the primary uses. They're not secondary, they're not accessory. They're all primary uses. The use to have those nightly rentals is the way those permitted uses which I think David Church has clearly identified in the Code, are allowed is a whole different story. Like I said, you can't go to a nightly rental in the back of your yard, and build a house and call it a nightly rental. You have to have a permitted use and our golf, tennis, clubhouses, swimming pools, everything that Mrs. Willoughby stated, which sounds a lot like Coalville (inaudible) and shooting, and skiing, and which by the way, we're not going to be making snow, I don't think we've ever said that, that's kind of an odd statement to throw out there, I don't know where that information came from, but when it snows and we can maybe groom some runs on the north slope and we can let kids use them while it's the Holiday, great. That's the idea. I think that's been the crux of this whole commentary, is that nightly rentals are not allowed, they're not allowed in any, in Don's memo, or Staff report, is that they're not allowed in any zone. For that reason, you have to have a permitted use. Another comment about the rentals being tied to the golf course use so they are going to be seasonal, well, it's tied to the golf course, they're tied to the tennis, tied to the trails, tied to the clubhouse, they're tied to the (inaudible). They're tied to all of those recreational facilities. Which if we do our job right, that resort will be activated year-round. If it's not, then were not doing our job. That's not what it's there for. People aren't going to come and stay for six months out of the year. So, it's not just golf. Again, those primary uses include all those things that Mrs. Willoughby stated and they're all permitted uses. There's a comment that there's no end to what we can ask for, well there is. And I think at one point someone said well what if you did 5,000 units. I think someone said tonight there was 1,000. We went through the process of showing how these units are customarily associated with the lodge, cabins, the casitas, with other comparable golf resorts. And we just chose those in Utah. We've talked about others in South Carolina and you can go anywhere across America, across North America, across the world, and find the customarily associated uses that are in

a range of units. We are in that range. I think that diagram that we have in the drop box really shows that. So, could we go to 600, 700, 800, 900, there's numbers out there that we could probably prove that's customarily associated, 5,000 probably not. We'd have a hard time proving that. And I think we've walked through, through all of that as we've gotten to this point with you guys. And I think that the last one is just, in watering the golf course with culinary water. The water's not my expertise, but I know the conversations we've had with the City, we don't plan to water that with culinary water. And we, as a permitted use, we have the right to obtain water to water the golf course and any other primary use or permitted use. We are going to go through those issues with the City to figure out the best way to do that. Our goal is to get a secondary use and I think Don or Sheldon said water isn't available on that side of the highway. We currently do plan for a secondary system and we understand that. We've worked with Zane and Shane to figure out the best solution to keep that water over there and we're going to pay our way. Which we said from day one. With this application and with the rezone one too, we said that's what we were going to do. There was one other thing that I was to talk about now, but I can't remember what it was. I think that's getting most of those comments. I think there was a comment about the Attorney doing something "as he was told". It was my understanding, Sheldon was that a direct coordination with you, primarily with Mr. Church? Sheldon Smith stated yes. Eric Langvardt stated so to insinuate that our Attorney was guiding him in any way, I think he would go over the Code just like any Attorney would, and made his interpretation in coordination with working with your Staff. I believe that was everything that I wanted to touch on. I guess I maybe missed one or two, but at least get that in your mind, how we look at it, how Mr. Church looked at the Code and how we got to where we are today. Eric stated he would be available for any questions.

Wade Budge – Applicant Attorney

Wade Budge stated thank you Commissioners, thank you Staff. I don't have a lot to say. I think Eric pretty much covered everything, but I appreciate everyone's attention tonight. I just simply encourage you to forward a positive recommendation. Even if you have open concerns, I just ask that you identify those in your recommendations because ultimately this is a recommending body. And that's what we see from this body is, your recommendation used for things that need to be considered as we continue this application. Your insight and your comments today, which have been many because we had many of these hearings, they have been very valuable and we appreciate that. And just as a final comment, I think that the comments, the statement made by David Church are very important. We are not dealing with the area of prohibited use as stated by Eric. We are dealing with; we're talking about amenities described and permitted under this zoning district. And what we want is just no different treatment than what any property owner would receive when coming in and applying for a permitted use for uses allowed in within their zoning district. And that's the way we've been treated by this Body, we appreciate that, and it's the way we've been treated by Staff and just ask for that to continue. Thanks again.

Sheldon Smith – City Attorney

Sheldon Smith stated I appreciate the comments. There have been a lot of good comments, a lot of things that needed to be discussed, decided. But one thing I want to say is, as Coalville City's Attorney, I think I've said this before, I don't care if there were zero nightly

rentals or a thousand nightly rentals. I just don't care. All I care about is, that as Coalville City's Attorney, is that Coalville City is protected. That we are legally protected. And that the Applicant gets what they are legally entitled to get. That's it. And when I, maybe I oversimplified it at the beginning because I didn't mean that you overlook water, sewer, or all that stuff. It all has to be dealt with. But you can't deal with all of it in one evening. My thoughts were, simplify it down to the nightly rentals and not even the number of nightly rentals. Are they entitled to have nightly rentals, or are they not entitled to nightly rentals? I think if you look at our Code, I think David Church was spot-on. And just so you know, I did not give him my opinion when I met with him. I said, "We want your independent, third party opinion and here's our Code. Here's all the information that you're going to need to look at, to make your opinion." Of course, he knows State law probably better than any Attorney in Utah as far as municipal law goes. I said, "Just give us your opinion. Then I will tell you what my opinion is." And that's how it all came about. So, it wasn't like I was just giving him, "This is what I think you ought to do." It was, "Please, give us your independent third-party opinion." I think that you have an opportunity to make your decision on a very narrow issue, that's very important. And you don't even have to get to the number. The City Council has got to make that final decision. You don't even have to do that, but that's up to you.

Commissioner Tonja Hanson stated so many people came up and were very concerned about the water and questioned if Coalville City had the water to support this Application. Shane McFarland stated yes, the City put into place many things with the Water Master Plan prior to this application. He stated they identified the anticipated growth for the next 20 years and within that plan upgraded the source with a water treatment plant, delivery with the upgraded lines, and storage with a new 600,000 water tank and repair of the old tank. The growth that we assumed falls in line with the Application presented. Shane stated the Development Agreement would also address specific items as needed. Don Sargent stated the items requested is recommendation for a permitted use Master Planned Development component in the Phase I Preliminary subdivision plat. That is all that is being requested and reviewed to date. The details with the water and number of nightly rentals and how they will be applied will come back to the Planning Commission in the form of a Development Agreement and Final Plat before any development takes place. This is a general preliminary plan review to see if it meets the Code as it exists in preliminary form. The final plan will come back through the review process.

Chair Linda Vernon stated she agreed with the comment made by Kelly Ovard that the Code needed a Resort Zone. She stated they did their very best when doing the Code revisions to try and catch everything that would come up. She stated they also tried to clarify and follow the General Plan. Chair Vernon stated they would continue to revise and update the Code to cover all of the items, but as it stands right now, they have the right to apply and comply with the current Code. Mayor Trever Johnson stated the City had asked Don Sargent to start addressing those items immediately to try to get those issues resolved. Chair Linda Vernon stated all cities find there are problems with their Code as projects come in for approval. She stated the City is committed to continue with the Codes revisions.

Chair Linda Vernon stated it needed to be clearly stated in their recommendation that culinary water could not be used to water the golf course. She stated if the Commissioners wanted, they could make a recommendation for a number of nightly rentals or they could

leave that to the Council as Sheldon Smith had stated. Chair Linda Vernon referred to the Dropbox on the Coalville City website and encouraged everyone to review the information there. She stated Wohali had also highlighted the information showing how the project complied with the General Plan. Chair Linda Vernon stated Wohali had bent over backwards to work with the City and had incorporated everything into their plan that the City had asked for. She stated so, if we have problems with the project now like having no water for the secondary system, that is our fault as citizens, right? Because those are the people that have taken all of this off the table. Now we can't set foot on there. Now we cannot use the trails. Now we can't go out there and use any of those amenities as citizens of Coalville. All the benefits that we've worked so hard towards over the last year and a half, trying to get some benefits for the City have all been pulled off the table. So, they're just going under the use of the Code and under that use we are required to provide water. And as Shane said, there's enough water in our plan. We had a Water Attorney come talk to us that the water is not a problem in supplying the homes or the rental units up in Wohali. The zone change Application, the original Application, had taken all of that into account with actually more density. The Application now had come down from 700 to 450 or something. So, there is water.

Mayor Trever Johnson stated he could comment about taxes. He stated the City had adopted an ordinance for a 1% transient tax that would apply to all nightly rentals. He stated the Council didn't think it would generate very much money, but it was surprising at how much money was generated from our small town. This then leads to some of the issues brought up about the nightly rental market in Park City. I know California, Anaheim, has a huge issue with everybody buying rental properties from out of state and then renting them as an Airbnb. So, there's definitely I think a curve to get ahead of with just any rentals in general in any zone or use or anything like that. We need to button that up. However, to the point of taxes, how do you capitalize on that? Coalville City has already initiated the transient tax which would take care of it.

Chair Linda Vernon commented on the issues brought up about the nightly rentals still requiring water and sewer. She stated they will pay their connections fees and monthly charges. And hopefully that income as well as transient room tax will help us to provide those amenities and resources to future generations. Chair Vernon referenced Mr. Winters comments about not having a definition for support facilities and stated that was correct, but as Wohali has planned this as a resort community and they've taken into consideration the permanent uses on recreation and that is the use and what the Ag zone has been listed for. No one's going to encroach on that land. There is going to be over 1,000 acres of open space. I can't even imagine what Park City would pay for the kind of open space that they are designating to us as part of the project. The use is not tied to just the golf to be used just from April to October. The project will use the recreational use as part of the Agricultural use whether that is cross country skiing or walking trails or hiking or having a tubing hill. They have taken into account wildlife and they have the studies on the Dropbox link. So, we hope it's not just a spring, summer, fall, resort. We hope it's going to bring in some money year-round as does the Wohali people. There is no doubt the influx of nightly rentals will change things, but things change. That's the truest thing in life that things change. So, there is no doubt this will change how we deal with this, but hopefully, we'll address that in our Code coming up. They are permitted in the Code as long as they are a support facility for the use. Who said you're not going to be able to build something in your backyard?

Whoever said that, that's true. You're not going to just go and say I'm going to build five rental units in my yard because that's not a permitted use. Jay Wood stated he was actually approved to put in a mobile home park years ago. He stated when I first moved up here, I was approved to build a mobile home park in my back yard. Chair Linda Vernon stated it was because he was in a Commercial zone and it would have been a permitted use. Jay Wood stated I could still do that if I wanted because it's still the same zone. Chair Linda Vernon stated that may be correct, but if you want to do that, I'd suggest you go ahead and hurry up before Code changes. Chair Vernon referred to the comments from Tom Rees and stated I appreciate your comments, Tom. You have been here as much as we have been here. And it's nice to see that someone listens to everything and as you stated, those things that we all worked so hard for, are now being taken away. Chair Linda Vernon stated I want to make that very clear that regardless of whether we get any benefits now as citizens of Coalville, for that, I guess we could have them, you could go pay \$400 a night and stay in a casita and play golf if you wish, but one of the things that was on our list of things to do was to try and make this part of Coalville's community and to make sure this isn't the haves and the have nots. We wanted to be able to integrate and have everybody welcome here and have us welcome up there. But that's gone now. With the referendum and Wohali pulling their Application, that's gone. And that's a very unfortunate part of this process in my mind. I'm extremely sad about that. Now it's required, they were going to bring in water wells and they are just required to pay water. So, I suspect our water bills may go up and if it does, it's our fault. If we have a trail system built on this side of the valley by Chalk Creek so the people and kids can enjoy the river and amenities, hopefully that will still happen. But those trails up there can no longer be part of what we're trying to do and our vision for Coalville. So, I'm just very sad and disheartened that people are so shortsighted they can't see the future down the road. And if you go through and read the General Plan, I wish you would go through and read the General Plan. I had some comments that I was going to make to bring to everybody's attention about that. They're building things. I could read them to you, but you can read it to yourself. But one of the things it says, let me see, if I can find it. One of the things in this General Plan is who we are and what our identity is. And it says, "The availability and quality of amenities and services also ranks high with its citizens. As with any community, residents require efficient services, well maintained civic facilities and access to recreation. Expansion and enhancement of facilities and services is a top priority for the City." We tried to make this a top priority for the City. But there will be opportunities for recreation there, but now we will have to pay as a Member of the club. It's not for the general public. The Community Vision Statement, one of the things it says is "To be a beautiful, rural community based on its history of agriculture, open space and recreation that includes high quality amenities and opportunities while remaining a family oriented, clean and friendly community that is a great place to live, work, and visit." I don't see that Wohali is doing anything against the vision for our community. That's what they are trying to do. To make this beautiful place and to make it high quality amenities and to make it family friendly so that people can come and enjoy what we enjoy every day. I could go on and on and on with the General Plan. And if you have any doubts about it, just go ahead and read it yourself. Go home and ask yourself if they are trying to fit into our vision, or the vision of whoever put this General Plan together (inaudible). And like I said, I can't stress enough how disappointed I am that Wohali pulled that off the table. And I want to go on record saying that because I think there are a lot of citizens that would have given a favorable vote to that referendum from everything that I've heard. But they weren't even given a chance. We had a small group of people that got to dictate what happens. And they

have the right to go to stop the referendum process and that's great. And they got their signatures, but I still feel like the cart's been yanked out from underneath Coalville. Because there are a lot of people that won't come to a public meeting and put themselves out there. Especially with the social media climate that is out there. Especially on this project. Okay. Sorry. I apologize.

Chair Linda Vernon stated she wanted to hear from each Commissioner. She asked for each of them to tell her their thoughts as they went down the table and what they wanted to do at this point. She stated I know there's questions about the water, the particulars, the secondary water, and how many units. But we have hashed out a lot of this over the last year in discussing this project. So, I'm not trying to dictate that we make a decision tonight. Maybe it's not the appropriate time. The Applicant has asked that we make a decision. They've requested it, but that doesn't mean we have to do that. We still have time to consider everything or discuss it. Is there more information that you think we need? I just would like to go through and just have you tell me what your feelings are about making a recommendation tonight. One, are we going to make a recommendation tonight? Do you feel comfortable doing that or would you like to put it off until another work session, another meeting? Would you like to, or do you want to keep rehashing this over and over? And we can. Maybe there's things we haven't discussed. And I would like you to let me know where you're sitting and how you are feeling.

Commissioner Tonja Hanson stated first of all, I would like to thank everyone for being here and for your comments. It's really helpful to hear people's concerns and what you're thinking. It's been a long process. I've got lots of notes here, so I hope I can wade through it. I don't know of a golf course out there that doesn't have rental units on that golf course. In my mind, those are support uses to a golf course. They just are. I've been in the resort industry for a really long time. I don't want to say how long because then you'll know how old I am. You've got rental units on golf courses. That's just the reality. And that's what these folks need to make this successful. And we want them to be successful. We want that TRT tax that the Mayor talked about that I think is too low. But that's a conversation for another day. You're not only going to get TRT tax, you're going to get restaurant tax. You're going to get; retail will be there. There's a lot of resources there, revenue sources that people aren't thinking about. There's opportunity there and Coalville could really use that revenue. So, I think those are important things to keep in mind. Comparables. We talked about comparables. The golf course has support uses which are rentals. Last time we were together, I mentioned I work for Sun Valley Resort. In our rental program, the rental program has 400 units for three golf courses. But there are a lot of units around those three golf courses. I did a little homework today. I called Maya Louis, the assistant planner of the City of Sun Valley. She sent me the Blain County Housing Authority 2017, that's their most recent, annual report. More units have been built since then. Total housing units from the three courses is 2,609. You divide that by three golf courses, that's 869 units. So, asking for 300 units is like, think about a comparable and to me, Sun Valley is very comparable, this is kind of being conservative on what they are asking. So those are just a little bit of homework that I've done and I'm happy to forward this report information to anyone who would like to have it. So, there's that. There are also employment opportunities that we've not talked about. How many people here drive to Park City to work? How many of your kids drive to Park City to work? A lot. Trust me, I've been doing it for a long time. Wouldn't it be great if they just drove across a freeway and had a job in the neighborhood?

And that money's coming back to our community? I think that would be really great. I would like to drive across viaduct and not make my drive right now. So, I see a lot of great things in this application. To Don's point, if we are merely moving it forward without all of the details, that's what we said, right? This portion of the application is done? Just this portion of the application forward. There's still a lot of details to sort through. Don Sargent stated right. This is the preliminary review. The details come from the Final Application and the Development Agreement. Commissioner Hanson stated okay, with that understanding in mind, I would feel comfortable moving this forward. That's where I am.

Commissioner Jeff White stated I don't know what else to say that hasn't been said. I think based on what we've heard from the legal side of it, I would feel comfortable moving it forward as well.

Commissioner Tim Bristow stated I would also, with the information that's been presented, maybe a little bit more clarification on the miscommunication for who's paying for the water. I think it's been said. But for some reason, it gets misconstrued that we have to pay for the water to go up there. The water is across the freeway. It would be the Developers responsibility to do the infrastructure, if I am correct. The other thing that is a little bit my question, of the 125 houses, each can build an additional dwelling, if that lot owner would like an additional dwelling on the property, does that additional dwelling have to pay for hook ups or are they allowed to hook up into the main residents' water? Chair Linda Vernon stated I believe it's using the residents' sewer and water. Is that correct? An accessory dwelling unit that's allowed in our Code for any property for any primary residence, they're allowed to build an accessory dwelling unit but it has to be on the original primary unit's sewer and water. Is that correct? Shane McFarland stated correct. They share the same utility, same meter, same connection. So, they would not pay connection fees. Sheldon Smith stated one clarification, in order to get to the 125 units, that includes the accessory dwelling, does it not? Chair Linda Vernon stated no, it does not. Don Sargent stated there are 125 primary dwellings and every home in Coalville is allowed an accessory dwelling, but there are strict regulations. Shane talked about one which is it must be on the same utility system as the primary dwelling and it cannot exceed 1,000 square feet in size so they are very minor in terms of impact. Commissioner Tim Bristow stated so based on that information and with the way our current laws Coalville has right now, forwarding this on to the Council would be okay.

Commissioner Dusty France stated I want to restate as Linda stated, we have been looking at this proposal now for two years. That, there's still a lot of questions and a lot of unknowns I believe. There are a lot of things that we have gone through and hashed over. In the prior application, there was a lot of things in that application that was as a benefit to the City that I've seen allowed for a lot of things that went beyond just what our Code entitled. I think we were talking like a water treatment facility that Wohali was going to pay for, correct? At that time? Shane McFarland stated not necessarily the water treatment facility. There were discussions about them providing water wells, other supplication, either one, but they are not providing anything other than the infrastructure that they need as far as their water requirements. The Water Treatment Plant is all funded through the City and our water partners. Chair Linda Vernon stated they did, if I remember correctly, they did offer to pay the activation fee on the shares for perpetuity. Shane McFarland stated yeah, they did offer that, which all of those items from the prior application are no longer

valid. Commissioner Dusty France stated it wasn't so much the water shares and all of that. As far as the Development itself goes, I think going throughout this now, I think it's going to have quite an impact on the City. (Inaudible) Anyway, I see there is a major impact and it will affect the citizens. (Inaudible) that is mostly referencing to what's permitted, what they are allowed to do which is 125 permitted residential lots. I think that we are at a much greater loss on this one (Inaudible) for the fact the use facilities and things like that were available to Coalville. But now a lot of the things that Wohali was offering, all these benefits like access and stuff like that, some of it can be considered a loss. We didn't have access to it anyway. But my, the overall, we have gone over everything over and over and over throughout and I would say at least, I would say I'm 85% comfortable with the majority of the application. However, the 15% I'm not is potentially very troublesome from what I can see. And from initially what, as far as, the interest in nightly rentals, I think there's a precedent set that when we reach the Council, by allowing because we don't have a term in reference to the structure as being a nightly rental, having that be acceptable under the umbrella of a support structure as a permitted use like that would be a permitted use in any zone (Inaudible) everything else is as a support which is vague and then you go to the support of a support, then you have all these nightly rentals, and they're renting them out year round as a support to the golf course when the golf course is only run, you know, say seven months at best. Then I think the nightly rentals become the bigger part of it in addition to the rest of the amenities and stuff like that. But the potential that I see, where it (Inaudible) not only on this but for future applications, from Wohali or anyone else, it's just like the comments on the, the nightly rentals they already, (Inaudible) well, right now it's permitted well they want to (Inaudible) support build three more homes under that nightly rental then that's a support of a support. I think we're (Inaudible) potential (Inaudible) without having a clear definition prior to it. I think a structure is a structure, a unit is a unit. I think there are things that should be able to support (Inaudible) the other 125 homes would be allowed to use a nightly rental, of course the nightly rental is the use. And so, I just see a potential, a twist on words exploiting and deleting the rest of the entire network of Codes. And that's what I see and that's nothing on the Wohali project. That something I see on the future coming down the road if we allow to set this precedence. For the fact that even when allowed to go through with 130 not part of density, I think that already sets somewhat of a precedence for this one. Now the 23%, I think approving it based off of that (Inaudible) the only way to approve (Inaudible) I don't think there is anything else to include because there is nothing more benefit brought to the table. The cost I see is, it is taking away from a lot of things in the City such as the other nightly rentals in town. (Inaudible) so it's not really a bonus, it's taking away from it. There's a good and a bad. But I just think that, on those the reason I was given for the 448 for the critical mass for the golf course, well that critical mass is in Memberships, not necessarily in the number of different homes. I don't think it's a make or break for the golf course. I think it just makes it more attractive for their resort. And I just don't know if we want to shift then, for Coalville to shift, to a resort community from our good old-fashioned farm town. I know I hear it on a daily basis and hear it all the time about what a wonderful little valley we have, how beautiful it is, and so it's almost set back in time because Coalville has held on to the history and heritage of the area and have kind of that as what Coalville should capitalize on. It is on the General Plan and what we want to embrace not necessarily a resort. I think that there is a lot to this that I think that the 125 homes and accessory dwellings that is another additional 125 homes so you have 250 potential nightly rentals there. (Inaudible) basically adding more nightly rentals. It's, I think there's definitely ways to go about it with how

everything else is laid out. I'm not opposed to it. I think that there are a lot of things to go and also get it off our table. Let the Council, pass the target. I'm not opposed to moving this forward and let all of these things be dealt with. I do believe that one thing we never got to see last time was, and obviously needs to be taken care of, was the Development Agreement. We never seen the Development Agreement once. A good draft of that could at least be brought to us and then finalized at least. Chair Linda Vernon stated it will be. That's still part of the process, right? Don Sargent stated a draft Development Agreement has been in this application since January and the finalization of it will come back through the Planning Commission. He stated until you understand the preliminary plan approval it is pretty hard to put that final detail together. So, right now it is in a preliminary review consistent with the Application stage. But it does require coming back for review. It is on the drop box link. Commissioner Dusty France so that means that, I think that we do need to have if we push this forward, that we do have the recommendation that the Council Members, that they address the numbers because I believe that there needs to be something to justify the calculation outside of the economical cause for what's going on with that property. There's got to be something that justifies for the next person that comes in what that allowance will be and why. What we justify on this one. What's that justification? If it's just we have this many customers, well we need to put a store in, well we need that many for support for the store, well (Inaudible). I think any recommendations should have the Council address those concerns and we need to see something from them that is a direct benefit to the City where it justifies that.

Chair Linda Vernon thanked the Commissioners for their comments and direction. She stated I don't feel the need to give a recommendation on a specific number. I don't feel that need at all. However, I agree with Dusty in thinking we need to set some recommendations with our recommendation in order to point them in the right direction with concerns that we might have as perhaps the additional accessory units that could all be built in addition with the 125. If we're worried about 450 units using water and how that will impact us in the future, maybe we mitigate that by asking the Council to address or eliminating the accessory dwelling units in lieu of some rental units up there. I don't imagine everybody that is building one of 125 are going to want someone renting out their back door. I can't see that happening. But as we've been shown, we have to plan for every contingency we could possibly have. So, I would like to see that as part of our recommendation. I don't think we have to have a number. The Council has to address the number with their decision before it moves past the preliminary recommendation stage. Sheldon Smith stated you can't actually make it a requirement to not have the accessory dwelling. He stated that's a legal entitlement that they have. If they want to give that up as part of the Development Agreement, in exchange for something else that was one thing. But to make it part of the recommendation, I would not recommend you do that. Chair Linda Vernon stated based on part of the number? Couldn't they do that as part of recommending a number because that was still up in the air? Sheldon Smith stated there has to be a legal basis for the number of rental units, and there are a couple of them. Basically, it says whatever is customarily for support facilities. Well, we still don't have enough information to say yes or no if there is a legal basis or there is no legal basis. It's not going to be based on how much money they make or how many people they need to come. It's based on what they can legally support and is agreeable to the City. Chair Linda Vernon stated but doesn't the Council body have the right to say okay, this is reasonable, but we are not going to allow the accessory dwelling units based on this. Sheldon Smith stated no, I don't think you can do that because they are

legally tied to those under our Code. You can't just say it. If they are agreeable to it, that's one thing, but you can't just say that's part of the approval. You can't make the approval based on something they are entitled to under the Code. Chair Linda Vernon stated okay, scratch what I said. Sheldon Smith stated maybe they'll come forward and say they are willing to walk away from that. Commissioner Dusty France questioned if they would be able to put through a recommendation to approve without the nightly rentals, if they can't come up with a number, to approve the preliminary without that part, but have the nightly rentals addressed in the final. Sheldon Smith stated yes, so basically you say that you are agreeable to the nightly rentals. Chair Linda Vernon stated that is the decision we are making tonight. Are we saying yes to nightly rentals based on the legal aspect or are we not saying yes to nightly rentals? Sheldon Smith stated I think the recommendation legally is that you make the recommendation they are entitled to some nightly rentals, but not put a number on it. But it has to comply with the legal requirements of our Code. Mayor Trevor Johnson questioned if it would count against density. Sheldon Smith stated no it doesn't. Mayor Trevor Johnson stated I'm saying as part of the recommendation. Sheldon Smith stated I think it's a given based on the information from David Church. I think it's probably good to clarify that because there has been so much discussion on that. Chair Linda Vernon stated with that being said, we would be open to the idea of making a recommendation to the City Council on Phase I Preliminary Wohali Project subdivision, Master Planned Development. Don Sargent stated it would be the Wohali Master Planned Development Phase I Preliminary Plan.

A motion was made by Commissioner Jeff White to make a positive recommendation to the City Council for the Wohali Master Planned Development Phase I Preliminary Plan and they are entitled to the nightly rentals subject to the number being decided by the City Council and they are only to use secondary water on the golf course. Commissioner Tonja Hanson seconded the motion. All Ayes. Motion Carried.

Roll Call:

**Commissioner Hanson – Aye
Commissioner White – Aye
Commissioner Bristow – Aye
Commissioner France – Aye
Commissioner Vernon – Aye**

Item 5 – Consultant Updates:

Don Sargent stated they would continue working on the Parks, Trails and Open Space for the Code updates at the next meeting.

Don Sargent stated he wanted to give an update on the Wohali Golf Course. They have been testing the water every month and the construction was proceeding according to plan and was in compliance with the permit. He stated he would detail and include an update on the City website just for the golf course construction. Chair Linda Vernon questioned if Don had been making notes for what needed to be addressed for the Code updates like the resort zone etc. Don stated yes, they would need to look at that as well as the support facilities, etc., as it had come to light with this application. Chair Linda Vernon questioned if that

could come next after the Parks and Trails as she felt it was important to not be in this position again. Don stated he would suggest it to the Council and would follow their recommendation.

Item 6 – Planning Commission Updates:

There were no Planning Commission updates tonight.

Item 7 – Review And Possible Approval Of Minutes:

The Commissioners reviewed the minutes of the May 18, 2020 meeting.

A motion was made by Commissioner Dusty France to approve the minutes of May 18, 2020 as amended. Commissioner Dusty France seconded the motion. All Ayes. Motion Carried.

Item 9 – Adjournment:

A motion was made by Commissioner Dusty France to adjourn the meeting. Commissioner Tim Bristow seconded the motion. All ayes. Motion Carried.

The meeting adjourned at 8:39 P.M.

Chair Linda Vernon

Attest:

Nachele D. Sargent, City Recorder

"Exhibit A"
Planning 6/15/2020

BLAISDELL, CHURCH & JOHNSON, LLC
ATTORNEYS AT LAW

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DAVID L. CHURCH

June 12, 2020

Sheldon,

You have asked my opinion as to whether or not the building of a lodge and cabin/casitas that will be used for short term rentals in conjunction a golfing facility is a permitted use in Coalville City's agricultural zone. You have also asked me to opine on the issue of whether or not these would be counted against the allowed density for single family dwellings in that zone.

In rendering this opinion I have reviewed the City's land development code along with the information that your provided tome consisting of some plats, plans and bubble charts provided to you by the applicant for the project. I have also spoken with the applicant's attorney about their application and intentions.

I have kept in mind the following guiding principles of law which confine my legal opinion.

First under Utah law a Land owner is entitled to approval of its application if the application complies with the City's land use regulations. Utah Code 10-9a-509. The applicant's attorney indicated to me that they are not asking for any code or zoning amendments and are applying under the City's regulations as they exist.

Second, All ambiguities in the land use ordinances are to be interpreted in favor of the land owner, "because zoning ordinances are in derogation of a property owner's common-law right to unrestricted use of his or her property, provisions therein restricting property uses should be strictly construed, and provisions permitting property uses should be liberally construed in favor of the property owner." *Patterson v. Utah County Bd. of Adjustment*, 893 P.2d 602, 606 (Utah Ct. App. 1995). *Brown v. Board of Adjustment*, 957 P.2d 207 (Utah Ct. App. 1998),

Third, Utah Code 10-9a-306 which read as follows:

Land use authority requirements -- Nature of land use decision.

- (1) A land use authority shall apply the plain language of land use regulations.
- (2) If a land use regulation does not plainly restrict a land use application, the land use authority shall interpret and apply the land use regulation to favor the land use application.
- (3) A land use decision of a land use authority is an administrative act, even if the land use authority is the legislative body.

Based on these general principles of law it is my opinion is that the application to build a lodge and cabins/casitas available for nightly rental as part of the golf course development is a permitted use under Coalville City's land use code and should not be counted against the allowed density for dwellings in that zone.

I base this conclusion on the following. First your agricultural zone allows recreational facilities such as golf courses as a permitted use. Second recreational facility is defined in your code to include "support facilities" customarily associated with the recreation facility. Support Facilities does not appear to be a defined term in your code. Any ambiguity as to what is a support facility is for a high end private golf course will have to be interpreted in favor of the applicant. Therefore the building of a lodge and cabin/casitas for the use of the members of the golf course and their guests must be considered a permitted use unless there is a specific code section that prohibits that activity and use. I did not find any such prohibition in your code.

This opinion is based on the following assumptions and representations. First the lodge and cabin/casitas must be on the same parcel with the golf course and be owned by the same owner and remain so into the future. Their use must be inextricably linked to the use of the recreation facility. Second, the members and guest of the golf facility may not establish permanent residency in these facilities and third, the lodge and cabin/casitas cannot be opened to public nightly rental not associated with the use of the recreation facility.

Please let me know if this does not address your requested opinion.

Sincerely,

A handwritten signature in dark ink, appearing to read "David L. Church", written in a cursive style.

David L. Church
Attorney at Law



"Exhibit B"
Planning 6/15/2020

Staff Report

Coalville City
Project Coordinator

To: Coalville City Planning Commission
From: Don Sargent, City Project Coordinator
Date of Meeting: June 15, 2020
Re: Wohali Development Existing Zoning, Permitted Use, MPD Application
Continued Review and Discussion and Public Hearing
Action: Work Session and Public Hearing

Wohali Existing Zoning, Permitted Use and MPD

REQUEST

The purpose of the scheduled work session is to continue the review and discussion of the proposed Wohali Development application, particularly addressing the proposed nightly rental units. The public hearing was requested by the applicant to receive public comment and input on the application.

The project site is comprised of 1,664.04 acres and is proposed as a rural golf resort community. This item is scheduled for a work session and public hearing.

The proposed application includes the following:

1. One hundred twenty-five (125) residential lots under the existing Agriculture (AG) Zoning of the property.
2. Three hundred and three (303) detached nightly rental units.
3. Master Planned Development (MPD) including density bonuses with deed restricted open space, residential lots, resort nightly rental units, resort amenities and recreational uses.

BACKGROUND

Following the filing of a citizen referendum opposing the previous approved preliminary MPD, and property rezone, the Wohali developers elected to file a new application under the existing zoning and permitted use for the property. The previous approved MPD and Rezone application has been withdrawn by the applicant. The current application overview to date is as follows:

- January 17, 2020 - Pre-Application conference held in-person to confirm required review process of application based on existing zoning with permitted uses (application process was previously discussed with applicant).
- January 17, 2020 - Applicant submitted a full preliminary subdivision plan and MPD application with required fees. (Based on the review of the previous Wohali application and associated plans and information on file with the city, a concept plan was not required).

- January 21, 2020 - Staff determined the preliminary plan and MPD application to be complete with required information.
- January 24, 2020 - Staff met with applicant to address several initial review items with the proposed project including note clarifications on plans, required setbacks, and number of nightly rental units' justification.
- February 18, 2020 - The preliminary subdivision and MPD plan scheduled on the Planning Commission meeting agenda for a work session.
- March 16, 2020 - The preliminary subdivision and MPD plan scheduled on the Planning Commission meeting agenda for a continued work session (this meeting was cancelled due to COVID-19 restrictions).
- May 18, 2020 - The preliminary subdivision and MPD plan scheduled on the Planning Commission meeting agenda for a continued work session.
- June 15, 2020 - The preliminary subdivision and MPD plan scheduled on the Planning Commission meeting agenda for a continued work session and public hearing.

The following link includes the complete project application file information as required by the development code and supplemental support documentation for the application submittal:

<https://www.dropbox.com/sh/klngeb7spmlzjhh/AABnbBIkRr8NRLWv98edKtvja?dl=0>

In addition to the information provided in the project file link, the following analysis and studies are already on-file with the City for the previous MPD and Rezone application:

- Overall Sensitive Lands Analysis
- Wildlife and Endangered Species Study
- Roadway Right-of-Way Use Documentation and Mapping

ANALYSIS

At the initial work session on February 18, 2020 and then again at the continued work session on May 18, 2020 Staff and the Planning Commission focused their discussion on the proposed nightly rental use. Staff has reviewed and discussed the nightly rental use questions with David Church, legal counsel for the Utah Leagues of City and Towns. Mr. Church may be attending the Planning Commission meeting to address questions from the commission on this issue.

Staff requests input and direction from the Planning Commission on the project application for preparing possible findings and conditions for a recommendation to the City Council.

For reference, the following is a summary of the analysis included in the Staff reports and discussions from the previous work sessions:

Existing Zone and Permitted Use Submittal – Variations from Original Submittal

1. No Rezone request – applicant is applying under the Existing Zoning of AG (1 unit /20 Acres).
2. Added 138.34 acres of Wohali Partners Property east of the previous MPD application. This is all proposed as open space. Total application is now 1,664.04 acres.

3. Providing a higher percentage of dedicated open space (70.48% vs 50%)
4. Additional Open Space allows for maximum 50% Bonus density per MPD Ordinance.
5. Reduced Residential density from 570 to 125.
6. All 125 units will have potential for ADU's on each lot as allowed per Code.
7. Increased Nightly rentals from 130 to 303.
8. All density and nightly rentals are located in the east portion of the property except for one large parcel located west of the cliffs.
9. All Resort Amenities remain as proposed originally but with only Private Access for Resort members and guests.
10. Entry Cabin will be Gated.
11. All sewer and water services will be provided by Coalville City with Wohali paying for all necessary infrastructure to serve the development and all impact/hookup fees and usage fees. (Same as any project today in Coalville)
12. No culinary wells will be required to be provided.
13. Annual Fiscal impacts have been updated for the new and reduced proposal.

The primary issue regarding the new application is the number of nightly rental units being proposed by the applicant. *Attachment A* includes the Discussion Points addressed at the last work session regarding the nightly rental use.

The applicants indicate they need a critical mass comprising the proposed 125 lots and 303 nightly rentals to get to a base of 428 members to support the golf course use on the property.

Under the proposed permitted use application, the developer will be required to construct the necessary infrastructure to extend City water and sewer utilities to the project site and pay all associated connection and service fees consistent with other recently approved developments in the City. As the existing City secondary water system is unable to serve the property, the developer will be required to provide irrigation water to the project on their own.

Staff is prepared to describe the proposed development and address concerns and questions of the Planning Commission at the work session.

RECOMMENDATION

Staff recommends the Planning Commission conduct a continued work session to review, discuss and address issues of proposed project with the Staff and the applicant. Depending on the outcome of the project review and discussion, the Planning Commission may conduct the scheduled public hearing that was requested by the applicant.

The planning commission has several options regarding the public hearing: (1) cancel the public hearing and only hold the work session (2) conduct the public hearing to receive initial comment and input from the public on the project (3) continue the public hearing to a later date (4) conduct the public hearing and forward a recommendation on the project to the city council.

Attachment A – Nightly Rental Use Discussion Points

Nightly Rental Use Discussion Points:

- Nightly Rental is defined in the Code (10-2-145) as *the rental of a room, apartment, house, or lockout unit for a time period of less than thirty (30) days.*
- Nightly Rental uses are not listed in the use tables as an allowed use in any zone district, either as permitted or conditional, nor is there any other code regulation or ordinance language addressing nightly rentals, other than business licensing.
- In the Commercial and Light Industrial Zone Districts (10-15-020) it states: *If a use is not allowed in a given district, it is either not named in the use list or it is indicated in the appropriate column by an "N".*
- Nightly rental units have been approved by the City on other properties, either as a room or unit rental.
- Recreation facilities or uses are listed in the Code (10-9-020) as a permitted use in the AG Zone District.
- Recreation, Facilities are defined in the Code (10-2-189) as *recreational facilities such as parks and areas of active recreation use, including...clubhouses...golf courses, and similar uses as well as support facilities customarily associated with the recreational facility.*
- Support Commercial Uses are defined in the Code (10-2-230) as *Support Commercial Facilities includes those commercial uses that are associated with an MPD for the purposes of serving the needs of the residents or users of that development, and not the general public.*
- Condition of Approval #9 of the previous approved Wohali MPD application addressed nightly rental support commercial uses which included a *maximum potential of 130 nightly rental resort units subject to the review and approval of phasing project plat applications.*
- Accessory Uses, Buildings and Structures are permitted uses in the AG Zone District and are defined in the Code (10-2-4,6,7) as *a use or building on the same lot as the primary use which is incidental to the primary use for the benefit of the owners, occupants, employees, customers or visitors of the lot with the primary use.*
- The definition of a Dwelling in the Code (10-2-77) specifically excludes *hotel, motel, lodge, or nursing home rooms.*

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