

CLEARFIELD CITY COUNCIL AND PLANNING COMMISSION
JOINT MEETING MINUTES
6:00 P.M. WORK SESSION
September 8, 2020

City Building
55 South State Street
Clearfield City, Utah

PRESIDING:	Mark Shepherd	Mayor
PRESENT:	Kent Bush	Councilmember
	Nike Peterson	Councilmember
	Vern Phipps	Councilmember
	Tim Roper	Councilmember
	Karece Thompson	Councilmember
STAFF PRESENT:	JJ Allen	City Manager
	Summer Palmer	Assistant City Manager
	Stuart Williams	City Attorney
	Brie Brass	Assistant City Attorney
	Kelly Bennett	Police Chief
	Adam Favero	Public Works Director
	Eric Howes	Community Services Director
	Spencer Brimley	Community Development Director
	Trevor Cahoon	Communications Coordinator
	Nancy Dean	City Recorder

PLANNING COMMISSION MEMBERS PRESENT: Karen Blackwood, Robert Browning, Brogan Fullmer, Nicole Bigelow, Chris Uccardi – Chair

PLANNING COMMISSION MEMBERS PRESENT VIA ZOOM: David Bloomfield

NOT PRESENT: Kathryn Murray, Bobby Austin, Brett McAlister

VISITORS PRESENT VIA ZOOM: Tim Merrill – UTA, Nathan Ricks – Stack Real Estate

Mayor Shepherd called the meeting to order at 6:00 p.m.

Mayor Shepherd welcomed everyone attending live and electronically.

DISCUSSION ON THE CLEARFIELD STATION MASTER DEVELOPMENT AGREEMENT

Mayor Shepherd explained the plans for Clearfield Station had been underway with Hamilton Partners, Stack Real Estate, and Arch Nexus for about nine months. He noted a draft of the Master Development Agreement (MDA) had been shared with the Planning Commission and

City Council. JJ Allen, City Manager, pointed out that the purpose of the joint discussion was to provide both the Planning Commission and City Council an introduction to the draft MDA that had been in the planning stages for a long time. He pointed out that the application and public process would be underway shortly.

Spencer Brimley, Community Development Director, reviewed the following sections contained in the MDA:

- Section 1
 - MDA terms, conditions precedent and term of the agreement. Term was effective upon execution and until complete.

Mr. Allen pointed out the bonding was included in that section and an important condition precedent. He noted the bonding the City would need for infrastructure and creation of the super pad was estimated to be about \$15 million.

Councilmember Peterson wondered if there were any other standards other than the rights-of-way which would be governed by the MDA. Mr. Allen reported the width of the streets was the only thing that varied from the City's standards for the project. Mr. Brimley confirmed the development was in the Mixed Use (MU) zone and all other standards were acceptable to the developer so the only variation was with the right-of-way standard.

Mr. Brimley continued reviewing the sections contained in the MDA.

- Section 2
 - Allowable uses and breakdown
 - 81,500 square feet of commercial, 450,000 to 600,000 square feet of office space, and 800 residential units
 - Project construction and phasing for development
 - Step 1: horizontal infrastructure (City)
 - Step 2: pad site development (development partners)

Councilmember Peterson stated in her review of the language on the phasing of the MDA she noticed there was not a cap on the residential units. She mentioned understanding the City was being flexible and using a balanced approach to the project; however, she voiced her hesitance about not having a cap on the residential units. Mr. Allen indicated there was some discussion with the developer about that section and there needed to be a resolution for those issues. There was a discussion about placing a cap on the amount of residential units and how to do that while still providing flexibility. Councilmember Peterson suggested a number should be agreed upon and identified in the MDA as the cap rather than having a percentage of leniency; then in the future if the numbers needed to be altered for flexibility it could be reviewed by the Council and determined if the changes in residential units were acceptable.

Mayor Shepherd recommended the word accordingly needed to be stricken when it was referring to a reduction of commercial space, because if the proposed gym was not going to be part of the development it should not reduce that amount of commercial space from the development, as it could be interpreted by the word accordingly. Councilmember Peterson agreed.

Councilmember Peterson expressed appreciation the MDA called out there would be no subsidized housing. She mentioned the last work session there were concerns expressed about the development phasing. She was surprised to see some of the same wording in the newer draft of the MDA and felt the following line should be stricken from the construction steps language:

“If initially no viable commercial retail is identified from a marketability standpoint, then a flexible residential alternative may be substituted provided that it is designed for conversion to commercial use in the future.”

Mr. Allen pointed out the adjustments to the language after the previous work session were made with the following language to the end of that paragraph:

“To ensure that the phasing is balanced throughout the development of Clearfield Station, a Mixed Use Residential A, B, C, or D building that utilizes the designated commercial space as residential shall be considered a solely residential complex that must be balanced by a separate office/commercial building.”

Councilmember Peterson requested to still strike the sentence allowing for a flexible residential alternative to be substituted because the chances for conversion to commercial in the future would be remote. Mayor Shepherd expressed his opinion the language should remain because it would cost more to build it as commercial ready and incentivize it not to be used for residential. There was a discussion about whether or not the developer should identify at the time of obtaining a building permit what the uses would be for the proposed development or have flexibility to back out of the intended mixed use later in the process.

Councilmember Peterson expressed her concern with leaving the language in the MDA so the developer could back out later in the process and all the impacts it would have on the internal process for permitting. Mr. Allen asked if the Council had been persuaded that before a permit was pulled for development the use should be known.

Councilmember Bush voiced his opinion the developer should not be able to change the use later in the process. Mayor Shepherd stated there was some validity to that point because if the City allowed for mixed use and later it was converted to residential then it should not count towards the portion of commercial in the balanced phasing.

Mr. Allen questioned if the MDA needed to articulate that at the time of obtaining a permit the proposed use would need to be known and identified as either a residential or mixed use building. The consensus of the Council was at the time of permitting the developer would need to identify the use type of the building. Councilmember Bush added the permit fees were based on the uses so this would ensure the appropriate fees were collected as well.

Mayor Shepherd expressed his concern the proportion of retail space to residential space balancing was not addressed. He noted there was a café of 5,000 square feet planned by the developer for the front piece along State Street. He expressed his opinion small retail or large office buildings should not be counted equally towards the balanced phasing of the development and wondered how that would be treated. Mr. Allen pointed out that concern had not adequately been addressed in the MDA. He wondered if the City should set a minimum amount of commercial or office square footage space to count against a given number of residential units.

Mr. Allen expressed his opinion the build out process should be balanced between commercial and residential. There was a discussion about the balancing between commercial/office and residential; bonding risks; residential, commercial and office demands; and the flexibility needed for a development that could take many years to build out.

Councilmember Thompson expressed his concerns about the City's risk and did not want to bond unless the project generated commercial and was balanced in its development. Mayor Shepherd stated the development team was confident building residential and with its location being at a transit site there would be a need for commercial. Mr. Allen acknowledged there was no way to eliminate all the risks, but the City could apply provisions to mitigate the risks. He pointed out in section two of the MDA the language could be worked on further with the developer so it better articulated the concerns of (1) identifying at the time of the building permit the use; and (2) how to track the concept of balance over the lifetime of the project.

Councilmember Bush suggested the square footage would be difficult to use for balancing, but perhaps the percentages could be used for the balancing approach of the development. He expounded if a certain percentage of commercial was completed then an approximate percentage of the residential would then be allowed. Mr. Allen asked if that was the desired approach rather than the building for building alternative. Mayor Shepherd expressed his opinion that method might not work given the amount of office space that was proposed for the project. He indicated if the gym came in as proposed with a vast amount of office space, it would be an anchor to the project that would draw other commercial to it. There was a discussion about the proposed approach for the development and how it included some financial risk for the City with preparing a super pad.

Councilmember Peterson expressed her desire to place a cap on the residential which would help mitigate the risk of the City to ensure it was balanced with the commercial components envisioned and planned.

Councilmember Roper expressed his opinion providing the developer flexibility through a balanced approach would be necessary for the success of the project in the long run.

Councilmember Phipps stated it was a unique situation where the City accepted all the risk for the project. He suggested the concerns about risk were mitigated by having a development team comprised of residential, office, and commercial developers which would all be invested in the success of the overall project. He pointed out each developer would not want to lose their share of capitalizing on the investment, so he felt that mitigated some of the financial risks the City would undertake.

Mayor Shepherd indicated following a break for policy session there were some Planning Commission members who would be sworn in. Nancy Dean, City Recorder, explained the swearing in had not taken place yet because there had not been an opportunity due to the COVID-19 pandemic.

Councilmember Bush moved to adjourn the joint work session and reconvene as the City Council in policy session at 6:54 p.m., seconded by Councilmember Peterson. The motion

carried upon the following vote: Voting AYE – Councilmember Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

The Council and Planning Commission reconvened in joint work session at 7:48 p.m.

Karen Blackwood and Brogan Fullmer were sworn in as Planning Commission members by City Recorder, Nancy Dean.

Mr. Allen asked if there was anything more to discuss related to construction steps. Councilmember Peterson acknowledged there had been a lengthy discussion; however, wondered if there was any consensus reached about how to find balance in juggling the pieces as each piece was developed. Mr. Allen explained that section of the MDA still needed work on the language but the two concepts that needed additional articulation were identifying the use at time for obtaining a building permit and how to track balance over the life of the project. He mentioned staff would work with the developer on the language but if anyone had input they could share for consideration. Councilmember Bush reiterated his suggestion to use percentages as a means to determine the balance between residential and commercial or office development. Mr. Allen indicated he had made note of the recommendation.

Mr. Allen continued to review the remainder of the MDA Section II:

- Zoning vested rights
 - Mixed Use (MU) Zone, Master Development Plan (MDP), development and construction standards, land use application, impact fees to be paid by developer.

He noted the impact fees included in the City’s current Consolidated Fee Schedule were those that would be paid by the developer. Mr. Allen indicated staff felt those fees should suffice as related to capital growth. He asked if there were any questions about section two.

Councilmember Bush asked if the impact fees for the City’s infrastructure of water and sewer would be adequate for the development. Mr. Favero responded staff had spoken with the sewer district and all its modeling showed it would be adequate for the proposed development. He mentioned the City Engineer was reviewing its water model currently to make sure it would meet the needs and the storm water regulations required it be handled on site, so yes.

Mr. Brimley continued the review of section three for public improvements:

- Bonding for the horizontal improvements (City) - \$15 million
- Open Space, parks, trails
- Depot Street Connection and 1450 South
- Utah Transit Authority (UTA) Park & Ride Facilities
 - 700 stalls to be provided.

Mr. Brimley explained UTA had indicated the Federal Transit Administration (FTA) was requiring 700 stalls. He stated there were two parking structures being proposed for the site one on the north end and one on the south adjacent to the platform. Mayor Shepherd commented he would like to see the regulations that required that number of parking stalls. Mr. Allen said it was likely UTA not the FTA was requiring that number of stalls; however, UTA seemed to have

softened its stance over the years of working on the project, so it could be reduced in time as updated analysis was done.

Councilmember Peterson asked if the estimated cost for each parking structure would be about \$15,000 each. Mr. Allen confirmed yes. He acknowledged the bonding capacity would not allow for the tax increment to pay for a full parking structure, but tax increment revenues would be used to make the bond payment. He explained the funding of parking structures would be done in partnership between the City, UTA and the developers with the possibility of using grant funding as well to figure out how it would be financed.

Councilmember Peterson expressed her concern about the City needing to obtain a second bond for the parking structure that was first noticed in the language of the MDA. She questioned if the City's assumption for tax increment revenue was a projection based on the development of four Class A office buildings. Mr. Allen responded the first parking structure on the south end would not need to be built until about five years into the project; thus, it did not make sense to obtain a bond now and pay interest on money that would not be spent until the project was further along. He noted the cash source to pay for the parking structure would still be the same through bonds. He added the revenue flow on the tax increment would not come until later either, so it made more sense to get a second bond.

Mr. Allen stated the financial advisor for the Community Development and Renewal Agency (CDRA), Lewis, Young, Robertson, and Burningham (LYRB), had prepared some scenarios for the Clearfield Station Community Development Area (CDA) which would help answer questions about financial assumptions on the generation of tax increment. He explained none of the scenarios even anticipated a fourth office building and were planned conservatively. He mentioned the City would be likely to get a better interest rate than projected and hopefully have four office buildings rather than three.

Mr. Allen noted the most pessimistic scenario with the highest interest rate and having only two office buildings would generate \$25,525,251 of tax increment which was \$13,547,481 net present value (NPV) but if a better interest rate was obtained then it would be \$17,025,428 NPV. He explained the City would structure the bonds to conservatively match the consumption and the build out of the site.

Councilmember Peterson asked if the \$15 million worth of bonding was a cumulative total of all bonds or if bonding plans included \$15 million initially and other bonds to be taken when needed which could potentially be up to \$25 million for all the horizontal improvements. Mr. Allen responded the latter was correct. He explained the estimate for the horizontal improvements including streets, underground utilities, curb, gutter, sidewalks, and landscaping of the parks was at \$15 million; consequently, the parking structure would require additional bonding. He noted the prioritization order for the horizontal improvements would be first streets and infrastructure; second, the parking structure; and if money remained the City could tackle the undergrounding of overhead power lines.

Councilmember Peterson asked for clarification about how the City would be responsible through its bonding for the plaza created on UTA property because it seemed contrary to the

development standards of the MU Zone. Mr. Allen pointed out tax increment was the presumed revenue source to complete all of the project's infrastructure; therefore, whether the City reimbursed the developer to build out everything or the City bonded and was reimbursed by the developer it would be the same. He stated the MDA acknowledged the City would obtain the most advantageous bond financing and there would be a risk that the tax increment proceeds in a given year might be insufficient to cover that year's debt service; therefore, a clause was added addressing it. He noted on page eleven the MDA stated the Master Developer and UTA respectively agreed to contribute to the City their pro-rated share of any deficiency, respectively, corresponding to improvements funded from bond proceeds that subsequently were not owned by the City.

Councilmember Peterson expressed concern the City was shouldering the bulk of the financing for the transit plaza. Mr. Allen explained either way the project was financed, tax increment would pay for it; and that increment would be generated by the development itself. Councilmember Peterson acknowledged that made sense.

Councilmember Bush asked at what point in time would the landscaping be completed and who would be responsible for it. Mr. Allen answered the City would install the landscaping for the public park by the south parking structure and be responsible for maintaining it. He indicated the park strip area in front of private property would be installed and maintained by the developer as those properties were built.

Councilmember Bush asked if UTA would develop its plaza. Mr. Allen responded the bond proceeds would pay for the transit plaza and it would be paid for with the tax increment. He added the City would build it and UTA would be responsible to maintain it.

Mr. Allen pointed out there would be some offsite work that would be necessary. He reviewed the waterline project needed along State Street and the sewer line project needed to service the project. He continued those projects had been built into the \$15 million bond amount for horizontal improvements

Councilmember Bush wondered if the waterline project recently approved along State Street was part of the offsite improvements. Adam Favero, Public Works Director, responded it would help with the flow, but the long term plan would be to have a waterline on both sides of the street. He explained the State Street waterline project recently approved would not be the waterline the project would tie into.

Councilmember Phipps wondered what the schedule would be for the bond. Mr. Allen responded there were no dates yet. He explained so far only initial conversations had been held with the financial advisor until a few other steps were finalized, but it would be feasible to obtain bonds later in the year and begin building out the infrastructure of the site next spring

Mr. Allen stated staff was working with a broker to acquire the rights-of-way for the extension of Depot Street and 1450 South. He noted on page 16 of the MDA it called out the City's agreement with the Ironwood Development Group for reimbursement of improving Depot Street with the West Square development. He acknowledged the City would make them whole through

RDA 9 because all of Ironwood's work resided in RDA 9 and not the Clearfield Station CDA, plus there was money available in RDA 9 and it would relieve a burden from the project.

Councilmember Bush questioned if the City would be working on property acquisition along 550 East and if it could be done while the City's broker was working on the other rights-of-way extensions. Mr. Allen responded it had not yet been talked about but it would be possible to have the broker look at it now at the very least as an access easement.

Councilmember Peterson stated the MDA addressed eminent domain and wondered if it was anticipated that would be necessary to obtain the rights-of-way for the project. Mr. Allen answered yes, eminent domain should it be necessary would only be for transportation connections. He noted State Law allowed for the use of eminent domain for transportation purposes and the project would need to have alternate connections.

Councilmember Peterson asked if the 1450 South extension costs were considered in the first bond. Mr. Allen stated it was. He noted there had been extensive discussions about the State Street connections and having that connection at 1450 South was concluded as necessary.

Mr. Allen identified on page 19 of the MDA it addressed transportation demand management strategies. He explained UTA might charge for parking at the south structured parking to manage the transit behaviors and it would not be to make money; however, UTA would consult with the City before implementing any strategy. He indicated section three had been covered related to infrastructure improvements and asked if there were any questions.

Councilmember Peterson stated she had some questions related to the default language and could discuss them in greater detail outside of the meeting with the City Attorney.

Mr. Brimley reviewed the following timeline for the project:

- Tuesday, September 8, 2020: Commission and Council work session for draft MDA
- Wednesday, October 7, 2020: Planning Commission meeting – MDA/MDP
- Tuesday, October 13, 2020: Council work session for the MDA/MDP
- Tuesday, October 27, 2020: Council work session/policy session for decision of MDA/MDP
- Wednesday, November 4, 2020: UTA Board meeting for final approval of the MDA

He asked if there was any concerns with the timeline presented. Councilmember Phipps wondered if the changes currently discussed could be addressed within the expected timeline. Mr. Allen responded the next version of the MDA could have the tracked changes so it was easier to identify those updates. Councilmember Peterson questioned if the Council could anticipate reviewing redlined changes for the MDP as well. Mr. Brimley explained the MDP was not created in a format that allowed for tracking changes. Stuart Williams, City Attorney, stated there could be a way to make it possible to see those tracked changes to the MDP. Mr. Brimley stated the MDA could easily have the changes tracked and staff would work to have those documents prepared for review.

Mr. Allen asked if anyone felt after a review of the MDA, the agreement was headed in the wrong direction. Mayor Shepherd expressed his opinion with the changes made and those brought out in the discussion it gave the appropriate vision for the area. He pointed out there would be risks but it would be done right and there might be things developed that were not anticipated but it could be good and add to the overall project.

Mr. Allen stated in working with the development team, he noticed they tended to under promise and over deliver, so he was hopeful about the project. Mayor Shepherd said the City had partnered with a great architect and wonderful builders so it would be a gorgeous project.

Councilmember Thompson wondered if bringing fiber to the City would have any impacts on the project and if it would offset the City's take rate established with UTOPIA. Mayor Shepherd responded having fiber in the City was crucial for the project and it would be a symbiotic relationship because adding commercial fiber customers when the office space was developed would reduce the amount of residential customers who would have to get it to pay for the bonds. Mr. Allen remarked when the infrastructure was developed the City would coordinate efforts with UTOPIA to have the conduit installed and ready for the fiber network in the project.

There was a discussion about how to meet the timeline and still provide an adequate review of the updated MDP and MDA. Mr. Brimley stated the developer would be sent the comments from the meeting but it would be up to them whether or not the edits were ready within the next week so application could be made to meet the schedule for the proper noticing to be done thus beginning the public process. The consensus of the Council was to allow staff to move forward with working with the developer on the revisions discussed during the current meeting and see if the developer could make application as planned and then if further edits were necessary those could be done before the documents were considered for final approval by the City Council.

Councilmember Thompson moved to adjourn the joint work session and reconvene as the City Council in work session at 8:36 p.m., seconded by Councilmember Peterson. The motion carried upon the following vote: Voting AYE – Councilmembers Bush, Peterson, Phipps, Roper, and Thompson. Voting NO – None.

APPROVED AND ADOPTED

This 27th day of October, 2020

/s/Mark R. Shepherd, Mayor

ATTEST:

/s/Nancy R. Dean, City Recorder

I hereby certify that the foregoing represents a true, accurate, and complete record of the Clearfield City Council meeting held Tuesday, September 8, 2020.

/s/Nancy R. Dean, City Recorder