



3200 West 300 North  
West Point, UT 84015  
PH: 801-776-0970  
FAX: 801-525-9150  
www.westpointcity.org

## West Point City Planning Commission Agenda

Notice of the Regular Scheduled Meeting of the  
Planning Commission of West Point, Utah  
May 23, 2019

Public notice is hereby given that the Planning Commission of West Point, Utah, will hold their regularly scheduled meeting at the West Point City Building at 3200 West 300 North on Thursday, May 23, 2019.

**Work Session** (Open to the public) This meeting will begin at 6:30 pm

1. Discussion regarding the Written Decision and Conditional Use Permit for the Sunset Vistas PUD Subdivision Project, located at approximately 1200 South 4500 West, Kelly Hughes Construction, applicant.

**General Session** (Open to the public) This meeting will begin at 7:00 pm

1. Call to Order.
2. Pledge of Allegiance.
3. Prayer (Please contact the Commission Clerk to request meeting participation by offering a prayer or inspirational thought).
4. Approval of Minutes from May 9, 2019.
5. Public Comments
6. Consideration of Approval of the Written Decision and Conditional Use Permit for the sunset Vistas PUD Subdivision Project, located at approximately 1200 South 4500 West, Kelly Hughes Construction, applicant.
7. Planning Commission Comments
8. Staff Update
9. Adjournment

  
Boyd Davis  
Community Development Director

**\*\*Public Hearing and Public Comment:** If you wish to make comment to the Commission, please use the podium and clearly state your name and address, keeping your comments to a maximum of 2 ½ minutes. Please do not repeat positions already stated. This is a time for Planning Commission to receive new information and perspectives.

**\*\*If you attend the regularly scheduled meeting and, due to a disability, need assistance in understanding or participating therein, please notify the City at least eight hours prior to the meeting and we will seek to provide assistance.**



# Planning Commission Staff Report

**Subject:** Written Decision and CUP for the Sunset Vistas PUD  
Subdivision Project  
**Author:** Kyle Laws  
**Department:** Executive  
**Date:** May 23, 2019



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## **Background**

In March 2018, the developer (Kelly Hughes Construction) submitted an application for a Planned Unit Development (PUD). Their application came in just ahead of a moratorium to change this Code so they were vested in to the old PUD Code. During the Planning Commission's review of this project Staff discovered what we thought were inconsistencies between the requested development and what was allowed by Code. Staff believed that the PUD was an overlay zone and that it needed to follow the same process as other rezones. Staff also believed that the density being sought was contrary to what was allowed by the Code (net density versus gross density calculation).

The Developer disagreed with our interpretation and requested an Advisory Opinion from the Office of the Property Rights Ombudsman (OPRO). This opinion was completed earlier this year and the two issues mentioned above were the only two items reviewed. The OPRO opinion agreed with the developer that the process was not a rezone, but was instead a Conditional Use Permit (CUP) requiring a decision of the Planning Commission. They also stated that the density calculation should be gross density so the developer is entitled to 62 lots if they met the bonus density requirements of the Code. The City engaged Jody Burnett to represent our interests in this project and to help us make the most out of a difficult situation.

The Planning Commission conducted a public hearing and spent a significant amount of time discussing the project in light of the OPRO opinion at their meeting on May 9, 2019 before approving the CUP and the preliminary plat containing 62 lots for this PUD. Their approval will include as a condition a Development Agreement (DA) approved by the City Council and they directed staff and outside legal counsel to prepare a written decision including their recommendations for deviations from the underlying development standards in the Code to be included as part of the DA.

## **Analysis**

The Planning Commission's decision will not be final until they approve the above mentioned document at their meeting on May 23, 2019. Staff and outside legal counsel have prepared the document requested by the Planning Commission and it is attached to this report. During Commission meeting this document will be reviewed and discussed to ensure it follows the direction of the Commission from the May 9, 2019 meeting. Any modifications will need to be made that night and approval of the Written Decision should be granted and forwarded to the City Council to be used to establish a Development Agreement.

These items will then be discussed and considered by the City Council in their upcoming meetings as they consider approval of a DA.

**Recommendation**

Staff recommends approval of the Written Decision and Conditional Use Permit for the Sunset Vistas PUD Subdivision Project to be forwarded to the City Council for use in establishing a Development Agreement.

**Significant Impacts**

There are significant impacts this project potentially has to the community. Primarily that the density for this subdivision is higher than any other single family subdivision anywhere in the City. However, in light of the Advisory Opinion from the OPRO, we cannot limit the density in this project.

**Attachments**

Written Decision and Conditional Use Permit of the West Point City Planning Commission For the Sunset Vistas PUD Subdivision Project

**WRITTEN DECISION AND CONDITIONAL USE PERMIT OF THE  
WEST POINT CITY PLANNING COMMISSION FOR THE  
SUNSET VISTAS PUD SUBDIVISION PROJECT**

**Meeting Dates: Public Hearing May 9, 2019  
Decision Date: May 23, 2019**

By motion duly made and seconded, the West Point City Planning Commission (“Commission”) hereby grants a conditional use permit (“CUP”) for the Sunset Vistas Planned Unit Development Subdivision Project (“Project”) submitted by Kelly Hughes Construction, LLC (“Applicant”), including a total of sixty-two (62) lots in the configuration as depicted on the preliminary development plan or plat which is also approved and attached as an exhibit to this decision. This approval is granted for the Project as a planned unit development (“PUD”) under the provisions of Chapter 17.35 of the City Code (“Code”) that was in effect at the time the application for this Project was submitted to the City.

The approval of the CUP for this Project includes the maximum density bonus allowed under the provisions of §17.35.100(D)(1) of the Code for various amenities and design options proposed by the applicant, but does not include the offsite improvements, which the Planning Commission concludes are required of the applicant in any event and therefore do not constitute significant offsite improvements for the purpose of being eligible for additional density bonus. However, the cumulative total of the other items offered by the applicant are sufficient to qualify for the maximum density bonus, for a total of 62 lots.

This approval is further conditioned upon the negotiation and approval of an appropriate form of development agreement (“DA”) by the City Council with the Applicant. As part of that DA, the Planning Commission recommends that the Council approve the following deviations from the standards and requirements that would otherwise be applicable to this PUD under the provisions of §17.35.090 of the Code in order to accommodate the density bonus and other items as negotiated by the Planning Commission with the applicant, to include:

1. Allowed setbacks, frontage and lot sizes.
  - a. Minimum lot size shall be five thousand (5,000) square feet.
  - b. Minimum front frontage shall be forty-five (45) feet.
  - c. Minimum front yard setback to house twenty (20) feet.
  - d. Minimum front setback driveway to garage twenty-five (25) feet.
  - e. Minimum side yard setback ten (10) feet combined between adjoining lots.
  - f. Minimum side yard setbacks on corners ten (10) feet.
  - g. Minimum rear yard setbacks twenty-five (25) feet.
  
2. Additional deviations from underlying development standards (negotiated by Commission with the Applicant in exchange for an agreement to landscape the backyards by the Applicant at the time of construction of the homes to address the narrower side yard setbacks):
  - a. Elimination of the three foot (3’) wainscoting requirement on homes in the Project.

- b. Approval of request to allow one of \_\_\_\_\_ two story house plans to consist of eighteen hundred and thirty (1,830) square feet with the remainder having a minimum of two-thousand (2,000) square feet.
3. Additional items to be addressed in Development Agreement:
- a. Construction of park and related amenities as depicted in materials submitted by Applicant as part of the first phase of the Project.
  - b. Landscaping front yards and rear yards by Applicant during construction of the homes.
  - c. Landscaped entry sign, landscaping of Parcel B, and other amenities and improvements as depicted on application materials provided to Planning Commission by the Applicant for the Project.
  - d. Phasing of construction of the Project to address requirements in Code and pending legal action which might affect construction of second access to the south as depicted on the preliminary plat connecting to adjoining development in Syracuse City.
  - e. Provisions for maintenance of the park, open space and common areas by the homeowner's association to be formed for the Project.
  - f. Removal of junk material in the area where the park will be constructed, which the Applicant has agreed to do.
  - g. Other items as required by the applicable provisions of the Code.

DATED this \_\_\_\_\_ day of May, 2019.

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West Point Planning Commission  
By: Brian Vincent, Chair



