MINUTES OF A VINEYARD
CITY COUNCIL MEETING
City Council Chambers
125 South Main Street, Vineyard, Utah
December 8, 2021 at 6:01 PM

Present	**Absent**
Mayor Julie Fullmer	
Councilmember John Earnest	
Councilmember Tyce Flake	
Councilmember Chris Judd	
Councilmember Cristy Welsh	

Staff Present: Interim City Manager George Reid, City Attorney Jayme Blakesley, City Engineer Naseem Ghandour, Sergeant Holden Rockwell with the Utah County Sheriff's Office, Public Works Director Chris Wilson, Community Development Director Morgan Brim, City Planner Briam Amaya Perez, Planning Technician Cache Hancey, Finance Director David Mortensen, City Treasurer Bayley Deason, Water Manager Sullivan Love, City Recorder Pamela Spencer, Planning Commission Chair Bryce Brady, Panning Commissioner and Councilmember Elect Amber Rasmussen, Councilmember Elect Mardi Sifuentes

Other Speaking: Ryan Bybee with Cadence Homes; Ryan Hales with Hales Engineering; Nate Birchall with Goodboro Homes; Jason Boal with Snell & Wilmer L.L.P.; Steve Hutchings and Eric Towner with Fifty Mill L.L.C. and X Development; Residents Marcus Potter, Shawn Herring, Stan Jenne, Kim Smith, Geoffrey Wixom, Aubrey Bills, Claudia Lauret, Truman Van Cott, Candy Mullen, Jenna George, David Lauret; resident and landowner Besilyne Fernandez; former residents and landowner Brenda Jacobson, former resident Lee Jacobson

1. ▶ CALL TO ORDER/INVOCATION/INSPIRATIONAL THOUGHT/PLEDGE OF ALLEGIANCE

Mayor Fullmer opened the meeting at 6:01 PM. Councilmember Flake gave the invocation and led the Pledge of Allegiance.

2. WORK SESSION

2.1 No items were submitted.

REGULAR SESSION

3. ▶ PUBLIC COMMENTS

Mayor Fullmer called for public comments. Hearing none, she closed the public session.

4. MAYOR AND COUNCILMEMBERS' REPORTS/DISCLOSURES/RECUSALS

Councilmember Welsh reported that she, the mayor, and a few staff members had attended the ICSC (Innovating Commerce Serving Communities) Convention in Las Vegas and felt they had made some good contacts.

Councilmember Flake reported that there had been two (2) major meetings concerning improvements on the lakeshore. He said they had reached an agreement about developing the old Vineyard Beach first and then moving down the shoreline. He reported that there had been a kickoff meeting with state agencies on the Walkara Way project. He mentioned that there would be an Education Center for school trips and other activities.

Councilmember Judd recused himself from item 9.3 Holdaway Farms discussion and motion due to a potential conflict of interest.

Mayor Fullmer presented plaques and gift baskets to Chris Judd and John Earnest, the outgoing city councilmembers and thanked them for their service to the city.

5. STAFF, COMMISSION, AND COMMITTEE REPORTS

5.1 Interim City Manager George Reid also reported on the ICSC Convention. He reported that the city would be holding a Christmas Tree Lighting Ceremony at 5:00 pm on December 10 at Penny Springs Park. He reported that there would be an open house on December 16 to look at the designs for the Waterfront.

5.2 Planning Commission Chair Bryce Brady reported that they had held two (2) Planning Commission meetings where they discussed the Fifty Mill Development Agreement and the Holdaway Farms Development. He mentioned that they had postponed the election of a chair and vice chair until January.

5.3 City Engineer Naseem Ghandour reported that the Main Street extension into the downtown area would be completed this spring. He reported on the Vineyard Connector and the rail spur consolidation projects. Mayor Fullmer gave an update on the rail spur timeline. Mr. Ghandour mentioned that the traffic study that had been completed for the corner of 400 North and Main Street showed that a traffic signal was warranted.

Mayor Fullmer reported that the Edgewater Townhomes had a shared parking agreement with the Vista Medical Center.

5.4 Public Works Director Chris Wilson reviewed the Public Works Department's growth and accomplishments and the city's growth and gave an update on current projects. There was a discussion about the projects.

6. CONSENT ITEMS

6.1 Approval of the November 10, 2021 City Council Meeting Minutes
6.2 Approval of the November 16, 2021 City Council Special Session Minutes
6.3 Approval of the December 1, 2021 City Council Special Session Minutes
6.4 Approval of a Water System Design Tasks Budget Amendment No. 2 Request (Pipeline Phase)
6.5 Approval of a Vehicle Purchase for Public Works
6.6 Approval of the purchase of a Mini Excavator for Public Works

6.7 Approval of Fireworks in Vineyard Public Parks one day a year

Mayor Fullmer called for a motion.

Motion: COUNCILMEMBER JUDD MOVED TO APPROVE CONSENT ITEMS 6.1 THROUGH 6.6 AND REMOVE 6.7 FOR DISCUSSION. COUNCILMEMBER FLAKE SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

(6.7) **Approval of Fireworks in Vineyard Public Parks one day a year**
Mr. Reid explained how the city code was written, and that the council needed to approve use on public property. There was a discussion about the timing and having the ability to change that. The State allows fireworks to be shot off from 11:00 AM on December 31 until 1:00 AM on January 1 on private property. There was a discussion about where to allow fireworks on public property and how to regulate them.

Motion: COUNCILMEMBER EARNEST MOVED TO APPROVE 6.7 IN DESIGNATED AREAS AS DETERMINED BY STAFF, BETWEEN THE HOURS OF 7:00 PM ON DECEMBER 31 AND 1:00 AM ON JANUARY 1. COUNCILMEMBER FLAKE SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

7. APPOINTMENTS

7.1 Vineyard Planning Commission 3

With the advice and consent of the City Council, the mayor will appoint Marcus Jessop and Christopher Bramwell and reappoint Jeff Knighton as members of the Vineyard Planning Commission. Their four-year term begins January 1, 2022.

Mayor Fullmer stated that she wanted to wait to appoint the new planning commissioners until the next City Council meeting. She reappointed Jeff Knighton as a planning commissioner and called for a motion to accept the nomination.

Motion: COUNCILMEMBER FLAKE MOVED TO APPROVE THE MAYOR'S ACTIONS. COUNCILMEMBER WELSH SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

8. DISCUSSION/PRESENTATIONS

8.1 Award Presentation – <u>Center Street Overpass Award</u>

Public Works Director Chris Wilson will present an award from the International Partnering Institute for the 2021 John L. Martin Project of The Year Honorable Mention for the Center Street Overpass.

Public Works Director Chris Wilson gave a brief explanation and then presented the award to the city.

9. BUSINESS ITEMS

9.1 PUBLIC HEARING – Consolidated Fee Schedule Resolution 2021-23

Treasurer Bayley Deason will present recommended changes to the Consolidated Fee Schedule. The mayor and City Council will act to adopt (or deny) the proposed fee schedule changes by resolution.

Mayor Fullmer called for a motion to open the public hearing.

Motion: COUNCILMEMBER FLAKE MOVED TO OPEN THE PUBLIC HEARING AT 6:40 PM. COUNCILMEMBER EARNEST SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

City Treasurer Bayley Deason presented the recommended fee changes.

Mayor Fullmer called for public comments.

Resident Amber Rasmussen asked if there was a way for families to get financial aid so they could afford to participate in the recreation programs. Ms. Deason replied that she was not aware of any and that she would ask to the Recreation Department about it.

Mayor Fullmer called for further comments. hearing none, she called for a motion to close the public hearing.

Motion: COUNCILMEMBER EARNEST MOVED TO CLOSE THE PUBLIC HEARING AT 6:42 PM. COUNCILMEMBER JUDD SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

Motion: COUNCILMEMBER JUDD MOVED TO ADOPT RESOLUTION 2021-23, AMENDED 2021-2022 CONSOLIDATED FEE SCHEDULE, AS PRESENTED. COUNCILMEMBER EARNEST SECONDED THE MOTION. ROLL CALL WENT AS FOLLOWS: MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

9.2 DISCUSSION AND ACTION – Readoption of the 2020 Voter Participation Areas Resolution 2021-24

City Recorder Pamela Spencer will present the Voter Participation Areas to be adopted by January 1 as per Utah Code § 20A-7-401.3. The mayor and City Council act to adopt (or deny) these areas by resolution.

City Recorder Pamela Spencer explained the reason for approving the Voter Participation Areas and then recommended approval.

Motion: COUNCILMEMBER FLAKE MOVED TO APPROVE VOTER PARTICIPATION AREAS RESOLUTION 2021-24, AS PRESENTED. COUNCILMEMBER WELSH SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

9.3 PUBLIC HEARING – <u>Holdaway Farms Development (Ordinances 2021-15, 16, and 17)</u>

(This item was continued from the November 10, 2021 city council meeting.)
Community Development Director Morgan Brim will present a General Plan Land Use Map Amendment (Ordinance 2021-15), Zoning Text Amendment (Ordinance 2021-16), Zoning Map Amendment (Ordinance 2021-17), and Neighborhood Plan Applications for the site known as Clegg Farm, located west of the current 400 South and Main Street termination, Parcel Numbers 18:021:0009 and 18:015:0163. The mayor and City Council will act to adopt (or deny) the proposed amendments by Ordinance.

Mayor Fullmer called for a motion to open the public hearing.

Motion: COUNCILMEMBER EARNEST MOVED TO OPEN THE PUBLIC HEARING AT 6:45 PM. COUNCILMEMBER WELSH SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

Community Development Director Morgan Brim explained the proposed development. The application proposed to develop the area into a residential subdivision. This change required four (4) applications:

1. General Plan Amendment, which would affect the land use map;
2. Zoning Text amendment, adopting a new zoning district named the Holdaway Farms Zoning District;
3. Zoning Map amendment to apply the new zoning district to this property;
4. Neighborhood Plan, which would implement the new zoning district.

He noted that the Planning Commission had not given a positive recommendation.

Ryan Bybee with Cadence Homes shared their vision for the project. He gave a brief explanation of their process to get to this point. He explained that they were custom home builders and were proud of who they had become. He reviewed their products and the site plan. He added that Goodboro Homes would be building a high-end active adult living community. He reviewed the original concept plan, including a land swap to disperse the Church of Jesus Christ of Latter-day Saints' (Church) property throughout the project. He also reviewed the process they had gone through to present the current plan. They had been able to make some of the changes that the Planning Commission and staff requested. He said that they had added a new product type to hit a range of clients that would potentially purchase a home from them.

There was a discussion about having the LDS property removed from this rezone.

Mr. Bybee mentioned that access to the lake was important to him and that none of the lots blocked access to the lake. He reviewed the parks and trails that were incorporated into the project.

Mr. Brim mentioned that the two Church-owned parcels to the north were part of the General Plan and the rezoning, but the eleven (11) acres were not a part of the amendments.

Mr. Bybee said that they had attempted to adopt as many of the recommendations from the Planning Commission as possible. He reviewed the changes they had made. He also reviewed the lot sizes and overall density. He mentioned that he intended to opt into the parking permit program to restrict parking. His review continued.

- Mr. Bybee reviewed some of the benefits of developing this property: it would connect two major roads in the city and have trail connections. The active adult component would help with traffic congestion, be less impactful on the schools, and would be involved in the community.

- Mr. Bybee emphasized that their commitment was focused on quality and architecture. The development would elevate the look and feel of the community and property values. He said that he had reviewed other developments in the county, and there was nothing that compared to this development. He completed his review of the project and changes.

- Ryan Hales with Hales Engineering reviewed the traffic study. Councilmember Welsh expressed concerns about the traffic pattern on the project's west side and 300 West having more traffic and asked if there was a better way to direct the traffic. There was a discussion about the traffic patterns.

- Councilmember Earnest asked if someone could purchase and combine two lots. Mr. Bybee replied that there was nothing to keep someone from purchasing two lots.

Mayor Fullmer called for public comments.

- Resident Markus Potter, living in The Lakes at Sleepy Ridge subdivision, mentioned that he liked the custom homes. He said he was not a huge fan of the active adult high-density area, and that any townhome was high density. He requested that the trail be extended by his home. He said that his main concerns were density and traffic congestion.

- Resident Shawn Herring, living in the Ashley Acres subdivision, expressed concern over density, traffic patterns and congestion, and safety. He also expressed concern with the landscape medians. He felt that Cottage Homes were townhomes.

- Resident Stan Jenne, living in The Shores subdivision, expressed concerns about the zoning proposal and its impact on the infrastructure and the residents. He felt it went against the will of the residents and that it would be a serious mistake if it were approved. He explained what he felt low density was. He expressed concerns about traffic congestion. He thought this was a chance for the council to listen to the voters, follow their recommendations, and stand up to the developers. He also felt that senior living needed to be near grocery stores, restaurants, transportation, and medical buildings. He felt that the active adult community, on smaller lots, would not increase the property values in the other developments. There was a brief discussion about ADUs, safe routes to school, and the size of the lots. Mr. Jenne felt that the developers had not shown any respect for the city. There was a discussion about zoning. Mr. Jenne reiterated that the residents were losing faith in the City Council. Mayor Fullmer explained that this was the first time this plan had been brought to the council and that the property owners had the right to make an application.

- Mr. Hales explained that it would be 177 trips if they were half acre lots and 218 for the current proposal. There was a discussion about including ADUs in the traffic study.

- Resident Kim Smith, living in The Elms subdivision, asked what would happen if the council did not approve this proposal and if the state could change the zoning and put in townhomes and apartments. Mayor Fullmer replied that they did not feel that the state would take over the land, but they could take on legislation that would regulate how the city zoning rights worked. She thought that they would not make a design based on the possibility of future state legislation. Ms. Smith mentioned that she had spoken with the Holdaway family and thanked them for taking care of the land and thanked Cadence Homes for stating to her that they would not sell to another developer.

- Resident Geoffrey Wixom, living in The Lakes at Sleepy Ridge subdivision, expressed concern about density, traffic, infrastructure, and that the Church could sell the property to a developer.

- Resident Aubrey Bills, living in the Elms subdivision, expressed concerns with extra traffic in her subdivision if the development went through as planned. She also expressed concerns about the total number of lots for senior living being different from the agenda packet than what was presented tonight. She felt that it would be good for City Council to define low and medium density and make sure that the Church-owned property was not zoned residential. There was a discussion about zoning. Ms. Bills expressed concerns about medians, street parking, leasing homes, and accessory dwelling units (ADU). There was a discussion about the leasing of homes and ADUs. There was also a discussion about the traffic study and safe routes to school.

- Resident Claudia Lauret, living on Holdaway Road, expressed concerns with low density, traffic and safety on Holdaway Road, and zoning changes. There was a discussion about the General Plan and density. Ms. Lauret felt that having homes that were higher in value would give the city a population with a higher investment in where they lived.

- Mr. Potter expressed concern with the road in the development leading to 400 South and also wanted to make sure that the plan included easy access to the walking trails. There was a discussion about the trails.

- Resident Bryce Brady, living in The Elms subdivision, expressed concern over density.

- Brenda Jacobson, a former resident and one of the property owners, said that she was excited about the project and felt that it was the best development they could get for this property. She noted that the family had been very careful in who they picked to develop the land. She hoped they would consider approving the plan.

- Resident Truman Van Cott, living in the Parkside subdivision, noted that he liked the 55+ community, but his issue was with density. There was a discussion about the General Plan and density. Mr. Van Cott mentioned that 800 people had signed a petition to keep the density lower. The discussion continued.

- Resident Besilyne Fernandez, living on Holdaway Road, and one of the property owners, explained that they had looked for years for a builder and expressed concern that they, as the property owners, had not been consulted on the General Plan's zoning for their property. There was a discussion about the neighborhood plan and density.

- Resident Carolyn Mullen, living in The Lakes at Sleepy Ridge subdivision, seconded the concerns brought up. There was a discussion about the plan. Ms. Mullen expressed concerns about traffic, safety, and ADUs.

- Lee Jacobson, a former resident, felt that this plan had a good traffic pattern. He also felt that the 55+ development would be high-end and added that they would be HOA maintained.

- Resident Jenna George, living in The Lake at Sleepy Ridge subdivision, expressed concerns with density. There was a discussion about density.

- Resident David Lauret, living on Holdaway Road, asked if the city had plans to widen 400 South towards Geneva Road. Mayor Fullmer explained that the city would do what was safest for the community.

- Mayor Fullmer called for a motion to close the public hearing.

- **Motion:** COUNCILMEMBER FLAKE MOVED TO CLOSE THE PUBLIC HEARING AT 9:02 PM. COUNCILMEMBER WELSH SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

- Mayor Fullmer asked the City Council for their comments.

- Councilmember Earnest felt that the homes would be beautiful and thought that they were comparable to James Bay and The Shores. He stated that he wanted to approve the plan and respect the family that had been in the area for many years.

- Councilmember Flake felt that it would be hard to vote against the property rights of the current landowners. He also thought that the builder had done an excellent job laying out the plan. He was in favor of quarter, third, and half-acre lot sizes. He said that his one concern was the park's size in the corner because it would be a trailhead for a major trail. He felt that they needed further discussion. He favored the 55+ community and believed that they needed diversity. He noted that this was the last place in the city to have single-family homes and that the City Planner had laid out a good plan.

- Councilmember Welsh asked about the cost of the homes. Mr. Bybee reviewed the cost of comparable homes that he had sold recently. There was a discussion about the cost of homes in the Holdaway Development.

- Nate Birchall with Goodboro Homes explained that they had done a market study on the adult community, and they were valued at over $600,000 base price. There was a discussion about home sizes, design, and value.

- Councilmember Welsh stated that she liked the parks and the interconnected trail system. She felt that this development would help Holdaway Road and expressed concerns about the trails and the land next to the Walkara Way Project. She felt that having only half-acre lots could have unintended consequences. She added that she did not want to see the Church’s parcels included in this rezone. She expressed concerns with facilities, maps not provided to the public earlier, the trail crossings in the notes. She said she wanted to see what a sunset clause would

look like in the ordinance. She expressed concern with the park phasing and the traffic study. There was a discussion about both.

- Mayor Fullmer felt that there were things that needed to be studied and brought back to the council. She stated that she was not ready to make a decision tonight. Councilmember Welsh mentioned that she would make a motion to continue the discussion at the next council meeting. There was a discussion about having another meeting in December.

- **Motion:** COUNCILMEMBER WELSH MOVED TO CONTINUE THE PROPOSED ORDINANCE TO THE JANUARY 12, 2022 CITY COUNCIL MEETING. THERE WAS NO SECOND ON THE MOTION.

Councilmember Flake stated that he was not in favor of waiting until January.

- **Motion:** COUNCILMEMBER FLAKE MOVED TO HOLD A SPECIAL SESSION ON DECEMBER 15, 2021 OR ANOTHER DAY IN DECEMBER. COUNCILMEMBER EARNEST SECONDED THE MOTION.

There was a discussion about when to hold a special session. Councilmember Welsh felt that the meeting should be held on a Wednesday to keep it consistent with regular meetings.

ROLL CALL WENT AS FOLLOWS: COUNCILMEMBERS EARNEST AND FLAKE VOTED AYE. MAYOR FULLMER AND COUNCILMEMBER WELSH VOTED NAY. COUNCILMEMBER JUDD HAD RECUSED HIMSELF EARLIER. THE MOTION FAILED.

- There was a discussion about the motion.

- **Motion:** COUNCILMEMBER WELSH MOVED TO CONTINUE THE PROPOSED ORDINANCES TO A CITY COUNCIL MEETING TO BE HELD ON WEDNESDAY, DECEMBER 22.

There was a discussion about the date they could hold a special session. Mayor Fullmer stated that she wanted to continue the discussion to the next regularly scheduled meeting.

A short break was taken at 9:41 PM. The meeting resumed at 9:48 PM.

- Councilmember Welsh suggested that they hold a special session on December 29. There was further discussion about when to meet. Mayor Fullmer stated that she was going to call for a special session on December 29.

9.4 - **PUBLIC HEARING – <u>Development Agreement with Fifty Mill, LLC (Resolution2021-25)</u>**

Community Development Director Morgan Brim will present a proposed development agreement between Vineyard City and Fifty Mill, LLC for the property located in Vineyard, Utah in The Yard Plat "B" Subdivision, Lots 6, 7 and 8, with Serial # 56:037:0006, 56:037:0007, & 56:037:0002 to accommodate the development of a residential/retail building. The mayor and City Council will take appropriate action.

Mr. Amaya Perez reviewed the process that the developer had gone through. He then turned the time over to Jason Boal with Snell and Wilmer, representing Fifty Mill, L.L.C.

Mr. Boal reviewed the development agreement. He said they had made some changes in response to the remarks from the Planning Commission and staff. They expanded the commercial development to over 50,000 square feet, incorporated the short-term rental into the development agreement, and were committed to ten units and furnishing an additional twenty units; they moved the trail closer to the building and provided 21 percent open space. He mentioned that the parking on the western lot was not part of this project and could not be used for this development. There was a brief discussion about additional requirements. The developer agreed to go vertical.

There was a discussion about the short-term rental location and management. Eric Towner with Fifty Mill, L.L.C. and X Development mentioned that they would be able to furnish thirty short-term rental units and would like to raise the number to sixty units.

Councilmember Judd asked about the wording in Section 2.4.1 of the agreement and stated that he wanted it to be specific to Topgolf and tied to vertical construction. Mr. Towner replied that it would be a serious financial hurdle if they had to wait for Topgolf to get their certificate of occupancy before they could start the other buildings. There was a discussion about when the construction of each phase should start.

Councilmember Welsh asked about the different commercial uses they might see in this development. Mr. Towner replied that it would be difficult to forecast. There was a discussion about the commercial uses, short-term rentals, and parking.

Councilmember Flake preferred that they commit to fifteen short-term rentals to start. There was a discussion about short-term rentals, and they agreed to have a minimum but no maximum requirement. Mr. Brim mentioned that they would be discussing a short-term rental ordinance in early 2022.

Councilmember Judd asked about Section 2.4 and having something tied to the Certificate of Occupancies. There was a discussion about tying TopGolf to other buildings.

Mayor Fullmer asked about the city's parking requirements. Mr. Brim reviewed the required parking spaces for the units and stated that they were meeting the code. Mr. Blakesley recommended that they insert language about parking requirements into the agreement. There was a discussion about parking requirements, management, and adding requirements into the development agreement.

There was a discussion about adding construction requirements to the agreement.

Mayor Fullmer called for a motion to open the public hearing.

Motion: COUNCILMEMBER EARNEST MOVED TO OPEN THE PUBLIC HEARING AT 10:41 PM. COUNCILMEMBER JUDD SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

Mr. Amaya Perez reviewed additional staff recommended changes to the agreement.

- 2.1 **Compliance with this DA (Development Agreement)**:

- Remove: “nothing in this DA shall obligate Developer (or its successors) to develop in any particular order or phase and that Developer reserves all discretion to determine whether to develop a particular portion or phase of the Property based upon Developer’s business judgment.”
- Adding: “Determined phases by the developer shall be provided to the city for review prior to the issuance of Notice to Proceed.” There was a discussion about phasing. The phasing would be for portions of the building.

- **3.1 Vested Rights Granted by Approval of this DA**
- Remove: “as well as flexible timing, sequencing, and phasing rights”
- **Addendum 1: Phasing**
  - 3. “Developer shall have the right to determine the timing, sequencing, and phasing of the Project; provided, however, each phase of the Project shall be subject to and comply with applicable Zoning standards that are not in conflict with the terms and provisions contained in this DA. Subject to the provisions of this DA, Developer anticipates commencing construction of the Project in Fall 2022 and completing the Project in a single phase,”

Mr. Amaya Perez felt that the city benefited from having stronger say in phasing by making the recommended changes. There was a discussion about phasing. Steve Hutchings with Fifty Mill L.L.C. and X Development explained that their intent was to build the building in phases.

- **2.4 Rescission Option; Condition of issuance of Building Permits or Certificates of Occupancy.**
  - **2.4.1** remove the wording “horizontal or”

- Mr. Blakesly and Mr. Brim reviewed the list requested changes to the agreement:

1. **2.4.3** Remove the language “e.g., TopGolf” and change to “TopGolf”
2. Tether the Certificate of Occupancy to the 4-way stage construction
3. Single owner, not condominiums
4. Parking management plan
5. Carry the retail architecture elements around the building to the west side
6. Minimum of fifteen short-term rental units.

- **Addendum 1**
  - **4. Listing of Project Features and Facilities to be Provided to the City**.
  - A.4.3 Add the word “deed” before restrictions and covenant…

- Resident and Councilmember-elect Mardi Sifuentes, living in The Maples subdivision, asked how the process worked for the visual part of the building. Mr. Brim explained how the process worked. Ms. Sifuentes expressed concerns about parking.

Mayor Fullmer called for a motion to close the public hearing.

- **Motion:** COUNCILMEMBER EARNEST MOVED TO CLOSE THE PUBLIC HEARING AT 10:54 PM. COUNCILMEMBER WELSH SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

- **Motion:** COUNCILMEMBER JUDD MOVED TO APPROVE THE PROPOSED DEVELOPMENT AGREEMENT, AS SUBMITTED BY JASON BOAL, OF SNELL AND WILMER LAW FIRM WITH THE PROPOSED CONDITIONS:

1. (ADDENDUM1 A4.2) AT LEAST 15 UNITS ARE DEDICATED FOR SHORT-TERM RENTAL WITH A MINIMUM OF 30 UNITS INCLUDING THE FIRST 15 UNITS TO BE FURNISHED WITH THE INTENT FOR ADDITIONAL SHORT-TERM RENTALS
2. CITY COUNCIL MAY APPROVE THE ADDITIONAL BUILDING HEIGHT PER A MAJOR AMENDMENT PERMITTED IN THE SPECIAL PURPOSE DISTRICT CODE.
3. MR. AMAYA PEREZ'S RECOMMENDATIONS BE APPROVED IN FULL
    a. 2.1 **COMPLIANCE WITH THIS DA**:
        i. REMOVE: "NOTHING IN THIS DA SHALL OBLIGATE DEVELOPER (OR ITS SUCCESSORS) TO DEVELOP IN ANY PARTICULAR ORDER OR PHASE AND THAT DEVELOPER RESERVES ALL DISCRETION TO DETERMINE WHETHER TO DEVELOP A PARTICULAR PORTION OR PHASE OF THE PROPERTY BASED UPON DEVELOPER'S BUSINESS JUDGMENT."
        ii. ADDING: "DETERMINED PHASES BY THE DEVELOPER SHALL BE PROVIDED TO THE CITY FOR REVIEW PRIOR TO THE ISSUANCE OF NOTICE TO PROCEED."

There was a discussion about phasing. The phasing would be for portions of the building.

        iii. **2.4.1** remove "horizontal"
    b. **3.1 VESTED RIGHTS GRANTED BY APPROVAL OF THIS DA**
        i. REMOVE: "AS WELL AS FLEXIBLE TIMING, SEQUENCING, AND PHASING RIGHTS"
    c. **ADDENDUM 1**
        3. Phasing
        i. Remove "timing, sequencing, and phasing"
        4. LISTING OF PROJECT FEATURES AND FACILITIES TO BE PROVIDED TO THE CITY.
        ii. A.4.3 ADD THE WORD "DEED" BEFORE RESTRICTIONS AND COVENANT…"
4. (2.4.3) TIE CERTIFICATE OF OCCUPANCY FOR THE BUILDING UNITS TO APPROVAL OF THE 4-WAY INSPECTION FOR THE TOPGOLF FACILITY.
5. (ADDENDUM 4.2(ii)(b)) NO CONDOMINIUMS; SINGLE OWNER
6. (ADDENDUM 1 A4.1) RETAIL ARCHITECTURE CONTINUE ON THE WEST SIDE OF THE THREE ADDITIONAL UNITS.
7. 2.4.3 REMOVE THE LANGUAGE "E.G., TOPGOLF" IN THE DEVELOPMENT AGREEMENT TO SAY SPECIFICALLY "TOPGOLF"
8. (8.12) A PARKING MANAGEMENT PLAN BE APPROVED.

COUNCILMEMBER EARNEST SECONDED THE MOTION: ROLL CALL WENT AS FOLLOWS: MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

10. CLOSED SESSION

- Mayor Fullmer called for a motion to go into a closed session.

Motion: COUNCILMEMBER EARNEST MOVED TO GO INTO A CLOSED SESSION IMMEDIATELY FOLLOWING THIS MEETING TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCE, OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL. COUNCILMEMBER WELSH SECONDED THE MOTION. ROLL CALL WENT AS FOLLOWS: MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

11. ADJOURNMENT

- Mayor Fullmer called for a motion to adjourn the City Council meeting.

Motion: COUNCILMEMBER EARNEST MOVED TO ADJOURN THE MEETING AT 10:57 PM. COUNCILMEMBER FLAKE SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

Motion to adjourn the Closed Session: COUNCILMEMBER JUDD MOVED TO ADJOURN THE CLOSED SESSION AT 12:19 AM ON DECEMBER 9, 2021. COUNCILMEMBER WELSH SECONDED THE MOTION. MAYOR FULLMER, COUNCILMEMBERS EARNEST, FLAKE, JUDD, AND WELSH VOTED AYE. THE MOTION CARRIED UNANIMOUSLY.

MINUTES APPROVED ON: January 12, 2022

CERTIFIED CORRECT BY: /s/Pamela Spencer
PAMELA SPENCER, CITY RECORDER